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United States
of America

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PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday, November 29, 2001*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God of history and ever-present, Your call to Abram to leave his place and to move to a place You would show him is truly a call of faith.

Lord, You know it is not easy for us to unplug ourselves or for us to deal with the unknown. There is an inner resistance in all of us to change. We find security in the familiar. Contentment seems to breathe an air of blessedness in being where we are, how we are, and who we are. Yet Your call of faith, O Lord, is a call to change and a constant conversion of heart until we are completely one in You and with You.

Be with all the Members of the United States House of Representatives, the President, and all who serve in government.

Help them to be people of faith and true leaders. May they never be afraid to change themselves or to change the course of history as a response to Your holy inspiration. Give them courage to act upon what they believe, to follow their convictions, and lead others in the ways of faith.

O Lord, in a world of constant change, You alone are reliable now and forever. Amen.

* * *

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PENCE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. PENCE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 349, nays 48, answered "present" 1, not voting 34, as follows:

[Roll No 459]

YEAS—349

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cox
Cramer
Crenshaw
Crowley
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Largent
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moran (VA)
Morella
Murtha
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Traficant
Turner
Upton
Velázquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—48

Aderholt
Baird
Borski
Brady (PA)
Capuano
Costello
Crane
Etheridge
Filner
Gillmor
Gutknecht
Hastings (FL)
Hefley
Hilliard
Hinchey
Hinojosa
Hoekstra
Johnson, E. B.
Kennedy (MN)
Kucinich
Larsen (WA)
LoBiondo
Matheson
McDermott

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

McNulty
Miller, George
Moore
Moran (KS)
Oberstar
Obey
Olver
Pallone
Peterson (MN)
Ramstad
Sabo
Scott
Slaughter
Stupak
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Towns
Udall (CO)
Udall (NM)
Visclosky
Weller
Wicker

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—34

Bentsen
Boucher
Cannon
Carson (IN)
Clay
Conyers
Cooksey
Coyne
Cubin
Culberson
Cummings
Cunningham
DeFazio
Engel
Ford
Fossella
Goode
Hall (OH)
Hyde
Johnson (CT)
LaFalce
Meek (FL)
Myrick
Nadler
Quinn
Reyes
Rothman
Sanchez
Schaffer
Souder
Waters
Wexler
Whitfield
Young (AK)

☐ 1023

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California (Mr. ISSA) come forward and lead the House in the Pledge of Allegiance.

Mr. ISSA led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 1741. An act to amend title XIX of the Social Security Act to clarify that Indian women with breast or cervical cancer who are eligible for health services provided under a medical care program of the Indian Health Service or of a tribal organization are included in the optional medicaid eligibility category of breast or cervical cancer patients added by the Breast and Cervical Cancer Prevention and Treatment Act of 2000.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 21, 2001.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a facsimile copy of a letter received from Ms. Susan K. Inman, Director of Elections, indicating that, according to the unofficial returns of the Special Election held November 20, 2001, the Honorable John Boozman was elected Representative in Congress for the Third Congressional District, State of Arkansas.

With best wishes, I am
Sincerely,
JEFF TRANDAHL,
Clerk.

Attachment.

STATE OF ARKANSAS,
SECRETARY OF STATE,
Little Rock, AR, November 21, 2001.

Hon. JEFF TRANDAHL,
Clerk, House of Representatives, the Capitol, Washington, DC.

DEAR MR. TRANDAHL: This is to advise you that the unofficial results of the Special Election held on Tuesday, November 20, 2001, for Representative in Congress from the Third Congressional District of Arkansas, show that John Boozman received 52,894 or 55.55% of the total number of votes cast for that office.

It would appear from these unofficial results that John Boozman was elected as Representative in Congress from the Third Congressional District of Arkansas.

To the best of our knowledge and belief at this time, there is no contest to this election.

As soon as the official results are certified to this office by all County Boards of Election Commissioners involved, an official Certification of Election will be prepared for transmittal as required by law.

Sincerely,
SUSAN K. INMAN,
Director of Elections,
Arkansas Secretary of State.

PROVIDING FOR SWEARING IN OF MR. JOHN BOOZMAN, OF ARKANSAS, AS A MEMBER OF THE HOUSE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the gentleman from Arkansas (Mr. JOHN BOOZMAN) be permitted to take the oath of office today. His certificate of election has not yet arrived, but there is no contest, and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

SWEARING IN OF THE HONORABLE JOHN BOOZMAN, OF ARKANSAS, AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Representative-elect and the Members of the Arkansas delegation present themselves in the well. Will the Representative-elect from Arkansas (Mr. BOOZMAN) come forward and raise his right hand?

Mr. BOOZMAN appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are a Member of the 107th Congress.

INTRODUCTION OF REPRESENTATIVE JOHN BOOZMAN

(Mr. BERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERRY. Mr. Speaker, I consider it a distinct honor and privilege to be here this morning to present the newest member of the Arkansas delegation to this House. JOHN BOOZMAN has distinguished himself as a son, a husband, a father and a leader. He has meant a great deal to the community he comes from in northwest Arkansas.

He follows a long and distinguished group that have served in that capacity from the Third District of Arkansas, one of those being present this morning, John Paul Hammersmith, and we are pleased to have him.

JOHN BOOZMAN and his family worked together to make northwest Arkansas a better place to live and work and raise a family. He has distinguished himself in many ways and will continue to serve the Third District and do a great job for them.

All of the Arkansas delegation is very pleased today to be able to present to this Congress the gentleman from Arkansas (Mr. BOOZMAN), and I think he represents a quote from one of my favorite books written by a fellow named William Alexander Percy.

☐ 1030

In that he talks about a letter that his father who was a United States Senator from Mississippi wrote to a friend and in it he says, "I guess our job is to make the world a better place in as much as we are able, remembering that the results will be infinitesimal and then attend to our own soul."

I think those are the values that JOHN BOOZMAN will represent as he serves in this House and as he serves his district, the Third District of Arkansas. And so now let me present to you JOHN BOOZMAN.

EXPRESSING GRATITUDE AND THANKS FOR THE OPPORTUNITY TO SERVE AS REPRESENTATIVE FOR THE THIRD CONGRESSIONAL DISTRICT OF ARKANSAS

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I am honored to be here. I wish to thank the Members for their courtesy and warm welcome. I wish to take a moment to acknowledge my family, my wife, Cathy, of 29 years; my daughters Shannon, Kristen, and Lauren; and my mother, Marie Boozman; and my mother-in-law, Betty Marley. And then also all of the wonderful family and friends that have accompanied me to show support for me today.

I am also fortunate to be joined by two former Members of this illustrious body, Mr. John Paul Hammerschmidt and the senior Senator from Arkansas, Senator TIM HUTCHINSON.

For 26 years, Congressman Hammerschmidt served the Third District of Arkansas and set a standard of excellence and dedication that the people of the third district have come to expect from all that have succeeded him. I share Congressman Hammerschmidt's immense respect for this institution and for the good people that I have been elected to serve.

Senator HUTCHINSON continued the rich tradition of tireless service to the third district and is doing a wonderful job representing Arkansas in the United States Senate. I look forward to working with him and the rest of the delegation on behalf of our home State.

I also would like to take a moment to thank former Congressman Asa Hutchinson, who recently departed Congress to head the Drug Enforcement Administration. President Bush recognized Asa's talent and selected him to lead the Nation's efforts to eradicate illegal drug use. It is by no means an easy job, but if anyone is up to the task it is Asa Hutchinson.

Mr. Speaker, I am proud to follow in the footsteps of these fine public servants. I am committed to keeping alive the tradition of service and conservative values that the people of the third district have come to expect from their representative in Congress. I look forward to my service in this body and again express my deep appreciation for the welcome I have received. Thank you very much.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). The Chair will entertain 10 one-minute speeches per side.

HONORING ANN MILLER AND TED MALIARIS

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize two patriotic Americans from my congressional district today, Ann S. Miller and Ted Maliaris. They have written and produced "A Tribute to America—a 21st Century Anthem."

Ann Miller's song is delivered with love and compassion by her son Ted with the help of their publicist Angel Duke. Theirs is an anthem for all Americans, dedicated to our Armed Forces, to our men and women in uniform, risking their lives every day and for those who need to carry on in this time of crisis.

The lyrics are powerful and uplifting: "Our tears may fall and our hearts may be shattered, but deep down in our souls we are strong. We are proud. We are bold. We have the strength. We have the power no terrorist could withstand. We will not hide. We will not cower. We will stand up for the rights of our land. We are America. We are America. America, you are grand."

Please join me in congratulating Ann S. Miller and Ted Maliaris, two proud Americans, proud to be serving our country.

WORLD AIDS DAY

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, since AIDS was first recognized 20 years ago, 58 million people have been affected; and at the current rate of spread, the total will exceed 100 million by 2001.

According to the Centers for Disease Control, there are currently over 900,000 people infected and living with HIV and AIDS in the United States. There are approximately 40,000 Americans infected each year. Worldwide this year there were 5 million new cases, and of that, 800,000 were under the age of 15.

Worldwide there are over 40 million people currently living with HIV and AIDS; 18 million are women and 3 million are children.

AIDS kills more than 7,000 people in sub-Saharan Africa each day. President Bush this year has committed over $200 million to a global fund to fight HIV and AIDS. I have requested additional money along with other Members of Congress to pursue this very worthy goal.

Today we should reflect on those lost and use their memories to fuel our efforts to eradicate this pandemic.

REMEMBERING WORLD AIDS DAY

(Ms. KILPATRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KILPATRICK. Mr. Speaker, today I rise to acknowledge and commemorate World AIDS Day, which is Saturday, December 1. Today, worldwide, AIDS is the fourth largest killer of people. Forty million people, as has been said, are living with AIDS today. As has been said, 900,000 here in America and 13,000 in my own State of Michigan. Half of the infected cases are young adults between 13 and 25.

The cost of treating AIDS is astronomical. Our health system is not able today to carry that cost, and we must invest in our health system from top to bottom so we can treat those who are infected.

It is important because countries around the world, including Africa, Eastern Europe, the U.K., Australia and Japan, are seeing increasing cases of HIV and AIDS. We must educate young people as well as others how to prevent the scourge of AIDS and carry out that responsibility. We must also invest resources so our health care system can treat.

IN APPRECIATION OF U.S. CAPITOL POLICE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, since September 11 America has been extra security conscious. Congress too has been taking extra precautions to make sure the people who work here are safe and as they do the people's business. We have extra jersey barriers up and a couple of side streets are blocked off to traffic. There is one more measure that I think we need to recognize. The Capitol Police are working overtime, a lot of overtime.

The dedicated officers of the Capitol Police have been working 12-hour shifts with only 1 day off a week. They are doing this to keep all of us safe. They are doing this to protect this building. This building is the symbol of American democracy. It is the symbol of freedom around the world.

So thanks to the men and women of the Capitol Police, the rookies and the veterans alike. Do not think that you are not appreciated. What you are doing is greatly appreciated by all of us.

THE BIG BITE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, as a former athlete, I thought I saw it all. Great celebrations after grand slams and Hail Marys. But this time it has gone too far.

News reports say after a game-winning goal at a soccer match in Spain, a player celebrated his teammate who scored by biting him on the genitals.

Beam me up.

Now I have heard of high fives, back slaps, butt slaps, but this takes the family jewels.

The team says the player is doing fine, but I suspect he will speak from here on in like a soprano. This is going a little too far. I yield back what has now become known as "The Big Bite."

HONORING CHANCE KRETSCHMER

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I come to the well of this great body to recognize the achievements of Chance Kretschmer, a freshman running back for the University of Nevada, Reno, Wolf Pack football team.

Chance Kretschmer broke not only every Nevada football rushing record for number of yards, number of carries and number of touchdowns, but he is also the lead rusher in the NCAA.

Born and raised in a small rural town, Tonopah, Nevada, the young football star joined the Wolf Pack football team as an unknown walk-on freshman. Now, not only are the UNR fans and coaches taking notice, but all of the college sports community is doing so as well.

In his last game, Chance ran for an amazing 327 yards on 45 carries and scored an amazing six touchdowns leading the UNR to victory. And as only a freshman, this Nevada native certainly has an exciting future ahead of him. Congratulations, Chance Kretschmer, on your athletic accomplishments. You have made all of Nevada proud.

SUPPORTING WORLD AIDS DAY

(Ms. LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LEE. Mr. Speaker, on December 1, communities across the globe will acknowledge World AIDS Day. The global AIDS pandemic is the greatest humanitarian crisis of our times.

Three years ago in my district, we declared a state of emergency on HIV and AIDS in the African American community. Since then the number of new infections has begun to slowly decrease, but millions of dollars are needed in our urban and rural communities to tackle this pandemic.

AIDS, like many diseases, knows no borders; nor does it discriminate. HIV has infected over 57 million people worldwide. AIDS, TB, and malaria claim over 17,000 lives each day:

We know how to prevent the spread of HIV. We know how to treat AIDS patients, and we know we must continue our work in vaccine development.

United Nations Secretary General Kofi Annan and global AIDS experts estimate that it will take $7 billion to $10 billion annually to launch an effective response. The United States should contribute at least $1 billion to this fund as the wealthiest and most powerful country on Earth. The human family is at stake. We can and we must do more.

□ 1045

A SAD ANNIVERSARY

(Mr. LoBIONDO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LoBIONDO. Mr. Speaker, I rise today on a sad anniversary for a family in southern New Jersey. On November 25, 1991, 11-year-old Mark Himebaugh left his Middle Township, New Jersey, home to watch firefighters respond to a brushfire. He was returning as his mom was leaving to run an errand. His mother told him that she would be right back, and Mark replied, "Okay, Mom." Those would be the last words anyone would hear from Mark. Now, 10 years later, Mark sadly is still missing.

This heartbreaking story is just one of so many in our Nation where FBI statistics show that more than 876,000 adults and children were reported as missing during the year 2000. The Congressional Caucus on Missing and Exploited Children, of which I am a member, is working to raise the profile of this issue.

The best way to help find kids like Mark is to look at the photographs of missing children posted at many venues around the Nation and call the National Center for Missing and Exploited Children's toll-free number at 1-800-THE-LOST. At their Web site, www.missingkids.org, you can see pictures of Mark. Please do your part to help out.

DR. GEORGE SIMKINS, JR.

(Mr. WATT of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATT of North Carolina. Mr. Speaker, I rise today to pay tribute to Dr. George Simkins, Jr., a resident of my congressional district, who died on November 21 and is being funeralized today in Greensboro, North Carolina. Dr. Simkins, a former president of the Greensboro NAACP for 25 years, was a civil rights pioneer who helped integrate the Greensboro City Council and open public facilities to African Americans.

Dr. Simkins was a vigilant and constant warrior for equity, equality, and justice. In this role, he paved the way for many of us to achieve successes that would otherwise have been unattainable and then stood shoulder to shoulder with us to continue the fight. Politically, George was a strong supporter, adviser and mentor. Personally, George was my tennis buddy and my true friend.

Greensboro, North Carolina, and our Nation have lost a sturdy warrior whose important work will be remembered for years to come. I offer my condolences to the family of Dr. George Simkins, Jr.

TRADE PROMOTION AUTHORITY

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, leadership is only proven through action, and throughout its history the United States has proven itself to be a leader. But as we lead the world in an effort to eradicate terrorism, we risk abdicating our position of leadership in an area that is just as vital to America's well-being and that is international trade.

With more than 130 trade agreements in effect in the world today, it is shocking that in the U.S. we are a party to only three. National security and economic security are not mutually exclusive. Exports strengthen our country by creating jobs and strengthening the economy. The jobs stay here and the exports go overseas. One in 10 Americans work in jobs that depend on exports. One in 10. And those jobs pay between 13 and 18 percent more than the national average.

America must lead in international trade in order to effectively lead the world. Fortunately, 1 week from today, December 6, Congress has a chance to pick up the mantle of leadership by passing trade promotion authority.

I urge all my colleagues to join me in supporting TPA, trade promotion authority.

THE ACCESS AND OPENNESS TO SMALL BUSINESS LENDING ACT

(Mr. UDALL of New Mexico asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, we all agree that small business is the engine of economic growth in our Nation. As a member of the Committee on Small Business, I have worked with my colleagues in both parties to ensure that access to capital is there for those who need it, especially women and minority-owned businesses. I am pleased to join today the gentleman from Massachusetts (Mr. McGOVERN) in introducing legislation that will allow us to determine if financial institutions are responding to the credit needs of minority- and women-owned businesses. From this data, we will be able to determine what is working and what needs fixing.

This legislation is supported by the National Women's Business Council, the Women's Business Development Centers, the National Community Reinvestment Coalition, and the Hispanic Economic Development Corporation, to name a few.

I look forward to working with the gentleman from Massachusetts and all my colleagues to achieve passage of this important legislation.

URGING ACTION ON A FARM BILL

(Mr. OSBORNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OSBORNE. Mr. Speaker, I am relatively new here, and I am surprised at the pace at which legislation moves at times. I am particularly amazed that legislation critical to the national well-being is not moving in the other body.

Much has been said about inaction on the economic stimulus package and the energy bill. I would like to call attention this morning to a bill that has gone largely unnoticed and that is the farm bill. The agriculture economy has been in dire straits not for just the past 2 or 3 months, but for the last 5 years. We have been losing thousands of farmers each year, almost no young people are going into agriculture, and three-fourths of U.S. farms rely on off-the-farm income. A new farm bill is critical.

The House farm bill passed this body 3 months ago. A farm bill passed this year will, number one, save thousands of farmers; and, number two, will ensure that we have an adequate budget.

The other body needs to act and needs to act now on several pieces of legislation, but particularly on a farm bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Members are reminded to not urge action or inaction by the other body.

WORLD AIDS DAY

(Mr. PAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE. Mr. Speaker, according to UNAIDS, each day 17,000 people die from HIV/AIDS, tuberculosis, and malaria worldwide. While the world's attention is appropriately focused on September 11 and our new war on international terrorism, we cannot ignore this ongoing tragedy. We have a tragedy occurring daily with HIV and AIDS, a tragedy on the scale of the black plague of the Middle Ages. The United States, as has been mentioned earlier, should be putting at least $1 billion in the global fund to fight HIV and AIDS.

In Zimbabwe, for example, AIDS has taken so many lives that agricultural output has decreased by 50 percent in the past 5 years. By 2005 there will be more than 10 million orphan children in Africa. The number of AIDS deaths can be expected to grow within the next 10 years to more than double the number of deaths caused by all other illnesses that we know.

We can do more. We must do more. It is the right thing to do more.

SETTING THE RECORD STRAIGHT

(Mr. ISSA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISSA. Mr. Speaker, I come to the House floor today to make the body aware of what I think is a reprehensible act by the nation of Iran in using its state-run newspaper, the Tehran Times, to falsely state what a delegation of Members of Congress accomplished while in the Middle East. In a delegation that I was proud to lead, we went to the Middle East, to Syria, to Lebanon, to Egypt, to Israel and into the Palestine-occupied territories. On that trip, we had occasion to make an address in Lebanon. That address was covered by the Tehran Times and by the Associated Press, Reuters and others.

The Tehran Times chose to say that we had said that the Hezbollah was not a terrorist organization, when nothing could be further from the truth. It has a long history of terrorism, including its leaders having murdered American Marines in 1982, having blown up our embassy, and those leaders are still sought.

To make the record straight, the Associated Press, and I quote, said: "The delegation's leader DARRELL ISSA, Republican of California, told reporters that for the United States to remove Hezbollah from its list of terrorist organizations, the Lebanese-based group must renounce terrorism."

Another title: "Hezbollah Must Renounce Terrorism, says a U.S. Congressman." That was from a French newspaper.

And from Reuters: "U.S. Congressmen Ask Lebanon to Rein in Hezbollah."

I hope this has set the record straight.

ON RETIREMENT OF HONORABLE EVA CLAYTON

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, this morning I learned of the pending retirement from Congress of a great colleague, EVA CLAYTON from North Carolina. I just want to note her tremendous service the last decade of not only in North Carolina but the whole country.

I met EVA when she became president of our freshman class in 1992, and I think it showed the wisdom of our class in 1992 of having elected her to that position, because in the later 10 years, she has really provided great service, always in a very dignified, quiet manner and very successful for her constituents in North Carolina.

I hope during her next 1-minute where she continues her public service talking about our need to deal with the AIDS crisis, we will give her our infinite attention because she has been a great Member for the last decade. I thank Representative CLAYTON for her public service.

WORLD AIDS DAY

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, on Saturday, December 1, communities around the world will acknowledge World AIDS Day. This year's World AIDS campaign will address masculine behaviors and attitudes that contribute to the spread of HIV. The new campaign aims to involve men, particularly young men, more fully in the effort against AIDS.

June 5, 1981, marked the first reported case of AIDS. Since then, 5.3 million people worldwide continue to be infected, with roughly 3 million AIDS-related deaths annually. HIV/AIDS has caused over 25 million fatalities, and 40 million are living with the disease worldwide. Eighteen million are women and 3 million are children.

To combat this growing global threat, I along with 62 of my colleagues have most recently called on President Bush to set aside $1 billion in emergency fiscal year 2002 funding to fight the global AIDS pandemic, TB, and malaria. This funding is essential so that additional investments from both public and private sources can be leveraged to meet the cost of effectively combating the global AIDS pandemic.

Money is unquestionably a key component to our global battle to eradicate AIDS; however, equally critical is individual behavior. In spite of the progress we have made in our battle against AIDS, there is still approximately 40,000 new HIV infections a year in the United States, the exact number reported 10 years ago. We must encourage men to adopt positive behaviors and to play a greater role in caring for their partners and families. We all have a role to play.

HONORING CLEARFIELD EMERGENCY MEDICAL SERVICE

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I rise today to honor the outstanding achievements of the Clearfield, Pennsylvania, Emergency Medical Service Company. On August 10, 2001, the Pennsylvania Emergency Health Services Council chose Clearfield EMS from among 1,000 ambulance service companies statewide to receive the rural ambulance service-of-the-year award.

Clearfield EMS garnered such an award not only through exemplary ambulance service but also through their involvement in the community. Free flu shots and participation at county fairs and festivals are just a couple of the many ways that Clearfield EMS has taken the lead in community education and involvement.

I congratulate Clearfield EMS on their exceptional accomplishments and their determination to improve their already stellar service. Clearfield EMS should serve as an example in excellence for other ambulance services nationwide.

□ 1100

TREATING HIV-AIDS AS A THREAT TO GLOBAL SECURITY

(Ms. WATSON of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON of California. Mr. Speaker, in honor of World AIDS Day, we must remember that it is estimated that by 2010, one-quarter of South Africa's population will be infected by HIV-AIDS. Other African nations are suffering similar rates of infection.

In late August, I traveled to South Africa to examine the HIV-AIDS pandemic firsthand. While there, I visited KwaZulu-Natal, a region with the highest HIV infection in the world. In that region, an estimated 1 in 3 adults tests positive for HIV. The time has come for the United States to treat HIV as the threat to global security that it is.

Let us not forget that Osama bin Laden has exploited the misery of another state where civil society has collapsed, Afghanistan, to serve as a base for his terror network. The United States must act to prevent HIV from destroying an entire generation, not only of Africans, but those in Afghanistan.

I urge my colleagues to remember this day on the 1st of December and ask for a renewed effort to fight against HIV-AIDS in Africa.

TERRORISM RISK PROTECTION ACT

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 297 ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 297

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism. The bill shall be considered as read for amendment. In lieu of the amendments recommended by the Committee on Financial Services and the Committee on Ways and Means now printed in the bill, an amendment in the nature of a substitute consisting of the text of H.R. 3357 shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services; (2) the further amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative LaFalce of New York or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution before us today is a fair, modified rule providing for the consideration of H.R. 3210, the Terrorism Risk Protection Act. The rule provides that in lieu of the amendments recommended by the Committee on Financial Services and the Committee on Ways and Means, an amendment in the nature of a substitute consisting of the text of H.R. 3357 shall be considered as adopted.

The rule waives all points of order against consideration of the bill, as amended, and provides for 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. It also provides for consideration of the amendment in the nature of a substitute printed in the Committee on Rules report accompanying the resolution, if offered by the gentleman from New York (Mr. LAFALCE) or his designee.

The bill shall be considered as read and shall be separately debatable for 1 hour, equally divided and controlled by the proponent and opponent. The rule waives all points of order against consideration of the amendment printed in the reported. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, on September 11, the collective memory of Americans was altered forever. The terrorist attacks resulted in an incalculable loss, both in terms of life and the destruction of buildings, property and businesses. In the 2½ months since the attacks, America has begun the painful process of recovery and healing.

Today we are here to consider H.R. 3210, the Terrorism Risk Protection Act. Exposure to terrorism is not only a threat to our national security, but is also a threat to the United States and global economies. The full extent of insured losses from September 11 is not yet known, but current estimates span from the range of $30 billion to $70 billion.

There is no doubt that these terrorist attacks have resulted in the most catastrophic loss in the history of property and casualty insurance. While the insurance industry has indicated that it will be able to cover total losses, and should be commended for its resiliency, we are faced with a new situation that requires an innovative and creative solution.

As our President, President Bush, declared, this Nation is now faced with fighting a different kind of war against a new enemy. Just as our military leaders have had to employ new strategies and tactics to fight the war abroad, we have had to make adjustments in our own homeland.

Prior to September 11, terrorism insurance coverage was generally included in most commercial and personal contracts. However, the prospect of future attacks has set off a dangerous chain reaction.

The reinsurance industry, which insures insurance companies, has indicated its inability to provide terrorism coverage without a short-term Federal backstop. Without reinsurance for the risk of terrorism, insurance companies are forced to specifically exclude it from future policies. Without this terrorism coverage, lenders are unlikely to underwrite loans for major projects. This sequence of events could result in dangerous disruptions to the marketplace and further hurt our economy.

While a few fully understood intricacies of risk assessment and premium pricing are apparent, the effects on our marketplace are already being felt. I would like to highlight just a few of these real live examples.

There is a small construction contractor in Maryland that recently found out that his insurance premium might triple to $150,000 a year.

New York's JFK International Airport terminal cannot secure the $1 billion in insurance coverage it needs, which has led the developer to reconsider shutting the terminal down.

The city of Chicago has received a bill to renew its war on terrorism insurance for next year at a 5,000 percent increase over its 2001 rates.

These snapshots from around the country form a composite picture of a dire circumstance that requires action from Congress.

Since September 11, Congress has moved in a timely fashion to address the needs that have arisen from the bipartisan supplemental appropriations funding, provided just a few days after the attacks, to legislation that addresses the need for increased airline security, to an economic stimulus package. This House has responded to its calling.

Mr. Speaker, we now must step up again to pass this bill that is before us today. Reinsurance policies are generally written on a 1-year basis. Approximately 70 percent of current reinsurance contracts are set to expire at the end of this year, December 31, 2001.

As the year draws to a close, Congress must act quickly to avert a national economic disaster. The Terrorism Risk Protection Act provides a Federal backstop for financial losses in the event of future terrorism attacks. This crucially needed backstop would create a temporary risk-spreading program to ensure the continued availability of commercial property and casualty insurance and reinsurance for terrorism-related risks. Under the House plan, the Federal Government provides the necessary backstop without opening the pocketbooks of taxpayers. Every dollar of Federal assistance will be repaid.

The legislation also contains reasonable legal reforms to ensure that Federal assistance reaches its intended recipient. The 1993 World Trade Center bombing which killed 6 people resulted in 500 lawsuits by 700 individuals, businesses and insurance companies.

Mr. Speaker, it has been 8 years and the cases are only just now getting to the trial stage, and hundreds of plaintiffs have yet to even receive 1 cent of compensation. By providing reasonable reforms, victims of terrorism will more quickly and equitably receive compensation, while also reducing the substantial uncertainty facing the insurance industry when pricing terrorism risk.

Finally, the bill provides for studies that examine the effects on terrorism on various sectors of the insurance industry and ways to establish reserves, and guards against losses for future acts of terrorism.

Yesterday, in his testimony before the Committee on Rules, the gentleman from Ohio (Chairman OXLEY) described insurance as "the glue which holds our economy together." The ranking member, the gentleman from New York (Mr. LAFALCE), also spoke, saying that this bill is not a bailout for the insurance company, and is of critical importance.

While there may be many competing ideas on the best way to address this situation, there is one unanimous agreement: that this legislation is absolutely critical to prevent major disruptions in the marketplace and further harm to our economy.

As the gentleman from Louisiana (Chairman BAKER) stated when he testified yesterday, the only intolerable action at this time is to do nothing.

Mr. Speaker, I urge my colleagues to join me in supporting this rule, a fair rule, and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Ms. SLAUGHTER. Mr. Speaker, I thank my colleague from Texas for yielding me the customary 30 minutes.

Mr. Speaker, I rise in opposition to the rule. I oppose the hubris it embodies and the process it represents. In what is becoming standard procedure, the House is preparing to move forward with an important bill that is not ready for prime time.

No one doubts the critical nature of this bill. The withdrawal of terrorism coverage by reinsurers may force primary insurers to radically increase premiums for policyholders or to withdraw coverage entirely. The consequences could reverberate throughout the entire economy. Virtually nothing could happen in the American economy without insurance, and the vast majority in this body agrees that Congress has a duty to intervene in the reinsurance marketplace to safeguard against a cascading economic crisis.

Unfortunately, the leadership in the body has seized upon the crisis in an attempt to circumvent regular order and move forward with tort reform, a wholly extraneous matter. Tort reform does not belong in this bill, nor was it requested by the reinsurance industry representatives during the many discussions leading up to the legislation.

Even by the standards that are in place here, this is a heavy-handed attempt to curtail victims' rights. The tort reform provision threatens to derail the principal objective of the legislation, which is to revitalize and reestablish a rational and functional reinsurance market.

Yesterday's Committee on Rules hearing on the bill revealed utter confusion among the chairmen and ranking members of the two committees as to what the bill actually contained. The chairmen had not seen the measure, but had a hunch of what might be in it. The ranking members were wholly in the dark. Committee on Rules members were given copies of the comprehensive substitute provisions seconds before the hearing commenced.

Something else became apparent at the hearing as well. All the principals involved in the legislation, the gentleman from Ohio (Chairman OXLEY), the gentleman from New York (Mr. LAFALCE), the gentleman from Pennsylvania (Mr. KANJORSKI) and the gentleman from Louisiana (Mr. BAKER) were firmly convinced of the importance of the legislation and the need to move it forward, and, indeed, all four showed a great willingness to work together with each other to reach a consensus and a good bill which the country sorely needs. They believed that within an additional 24 hours they could have reached that agreement and moved a bill that virtually all of us would have supported.

Now, this is the way a deliberate body should operate, and, indeed, was operating as this bill moved expeditiously through the legislative process. But after the Committee on Financial Services carefully crafted a bipartisan measure, the House leadership seized their work product in order to move a controversial measure they know would not survive the scrutiny of the entire Congress.

□ 1115

Mr. Speaker, this is not leadership; this is petulance. The American people expect more from their leaders in a time of crisis.

We are also being asked to support a rule that blocks any attempt to remedy these extraneous provisions. Indeed, some measures in the committee itself that had passed by a majority vote to improve the bill were not even included as the bill was written. The gentleman from New York (Mr. LAFALCE) and the gentleman from Michigan (Mr. CONYERS) both offered amendments for the rule that simply strike the sections of the bill that related to tort reform, and the gentleman from Pennsylvania (Mr. KANJORSKI) offered a compromise amendment on tort reform to prohibit the use of Federal assistance to cover punitive damage awards.

The gentleman from New York (Mr. CROWLEY) offered an amendment which would have expanded the legislation to cover not only commercial policyholders, but personal policyholders, like our Nation's homeowners who have been grievously hurt in New York City and other parts of the country. Without this extension, homeowners are going to see their premiums rise dramatically. But none of these amendments were made in order.

What is the leadership's aversion to regular order? Why the single-minded obsession with sabotaging critical legislation unanimously agreed upon at the committee level? And why the unwillingness to show their handiwork to the scrutiny of their colleagues before a Committee on Rules hearing and floor consideration?

Moreover, Mr. Speaker, there are other critical priorities that Congress is ignoring. As we take the time to rush through a measure designed to protect the insurance industry, surely we oould utilize that same energy to address the needs of those who have lost their jobs and their health insurance in the wake of September 11.

With this in mind, I will be urging defeat of the previous question so that we can adopt a rule to order an amendment offered by the gentleman from New York (Mr. RANGEL). This amendment would provide relief for unemployed workers in the form of unemployment compensation and the extension of COBRA benefits and Medicaid.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, to speak to us supporting this rule.

Mr. OXLEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, first I want to pay tribute to the gentleman from Texas (Mr. SESSIONS), my good friend, for once again helping us craft a very fair and equitable rule to debate this very difficult issue that faces us. Just a few short weeks ago, we faced this terrible attack on America on September 11, and I do not think any one of us could have foreseen the events that have taken place since that time that have drawn this Congress towards addressing some of the most critical issues facing us.

We have done a great job, in my estimation, acting on a bipartisan basis, dealing with things like giving the President the authority to wage a military campaign in Afghanistan, providing the funding necessary to get New York back on its feet and to compensate victims of this terrible tragedy and, ultimately, I think, passing an economic stimulus package.

This legislation that we will be taking up shortly is a direct response to what happened after September 11, and that is almost immediately. The reinsurance market which, for the most part, is offshore and not American, indicated very strongly that they would no longer write reinsurance policies for terrorism. This, of course, had a resounding effect on the American domestic insurance industry, the property and casualty companies, because with the inability to essentially reinsure or to spread the risk through reinsurance, they faced a real conundrum.

This is not about the losses that took place on September 11, and this bill is not a bailout for the insurance companies. The insurance companies stepped up to the plate and are taking care of their obligations that resulted from the September 11 attack. Indeed, it is going to be a $40 billion to $50 billion project for them to make these folks whole.

What it is all about now is what happens next. All of us hope that our efforts today will not be needed in the future because our bill only occurs and only triggers when an event actually occurs of a terrorist nature to be determined by the Secretary of the Treasury. We all hope and pray that our efforts today, while beneficial, will not have to be used. I think all of us share that. But in the event that we have another terrorist attack, we have to be prepared, and the issue is how can the domestic insurance companies provide the kind of coverage, as the gentleman from Texas (Mr. SESSIONS) said yesterday in the Committee on Rules, saying that the glue that holds our economy together truly is insurance.

People have told us, lenders and everybody else, we can no longer provide the kind of insurance coverage necessary. We do not know how to price it. This is a case of first impression, and we need a backstop; not a bailout, but a backstop, so that we can provide some kind of certainty for the insurance industry and, more importantly, for our concern. Because make no mistake about it: this legislation that we are going to be taking up soon is all about keeping our economy strong, not about bailing out insurers, but to actually provide the kind of continuity and certainty in the economic field. I have talked to developers who have development projects literally in the pipeline who are waiting to see what the Congress can do to provide this backstop.

Mr. Speaker, this is a fair rule. It provides the opportunity for the gentleman from New York (Mr. LAFALCE), my good friend and the ranking member, to offer a substitute of his choosing. It also offers the minority the opportunity for a motion to recommit, as is the custom. That basically says that the other side gets two bites of the apple. That is fine. But I also think, Mr. Speaker, that this bill that we will be debating should be a bipartisan effort, just like all the other efforts have been in this House.

Make no mistake about it: this House is going to act. The other body has some real problems. There is some question as to whether they can even get their act together; but today, sometime between 3 and 4 this afternoon, this House will have spoken loudly and clearly that we understand the problem and that we are ready to address the problem in a bipartisan way. This rule gets us towards that effort.

I want to thank the gentleman from Texas (Mr. SESSIONS), and particularly the newly arriving chairman of the Committee on Rules (Mr. DREIER), just newly arrived, not newly arrived to Congress obviously, but newly arrived to the Chamber, for his excellent work in crafting a rule that all of us can support.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I rise in opposition to this rule, and I would hope that all of my colleagues would join me in opposition. One of the most important things for us to do is have a fair rule so that we can debate the important issues of the day. It is not simply to get things behind us; it is not simply to create partisan contests. It is to frame important issues and then have discrete votes on those.

Now, the majority has not permitted that. They have said, oh, look, lump every single issue imaginable that we are concerned about into one substitute and put it all together. Well, the problem is, 90-some percent of the time, the only thing we accomplish there is to get a partisan vote with Democrats for the most part for, Republicans for the most part against; and we cannot really focus in on the discrete, but important, issues unless we have individual amendments, which the majority has denied. That is unfortunate, because there are individual issues of great import that do not have partisan considerations that we should debate separately and vote on separately.

For example, should there or should there not be a deductible? Well, I believe strongly that there should be a deductible before the Federal Government comes in, and the bill coming out of the Committee on Rules does not have a deductible. I personally believe, the administration believes, that there should be a deductible. It would prefer at least that portion of our substitute. The administration negotiated with certain Senators a proposal that included a significant deductible. That is a separate and distinct issue. Let the insurance industry pay first; how much is negotiable, but at least $5 billion, before it is necessary to have a Federal backstop. And they absolutely have the capacity to do that with no difficulty whatsoever, and yet they are denying us the right to vote on that discrete issue.

Another discrete issue is, well, should the Federal Government come in and pay from dollar one? Should the Federal contribution, that is, 90 percent of the damages, come in on the first dollar or should it come in on the first dollar after a deductible? Under the House Republican Committee on Rules bill, that 90 percent Federal payment will come in on dollar one. Ours would come in the first dollar after $5 billion. That is a very important issue, and we should be allowed a discrete vote on that.

Mr. SESSIONS. Mr. Speaker, it is a delight and a pleasure to yield 7 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary. As my colleagues have heard me detail earlier, he is one of three of the brightest minds in the Republican Conference, including the gentleman from Louisiana (Mr. BAKER) and the gentleman from Ohio (Mr. OXLEY).

Mr. SENSENBRENNER. Mr. Speaker, I thank the fourth bright mind of the gentleman from Texas (Mr. SESSIONS) for his compliments, and I rise in support of the rule and in support of H.R. 3210. I wish to compliment the gentleman from Ohio (Mr. OXLEY) for his vigorous work on this difficult issue.

I am particularly supportive of the litigation management provisions in H.R. 3210 which will benefit all people in all industries that fall victim to terrorist attacks of a catastrophic nature. Any bill that fails to limit potentially infinite liability for terrorist-caused litigation would fail to recognize the obvious. Traditional tort rules are designed to address slip-and-fall cases caused by banana peels, not terrorists; and while banana peels may be accidents waiting to happen, terrorists are suicidal killers plotting the deaths of thousands of innocents and the destruction of billions of dollars of property.

Under this legislation, if the Secretary of the Treasury determines that one or more acts of terrorism have occurred, an exclusive Federal cause of action kicks in for lawsuits arising out of, relating to, or resulting from the acts of terrorism; and the lawsuit must be heard by a Federal court or courts selected by the Judicial Panel on Multidistrict Litigation. These claims in Federal court are subject to limits on punitive damages and attorneys' fees. Defendants are only liable for noneconomic damage in direct proportion to their responsibility for the harm, and damage awards to plaintiffs must be offset by any collateral source compensation received by the plaintiff.

By enacting these provisions to cover terrorist-inspired litigation, individuals and businesses will be protected by Congress from potentially limited liability and bankrupting litigation. Also under these provisions, the size of damage awards for which the United States taxpayer will have to provide up-front sums to cover would be reduced, just as the Federal Tort Claims Act's limits on punitive damages and attorneys' fees limit damages and litigation that will result in money taken from the U.S. Treasury.

□ 1130

These provisions protect the American taxpayer. Those opposed to them wish to turn the key to the United States Treasury over to the plaintiffs' bar.

Existing tort rules do not properly apply when the primary cause of injury is a suicidal fanatic motivated by a deep hatred of America. These are not garden variety slip-and-fall or auto accident cases, and this Congress has already recognized this key distinction in passing the liability protection provisions governing lawsuits relating to the September 11 attacks.

As a result of the Aviation Security Act conference report, as well as the Air Transportation Safety and Systems Stabilization Act, September 11-related lawsuits against air carriers, air manufacturers, owners and operators of airports, State port authorities, and persons with property interests in the World Trade Center must be heard in Federal court in New York; and the total damages against these potential defendants, should they be found liable, are capped at the limits of the insurance coverage they had on September 11.

Let this be clear, that what is proposed in the litigation management provisions of this bill the House has already approved in both the Aviation Security Act and in the Air Transportation Safety and Systems Stabilization Act. So Members have already voted for this once and twice.

In addition to these provisions, the Airline Security Act that originally passed the House also limited punitive damages and attorney's fees, and required that damage awards to plaintiffs be offset by any collateral source compensation received by the plaintiffs.

The litigation management provisions of H.R. 3210 would similarly benefit victims of future terrorist attacks. If these same provisions are not extended to private businesses which might be attacked in the future, the mom-and-pop store down the street will have to invest scarce resources to turn itself from a corner shop into a fortified bunker designed to withstand foreign attacks to avoid potentially infinite liability, or pay through the nose in higher insurance premiums because the risks are higher and their exposure is greater.

Furthermore, without the litigation management provisions in H.R. 3210, no limits would be placed on the fees of attorneys bringing terrorist-caused cases against Americans and their businesses, and ultimately against the taxpayers, under this bill.

Reasonable limits on attorney's fees serve the same purpose behind restrictions on permanent damages and joint and several liability. They maximize the funds available to large numbers of victims when there are only limited resources available for compensation. Such protections are more important than ever in the context of the terrorist attacks causing large-scale losses. Again, the litigation management provisions in this bill will spread the wealth out to more victims, rather than having one or two large awards ending up bankrupting the pot of money available.

The 1993 World Trade Center bombing killed six people, yet resulted in 500 lawsuits by 700 individuals, businesses, and insurance companies. Damages claimed amounted to $500 million. Eight years later, these cases are only now just getting to trial, and hundreds of plaintiffs have yet to receive a cent in compensation.

By providing reasonable limits on potentially infinite liability and consolidating all cases in one or a few Federal forums, victims of terrorism will recover more quickly and more equitably because a few enormous awards in one court will not bankrupt a responsible party before another court can consider arguments of others who may have stronger claims against the same party.

I urge all Members to support these vitally important provisions, which ensure equitable compensation to victims while protecting the American economy and the American taxpayer.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Speaker, I rise in opposition to a rule I consider fundamentally unfair. The previous speaker addressed one of the major issues that I wanted to address in an amendment I had offered and asked the Committee on Rules to make in order, and that is to have some limitation on punitive damages and provide for consolidation of lawsuits, but not to enter into tort revision.

Unfortunately, some of my friends have seen the opportunity to use this as a locomotive today to go to one of their favorite topics, and that is, tort revision in the country. I think that is unfortunate because the history and the process of this legislation was initially handled by the Committee on Financial Services for the sole purpose of trying to bring together the entire Congress with a bipartisan effort to accomplish something that would allow the economy to have terrorist insurance and to have a reinsurance industry that could be vital, and could be kept in the private sector until we straighten out the problems and the new issues created by the terrorist attack on September 11.

I thought we had moved a great deal along that line during the committee operations, but since that time the bill has been taken and fundamentally changed, and made a vehicle to carry everyone else's desire to change fundamental existing law in the United States.

I recognize the fair right of all individuals to disagree with the evolution of tort law responsibility in the United States over the last 200 years, and it may be subjected to change. This body is the place that should consider that issue. It should not consider that issue at this time when we have a very limited period of time to get a comprehensive reinsurance bill passed so the economy can be stabilized for the next year or two, so that American businesses can get the insurance they need against terrorism, and so that the rate can be reasonable.

What we have here is a political response: taking a very highly emotional and disagreeable issue on the two sides of this aisle, and I may say, Members on both sides in different proportions, and inserting it in this bill, which will ultimately say this bill cannot be passed by the Senate, will not be passed by the Senate, and I think puts at risk the fact that we may have reinsurance legislation in this session, and as a result, could materially destabilize the economy of the United States over the next year or two.

That is unfortunate that some of us have given in to our basic weaknesses and have gone to our ideology, rather than to the interests of the people of the United States and the economy of the United States.

I hope my predictions are wrong. I hope we can get terrorist reinsurance put through this Congress before we adjourn. But if we do not, if we do not, it will really be as a result of tort law revision that has been inserted into this bill that prevents the passage of this type of legislation in the waning days of this session.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is obvious we disagree on this. But for someone to stand up in this body and argue that because of what we are going to do here today, it would encumber the Senate and ultimately would mean that this bill could not be passed, I simply disagree with that.

The Senate, the other body, has an opportunity to debate this issue, to bring forth their bill, and then for the conference committee, not the other body to feel like they have been put upon, but for the conference committee to be the body to determine what the final outcome will be. That is what the process should be.

I am proud of what this bill stands for, and I think we are doing the right thing.

Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise today in support of the rule and the underlying legislation. The rule provides for the continued availability of insurance against terrorism risks, and addresses multiple insurance and liability issues arising out of the September 11 attacks.

This is a good rule that incorporates changes made by the Committee on Financial Services and the Committee on Ways and Means and the Committee on the Judiciary to the original bill. I would like to speak about some of those important provisions that fell within the Committee on the Judiciary jurisdiction.

First, by working with the gentleman from Ohio (Chairman OXLEY) and the gentleman from Wisconsin (Chairman SENSENBRENNER), we were able to expand language in the original bill dealing with the use of frozen terrorist assets to compensate victims of terrorism.

This change to language offered by the gentleman from North Carolina (Mr. WATT) brings the bill into line with an amendment I offered earlier, in earlier legislation, that was accepted by the Committee on the Judiciary this fall. It was also language that was approved by the House on suspension in the 106th Congress.

The provision in the bill today will allow equal access to the frozen assets of terrorists, terrorist organizations, and terrorist sponsor-states for American victims of international terrorism who obtain judgments against those terrorist parties.

In addition, the Committee on the Judiciary added important litigation management provisions to deal with the legal aftermath of a major terrorist attack. This is a commonsense recognition that major terrorist attacks are not garden variety tort cases, and that there is a compelling national interest in setting rules and limits for how lawsuits arising from such attacks proceed. Exposing American citizens and insurers to unlimited liability in multiple judicial forums for the terrible acts of madmen is a recipe for a financial crisis.

This Congress overwhelmingly recognized the same principle when we limited airline liability for the September 11 attacks and set them back on a sound financial footing. We need to do the same today for insurers, and equally important, to the insured.

I would like to thank again the gentleman from Ohio (Chairman OXLEY), the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from New York (Mr. FOSSELLA), and the gentleman from North Carolina (Mr. WATT), for all their efforts on these issues.

I urge my colleagues to support the rule and the bill today. By providing partial Federal coverage for acts of terrorism, setting reasonable limits and procedures for lawsuits arising from such acts, and allowing victims to go directly after the frozen assets of terrorists and their sponsors, we can help our Nation and economy move forward.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY), a member of the committee.

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I rise in opposition to the rule for the reasons outlined by the gentleman from New York (Mr. LAFALCE) and the gentleman from Pennsylvania (Mr. KANJORSKI) for not allowing substantive amendments and for fundamentally changing the work product of the Committee on Financial Services.

But Mr. Speaker, the issue of terror insurance may affect our national economy more immediately and more drastically than any tax or spending bill that Congress considers in the next decade. Without Federal intervention in the terror insurance market, our economy will face a sudden, massive credit crunch after the first of the year. Nowhere will this impact be more serious than in the district I represent in New York City.

Even if Congress passed a perfect bill, I am sure that insurance rates are going to go up and availability shortages will be a fact of life next year, especially in New York.

The New York State insurance commissioner will have to be especially vigilant next year to make sure that rates remain affordable and products are available. The restrictions on victim rights in the majority bill deserve their own vote as an amendment separate from the substance of this bill. This effort to limit the access to the State courts and restrict individuals' access to the civil courts is simply an act of the majority's long-advocated partisan agenda. This bill is too important to play politics, and these provisions have no place in this debate.

Insurance coverage is vital to our economy. Without a safety net for catastrophe, businesses simply will not do business, they will not employ people, and they will not meet consumer needs.

While the industry should be complimented for quickly moving to cover the $50 billion to $70 billion in losses from the World Trade Center, the reinsurance industry, which buys risk from property and casualty writers, is unable to cover massive future events.

Without reinsurance, we face a domino effect. Property and casualty insurance will be unwilling to write policies. Without property and casualty coverage, banks will refuse to lend money for major capital improvements or real estate projects.

Mr. SESSIONS. Mr. Speaker, I yield 1½ minutes to the gentleman from Columbus, Indiana (Mr. PENCE), of the Committee on the Judiciary.

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as a member of the Committee on the Judiciary and also as a former trial attorney, I rise in strong support of the rule and the underlying legislation.

Mr. Speaker, in the antiterrorism measures recently passed by Congress, legal reforms were an integral part of shaping bills that provide the President with the necessary means to combat evil. Legal reform is equally important to the measure before us today in this Chamber, terrorism risk protection.

Mr. Speaker, the existing legal system is simply not designed to rectify attempts by international terrorists to murder thousands of innocent Americans or obstruct our economy.

□ 1145

We need look no further than the 1993 bombing at the World Trade Center for proof. In that heinous crime 6 Americans were killed, but 500 lawsuits were filed claiming more than $500 million in damages. These cases are only coming to trial today, over 7 years later, and many plaintiffs have yet to receive a dime in compensation.

Mr. Speaker, our current legal system is inadequate to deal with this very present threat against our people. The current legal system pits victim against victim and encourages overreaching by the colleagues in my former profession and, even worse, could result in putting hundreds of millions of dollars into the deep pockets of attorneys' fees instead of addressing real losses by Americans.

Mr. Speaker, my colleagues can understand the urgent need for legal reform in the matter of risk protection. I applaud the gentleman from Ohio (Mr. OXLEY) and his colleagues for their hard work in creating a pro-consumer, pro-taxpayer solution as read in H.R. 3210, and I urge my colleagues to support the rule and the bill.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Missouri (Mr. GEPHARDT), the minority leader.

Mr. GEPHARDT. Mr. Speaker, I rise to ask Members to vote no on the previous question so an amendment can be offered to include worker relief in the base bill. It had been more than 2 months when we passed the bill to help the airlines, since the Speaker promised to bring up a bill soon to address the critical issue of worker relief.

It has been now more than 2 months. We have taken up all kinds of appropriation bills. We have taken up all kinds of other legislation. We have dealt in two instances with the airline industry, all of which we needed to do, and I am not opposed to the basic idea of doing something about insurance and the real estate industry. I understand the problems that the committees tried to deal with, and I am sympathetic with trying to do something about it.

I am opposed to some of the matters that got freighted on to this bill, and so I am going to vote, if this bill survives the process, because of what has been put in it with regard to civil justice system.

The basic idea of dealing with the insurance industry is a sound idea. What I am unwilling to do and I think a lot of us are unwilling to do is to take up one more bill to deal with one more industry without finally dealing with the most important problem that faces us as a country today, and that is the thousands of people that have become unemployed in America who have no income, no health insurance, and no ability to deal with the problems they now face.

I have thought a lot about it. Why are we constantly dealing with other matters before we deal with the most important matter in front of us? I have finally come to the conclusion that it is a result of the fact that we personally are not facing these problems. We intellectually know that people out there are hurting, but I guess we are not hurting. We are all employed. We all have health insurance. We just do not get it.

I was asked recently how the people in St. Louis, who I represent, were dealing with the anthrax attacks here in Washington, and I have talked obviously with my constituents a lot about what was happening here in Washington with anthrax, and they understood it intellectually, but they did not understand it the way I understood it. The analogy I have used is, it is one thing to have your aunt or uncle diagnosed with cancer. It is another thing when you are diagnosed with cancer. It takes on a new meaning.

We have thousands of people in this country who have no unemployment insurance, and they are unemployed. Probably today about 40 percent of the unemployed do not even qualify for unemployment insurance because of the changes that have been made in the laws across the country in the last years. And none of them have the money, even if they get unemployment insurance at 6- or 7- or $500 a month, or $300 a month, none of them can afford their COBRA health insurance, none of them.

Just imagine in your own family, if your income had been wiped out, you were not going to get a check at the end of the month, and you lost your health insurance, what happens to your kids? What if your kids get sick? What are you going to do?

That is the bill we ought to have on the floor today, and we are unwilling to continue taking up bill after bill, as necessary and as important it may be, until we deal with this single most important issue that faces the American people.

Vote no on the previous question. Vote against the rule, and let us come back on this floor today or tomorrow and deal with the most important problem facing this country. We may not understand it because it does not affect us, but I can assure my colleagues it affects thousands of people in districts across this country. Let us come back and do the right thing.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, one of the other speakers on the other side said this was a fair rule and a fair process. There ain't nothing fair about this rule. If my colleagues want to know where the fair process was, it was in the Committee on Financial Services where, under the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER), we debated and crafted a very good bill. In fact, I was one of the original cosponsors, along with the gentleman from North Dakota (Mr. POMEROY) of the underlying bill.

Somewhere from the Committee on Financial Services to the House floor, as often happens around this place, the bill changed greatly in scope.

What I am concerned about is we had a chance to do something that we really need to do the easy way, get a bill passed in a very temporary nature where the government intervenes in the markets and basically gets into the reinsurance business; and instead we have decided to pick the hard way and add what is called legal reform.

This bill is not about reform. This bill is about avoiding defaults on virtually every major development loan that is out in the country today. It is about stopping, or not having new projects being stopped. And here is what is going to happen, because I do have a little experience in this, and I do not think all the Members do. All the lawyers do.

We are worried about the trial lawyers. We have need to be worried about the bank lawyers out there, because what they are going to do when we do not pass this bill, when the other body kills it because we are getting down off a rabbit trail on this thing, is the reinsurance companies are not going to write any new policies. So the bank lawyers are going to go pull down the documents for all the deals for all the buildings that are going to be done. And they are going to go down to the section on insurance and the covenants that are there, and they are going to say, okay, you are in technical default, ACME Development Corp. And ACME Bank is going to call ACME Development Corp. and say, you have 45 days to cure this default and if you do not cure this default, then we are going to put the deal in default and we are either going to call your loan or you will have to renegotiate your loan.

If we go read the Wall Street Journal today, we will read about Enron Corp. which is based in my home city. They have huge loans out with some of the big money center banks. They are probably not going to get repaid. We have a credit crunch going on in the economy right now, and now we want to have an insurance crunch occur. That is the hard way to do things.

We fixed the problem in the committee. We passed, in a bipartisan vote, the Bentsen amendment that made sure that the taxpayer would not be on the hook for punitive or noneconomic damages. But what we also said was the defendant, the building owner, the airline owner, if they had liability, if they had negligence, even in a terrorist attack, if they had locked the exit door, if they had not had proper exits and there was liability, that they would have that liability if there was negligence; but the taxpayers would not have that liability.

We solved the problem in a temporary nature in what is otherwise I think is a very good bill. But for some reason, as is always the case around here, we decide to do it the hard way rather than the easy way. And someday we will do it the easy way. But what I am worried about is it is going to be January when we are doing it the easy way, and we have caused all this problem by trying to put ideological changes in a bill that has nothing to do with that.

I hope we defeat the previous question, defeat the rule, and let us get a good bill like we started with in a very bipartisan fashion.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon, (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in opposition to this rule. Earlier this week, the National Bureau of Economic Research announced the U.S. economy had been in recession since last March. This is not really shocking news for Oregon. Over the last year our economy has been battered, and right now we have the highest unemployment rate of any State outside of Alaska.

Yesterday the Feds announced economic growth across the United States is continuing to lag despite our best efforts of slashing taxes and cutting interest rates. Well, in about 7 weeks, about 70 percent of reinsurance contracts will expire. The unavailability of terrorism coverage for commercial businesses could have devastating results for businesses and consumers.

For the past several weeks the Committee on Financial Services worked to bring a bill to the floor that actually stood a chance of passing. In normal times it would take years, if not decades, to find a workable solution to this problem. Yet we were able to negotiate, we were able to pass a bill by voice vote, a bipartisan bill, to get us where we needed to be.

Unfortunately, we find ourselves in a familiar place, a place that mocks our legislative process. Out of the clear blue sky, a half hour before the Committee on Rules met yesterday, a new bill was introduced. No committee hearings, no work sessions, no markups. A new bill. Not only did it shred the bill which came out of the Committee on Financial Services, it comes to the floor of the House loaded with legal reform, something that has no bearing whatsoever on the health of our economy.

Someone once again decided that politics were more important than the good of business, the good of consumers and the good of the Nation. This is no laughing matter and this should not be business as usual.

Even as I speak, primary insurance companies have started filing petitions with State regulators, seeking to exclude terrorism from commercial and personal policies. Do we really expect banks to loan cash to businesses who are not insured against acts of terror?

Mr. Speaker, I stand here able and willing to reach across a political divide to bring a bill to the floor which makes sense, which will have a positive effect on our economy. But until then, I have no other choice than to oppose the rule, the underlying bill, and urge my colleagues to support the LaFalce-Kanjorski substitute.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I want to begin by commending the Committee on Financial Services leadership, the gentleman from Ohio (Chairman OXLEY) and the gentleman from Louisiana (Mr. BAKER), the subcommittee chairman, as well as the ranking members, the gentleman from New York (Mr. LAFALCE) and the gentleman from Pennsylvania (Mr. KANJORSKI). This committee has done a very serious effort at trying to address an urgent problem.

We must act. We simply must act. Those are the words of the gentleman from Louisiana (Chairman BAKER) to the Committee on Rules yesterday in describing the urgency of moving this legislation.

Well, what a shame, what an incredible shame that majority leadership would then stomp all over the work product brought out of the Committee on Financial Services to address this issue by drafting onto the bill an unrelated, partisan, highly ideological agenda.

Sometimes we just need to put our partisan roles aside and deal in a bipartisan way to address the concerns of this Nation, especially the urgent needs of this Nation. There was no need to make a political issue out of this. Both sides recognize the need to act, both sides can find an agreement in terms of how to get this terrorism coverage out there through this Federal legislation.

Instead, the majority leadership dramatically complicates this whole effort to address and get enacted legislation in the few remaining weeks.

My friend, the gentleman from Ohio (Chairman OXLEY) has described this as a fair and equitable rule. What is fair and equitable about a rule that prohibits us from offering an amendment that would restore his own work product, the Committee on Financial Services' work product, in place of the new language dropped on the bill by majority leadership? We wanted to get this and get it right.

I used to be an insurance commissioner. I can tell you, this is a very technically demanding, tricky piece of work we are attempting to do here, and to sidetrack the whole discussion by slapping the red herring of tort reform unnecessarily onto this legislation detracts considerably from our efforts and our ability to get this right.

□ 1200

This was a time when the House could have provided leadership to the Senate by passing a bill setting the framework for how this tort reform could have been established. We could improve this today significantly if the rule would allow us to put on the bill the committee's own work products.

Reject this rule. We need to do a better job.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Unfortunately, Mr. Speaker, this bill has become an attempt to rewrite the rules of our civil justice system. And I think it is important to note that statements by Members in the majority on the Committee on the Judiciary would suggest, and I know it was not their intention, but would suggest that the Committee on the Judiciary had hearings on this particular bill. Well, I think it is important that everyone in this Chamber and the American people should clearly understand that there were no hearings on this bill before the Committee on the Judiciary.

Now, no one objects to responsible measures that help ensure the availability of insurance against future acts of terrorism. Indeed, given the collapse of the reinsurance market for terrorism coverage, it is incumbent upon us to respond. But the manager's amendment that we are considering today is not a responsible measure. It transfers to the taxpayers the risk of losses, which the insurance industry has said it is willing and able to absorb; and it asks the public to assume this huge contingent liability without imposing any obligation on insurers to provide affordable coverage to those who need it.

But the worst feature of the legislation is one which has nothing whatsoever to do with stabilizing the insurance market. Section 15 of the bill would limit relief of the victims of terrorist attack by immunizing wrongdoers in advance from the consequences of their own wanton and reckless acts. This sweeping provision would prohibit the courts from awarding punitive damages; it would eliminate joint and several liability for economic damages; require courts to reduce damage awards by the amounts received from life insurance or other collateral sources; and waive prejudgment interests, even in those egregious cases, for example, where private airport security contractors who wantonly, recklessly, or maliciously hire convicted felons, who fail to perform required background checks, or who fail to check for weapons.

Now, nobody wants to hold parties responsible if they bear no blame. But this bill lets them off the hook even if they knowingly engage in conduct that puts Americans at risk.

It is interesting to note, Mr. Speaker, that the bill would also place a cap on attorneys' fees, making it harder for victims to pursue meritorious claims in a court. But the caps apply just to plaintiffs' attorneys. Corporate defendants remain free to hire the most expensive lawyers they can find.

Mr. Speaker, it is hard to see these provisions as anything other than a tax-free gift for corporations and an attempt to rewrite the rules of our civil justice system. I urge defeat of the previous question and the rule.

Ms. SLAUGHTER. Mr. Speaker, I have one speaker remaining. How much time do I have?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentlewoman from New York (Ms. SLAUGHTER) has 6 minutes remaining, and the gentleman from Texas (Mr. SESSIONS) has 6½ minutes remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I was hoping that we would have a bill today that we could support, because I think the committee, on the underlying bill on insurance protection for the real estate industry and for the insurance companies and others, is on the right track. Yet we find this bill is substantially now loaded down with a whole series of tort reforms, without hearings, as many of my colleagues have alluded to here, and now threatens to delay, if not make impossible, the passage of this legislation.

I also, though, want to raise some questions with respect to the legislation as we continue the consideration. I would refer Members of the House to the Wall Street Journal of November 15, an article on the insurance companies that points out that the market has taken a somewhat different picture of the insurance industry than the insurance industry is presenting to the Congress of the United States. The title of the article is, "Insurance Companies Benefit From September 11, Still Seek Federal Aid."

The article talks about raising premiums 100 percent, or 400 percent in some instances. It also makes it very clear that the insurance companies see this as an opportunity. A number of memos sent back and forth in Marsh & McLennan and other large insurance companies have made it clear the time is now to fully exploit the opportunity that was presented by September 11 in terms of creating new companies, creating new entities, and going after new capital.

In an effort to raise a billion dollars in new capital within a few days after September 11, in an insurance industry that is seriously in trouble supposedly, what they are telling us in Washington, they were so oversubscribed they had to turn people away. Other entities then came in, and they raised about $4 billion in new capital. Many of the companies have sold additional stock that have been subscribed to by very, very reputable investors that have decided that this is a good take.

On the date of that article the insurance company stocks were up about 7 percent. What is going on here? They are running in and frightening the banks and frightening the real estate industry, everybody else, raising their premiums; and they know on the other end they are going to get Federal protection. As the article points out, they know they have an ability now to raise premiums up to 400 percent, to limit their liability; and the payouts will be taken on the other end.

That is why I think this committee is on the right track with the suggestion that we are prepared to help them out, but we also think there ought to be some payback. Because, again, the article makes it very clear, and the financing of this industry makes it very clear that even with the huge payouts they will experience from September 11 their reserves are sufficient. Over time, and hope to God we do not have other terrorist activities, those reserves will be built up. The premiums will be raised.

We may have a catastrophic event, we may have to step in, but the nature of the industry is they have the ability to pay the taxpayer back. There are others who want to suggest that $10 billion and the industry is off the hook, or that we pick up all of the cost. I think we have to be very careful about how we approach this and we recognize the real financial capacity of this industry.

They are running around telling people they are not going to rewrite the insurance. That is not what they are telling other people where they know they can extract the dollars. There may be some people that cannot afford this coverage. That is a different issue. But, clearly, this industry is rapidly rebuilding its reserves, rapidly rebuilding its premium base, rapidly rebuilding its revenues and its capital.

That is what is going on on Wall Street, that is what is going on in the American marketplace, and they are running around Washington with a tin cup suggesting, in many instances, that we should pick up all this liability as a result of a terrorist attack.

I think the committee is on the right track. Unfortunately, this bill now has been saddled with a whole series of issues that threaten to bring down its consideration by both bodies.

I would also raise the point raised by the minority leader that, once again, here we are bailing out an industry that obviously is exuding a great market force at this very time; and yet we have hundreds of thousands of families that have lost their livelihood, that have no market force, have no ability to make their mortgage payments; and this Congress is about to leave town, about to adjourn.

In spite of the representations of the President of the United States that he was going to have money, that money was taken away last night for unemployment insurance. That money was taken away from the States that could help pay people's health insurance. That was a Presidential program that was destroyed last night. The Speaker said he was going to work with the minority leader to help people put out of work in the airline industry and elsewhere because of September 11. Nothing has happened on that front.

So what we find here is that the majority party is keeping from us any consideration of help for those people who, as a result of September 11, lost their employment, or those people who lost their employment before September 11 but now see their opportunities greatly diminished. We are going to do nothing for those people. Yet we are here, after the airline industry, and now with the insurance industry. Clearly, this Congress can see its way to help the most unfortunate people in our society and not make them further victims of the attack on September 11.

Mr. Speaker, I submit for the RECORD the full newspaper article I referred to earlier.

[From the Wall Street Journal, Nov. 15, 2001]

INSURANCE COMPANIES BENEFIT FROM SEPT. 11, STILL SEEK FEDERAL AID

(By Christopher Oster)

For Marsh & McLennan Cos., the Sept. 11 attacks have meant two very different things.

One is personal loss. The world's largest insurance brokerage lost 295 employees who worked at the World Trade Center. "It was very painful for us, agonizing for loved ones and close friends," Jeffrey W. Greenberg, Marsh's chairman and chief executive, told employees at a memorial service in St. Patrick's Cathedral in New York on Sept. 28.

But in the days after the attacks, even as the company was sorting out who was safe and who had perished, it quickly became clear that Sept. 11 presented a tremendous business opportunity for Marsh and other strong players in the industry.

Within days of the twin towers' destruction, Mr. Greenberg and top lieutenants began planning to form a new subsidiary to sell insurance to corporate customers at sharply higher rates than were common before Sept. 11. Marsh also accelerated plans to launch a new consulting unit to capitalize on heightened corporate fears of terrorism. Vice Chairman Charles A. Davis says the company is merely meeting new marketplace demands. "There is a financial reward for doing that," he says.

Unlike airlines, which are reeling as travelers hesitate to fly, insurers have seen improved financial prospects since Sept. 11. Insurers expect to have to pay out $40 billion to $70 billion in claims related to the attacks. That sounds daunting, but in fact, it is manageable for an industry that collectively has $300 billion in capital.

Moreover, in response to Sept. 11, insurers are already raising prices by 100% or more on some lines of commercial and industrial insurance. Nearly all such lines are seeing rate increases of more than 20%. For much of the 1990s, carriers had engaged in a price war, keeping premiums relatively low. The prospect of large payouts related to the attacks gave the industry grounds for demanding substantial increases.

Sept. 11 payouts will hurt insurers' balance sheets for a number of quarters. The higher rats they are introducing are expected to last for years.

Insurance stocks have jumped 7% since the attacks, outpacing the broader market, and the atmosphere in the industry is one of eager anticipation. Marsh set out to raise about $1 billion in outside money to capitalize its new company. Investors volunteered six times that much, and dozens had to be turned away.

Amid these signs of robust health, however, the industry is stressing potential disaster as it pressures Congress for emergency aid. By the end of December, lawmakers are expected to approve legislation under which the government could have to pick up billions of dollars in claims related to future terror assaults in the U.S.

This federal backing would have tremendous financial value to insurers in the event of another disaster. And it would have an immediate impact, too, emboldening the industry to sell new terrorism coverage, for which it will charge higher premiums. Carriers collect their money now, while the government would help pay any claims later.

Even consumer advocates say newly recognized dangers warrant some sort of broader government role in insurance. But these advocates say the changed terror calculus doesn't justify a wave of steep rate increases for policies unrelated to terrorism—especially since the government is taking on the additional risk. "It's very opportunistic" of the industry, says Robert Hunter, insurance director for Consumer Federation of America, a Washington, D.C., advocacy group.

In the weeks after Sept. 11, newspapers carried numerous advertisements touting insurers' intent to pay disaster claims promptly. Less well known is how these companies plan to recoup much of the money they will be sending to policyholders.

The decade-long premium price war had been ending before the attacks, as weaker insurers collapsed or retrenched and stronger ones began gradually to charge more. Now, faced with payouts related to Sept. 11, the healthier companies are demanding that their customers share the pain by paying bigger premiums. Some insurance companies are so confident in this strategy that they are expanding operations. Since Sept. 11, at least seven insurers have sold additional shares of stock. An additional six, including Marsh, have formed new companies.

Among the new units is a Bermuda-based carrier put together by American International Group Inc. Chubb Corp, and investment bank Goldman Sachs Group Inc. State Farm Mutual Automoible Insurance Co. and RenaissanceRe Holdings Ltd. are creating another one. Since Sept. 11, insurers have raised a total of about $4 billion in new capital, to which they are adding a modest amount of their own money. Deals valued at another $14 billion are expected to be completed in coming months, according to industry analysis.

Since the attacks, aviation underwriters have raised premiums for airlines by 200% to 400%, according to insurance brokers. At the same time, the underwriters are cancelling parts of airlines' coverage for liability to third parties other than passengers in future terrorist acts.

U.S. airlines don't have to worry about these increases immediately. The airline-bailout bill Congress approved after Sept. 11 included provisions under which the federal government for six months will pay any increases in commercial insurance and cover airlines' potential third-party liability for terrorism. In the not-too-distant future, though, the airlines could collectively face billions of dollars in additional annual premiums.

NEW SURCHARGE

Led by giant AIG, insurers have offered airlines a new, more-expensive package to replace the rescinded terrorism coverage. The new price includes a $3.10-per-passenger surcharge. Lacking the backing of the U.S. government, numerous foreign airlines are buying the new coverage, which is expected to boost insurers' revenue by a total of hundreds of millions of dollars a year.

Owners of New York trophy properties are seeing giant rate increases. Douglas Durst, a developer with large holdings in midtown Manhattan, including the 50-story Conde Nast building, says his insurance broker has told him that he will be lucky if his premiums increase by only 20% at renewal time in April. "There are [real estate] people who are seeing their rates double," Mr. Durst says.

Brookfield Properties Inc., which owns most of the World Financial Center complex adjacent to the World Trade Center, has said that insurers are cutting back on its terrorism coverage. Brookfield said its insurers agreed to cover its liability risk associated with future terrorist attacks but are refusing to reimburse it for property damage or the costs of business interruption. (The Wall Street Journal has offices in Brookfield's World Financial Center property.)

Medium-sized and small corporate policyholders are also seeing premiums jump. One week after the attacks, Industrial Risk Insurers, a unit of General Electric Co.'s Employers Reinsurance unit, told textile manufacturer Johnston Industries Inc. that it wouldn't renew Johnston's property-insurance policies, which expired Oct. 31, Bill Henry, a vice president at the Columbus, Ga., company, says it wound up paying $1 million more to a European carrier for a year's coverage, ending in October 2002—a 150% increase. The limit of the new policy is only $350 million, or half of what Johnston previously received from the GE insurance unit. For a company with annual revenue of about $240 million, "it's a major blow," says Mr. Henry.

Dean Davison, a spokesman for the GE unit, confirms that it has discontinued many of its policies. But he adds that Sept. 11 merely hastened actions that had already been planned for later this year.

GOVERNMENT AID

While aggressively raising premiums, the insurance industry has been busy seeking relief in Washington. Ten days after the attacks, a delegation of chief executives, including AIG's Maurice R. Greenberg, the father of Marsh's Jeffrey Greenberg, descended on the capital to lobby President Bush and lawmakers.

The industry leaders sounded an alarm that reinsurance companies—which spread corporate risk by selling insurance policies to the insurance industry—were moving to cancel terrorism-related reinsurance coverage. The big primary carriers told the politicians they would eliminate almost all terrorism coverage unless the government stepped into the role of the reinsurers.

Without this coverage, many lenders would hesitate to finance everything from factories to new real estate development, the insurance executives warned their Washington hosts. Large areas of the economy could grind to a halt.

The pitch worked. Congress is now expected to approve a mechanism that will guarantee that if there are huge future terrorism liabilities, taxpayers will help pay them. A plan under consideration in the Senate would require the industry to pay the first $10 billion in claims, with the government picking up 90% of any remaining amount. The House Financial Services Committee favors government loans to insurers to help pay future terrorism claims.

"This is not a bailout," says Democratic Sen. Christopher Dodd of Connecticut, home to several large carriers. Rather, the government is proposing to serve as a "backstop" to encourage underwriters to provide terrorism coverage, he says.

The legislation also gives carriers the confidence to sell some terrorism policies, for which they are charging much higher premiums. "In the absence of future terrorist attacks, such an approach could create 'windfall' profits for insurers, to the detriment of policyholders," says Fitch Inc., which provides investors with financial analysis of the insurance industry.

Marsh & McLennan sees vast opportunity in this fast-changing environment. The company is primarily an insurance broker, not an underwriter. As a result, it has limited exposure to Sept. 11 property and liability claims. It took a $173 million charge for the third quarter, which ended Sept. 30, to cover costs related to the attacks. A big piece of that was for payments to families of its own injured and dead employees.

Marsh's Mr. Greenberg knows well the dangers of appearing opportunistic in the wake of catastrophe. He gained this experience after Hurricane Andrew hit Florida in 1992, which until Sept. 11 was the industry's costliest disaster. Then a vice president at his father's AIG, the younger Mr. Greenberg wrote an internal memo saying that Andrew was "an opportunity to get price increases now." After the memo was leaked to the media, Florida regulators imposed a moratorium on premium-rate increases.

This embarrassment didn't stop Jeffrey Greenberg, now 50 years old, and his subordinates at Marsh from swiftly scouring the post-Sept. 11 business landscape for new opportunities.

The World Trade Center attacks were a devastating blow to the company, which has its headquarters in midtown Manhattan. About 1,900 Marsh employees worked in the twin towers. Within an hour of the attacks, the company had set up a phone bank to assemble information about the missing. Counseling sessions and memorial services were held daily for weeks.

MODEST DISRUPTION

From a business perspective, the disaster caused only modest disruption for Marsh, which has 57,000 employees world-wide. On the evening of Sept. 11, Mr. Davis, Marsh's vice chairman and chief of its MMC Capital arm, sent a fax to Mr. Greenberg's home that accounted for the unit's employees—they were all safe—and suggested the formation of a new subsidiary that would underwrite corporate policies. "We were absolutely thinking about the impact [of the attacks] and what the opportunities were in front of us," says Mr. Davis, who came to Marsh from Goldman Sachs three years ago.

At a Sept. 18 meeting, 20 executives from Marsh's operating companies discussed the new terrain in their industry. Participants noted the premium increases already being announced and cancellations of terrorism coverage. Policy-holder demands was as strong as ever, meaning prices could only rise.

There was strong support for Mr. Davis's idea for a new company. It wouldn't be the first time Marsh gave birth to an underwriter. In the mid-1980s, it launched Ace Ltd. and Exel Capital, now known as XL. Those moves came in response to some established insurers ceasing to write liability coverage in the wake of huge jury awards for asbestos-related illnesses and big judgments against corporate directors and officers. Both Ace and XL went on to become publicly traded. Marsh retains small stakes in them.

Marsh raised its initial fundraising plan for the new carrier by 50%, to $1.5 billion. But that still wasn't enough to accommodate all of the investors lining up for a piece of the action. GE's GE Asset Management unit and TIAA-CREF, the national teachers' pension-fund manager, were among those allowed to buy stakes. Many others were turned away.

As the investor list was being winnowed, Mr. Greenberg was stirring another pot. He called L. Paul Bremer, a former U.S. ambassador at large for counterterrorism, who had joined Marsh a year earlier. "Funny you should ask" Mr. Bremer says he responded to Mr. Greenberg's query about new business opportunities.

Mr. Bremer had been working on a plan for a crisis-consulting practice for several months. "It was clear to both of us that he should accelerate the introduction of that practice," Mr. Greenberg says.

On Oct. 11, Marsh announced the formation of a new consulting unit, with Mr. Bremer at its head. Two weeks later, Marsh unveiled a partnership between its new unit and Versar Inc., a counterterrorism-service provider. The partnership will assess chemical and bioterrorism risks for corporate clients.

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. BAKER), chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, one of two gentlemen who have worked diligently to see to it that this is a good bill, the other being the chairman of the full Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY).

Mr. BAKER. Mr. Speaker, I thank the gentleman for his courtesy and generosity with the time.

I wish to extend my appreciation and commend the chairman of the Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY), for his perspicacious leadership on this matter; to the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his visionary legal acumen; and to the gentleman from New York (Mr. LAFALCE) and the gentleman from Pennsylvania (Mr. KANJORSKI) for their critical suggestions at important steps along the way to craft a proposal which, in essence, solves, to a great extent, the potential exposure for further liability as a result of future terrorist attacks.

I cannot, however, today stand without responding to the remarks of the minority leader who said, "We don't get it." I am appalled that in this instance, when faced with legislation of such magnitude, he would suggest that Members of Congress do not know people who are without medical insurance. I have a family member this morning in the hospital without private medical insurance. To suggest that there are those of us in Congress who do not know people who are unemployed, that we do not get it because we do not know the unemployed, I would just advise that in my extended family there have been people on unemployment through no fault of their own.

We are here today to respond to a crisis, a national crisis of proportion this Nation has never seen. The vision of the morning of September 11 will never vanish from our minds, and what are we to do in response to this? To say we should postpone, delay, or otherwise obfuscate the ability to respond to this crisis when it is so clear, I cannot conceive that any Member of this Congress, despite their objections to the elements contained in this legislation, would say no to this process. This is a process. We all know there will be a very difficult conference committee at which all of these issues will be visited at length.

And let us speak to the one point of contention which brings us to this difficult moment, that is of liability reform. This House has adopted the provisions contained in the proposal before us today not once but twice. This House. I would point to the fact that the Price-Anderson Act was renewed by this Congress by a voice vote last week, which contains similar provisions.

Some have said we should not buy this pig in a poke because we do not know what is in it. I would point out this Congress has adopted the Swine Flu Act, which has the same liability provisions that this act contains.

There is no legitimate platform from which a Member can stand on this floor and say we should not act. Member after Member has said the base elements of this legislation are, indeed, acceptable to respond to the crisis we potentially face. But if we do not act, the concerns expressed for those unemployed and uninsured will only be aggravated, to a great extent, because there will be more unemployed and uninsured as economic opportunity is snatched away from the American economy by our failure to act.

Let us make this clear: this is not an insurance bailout. I do not care if an insurance company makes a profit or not. That is not my job. I do not care whether a trial lawyer gets his 30 percent cut off an unfortunate victim as a result of loss. That is not my problem. What I care about is how American taxpayer resources are used to meet a crisis of this magnitude, and to ensure that every penny extended in times of crisis are repaid to the American taxpayer.

That is what this bill does. It is an extraordinary first step. It is to say we will respond timely and appropriately. But when an insurance company is making a $10 or $20 or $30 billion annual profit, they are going to pay us back. Now, what is wrong with that? And my colleagues are going to tell me today that they do not want to act to preclude the possibility of economic calamity because we have a dispute whether the trial lawyers get 20 percent or a third or half?

We will hash that out in conference committee. We will, in all likelihood, have a bill my colleagues can support with enthusiasm. But to say no today is to walk away from our responsibility as a Member of the United States Congress to respond to terrorist assaults on the United States sovereign Nation.

Did the firefighters, responding to the call on September 11, check their employment forms or see what possibility there might be for some liability provision? Did they think about what wage they were going to get paid? No. They responded. They acted. There was a crisis, and they put their lives on the line. We are not even close to considering such a heroic act. We are simply being asked to be stewards of the American taxpayers' resources and to provide for a method of response should, should, some untoward heinous act occur in the future.

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To fail to take this modest step would be a serious disappointment to the American taxpayer. I hope this House can rise above that.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am going to call a vote on the previous question and ask for its defeat; and if it is defeated, I am going to offer an amendment to the rule.

My amendment will make in order an amendment by the gentleman from New York (Mr. RANGEL) or his designee which would provide health and unemployment compensation relief to workers who have lost their jobs.

Mr. Speaker, nearly 3 months have passed since the tragic events of September 11, and since that time thousands and thousands of workers have lost their jobs, and they need relief. Their unemployment benefits will run out, and they have no health care. We passed an airline bailout the week after the terrorist attacks, and promises were made at that time by the Republican leadership that a worker relief package would follow the following the week. Today, weeks later, we are passing legislation that would provide relief to the insurance industry, still leaving no help for the workers. They desperately need our help, they need it now, and I urge a "no" vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard a vigorous debate today about this issue. We have heard a good number of speakers say that we did it the hard way. They would have done it the easy way. I think they are right; we did do it the hard way. But I would like to be accused of doing it the right way, doing what is in the best interest of not only the taxpayer, but also in the best interest of people who have needs and who need to make sure that their insurance coverage is done right.

Mr. Speaker, Members have heard the debate on this side from some of our best and our brightest. The gentleman from Ohio (Chairman OXLEY), the gentleman from Wisconsin (Chairman SENSENBRENNER), and the gentleman from Louisiana (Chairman BAKER) talk about a very difficult issue, and they have delivered on that issue. They have worked with the White House and President Bush; and President Bush is proud of the work that they have done.

So whether it was done the hard way or the easy way, it did not matter to me and did not matter to us. We have done it the right way.

Mr. Speaker, I can proudly ask my colleagues to support not only this fair rule, but one which has the underlying legislation which is good for all of America and will ensure that the confidence and the stability of this country is held together. I am very proud of what we have done.

Mr. BAKER. Mr. Speaker, I congratulate and thank Mr. SESSIONS, Chairman DREIER and all the members of the Rules Committee for responding to the need to act swiftly on the Terrorism Risk Protection Act by crafting a fair rule that paves the way for our consideration of the Bill on the House floor today. I also wish to thank Chairman OXLEY for his leadership on this issue and to recognize the efforts of Ranking Members LAFALCE and KANJORSKI.

The attacks on New York City and Washington, D.C. on September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and the interruption of business operations. These consequences of the attacks were not only a human tragedy, they were also a financial disaster. The attacks inflicted possibly the largest losses ever incurred by insurers and reinsurers in a single day. Estimates of losses start at about $40 billion and vary significantly upward from there. Fortunately, the insurance and reinsurance industry have the capital capacity to cover such losses and have committed to pay the losses due to the attacks.

However, with the events of September 11, 2001, there is great uncertainty from an underwriter's perspective. Commercial property and casualty insurance companies have little to no experience in underwriting for the types of terrorist attacks that we experienced in New York City and Washington, D.C. The attacks set a new and very high level for potential severity. Additionally, there is an inability for underwriters to forecast the frequency or nature of future attacks. As a result of this uncertainty, many commercial property and casualty insurers and reinsurers have begun excluding terrorism risk coverage from their policies or providing very limited coverage at high costs.

The potential unavailability of terrorism risk coverage for businesses comes at precisely the time when there is the greatest demand for the insurance. Moreover, insurance coverage is almost universally a requirement of any commercial lending contract. Lenders will simply not provide financing for new or existing construction or other operations without certainty that the properties and businesses that they are funding have adequate insurance to protect the lenders' investment. Thus, the lack of available insurance for terrorism risk has adverse consequences that would spread throughout the entire economy and stifle if not halt its growth.

That is why I come before you today in strong support of H.R. 3210, the Terrorism Risk Protection Act. The temporary risk spreading program established by this Act is a bridge to allow the private market to develop the mechanisms to provide terrorism risk coverage at reasonable cost and sufficient levels, while guaranteeing that any federal assistance from the U.S. taxpayer in the interim is paid back by the insurance industry and those that benefit from the program.

I urge my fellow colleagues to support this rule and to vote yes on the bill to prevent any further slowdown of our dynamic national economy.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The material previously referred to by Ms. SLAUGHTER is as follows:

PREVIOUS QUESTION FOR RULE ON H.R. 3210, TERRORISM RISK INSURANCE ACT

At the end of the resolution add the following new section:

"SEC 2. Notwithstanding any other provision of this resolution, it shall be in order without intervention of any point of order following disposition of the further amendment printed in the report to accompany the resolution to consider the further amendment printed in Section 3 of this resolution if offered by Representative Rangel or his designee. The amendment shall be considered as read; shall be debatable for one hour, equally divided between a proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question. The previous question shall be considered as ordered on the amendment.

SEC. 3. The text of the amendment is as follows;

AMENDMENT OFFERED BY MR. RANGEL

Insert at the end the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Fiscal Stimulus and Worker Relief Act of 2001".

TITLE II—WORKER RELIEF

Subtitle A—Temporary Unemployment Compensation

Sec. 201. Short title.
Sec. 202. Federal-State agreements.
Sec. 203. Temporary Supplemental Unemployment Compensation Account.
Sec. 204. Payments to States having agreements under this subtitle.
Sec. 205. Financing provisions.
Sec. 206. Fraud and overpayments.
Sec. 207. Definitions.
Sec. 208. Applicability.

Subtitle B—Premium Assistance for COBRA Continuation Coverage

Sec. 211. Premium assistance for COBRA continuation coverage.

Subtitle C—Additional Assistance for Temporary Health Insurance Coverage

Sec. 221. Optional temporary medicaid coverage for certain uninsured employees.
Sec. 222. Optional temporary coverage for unsubsidized portion of COBRA continuation premiums.

TITLE II—WORKER RELIEF

Subtitle A—Temporary Unemployment Compensation

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Temporary Unemployment Compensation Act of 2001".

SEC. 202. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this subtitle with the Secretary of Labor (hereinafter in this subtitle referred to as the "Secretary"). Any State which is a party to an agreement under this subtitle may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Any agreement under subsection (a) shall provide that the State agency of the State will make—

(A) payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law were applied with the modifications described in paragraph (2), and

(B) payments of temporary supplemental unemployment compensation to individuals who—

(i) have exhausted all rights to regular compensation under the State law,

(ii) do not, with respect to a week, have any rights to compensation (excluding compensation) under the State law of any other State (whether one that has entered into an agreement under this subtitle or otherwise) nor compensation under any other Federal law (other than under the Federal-State Extended Unemployment Compensation Act of 1970), and are not paid or entitled to be paid any additional compensation under any State or Federal law, and

(iii) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) An individual shall be eligible for regular compensation if the individual would be so eligible, determined by applying—

(i) the base period that would otherwise apply under the State law if this subtitle had not been enacted, or

(ii) a base period ending at the close of the calendar quarter most recently completed before the date of the individual's application for benefits.

whichever results in the greater amount.

(B) An individual shall not be denied regular compensation under the State law's provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact that such individual is seeking, or available for, only part-time (and not full-time) work.

(C)(i) Subject to clause (ii), the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this subparagraph), plus an additional—

(I) 25 percent, or

(II) $65,

whichever is greater.

(ii) In no event may the total amount determined under clause (i) with respect to any individual exceed the average weekly insured wages of that individual in that calendar quarter of the base period in which such individual's insured wages were the highest (or one such quarter if his wages were the same for more than one such quarter).

(c) NONREDUCTION RULE.—Under the agreement, subsection (b)(2)(C) shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a way such that—

(1) the average weekly amount of regular compensation which will be payable during the period of the agreement (determined disregarding the modifications described in subsection (b)(2)) will be less than

(2) the average weekly amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on September 11, 2001.

(d) COORDINATION RULES.—

(1) REGULAR COMPENSATION PAYABLE UNDER A FEDERAL LAW.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(2) TSUC TO SERVE AS SECOND-TIER BENEFITS.—Notwithstanding any other provision of law, extended benefits shall not be payable to any individual for any week for which temporary supplemental unemployment compensation is payable to such individual.

(e) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(B)(i), an individual shall be considered to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period, or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(f) WEEKLY BENEFIT AMOUNT, TERMS AND CONDITIONS, ETC. RELATING TO TSUC.—For purposes of any agreement under this subtitle—

(1) the amount of temporary supplemental unemployment compensation which shall be payable to an individual for any week of total unemployment shall be equal to the amount of regular compensation (including dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year,

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary supplemental unemployment compensation and the payment thereof, except where inconsistent with the provisions of this subtitle or with the regulations or operating instructions of the Secretary promulgated to carry out this subtitle, and

(3) the maximum amount of temporary supplemental unemployment compensation payable to any individual for whom a temporary supplemental unemployment compensation account is established under section 203 shall not exceed the amount established in such account for such individual.

SEC. 203. TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this subtitle shall provide that the State will establish, for each eligible individual who files an application for temporary supplemental unemployment compensation, a temporary supplemental unemployment compensation account.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the product obtained by multiplying an individual's weekly benefit amount by the applicable factor under paragraph (3).

(2) WEEKLEY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment in such individual's benefit year.

(3) APPLICABLE FACTOR.—

(A) GENERAL RULE.—The applicable factor under this paragraph is 13, unless the individual's benefit year begins or ends during a period of high unemployment within such individual's State, in which case the applicable factor is 26.

(B) PERIOD OF HIGH UNEMPLOYMENT.—For purposes of this paragraph, a period of high unemployment within a State shall begin and end, if at all, in a way (to be set forth in the State's agreement under this subtitle) similar to the way in which an extended benefit period would under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to the following:

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this subtitle with the Secretary of Labor (hereinafter in this subtitle referred to as the "Secretary"). Any State which is a party to an agreement under this subtitle may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Any agreement under subsection (a) shall provide that the State agency of the State will make—

(A) payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law were applied with the modifications described in paragraph (2), and

(B) payments of temporary supplemental unemployment compensation to individuals who—

(i) have exhausted all rights to regular compensation under the State law,

(ii) do not, with respect to a week, have any rights to compensation (excluding extended compensation) under the State law of any other State (whether one that has entered into an agreement under this subtitle or otherwise) nor compensation under any other Federal law (other than under the Federal-State Extended Unemployment Compensation Act of 1970), and are not paid or entitled to be paid any additional compensation under any State or Federal law, and

(iii) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) An individual shall be eligible for regular compensation if the individual would be so eligible, determined by applying—

(i) the base period that would otherwise apply under the State law if this subtitle had not been enacted, or

(ii) a base period ending at the close of the calendar quarter most recently completed before the date of the individual's application for benefits,

whichever results in the greater amount.

(B) An individual shall not be denied regular compensation under the State law's provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact that such individual is seeking, or available for, only part-time (and not full-time) work.

(C)(i) Subject to clause (ii), the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this subparagraph), plus an additional—

(I) 25 percent, or

(II) $65,

whichever is greater.

(ii) In no event may the total amount determined under clause (i) with respect to any individual exceed the average weekly insured wages of that individual in that calendar quarter of the base period in which such individual's insured wages were the highest (or one such quarter if his wages were the same for more than one such quarter).

(c) NONREDUCTION RULE.—Under the agreement, subsection (b)(2)(C) shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a way such that—

(1) the average weekly amount of regular compensation which will be payable during the period of the agreement (determined disregarding the modifications described in subsection (b)(2)) will be less than

(2) the average weekly amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on September 11, 2001.

(d) COORDINATION RULES.—

(1) REGULAR COMPENSATION PAYABLE UNDER A FEDERAL LAW.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(2) TSUC TO SERVE AS SECOND-TIER BENEFITS.—Notwithstanding any other provision of law, extended benefits shall not be payable to any individual for any week for which temporary supplemental unemployment compensation is payable to such individual.

(e) Exhaustion of Benefits.—For purposes of subsection (b)(1)(B)(i), an individual shall be considered to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period, or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(f) Weekly Benefit Amount, Terms and Conditions, Etc, Relating to TSUC.—For purposes of any agreement under this subtitle—

(1) the amount of temporary supplemental unemployment compensation which shall be payable to an individual for any week of total unemployment shall be equal to the amount of regular compensation (including dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year,

(2) the term and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary supplemental unemployment compensation and the payment thereof, except where inconsistent with the provisions of this subtitle or with the regulations or operating instructions of the Secretary promulgated to carry out this subtitle, and

(3) the maximum amount of temporary supplemental unemployment compensation payable to any individual for whom a temporary supplemental unemployment compensation account is established under section 203 shall not exceed the amount established in such account for such individual.

SEC. 203. TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) In General.—Any agreement under this subtitle shall provide that the State will establish, for each eligible individual who files an application for temporary supplemental unemployment compensation, a temporary supplemental unemployment compensation account.

(b) Amount in Account.—

(1) In general.—The amount established in an account under subsection (a) shall be equal to the product obtained by multiplying an individual's weekly benefit amount by the applicable factor under paragraph (3).

(2) Weekly benefit amount.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment in such individual's benefit year.

(3) Applicable factors.—

(A) General rule.—The applicable factor under this paragraph is 13, unless the individual's benefit year begins or ends during a period of high unemployment within such individual's State, in which case the applicable factor is 26.

(B) Period of high unemployment.—For purposes of this paragraph, a period of high unemployment within a State shall begin and end, if at all, in a way (to be set forth in the State's agreement under this subtitle) similar to the way in which an extended benefit period would under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to the following:

(i) To determine if there is a State "on" or "off" indicator, apply section 203(f) of such Act, but—

(I) substitute "5 percent" for "6.5 percent" in paragraph (1)(A)(i) thereof, and

(II) disregard paragraph (a)(A)(ii) thereof and the last sentence of paragraph (1) thereof.

(ii) To determine the beginning and ending dates of a period of high unemployment within a State, apply section 203(a) and (b) of such Act, except that—

(I) in applying such section 203(a), deem paragraphs (1) and (2) thereof to be amended by striking "the third week after", and

(II) in applying such section 203(b), deem paragraph (1)(A) thereof amended by striking "thirteen" and inserting "twenty-six" and paragraph (1)(B) thereof amended by striking "fourteenth" and inserting "twenty-seventh".

(4) Rule of construction.—For purposes of any computation under paragraph (1) (and any determination of amount under section 202(f)(1)), the modification described in section 202(b)(2)(C) (relating to increased benefits) shall be deemed to have been in effect with respect to the entirety of the benefit year involved.

(c) Eligibility Period.—An individual whose applicable factor under subsection (b)(3) is 26 shall be eligible for temporary supplemental unemployment compensation for each week of total unemployment in his benefit year which begins in the State's period of high unemployment and, if his benefit year ends within such period, any such weeks thereafter which begin in such period of high unemployment, not to exceed a total of 26 weeks.

SEC. 204. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS SUBTITLE.

(a) General Rule.—There shall be paid to each State which has entered into an agreement under this subtitle an amount equal to—

(1) 100 percent of any regular compensation made payable to individuals by such State by virtue of the modifications which are described in section 202(b)(2) and deemed to be in effect with respect to such State pursuant to section 202(b)(1)(A),

(2) 100 percent of any regular compensation—

(A) which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modifications described in section 202(b)(2)(A)–(B), but only

(B) to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section 202(b)(1)(A), have been reimbursable under paragraph (1), and

(3) 100 percent of the temporary supplemental unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) Determination of Amount.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this subtitle shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this subtitle for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(c) Administrative Expenses, Etc.—There is hereby appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act) $500,000,000 to reimburse States for the costs of the administration of agreements under this subtitle (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this subtitle. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act and certified by the Secretary to the Secretary of the Treasury.

SEC. 205. FINANCING PROVISIONS.

(a) In General.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act), and the Federal unemployment account (as established by section 904(g) of the Social Security Act), of the Unemployment Trust Fund shall be used, in accordance with subsection (b), for the making of payments (described in section 204(a)) to States having agreements entered into under this subtitle.

(b) Certification.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums described in section 204(a) which are payable to such State under this subtitle. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account (or, to the extent that there are insufficient funds in that account, from the Federal unemployment account) to the account of such State in the Unemployment Trust Fund.

SEC. 206. FRAUD AND OVERPAYMENTS.

(a) In General.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received any regular compensation or temporary supplemental unemployment compensation under this subtitle to which he was not entitled, such individual—

(1) shall be ineligible for any further benefits under this subtitle in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) Repayment.—In the case of individuals who have received any regular compensation or temporary supplemental unemployment compensation under this subtitle to which they were not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such benefits was without fault on the part of any such individual, and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any regular compensation or temporary supplemental unemployment compensation payable to such individual under this subtitle or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the regular compensation or temporary supplemental unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 207. DEFINITIONS.

For purposes of this subtitle:

(1) IN GENERAL.—The terms "compensation", "regular compensation", "extended compensation", "additional compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to paragraph (2).

(2) STATE LAW AND REGULAR COMPENSATION.—In the case of a State entering into an agreement under this subtitle—

(A) "State law" shall be considered to refer to the State law of such State, applied in conformance with the modifications described in section 202(b)(2), subject to section 202(c), and

(B) "regular compensation" shall be considered to refer to such compensation, determined under its State law (applied in the manner described in subparagraph (A)),

except as otherwise provided or where the context clearly indicates otherwise.

SEC. 208. APPLICABILITY.

(a) IN GENERAL.—An agreement entered into under this subtitle shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into, and

(2) ending before January 1, 2003.

(b) SPECIFIC RULES.—Under such an agreement—

(1) the modification described in section 202(b)(2)(A) (relating to alternative base periods) shall not apply except in the case of initial claims filed after September 11, 2001.

(2) the modifications described in section 202(b)(2) (B)–(C) (relating to part-time employment and increased benefits, respectively) shall apply to weeks of unemployment (described in subsection (a)), irrespective of the date on which an individual's claim for benefits is filed, and

(3) the payments described in section 202(b)(1)(B) (relating to temporary supplemental unemployment compensation) shall not apply except in the case of individuals exhausting their rights to regular compensation (as described in clause (i) thereof) after September 11, 2001.

Subtitle B—Premium Assistance for COBRA Continuation Coverage

SEC. 211. PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program under which premium assistance for COBRA continuation coverage shall be provided for qualified individuals under this section.

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this subtitle shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this subtitle for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(c) ADMINISTRATIVE EXPENSES, ETC.—There is hereby appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act) $500,000,000 to reimburse States for the costs of the administration of agreements under this subtitle (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this subtitle. Each State's share of the amount appropriated by the proceeding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act and certified by the Secretary to the Secretary of the Treasury.

SEC. 205. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act), and the Federal unemployment account (as established by section 904(g) of the Social Security Act), of the Unemployment Trust Fund shall be used, in accordance with subsection (b), for the making of payments (described in section 204(a)) to States having agreements entered into under this subtitle.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums described in section 204(a) which are payable to such State under this subtitle. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account (or, to the extent that there are insufficient funds in that account, from the Federal unemployment account) to the account of such State in the Unemployment Trust Fund.

SEC. 206. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received any regular compensation or temporary supplemental unemployment compensation under this subtitle to which he was not entitled, such individual—

(1) shall be ineligible for any further benefits under this subtitle in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received any regular compensation or temporary8 supplemental unemployment compensation under this subtitle to which they were not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such benefits was without fault on the part of any such individual, and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any regular compensation or temporary supplemental unemployment compensation payable to such individual under this subtitle or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individual received the payment of the regular compensation or temporary supplemental unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit from which such deduction is made.

(4) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 207. DEFINITIONS.

For purposes of this subtitle:

(1) IN GENERAL.—The terms "compensation", "regular compensation", extended compensation", "additional compensation", benefit year", base period", "State" "State agency", State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to paragraph (2).

(2) STATE LAW AND REGULAR COMPENSATION.—In the case of a State entering into an agreement under this subtitle—

(A) "State law" shall be considered to refer to the State law of such State, applied in conformance with the modifications described in section 202(b)(b), subject to section 202(c), and

(B) "regular compensation" shall be considered to refer such compensation, determined under its State law (applied in a manner described in subparagraph (A)),

except as otherwise provided or where the context clearly indicates otherwise.

SEC. 208. APPLICABILITY.

(a) In General.—An agreement entered into under this subtitle shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into, and

(2) ending before January 1, 2003.

(b) Specified Rules.—Under such an agreement—

(1) the modifications described in section 202(b)(2)(A) (relating to alternative base periods) shall not apply except in the case of initial claims filed after September 11, 2001.

(2) the modifications described in section 202(b)(2)(B)-(C) (relating to part-time employment and increased benefits, respectively) shall apply to weeks of unemployment (described in subsection (a)), irrespective of the date on which an individual's claim for benefits is filed, and

(3) the payments described in section 202(b)(1)(B) (relating to temporary supplemental unemployment compensation) shall not apply except in the case of individuals exhausting their rights to regular compensation (as described in clause (i) thereof) after September 11, 2001.

Subtitle B—Premium Assistance for COBRA Continuation Coverage

SEC. 211. PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE.

(a) Establishment.—

(1) In general.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program under which premium assistance for COBRA continuation coverage shall be provided for qualified individuals under this section.

(2) Qualified individuals.—For purposes of this section, a qualified individual is an individual who—

(A) establishes that the individual—

(i) on or after July 1, 2001, and before the end of the 1-year period beginning on the date of the enactment of this Act, became entitled to elect COBRA continuation coverage; and

(ii) has elected such coverage; and

(B) enrolls in the premium assistance program under this section by not later than the end of such 1-year period.

(b) Limitation of Period of Premium Assistance.—Premium assistance provided under this subsection shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer covered under COBRA continuation coverage; or

(2) 12 months after the date the individual is first enrolled in the premium assistance program established under this section.

(c) Payment, and Crediting of Assistance.—

(1) Amount of assistance.—Premium assistance provided under this section shall be equal to 75 percent of the amount of the premium required for the COBRA continuation coverage.

(2) Provision of assistance.—Premium assistance provided under this section shall be provided through the establishment of direct payment arrangements with the administrator of the group health plan (or other entity) that provides or administers the COBRA continuation coverage. It shall be a fiduciary duty of such administrator (or other entity) to enter into such arrangements under this section.

(3) Premiums payable by qualified individual reduced by amount of assistance.—Premium assistance provided under this section shall be credited by such administrator (or other entity) against the premium otherwise owed by the individual involved for such coverage.

(d) Change in COBRA Notice.—

(1) General notice.—

(A) In general.—In the case of notices provided under section 4980B(f)(6) of the Internal Revenue Code of 1986 with respect to individuals who, on or after July 1, 2001, and before the end of the 1-year period beginning on the date of the enactment of this Act, become entitled to elect COBRA continuation coverage, such notices shall include an additional notification to the recipient of the availability of premium assistance for such coverage under this section.

(B) Alternative notice.—In the case of COBRA continuation coverage to which the notice provision under section 4980B(f)(6) of the Internal Revenue Code of 1986 does not apply, the Secretary of the Treasury shall, in coordination with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, assure provision of such notice.

(C) Form.—The requirement of the additional notification under this paragraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(2) Specific requirements.—Each additional notification under paragraph (1) shall include—

(A) the forms necessary for establishing eligibility under subsection (a)(2)(A) and enrollment under subsection (a)(2)(B) in connection with the coverage with respect to each covered employee or other qualified beneficiary;

(B) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with the premium assistance; and

(C) the following statement displayed in a prominent manner:

"You may be eligible to receive assistance with payment of 75 percent of your COBRA continuation coverage premiums for a duration of not to exceed 12 months.".

(3) Notice relating to retroactive coverage.—In the case of such notices previously transmitted before the date of the enactment of this Act in the case of an individual described in paragraph (1) who has elected (or is still eligible to elect) COBRA continuation coverage as of the date of the enactment of this Act, the administrator of the group health plan (or other entity) involved or the Secretary of the Treasury (in the case described in the paragraph (1)(B)) shall provide (within 60 days after the date of the enactment of this Act) for the additional notification required to be provided under paragraph (1).

(4) Model notices.—The Secretary shall prescribe models for the additional notification required under this subsection.

(f) Obligation of Funds.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of premium assistance under this section.

(g) Prompt Issuance of Guidance.—The Secretary of the Treasury, in consultation with the Secretary of Labor, shall issue guidance under this section not later than 30 days after the date of the enactment of this Act.

(h) Definitions.—In this section:

(1) Administrator.—The term "administrator" has the meaning given such term in section 3(16) of the Employee Retirement Income Security Act of 1974.

(2) COBRA continuation coverage.—The term "COBRA continuation coverage" means continuation coverage provided pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), section 8905a of title 5, United States Code, or under a State program that provides continuation coverage comparable to such continuation coverage.

(3) Group health plan.—The term "group health plan" has the meaning given such term in section 9832(a) of the Internal Revenue Code of 1986.

(4) State.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle C—Additional Assistance for Temporary Health Insurance Coverage

SEC. 221. OPTIONAL TEMPORARY MEDICAID COVERAGE FOR CERTAIN UNINSURED EMPLOYEES.

(a) In General.—Notwithstanding any other provision of law, with respect to any month before the ending month, a State may elect to provide, under its medicaid program under title XIX of the Social Security Act, medical assistance in the case of an individual—

(1)(A) who has become totally or partially separated from employment on or after July 1, 2001, and before the end of such ending month; or

(B) whose hours of employment have been reduced on or after July 1, 2001, and before the end of such ending month;

(2) who is not eligible for COBRA continuation coverage; and

(3) who is uninsured.

(b) Limitation of Period of Coverage.—Assistance under this section shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer uninsured; or

(2) 12 months after the date the individual is first determined to be eligible for medical assistance under this section.

(c) Special Rules.—In the case of medical assistance provided under this section—

(1) the Federal medical assistance percentage under section 1905(b) of the Social Security Act shall be the enhanced FMAP (as defined in section 2105(b) of such Act);

(2) a State may elect to apply alternative income, asset, and resource limitations and the provisions of section 1916(g) of such Act, except that in no case shall a State cover individuals with higher family income without covering individuals with a lower family income;

(3) such medical assistance shall not be provided for periods before the date the individual becomes uninsured;

(4) a State may elect to make eligible for such assistance a spouse or children of an individual eligible for medical assistance under paragraph (1), if such spouse or children are uninsured;

(5) individuals eligible for medical assistance under this section shall be deemed to be described in the list of individuals described in the matter preceding paragraph (1) of section 1905(a) of such Act; and

(6) the Secretary of Health and Human Services shall not count, for purposes of section 1108(f) of the Social Security Act, such amount of payments under this section as bears a reasonable relationship to the average national proportion of payments made under this section for the 50 States and the District of Columbia to the payments otherwise made under title XIX for such States and District.

(d) Definition.—For purposes of this subtitle:

(1) Uninsured.—The term "uninsured" means, with respect to an individual, that the individual is not covered under—

(A) a group health plan (as defined in section 2791(a) of the Public Health Service Act),

(B) health insurance coverage (as defined in section 2791(b)(1) of the Public Health Service Act), or

(C) a program under title XVIII, XIX, or XXI of the Social Security Act, other than under such title XIX pursuant to this section.

For purposes of this paragraph, such coverage under subparagraph (A) or (B) shall not include coverage consisting solely of coverage of excepted benefits (as defined in section 2791(c) of the Public Health Service Act).

(2) Cobra continuation coverage.—The term "COBRA continuation coverage" means coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or section 8905a of title 5, United States Code.

(3) State.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act.

(4) Ending month.—The term "ending month" means the last month that begins before the date that is 1 year after the date of the enactment of this Act.

(e) Effective Date.—This section shall take effect upon its enactment, whether or not regulations implementing this section are issued.

(B) Alternative notice.—In the case of COBRA continuation coverage to which the notice provision under section 4980B(f)(6) of the Internal Revenue Code of 1986 does not apply, the Secretary of the Treasury shall, in coordination with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, assure provision of such notice.

(C) Form.—The requirement of the additional notification under this paragraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(2) Specific requirements.—Each additional notification under this paragraph (1) shall include—

(A) the forms necessary for establishing eligibility under subsection (a)(2)(A) and enrollment under subsection (a)(2)(B) in connection with the coverage with respect to each covered employee or other qualified beneficiary;

(B) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with the premium assistance; and

(C) the following statement displayed in a prominent manner:

"You may be eligible to receive assistance with payment of 75 percent of your COBRA continuation coverage premiums for a duration of not to exceed 12 months.".

(3) Notice relating to retroactive coverage.—In the case of such notices previously transmitted before the date of the enactment of this Act in the case of an individual described in paragraph (1) who has elected (or is still eligible to elect) COBRA continuation coverage as to the date of the enactment of this Act, the administrator of the group health plan (or other entity) involved or the Secretary of the Treasury (in the case described in the paragraph (1)(B)) shall provide (within 60 days after the date of the enactment of this Act) for the additional notification required to be provided under paragraph (1).

(4) Model notices.—The Secretary shall prescribe models for the additional notification required under this subsection.

(f) Obligation of Funds.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal government to provide for the payment of premium assistance under this section.

(g) Prompt Issuance of Guidance.—The Secretary of the Treasury, in consultation with the Secretary of Labor, shall issue guidance under this section not later than 30 days after the date of the enactment of this Act.

(h) Definitions.—In this section:

(1) Administrator.—The team "administrator" has the meaning given such term in section 3(16) of the Employee Retirement Income Security Act of 1974.

(2) COBRA continuation coverage.— The term "COBRA continuation coverage" means continuation coverage provided pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), section 8905a of title 5, United States Code, or under a State program that provides continuation coverage comparable to such continuation coverage.

(3) Group health plan.—The term "group health plan" has the meaning given such term in section 9832(a) of the Internal Revenue Code of 1986.

(4) State.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle C—Additional Assistance for Temporary Health Insurance Coverage

SEC. 221. OPTIONAL TEMPORARY MEDICAID COVERAGE FOR CERTAIN UNINSURED EMPLOYEES.

(a) In General.—Notwithstanding any other provision of law, with respect to any month before the ending month, a State may elect to provide, under its medicaid program under title XIX of the Social Security Act, medical assistance in the case of an individual—

(1)(A) who has become totally or partially separated from employment on or after July 1, 2001, and before the end of such ending month; or

(B) whose hours of employment have been reduced on or after July 1, 2001, and before the end of such ending month;

(2) who is not eligible for COBRA continuation coverage; and

(3) who is uninsured.

(b) Limitation of Period of Coverage.—Assistance under this section shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer uninsured; or

(2) 12 months after the date the individual is first determined to be eligible for medical assistance under this section.

(c) Special Rules.—In the case of medical assistance provided under this section—

(1) the Federal medical assistance percentage under section 1905(b) of the Social Security Act shall be the enhanced FMAP (as defined in section 2105(b) of such Act);

(2) a State may elect to apply alternative income, asset, and resource limitations and the provisions of section 1916(g) of such Act, except that in no case shall a State cover individuals with higher family income without covering individuals with a lower family income;

(3) such medical assistance shall not be provided for periods before the date the individual becomes uninsured;

(4) a State may elect to make eligible for such assistance a spouse or children of an individual eligible for medical assistance under paragraph (1), if such spouse or children are uninsured;

(5) individuals eligible for medical assistance under this section shall be deemed to be described in the list of individuals described in the matter preceding paragraph (1) of section 1905(a) of such Act; and

(6) the Secretary of Health and Human Services shall not count, for purposes of section 1108(f) of the Social Security Act, such amount of payments under this section as bears a reasonable relationship to the average national proportion of payments made under this section for the 50 States and the District of Columbia to the payments otherwise made under title XIX for such States and District.

(d) Definitions.—For purposes of this subtitle:

(1) Uninsured.—The term "uninsured" means, with respect to an individual, that the individual is not covered under—

(A) a group health plan (as defined in section 2791(a) of the Public Health Service Act),

(B) health insurance coverage (as defined in section 2791(b)(1) of the Public Health Service Act), or

(C) a program under title XVIII, XIX, or XXI of the Social Security Act, other than under such title XIX pursuant to this section.

For purposes of this paragraph, such coverage under subparagraph (A) or (B) shall not include coverage consisting solely of coverage of excepted benefits (as defined in section 2791(c) of the Public Health Service Act).

(2) Cobra continuation coverage.—The term "COBRA continuation coverage" means coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or section 8905a of title 5, United States Code.

(3) State.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act.

(4) Ending month.—The term "ending month" means the last month that begins before the date that is 1 year after the date of the enactment of this Act.

(e) Effective Date.—This section shall take effect upon its enactment, whether or not regulations implementing this section are issued.

(f) Limitation of Election.—A State may not elect to provide coverage under this section unless the State elects to provide coverage under section 222.

SEC. 222. OPTIONAL TEMPORARY COVERAGE FOR UNSUBSIDIZED PORTION OF COBRA CONTINUATION PREMIUMS.

(a) IN GENERAL.—Notwithstanding any other provision of law, with respect to COBRA continuation coverage provided for any month through the ending month, a State may elect to provide payment of the unsubsidized portion of the premium for COBRA continuation coverage in the case of any individual—

(1)(A) who has become totally or partially separated from employment on or after July 1, 2001, and before the end of the ending month; or

(B) whose hours of employment have been reduced on or after July 1, 2001, and before the end of such ending month; and

(2) who is eligible for, and has elected coverage under, COBRA continuation coverage.

(b) LIMITATION OF PERIOD OF COVERAGE.—Premium assistance under this section shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer covered under COBRA continuation coverage; or

(2) 12 months after the date the individual is first determined to be eligible for premium assistance under this section.

(c) FINANCIAL PAYMENT TO STATES.—A State providing premium assistance under this section shall be entitled to payment under section 1903(a) of the Social Security Act with respect to such assistance (and administrative expenses relating to such assistance) in the same manner as such State is entitled to payment with respect to medical assistance (and such administrative expenses) under such section, except that, for purposes of this subsection, any reference to the Federal medical assistance percentage shall be deemed a reference to the enhanced FMAP (as defined in section 2105(b) of such Act). The provisions of subsection (c)(6) of section 221 shall apply with respect to this section in the same manner as it applies under such section.

(d) UNSUBSIDIZED PORTION OF PREMIUM FOR COBRA CONTINUATIOIN COVERAGE.—For purposes of this section, the term 'unsubsidized portion of premium for COBRA continuation coverage' means that portion of the premium for COBRA continuation coverage for which there is no financial assistance available under 211.

(e) EFFECTIVE DATE.—This section shall take effect upon its enactment, whether or not regulations implementing this section are issued.

(f) LIMITATION ON ELECTION.—A State may not elect to provide coverage under this section unless the State elects to provide coverage under section 221.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 220, nays 204, not voting 9, as follows:

[Roll No. 460]

YEAS—220

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss

Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence

Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—204

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen

Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)

Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers

Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee

Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne

Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—9

Carson (IN)
Cooksey
Cubin

DeFazio
Ford
Frost

Quinn
Rothman
Wexler

□ 1246

Messrs. HONDA, OBEY, BARRETT of Wisconsin, RUSH and WU and Ms. WOOLSEY changed their vote from "yea" to "nay."

Mr. BACHUS and Mr. TANCREDO changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HANSEN). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 216, noes 202, not voting 15, as follows:

[Roll No. 461]

AYES—216

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kucinich
LaFalce
Lampson
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—15

Carson (IN)
Cooksey
Cubin
DeFazio
Dingell
Ford
Frost
Horn
Kleczka
Lantos
Quinn
Radanovich
Rothman
Watkins (OK)
Wexler

□ 1255

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. OXLEY. Mr. Chairman, pursuant to House Resolution 297, I call up the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 297, the bill is considered read for amendment.

The text of H.R. 3210 is as follows:

H.R. 3210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Terrorism Risk Protection Act".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Congressional findings.
Sec. 3. Designation of Administrators.
Sec. 4. Submission of premium information to Administrator.
Sec. 5. Triggering determination and covered period.
Sec. 6. Federal cost-sharing for commercial insurers.
Sec. 7. Assessments.
Sec. 8. Terrorism loss repayment surcharge.
Sec. 9. Administration of assessments and surcharges.
Sec. 10. Reserve for terrorism coverage under commercial lines of business.
Sec. 11. State preemption.
Sec. 12. Consistent State guidelines for coverage for acts of terrorism.
Sec. 13. Consultation with State insurance regulators and NAIC.
Sec. 14. Sovereign immunity protections.
Sec. 15. Study of potential effects of terrorism on life insurance industry.
Sec. 16. Definitions.
Sec. 17. Extension of program.
Sec. 18. Regulations.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the terrorist attacks on the World Trade Center and the Pentagon of September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and interruption of business operations;

(2) the attacks have inflicted possibly the largest losses ever incurred by insurers and reinsurers;

(3) while the insurance and reinsurance industries have committed to pay the losses arising from the September 11 attacks, the resulting disruption has created widespread market uncertainties with regard to the risk of losses arising from possible future terrorist attacks;

(4) such uncertainty threatens the continued availability of United States commercial property casualty insurance for terrorism risk at meaningful coverage levels;

(5) the unavailability of affordable commercial property and casualty insurance for terrorist acts threatens the growth and stability of the United States economy, including impeding the ability of financial services providers to finance commercial property acquisitions and new construction;

(6) in the past, the private insurance markets have shown a remarkable resiliency in adapting to changed circumstances;

(7) given time, the private markets will diversify and develop risk spreading mechanisms to increase capacity and guard against possible future losses incurred by terrorist attacks;

(8) it is necessary to create a temporary industry risk sharing loan program to ensure the continued availability of commercial property and casualty insurance and reinsurance for terrorism-related risks;

(9) such action is necessary to limit immediate market disruptions, encourage economic stabilization, and facilitate a transition to a viable market for private terrorism risk insurance; and

(10) in addition, it is necessary to repeal portions of the tax law which prohibit the insurance market from developing the necessary reserves to handle possible future losses due to acts of terrorism.

SEC. 3. DESIGNATION OF ADMINISTRATORS.

(a) In General.—Not later than December 1, 2001, the President shall designate a Federal officer or officers to act as the Administrator or Administrators responsible for carrying out this Act and the responsibilities under this Act to be carried out by each such officer.

(b) Sense of Congress.—It is the sense of the Congress that in determining the Administrator responsible for making any determinations, for purposes of this Act, as to whether a loss was caused by an act of terrorism and whether such loss was caused by one or multiple such events, pursuant to section 5(b), the President should consider the appropriate role of the Assistant to the President for Homeland Security.

SEC. 4. SUBMISSION OF PREMIUM INFORMATION TO ADMINISTRATOR.

To the extent such information is not otherwise available to the Administrators, the appropriate Administrator may require each insurer to submit, to the appropriate Administrator or to the NAIC, a statement specifying the aggregate premium amount of coverage written by such insurer for properties and persons in the United States under each line of commercial property and casualty insurance sold by such insurer during such periods as the appropriate Administrator may provide.

SEC. 5. TRIGGERING DETERMINATION AND COVERED PERIOD.

(a) In General.—For purposes of this Act, a "triggering determination" is a determination by the appropriate Administrator that the insured losses resulting from the event of an act of terrorism occurring during the covered period (as such term is defined in subsection (b)), or the aggregate insured losses resulting from multiple events of acts of terrorism all occurring during the covered period, meet the requirements under either of the following paragraphs:

(1) Industry-wide loss test.—Such industry-wide losses exceed $1,000,000,000.

(2) Capital surplus and industry aggregate test.—Such industry-wide losses exceed $100,000,000 and some portion of such losses for any single commercial insurer exceed—

(A) 10 percent of the capital surplus of such commercial insurer (as such term is defined by the appropriate Administrator); and

(B) 10 percent of the commercial property and casualty premiums written by such commercial insurer;

except that this paragraph shall not apply to any commercial insurer that has been making commercial property and casualty insurance coverage available for less than 4 years as of the date of the determination under this subsection.

(b) Covered Period.—For purposes of this Act, the "covered period" is the period beginning on the date of the enactment of this Act and ending on January 1, 2003.

(c) Determinations Regarding Events.—For purposes of subsection (a), the appropriate Administrator shall have the sole authority for determining whether—

(1) an occurrence or event was caused by an act of terrorism;

(2) insured losses from acts of terrorism were caused by one or multiple events or occurrences; and

(3) whether an act of terrorism occurred during the covered period.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) In General.—Pursuant to a triggering determination, the appropriate Administrator shall provide financial assistance to commercial insurers in accordance with this section to cover insured losses resulting from acts of terrorism, which shall be repaid in accordance with subsection (e).

(b) Amount.—Subject to subsection (c), with respect to a triggering determination, the amount of financial assistance made available under this section to each commercial insurer shall be equal to 90 percent of the amount of the insured losses of the insurer as a result of the triggering event involved.

(c) Aggregate Limitation.—The aggregate amount of financial assistance provided pursuant to this section may not exceed $100,000,000,000.

(d) Limitations.—The appropriate Administrator may establish such limitations as may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that are not in default of any obligation under section 7 to pay assessments or under section 8 to collect surcharges.

(e) Repayment.—Financial assistance made available under this section shall be repaid through assessments under section 7 collected by the appropriate Administrator and surcharges remitted to the appropriate Administrator under section 8. Any such amounts collected or remitted shall be deposited into the general fund of the Treasury.

(f) Emergency Designation.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this section as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. 7. ASSESSMENTS.

(a) In General.—In the case of a triggering determination, each commercial insurer shall be subject to assessments under this section for the purpose of repaying financial assistance made available under section 6 in connection with such determination.

(b) Aggregate Assessment.—Pursuant to a triggering determination, the appropriate Administrator shall determine the aggregate amount to be assessed among all commercial insurers, which shall be equal to 90 percent of the lesser of—

(1) the amount of industry-wide losses resulting from the triggering event involved; and

(2) $20,000,000,000.

(c) Allocation of Assessment.—

(1) In general.—The appropriate Administrator shall allocate the aggregate assessment amount determined under subsection (b) among all commercial insurers. The portion of the aggregate assessment amount that is allocated as an assessment on each commercial insurer shall be based on the percentage, written by that insurer, of the aggregate written premium, for all commercial insurers, for the calendar year preceding the assessment.

(2) Payment requirement.—Upon notification by the appropriate Administrator of an assessment under this section, each commercial insurer shall be required to pay to the appropriate Administrator, in the manner provided under section 9 by the appropriate Administrator, the amount equal to the assessment on such commercial insurer (subject to the limitation under paragraph (3)).

(3) Annual limitation on amount allocated to each commercial insurer.—

(A) In general.—Of any assessments under this section on a commercial insurer, the portion required to be paid by any commercial insurer during a calendar year shall not exceed the amount that is equal to 3 percent of the aggregate written premium for such insurer for the preceding calendar year.

(B) Multiple payments.—If any amounts required to be repaid under this section for a calendar year are limited by operation of subparagraph (A), the appropriate Administrator shall provide that all such remaining amounts shall be reallocated among all commercial insurers (in the manner provided in paragraph (1)) over such immediately succeeding calendar years, and repaid over such years, as may be necessary to provide for full payment of such remaining amounts, except that the limitation under subparagraph (A) shall apply to the amounts paid in any such successive calendar years.

(C) Administrative flexibility.—

(i) Timing of assessments.—Assessments under this section in connection with a triggering demonstration shall be made, to the extent that the appropriate Administrator considers practicable and appropriate, at the beginning of the calendar year immediately following the triggering determination.

(ii) Estimates and corrections.—If the appropriate Administrator makes an assessment at a time other than provided under clause (i), the appropriate Administrator may—

(I) require commercial insurers to estimate their aggregate written premiums for the year in which the assessment is made; and

(II) make a subsequent refund or require additional payments to correct such estimation at the end of the calendar year.

(4) Deferral of contributions.—The appropriate Administrator may defer the payment of part or all of the assessment required under paragraph (2) to be paid by a commercial insurer, but only to the extent that the appropriate Administrator determines that such deferral is necessary to avoid the likely insolvency of the commercial insurer.

SEC. 8. TERRORISM LOSS REPAYMENT SURCHARGE.

(a) Imposition and Collection.—If, pursuant to a triggering determination, the appropriate Administrator determines that the aggregate amount of industry-wide losses resulting from the triggering event involved exceeds $20,000,000,000, the appropriate Administrator shall—

(1) establish and impose a policyholder premium surcharge, as provided under this section, on commercial property and casualty insurance written after such determination, for the purpose of repaying financial assistance made available under section 6 in connection with such triggering determination; and

(2) provide for commercial insurers to collect such surcharge and remit amounts collected to the appropriate Administrator.

(b) Amount and Duration.—The surcharge under this section shall be established in such amount, and shall apply to commercial property and casualty insurance written during such period, as the appropriate Administrator determines is necessary to recover the aggregate amount of financial assistance provided under section 6 to cover insured losses resulting from the triggering event that exceed $20,000,000,000.

(c) Other Terms.—The surcharge under this section shall—

(1) be based on a percentage of the amount of commercial property and casualty insurance coverage that a policy provides; and

(2) be imposed with respect to all commercial property and casualty insurance coverage written during the period referred to in subsection (b).

SEC. 9. ADMINISTRATION OF ASSESSMENTS AND SURCHARGES.

(a) Manner and Method.—The appropriate Administrator shall provide for the manner and method of carrying out assessments under section 7 and surcharges under section 8, including the timing and procedures of making assessments and surcharges, notifying commercial insurers of assessments or surcharge requirements, collecting payments from and surcharges through commercial insurers, and refunding of any excess amounts paid or crediting such amounts against future assessments.

(b) Timing of Coverages and Assessments.—The appropriate Administrator may adjust the timing of coverages and assessments provided under this Act to provide for equivalent application of the provisions of this Act to commercial insurers and policies that are not based on a calendar year.

(c) Application to Self-Insurance Arrangements.—The appropriate Administrator may, in consultation with the NAIC, apply the provisions of this Act, as appropriate, to self-insurance arrangements by municipalities and other entities, but only if such application is determined before the occurrence of a triggering event and all of the provisions of this Act are applied uniformly to such entities.

(d) Adjustment.—The appropriate Administrator may adjust the assessments charged under section 7 or the percentage imposed under the surcharge under section 8 at any time, as the appropriate Administrator considers appropriate to protect the national interest, which may include avoiding unreasonable economic disruption or excessive market instability.

SEC. 10. RESERVE FOR TERRORISM COVERAGE UNDER COMMERCIAL LINES OF BUSINESS.

(a) In General.—Section 832 of the Internal Revenue Code of 1986 (relating to insurance company taxable income) is amended by adding at the end the following new subsection:

"(h) Terrorism Reserve for Commercial Lines of Business.—In the case of an insurance company subject to tax under section 831(a)—

"(1) Inclusion for decreases, and deduction for increases, in balance of reserve.—

"(A) Decrease treated as gross income.—If for any taxable year—

"(i) the opening balance for the terrorism commercial business reserve exceeds

"(ii) the closing balance for such reserve, such excess shall be included in gross income under subsection (b)(1)(F).

"(B) Increase treated as deduction.—If for any taxable year—

"(i) the closing balance for the terrorism commercial business reserve exceeds

"(ii) the opening balance for such reserve, such excess shall be taken into account as a deduction under subsection (c)(14).

"(2) Terrorism commercial business reserve.—For purposes of this section, the term 'terrorism commercial business reserve' means amounts held in a segregated account (or other separately identifiable arrangement or account) which are set aside exclusively—

"(A) to mature or liquidate, either by payment or reinsurance, future unaccrued claims arising from declared terrorism losses under commercial lines of business, and

"(B) if so directed by the insurance commissioner of any State, to pay other claims as part of a plan of the company to avoid insolvency.

"(3) Limitation on amount of reserve.—

"(A) In general.—If the closing balance of any terrorism commercial business reserve for any taxable year exceeds such reserve's limit for such year—

"(i) such excess shall be included in gross income under subsection (b)(1)(F) for the following taxable year, and

"(ii) if such excess is distributed during such following taxable year, the opening balance of such reserve for such following taxable year shall be determined without regard to such excess.

"(B) Reserve limit.—

"(i) In general.—For purposes of subparagraph (A), a reserve's limit for any taxable year is such reserve's allocable share of the national limit for the calendar year in which such taxable year begins.

"(ii) National limit.—The national limit is $40,000,000,000 ($13,340,000,000 for 2002).

"(iii) Allocation of limit.—

"(I) In general.—A reserve's allocable share of the national limit for any calendar year is the amount which bears the same ratio to the national limit for such year as the company's net written premiums for commercial lines of business bears to such net written premiums for all companies for commercial line of business.

"(II) Exclusion of premiums for insurance not covering declared terrorism losses and for reinsurance.—Subclause (I) shall be applied without regard to premiums for insurance which does not cover declared terrorism losses and premiums for reinsurance.

"(III) Determination of net written premiums.—Except as otherwise provided in this section, all determinations under this subsection shall be made on the basis of the amounts required to be set forth on the annual statement approved by the National Association of Insurance Commissioners.

"(iv) Inflation adjustment of limit.—In the case of any calendar year after 2002, the $40,000,000,000 amount in clause (ii) shall be increased by an amount equal to the product of—

"(I) such dollar amount, and

"(II) the cost-of-living adjustment determined under subsection (f)(3) for such calendar year, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount after adjustment under the preceding sentence is not a multiple of $1,000,000, such amount shall be rounded to the nearest multiple of $1,000,000.

"(4) Declared terrorism losses.—For purposes of this subsection—

"(A) In general.—The term 'declared terrorism losses' means, with respect to a taxable year—

"(i) the amount of losses and loss adjustment expenses incurred in commercial lines of business that are attributable to 1 or more declared terrorism events, plus

"(ii) any nonrecoverable assessments, surcharges, or other liabilities that are borne by the company and are attributable to such events.

"(B) Declared terrorism event.—The term 'declared terrorism event' means any event declared by the President to be an act of terrorism against the United States for purposes of this section.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, and shall prescribe such regulations after consultation with the National Association of Insurance Commissioners."

(b) Conforming Amendments.—

(1) Paragraph (1) of section 832(b) of such Code is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding at the end the following new subparagraph:

"(F) each net decrease in reserves which is required by paragraph (1) or (3) of subsection (h) to be taken into account under this subparagraph."

(2) Subsection (c) of section 832 of such Code is amended by striking "and" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting in lieu thereof "; and", and by adding at the end the following new paragraph:

"(14) each net increase in reserves which is required by subsection (h)(1) to be taken into account under this paragraph."

(c) Effective Date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2001.

SEC. 11. STATE PREEMPTION.

(a) Covered Perils.—A commercial insurer shall be considered to have complied with any State law that requires or regulates the provision of insurance coverage for acts of terrorism if the insurer provides coverage in accordance with the definitions regarding acts of terrorism under the regulations issued by the Administrators.

(b) Rate Laws.—If any provision of any State law prevents an insurer from increasing its premium rates in an amount necessary to recover any assessments pursuant to section 7, such provision is preempted only to the extent necessary to provide for such insurer to recover such losses.

(c) File and Use.—With respect only to commercial property and casualty insurance covering acts of terrorism, any provision of State law that requires, as a condition precedent to the effectiveness of rates or policies for such insurance that is made available by an insurer licensed to transact such business in the State, any action (including prior approval by the State insurance regulator for such State) other than filing of such rates and policies and related information with such State insurance regulator is preempted to the extent such law requires such additional actions for such insurance coverage. This subsection shall not be considered to preempt a provision of State law solely because the law provides that rates and policies for such insurance coverage are, upon such filing, subject to subsequent review and action, which may include actions to disapprove or discontinue use of such rates or policies, by the State insurance regulator.

SEC. 12. CONSISTENT STATE GUIDELINES FOR COVERAGE FOR ACTS OF TERRORISM.

(a) Sense of Congress Regarding Covered Perils.—It is the sense of the Congress that—

(1) the NAIC, in consultation with the appropriate Administrator, should develop appropriate definitions for acts of terrorism and appropriate standards for making determinations regarding events or occurrences of acts of terrorism;

(2) each State should adopt the definitions and standards developed by the NAIC for purposes of regulating insurance coverage made available in that State;

(3) in consulting with the NAIC, the appropriate Administrator should advocate and promote the development of definitions and standards that are appropriate for purposes of this Act; and

(4) after consultation with the NAIC, the appropriate Administrator should adopt definitions for acts of terrorism and standards for determinations that are appropriate for this Act.

(b) Insurance Reserve Guidelines.—

(1) Sense of congress regarding adoption by states.—It is the sense of the Congress that—

(A) the NAIC should develop appropriate guidelines for commercial insurers and pools regarding maintenance of reserves against the risks of acts of terrorism; and

(B) each State should adopt such guidelines for purposes of regulating commercial insurers doing business in that State.

(2) Consideration of adoption of national guidelines.—Upon the expiration of the 6-month period beginning on the date of the enactment of this Act, the appropriate Administrator shall make a determination of whether the guidelines referred to in paragraph (1) have, by such time, been developed and adopted by nearly all States in a uniform manner. If the appropriate Administrator determines that such guidelines have not been so developed and adopted, the appropriate Administrator shall consider adopting, and may adopt, such guidelines on a national basis in a manner that would supercede any State law regarding maintenance of reserves against such risks.

(c) Guidelines Regarding Disclosure of Pricing and Terms of Coverage.—

(1) Sense of congress.—It is the sense of the Congress that the States should require, by laws or regulations governing the provision of commercial property and casualty insurance that includes coverage for acts of terrorism, that the price of any such terrorism coverage, including the costs of any terrorism related assessments or surcharges under this Act, be separately disclosed.

(2) Adoption of national guidelines.—If the appropriate Administrator determines that the States have not enacted laws or adopted regulations adequately providing for the disclosures described in paragraph (1) within a reasonable period of time after the date of the enactment of this Act, the appropriate Administrator shall, after consultation with the NAIC, adopt guidelines on a national basis requiring such disclosure in a manner that supercedes any State law regarding such disclosure.

SEC. 13. CONSULTATION WITH STATE INSURANCE REGULATORS AND NAIC.

The Administrators shall consult with the State insurance regulators and the NAIC in carrying out this Act. The Administrators may take such actions, including entering into such agreements and providing such technical and organizational assistance to insurers and State insurance regulators, as may be necessary to provide for the distribution of financial assistance under section 6 and the collection of assessments under section 7 and surcharges under section 8.

SEC. 14. SOVEREIGN IMMUNITY PROTECTIONS.

(a) Federal Cause of Action for Damages From Terrorist Acts Resulting in Triggering Determination.—

(1) In general.—If a triggering determination occurs requiring an assessment under section 7 or a surcharge under section 8, there shall exist a Federal cause of action, which shall be the exclusive remedy, for damages claimed pursuant to, or in connection with, any acts of terrorism that caused the insured losses resulting in such triggering determination.

(2) Substantive law.—The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such act of terrorism occurred, unless such law is inconsistent with or preempted by Federal law.

(3) Jurisdiction.—Pursuant to each triggering determination, the Judicial Panel on Multidistrict Litigation shall designate one or more district courts of the United States which shall have original and exclusive jurisdiction over all actions brought pursuant to this subsection that arise out of the triggering event involved.

(4) Offset for relief payments.—Any recovery by a plaintiff in an action under this subsection shall be offset by the amount, if any, received by the plaintiff from the United States pursuant to any emergency or disaster relief program, or from any other collateral source, for compensation of losses related to the act of terrorism involved.

(b) Damages in Actions Regarding Insurance Claims.—In an action brought under this section for damages claimed by an insured pursuant to, or in connection with, any commercial property and casualty insurance providing coverage for acts of terrorism that resulted in a triggering determination:

(1) Prohibition of punitive damages.—No punitive damages intended to punish or deter may be awarded.

(2) Noneconomic damages.—

(A) In general.—Each defendant in such an action shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the percentage of responsibility of the defendant for the harm to the claimant.

(B) Definition.—For purposes of subparagraph (A), the term "noneconomic damages" means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses of any kind or nature.

(c) Right of Subrogation.—The United States shall have the right of subrogation with respect to any claim paid by the United States under this Act.

(d) Protective Orders.—The United States or any appropriate Administrator carrying out responsibilities under this Act may seek protective orders or assert privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

SEC. 15. STUDY OF POTENTIAL EFFECTS OF TERRORISM ON LIFE INSURANCE INDUSTRY.

(a) Establishment.—Not later than 30 days after the date of enactment of this Act, the President shall establish a commission (in this section referred to as the "Commission") to study and report on the potential effects of an act or acts of terrorism on the life insurance industry in the United States and the markets served by such industry.

(b) Membership and Operations.—

(1) Appointment.—The Commission shall consist of 5 members, as follows:

(A) The appropriate Administrator, as designated by the President.

(C) 4 members appointed by the President, who shall be—

(i) a representative of direct underwriters of life insurance within the United States;

(ii) a representative of reinsurers of life insurance within the United States;

(iii) an officer of the NAIC; and

(iv) a representative of insurance agents for life underwriters.

(2) Operations.—The chairperson of the Commission shall determine the manner in which the Commission shall operate, including funding, staffing, and coordination with other governmental entities.

(c) Study.—The Commission shall conduct a study of the life insurance industry in the United States, which shall identify and make recommendations regarding—

(1) possible actions to encourage, facilitate, and sustain provision by the life insurance industry in the United States of coverage for losses due to death or disability resulting from an act or acts of terrorism, including in the face of threats of such acts; and

(2) possible actions or mechanisms to sustain or supplement the ability of the life insurance industry in the United States to cover losses due to death or disability resulting from an act or acts of terrorism in the event that—

(A) such acts significantly affect mortality experience of the population of the United States over any period of time;

(B) such loses jeopardize the capital and surplus of the life insurance industry in the United States as a whole; or

(C) other consequences from such acts occur, as determined by the Commission, that may significantly affect the ability of the life insurance industry in the United States to independently cover such losses.

(d) Recommendations.—The Commission may make a recommendation pursuant to subsection (c) only upon the concurrence of a majority of the members of the Commission.

(e) Report.—Not later than 120 days after the date of enactment of this Act, the Commission shall submit to the House of Representatives and the Senate a report describing the results of the study and any recommendations developed under subsection (c).

(f) Termination.—The Commission shall terminate 60 days after submission of the report as provided for in subsection (e).

SEC. 16. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) Act of terrorism.—

(A) In general.—The term "act of terrorism" means any act that the appropriate Administrator determines meets the requirements. under subparagraph (B), as such requirements are further defined and specified by the appropriate Administrator in consultation with the NAIC.

(B) Requirements.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States;

(iii) is committed by a group of persons or associations who—

(I) are not a government of a foreign country or the de facto government of a foreign country; and

(II) are recognized by the Department of State or the appropriate Administrator as a terrorist group or have conspired with such a group or the group's agents or surrogates; and

(iv) has as its purpose to overthrow or destabilize the government of any country or to influence the policy or affect the conduct of the government of the United States by coercion.

(2) Appropriate administrators.—The term "appropriate Administrator" means, with respect to any function or responsibility of the Federal Government under this Act, the Federal officer designated by the President pursuant to section 3 as responsible for carrying out such function or responsibility.

(3) Affiliate.—The term "affiliate" means, with respect to an insurer, any company that controls, is controlled by, or is under common control with the insurer.

(4) Aggregate written premium.—The term "aggregate written premium" means,

with respect to a year, the aggregate premium amount of all commercial property and casualty insurance coverage written during such year for persons or properties in the United States under all lines of commercial property and casualty insurance.

(5) COMMERCIAL INSURANCE.—The term "commercial insurance" means property and casualty insurance that is not insurance for homeowners, tenants, private passenger nonfleet automobiles, mobile homes, or other insurance for personal, family, or household needs.

(6) COMMERCIAL INSURER.—The term "commercial insurer" means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is engaged in the business of providing commercial property and casualty insurance for persons or properties in the United States. Such term includes any affiliates of a commercial insurer.

(7) COMMERCIAL PROPERTY AND CASUALTY INSURANCE.—The term "commercial property and casualty insurance" means property and casualty insurance that is commercial insurance.

(8) CONTROL.—A company has control over another company if—

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the other company; or

(C) the appropriate Administrator determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the other company.

(9) COVERED PERIOD.—The term "covered period" has the meaning given such term in section 5(b).

(10) INDUSTRY-WIDE LOSSES.—The term "industry-wide losses" means the aggregate insured losses sustained by all insurers, from coverage written for persons or properties in the United States, under all lines of commercial property and casualty insurance.

(11) INSURED LOSS.—The term "insured loss" means any loss in the United States covered by commercial property and casualty insurance.

(12) INSURER.—The term "insurer" means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is engaged in the business of providing property and casualty insurance for persons or properties in the United States. Such term includes any affiliates of an insurer.

(13) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(14) PROPERTY AND CASUALTY INSURANCE.—The term "property and casualty insurance" means insurance against—

(A) loss of or damage to property;

(B) loss of income or extra expense incurred because of loss of or damage to property; and

(C) third party liability claims caused by negligence or imposed by statute or contract.

Such term does not include health or life insurance.

(15) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(16) STATE INSURANCE REGULATOR.—The term "State insurance regulator" means, with respect to a State, the principal insurance regulatory authority of the State.

(17) TRIGGERING DETERMINATION.—The term "triggering determination" has the meaning given such term in section 5(a).

(18) TRIGGERING EVENT.—The term "triggering event" means, with respect to a triggering determination, the event of an act of terrorism, or the events of such acts, that caused the insured losses resulting in such triggering determination.

(19) UNITED STATES.—The term "United States" means, collectively, the States (as such term is defined in this section).

SEC. 17. EXTENSION OF PROGRAM.

(a) AUTHORITY.—If the appropriate Administrator determines that action under this section is necessary to ensure the adequate availability in the United States of commercial property and casualty insurance coverage for acts of terrorism, the appropriate Administrator may provide that the provisions of this Act shall continue to apply with respect to a period or periods, as established by the Administrator, that begin after the expiration of the covered period specified in section 5(b) and end before January 1, 2005.

(b) COVERED PERIOD.—If the appropriate Administrator exercises the authority under subsection (a), notwithstanding section 5(b) and section 16(9), the period or periods established by the appropriate Administrator shall be considered to be the covered period for purposes of this Act.

SEC. 18. REGULATIONS.

The appropriate Administrators shall issue any regulations necessary to carry out this Act.

The SPEAKER pro tempore. In lieu of the amendments recommended by the Committee on Financial Services and the Committee on Ways and Means printed in the bill, an amendment in the nature of a substitute consisting of the text of H.R. 3357 is adopted.

The text of the bill as amended pursuant to House Resolution 297 is as follows:

H.R. 3357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Terrorism Risk Protection Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Congressional findings.
Sec. 3. Authority of Secretary of the Treasury.
Sec. 4. Submission of premium information to Secretary.
Sec. 5. Initial and subsequent triggering determinations.
Sec. 6. Federal cost-sharing for commercial insurers.
Sec. 7. Assessments.
Sec. 8. Terrorism loss repayment surcharge.
Sec. 9. Administration of assessments and surcharges.
Sec. 10. Application to self-insurance arrangements and offshore insurers and reinsurers.
Sec. 11. Study of reserves for property and casualty insurance for terrorist or other catastrophic events.
Sec. 12. State preemption.
Sec. 13. Consistent State guidelines for coverage for acts of terrorism.
Sec. 14. Consultation with State insurance regulators and NAIC.
Sec. 15. Litigation management.
Sec. 16. Study of potential effects of terrorism on life insurance industry.
Sec. 17. Railroad and trucking insurance study.
Sec. 18. Study of reinsurance pool system for future acts of terrorism.
Sec. 19. Definitions.
Sec. 20. Covered period and extension of program.
Sec. 21. Regulations.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the terrorist attacks on the World Trade Center and the Pentagon of September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and interruption of business operations;

(2) the attacks have inflicted possibly the largest losses ever incurred by insurers and reinsurers in a single day;

(3) while the insurance and reinsurance industries have committed to pay the losses arising from the September 11 attacks, the resulting disruption has created widespread market uncertainties with regard to the risk of losses arising from possible future terrorist attacks;

(4) such uncertainty threatens the continued availability of United States commercial property and casualty insurance for terrorism risk at meaningful coverage levels;

(5) the unavailability of affordable commercial property and casualty insurance for terrorist acts threatens the growth and stability of the United States economy, including impeding the ability of financial services providers to finance commercial property acquisitions and new construction;

(6) in the past, the private insurance and reinsurance markets have shown a remarkable resiliency in adapting to changed circumstances;

(7) given time, the private markets will diversify and develop risk spreading mechanisms to increase capacity and guard against possible future losses incurred by terrorist attacks;

(8) it is necessary to create a temporary industry risk sharing program to ensure the continued availability of commercial property and casualty insurance and reinsurance for terrorism-related risks;

(9) such action is necessary to limit immediate market disruptions, encourage economic stabilization, and facilitate a transition to a viable market for private terrorism risk insurance;

(10) in addition, it is necessary promptly to conduct a study of whether there is a need for reserves for property and casualty insurance for terrorist or other catastrophic events; and

(11) terrorism insurance plays an important role in the efficient functioning of the economy and the financing of commercial property acquisitions and new construction and, therefore, the Congress intends to continue to monitor, review, and evaluate the private terrorism insurance and reinsurance marketplace to determine whether additional action is necessary to maintain the long-term stability of the real estate and capital markets.

SEC. 3. AUTHORITY OF SECRETARY OF THE TREASURY.

The Secretary of the Treasury shall be responsible for carrying out a program for financial assistance for commercial property and casualty insurers, as provided in this Act.

SEC. 4. SUBMISSION OF PREMIUM INFORMATION TO SECRETARY.

To the extent such information is not otherwise available to the Secretary, the Secretary may require each insurer to submit, to the Secretary or to the NAIC, a statement specifying the net premium amount of coverage written by such insurer under each line of commercial property and casualty insurance sold by such insurer during such periods as the Secretary may provide.

SEC. 5. INITIAL AND SUBSEQUENT TRIGGERING DETERMINATIONS.

(a) In General.—For purposes of this Act, a "triggering determination" is a determination by the Secretary that an act of terrorism has occurred during the covered period and that the aggregate insured losses resulting from such occurrence or from multiple occurrences of acts of terrorism all occurring during the covered period, meet the requirements under either of the following paragraphs:

(1) Industry-wide trigger.—Such industry-wide losses exceed $1,000,000,000.

(2) Individual insurer trigger.—Such industry-wide losses exceed $100,000,000 and some portion of such losses for any single commercial insurer exceed—

(A) 10 percent of the capital surplus of such commercial insurer (as such term is defined by the Secretary); and

(B) 10 percent of the net premium written by such commercial insurer that is in force at the time the insured losses occurred;

except that this paragraph shall not apply to any commercial insurer that was not providing commercial property and casualty insurance coverage prior to September 11, 2001, unless such insurer incurs such losses under commercial property and casualty insurance providing coverage for acts of terrorism through a pool of reserves for terrorism risks that is not under the control of any commercial insurer.

(b) Determinations Regarding Occurrences.—The Secretary, after consultation with the Attorney General of the United States and the Secretary of State, shall have the sole authority which may not be delegated or designated to any other officer, employee, or position, for determining whether—

(1) an occurrence was caused by an act of terrorism; and

(2) an act of terrorism occurred during the covered period.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) In General.—Pursuant to a triggering determination, the Secretary shall provide financial assistance to commercial insurers in accordance with this section to cover insured losses resulting from acts of terrorism, which shall be repaid in accordance with subsection (e).

(b) Amount.—

(1) Industry-wide trigger.—Subject to subsections (c) and (d), with respect to a triggering determination under section 5(a)(1), financial assistance shall be made available under this section to each commercial insurer in an amount equal to the difference between—

(A) 90 percent of the amount of the insured losses of the insurer as a result of the triggering event involved; and

(B) $5,000,000.

(2) Individual insurer trigger.—Subject to subsections (c) and (d), with respect to a triggering determination under section 5(a)(2), financial assistance shall be made available under this section, to each commercial insurer incurring insured losses as a result of the triggering event involved that exceed the amounts under subparagraphs (A) and (B) of such section, in an amount equal to the difference between—

(A) 90 percent of the amount of the insured losses of the insurer as a result of such triggering event; and

(B) the amount under subparagraph (B) of section 5(a)(2).

(3) Additional amounts.—Subject to subsection (c), if the Secretary has provided financial assistance to a commercial insurer pursuant to paragraph (2) of this subsection and subsequently makes a triggering determination pursuant to section 5(a)(1), the Secretary shall provide financial assistance to such insurer in connection with such subsequent triggering determination (in addition to the amount of financial assistance provided to such insurer pursuant to paragraph (1) of this subsection) in the amount under section 5(a)(2)(B).

(c) Aggregate Limitation.—

(1) In general.—The aggregate amount of financial assistance provided pursuant to this section may not exceed $100,000,000,000.

(2) Sense of congress regarding severe losses.—It is the sense of the Congress that acts of terrorism resulting in insured losses greater than $100,000,000,000 would necessitate further action by the Congress to address such additional losses.

(d) Limitations.—The Secretary may establish such limitations as may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that are not in default of any obligation under section 7 to pay assessments or under section 8 to collect surcharges.

(e) Repayment.—Financial assistance made available under this section shall be repaid through assessments under section 7 collected by the Secretary and surcharges remitted to the Secretary under section 8. Any such amounts collected or remitted shall be deposited into the general fund of the Treasury.

(f) Emergency Designation.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this section as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. 7. ASSESSMENTS.

(a) In General.—In the case of a triggering determination, each commercial insurer shall be subject to assessments under this section for the purpose of repaying a portion of the financial assistance made available under section 6 in connection with such determination.

(b) Aggregate Assessment.—Pursuant to a triggering determination, the Secretary shall determine the aggregate amount to be assessed under this section among all commercial insurers, which shall be equal to the lesser of—

(1) $20,000,000,000; and

(2) the amount of financial assistance paid under section 6 in connection with the triggering determination.

The aggregate assessment amount under this subsection shall be assessed to commercial insurers through an industry obligation assessment under subsection (c) and, if necessary, the remainder shall be assessed through one or more financing assessments under subsection (d).

(c) Industry Obligation Assessments.—

(1) In general.—Immediately upon the occurrence of a triggering determination, the Secretary shall impose an industry obligation assessment under this subsection on all commercial insurers, subject to paragraph (3).

(2) Amount.—The aggregate amount of an industry obligation assessment in connection with a triggering determination shall be equal to—

(A) in the case of a triggering determination occurring during the covered period specified in section 20(a), the lesser of—

(i) the difference between (I) $5,000,000,000, and (II) the aggregate amount of any assessments made by the Secretary pursuant to this section during the portion of such covered period preceding the triggering determination; and

(ii) the amount of financial assistance made available under section 6 in connection with the triggering determination; or

(B) such other aggregate industry obligation amount as may apply pursuant to subsection (g).

(3) Timing of multiple assessments.—

(A) Delayed imposition and aggregation of assessments.—In the case of any triggering determination occurring within 12 months of the occurrence of a previous triggering determination, any industry obligation assessments under this subsection resulting from such subsequent determination shall be imposed upon the conclusion of the quarterly assessment period under subparagraph (B) during which such determination occurs.

(B) Quarterly assessment period.—With respect to a subsequent triggering determination referred to in subparagraph (A), the quarterly assessment periods under this subparagraph are—

(i) the 3-month period that begins upon the imposition of the industry obligation assessment resulting from the triggering determination that—

(I) occurred most recently before such subsequent triggering determination; and

(II) did not occur within 12 months of the occurrence of any previous triggering determination; and

(ii) each successive 3-month period thereafter that begins during the covered period.

(d) Financing Assessments.—

(1) In general.—If the aggregate assessment amount in connection with a triggering determination exceeds the aggregate amount of the industry obligation assessment under subsection (c) in connection with the determination, the remaining amount shall be assessed through one or more, as may be necessary pursuant to paragraph (3), financing assessments under this subsection.

(2) Timing.—A financing assessment under this subsection in connection with a triggering determination shall be imposed only upon the expiration of any 12-month period beginning after such determination during which no assessments under this section have been imposed.

(3) Limitation.—The aggregate amount of any financing assessments imposed under this subsection on any single commercial insurer during any 12-month period shall not exceed the amount that is equal to 3 percent of the net premium for such insurer for such period.

(e) ALLOCATION OF ASSESSMENT.—The portion of the aggregate amount of any industry obligation assessment or financing assessment under this section that is allocated to each commercial insurer shall be based on the ratio that the net premium written by such commercial insurer during the year during which the assessment is imposed bears to the aggregate written premium for such year, subject to section 9 and the limitation under subsection (d)(3) of this section.

(f) NOTICE AND OBLIGATION TO PAY.—

(1) NOTICE.—As soon as practicable after any triggering determination, the Secretary shall notify each commercial insurer in writing of an assessment under this section, which notice shall include the amount of the assessment allocated to such insurer.

(2) EFFECT OF NOTICE.—Upon notice to a commercial insurer, the commercial insurer shall be obligated to pay to the Secretary, not later than 60 days after receipt of such notice, the amount of the assessment on such commercial insurer.

(3) FAILURE TO MAKE TIMELY PAYMENT.—If any commercial insurer fails to pay an assessment under this section before the deadline established under paragraph (2) for the assessment, the Secretary may take either or both of the following actions:

(A) CIVIL MONETARY PENALTY.—Assess a civil monetary penalty pursuant to section 9(d) upon such insurer.

(B) INTEREST.—Require such insurer to pay interest, at such rate as the Secretary considers appropriate, on the amount of the assessment that was not paid before the deadline established under paragraph (2).

(g) AGGREGATE INDUSTRY OBLIGATION AMOUNT FOR PROGRAM EXTENSION YEARS.—If the Secretary exercises the authority under section 20(b) to extend the covered period, the aggregate industry obligation amount for purposes of subsection (c)(2)(B) shall, in the case of a triggering determination occurring during the portion of the covered period beginning on the date referred to in section 20(a), be equal to the lesser of—

(1) the difference between (A) $10,000,000,000, and (B) the aggregate amount of any assessments made by the Secretary pursuant to this section during the 12-month period preceding the triggering determination; and

(2) the amount of financial assistance made available under section 6 in connection with the triggering determination.

(h) ADMINISTRATIVE FLEXIBILITY.—

(1) ADJUSTMENT OF ASSESSMENTS.—The Secretary may provide for or require estimations of amounts under this section and may provide for subsequent refunds or require additional payments to correct such estimations, as appropriate.

(2) DEFERRAL OF CONTRIBUTIONS.—The Secretary may defer the payment of part or all of an assessment required under this section to be paid by a commercial insurer, but only to the extent that the Secretary determines that such deferral is necessary to avoid the likely insolvency of the commercial insurer.

(3) TIMING OF ASSESSMENTS.—The Secretary shall make adjustments regarding the timing and imposition of assessments (including the calculation of net premiums and aggregate written premium) as appropriate for commercial insurers that provide commercial property and casualty insurance on a non-calendar year basis.

SEC. 8. TERRORISM LOSS REPAYMENT SURCHARGE.

(a) DETERMINATION OF IMPOSITION AND COLLECTION.—

(1) IN GENERAL.—If, pursuant to a triggering determination, the Secretary determines that the aggregate amount of financial assistance provided pursuant to section 6 exceeds $20,000,000,000, the Secretary shall consider and weigh the factors under paragraph (2) to determine the extent to which a surcharge under this section should be established.

(2) FACTORS.—The factors under this paragraph are—

(A) the ultimate costs to taxpayers if a surcharge under this section is not established;

(B) the economic conditions in the commercial marketplace;

(C) the affordability of commercial insurance for small- and medium-sized business; and

(D) such other factors as the Secretary considers appropriate.

(3) POLICYHOLDER PREMIUM.—The amount established by the Secretary as a surcharge under this section shall be established and imposed as a policyholder premium surcharge on commercial property and casualty insurance written after such determination, for the purpose of repaying financial assistance made available under section 6 in connection with such triggering determination.

(4) COLLECTION.—The Secretary shall provide for commercial insurers to collect surcharge amounts established under this section and remit such amounts collected to the Secretary.

(b) AMOUNT AND DURATION.—Subject to subsection (c), the surcharge under this section shall be established in such amount, and shall apply to commercial property and casualty insurance written during such period, as the Secretary determines is necessary to recover the aggregate amount of financial assistance provided under section 6 in connection with the triggering determination that exceeds $20,000,000,000.

(c) PERCENTAGE LIMITATION.—The surcharge under this section applicable to commercial property and casualty insurance coverage may not exceed, on an annual basis, the amount equal to 3 percent of the premium charged for such coverage.

(d) OTHER TERMS.—The surcharge under this section shall—

(1) be based on a percentage of the premium amount charged for commercial property and casualty insurance coverage that a policy provides; and

(2) be imposed with respect to all commercial property and casualty insurance coverage written during the period referred to in subsection (b).

(e) EXCLUSIONS.—For purposes of this section, commercial property and casualty insurance does not include any reinsurance provided to primary insurance companies.

SEC. 9. ADMINISTRATION OF ASSESSMENTS AND SURCHARGES.

(a) MANNER AND METHOD.—

(1) IN GENERAL.—Except to the extent specified in such sections, the Secretary shall provide for the manner and method of carrying out assessments under section 7 and surcharges under section 8, including the timing and procedures of making assessments and surcharges, notifying commercial insurers of assessments and surcharge requirements, collecting payments from and surcharges through commercial insurers, and refunding of any excess amounts paid or crediting such amounts against future assessments.

(2) EFFECT OF ASSESSMENTS AND SURCHARGES ON URBAN AND SMALLER COMMERCIAL AND RURAL AREAS AND DIFFERENT LINES OF INSURANCE.—In determining the method and manner of imposing assessments under section 7 and surcharges under section 8, including the amounts of such assessments and surcharges, the Secretary shall take into consideration—

(A) the economic impact of any such assessments and surcharges on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums charged to small businesses, and the availability of lease space and commercial insurance within urban areas;

(B) the risk factors related to rural areas and smaller commercial centers, including the potential exposure to loss and the likely magnitude of such loss, as well as any resulting cross-subsidization that might result; and

(C) the various exposures to terrorism risk for different lines of commercial property and casualty insurance.

(b) TIMING OF COVERAGES AND ASSESSMENTS.—The Secretary may adjust the timing of coverages and assessments provided under this Act to provide for equivalent application of the provisions of this Act to commercial insurers and policies that are not based on a calendar year.

(c) ADJUSTMENT.—The Secretary may adjust the assessments charged under section 7 or the percentage imposed under the surcharge under section 8 at any time, as the Secretary considers appropriate to protect the national interest, which may include avoiding unreasonable economic disruption or excessive market instability and avoiding undue burdens on small businesses.

(d) CIVIL MONETARY PENALTY.—

(1) IN GENERAL.—The Secretary may assess a civil monetary penalty in an amount not exceeding the amount under paragraph (2) against any commercial insurer that the Secretary determines, on the record after opportunity for a hearing—

(A) has failed to pay an assessment under section 7 in accordance with the requirements of, or regulations issued, under this Act;

(B) has failed to charge, collect, or remit surcharges under section 8 in accordance with the requirements of, or regulations issued under, this Act;

(C) has intentionally provided to the Secretary erroneous information regarding premium or loss amounts; or

(D) has otherwise failed to comply with the provisions of, or the regulations issued under, this Act.

(2) AMOUNT.—The amount under this paragraph is the greater of $1,000,000 and, in the case of any failure to pay, charge, collect, or remit amounts in accordance with this Act or the regulations issued under this Act, such amount in dispute.

SEC. 10. APPLICATION TO SELF-INSURANCE ARRANGEMENTS AND OFFSHORE INSURERS AND REINSURERS.

(a) SELF-INSURANCE ARRANGEMENTS.—The Secretary may, in consultation with the NAIC, apply the provisions of this Act, as appropriate, to self-insurance arrangements by municipalities and other entities, but only if such application is determined before the occurrence of a triggering event and all of the provisions of this Act are applied uniformly to such entities.

(b) OFFSHORE INSURERS AND REINSURERS.—The Secretary shall ensure that the provisions of this Act are applied as appropriate to any offshore or non-admitted entities that provide commercial property and casualty insurance.

SEC. 11. STUDY OF RESERVES FOR PROPERTY AND CASUALTY INSURANCE FOR TERRORIST OR OTHER CATASTROPHIC EVENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall conduct a study of issues relating to permitting property and casualty insurance companies to establish deductible reserves against losses for future acts of terrorism, including—

(1) whether such tax-favored reserves would promote (A) insurance coverage of risks of terrorism, and (B) the accumulation of additional resources needed to satisfy potential claims resulting from such risks,

(2) the lines of business for which such reserves would be appropriate, including whether such reserves should be applied to personal or commercial lines of business,

(3) how the amount of such reserves would be determined,

(4) how such reserves would be administered,

(5) a comparison of the Federal tax treatment of such reserves with other insurance reserves permitted under Federal tax laws,

(6) an analysis of the use of tax-favored reserves for catastrophic events, including acts of terrorism, under the tax laws of foreign countries, and

(7) whether it would be appropriate to permit similar reserves for other future catastrophic events, such as natural disasters, taking into account the factors under the preceding paragraphs.

(b) REPORT.—Not later than 4 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to Congress on the results of the study under subsection (a), together with recommendations for amending the Internal Revenue Code of 1986 or other appropriate action.

SEC. 12. STATE PREEMPTION.

(a) COVERED PERILS.—A commercial insurer shall be considered to have complied with any State law that requires or regulates the provision of insurance coverage for acts of terrorism if the insurer provides coverage in accordance with the definitions regarding acts of terrorism under this Act or under any regulations issued by the. Secretary.

(b) RATE LAWS.—If any provision of any State law prevents an insurer from increasing its premium rates in an amount necessary to recover any assessments pursuant to section 7, such provision is preempted only to the extent necessary to provide for such insurer to recover such losses.

(c) FILE AND USE.—

(1) IN GENERAL.—With respect only to commercial property and casualty insurance covering acts of terrorism, any provision of State law that requires, as a condition precedent to the effectiveness of rates or policies for such insurance that is made available by an insurer licensed to transact such business in the State, any action (including prior approval by the State insurance regulator for such State) other than filing of such rates and policies and related information with such State insurance regulator is preempted to the extent such law requires such additional actions for such insurance coverage.

(2) SUBSEQUENT REVIEW AUTHORITY.—Paragraph (1) shall not be considered to preempt a provision of State law solely because the law provides that rates and policies for such insurance coverage are, upon such filing, subject to subsequent review and action, which may include actions to disapprove or discontinue use of such rates or policies, by the State insurance regulator.

(3) TREATMENT OF PRIOR REVIEW PROVISIONS.—Any authority for prior review and action by a State regulator preempted under paragraph (1) shall be deemed to be authority to conduct a subsequent review and action on such filings.

SEC. 13. CONSISTENT STATE GUIDELINES FOR COVERAGE FOR ACTS OF TERRORISM.

(a) SENSE OF CONGRESS REGARDING COVERED PERILS.—It is the sense of the Congress that—

(1) the NAIC, in consultation with the Secretary, should develop appropriate definitions for acts of terrorism that are consistent with this Act and appropriate standards for making determinations regarding occurrences of acts of terrorism;

(2) each State should adopt the definitions and standards developed by the NAIC for purposes of regulating insurance coverage made available in that State;

(3) in consulting with the NAIC, the Secretary should advocate and promote the development of definitions and standards that are appropriate for purposes of this Act; and

(4) after consultation with the NAIC, the Secretary should adopt further definitions for acts of terrorism and standards for determinations that are appropriate for this Act.

(b) INSURANCE RESERVE GUIDELINES.—

(1) SENSE OF CONGRESS REGARDING ADOPTION BY STATES.—It is the sense of the Congress that—

(A) the NAIC should develop appropriate guidelines for commercial insurers and pools regarding maintenance of reserves against the risks of acts of terrorism; and

(B) each State should adopt such guidelines for purposes of regulating commercial insurers doing business in that State.

(2) CONSIDERATION OF ADOPTION OF NATIONAL GUIDELINES.—Upon the expiration of the 6-month period beginning on the date of the enactment of this Act, the Secretary shall make a determination of whether the guidelines referred to in paragraph (1) have, by such time, been developed and adopted by nearly all States in a uniform manner. If the Secretary determines that such guidelines have not been so developed and adopted, the Secretary shall consider adopting, and may adopt, such guidelines on a national basis in a manner that supersedes any State law regarding maintenance of reserves against such risks.

(c) GUIDELINES REGARDING DISCLOSURE OF PRICING AND TERMS OF COVERAGE.—

(1) SENSE OF CONGRESS.—It is the sense of the Congress that the States should require, by laws or regulations governing the provision of commercial property and casualty insurance that includes coverage for acts of terrorism, that the price of any such terrorism coverage, including the costs of any terrorism related assessments or surcharges under this Act, be separately disclosed.

(2) ADOPTION OF NATIONAL GUIDELINES.—If the Secretary determines that the States have not enacted laws or adopted regulations adequately providing for the disclosures described in paragraph (1) within a reasonable period of time after the date of the enactment of this Act, the Secretary shall, after consultation with the NAIC, adopt guidelines on a national basis requiring such disclosure in a manner that supersedes any State law regarding such disclosure.

SEC. 14. CONSULTATION WITH STATE INSURANCE REGULATORS AND NAIC.

(a) IN GENERAL.—The Secretary shall consult with the State insurance regulators and the NAIC in carrying out this Act.

(b) FINANCIAL ASSISTANCE, ASSESSMENTS, AND SURCHARGES.—The Secretary may take such actions, including entering into such agreements and providing such technical and organizational assistance to insurers and State insurance regulators, as may be necessary to provide for the distribution of financial assistance under section 6 and the collection of assessments under section 7 and surcharges under section 8.

(c) INVESTIGATING AND AUDITING CLAIMS.—The Secretary may, in consultation with the State insurance regulators and the NAIC, investigate and audit claims of insured losses by commercial insurers and otherwise require verification of amounts of premiums or losses, as appropriate.

SEC. 15. LITIGATION MANAGEMENT.

(a) FEDERAL CAUSE OF ACTION FOR CLAIMS RELATING TO TERRORIST ACTS.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary makes a determination pursuant to section 5(b) that one or more acts of terrorism occurred, there shall exist a Federal cause of action, which, except as provided in subsection (b), shall be the exclusive remedy for claims arising out of, relating to, or resulting from such acts of terrorism.

(2) EFFECT OF DETERMINATION.—A determination referred to in paragraph (1)—

(A) shall not be subject to judicial review;

(B) shall take effect upon its publication in the Federal Register; and

(C) shall be subject to such changes as the Secretary may provide in one or more later determinations made in accordance with the provisions of this paragraph.

(3) SUBSTANTIVE LAW.—The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law.

(4) JURISDICTION.—For each determination under paragraph (1), the Judicial Panel on Multidistrict Litigation shall designate one or more district courts of the United States which shall have original and exclusive jurisdiction over all actions for any claim (including any claim for loss of property, personal injury, or death) brought pursuant to this subsection. The Judicial Panel on Multidistrict Litigation shall select and assign the district court or courts based on the convenience of the parties and the just and efficient conduct of the proceedings. For purposes of personal jurisdiction, the district court or courts designated by the Judicial Panel on Multidistrict Litigation shall be deemed to sit in all judicial districts in the United States.

(5) LIMITS ON DAMAGES.—In an action brought under this subsection for damages:

(A) No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(B)(i) Each defendant in such an action shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the percentage of responsibility of the defendant for the harm to the plaintiff, and no plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm.

(ii) For purposes of clause (i), the term "noneconomic damages" means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses.

(6) COLLATERAL SOURCES.—Any recovery by a plaintiff in an action under this subsection

shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of the acts of terrorism with respect to which the determination under paragraph (1) was made.

(7) ATTORNEY FEES.—Reasonable attorneys fees for work performed shall be subject to the discretion of the court, but in no event shall any attorney charge, demand, receive, or collect for services rendered, fees or compensation in an amount in excess of 20 percent of the damages ordered by the court to be paid pursuant to this section, or in excess of 20 percent of any court-approved settlement made of any claim cognizable under this section. Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be fined not more than $2,000 or imprisoned not more than 1 year, or both.

(b) EXCLUSION.—Nothing in this section shall in any way limit the liability of any person who—

(1) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism with respect to which a determination under subsection (a)(1) was made, or any criminal act related to or resulting from such act of terrorism; or

(2) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

(c) RIGHT OF SUBROGATION.—The United States shall have the right of subrogation with respect to any claim paid by the United States under this Act.

(d) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed to affect—

(1) any party's contractual right to arbitrate a dispute; or

(2) any provision of the Air Transportation Safety and System Stabilization Act (Public Law 107–42; 49 U.S.C. 40101 note).

(e) SATISFACTION OF JUDGMENTS FROM FROZEN ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.—

(1) IN GENERAL.—Except as provided in paragraph (2), in every case in which a person obtains a judgment against a terrorist party on a claim for compensatory damages for an act of terrorism, or a claim for money damages brought pursuant to section 1605(a)(7) of title 28, United States Code, the frozen assets of that terrorist party, or any agency or instrumentality of that terrorist party, shall be available for satisfaction of the judgment, to the extent of any compensatory damages awarded in the judgment for which the terrorist party is liable.

(2) PRESIDENTIAL WAIVER.—

(A) Subject to subparagraph (B), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of this subsection in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(B) A waiver under this paragraph shall not apply to—

(i) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used for any nondiplomatic purpose (including use as rental property), the proceeds of such use; or

(ii) any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that is sold or otherwise transferred for value to a third party, the proceeds of such sale or transfer.

(3) DEFINITIONS.—In this subsection:

(A) The term "terrorist party" means a terrorist, a terrorist organization, or a foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(B) The term "frozen assets" means assets seized or frozen by the United States in accordance with law.

(C) The term "property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations" and the term "asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations" mean any property or asset, respectively, the attachment in aid of execution or execution of which would result in a violation of an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

SEC. 16. STUDY OF POTENTIAL EFFECTS OF TERRORISM ON LIFE INSURANCE INDUSTRY.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the President shall establish a commission (in this section referred to as the "Commission") to study and report on the potential effects of an act or acts of terrorism on the life insurance industry in the United States and the markets served by such industry.

(b) MEMBERSHIP AND OPERATIONS.—

(1) APPOINTMENT.—The Commission shall consist of 7 members, as follows:

(A) The Secretary of the Treasury or the designee of the Secretary.

(B) The Chairman of the Board of Governors of the Federal Reserve System or the designee of the Chairman.

(C) The Assistant to the President for Homeland Security.

(D) 4 members appointed by the President, who shall be—

(i) a representative of direct underwriters of life insurance within the United States;

(ii) a representative of reinsurers of life insurance within the United States;

(iii) an officer of the NAIC; and

(iv) a representative of insurance agents for life underwriters.

(2) OPERATIONS.—The chairperson of the Commission shall determine the manner in which the Commission shall operate, including funding, staffing, and coordination with other governmental entities.

(c) STUDY.—The Commission shall conduct a study of the life insurance industry in the United States, which shall identify and make recommendations regarding—

(1) possible actions to encourage, facilitate, and sustain the provision, by the life insurance industry in the United States, of coverage for losses due to death or disability resulting from an act or acts of terrorism, including in the face of threats of such acts; and

(2) possible actions or mechanisms to sustain or supplement the ability of the life insurance industry in the United States to cover losses due to death or disability resulting from an act or acts of terrorism in the event that—

(A) such acts significantly affect mortality experience of the population of the United States over any period of time;

(B) such losses jeopardize the capital and surplus of the life insurance industry in the United States as a whole; or

(C) other consequences from such acts occur, as determined by the Commission, that may significantly affect the ability of the life insurance industry in the United States to independently cover such losses.

(d) RECOMMENDATIONS.—The Commission may make a recommendation pursuant to subsection (c) only upon the concurrence of a majority of the members of the Commission.

(e) REPORT.—Not later than 120 days after the date of enactment of this Act, the Commission shall submit to the House of Representatives and the Senate a report describing the results of the study and any recommendations developed under subsection (c).

(f) TERMINATION.—The Commission shall terminate 60 days after submission of the report pursuant to subsection (e).

SEC. 17. RAILROAD AND TRUCKING INSURANCE STUDY.

The Secretary of the Treasury shall conduct a study to determine how the Federal Government can address a possible crisis in the availability and affordability of railroad and trucking insurance by making such insurance for acts of terrorism available on commercially reasonable terms. Not later than 120 days after the date of the enactment of this Act the Secretary shall submit to the Congress a report regarding the results and conclusions of the study.

SEC. 18. STUDY OF REINSURANCE POOL SYSTEM FOR FUTURE ACTS OF TERRORISM.

(a) STUDY.—The Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States shall jointly conduct a study on the advisability and effectiveness of establishing a reinsurance pool system relating to future acts of terrorism to replace the program provided for under this Act.

(b) CONSULTATION.—In conducting the study under subsection (a), the Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General shall consult with (1) academic experts, (2) the United Nations Secretariat for Trade and Development, (3) representatives from the property and casualty insurance industry, (4) representatives from the reinsurance industry, (5) the NAIC, and (6) such consumer organizations as the Secretary considers appropriate.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General shall jointly submit a report to the Congress on the results of the study under subsection (a).

SEC. 19. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) IN GENERAL.—The term "act of terrorism" means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary in consultation with the NAIC.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States;

(iii) is committed by a person or group of persons or associations who are recognized, either before or after such act, by the Department of State or the Secretary as an international terrorist group or have conspired with such a group or the group's agents or surrogates;

(iv) has as its purpose to overthrow or destabilize the government of any country, or to influence the policy or affect the conduct of the government of the United States or any segment of the economy of United States, by coercion; and

(v) is not considered an act of war, except that this clause shall not apply with respect to any coverage for workers compensation.

(2) AFFILIATE.—The term "affiliate" means, with respect to an insurer, any company that controls, is controlled by, or is under common control with the insurer.

(3) AGGREGATE WRITTEN PREMIUM.—The term "aggregate written premium" means, with respect to a year, the aggregate premium amount of all commercial property and casualty insurance coverage written during such year under all lines of commercial property and casualty insurance.

(4) COMMERCIAL INSURER.—The term "commercial insurer" means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurer.

(5) COMMERCIAL PROPERTY AND CASUALTY INSURANCE.—

(A) IN GENERAL.—The term "commercial property and casualty insurance" means insurance or reinsurance, or retrocessional reinsurance, for persons or properties in the United States against—

(i) loss of or damage to property;

(ii) loss of income or extra expense incurred because of loss of or damage to property;

(iii) third party liability claims caused by negligence or imposed by statute or contract, including workers compensation; or

(iv) loss resulting from debt or default of another.

(B) EXCLUSIONS.—Such term does not include—

(i) insurance for homeowners, tenants, private passenger nonfleet automobiles, mobile homes, or other insurance for personal, family, or household needs;

(ii) insurance for professional liability, including medical malpractice, errors and omissions, or directors' and officers' liability; or

(iii) health or life insurance.

(6) CONTROL.—A company has control over another company if—

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the other company; or

(C) the Secretary determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the other company.

(7) COVERED PERIOD.—The term "covered period" has the meaning given such term in section 20.

(8) INDUSTRY-WIDE LOSSES.—The term "industry-wide losses" means the aggregate insured losses sustained by all insurers from coverage written under all lines of commercial property and casualty insurance.

(9) INSURED LOSS.—The term "insured loss" means any loss, net of reinsurance and retrocessional reinsurance, covered by commercial property and casualty insurance.

(10) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(11) NET PREMIUM.—The term "net premium" means, with respect a commercial insurer and a year, the aggregate premium amount collected by such commercial insurer for all commercial property and casualty insurance coverage written during such year under all lines of commercial property and casualty insurance by such commercial insurer, less any premium paid by such commercial insurer to other commercial insurers to insure or reinsure those risks.

(12) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(13) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(14) STATE INSURANCE REGULATOR.—The term "State insurance regulator" means, with respect to a State, the principal insurance regulatory authority of the State.

(15) TRIGGERING DETERMINATION.—The term "triggering determination" has the meaning given such term in section 5(a).

(16) TRIGGERING EVENT.—The term "triggering event" means, with respect to a triggering determination, the occurrence of an act of terrorism, or the occurrence of such acts, that caused the insured losses resulting in such triggering determination.

(17) UNITED STATES.—The term "United States" means, collectively, the States (as such term is defined in this section).

SEC. 20. COVERED PERIOD AND EXTENSION OF PROGRAM.

(a) COVERED PERIOD.—Except to the extent provided otherwise under subsection (b), for purposes of this Act, the term "covered period" means the period beginning on the date of the enactment of this Act and ending on January 1, 2003.

(b) EXTENSION OF PROGRAM.—If the Secretary determines that extending the covered period is necessary to ensure the adequate availability in the United States of commercial property and casualty insurance coverage for acts of terrorism, the Secretary may, subject to subsection (c), extend the covered period by not more than two years.

(c) REPORT.—The Secretary may exercise the authority under subsection (b) to extend the covered period only if the Secretary submits a report to the Congress providing notice of and setting forth the reasons for such extension.

SEC. 21. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this Act.

The SPEAKER pro tempore. After 1 hour of debate on the bill, as amended, it shall be in order to consider a further amendment printed in House Report 107–304, if offered by the gentleman from New York (Mr. LAFALCE), or his designee, which shall be considered read and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Ohio (Mr. OXLEY) and the gentleman from New York (Mr. LAFALCE) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I congratulate the chairman for his leadership on this issue, and strongly support the legislation.

Mr. Speaker, I rise in strong support of H.R. 3210, the Terrorism Risk Protection Act and want to commend Chairman OXLEY for his leadership on this important issue. The legislation that we are considering here today represents a balanced approach to a difficult problem. It not only will allow the industry to move forward in providing continued terrorist coverage but it will protect the American taxpayer.

While the industry is able to pay the $40–$50 billion in claims resulting from the September 11 attack, it will need our help to protect against future acts of terrorism. The insurance industry is a business of estimating risks on events that cannot be predicted with any certainty such as earthquakes, fires, hurricanes and floods. These types of events are priced according to history of catastrophic events over time. But the World Trade terrorist disaster has no precedents. There is no possible way to price for the likelihood of another occurrence or the size of the potential loss.

Consequently, it stands to reason that any future incident of like size could threaten the stability of the property/casualty market. In these uncertain times and given the magnitude of the September 11 event, reinsurance companies are skittish about providing terrorist coverage. If the reinsurance industry excludes terrorist coverage from its policies, the primary insurers will find it difficult to provide coverage without risking the financial health of their companies.

The lack of coverage has become an immediate issue for many companies that are subject to short-term cancellation provisions (including many aviation businesses) or that had October 1, 2001, renewal dates. It has the potential to become a nationwide crisis January 1, 2002, when most commercial policies are up for renewal. Companies may find terrorism insurance impossible to buy. This could have a serious ripple effect on the mortgage and real estate industries.

Congress must head off this danger. The industry needs the certainty of this legislation to renegotiate their contracts prior to the January 2002 deadline.

The key elements of this bill includes provisions that are modeled after existing State risk-sharing insurance programs. The bill sets a trigger at $100 million for small insurers and $1 billion as an industry wide aggregate and provides a 90 percent Federal share with 10 percent individual company retention. Companies would be required to payback the first $20 billion in losses through assessments and allowed to recoup subsequent losses through commercial policyholder surcharges.

Finally, this bill provides important liability reforms for private businesses that could be affected by future terrorist attacks. We need only look at the 1993 World Trade Center bombing to understand the need for these important reforms. The 1993 World Trade Center bombing resulted in 500 lawsuits by 700 individuals, businesses and insurance companies. Damages claimed amounted to $550 million, and those cases are just now getting started. It is unthinkable that we would not provide innocent businesses protection against terrorist-inspired litigation. Businesses and property owners simply cannot guard against terrorist attacks seeking to cause mass destruction. This bill includes common sense reforms that will assure the continued availability of affordable insurance.

Let me remind my colleagues that provisions to limit punitive damages and attorneys fees were included in the Airline Security Act that originally passed the House with one distinct difference—H.R. 3210 does not cap damage awards. The litigation management provisions in H.R. 3210 would also benefit victims of future terrorist attacks.

H.R. 3210 represents a balanced approach that will give the insurance industry the short-term assistance they need and will protect the taxpaying consumer by asking that every dollar of assistance be repaid.

Mr. OXLEY. Mr. Speaker, I yield myself 5½ minutes.

Mr. OXLEY. Mr. Speaker, on September 11, the al Qaeda network began a war of terrorism against our Nation. The insidious attack was planned not only to kill Americans, but to disrupt our Nation's financial center. The September 11 attack caused greater insured losses than most of the recent top disasters combined, and, unfortunately, since that attack, the foreign reinsurance market has refused to provide further coverage for terrorism.

Without reinsurance for terrorism, primary insurers are not able to responsibly insure high level risks. In fact, they have been filing new policy forms to exclude terrorism coverage in almost every State of this Nation. Without insurance, many creditors will not lend for new projects, and many new businesses, projects, and buildings will simply never happen.

We cannot afford this significant economic disruption at a time of economic sluggishness. I am confident that the private insurance sector will eventually adapt to the challenges of the new world, they always do. But 70 percent of commercial insurance policies will be renewed over the next 35 days, and if this Congress does not pass this legislation, many of those policies will not be renewed and our economy will be further injured. This is exactly the result that the terrorists were hoping for, and this is why it is absolutely imperative that the House act today to pass this bill.

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We crafted legislation in our committee to address this problem. Mr. Speaker, H.R. 3210 creates a temporary risk-spreading program which creates the strongest incentives for consumers to be able to obtain coverage with significant solvency protections to maintain a stable market. We created certainty in terrorist exposure for companies by spreading any terrorism risk across the industry with temporary Federal assistance. But the role of the Federal Government is limited to a helping hand up, not a hand out. Any assistance provided must be repaid by the industry over time.

We also based our bill on systems being used successfully in almost every single State today: the State insurance guarantee funds. These programs provide immediate liquidity up front to ensure that policyholders are paid, and then the costs are collected back from the industry as a whole. It is simple, it works, and we have the programs in place today we can build on.

This is not the approach favored by many in the industry that want free taxpayer money, but it is an approach supported by consumer and taxpayer groups as diverse as the Consumer Federation of America, Americans for Tax Reform, and Citizens Against Government Waste; and it is critical for the House to pass this legislation today to make a clear statement that we are going to protect the economy and we are going to do it in a way that will not put the American taxpayer on the hook or require future tax increases.

We need to get this legislation done today. Time is running out. We passed H.R. 3210 out of committee with 35 bipartisan cosponsors on a nearly unanimous voice vote. Since then, the only significant changes our committee has made were in response to our good-faith commitment to continue working to address Members' concerns, primarily to speed up the assessments and create more flexibility for rural areas and small towns.

The text made in order by the rule includes additional liability reforms placing limitations on punitive damages and trial lawyer fees for terrorist events. We have been working with Members' staffs in both parties and will continue to make improvements to the insurance provisions. But the minority is being given two opportunities to amend this bill; and once the House works its will, we cannot allow a disagreement on lawyers' fees to sabotage what would otherwise be a bipartisan bill that is critical to our economy.

Mr. Speaker, I support limits on legal fees and other liability reforms to ensure that a future terrorist attack does not create a rush to the courthouse. I supported more limited reforms in the Committee on Financial Services. I will back the bill with or without the strengthened provisions. But we cannot let the fight over the trial lawyers undermine our critical responsibility to hold together our Nation's financial foundations. This bill is critical, and it must be sent to the President this year.

Mr. Speaker, H.R. 3210 is pro-consumer, pro-taxpayer, and pro-business. Regardless of whether Members choose to side with the trial lawyers or the liability reforms, we cannot let the terrorists win by disrupting our economy because we failed to do our job in passing this legislation.

I must point out the contributions of the gentleman from Louisiana (Mr. BAKER) to this bill which reflects many of his ideas and much of his energy as well. He, of course, chairs the appropriate subcommittee of our Committee on Financial Services. The gentleman from Alabama (Mr. BACHUS), the gentleman from Texas (Mr. BENTSEN), and many others on the Committee on Financial Services also deserve thanks for a great job on this bill. The gentleman from Connecticut (Mr. SHAYS), the gentleman from North Dakota (Mr. POMEROY), the gentleman from New York (Mr. FOSSELLA), and the gentleman from New York (Mr. GRUCCI) were early and enthusiastic supporters of our commonsense, pay-back-the-taxpayer approach.

Today it is time to put away egos and forget partisan blustering and special interest politics. It is time to help those Americans who are working to create jobs: the guy who is trying to buy a business, expand a manufacturing plant, or construct a new building.

The 9–11 attack is over, but the economic terrorism goes on and on unless we act. I strongly urge support for this important legislation.

Mr. Speaker, I also want to thank the Chairman of the Budget Committee, Mr. NUSSLE, for his assistance in moving this legislation to the floor quickly. I am inserting for the RECORD an exchange of letters regarding his committee's jurisdictional interest in this legislation.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, November 26, 2001.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN OXLEY: I am writing regarding H.R. 3210, the "Terrorism Risk Protection Act" which was recently ordered reported by the Committee on Financial Services. As you know, the legislation includes provisions addressing the budgetary treatment of certain spending, a matter which falls within the jurisdiction of the Committee on the Budget pursuant to rule X of the Rules of the House of Representatives.

Because of your ongoing willingness to work with the Committee on the Budget on this matter, and the need to move this legislation expeditiously, I will waive consideration of the bill by the Budget Committee. By agreeing to waive its consideration of the bill, the Budget Committee does not waive its jurisdiction over H.R. 3210. In addition, the Committee on the Budget reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on the Budget for conferees on H.R. 3210 or related legislation.

I request that you include this letter and your response as part of your committee's report on the bill. Thank you for your assistance in this matter.

Sincerely,

JIM NUSSLE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, November 26, 2001.

Hon. JIM NUSSLE,
Chairman, Committee on the Budget, Cannon House Office Building, Washington, DC.

DEAR CHAIRMAN NUSSLE: Thank you for your letter regarding your Committee's jurisdictional interest in H.R. 3210, the Terrorism Risk Protection Act.

I acknowledge your committee's jurisdictional interest in the provisions addressing the budgetary treatment of certain spending under the bill and appreciate your cooperation in moving the bill to the House floor expeditiously. I agree that your decision to forego further action on the bill will not prejudice the Committee on the Budget with respect to its jurisdictional prerogatives on this or similar legislation and will support your request for conferees on those provisions. I will include a copy of your letter and this response in the Committee's report on the bill and the Congressional Record when the legislation is considered by the House.

Thank you again for your cooperation.

Sincerely,

MICHAEL G. OXLEY,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself 5 minutes.

Mr. LAFALCE. Mr. Speaker, unfortunately the Republicans are snatching defeat from the jaws of victory. When we worked together, we produced a financial services modernization bill that had not been pulled off in 60 years, but it took true bipartisanship. Just a short time ago, a month or so ago, we worked together in a bipartisan manner. With total bipartisanship, we passed major anti money-laundering legislation, and we stood together with President Bush at the White House signing when he signed and gave the gentleman from Ohio (Mr. OXLEY) and myself pens, the pens he used to sign the PATRIOT bill. We could have done the same thing on terrorism insurance. I desperately wanted to. I tried to. We were rebuffed. They snatched defeat from the jaws of victory.

Why so? If the Republicans are victorious today, it is going to be a Pyrrhic victory, but there were certain things that were more important than a good victory. What was more important? Well, they had to include extraneous material within the bill, either because they were told to, or because it is part of a theological belief. And what is that? That we must restrict victims' rights. Forget all lawyers. We are talking about victims.

We are talking about the rights of victims to be able to obtain the redress that they have been able to pursue from 1776 to now, from the beginning of the Republic to the present. And those rights have evolved over 200-plus years in the several States where they have become the common law of the land, they have been codified in State law; and in one fell swoop we say, we eliminate all State causes of actions and there shall be one exclusive Federal cause of action, one exclusive Federal cause of action.

Now, we will look to State law for a little bit of guidance, but certainly not on the issue of damages. On damages, we will eviscerate their rights for economic damages, we will eviscerate their rights for noneconomic damages, we will eviscerate their rights, we will prohibit their rights, for punitive damages.

That is going to kill this bill, and that is going to greatly, greatly worsen our economy.

Mr. Speaker, they could take one of two approaches. They could say, let us take the best bill we could fashion in a bipartisan manner that might pass muster with the Senate and negotiate differences, send it to the President, or they could say, oh, my gosh, we have a majority of one Democrat in the Senate; therefore, the only approach we can take is to come up with the worst possible bill imaginable, pass that, because that will increase our negotiating leverage with the Senate. The worse our bill, the better our negotiating stance. That is what they have done.

This is not about passing a bill. They are not arguing the merits of this bill because they want to see it become the law of the land. They know it never will be. They just want to posture themselves, leverage, to get better leverage in negotiating with Senator DASCHLE, Senator DODD, Senator LEAHY, Senator HOLLINGS, et cetera.

In doing this, they are playing Russian roulette. Because what they are doing is they are permitting that Damoclean sword that is hanging over the economy, producing a chilling effect right now on the provision of credit to businessmen across America. They are permitting that Damoclean sword to fall come January 1, 2002. It is Russian roulette and it need not be.

We could pass a bill; we could pass the substitute that would go to the Senate and, with minor changes, be signed by President Bush next week and eliminate that Damoclean sword that is hanging over the head of our economy.

Mr. Speaker, our Nation is faced with numerous economic dislocations as a result of the September 11 attacks. A case in point is the legitimate concern that the reinsurance market for terrorism coverage is evaporating and will force primary insurers to increase prices or withdraw coverage. This is not an industry problem. If industry cannot reinsure the risk of further terrorist attacks, it will either not offer terrorism coverage or price it out of the reach of most consumers. The consequences of such action for our economy and for consumers would be devastating, particularly given our current recession.

We must recognize that the crisis is only weeks away, as most policies are coming up for renewal on January 1, 2002. If businesses are forced to go without coverage, lenders will not lend because they require proof of insurance as part of the prudential credit decisions they make. Congress does not have the luxury of time to debate extraneous and controversial issues such as restrictions on victims' compensation while the health of our fragile economy hangs in the balance.

Since the markup of H.R. 3210 last month, I have repeatedly expressed my willingness to work with Mr. OXLEY and Mr. BAKER on devising a plan that I could support. The goal was to create a short-term solution that will keep terrorism insurance coverage against any future attacks available and affordable, until Congress can revisit the issue. The approach Mr. OXLEY devised was, in large part, reasonable and I could have supported it. However, because this bill is laden with extraneous provisions that limit victims rights and does not address some of the core issues that I believe are essential, I cannot embrace this legislation in its current form. It did not have to be this way.

First, H.R. 3210 does not impose an industry deductible. Instead, it creates a program under which the Federal Government finances industry losses from the first dollar and calls for those funds to be recouped over time through industry assessments and policy surcharges. Second, the bill does not require, by its terms, that property and casualty coverage be part of commercial property and casualty coverage, as it normally is now. Third, it egregiously limits victims rights by eliminating punitive damages, limits noneconomic damages, caps attorneys fees and creates a Federal cause of action. These provisions are extraneous, represent a wish list for those who have long wished to restrict the rights of victims in our civil justice system, alienate most Democrats and many Republicans here and in the Senate, and, therefore, imperils this legislation's ultimate enactment.

The advocates of radical tort reform in the White House and in the Republican leadership are using this terrorism risk bill to promote an aggressive antivictim agenda. Section 15 of the Armey bill, entitled "Litigation Management" may constitute the most radical and one-sided liability limitations ever. Even worse, the provision bears little relationship to the issue of insurance and is not even limited to cases involving insurance coverage.

The Republican bill diminishes the protections that Americans enjoy under state law by restricting the availability of noneconomic damages and by eliminating punitive damages. These limitations on damages apply not only to insurance companies, but also to the wrongdoer, as well. Adoption of these provisions rewards wrongdoers at the expense of innocent victims of terrorist attacks. If an airport screening firm hires a known terrorist who allows a weapon to slip on board a plane, this bill would protect that company.

Punitive damages are rare and only awarded in the most egregious cases where a defendant willfully or intentionally disregards the safety of the American public. The elimination of punitive damages takes away incentives for businesses to do everything they can reasonably do to protect the American public.

Noneconomic damages are real damages. The loss of a limb, eyesight, constant pain and loss of a loved one are real life-altering events. Limiting their recovery harms the most severely injured victims and discriminates against children, the elderly, and homemakers, who do not receive much in the way of economic damages.

The Republican bill tries to limit victims' access to the civil justice system by capping the fees available to pay the victims' attorneys and threatens their attorneys with criminal sanctions for violations of the cap. This particular provision reveals the real motives of the proponents because the provisions does not impose any cap on the fees paid to defendants.

It bill takes away all judicial review relating to the issue of whether terrorism caused the injury, an unprecedented and very likely unconstitutional limitation on victim rights. It eliminates prejudgment interest, which takes away any incentive for negligent parties to reach settlements. It mandates collateral source, which forces victims to choose between seeking money from charities and pursuing a grossly negligent party in court, and permits wrongdoers to take advantage of life and health insurance policies purchased by the victim or the victim's employer.

The Republicans claim that the provisions are needed to protect the taxpayers from paying for excessive damages through the reinsurance mechanism. But, under the Republican bill every penny of assistance is recouped through assessments on the industry. If they were really concerned with limiting taxpayer exposure rather an aggressive and radical tort reform agenda, why is there no limitation on property damages under the bill? Does making a family whole means less to my colleagues than making a corporation whole for the loss of a luxurious building?

While I firmly believe these victim compensation restrictions have no place in this bill, we on our side sought to find some common ground on this tort reform issue, so we could report out a bill that is vitally important for the economic recovery of this Nation. We presented to the Rules Committee three amendments to modify the provision. But the Republican leadership was unwilling to give the House an opportunity to refine these provisions and reach a compromise on an issue that also has the Senate tied up in knots. Instead they insist on pursuing a radical, partisan agenda to limit the compensation needed to make the victims of terrorist attacks whole.

Later in this debate, Ranking Member KANJORSKI and I will offer a substitute which cures many of the defects of the Republican bill and presents this body with a clean piece of legislation that Members on both sides of the aisle can support.

First, my bill would require a real up-front deductible. The insurance industry would pay the first $5 billion of insured losses in the first year, increasing to $10 billion in the second and third years. Individual company liability would be capped at 7 percent of premiums. The insurance industry has made clear that it can afford a deductible of this magnitude and they were prepared to embrace it when it was under consideration in the Senate. The administration, too, supports such a deductible. It is a sensible mechanism that protects taxpayers and imposes underwriting discipline. It is a necessary part of any legislation that we ultimately send to the President.

At the same time, my bill maintains the sensible assessment provisions of the Oxley bill for losses in excess of the deductible, and imposes a discretionary surcharge on policyholders for losses above $20 billion. I believe these provisions fairly protect the American taxpayer while not overly burdening industry.

Second, to prevent insurance companies from cherry-picking the safest properties and leaving sites which present greater risk uncovered, our substitute, unlike the Republican bill, would require that terrorism coverage be part of property and casualty coverage. This is essential to avoid a situation where insurers would only insure "good risks" and leave large portions of the economy uncovered. This provision would also eliminate any incentive for small businesses to opt out of insurance coverage.

Finally, my bill does not limit victims rights by denying them the legal redress that they deserve.

Although I cannot support the bill in its present form, I hope we can engage in a bipartisan, collaborative process going forward.

Despite our present differences, I do see common ground and I do see how we could meld our approaches. But if we are to get there, it will take respectful bipartisan dialog, not the gratuitous and unnecessary pushing of ideological agendas. We have little time, and a serious responsibility which we must meet quickly to protect our economy.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Louisiana (Mr. BAKER), who has done extraordinary work in this regard.

Mr. BAKER. Mr. Speaker, I thank the gentleman for his leadership and his courtesy.

I think it appropriate at this point in our debate to talk simply about what is it that this bill does and on what issues are there agreement. It is very clear that through the extensive hearings and work of the committee that much agreement was reached. First, that if there is another unfortunate terrorist attack on this great Nation, that we should not let the secondary effect of that attack to bring terror to our national economy, and that we must respond quickly.

Some have criticized, for example, the concept of first-dollar participation at the moment the event occurs. There are other views that we should wait until perhaps some $5 billion of damages have been paid out by the industry before getting government involvement. In other words, after the terrorist event has occurred, let us make sure the economy suffers for a while before we respond. This bill takes a different approach and says, we should get that assistance immediately, not 6 months, not 60 days, but immediately upon validation that there has been an event for which there have been losses that can be substantiated.

Secondly, since we are providing this immediate assistance, there should be some guarantee that this is not viewed or, in practice, turns out to be a bailout of the insurance industry. So this bill provides for repayment. Yes, we have a crisis. Yes, there are people who are suffering. So we say, insurance company, go help the insureds. Make sure they get the funds necessary to repair those businesses, to get the economy going again, to make sure we do not have the unemployed or we do not have those who are without medical insurance because their company doors are closed. But when you are profitable and when you are making money, we expect you to give the taxpayers their money back. That is what this bill provides for. It is a new approach. We will help, but we expect you to be responsible when you are profitable.

We give the Secretary of the Treasury large discretion in how to implement the requirements of this legislation. If we find ourselves in the very unfortunate event after a terrorist attack that our general economic condition is poor, the Secretary of the Treasury may use his judgment as to when and how to recoup repayment to the taxpayer. But there is a guarantee that there will be a repayment to the taxpayer.

So first and foremost, there is bipartisan agreement that this legislation is not an industry bailout. It is necessary, an absolutely necessary step to maintenance of our economic survival.

Secondly, it is not going to be a gift, that this money will not go out the door of the United States Treasury never to be seen again.

Third, we act to help not only the big insurance companies; this proposal's effect is to help all insurance companies. It is true that the top 25 percent of all insurance companies out there write 94.6 percent of all property and casualty premiums in this country. There are very large companies providing the bulk of coverage in this country, but there are an extraordinarily large number of very small corporations that could not withstand $5 billion industry-wide loss without going insolvent themselves. The bill provides immediate assistance for small companies. It provides immediate assistance for small businesses by not requiring terrorism insurance to be part of the property and casualty coverage. Why is that important?

Our bill provides that one can stipulate what the cost of the terrorism component is separate from the underlying property and casualty bill. So if one is a business owner today who wants to make sure his property and casualty insurance premiums have not been jacked through the ceiling by some irresponsible insurance executive, one can look at what they paid last year and look at what they are asking to be paid this year, and then out over to one column to the side will be a little line that says "terrorism risk premium" and you can identify it. If you happen to be in Wyoming or on the great Gulf Coast of Mississippi or somewhere where you make the judgment that you do not wish to pay that terrorism premium, you do not have to. We do not believe we should dictate to every business owner in America, you must buy terrorism insurance regardless of what the cost may be, or what the risk may be to you. So we provide market opportunity. You can buy the property and casualty, you can buy the terrorism component from company A, you can buy property and casualty from company B, and the terrorism component from company C. It is free market at its best. It is a responsible solution to the problems we face.

Mr. Speaker, I urge the adoption of this proposal.

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Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the subcommittee with jurisdiction on this issue.

Mr. KANJORSKI. Mr. Speaker, I thank the chairman for yielding time to me, and I will take a moment to congratulate the chairman of the committee, the gentleman from Ohio (Mr. OXLEY), and the chairman of the subcommittee, the gentleman from Louisiana (Mr. BAKER), for what I thought was a job well performed as far as moving a bill that could gain bipartisan support through the Committee on Financial Services.

Unfortunately, with heavy heart, the product that we are about to vote on on the floor today does not meet the standard that it met as it came out of the Committee on Financial Services. It has had added to it something called tort revision, tort reform, some sort of change.

To most people watching this debate today, they are going to say, what is all this thing about liability? We are in an emergency.

What it means, to say it simply, is there is an attempt here today with these new additions to change the history of responding to liability claims and civil procedures to settle those claims, and change significantly the history of the United States for 200 years by passing this legislation.

It is unnecessary. It is not only unnecessary, it is something the industry did not ask for. As a matter of fact, in discussions with the industry, they did not even ask for support down to dollar one lost from terrorist events. They had represented themselves that they were perfectly able to handle as much as a $10 billion terrorist attack on the United States without consequences.

What they asked us to do in the interim of a 2- to 3-year period would be to provide a mechanism that if a terrorist attack of the magnitude of September 11 occurred, there would be a mechanism in place that they could move quickly to resolve the problem and put the money back into the marketplace.

As a result of not having that mechanism, they are unable to sell policies now with terrorist insurance as part of the policy face and are asking the right to not write terrorism policy in this country. The reinsurance industry will not touch this until the experience table is established as to what rates they can set for terrorist insurance.

So what did the Committee on Financial Services start with? What did the White House request? What did the industry request? That we put together a stopgap measure to allow normal commerce to go on in the United States and have terrorist protection insurance in place over the next 3- to 5-year period so we would not stultify or have a disadvantageous result to the economy as a whole. I call it an economic stabilization bill, that is all it is, to show that the United States government, at a time of extreme need and under dangerous circumstances, can put the taxpayers of the United States in a supportive situation to a free market institution, but not interfering with the free market, encouraging the free market to come back and handle the insurance as it has in the past and will in the future, but for a period of 1 to 3 or 5 years, that the United States Government is in there to create a position that would help the insurance industry, the real estate industry, the financial services industry, but most of all, the economy of the United States.

That has not happened. The one major reason it has not happened, in spite of some of the changes, is the new additions on tort reform or tort revision are so onerous, so extreme, that we are asking the American people and this Congress to forget victims' rights, rights of plaintiffs, rights of complainants, and rights of injured people, and only taking care of the 25 largest companies in the United States who write 94 percent of the insurance.

If I wanted to be a demagogue, I could easily say it is a bailout of the insurance industry. But in my heart and mind, I know it is not that; and it is not intended to be that. If we could have passed the underlying bill, we would have had a very strong, bipartisan support to do that; and it could not have been categorized as a bailout of the insurance industry.

But it can clearly be labeled a locomotive for tort reform at the wrong time, at the wrong place, in the wrong bill.

I urge my colleagues to vote down the existing bill, unfortunately, taking some time to come back and work out another bill so we can go to conference and pass this important legislation.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I thank the gentleman from Ohio for yielding me the time.

Mr. Speaker, I rise today in strong support of the Terrorism Risk Protection Act. This legislation is essential to not just the insurance industry, but to the entire economy.

Businesses in America face a crisis this year, and they will face a crisis next year if we are unable to obtain commercial insurance coverage, which includes insurance against terrorism losses. Without this insurance coverage, businesses will be unable to obtain financing for new building projects, and an already weak economy will be served another harsh blow.

With the cowardly acts of September 11, our insurance industry faces a new reality which must be addressed as soon as possible. This is a reality in which an act of terrorism is a risk which requires insurance, the cost of which is impossible to predict, and hence, impossible for an insurance company to price.

Because of this, insurance companies are currently unable to offer coverage for impossible future terrorist acts. To prevent this crisis, TRPA would spread the risk for possible future acts out across the insurance industry, giving the industry time to develop their own mechanisms to cover risk for the future. TRPA is designed to provide only the necessary temporary stability to the insurance market and sunset shortly thereafter.

Unlike like some of the solutions put forward, TRPA does not put taxpayers' money at risk. All loans made under the act must be repaid. In addition, the triggers in the bill are low enough to ensure that small insurance companies remain competitive.

Finally, I want to assure my colleagues that the Committee on Financial Services' work on the issue only begins with this legislation. As the chairwoman of the oversight subcommittee, we will be vigorous in our follow-up on this crisis. We must ensure that we do all in our power to provide stability to the industry while we give the private market time to innovate and quickly establish a new market to cover potential terrorism loss.

TRPA is an excellent solution to this crisis and deserves our full support. I ask my colleagues on both sides of the aisle to join me in the strong support of this bill.

Mr. Speaker, obviously, I am pleased that the Financial Services Committee and this House have acted expeditiously on the terrorism reinsurance crisis, and that this legislation is being considered today. Today in this chamber, we are appropriately engaging in a fierce debate over various aspects of how to make this legislation work for insurance consumers. We are debating federal backstops, mandates for coverage, tort reform, and all trying to do the best thing for the American economy—in the hope that this very complex and difficult issue can be resolved by the time Congress recesses for the year.

But I would appreciate the opportunity, Mr. Speaker, to take just one step back from this debate, and remind us all again why we are here. One of the persons who would have been intimately involved in the creation of a federal terrorism reinsurance program was Charlie McCrann. Charlie was a senior vice president at Marsh and McLennan, the world's largest commercial insurance brokerage firm, and his responsibilities included advocacy at both the state and federal levels. Charlie was a pivotal player on many of the issues surrounding insurance regulation over the years—from the product liability crisis of the 1980s, to the Dingell insurance solvency legislation in the 1990s, to our debates on agent/broker licensing reform as a part of Gramm-Leach-Bliley two years ago. As he spoke on behalf of the firm that sells more business insurance (and reinsurance) than any other firm in the world, this terrorism insurance coverage legislation would have been right down Charlie's alley. As always, he would have done everything in his power to make sure that we craft a bill that restores and calms the marketplace without overreaching.

On September 11, Charlie had arrived early to his office on the 100th floor of 1 World Trade Center. Like 294 of his colleagues at Marsh, he perished.

As a profile in the New York Times recently said of him, Charles Austin McCrann was a levelheaded, respected executive, devoted to his wife, Michelle, and children, Derek and Maxine. He was also a splendid attorney and representative of the insurance industry, through his earlier work at the New York Assembly's Insurance Committee, and at the law firm of LeBoeuf, Greene & McRae. At Marsh, where he served since 1979, in addition to his advocacy, he was a regulatory compliance officer, and was responsible for interpreting industry regulations and providing guidance on these regulations to Marsh's brokers throughout the country. He represented the National Association of Insurance Brokers and its successor organization, the Council of Insurance Agents and Brokers, before the National Association of Insurance Commissioners.

I could go on and on.

As a subcommittee chair on the Financial Services Committee, I mourn the fact that Charlie is not in this chamber today witnessing our spirited debate and our actions designed to assist the commercial insurance marketplace. And I hope that as this legislation continues to move through the legislative process, we will be mindful of the 500 employees of the world's two largest commercial insurance brokerages—Marsh and Aon—who lost their lives on that horrible day.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WATERS), the distinguished ranking member of the subcommittee on Financial Institutions and Consumer Credit of the Committee on Financial Services.

Ms. WATERS. Mr. Speaker, I serve on the Committee on the Judiciary and the Committee on Financial Services, both of which have worked very hard in a bipartisan manner to legislate cooperatively in the wake of the events of September 11.

Last month, the Committee on the Judiciary reported out the PATRIOT Act, the antiterrorism bill. The committee product was a true bipartisan effort and was reported out unanimously. That product was then abandoned in the Committee on Rules for a partisan, inferior product.

Similarly, this bill, H.R. 3210, the Terrorism Risk Protection Act, was reported out of the Committee on Financial Services by voice vote. The bill we are debating today is not the product of that committee's good work. It is, instead, a bill that does not contain a deductible for the insurance industry before government steps up to the plate; and even more disturbing, this necessary piece of legislation has become a vehicle for broad-based tort reform.

The Armey substitute creates an exclusive Federal cause of action for lawsuits arising out of acts of terrorism, prohibits punitive damages, prohibits joint and several liability, limits attorney fees, and requires that any victim compensation shall be reduced by any amount the victim receives from other sources.

These tort reform provisions are broad and far-reaching. These provisions are an appalling attempt by anti-consumer legislators to use this bill to further their own agenda by changing the laws on victim compensation. They would never get away with this under normal circumstances, but these are not normal circumstances.

We have to respond quickly to the events of September 11, and we should do so in a bipartisan manner. I find it utterly shameful that certain Members see fit to exploit this terrible tragedy by using necessary legislation as a vehicle for special interest items.

Unfortunately, this crass opportunism is becoming the hallmark of this House. So far, we have seen attempts to load up bills that respond to this tragedy with all sorts of tax breaks and Christmas presents for corporate America, while we still have not taken care of the unemployed.

Mr. Speaker, this bill has been corrupted with these harsh limitations on victim compensation. These limitations are unrelated to the issue at hand and have no place in this bill. I urge my colleagues to oppose this legislation and support the LaFalce substitute, which contains no limitations on tort actions or recoveries.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Illinois (Mrs. BIGGERT), a valued member of our committee.

Mrs. BIGGERT. Mr. Speaker, I thank the chairman for yielding me the time.

Mr. Speaker, the insured losses from September 11 attacks are expected to total more than $70 billion, the largest insured catastrophic loss in history. The good news is that the insurance industry is paying these claims and has stated that all claims will be paid expeditiously.

The bad news is that the insurance industry cannot withstand multiple events of this magnitude without harming all consumers. This is uncharted territory, and it will take some time for an efficient market for terrorism insurance to develop. That is why passage of H.R. 3210 is so important at this critical time.

For those who think that this bill applies only to the market for commercial insurance, they should think again. Right now there are more than 140 public self-insured risk pools operating in 41 States; and they, too, will be covered by this bill.

What are public, self-insured risk pools? They are the entities that provide coverage for those most often at the greatest risk: our firefighters and police officers, our children in schools, teachers, city workers, and many others.

In short, public self-insured risk pools provide an enormous cost saving to State and local taxpayers. When private insurance premiums are prohibitively expensive, these pools absorb the risk across their membership base. Failure to include public risk pools in this bill would have resulted in a dramatic increase in insurance premiums for those providing critical public service and, ultimately, for taxpayers.

I appreciate the strong support this provision received in the committee, especially from the gentleman from Ohio (Chairman OXLEY) and the subcommittee chairman, the gentleman from Louisiana (Mr. BAKER). I look forward to working closely with them to see that this provision is retained in the conference.

Finally, Mr. Speaker, I want to thank the leadership members of the Committee on Financial Services for including key litigation management provisions in this bill. Let us face it, there is no reasonable way for even the most responsible property owner or business to prepare for every conceivable attack by a terrorist. Yet under current law, they would be on the hook for 100 percent of such damages, facing total financial ruin.

This bill limits the potential liability by barring punitive damages and providing other protections if and when the Secretary of the Treasury determines that an act of terrorism has occurred.

Mr. Speaker, H.R. 3210 is a responsible approach to a very difficult situation. By demanding that every tax dollar is repaid, we will provide a helping hand, not a handout, to the insurance industry.

I urge my colleagues to support this legislation.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT), a member of both the Committee on Financial Services and the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, several days after the events of September 11, some of my insurance company representatives who are based in my district approached me and described what would become a very, very serious problem.

Essentially, they said that most of the reinsurance in this country, a lot of it is being done by off-shore reinsurers, and that those people were not going to reinsure against terrorism after the events of September 11.

It became obvious that there was a serious problem that would need to be addressed, and I committed to work to try to address that problem, both in the Committee on Financial Services and in the Committee on the Judiciary, both of which I am a member of.

We did that in the Committee on Financial Services. We reported out a bill that received virtual unanimous support. Unfortunately, just like the PATRIOT bill, the antiterrorism bill that the Committee on the Judiciary had reported out unanimously, the leadership got its hands on the product of our committee and rewrote the bill. They inserted provisions that had little, or nothing, I would submit, to do with the problem that the insurance companies had described to me in that initial meeting, the one dealing with reinsurance and the necessity for reinsurance.

☐ 1330

This bill has been hijacked, unfortunately, the same way that the so-called PATRIOT bill was hijacked by the leadership, and provisions have been placed in this bill which actually just make it unsupportable.

We are going to have a serious problem if we do not get to a final product on this bill very soon. Insurance policies that are expiring and are having to be renewed will need terrorism coverage, and it is that kind of brinksmanship that I am concerned about; because as the ranking member has indicated, we have taken a situation which could have been resolved easily through bipartisan cooperation, that had been resolved through bipartisan cooperation on our Committee on Financial Services, and the leadership has decided that it would rather play political brinksmanship with this bill.

If a product is not delivered that is satisfactory before the end of this year, I hope that the American people will hold the people who are responsible for this brinksmanship responsible for their conduct, and I encourage my colleagues to vote against this bill today.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Ohio (Mr. OXLEY) for his hard work and leadership on this difficult issue.

Congress simply must act, before we adjourn, to avert an insurance coverage crisis caused by the increased risk of terrorism against the citizens and businesses of this country. I think that statement is absolutely true. I am proud of the insurance industry and the way it has stood up to what is going to be a $40 billion loss, but there is no question that they cannot do this again tomorrow.

Furthermore, we in our Nation need to figure out how we are going to share this new risk, because if we do not, the cities of America are going to be the victims. It is not going to be Torrington, Connecticut. It is not going to be Rutland, Vermont. It is going to be New York, Chicago, San Francisco, Los Angeles, Houston. Who in their right mind is going to pay the high premiums that will be charged of those who locate in New York? Every one of the big cities will be seen as the likely target for the next terrorist act, and so the premiums for businesses in our cities are going to skyrocket if we do not legislate now, do it right and follow it through over the next few years.

It is hard enough for the cities to attract businesses to them, because cities have so many burdens that often their taxes are high, their police problems are great, and so on and so forth. Now we are going to add to that the highest possible insurance premiums for those companies that are willing to headquarter in New York, Chicago, Los Angeles, and other big cities of America.

We would not do it intentionally, but that is going to be the unintended consequence of not handling this issue correctly. It will be the cities that hurt; not the towns, not the little cities, not all of America. We will put a death knell over economic activity in the big cities of our country.

So I urge support of this legislation.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY), a member of the committee.

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman from New York (Mr. LAFALCE), the ranking member, for yielding me the time and for his leadership and hard work on this issue.

Our work today is not bailout of the insurance industry. We are simply working to keep our economy on track with a short-term program that addresses the new terrorist threat.

I believe the gentleman from New York's (Mr. LAFALCE) bill recognizes the importance of this potential insurance crisis to our country and the time-sensitive nature of the problem. With 70 percent of reinsurance contracts expiring at the end of the year, we have a limited time to act before the end of the year.

In the Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY), the gentleman from Louisiana (Mr. BAKER), the gentleman from New York (Mr. LAFALCE) and the gentleman from Pennsylvania (Mr. KANJORSKI) understand the importance of this issue and they have worked tirelessly to move the process forward.

I was particularly concerned with surcharges placed on future policyholders in the bill that the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) originally introduced. It is my belief that this language would have placed an undue burden on future policyholders just as they are trying to recover from the attack. Working together, we have reached a compromise on this issue, limiting future surcharges to 3 percent of premiums.

While we have reached agreement on many issues, I believe the approach taken in the Democratic substitute is superior to the bill that is the underlying one today. The goal of any bill should be to restore the availability and affordability of property and casualty insurance. Limiting the rights of potential plaintiffs is a peripheral issue. We are dealing with a crisis, and partisan legal reform issues have no role in protecting the viability of insurance markets.

We do not know where the next attack will be, but we can be pretty sure that right now terrorists are planning to strike again. Hopefully our increased security will thwart any attack, but now is not the time to prospectively limit the rights of individuals to make themselves whole if they are victims of a future attack.

To quote a letter from the Consumer Union, "Although individuals in businesses may be unable to prevent future terrorist attacks and are not directly responsible for those acts, they should be expected to take reasonable and measured actions to promote public safety."

I believe the legal limitations and the majority bill discourage such conduct. Furthermore, the LaFalce substitute is more taxpayer friendly by requiring the insurance industry to cover a deductible of $5 billion in the first year and $10 billion in the second. This industry is capable of covering this deductible and does not oppose this provision.

Every Member of this House owns an insurance policy and we all face deductibles. This bill to prevent an insurance crisis should not be any different.

Mr. Speaker, I rise in strong support of the LaFalce substitute.

Mr. Speaker, viewers of this debate should be clear.

Our work today is not a bailout of the insurance industry—we are simply working to keep our economy on track with a short-term program that address the new terrorist threat.

I believe Ranking Member LAFALCE's bill recognizes the importance of this potential insurance crisis to our country and the time sensitive nature of the problem.

With 70 percent of reinsurance contracts expiring at the end of the year we have a limited time to act before the end of the year and we have to get this right.

In the Financial Services Committee Chairmen OXLEY and BAKER and Ranking Members LAFALCE and KANJORSKI understand the importance of this issue and have worked tirelessly to move the process forward.

I was particularly concerned with surcharges placed on future policy holders in the bill that Mr. OXLEY and BAKER originally introduced.

It is my belief that this language would have placed an undue burden on future policyholders just as they are trying to recover from an attack.

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To quote a letter that Consumers Union which was sent to Members yesterday. "Although individuals and businesses may be unable to prevent future terrorist attacks and are not directly responsible for those acts, they should be expected to take reasonable and measured actions to promote public safety."

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Unfortunately, I am fairly certain that businesses will pay billions more for insurance in New York in next year—even with Congressional intervention. As I have said, this increase could amount to a tax of billions of dollars on New York business.

I urge my colleagues not to tie outside issues to this legislation. It is too important. Support the clean LaFalce substitute.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), a very valuable member of our committee.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong support of the Terrorism Risk Protection Act. This bill creates a temporary industry risk-spreading program to provide a financial backstop for insurers in the event of losses from future terrorist attacks. It is not a bailout, and taxpayers will recoup every penny of assistance insurance companies receive.

It is critical for the Nation that terrorism insurance legislation be enacted before January 1. This legislation is particularly critical for insurance companies and financial services. The impact of not enacting this legislation will significantly damage these vital industries and will have dire consequences as well for the real estate, energy, construction and transportation industries.

It is also clear our Nation's cities and metropolitan areas will be impacted the most for failing to act on this legislation. Time is quickly running out. The market for new commercial insurance contracts and renewals is already undergoing serious and potentially severe disruptions. Almost 70 percent of reinsurance policies expire on December 31, and virtually all reinsurers have said they will no longer provide terrorism insurance after that date.

This will create a chain reaction that will affect our entire economy. Without insurance, lenders will not lend and investors will not invest. The economic effects of inaction simply cannot be overstated.

To me, this is the true stimulus bill. We need to enact this bill. None of us can be sure when and where another terrorist act will occur, but it will occur. And we have the opportunity today to offer businesses, employers, and other economic activities across the country much needed protection.

Mr. Speaker, I urge my colleagues to vote for this legislation and help avoid an otherwise inevitable market dislocation and subsequent economic crisis. We need to enact this bill. I thank my chairman, the gentleman from Ohio (Mr. OXLEY) for acting so quickly to see that we will do that.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LEE), a distinguished member of the Committee on Financial Services.

Ms. LEE. Mr. Speaker, I want to thank the ranking member, the gentleman from New York (Mr. LAFALCE) for yielding me time.

Mr. Speaker, I am very disappointed in the process and also the content of this bill. Many important amendments, including those on tort reform and my consumer amendment on data disclosure, were not even allowed to be offered. At a time when thousands of men and women are losing their jobs and their health insurance, it is really a shame that we are again putting corporate interests before the interests of our workers.

Unemployment and health insurance benefits for those people who have lost their jobs should be our first priority.

On the content of this bill, the egregious tort reform provisions are reason enough to oppose it. Companies that do not take appropriate safety steps or do not act responsibly in the face of credible threats should not receive protection for their actions. If the owner of a building locks the emergency exit doors and a terrorist attack occurs there, that building owner must be held responsible for their negligent actions. This is just common sense. Under the Republican bill, they could not be held responsible. Under the LaFalce substitute they would.

In terms of the process of this bill, I have tried to offer an amendment to require insurers to provide the same data, the same data, mind you, that banks currently provide on the race, ethnicity, gender and location of their policyholders to ensure that they are not discriminating against minority, women or low-income individuals. However, this very modest amendment was not even allowed by the Committee on Rules.

If we are to give billions of dollars to the insurance industry, we should at least have basic data to know if they are using those Federal dollars to engage in discriminatory practices. This is only fair.

It is time that this Congress really gets its priorities straight and supports the working men and women in our Nation. The tragic events of September 11 should not be used as an opportunity for corporate tax cuts and bailouts. Let us put first things first and make sure that our enhanced national security ensures economic security for those who so desperately need our assistance.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART), a valuable member of our committee.

Ms. HART. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I serve both on the Committee on Financial Services and on the Committee on the Judiciary and have certainly, like many Members who have spoken, spent some time on this issue and certainly understand the gravity of what we are doing here today, because in January, a little more than 30 days from now, 70 percent of the commercial insurance policies will be up for renewal.

Not only has the Committee on Financial Services received quite a bit of testimony that without legislation, commercial insurers will be unwilling to provide significant terrorism coverage. newspapers have been full of stories about companies finding terrorism coverage impossible to buy.

If businesses are unable to obtain insurance to cover their losses caused by future acts of terror, they will not only potentially be liable for significant damages any terrorist could cause, but they would also face significantly higher financing and other costs. This has the potential to wipe out any beneficial impact of an economic stimulus package that we hope will be passed and signed by the President.

In order to attract capital, companies have to convince investors that their money will not be wiped out. We take steps through this legislation to make sure that that is the case. This is not a bailout. This is a backstop. This is legislation that will give confidence back in your economy, confidence to investors.

It allows for exact pricing so that in the event of another terrorist attack, the government would not only collect the amount of money it needs in accordance with this law, it prevents the creation of another mammoth government agency. In other words, we help finance money temporarily.

This is not giving money away. This is assistance to our economy. It is very important. Limiting the legal liability of these insurers by restricting punitive damages is a big part of it. It is very important. Terrorism is not the fault of insurers, it is the fault of the terrorists. It is important that we take into consideration the realities here.

Mr. Speaker, I appreciate the support of my colleagues, both the gentleman from Ohio (Mr. OXLEY) and the gentleman from Wisconsin (Mr. SENSENBRENNER). I urge support of the bill as it is, H.R. 3210.

□ 1345

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE), a distinguished member of the committee.

Mr. INSLEE. Mr. Speaker, I speak vigorously against this bill because it is radically callous toward reform provisions, and let me explain how radical they are.

It seems to me that we have given a lot of at least lip service to the value of marriage on this floor in a lot of different debates, but look what this bill does. Take a situation where a wife lost her husband, firefighter in New York City. She has had the destruction of her relationship with her husband, she is a widow, and let us say this bill becomes law. If this bill becomes law, it says that the only value of that husband to that widow was the value of his paycheck.

This bill would destroy the ability that is now the case in 50 States in this country that when a widow loses her husband she would be entitled under American law to noneconomic damages. That is a sound policy, because many of us believe that a husband has a value to a wife that is greater than his paycheck. But the Republican proposal here is based on the proposition that the only meaningful value of a husband to a wife is what he brings home at the end of the month, and that the value of the relationship between a husband and wife is zero under the Republican bill. That is wrong. That is wrong.

The value of a relationship between a husband and wife is worthy of the respect of us individually and worthy of the respect of the American judicial system. This bill is wrong in eliminating that civil right. I think it is a sad day when terrorists get to destroy the civil right of an American to recognize the value of their spouse, which under the Republican bill my colleagues are doing. Frankly, I do not know if my colleagues intended to do it, but this bill accomplishes that end, and it is wrong.

But there is a second reason I speak against this bill, Mr. Speaker. If we pass this bill, it will have been after we passed the airline bailout bill, or airline bill, whatever we want to call it, and did not give a dime to the workers, over 100,000 workers who have been laid off. Yet we now pass a bill to help the insurance industry, which I think is necessary, some bill, to help the insurance industry, but still without helping laid-off workers with a dime or a nickel.

I now have in the Puget Sound, or will have, 30,000 laid-off workers from the Boeing company alone as a result of this terrorist activity. And what has the Congress done? Nothing. Why do the big dogs always eat first in Congress? It is time to take care of working people. Defeat this bill.

Mr. OXLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. GRUCCI), another valuable member of our committee.

Mr. GRUCCI. Mr. Speaker, I rise today to express my strong support for H.R. 3210, the Terrorist Risk Protection Act.

First, I would like to thank the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, and the gentleman from Louisiana (Mr. BAKER), chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, the Republican leadership, and my colleagues on the Committee on Financial Services for their tireless efforts to negotiate a comprehensive package to prevent the disruption and destabilization of America's markets via the collapse of our insurance industry.

The horrifying events of September 11 have touched each and everyone's lives in so many ways. Our Nation will never again be the same. These events have introduced new problems for industries and small businesses, because reinsurers have been telling primary insurers that they will exclude terrorist coverage from their policies. Now, without the ability to insure properties against future terrorist attacks, financial institutions will be unable to provide loans, New York will be unable to rebuild, and everyday business transactions will be disrupted. If we permit this to happen, we let the terrorists win.

Time is running out. On December 31, 2001, 70 percent of these reinsurance policies will expire. New policies are currently being negotiated without these necessary legislative changes. We should have passed this critical legislation in time for these companies to provide 45-day notices. Well, we missed that deadline; and now we have only 32 calendar days, leaving us only 16 business days until the Christmas holiday. Speaking as a former small businessman, I can tell my colleagues that does not provide much time for effective business decision-making, particularly in light of our Nation's current economic conditions.

H.R. 3210 creates a temporary industry risk-spreading program to ensure the continued availability of commercial property and casualty insurance and reinsurance for American consumers. The post-event assessment system provides an incentive to provide coverage, spreads out risk, prevents guessing at costs, and does not take money out of the economy. This requires that all of the Federal funds used to boost liquidity are paid back by the commercial industry/policyholders over time.

This is sound, effective, and timely legislation; and I urge my colleagues to join me in supporting this critical measure and in supporting the economic stabilization of our country.

Mr. LAFALCE. Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota (Mr. POMEROY), a former insurance commissioner for that great State.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend him and the rest of the leadership of the committee, including Chairman OXLEY, ranking member LAFALCE, Subcommittee Chairman BAKER, and ranking member KANJORSKI for their really terrific work on this matter. This should be the finest hour for the Committee on Financial Services.

We have an issue where there is broad bipartisan agreement. We need to act. We need to act now. Because without enactment before we go home, there will be significant capacity consequences in the availability of coverage for terrorism. The ripple effect of that through the economy will be significant. And that is why we have to act.

Now, under these circumstances, committee leadership undertook this difficult assignment of creating some kind of public mechanism to wrap around the private insurance capacity to continue to insure this risk, a risk that has grown infinitely more grave and significant. Out of this long, rather intense legislative process came a bill that, after committee markup, passed by voice vote, virtually capturing all of the members of the committee.

Now, it was recognized by committee leadership not to be the perfect bill, that more work would be required; but it was the legislative format for the congressional response that, I believe, would have provided direction to the Senate and would have been the principal way in the end we enact this legislation. Well, what happened? This work product was taken away from the committee. It was ripped up and rewritten. It was wrecked and brought forward.

And the irony of ironies is that now the chairman of the Committee on Financial Services has to lead the debate for its enactment. I believe the committee leadership deserved better than this in light of the fair-minded effort they made to get a solution created.

There are two reasons to oppose this bill: substance and process. And the argument as to substance, I believe, has been very well advanced by previous speakers; and I will not reiterate that part. But I do want to speak a bit on process.

This is one of the most technically difficult assignments this body has undertaken, and to do it in a tight time frame makes it particularly difficult. There are lots of ways that have been advanced in terms of how we construct this assistance to keep terrorism coverage available. The administration took a whack at it. They had one approach. A bipartisan effort between Senator DODD and Senator GRAMM in the Senate took another approach. Chairman BAKER worked with Chairman OXLEY to construct an approach that, in the end, was quite a bit like the approach taken by ranking members LAFALCE and KANJORSKI.

Out of all these approaches, none of them have the offending provisions slapped on in a kind of a haphazard, almost cavalier way by House majority leadership in bringing this form. What they have done is thrown a red herring into this whole debate as to how we construct the package.

I believe passage of this bill does not advance completion of the terrorism insurance assignment; I think it makes it even more difficult. Because rather than focusing on the technically demanding issues before us, we are also going to be debating unrelated, ideological points of agenda that really have no place, especially when considering the dwindling hours we have to get this bill into place.

I believe that, in the end, we have to act; but we can best act by rejecting the flawed proposal that has been put before us and going back to the committee, bring their bill forward to get this on the track that we need to go.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. CANTOR), a new member of our committee.

Mr. CANTOR. Mr. Speaker, I commend the gentleman from Ohio (Mr. OXLEY), chairman of the full committee; the gentleman from Louisiana (Mr. BAKER), chairman of the subcommittee; and the gentleman from New York (Mr. LAFALCE), ranking minority member, for bringing this most critical, critical bill to the floor.

As has been said before, on September 11, thousands of innocent Americans were killed in a savage terrorist attack that no one could ever have imagined. This catastrophe, though, also has left the American economy and American businesses with an insurance crisis. Seventy percent of insurance contracts in this country expire at year's end. As a small businessperson, I know that there are millions of individuals out there now receiving expiration notices not knowing what to do come year-end.

If we look at it, if there is no insurance, business owners across America, both small and large, may all be in default of loan covenants which require collateral to be insured against terrorist strikes. Without this bill, there will be no such insurance.

Some individuals may fear the worst and close or put a halt to expansion plans. We can forget about growth in our cities and towns. What bank will loan money to build a shopping center or an office building without insurance to protect their investments in such a project? And then where will the jobs be without those projects?

H.R. 3210 addresses this impending crisis not by an industry bailout but by extending credit to cover claims associated with terrorist strikes akin to those on 9-11. Such loans will be repaid through industry assessments so that American taxpayers will remain whole. Mr. Speaker, I also commend both Chairman OXLEY and Chairman BAKER on the very innovative way that this bill tries to provide a resolution to this impending crisis. It does provide a fix.

And I would say we ought to support this bill because of the substance. There are no mandates on terrorism coverage, so, therefore, if there is a small business owner, let us say in Orange, Virginia, who has a small ice cream shop and chooses not to pay for that particular coverage because of the cost, that business owner ought not be made to do so. Yet the bill also provides for protection against those who may seek compensation in lawsuits against a terrorist strike.

Let us not put the bill on the American people; let us put the bill on the terrorists. It is the terrorists who were responsible for the strikes on 9-11 and will be responsible if it occurs in the future.

Mr. Speaker, I urge passage of the bill.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. SHERMAN), a distinguished member of the Committee on Financial Services.

Mr. SHERMAN. Mr. Speaker, I am sure you have visited Rayburn 2128, the room in which the Committee on Financial Services meets. It is a large and beautiful room, and I would propose that we make that room available to provide housing for the homeless. Because what went on in that room in crafting this bill has nothing to do with the bill that reaches the floor.

□ 1400

Mr. Speaker, if all of our financial services bills are to be written in the Committee on Rules on the third floor of this building, why must people sleep out in the cold when they could be provided housing in room 2128?

In fact, we are presented this bill on very short notice, basically 24 hours' notice, and it has so many changes from the bill that left our committee. One of the flaws in this bill is that it provides first dollar coverage with no deductible. What does this mean? It means that if there is a terrorist event that causes a billion dollars in damage, less one penny, comes within 1 cent of causing a billion dollars of damage, the Federal Government does nothing.

But if instead the damage is a billion dollars, plus one penny, then the taxpayers come forward with $900 million. Never has 1 cent mattered so much, and that is clearly absurd.

We need instead a bill that says that the first billion dollars is absorbed by the insurance and reinsurance industry, and only then should taxpayer dollars be involved. What, after all, is the insurance industry if it cannot absorb in total, with all of its companies and all of the reinsurance companies, a billion dollars in risk? If insurance companies cannot take the first billion of risk, then why do they exist? They are, after all, in the risk-sharing and risk-absorption business.

We need a bill. Many speakers who have come forward have explained why it is so important that we pass a bill so that those who own businesses are able to get terrorism insurance; or, rather, continue to get the kind of insurance that they have now without an exception for terrorist damage. That is why it is so important that those who want a bill vote for the Democratic substitute, because that is a bill that could be passed by both Houses, that is a bill that could be signed into law before we adjourn. That is serious economic policy.

Instead, we have a bill with loathsome, absurd, highly partisan, quote, tort-reform provisions; provisions which everyone knows cannot be passed on a bipartisan basis. I would point out that they deprive those that lose a child of any recourse at all, not one penny, to the parents who lose their child to terrorism.

Mr. OXLEY. Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is important legislation. It is legislation that I want to see enacted into law before we adjourn this year. But the substance of the bill before us and the procedure that we have used to get here is atrocious. It is not necessary to take away victims' rights. This bill does that. It does it in a very heavy-handed manner.

There ought to be a deductible. That is, the insurance industry should be paying the first dollar up to a certain amount and the Federal reimbursement payment should come in only after that. Their bill is grossly deficient in that respect.

Mr. LAFALCE. Mr. Speaker, I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation is absolutely necessary. That is why this committee is charged by the Speaker to produce a bill, and produced it in virtually record time. That is why during a day-long markup, it culminated in a voice vote for the legislation. And that is why, frankly, the substitute that is going to be offered by the gentleman from New York (Mr. LAFALCE) contains 85–90 percent of the bill that came out of our committee.

Let us understand that most of this debate today, at least on the other side, has been about legal reforms, liability reforms, and not about the specific areas that were negotiated and worked on and I think is an excellent work product; and, in fact, solves the problem that all of us want to solve, and that is the availability of insurance to make certain that our economy continues to move forward. That is what all of us have as a goal.

As we pass this bill on to the other body, it is important that the House send a strong signal that we are prepared to meet that challenge. This legislation, this underlying legislation, is exactly what the patient needs to provide the kind of stability in the insurance market that all of us desire.

Make no mistake about it, this Congress will pass this legislation, this type of legislation, before we return home. We have no other choice, it seems to me. If we do not, we face political peril, should the economy start to unravel, with the unavailability of credit in this dynamic marketplace.

Mr. Speaker, my hat is off to all of those who participated in this great endeavor.

Mr. PAUL. Mr. Speaker, no one doubts that the government has a role to play in compensating American citizens who are victimized by terrorist attacks. However, Congress should not lose sight of fundamental economic and constitutional principles when considering how best to provide the victims of terrorist attacks just compensation. I am afraid that H.R. 3210, the Terrorism Risk Protection Act, violates several of those principles and therefore passage of this bill is not in the best interests of the American people.

Under H.R. 3210, taxpayers are responsible for paying 90 percent of the costs of a terrorist incident when the total cost of that incident exceeds a certain threshold. While insurance companies technically are responsible under the bill for paying back monies received from the Treasury, the administrator of this program may defer repayment of the majority of the subsidy in order to "avoid the likely insolvency of the commercial insurer," or avoid "unreasonable economic disruption and market instability." This language may cause administrators to defer indefinitely the repayment of the loans, thus causing taxpayers to permanently bear the loss. This scenario is especially likely when one considers that "avoid . . . likely insolvency, unreasonable economic disruption, and market instability" are highly subjective standards, and that any administrator who attempts to enforce a strict repayment schedule likely will come under heavy political pressure to be more "flexible" in collecting debts owed to the taxpayers.

The drafters of H.R. 3210 claim that this creates a "temporary" government program. However, Mr. Speaker, what happens in three years if industry lobbyists come to Capitol Hill to explain that there is still a need for this program because of the continuing threat of terrorist attacks: Does anyone seriously believe that Congress will refuse to reauthorize this "temporary" insurance program or provide some other form of taxpayer help to the insurance industry? I would like to remind my colleagues that the federal budget is full of expenditures for long-lasting programs that were originally intended to be "temporary."

H.R. 3210 compounds the danger to taxpayers because of what economists call the "moral hazard" problem. A moral hazard is created when individuals have the costs incurred from a risky action subsidized by a third party. In such a case individuals may engage in unnecessary risks or fail to take steps to minimize their risks. After all, if a third party will bear the costs of negative consequences of risky behavior, why should individuals invest their resources in avoiding or minimizing risk?

While no one can plan for terrorist attacks, individuals and businesses can take steps to enhance security. For example, I think we would all agree that industrial plants in the United States enjoy reasonably good security. They are protected not by the local police, but by owners putting up barbed wire fences, hiring guards with guns, and requiring identification cards to enter. One reason private firms put these security measures in place is because insurance companies provide them with incentives, in the form of lower premiums, to adopt security measures. H.R. 3210 contains no incentives for this private activity. The bill does not even recognize the important role insurance plays in providing incentives to minimize risks. By removing an incentive for private parties to avoid or at least mitigate the damage from a future terrorist attack, the government inadvertently increases the damage that will be inflicted by future attacks.

Instead of forcing taxpayers to subsidize the costs of terrorism insurance, Congress should consider creating a tax credit or deduction for premiums paid for terrorism insurance, as well as a deduction for claims and other costs borne by the insurance industry connected with offering terrorism insurance. A tax credit approach reduces government's control over the insurance market. Furthermore, since a tax credit approach encourages people to devote more of their own resources to terrorism insurance, the moral hazard problems associated with federally funded insurance is avoided.

The version of H.R. 3210 passed by the Financial Services committee took a good first step in this direction by repealing the tax penalty which prevents insurance companies from properly reserving funds for human-created catastrophes. I am disappointed that this sensible provision was removed from the final bill. Instead, H.R. 3210 instructs the Treasury Department to study the benefits of allowing insurers to establish tax-free reserves to cover losses from terrorist events. The perceived need to study the wisdom of cutting taxes while expanding the Federal Government without hesitation demonstrates much that is wrong with Washington.

In conclusion, Mr. Speaker, H.R. 3210 may reduce the risk to insurance companies from future losses, but it increases the costs incurred by American taxpayers. More significantly, by ignoring the moral hazard problem this bill may have the unintended consequence of increasing the losses suffered in any future terrorist attacks. Therefore, passage of this bill is not in the long-term interests of the American people.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3210, the Terrorism Risk Protection Act.

This legislation addresses a critical need of the insurance industry, that has so far been overlooked by Congress in the wake of the events of September 11.

It is a common practice for companies that serve as primary insurers in the property and casualty field to take out secondary policies with other companies in order to cover themselves against the possibility of having to make large payouts on future claims.

In the wake of September 11, virtually all of the secondary insurers have announced that they will no longer cover acts of terrorism when the policies they have sold come up for renewal, effective January 1, 2002. The insurance industry estimates that approximately 70 percent of the secondary policies will expire at the end of the current year.

Unless Congress takes immediate action, primary insurers will not be able to offer coverage against terrorism in their property and casualty accounts. Under these circumstances any future successful terrorist attack would have a devastating impact on both the national economy and the local economy where the attack occurs.

This legislation enlists the Federal Government to serve as a stabilizing force in the insurance market, as well as a safety net to cushion the economic effects of future acts of terrorism. Under this bill, insurers would help create a pool from which funds could be drawn to help meet future payout contingencies.

In the case where an event causes payouts to exceed $100 million, the Federal Government would step in and assume 90 percent of the burden with the remaining 10 percent coming from the industry. A similar program would be put in place for large companies for an event that exceeds $20 billion in payout costs.

Mr. Speaker, it is imperative that Congress address this immediate need to head off what would be a catastrophic blow to the insurance industry. American businesses need to be reassured that the insurance industry is both financially sound and able to meet their coverage obligations in the new terror-prone world, since September 11.

Our country was in the midst of a recession when those barbaric acts of September 11 took place. We have all witnessed the resulting shock waves that were sent through the economy. Recent evidence suggests that we may finally be on the road to economic recovery. The resulting damage from a future act of terrorism against an uninsured business sector is too awful to contemplate.

Fortunately, this scenario is easily preventable and we in Congress must take the necessary steps to ensure that this future does not come to pass. Our swift passage of H.R. 3210 will serve that purpose.

I therefore strongly urge my colleagues to lend support to this vital measure.

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his support for H.R. 3210, the Terrorism Risk Protection Act. This legislation will help ensure that businesses are able to acquire property and casualty insurance while still providing full taxpayer protection against terrorist losses.

This Member would like to thank the distinguished Chairman of the House Financial Services Committee from Ohio (Mr. OXLEY) for both introducing this legislation and for his efforts in moving this legislation. Additional appreciation is expressed to the distinguished gentleman from Louisiana (Mr. BAKER) who played a crucial role in drafting this legislation. On most crucial parts of this legislation there was bipartisan cooperation and assistance led by the ranking minority member of the Committee, the distinguished gentleman from New York (Mr. LAFALCE).

The uncertainty caused by the terrorist events on September 11 have resulted in our attention to the possibility of severe future problems for the insurance industry and the insured, even a crisis, from additional severe terrorist attacks. To illustrate this, reinsurance companies provide insurance against massive losses for insurance companies. Many commercial reinsurance policies need to be renewed by a December 31 deadline of this year. Since this terrorist attack, many primary insurance companies, because they cannot receive reinsurance, have sent notice cancellations to businesses indicating that they will not receive coverage for losses caused by terrorist activities. If both small and large businesses are unable to receive insurance coverage for acts of terrorism by the end of the year, it will contribute to the further instability of the American economy. Insurance provides a very important element of the stability needed by businesses to continue functioning and investing, and for bankers to continue lending to businesses.

As a member of the House Financial Services Committee, which has jurisdiction over the important elements of the limited Federal role in commercial insurance, this Member supports this legislation for the following two reasons. First, obviously it helps ensure that commercial insurance continues to be available for businesses—and available at affordable costs. Second, it provides necessary taxpayer protections against possible severe terrorist losses to businesses.

Under this legislation, Federal assistance will be provided to those commercial insurers which have suffered a significant terrorist loss over a specific dollar threshold. The Secretary of the Treasury will determine if there has been an industry-wide loss to the commercial property and casualty insurance industry exceeding $1 billion due to a terrorist act. In addition, the Secretary of the Treasury can also make a company-specific triggering determination if industry-wide losses exceed $100 million and the portion of those losses for the insurer exceed both 10 percent of the company's capital surplus and net premiums.

If one of these thresholds is reached, the Federal Government will provide to each relevant insurance company 90 percent of the amount of insured terrorism losses minus $5 million. This Federal cost-sharing is capped at $100 billion.

Unlike the different Senate approaches which are being proposed, the House legislation requires the Federal assistance to be paid back in full by the insurance companies who suffered the terrorist loss. Under H.R. 3210, the relevant insurance companies will be required to pay assessments back to the Federal Government for up to $20 billion of Federal assistance over a three year time period. Above this $20 billion threshold, up to $100 billion, in order to recoup the level of Federal assistance, the Secretary of the Treasury will impose a commercial policyholder surcharge.

Since the insurance companies are required to pay back the Federal Government for the exact level of Federal assistance through both assessments on the industry and/or commercial policyholder surcharges, this legislation ensures that taxpayers are not liable for the Federal cost-sharing. Therefore, this legislation is not an insurance company bailout; it protects the American taxpayer against a big hit while continuing to maintain insurability against terrorist attacks.

This legislation also protects taxpayers from punitive damages against insurance companies for terrorist loses in Federal court. Since the Federal Government is providing assistance to insurance companies in cases of significant terrorist losses, punitive damages against insurance companies could result in taxpayer liability. This legislation does not limit a plaintiff's right to hold a primary tortfeasor liable for a terrorist act. For my Nebraska constituents, it is important to note that punitive damages are not allowed under Nebraska state law in Nebraska state courts.

In conclusion, since this legislation balances the need of businesses to continue to receive commercial insurance against terrorist acts at affordable costs, with taxpayer liability protection, this Member urges his colleagues to support H.R. 3210.

Ms. HARMAN. Mr. Speaker, I rise in reluctant opposition to the Terrorism Risk Protection Act.

I do not disagree that the business of commercial insurance underwriting faces difficult times ahead as we confront the threat of terrorism against our homeland. But we have our priorities backward.

Insurance underwriters are not the only ones facing difficult times. Since September 11, hundreds of thousands of workers have lost their jobs because of the attacks and subsequent accelerated economic slowdown. Indeed, I have met on several occasions with hundreds of workers in California's 36th District whose livelihoods and futures were suspended when they were laid off following the attacks.

Many of these workers were directly employed in the aviation industry, which took a tremendous hit on September 11. Many thousands more were employed at Los Angeles International Airport and in the associated hospitality industry, which relies on business travelers and tourists. Hundreds more were affected as the consequences of September 11 rippled through the local economy.

Mr. Speaker, these individuals and their families are my top priorities. Last month I introduced legislation to give first preference to qualified laid-off aviation workers for the new airport security positions created by the Aviation Security Act. Regrettably, that bill languishes in the Transportation and Infrastructure Committee, though 44 of my colleagues recently joined me in writing Transportation Secretary Norm Mineta requesting that he incorporate this initiative in the regulations he issues to implement the new Airline Security Act.

Aiding unemployed workers can no longer take a back seat. Indeed, the House is still waiting for the Speaker of the House to fulfill the promise he made at the time of the Airline Bailout Bill to bring to the floor legislation providing relief to these individuals.

Until Congress and the Administration act to aid these unemployed workers, I cannot in good conscience support a bill that addresses one more industry, however meritorious their claim.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in strong opposition to H.R. 3210, the Terrorism Risk Protection Act, and in support of the LaFalce substitute to that bill.

Once again, the House is being asked to consider legislation that purports to address a legitimate public need but which is cloaked in special interest giveaways that do harm to the public interest.

First, we acted to provide a $15 billion airline bailout that did nothing to help laid-off airline workers, improve safety or even guarantee that funds would be reinvested in improving American airlines. Airline workers are still waiting for unemployment insurance compensation and health care benefits. The need to help airlines and their employees after the tragedies of September 11 was legitimate, but the legislation we passed was a special interest giveaway that failed to meet that need.

Second, we passed a so-called economic stimulus bill that will do little to stimulate the economy but instead includes tax breaks for the wealthy and for giant corporations, including refunds for taxes paid back to 1986 and incentives to invest overseas. And, again, the needs of laid-off workers and their families are ignored. We need to enact economic recovery measures, but the House-passed bill is largely a package of long-demanded tax breaks that will bring little, if any, benefit to the vast majority of American families and small businesses.

Today, we are being asked to pass the legislation that not only provides an unwarranted bailout to the insurance industry but actually takes away consumer protections by making it extremely difficult for those injured to seek full compensation. Again, there is a legitimate concern. Although no one denies that the insurance industry has sufficient revenues to meet its current obligations, there is a need to address the decision of reinsurance companies to stop providing terrorism risk coverage in the future. This problem would seem to demand a narrow, well-considered approach. But this vehicle has served as a magnet for companies that are trying to avoid responsibility by limiting their payout liabilities and by preventing injured consumers from getting their fair day in court.

As the Washington Post reported today, "The insurance industry's lobbying campaign for federal help covering future terrorism claims was in full swing last month when a group representing Lloyd's of London investors published a newsletter highlighting the 'historic opportunity' for insurers to make money after the September 11 attacks." This is not the history that we want to write here today.

In the event of future terrorist attacks, H.R. 3210 requires that U.S. taxpayers pay for 90 percent of all claims, including first dollar losses. It is simply outrageous that, as unemployed workers and their families are waiting for federal assistance, our first priority should be to bail out an insurance industry that is sitting on major reserves. The LaFalce substitute, unlike the underlying bill, would require that the industry pay a deductible of at least $5 to $10 billion annually. The LaFalce substitute not only protects U.S. taxpayers, it ensures that insurance companies will still have incentives to press their policyholders to act to improve safety and security. That is why groups like Consumer Federation of America, the National Taxpayers Union, and Consumers Union oppose H.R. 3210 and support the LaFalce substitute.

Even more disturbing to me than the size of the potential bailout in H.R. 3210 is the assault on the rights of victims. There is no justification for taking away the rights of injured consumers or their families to seek redress through our civil justice system. There is no justification for immunizing companies from dangerous behavior. Yet, H.R. 3210 would do just that.

H.R. 3210 would prevent future juries from awarding punitive damages. These damages are extremely rare and used only where injuries are caused by recklessly dangerous and irresponsible conduct. Under H.R. 3210, a security firm that hires felons, a building owner who refuses to put in fire escapes, a construction firm that doesn't meet building codes, or a company that fails to provide escape procedures for persons with disabilities would be immunized from punitive damages.

H.R. 3210 also limits a jury's or judge's discretion to award non-economic damages. If we agree to this provision, we are saying that the loss of a child or husband and the inability to walk or have children are injuries that are not worthy of full compensation.

Finally, H.R. 3210 provides a one-sided and unfair limitation on victims by limiting attorney's fees. Defendants would, of course, be free to pay their attorneys whatever they wish. But plaintiffs, who usually rely on a contingency fee system because they lack the funds to pay up front lawyers' fees, are hampered. As a result, victims may find it difficult to find qualified attorneys to take what may be complicated and costly cases to prepare.

Unlike H.R. 3210, the LaFalce substitute leaves our civil justice system intact. It does not assault the rights of victims. And it leaves in place the potential for damages that will encourage firms to be as careful as possible in improving security and contingency plans.

We pray that we will not suffer from future terrorist attacks. But, as we mourn the victims of September 11, we must not take away the rights of any future victims or their families. Nor should we reduce the incentives on the insurance industry and other companies to do everything possible to prevent terrorist attacks or prepare safety measures in case they occur. By limiting insurance industry liability, shielding wrongdoers from liability, and reducing the ability of victims to recover for their losses, H.R. 3210 would do far more harm than good. It should be defeated.

Mr. CHAMBLISS. Mr. Speaker, I support H.R. 3210, the Terrorism Risk Protection Act. We worked hard to make sure that the taxpayers' money is protected and that we have taken care of the victims of terrorism.

The Terrorism Risk Protection Act is essential to America's economic security. Right now, we have a problem: small insurers can be overwhelmed by the cost of a terrorist attack; a major of insurance contracts will expire at the end of the year, destabilizing our economy if nothing is done; and currently, insurers have no incentive to "write in" terrorism coverage in their policies.

As Members of both parties have repeatedly pointed out, this bill protects every sector of the economy—every noninsurance worker and employer—by providing a temporary legislative backstop that will make it possible for American companies to gain the insurance they need to continue operating in the post-September 11 environment where threats of terrorism still exist.

The Terrorism Risk Protection Act is a very pro-taxpayer, pro-consumer proposal, which provides significant benefits to both commercial industry and policyholders, while requiring relatively little regulation.

By passing the Terrorism Risk Protection Act, today we greatly increase the capacity of insurers to offer terrorism coverage; we protect small and large policyholders insurers, while retaining incentives for risk management and efficient claims processing.

However, I do have reservations on expanding the scope of the punitive damages ban beyond simply the use of government funds by attaching tort reform language to this legislation. Instead of limiting punitive damages we should ensure that the wrongdoer bear the financial burden, not an insurance company or the taxpayer. I am concerned that the inclusion of punitive damage language would limit victims' rights by protecting companies that fail to implement appropriate safety measures or do not act responsibly in the face of credible threats. My preference would have been to pass a bill without attaching the tort reform measure.

We have worked hard over the past few days and weeks to avoid the possibility of any economic disruption that could result from a lack of available, affordable terrorism insurance. Today, I am proud to say that we have worked to help provide commercial insurance for terrorism and strengthen our economy by passing the Terrorism Risk Protection Act.

Mr. MENENDEZ. Mr. Speaker, we could have and should have a much stronger bill on the floor, both to protect our economy, and to protect the victims of terrorist attacks.

Given the extraordinary circumstances, it is reasonable to provide a Federal "backstop" to the insurance industry for terrorist attacks. Developers, builders, and the people they employ need to know that insurance is available—otherwise, important projects may come to a halt, American commerce will be hurt, and jobs will be lost. The problem is while the Republican bill provides a guarantee to the insurance industry, it does not in turn require that the industry provides the insurance when it is needed; the Democratic substitute does.

We also need to make sure that in the event of an attack, victims can go after any negligent parties. But the Republican bill severely limits victims' rights—even in cases where the negligence was willful. That is not, in my view, a defensible position.

Finally, while we are undertaking this important effort, we should also be doing much more for the many American workers who have already lost their jobs.

I support guaranteeing insurance against terrorism is readily available.

I support full victims' rights.

And it is because of my belief in those principles that I must oppose final passage, with the hope and trust that these deficiencies can be fixed in conference.

Mr. MALONEY of Connecticut. Mr. Speaker, I want to urge my colleagues to support final passage of this important legislation. I want to thank Ranking Member LAFALCE and Congressman KANJORSKI for all their hard work in bringing an economically vital issue to the top of Congress' agenda.

Finding a solution to the impending insurance crisis is vital to our long-term economic security. Unfortunately, the events of September 11 have made a substantial impact on the marketplace and we now face contracting insurance and reinsurance markets. This tightening could have a devastating effect on the economy, particularly with regard to real estate markets, small business lending, and urban development activities. Without insurance, banks will not lend money to developers, businesses will be unable to get financing for new projects, and credit will be scarce as investors will be unwilling to take on the additional risk of not having insurance. Providing a Federal backstop is critical to guaranteeing that insurance remains available.

Unfortunately, the bill before us today contains some very troubling provisions that would weaken our legal system of mutual responsibility. I want to make it clear that I will continue working to remove these overly broad and extreme provisions from this legislation. However, as insurance is the linchpin of our Nation's economic stability, we must act on this important issue. Our economy depends on it.

I look forward to working with my colleagues through conference as this bill moves forward. I am committed to developing a final legislative product that will provide our economy with the stability that insurance guarantees, without weakening our legal system of mutual responsibility.

Mr. BLUMENAUER. Mr. Speaker, I rise in opposition to this bill. I commend the Financial Services Committee on their hard work to reach a compromise on this important issue. To maintain stability within the insurance industry and the economy as a whole, it is essential that the Federal Government provide a backstop for losses due to potential acts of terrorism. It is too bad the Republican leadership and their Rules Committee are undercutting this work.

I will not vote for a bill in which the democratic process has once again been subverted in favor of a partisan maneuver. It risks needlessly delaying important relief that we could approve and have on the President's desk in a matter of hours. In fact, this is a continuation of a pattern that's moving beyond partisanship to a point where it is reckless. These bills have been twisted beyond recognition of any solution reached by the original bill. First it was the Airline Bailout, then the PATRIOT Act which passed out of the Judiciary Committee unanimously only to be substituted with a Republican alternative. The pattern continued with the Economic Stimulus package and the Airline Security bill. It is unconscionable that the Republican leadership continue to act in such a partisan manner to delay this legislation when it is critical that Congress act quickly and in a united fashion to stabilize our insurance industry and assure help to those in dire need.

H.R. 3210, as amended in the Rules Committee, attempts to force adoption of extraordinarily controversial changes in legal procedures that have nothing to do with preserving a market for terrorism insurance coverage. The end result is that the rights of victims and their families to recover fair compensation would be greatly limited in any future terrorist related incidents.

For instance, the bill seeks to ban punitive damages, which would shield all defendants, not just insurers, even those who had been criminally negligent. As an example, this bill would protect a building owner from paying punitive damages who, despite numerous citations and warnings, refused to install emergency lighting and escape routes in his building. Residents and families of residents injured or killed during a terrorist attack as a result of the owner's disregard for State or local safety codes should be allowed to pursue their claims to the full extent of the law. The bill also limits the ability of victims to receive awards for noneconomic damages. These issues have no place in this urgent terrorism insurance bill. Because the Republican leadership will not allow a vote on a clean bill, I have no choice but to vote no. I will not support the continued actions of the Republican leadership to undercut the committee process that is essential to effective solutions.

Mr. BAKER. Mr. Speaker, as chairman of the House Subcommittee on Capital Markets, Insurance, and Government-Sponsored Enterprises, I rise in strong support of the bipartisan Terrorism Risk Protection Act. I also wish to thank Financial Services committee Chairman OXLEY for his leadership on this issue and to recognize the efforts of committee and subcommittee Ranking Members LAFALCE and KANJORKSI.

While economic uncertainty can lead to stock market volatility and wide fluctuations in value—a phenomenon we are now witnessing daily—uncertainty in the operation of a business can be downright halting or fatal. This is why insurance plays such a vital role in our economy, providing security in calamity and the promise of liquidity necessary for the smooth functioning of the wheels of commerce.

Fortunately, property-and-casualty insurers were able to cover obligations for the estimated $40 billion in damages related to September 11. But that may not be the case should any subsequent and comparably costly events take place. Worse still, the availability and affordability of terrorism insurance itself will become increasingly less likely. The primary cause for the terrorism coverage crunch is the fact that reinsurance companies, which back up the insurers by helping them spread risk, say they will not renew terrorism-related coverage by December 31, when some 70 percent of policies expire.

Insurers and reinsurers cannot underwrite infinite risks with finite capital. Without the ability to spread risk through reinsurers, insurance companies face constraints against covering businesses against acts of terrorism. Here's the result, as one magazine recently put it: "With no coverage, lenders won't lend, builders won't build, and business will grind to a halt."

With an already weakened economy, many in Congress understand that, like it or not, the Federal Government must take action quickly to avert such a systemic catastrophe. But there have been differences over the scope and form of this government intervention in the marketplace, and, it now appears, over just how urgently action is needed.

The Financial Services Committee overwhelmingly passed the House's legislative response, H.R. 3210. Today I come before you to impress upon you the need for passage of this important bill and why, on three points in particular, it will be important for us to maintain the integrity of the bill.

Time is of the essence. Commercial property and casualty insurance is usually written on a 1- or 2-year basis, with approximately 70 percent of reinsurance contracts up for renewal on January 1, 2002. The potential unavailability of terrorism risk coverage for businesses comes at precisely the time of greatest demand for the insurance. Moreover, insurance coverage is almost universally a requirement of any commercial lending contract. Lenders will simply not provide financing for new or existing construction without certainty that the properties and businesses that they are funding have adequate insurance to protect the lenders' investment. Thus, the lack of available insurance for terrorism risk has adverse consequences that would spread throughout the entire economy and stifle its growth. There is a high probability that the economy as a whole would suffer tremendously without meaningful and affordable terrorism coverage.

To say that these policies expire on December 31 is not to say that we, as policymakers, have until that time to take decisive action. In fact, in many cases we have already crossed the threshold into that time when businesses begin their search and make their arrangements to secure coverage for next year. Even under normal circumstances this process, in itself, takes time, typically a month or even more. We have worked closely with the Financial Services Committee Democrats to address many of their concerns regarding the insurance mechanism established by the bill. Furthermore, we have cooperated with the other committees of jurisdiction, specifically, the Judiciary and Ways and Means Committees to ensure that this legislation represents the best efforts of this body as a whole. I believe that the Armey bill introduced today reflects this bipartisan achievement.

Unfortunately, the other Chamber of Congress has not even begun serious consideration of this issue. Already, with each passing day of congressional inactivity in providing assistance for the affordability and availability of terrorism insurance, we run the risk of being held accountable, and deservedly so, for fiddling while Rome burned.

We must limit government exposure to actual losses and provide timely and efficient adjudication of claims. Acts of terrorism give rise to very unique sets of facts and a complexity of interested parties that is uncommon in tort law. It is essential that the administration of the program established by this legislation is performed in a consistent and timely manner. Additionally, the exposure of the Federal Government as an insurer for anything other than actual losses should be avoided.

To these ends this bill creates an exclusive Federal cause of action and limits the venues in which claims can be brought. We do not want to see a situation like the 1993 World Trade Center bombing where cases are just now going to trial.

H.R. 3210 also prohibits claims for punitive damages arising out of terrorist acts and does not allow joint and several liability for noneconomic damages caused by terrorist acts.

The sovereign immunity provisions of this bill will help ensure the fair and prompt distribution of the enormous public and private resources that would be needed to respond to terrorist acts of any magnitude.

We must maintain provisions of repayment of taxpayer dollars. Unlike all other proposals, H.R. 3210 protects taxpayers, requiring insurers, when they're again able to stand on their own two feet, to pay back over time whatever taxpayer dollars they received during their short-term time of need. Without this I personally don't see how any proposal could be called anything but a bailout—an open checkbook, drawn out of taxpayer pockets.

Paying back government assistance is neither a liberal nor a conservative concept. Or more precisely, it's both liberal and conservative, because it values common sense and, above all, our common concerns of fairness for both consumers and taxpayers—two groups rarely, if ever, afforded the opportunity to skip out on their bills. Not surprisingly, both the Consumer Federation of America and the Citizens Against Government Waste, two prominent grass-roots advocacy groups, have come out in support of the "loan-based" over the "giveaway" approach to the insurance industry.

Changes in the Tax Code are our only mechanism to provide an exit strategy for taxpayers. Again, unlike other proposals, our bill points toward how—not just when—the Federal Government can end its market intervention. It includes a study of tax-free reserving of insurance funds for terrorism risk to assist the private market that, at the end of the day, will be made healthier, stronger, and more independent than it was when we began.

The reason we're in this bind to begin with, remember, is that reinsurance companies, mostly located offshore in Europe, will no longer make their pool of resources available for backing terrorism insurers. In the long run, the strongest answer to the reinsurance vacuum, and the surest way to avoid having the government serving that function indefinitely, is to take away the barriers that keep American insurers from filling it themselves. We can accomplish this quite easily by simply deferring taxation on reserves that insurance companies can set aside and build up exclusively for protection against future terrorist attacks.

Hardly a "tax break" for insurance companies, which wouldn't be able to use the money for any other purpose, it would serve as a catalyst and incentive for an industry to end its own dependence on government. What we certainly don't need is a situation in which taxpayers unendingly subsidize an industry while it continues posting very healthy profits.

And, if we have a plan that provides market stability without simply giving away the taxpayers' money—one that temporarily backs insurers without indefinitely bailing them out—what else, really, do we need?

Mr. KNOLLENBERG. Mr. Speaker, I would like to commend Chairman OXLEY and Subcommittee Chairman RICHARD BAKER for their hard work on this legislation.

As a former insurance agent and counselor, I understand the challenges the insurance industry faces after the tragic events of September 11. I believe this bill moves us in the right direction to reach a solution before the end of the year when most of the current policies expire.

Let's be clear—we are not bailing out the insurance industry. But we must be equally clear that, without action, companies and individuals will face skyrocketing premiums or have to buy policies that do not cover terrorist events. No action risks further harm to our economy.

This bill provides a federal risk-sharing loan program to ensure the liquidity to the industry. The federal government will pay 90 percent of insurance claims once triggered by a terrorist event costing over $100 million. However, it also provides flexibility to help smaller companies who take a significant loss but do not reach that trigger amount. These loans will be repaid over time by the industry, providing assistance but not a bailout. The loan program sunsets after 1 year so that Congress can revisit any unforeseen consequences of this bill and make further changes.

I think this bill is a good starting point, and we must get started. I urge my colleagues to pass this legislation and settle our differences with the Senate in Conference quickly so we can get something to the President before the end of the year.

Mr. ENGEL. Mr. Speaker, I rise today in support of the effort to provide the insurance industry a helping hand in the aftermath of the September 11th attacks. The insurance industry estimates that it will have approximately $60 billion in claims as a direct result of these events. And though the industry has the available capital to cover these claims now, payment on future claims are in grave doubt. In fact, many insurance companies are considering dropping this product altogether. The damage to our Nation's economy if that were to happen would be grievous. Construction companies and building owners would not be able to get adequate insurance, which in turn would prevent them from being able to get access to bonds to build and renovate their structures.

Yet, what does the Majority bring to the floor today? Is it a bill that helps the insurance industry? Somewhat. What else does it do? The Republican majority is using this as a vehicle to advance one of its long held goals—tort reform. But, instead of having a full and just debate on tort reform, they are slipping provisions into a necessary and important bill.

And what do they do with these provisions? They once again tell the American people that the majority party believes people with lots of money are more important that the average American. This bill prevents non-economic damages from being awarded. If someone loses a spouse in a terrorist attack, all one can expect is remuneration for lost wages. But what about the other losses—such as companionship, emotional support, and parenting? Sorry, the majority says, you are out of luck there.

The insurance industry came to Congress with a sensible idea. It asked us to adopt a system similar to that of Britain by creating a terrorism reinsurance pool under which insurers voluntarily buy reinsurance coverage from the government, with pooled premiums being used to cover terrorism claims. Sounds pretty sensible to me. Instead, this bill creates a loan program—which might help, but certainly isn't the easiest or cleanest solution. If we can provide millions each year for the National Flood Insurance program, why can't we do the same for a terrorism reinsurance program.

Finally, my colleagues, I would like to take this opportunity to mention one thing that has come to my attention regarding the clean up of ground zero. The construction companies doing the clean up and removal presently have no indemnity for their work. In fact, they are still working without a written contract. Their workers are being exposed to an extremely hazardous working environment. If we are to provide liability protections to the airline industry and the building owners, I urge my colleagues to move immediately to provide indemnity protections to the construction companies. If we don't, these companies are in danger of financial ruin and future incidents of terrorism will have a very different response from such companies.

So, my colleagues, let's get serious about solving these problems. Vote no on this bill and support real reinsurance reform.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of the beleaguered workers of this country who have been doubly affected by both the recession that the experts now say that we have been in since last spring and the ripple effects of September 11.

According to the Department of Labor, 415,000 Americans lost their jobs in the month of October. Eight hundred people in my very small district of the U.S. Virgin Islands have lost their jobs in our tourism dependent district—an increase of over 150 percent over last year. Travel agents, airline workers, taxi drivers, chefs and hotel service employees will now face the holidays without jobs, without health and other benefits in an economy that will be slow to absorb them any where else.

Mr. Speaker, we were right to provide relief for the airlines, but we will be remiss if we do not see the individual lives that are affected by the loss of jobs in the downturn of our once thriving economy. It is also right that we provide assistance to the insurance industry in the wake of the September 11th attack. I oppose the Republican Leadership terrorism insurance relief bill, though because it added unnecessary and unrelated provisions to advance their partisan agenda on tort reform. I support the LaFalce Democratic substitute, which avoids dramatic premium increases for businesses and consumers but also insures that industry assumes their appropriate financial responsibility.

Mr. Speaker, let's do right by the working men and women of our country. Let's provide relief that will help them weather this storm until our economy rebounds.

Mr. SCOTT. Mr. Speaker, I rise in opposition to H.R. 3210.

H.R. 3210, in its present form, contains a litany of tort reform provisions that are necessary to achieve the basic purpose of this bill. This bill began as a bipartisan effort to provide a mechanism for addressing the insurance risk in connection with terrorist acts, but has ended up as yet another vehicle to enact a one-sided, tort reform agenda, which has failed every time it has been subjected to the regular, deliberative legislative process.

Under this bill, all victims of a future terrorist act will be required to bring their action in federal court. Once the Secretary of the Treasury makes a determination that a "terrorist act" occurred, then all claims with any relation to that terrorist act must be brought in federal court. There would be no opportunity for a victim to choose to bring an action in state court, even though the state court may otherwise have jurisdiction over the matter and even though the state court may be more convenient or more efficient. This process will cause unnecessary complications related to the statute of limitations, if suit is filed in the wrong court, and will present unnecessary questions related to what "related to terrorism" means in those cases in which terrorism might have a vague connection to the cause of action. For example, are cases involving failure to perform in a contract dispute "related to terrorism" if the airline disruption after September 11 is alleged to be a factor? And if a questionable "related to terrorism" defense is offered, must the case be remanded to federal court?

Worse, this bill contains radical liability limitations that are not even limited to cases involving insurance coverage and includes other provisions that bear little relationship to the issue of insurance. For example, future victims of terrorism would be precluded from collecting punitive damages—even in cases where it can be shown that the most outrageous acts of gross negligence or intentional misconduct contributed to the act of terrorism.

This bill would also severely limit the ability of the victims of terrorism to collect non-economic damages. Non-economic damages include physical impairment, disfigurement and mental anguish, and these will be denied, whether insurance is available or not.

Further, this bill puts extreme and unprecedented limits on plaintiff's attorney's fees. In the bill which purports to assist insurance companies, it is important to note that insurance companies do not pay plaintiff's attorney's fees; those fees are paid by the plaintiff out of the recovery. Therefore, the amount the insurance company pays is not effected by the size of the attorney's fee. The only effect this provision might have on the insurance company is to deny some plaintiffs the ability to hire an attorney to bring a meritorious claim. Only meritorious claims will be effected, because most attorneys get nothing, if there is no recovery. It is also important to note that the bill does not limit defense attorney's fees—which the insurance companies do pay.

There is no good reason for including these extreme tort reform provisions that will limit the rights of victims in a bill which is supposed to be designed to address the capacity of insurers to provide coverage for risks from terrorism. I therefore urge my colleagues to vote against H.R. 3210 in its current form.

Mr. BENTSEN. Mr. Speaker, regrettably I rise today in opposition to H.R. 3210, the Terrorism Risk Protection Act. I am very concerned about tort provisions that were added to the bill by the House Rules Committee. As an original cosponsor of H.R. 3210, I am disappointed that the House Rules Committee acted to rewrite this bill.

I strongly believe that we must act to ensure that terrorism insurance is available for our nation's property owners. Without such coverage, we endanger our nation's economy. With the current recession which we are experiencing, I do not believe that we should jeopardize our economy. Today, many property owners are receiving property insurance renewal notices which specifically exclude terrorism coverage. For many property owners, failure to purchase terrorism insurance may jeopardize their credit and result in devastating actions by their creditors.

I am disappointed that the underlying bill includes tort reform provisions which are fatally flawed. As a sponsor of an amendment to the liability provisions in this bill, I am concerned that the new liability provisions will hurt victims of terrorism and are not necessary for this bill. The underlying bill was introduced at the last minute with many onerous provisions which are not reasonable and fair. First, the liability section will preclude spouses of victims from seeking non-economic damages when a spouse is lost to a terrorism attack. I do not believe that the House of Representatives should be limiting spouses of victims to collect only lost wages and no other reparations. This is an unprecedented effort to cause economic hardships for victims of terrorism.

I am disappointed that the House of Representatives will have to vote today on the underlying bill which has been rewritten since it was reported from the House Financial Services Committee. As a senior member of the House Financial Services Committee, I offered a critically important amendment to the liability section of this bill. The Bentsen amendment would have protected the taxpayers by ensuring that the government nor the insurance policy could be held liable for either punitive damages or non-economic damages related to this coverage. I believe it is proper to provide this protection for the taxpayers. In order to protect consumers, my amendment ensures that consumers can seek both punitive and non-economic damages from parties who have committed a gross negligent act related to terrorist attacks. I believe that the Bentsen amendment is fair and reasonable. For example, an airline security firm should be responsible for its employees who allow a terrorist to knowingly pass through a security check. I also want to highlight that my amendment on tort reform was approved on a bipartisan basis and represented the consensus of our committee on this issue. I am disappointed that the House Rules Committee acted to eviscerate my language.

I also want to express my support for the underlying loan structure in the underlying bill. In fact, as an original cosponsor of H.R. 3210, I cosponsored this bill in part because of the loan structure included in it. I also strongly supported efforts to keep this program as a temporary program. During consideration of this bill, I offered an amendment that requires that this program can only be renewed on a yearly basis. In addition, my amendment requires the Administration to provide a report to Congress detailing why this program has been renewed. I believe that these accountability provisions are necessary to ensure that this program is established for a short time period. I believe that the reinsurance market for terrorism coverage will recover and we should act prudently.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to H.R. 3210, the Terrorism Risk Protection Act.

It is true that certain key industries, including insurance companies, have been negatively impacted by the tragic events of September 11 and legitimately deserve assistance from the American public.

While the bill before us today provides some genuinely needed relief for the insurance industry, unfortunately it fails in other important ways.

First, instead of keeping the bill focused on providing a federal "safety net" for insurance companies in the wake of the September 11th attacks, the Republican leadership has included provisions that limit the rights of victims to pursue legal action as a result of any future terrorist attacks. These last-minute tort reform provisions include a complete ban on punitive damages, limits on non-economic damages, and caps on attorney's fees. These restrictions are not only unwarranted and unrelated to this bill, but they will severely limit the ability of victims to obtain any reimbursement they are due as a result of negligence. These provisions were not included in the bi-partisan bill approved by the Financial Services Committee and are completely unnecessary and unrelated to the insurance relief provided by the bill.

Next, I believe that in granting government assistance to any sector, Congress must take positive steps to ensure that these companies follow responsible and fair business practices by providing affordable, quality services to the American taxpayer.

In the case of the insurance industry, companies have a responsibility to make insurance coverage available at affordable rates to those who need it. History indicates that it is common for insurers to increase the cost of policies after major catastrophes, whether these are weather-related, riot-related or other events. Therefore it is conceivable that insurers may use the tragic events of September 11 to raise rates, withdraw from some markets, and try to shift risk onto the government.

As data from the California Department of Insurance shows, lack of affordable insurance is a serious problem for many communities, especially low and moderate-income communities and communities of color, such as in my Los Angeles-based Congressional District. When uninsured or under-insured buildings suffer damage in these communities, oftentimes they are not repaired or replaced. As a result, the property owner suffer financial losses and the community is exposed to social and economic instability. Homeowners, renters and business owners are all at risk.

Since the taxpayers are assuming the risk to prop up the insurance industry, Congress must put into place protections to insure that Americans have access to affordable, high quality insurance coverage for their homes and businesses.

Establishing requirements for insurance companies to publicly report the availability and affordability of their policies is a key component of these protections. Such public disclosure will inform Congress and the American people about the fairness of various insurance policies.

In addition, the insurance industry should be required to invest in low-income neighborhoods and minority communities. Because of the Community Reinvestment Act, banks have been required to invest in low-income neighborhoods and have found significantly financial opportunities in these communities. Investments such as these are particularly critical to struggling communities in the current difficult economically times. However, as the data from the California Department of Insurance and the California Reinvestment Committee shows, insurers have essentially balked at making significant contributions and investments in these communities. I am submitting this data for inclusion in the RECORD.

Mr. Speaker, as I have stated, the bill before us is fatally flawed. It insures that the insurance industry is protected while leaving too many Americans with little or no assurance of either affordable, quality insurance coverage or corporate investment in their communities.

I urge my colleagues to reject this flawed bill and pass a measure that insures protection for the American public not just the insurance industry.

CALIFORNIA REINVESTMENT COMMITTEE—INSURANCE INVESTMENT ISSUES

In 1999, Californians paid $81 billion in insurance premiums. Of those premiums, $36 billion were for property and casualty insurance coverage.

According to the 1998 California Insurance Commissioner's Report on Underserved Communities, only 6.43 percent of 1997 California property and casualty insurance policies were in the 138 underserved zip codes identified by the Department which represent 15 percent of the state's population. (This is the most recent report available.)

In 2000, the California Organized Investment Network (COIN), an investment unit of the California Department of Insurance designed by insurers, had only $108 million in investments, which represent 0.13 percent of 1999 insurance premiums paid by Californians.

In 2000, COIN had less than $5 million in insurance investments, which represent 0.01 percent of California insurance premiums.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. NETHERCUTT). All time for general debate on the bill has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LAFALCE

Mr. LaFALCE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. LaFALCE:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Terrorism Risk Protection Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Congressional findings.
Sec. 3. Authority of Secretary of the Treasury.
Sec. 4. Submission of premium information to Secretary.
Sec. 5. Initial and subsequent triggering determinations.
Sec. 6. Federal cost-sharing for commercial insurers.
Sec. 7. Assessments.
Sec. 8. Terrorism loss repayment surcharge.
Sec. 9. Administration of assessments and surcharges.
Sec. 10. Application to self-insurance arrangements and offshore insurers and reinsurers.
Sec. 11. Requirement to provide terrorism coverage.
Sec. 12. State preemption.
Sec. 13. Consistent State guidelines for coverage for acts of terrorism.
Sec. 14. Consultation with State insurance regulators and NAIC.
Sec. 15. Study of potential effects of terrorism on life insurance industry.
Sec. 16. Railroad and trucking insurance study.
Sec. 17. Study of reinsurance pool system for future acts of terrorism.
Sec. 18. Definitions.
Sec. 19. Covered period and extension of program.
Sec. 20. Regulations.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the terrorist attacks on the World Trade Center and the Pentagon of September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and interruption of business operations;

(2) the attacks have inflicted possibly the largest losses ever incurred by insurers and reinsurers in a single day;

(3) while the insurance and reinsurance industries have committed to pay the losses arising from the September 11 attacks, the resulting disruption has created widespread market uncertainties with regard to the risk of losses arising from possible future terrorist attacks;

(4) such uncertainty threatens the continued availability of United States commercial property and casualty insurance for terrorism risk at meaningful coverage levels;

(5) the unavailability of affordable commercial property and casualty insurance for terrorist acts threatens the growth and stability of the United States economy, including impeding the ability of financial services providers to finance commercial property acquisitions and new construction;

(6) in the past, the private insurance and reinsurance markets have shown a remarkable resiliency in adapting to changed circumstances;

(7) given time, the private markets will diversify and develop risk spreading mechanisms to increase capacity and guard against possible future losses incurred by terrorist attacks;

(8) it is necessary to create a temporary industry risk sharing program to ensure the continued availability of commercial property and casualty insurance and reinsurance for terrorism-related risks;

(9) such action is necessary to limit immediate market disruptions, encourage economic stabilization, and facilitate a transition to a viable market for private terrorism risk insurance; and

(10) terrorism insurance plays an important role in the efficient functioning of the economy and the financing of commercial property acquisitions and new construction and, therefore, the Congress intends to continue to monitor, review, and evaluate the private terrorism insurance and reinsurance marketplace to determine whether additional action is necessary to maintain the long-term stability of the real estate and capital markets.

SEC. 3. AUTHORITY OF SECRETARY OF THE TREASURY.

The Secretary of the Treasury shall be responsible for carrying out a program for financial assistance for commercial property and casualty insurers, as provided in this Act.

SEC. 4. SUBMISSION OF PREMIUM INFORMATION TO SECRETARY.

To the extent such information is not otherwise available to the Secretary, the Secretary may require each insurer to submit, to the Secretary or to the NAIC, a statement specifying the net premium amount of coverage written by such insurer under each line of commercial property and casualty insurance sold by such insurer during such periods as the Secretary may provide.

SEC. 5. INITIAL AND SUBSEQUENT TRIGGERING DETERMINATIONS.

(a) IN GENERAL.—For purposes of this Act, a "triggering determination" is a determination by the Secretary that—

(1) an act of terrorism has occurred during the covered period; and

(2) the industry-wide losses resulting from such occurrence or from multiple occurrences of acts of terrorism all occurring during the covered period, exceed $100,000,000.

(b) DETERMINATIONS REGARDING OCCURRENCES.—The Secretary, after consultation with the Attorney General of the United States and the Secretary of State, shall have the sole authority which may not be delegated or designated to any other officer, employee, or position, for determining whether—

(1) an occurrence was caused by an act of terrorism; and

(2) an act of terrorism occurred during the covered period.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) IN GENERAL.—Pursuant to a triggering determination, the Secretary shall provide financial assistance to commercial insurers in accordance with this section to the extent provided under this section to cover eligible insured losses resulting from acts of terrorism, which shall be repaid in accordance with subsection (g).

(b) INDUSTRY OBLIGATION AMOUNT.—For purposes of this section, the industry obligation amount in connection with a triggering determination is the following amount:

(1) INITIAL COVERED PERIOD.—In the case of a triggering determination occurring during the covered period specified in section 19(a), the difference between—

(A) $5,000,000,000; and

(B) the aggregate amount of industry-wide losses resulting from the triggering events involved in any triggering determinations preceding such triggering determination.

(2) EXTENDED COVERED PERIOD.—If the Secretary exercises the authority under section 19(b) to extend the covered period, in the case of a triggering determination occurring during the portion of the covered period consisting of such extension, the difference between—

(A) $10,000,000,000; and

(B) the aggregate amount of industry-wide losses resulting from the triggering events involved in any triggering determinations preceding such triggering determination.

(c) ELIGIBLE INSURED LOSSES.—For purposes of this section, the term "eligible insured losses" means, with respect to a triggering determination, any insured losses resulting from the triggering event involved that are in excess of the industry obligation amount for such triggering determination.

(d) AMOUNT OF FINANCIAL ASSISTANCE.—Subject to subsection (e), with respect to a triggering determination, financial assistance shall be made available under this section to each commercial insurer in an amount equal to 90 percent of the amount of the eligible insured losses of the insurer as a result of the triggering event involved.

(e) Limitations.—

(1) Aggregate limitation.—The aggregate amount of financial assistance provided pursuant to this section may not exceed $100,000,000,000.

(2) Notice to congress.—The Secretary shall notify the Congress if the amount of financial assistance provided pursuant to this section reaches $100,000,000,000 and the Congress shall determine the procedures for, and the source of, any additional payments of financial assistance to cover such additional insured losses.

(3) Default on assessments and surcharges.—The Secretary may establish such limitations as may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that are not in default of any obligation under this section or section 7 to pay assessments or under section 8 to collect surcharges.

(f) Annual Limit on Individual Insurer Liability.—

(1) Definitions.—For purposes of this subsection, the following definitions shall apply:

(A) Annual insurer limit.—The term "annual insurer limit" means, with respect to a commercial insurer and a program year, the amount equal to 7 percent of the aggregate premium amount of all commercial property and casualty insurance coverage, written by such insurer during the calendar year preceding such program year, under all lines of commercial property and casualty insurance.

(B) Limitable losses.—The term "limitable losses" means, for any program year, the industry-wide losses in such program year that do not exceed the dollar amount specified in subsection (b)(1)(A) or (b)(2)(A), as applicable to the program year.

(C) Program year.—The term "program year" means the period beginning on the date of the enactment of this Act and ending on January 1, 2003. If the Secretary extends the covered period pursuant to section 20(b), each calendar year (or portion thereof) covered by such extension shall be a program year for purposes of this subsection.

(2) Triggering of industry assessments.—If, for any program year, the amount of the limitable losses for such program year that are incurred by any single commercial insurer exceed the annual insurer limit for the commercial insurer for such program year, the Secretary shall apportion the amount of such excess limitable losses pursuant to assessments under paragraph (3).

(3) Industry assessments to cover losses exceeding loss limit.—For each program year, the Secretary shall, as soon as practicable, determine the aggregate amount of excess limitable losses described in paragraph (2), for all commercial insurers. Subject to paragraph (4), the Secretary shall assess, to each commercial insurer not described in paragraph (2), a portion of such aggregate limitable losses based on the proportion, written by each such commercial insurer, of the aggregate written premium for the calendar year preceding such program year.

(4) Operation of annual insurer limit to assessments.—The sum of the amount of limitable losses incurred by a commercial insurer in a program year and the aggregate amount of an assessment under this subsection to such insurer may not in any case exceed the annual insurer limit for the insurer.

(5) Notice.—Upon determining the amount of the assessments under this subsection for a program year, the Secretary shall, as soon as practicable, provide written notice to each commercial insurer that is subject to an assessment of the amount of the assessment and the deadline pursuant to paragraph (6) for payment of the assessment.

(6) Payment.—Each commercial insurer that is subject to an assessment under this subsection shall pay to the Secretary the amount of the assessment not later than 60 days after the Secretary provides notice of the assessment under paragraph (5).

(7) Distribution of assessment amounts.—Upon receiving payment of assessments under this subsection, the Secretary shall promptly distribute all such amounts among commercial insurers described in paragraph (2), based on limitable losses incurred in excess of the annual insurer limits for such insurers. The Secretary may take such actions, including making such adjustments and reimbursements, as may be necessary to carry out the purposes of this subsection.

(g) Repayment.—Financial assistance made available under this section shall be repaid through assessments under section 7 collected by the Secretary and surcharges remitted to the Secretary under section 8. Any such amounts collected or remitted shall be deposited into the general fund of the Treasury.

(h) Final Netting.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(i) Finality of Determinations.—Any determination of the Secretary under this section shall be final, and shall not be subject to judicial review.

(j) Emergency Designation.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this section as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. 7. ASSESSMENTS.

(a) In General.—In the case of a triggering determination, each commercial insurer shall be subject to assessments under this section for the purpose of repaying a portion of the financial assistance made available under section 6 in connection with such determination.

(b) Aggregate Assessment.—Pursuant to a triggering determination, the Secretary shall determine the aggregate amount (if any) to be assesseed under this section among all commercial insurers, which shall be equal to the lesser of—

(1) the difference between—

(A) $20,000,000,000; and

(B) the dollar amount specified in paragraph (1)(A) or (2)(A) of section 6(b), as applicable for such triggering determination; and

(2) the amount of financial assistance paid under section 6 in connection with the triggering determination.

(c) Method and Timing.—

(1) In general.—The aggregate assessment amount in connection with a triggering determination shall be assessed through one or more, as may be necessary pursuant to paragraph (3), assessments under this section.

(2) Timing.—An assessment under this section in connection with a triggering determination shall be imposed only upon the expiration of any 12-month period beginning after such determination during which no other assessments under this section have been imposed.

(3) Limitation.—The aggregate amount of any assessments imposed under this section on any single commercial insurer during any 12-month period shall not exceed the amount that is equal to 3 percent of the net premium for such insurer for such period.

(d) Allocation.—The portion of the aggregate amount of any assessment under this section that is allocated to each commercial insurer shall be based on the ratio that the net premium written by such commercial insurer during the year during which the assessment is imposed bears to the aggregate written premium for such year, subject to section 9 and the limitation under subsection (c)(3) of this section.

(e) Notice and Obligation to Pay.—

(1) Notice.—As soon as practicable after any triggering determination, the Secretary shall notify each commercial insurer in writing of an assessment under this section, which notice shall include the amount of the assessment allocated to such insurer.

(2) Effect of notice.—Upon notice to a commercial insurer, the commercial insurer shall be obligated to pay to the Secretary, not later than 60 days after receipt of such notice, the amount of the assessment on such commercial insurer.

(3) Failure to make timely payment.—If any commercial insurer fails to pay an assessment under this section before the deadline established under paragraph (2) for the assessment, the Secretary may take either or both of the following actions:

(A) Civil monetary penalty.—Assess a civil monetary penalty pursuant to section 9(d) upon such insurer.

(B) Interest.—Require such insurer to pay interest, at such rate as the Secretary considers appropriate, on the amount of the assessment that was not paid before the deadline established under paragraph (2).

(f) Administrative Flexibility.—

(1) Adjustment of assessments.—The Secretary may provide for or require estimations of amounts under this section and may provide for subsequent refunds or require additional payments to correct such estimations, as appropriate.

(2) Deferral of contributions.—The Secretary may defer the payment of part or all of an assessment required under this section to be paid by a commercial insurer, but only to the extent that the Secretary determines that such deferral is necessary to avoid the likely insolvency of the commercial insurer.

(3) Timing of assessments.—The Secretary shall make adjustments regarding the timing and imposition of assessments (including the calculation of net premiums and aggregate written premium) as appropriate for commercial insurers that provide commercial property and casualty insurance on a non-calendar year basis.

SEC. 8. TERRORISM LOSS REPAYMENT SURCHARGE.

(a) Determination of Imposition and Collection.—

(1) In general.—If, pursuant to a triggering determination, the Secretary determines that the aggregate amount of financial assistance provided pursuant to section 6 exceeds the amount determined pursuant to section 7(b)(1), the Secretary shall consider and weigh the factors under paragraph (2) to determine the extent to which a surcharge under this section should be established.

(2) FACTORS.—The factors under this paragraph are—

(A) the ultimate costs to taxpayers if a surcharge under this section is not established;

(B) the economic conditions in the commercial marketplace;

(C) the affordability of commercial insurance for small- and medium-sized business; and

(D) such other factors as the Secretary considers appropriate.

(3) POLICYHOLDER PREMIUM.—Any amount established by the Secretary as a surcharge under this section shall be established and imposed as a policyholder premium surcharge on commercial property and casualty insurance written after such determination, for the purpose of repaying financial assistance made available under section 6 in connection with such triggering determination.

(4) COLLECTION.—The Secretary shall provide for commercial insurers to collect surcharge amounts established under this section and remit such amounts collected to the Secretary.

(b) AMOUNT AND DURATION.—Subject to subsection (c), the surcharge under this section shall be established in such amount, and shall apply to commercial property and casualty insurance written during such period, as the Secretary determines is necessary to recover the aggregate amount of financial assistance provided under section 6 in connection with the triggering determination that exceeds the amount determined pursuant to section 7(b)(1).

(c) PERCENTAGE LIMITATION.—The surcharge under this section applicable to commercial property and casualty insurance coverage may not exceed, on an annual basis, the amount equal to 3 percent of the premium charged for such coverage.

(d) OTHER TERMS.—The surcharge under this section shall—

(1) be based on a percentage of the premium amount charged for commercial property and casualty insurance coverage that a policy provides; and

(2) be imposed with respect to all commercial property and casualty insurance coverage written during the period referred to in subsection (b).

(e) EXCLUSIONS.—For purposes of this section, commercial property and casualty insurance does not include any reinsurance provided to primary insurance companies.

SEC. 9. ADMINISTRATION OF ASSESSMENTS AND SURCHARGES.

(a) MANNER AND METHOD.—

(1) IN GENERAL.—Except to the extent specified in such sections, the Secretary shall provide for the manner and method of carrying out assessments under section 7 and surcharges under section 8, including the timing and procedures of making assessments and surcharges, notifying commercial insurers of assessments and surcharge requirements, collecting payments from and surcharges through commercial insurers, and refunding of any excess amounts paid or crediting such amounts against future assessments.

(2) EFFECT OF ASSESSMENTS AND SURCHARGES ON URBAN AND SMALLER COMMERCIAL AND RURAL AREAS AND DIFFERENT LINES OF INSURANCE.—In determining the method and manner of imposing assessments under section 7 and surcharges under section 8, including the amount of such assessments and surcharges, the Secretary shall take into consideration—

(A) the economic impact of any such assessments and surcharges on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums charged to small businesses, and the availability of lease space and commercial insurance within urban areas;

(B) the risk factors related to rural areas and smaller commercial centers, including the potential exposure to loss and the likely magnitude of such loss, as well as any resulting cross-subsidization that might result; and

(C) the various exposures to terrorism risk for different lines of commercial property and casualty insurance.

(b) TIMING OF COVERAGES AND ASSESSMENTS.—The Secretary may adjust the timing of coverages and assessments provided under this Act to provide for equivalent application of the provisions of this Act to commercial insurers and policies that are not based on a calendar year.

(c) ADJUSTMENT.—The Secretary may adjust the assessments charged under section 7 or the percentage imposed under the surcharge under section 8 at any time, as the Secretary considers appropriate to protect the national interest, which may include avoiding unreasonable economic disruption or excessive market instability and avoiding undue burdens on small businesses.

(d) CIVIL MONETARY PENALTY.—

(1) IN GENERAL.—The Secretary may assess a civil monetary penalty in an amount not exceeding the amount under paragraph (2) against any commercial insurer that the Secretary determines, on the record after opportunity for a hearing—

(A) has failed to pay an assessment under section 7 in accordance with the requirements of, or regulations issued, under this Act;

(B) has failed to charge, collect, or remit surcharges under section 8 in accordance with the requirements of, or regulations issued under, this Act;

(C) has intentionally provided to the Secretary erroneous information regarding premium or loss amounts; or

(D) has otherwise failed to comply with the provisions of, or the regulations issued under, this Act.

(2) AMOUNT.—The amount under this paragraph is the greater of $1,000,000 and, in the case of any failure to pay, charge, collect, or remit amounts in accordance with this Act or the regulations issued under this Act, such amount in dispute.

SEC. 10. APPLICATION TO SELF-INSURANCE ARRANGEMENTS AND OFFSHORE INSURERS AND REINSURERS.

(a) SELF-INSURANCE ARRANGEMENTS.—The Secretary may, in consultation with the NAIC, apply the provisions of this Act, as appropriate, to self-insurance arrangements by municipalities and other entities, but only if such application is determined before the occurrence of a triggering event and all of the provisions of this Act are applied uniformly to such entities.

(b) OFFSHORE INSURERS AND REINSURERS.—The Secretary shall ensure that the provisions of this Act are applied as appropriate to any offshore or non-admitted entities that provide commercial property and casualty insurance.

SEC. 11. REQUIREMENT TO PROVIDE TERRORISM COVERAGE.

The Secretary shall require each commercial insurer to include, in each policy for commercial property and casualty insurance coverage made available, sold, or otherwise provided by such insurer, coverage for insured losses resulting from the occurrence of an act of terrorism that—

(1) does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism;

(2) may not be eliminated, waived, or excluded, by mutual agreement, request or consent of the policyholder, or otherwise; and

(3) that meets any other criteria that the Secretary may reasonably prescribe.

SEC. 12. STATE PREEMPTION.

(a) COVERED PERILS.—A commercial insurer shall be considered to have complied with any State law that requires or regulates the provision of insurance coverage for acts of terrorism if the insurer provides coverage in accordance with the definitions regarding acts of terrorism under this Act or under any regulations issued by the Secretary.

(b) RATE LAWS.—If any provision of any State law prevents an insurer from increasing its premium rates in an amount necessary to recover any assessments pursuant to section 7, such provision is preempted only to the extent necessary to provide for such insurer to recover such losses.

(c) FILE AND USE.—

(1) IN GENERAL.—With respect only to commercial property and casualty insurance covering acts of terrorism, any provision of State law that requires, as a condition precedent to the effectiveness of rates or policies for such insurance that is made available by an insurer licensed to transact such business in the State, any action (including prior approval by the State insurance regulator for such State) other than filing of such rates and policies and related information with such State insurance regulator is preempted to the extent such law requires such additional actions for such insurance coverage.

(2) SUBSEQUENT REVIEW AUTHORITY.—Paragraph (1) shall not be considered to preempt a provision of State law solely because the law provides that rates and policies for such insurance coverage are, upon such filing, subject to subsequent review and action, which may include actions to disapprove or discontinue use of such rates or policies, by the State insurance regulator.

(3) TREATMENT OF PRIOR REVIEW PROVISIONS.—Any authority for prior review and action by a State regulator preempted under paragraph (1) shall be deemed to be authority to conduct a subsequent review and action on such filings.

SEC. 13. CONSISTENT STATE GUIDELINES FOR COVERAGE FOR ACTS OF TERRORISM.

(a) SENSE OF CONGRESS REGARDING COVERED PERILS.—It is the sense of the Congress that—

(1) the NAIC, in consultation with the Secretary, should develop appropriate definitions for acts of terrorism that are consistent with this Act and appropriate standards for making determinations regarding occurrences of acts of terrorism;

(2) each State should adopt the definitions and standards developed by the NAIC for purposes of regulating insurance coverage made available in that State;

(3) in consulting with the NAIC, the Secretary should advocate and promote the development of definitions and standards that are appropriate for purposes of this Act; and

(4) after consultation with the NAIC, the Secretary should adopt further definitions for acts of terrorism and standards for determinations that are appropriate for this Act.

(b) INSURANCE RESERVE GUIDELINES.—

(1) SENSE OF CONGRESS REGARDING ADOPTION BY STATES.—It is the sense of the Congress that—

(A) the NAIC should develop appropriate guidelines for commercial insurers and pools regarding maintenance of reserves against the risks of acts of terrorism; and

(B) each State should adopt such guidelines for purposes of regulating commercial insurers doing business in that State.

(2) Consideration of adoption of national guidelines.—Upon the expiration of the 6-month period beginning on the date of the enactment of this Act, the Secretary shall make a determination of whether the guidelines referred to in paragraph (1) have, by such time, been developed and adopted by nearly all States in a uniform manner. If the Secretary determines that such guidelines have not been so developed and adopted, the Secretary shall consider adopting, and may adopt, such guidelines on a national basis in a manner that supercedes any State law regarding maintenance of reserves against such risks.

(c) Guidelines Regarding Disclosure of Pricing and Terms of Coverage.—

(1) Sense of congress.—It is the sense of the Congress that the States should require, by laws or regulations governing the provision of commercial property and casualty insurance that includes coverage for acts of terrorism, that the price of any such terrorism coverage, including the costs of any terrorism related assessments or surcharges under this Act, be separately disclosed.

(2) Adoption of national guidelines.—If the Secretary determines that the States have not enacted laws or adopted regulations adequately providing for the disclosures described in paragraph (1) within a reasonable period of time after the date of the enactment of this Act, the Secretary shall, after consultation with the NAIC, adopt guidelines on a national basis requiring such disclosure in a manner that supercedes any State law regarding such disclosure.

SEC. 14. CONSULTATION WITH STATE INSURANCE REGULATORS AND NAIC.

(a) In General.—The Secretary shall consult with the State insurance regulators and the NAIC in carrying out this Act.

(b) Financial Assistance, Assessments, and Surcharges.—The Secretary may take such actions, including entering into such agreements and providing such technical and organizational assistance to insurers and State insurance regulators, as may be necessary to provide for the distribution of financial assistance under section 6 and the collection of assessments under section 7 and surcharges under section 8.

(c) Investigating and Auditing Claims.—The Secretary may, in consultation with the State insurance regulators and the NAIC, investigate and audit claims of insured losses by commercial insurers and otherwise require verification of amounts of premiums or losses, as appropriate.

SEC. 15. STUDY OF POTENTIAL EFFECTS OF TERRORISM ON LIFE INSURANCE INDUSTRY.

(a) Establishment.—Not later than 30 days after the date of enactment of this Act, the President shall establish a commission (in this section referred to as the "Commission") to study and report on the potential effects of an act or acts of terrorism on the life insurance industry in the United States and the markets served by such industry.

(b) Membership and Operations.—

(1) Appointment.—The Commission shall consist of 7 members, as follows:

(A) The Secretary of the Treasury or the designee of the Secretary.

(B) The Chairman of the Board of Governors of the Federal Reserve System or the designee of the Chairman.

(C) The Assistant to the President for Homeland Security.

(D) 4 members appointed by the President, who shall be—

(i) a representative of direct underwriters of life insurance within the United States;

(ii) a representative of reinsurers of life insurance within the United States;

(iii) an officer of the NAIC; and

(iv) a representative of insurance agents for life underwriters.

(2) Operations.—The chairperson of the Commission shall determine the manner in which the Commission shall operate, including funding, staffing, and coordination with other governmental entities.

(c) Study.—The Commission shall conduct a study of the life insurance industry in the United States, which shall identify and make recommendations regarding—

(1) possible actions to encourage, facilitate, and sustain the provision, by the life insurance industry in the United States, of coverage for losses due to death or disability resulting from an act or acts of terrorism, including in the face of threats of such acts; and

(2) possible actions or mechanisms to sustain or supplement the ability of the life insurance industry in the United States to cover losses due to death or disability resulting from an act or acts of terrorism in the event that—

(A) such acts significantly affect mortality experience of the population of the United States over any period of time;

(B) such losses jeopardize the capital and surplus of the life insurance industry in the United States as a whole; or

(C) other consequences from such acts occur, as determined by the Commission, that may significantly affect the ability of the life insurance industry in the United States to independently cover such losses.

(d) Recommendations.—The Commission may make a recommendation pursuant to subsection (c) only upon the concurrence of a majority of the members of the Commission.

(e) Report.—Not later than 120 days after the date of enactment of this Act, the Commission shall submit to the House of Representatives and the Senate a report describing the results of the study and any recommendations developed under subsection (c).

(f) Termination.—The Commission shall terminate 60 days after submission of the report pursuant to subsection (e).

SEC. 16. RAILROAD AND TRUCKING INSURANCE STUDY.

The Secretary of the Treasury shall conduct a study to determine how the Federal Government can address a possible crisis in the availability and affordability of railroad and trucking insurance by making such insurance for acts of terrorism available on commercially reasonable terms. Not later than 120 days after the date of the enactment of this Act the Secretary shall submit to the Congress a report regarding the results and conclusions of the study.

SEC. 17. STUDY OF REINSURANCE POOL SYSTEM FOR FUTURE ACTS OF TERRORISM.

(a) Study.—The Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States shall jointly conduct a study on the advisability and effectiveness of establishing a reinsurance pool system relating to future acts of terrorism to replace the program provided for under this Act.

(b) Consultation.—In conducting the study under subsection (a), the Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General shall consult with (1) academic experts, (2) the United Nations Secretariat for Trade and Development, (3) representatives from the property and casualty insurance industry, (4) representatives from the reinsurance industry, (5) the NAIC, and (6) such consumer organizations as the Secretary considers appropriate.

(c) Report.—Not later than 6 months after the date of the enactment of this Act, the Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General shall jointly submit a report to the Congress on the results of the study under subsection (a).

SEC. 18. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) Act of terrorism.—

(A) In general.—The term "act of terrorism" means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary in consultation with the NAIC.

(B) Requirements.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States;

(iii) is committed by a person or group of persons or associations who are recognized, either before or after such act, by the Department of State or the Secretary as an international terrorist group or have conspired with such a group or the group's agents or surrogates;

(iv) has as its purpose to overthrow or destabilize the government of any country, or to influence the policy or affect the conduct of the government of the United States or any segment of the economy of United States, by coercion; and

(v) is not considered an act of war, except that this clause shall not apply with respect to any coverage for workers compensation.

(2) Affiliate.—The term "affiliate" means, with respect to an insurer, any company that controls, is controlled by, or is under common control with the insurer.

(3) Aggregate written premium.—The term "aggregate written premium" means, with respect to a year, the aggregate premium amount of all commercial property and casualty insurance coverage written during such year under all lines of commercial property and casualty insurance.

(4) Commercial insurer.—The term "commercial insurer" means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurer.

(5) Commercial property and casualty insurance.—

(A) In general.—The term "commercial property and casualty insurance" means insurance or reinsurance, or retrocessional reinsurance, for persons or properties in the United States against—

(i) loss of or damage to property;

(ii) loss of income or extra expense incurred because of loss of or damage to property;

(iii) third party liability claims caused by negligence or imposed by statute or contract, including workers compensation; or

(iv) loss resulting from debt or default of another.

(B) EXCLUSIONS.—Such term does not include—

(i) insurance for homeowners, tenants, private passenger nonfleet automobiles, mobile homes, or other insurance for personal, family, or household needs;

(ii) insurance for professional liability, including medical malpractice, errors and omissions, or directors' and officers' liability; or

(iii) health or life insurance.

(6) CONTROL.—A company has control over another company if—

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the other company; or

(C) the Secretary determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the other company.

(7) COVERED PERIOD.—The term "covered period" has the meaning given such term in section 19.

(8) INDUSTRY-WIDE LOSSES.—The term "industry-wide losses" means the aggregate insured losses sustained by all insurers from coverage written under all lines of commercial property and casualty insurance.

(9) INSURED LOSS.—The term "insured loss" means any loss, net of reinsurance and retrocessional reinsurance, covered by commercial property and casualty insurance.

(10) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(11) NET PREMIUM.—The term "net premium" means, with respect a commercial insurer and a year, the aggregate premium amount collected by such commercial insurer for all commercial property and casualty insurance coverage written during such year under all lines of commercial property and casualty insurance by such commercial insurer, less any premium paid by such commercial insurer to other commercial insurers to insure or reinsure those risks.

(12) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(13) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(14) STATE INSURANCE REGULATOR.—The term "State insurance regulator" means, with respect to a State, the principal insurance regulatory authority of the State.

(15) TRIGGERING DETERMINATION.—The term "triggering determination" has the meaning given such term in section 5(a).

(16) TRIGGERING EVENT.—The term "triggering event" means, with respect to a triggering determination, the occurrence of an act of terrorism, or the occurrence of such acts, that caused the insured losses resulting in such triggering determination.

(17) UNITED STATES.—The term "United States" means, collectively, the States (as such term is defined in this section).

SEC. 19. COVERED PERIOD AND EXTENSION OF PROGRAM.

(a) COVERED PERIOD.—Except to the extent provided otherwise under subsection (b), for purposes of this Act, the term "covered period" means the period beginning on the date of the enactment of this Act and ending on January 1, 2003.

(b) EXTENSION OF PROGRAM.—If the Secretary determines that extending the covered period is necessary to ensure the adequate availability in the United States of commercial property and casualty insurance coverage for acts of terrorism, the Secretary may, subject to subsection (c), extend the covered period by not more than two years.

(c) REPORT.—The Secretary may exercise the authority under subsection (b) to extend the covered period only if the Secretary submits a report to the Congress providing notice of and setting forth the reasons for such extension.

SEC. 20. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to House Resolution 297, the gentleman from New York (Mr. LAFALCE) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to offer a substitute that I believe would greatly improve the bill before us. The substitute in large part reflects the structure of the bill before us, but it makes improvements to the bill in three very crucial areas.

First of all, it requires the individual insurers to retain a more significant share of initial losses, providing for a real, up-front deductible.

Second, it requires that terrorism coverage be included with all property and casualty insurance, eliminating the ability of insurers to cherry-pick safer properties, while placing coverage out of the reach of others.

Third, it eliminates the extraneous limitations on victims' recovery rights that are not necessary to address this problem and have no place in this bill or any bill. There will be no bill that contains these provisions.

Let me address each of these in turn. The deductible included in my substitute would require the insurance industry to pay the first $5 billion of insured losses in the first year, increasing to $10 billion in the second and third years. Interestingly, the insurance industry, the Senate, and administration negotiators said they could accept a bill with a $10 billion deductible in the first year. My substitute has a $5 billion deductible. The bill before us has no deductible. There should be a deductible.

The deductible would be met in the first instance by individual insurers who would be responsible for 100 percent of the losses suffered by their policyholders up to a cap of 7 percent of the insurer's premium income. This first dollar of loss retention is critical to the maintenance of sound underwriting practices by the insurance industry, and it will make it much easier for a private reinsurance market to reemerge. It will also make it less likely that the Federal Government will need to step in to cover losses. Some events could be covered entirely by the deductible. It would keep the Federal Government out unless it were absolutely imperative that the Federal Government enter.

This kind of deductible has the support of a broad and diverse coalition of taxpayer, consumer, and environmental groups, each of which believe it is important that insurers should pay some level of initial loss in its entirety. And the concept of a deductible of up to $10 billion in the first year was agreed to by the Treasury Department of the Bush administration in their conversations with the Senate. Again, the main bill before us has no deductible. The substitute does. We should have a deductible.

Second, to avoid the cherry-picking, my substitute, unlike the Republican bill, would mandate terrorist coverage. This will prevent insurers from providing terrorism coverage only on properties that are perceived as low risk while leaving large portions of the economy uncovered. This provision would help to ensure that terrorism coverage is affordable by spreading the risk across the broadest possible base. By ensuring that this coverage would be included in all property and casualty policies, as it is today, it would help to cushion the effects on businesses of any further terrorist attacks by eliminating the temptation for commercial property holders and businesses to "opt out" of terrorism coverage. Do not forget, property and casualty properties today include terrorism coverage.

Finally, my bill does not limit victims' rights by denying them the legal redress that they deserve. For reasons completely extraneous to the current insurance crisis, the White House and the Republican leadership are pursuing, by means of this legislation, long-sought restrictions going back 20–30 years on the rights of victims. They seek to minimize the compensation needed to make the victims of terrorism whole. These restrictions on victims' rights will create disincentives for businesses to do all that they reasonably can to prevent another terrorist attack and make America safer.

I urge Members' support for this substitute. It is basically the House bill, with those changes I have articulated. In the short amount of time that we have left to address the serious threat to our economy, I believe the substitute represents a much-improved response to meeting our responsibilities.

Mr. Speaker, I reserve the balance of my time.

Mr. BACHUS. Mr. Speaker, I claim the time in opposition to the amendment in the nature of a substitute.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. BACHUS) is recognized for 30 minutes.

Mr. BACHUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are several problems that the membership ought to have with this amendment, things that I hope that the gentleman from New York (Mr. LAFALCE) will respond to, concerns which we have.

My first concern is that we are mandating that anyone who takes out commercial insurance must also take out coverage for terrorism. Now, in the towns and the cities and rural areas that I represent, there are a lot of small businessmen who do not think that they need insurance to ensure against terrorism.

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Actually, I have farmers in my district. They have chicken houses, I would say to the gentleman from New York. Those farmers do not feel like those chicken houses and those chickens need insurance against terrorism. They do not believe that there is much of a possibility of a terrorist planting a bomb in one of those chicken houses. I have a lot of repair shops in my district that repair used automobiles. The people that own those businesses and that pay liability insurance and take out coverage on those businesses, they do not believe that they need to be paying for insurance to cover that auto body shop or that beauty shop. I have a lot of beauticians, I would say to the gentleman from New York. I have a lot of beauticians in my district. They have a lot of beauty shops. They really do not believe that they ought to be compelled by the Federal Government to take out insurance to insure against terrorists. In fact, they may not be able to afford it.

But what this substitute does, it requires anyone that takes out a commercial policy on any business, whether it is a beauty shop, a barber shop, an auto mechanic store, a chicken house, a small grocery store, it requires you to take out and insure against a terrorist act. I have a lot of businesses in my district that quite simply are having trouble paying for the insurance that they have. There is no opt-out. I can insure against theft, I can insure against fire, I can insure against vandalism; but I may not want to insure against terrorism. I may own a small business. I may get a quote of $12,000 a year for basic coverage and another $1,000 or $1,500 a year to insure against terrorism. I may say, I don't want terrorism covered.

I would say to the gentleman from New York, it is my understanding that his amendment, and correct me if I am wrong, but it is my understanding that his amendment requires anyone who takes out a commercial policy to protect their place of business, that they must also insure against terrorism. I would stop right there and I would reserve the balance of my time and ask the gentleman so we can have a coherent discussion of this, is in fact he mandating that every American that takes out insurance coverage on their place of business, that they must insure against terrorism no matter what the cost of that premium?

Mr. Speaker, I will reserve the balance of my time and let the gentleman address that question.

Mr. LAFALCE. Mr. Speaker, I could have a colloquy with the gentleman on his time, but I do not have time. If the gentleman wants to do it on his time, I would be glad to have a colloquy.

Mr. BACHUS. I would say this to the gentleman. I will answer the question and he can correct me if I am wrong. Section 11 of his amendment, a requirement to provide terrorism coverage, and it says that this coverage may not be eliminated, waived or excluded by mutual agreement, request or consent of the policyholder or otherwise. That is what it says. It says you cannot exclude coverage for that. It may not be eliminated, may not be waived, may not be excluded from a commercial policy even by mutual agreement or by request or consent of the policyholder. That is what it says. It is the plain wording.

I would hope the gentleman did not intend to say that to every American who has an insurance policy on a piece of property. There is an option. The option is that you just do not get insurance. But I think the gentleman from New York is saying if you do get insurance, you will have to have terrorist coverage and you will have to pay for that coverage.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, quite the contrary to the distinguished gentleman from Alabama, the LaFalce substitute spreads the risk. What it simply does is it says that if you are a small business, a chicken farmer, you need to make sure that insurance companies around the world or in this Nation have the obligation to insure you and protect you. That is what we are arguing about today. That is why I rise today to support the LaFalce substitute and also to say I would have liked to have supported a clean underlying bill. I believe it is important to provide this kind of reinsurance for our insurance companies, not for the institutions but for the people of America.

I would also say to my colleagues, I wish I was debating resources for those who are unemployed, particularly as we face some 500,000 individuals in the State of Texas. Additionally in my own congressional district we have a company that is now teetering on the brink. I may see tomorrow 3, 4, 6,000 people laid off. This House has failed in its duty to provide unemployment insurance for those who are laid off. But let us speak about the underlying bill and why the LaFalce substitute is the right direction to go.

First of all, the bill that is before us denies victims' rights. It in fact denies noneconomic damages, economic damages and punitive damages. It indicates that if you are a plaintiff and you are impacted by a terrorist act, you could not go into court and receive any benefits or receive any coverage from your insurance company if you were not physically injured. That means all the wives and husbands who lost loved ones, who lost their husbands or wives on September 11 in that heinous terrorist act could not recover for the pain and suffering, for the loss of consortium. I believe that we have a better direction to go. And in fact I am delighted that the LaFalce bill does not have the tax provisions in it. I believe it is extremely important that we find a way to engage the insurance companies but not give away money.

The underlying bill provides assistance, Federal dollars, one dollar past a billion dollars. In fact, the insurance companies said, We're willing to pay $5 billion in losses. The LaFalce bill has $5 billion in 1 year and I think $10 billion after the 1 year. We are giving away money in the underlying bill.

The substitute is a clean bill that directs its attention and its energies toward the problem. What is the problem? We want to be able to ensure that insurance companies will be able to insure Americans, businesses, citizens of the United States in light of terrorist attacks. And we want to do it fairly, and we want to do it forthrightly. We do not want to deny individuals their access to the courts where they cannot go in and secure recovery for those who have maliciously not done their duty and therefore caused an enhanced injury to someone such as, for example, a baggage handling company that did not do the proper security so that something dangerous happened on the airline.

I support the LaFalce bill because it is a straight-up answer to the insurance problem, and it also provides for insurance for all Americans.

Mr. Speaker, the September 11 terrorist attacks have devastated many industries and sectors of the American economy, including the insurance industry.

The legislation before us today, H.R. 3210, has been rushed to the House floor because the insurance industry has stated that, while it will be able to cover the estimated $40 billion in claims resulting from the Sept. 11 terrorist attacks, any new and renewed policies will not cover terrorist-inflicted damage unless the government helps cover that unknown liability. This is an issue of great concern to Congress and to the Nation.

While I cannot support this bill as it currently stands, I would like to state, at the outset, that I join my colleagues in calling for swift passage of a terrorism reinsurance bill. Such legislation is greatly needed and Congress can make a great difference here, as we have done in the past.

As we all know, Congress acted swiftly and deliberately in the recent Airlines bailout plan in the amount of $15 billion to save this important industry which was so severely devastated by the September 11 attacks. We can act with similar diligence and bi-partisan sensibility to help this important sector of our economy as well.

This is not just an insurance industry problem. Rather, it is a national issue because if the insurance industry cannot reinsure the risk of further terrorist attacks, it will either increase premiums to the detriment of consumers, or simply stop offering terrorism coverage altogether. Furthermore, without adequate insurance coverage, lenders will not be able to lend and new investments will not be made, creating a credit crunch that could have devastating consequences for our economy.

I applaud my colleagues on the Ways and Means Committee in striking provisions that would have provided preferential tax treatment on insurance industry reserves, and instead called for a greatly needed study of the issue. However, I am disappointed in the partisan fiasco in the Rules Committee which turned this once bipartisan effort to protect the insurance industry from terrorism claims into a partisan "tort reform" Trojan horse.

I join my colleagues on the Judiciary Committee and those on the Financial Services Committee who object to the inclusion of Section 15, a tort reform provision, which would effectively ban punitive damages in terrorism-related cases. This is absolutely unnecessary.

Additionally, it is unclear whether the bill applies to actions brought against the insured and the insurer, or just the insurer. I stand with those who support the position that such legislation limits tort actions against the insurer, but not the insured.

We must also ensure that terrorism coverage is available and affordable for all consumers and businesses, and avoid "cherry picking" where companies insure "good risks" and leave other segments of economy uncovered. To this end we can and should avoid that problem by ensuring that terrorism coverage is required as part of basic property and casualty coverage.

Finally, there is no need or justification for the tax provisions in the bill, which unnecessarily provides the industry with a long-term tax subsidy which could well exceed what it pays under the bill.

Instead, I lend my support to the LaFalce substitute. It includes, for example, an industry deductible and requires each company to meet its deductible before receiving federal assistance. It also requires terrorism coverage as part of commercial property and casualty insurance. It also does not limit tort actions or recoveries, and does not contain the offensive tax provisions as does the underlying bill.

Also, it requires the Secretary of the Treasure, in determining whether to establish a surcharge on policyholders, to consider the cost to the taxpayer, economic conditions, affordability of insurance, and other factors. And it includes studies on the impact of terrorism on the life insurance industry and on the advisability of establishing a terrorism reinsurance pool.

Congress can and must act to protect the most vulnerable sectors of our economy, and those who most need assistance. The underlying bill once held the promise of protecting the insurance industry and the millions of Americans dependent on it. However, the version of the bill before us today contains offensive provisions that I simply cannot in good conscience support. As such, I urge my colleagues to vote against the bill and to support the LaFalce substitute.

Mr. BACHUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think we received the answer to our question, and that is that this amendment attempts to require all Americans who own businesses to take out terrorist coverage and to pay for that coverage. In other words, if you have got a beauty shop, the gentleman from New York, his amendment if it passes, you will be required to take out terrorist insurance. If you have got a restaurant, you will be required to take it out and to pay for it.

So I think we have our answer there. As the gentlewoman from Texas says, we want to spread the risk to people that even may not have any risk, may not choose to need insurance. What we are basically telling them is, Not only do you need it, but you'll pay for it, whether you want it or not.

Mr. Speaker, I ask unanimous consent that the gentleman from Ohio (Mr. OXLEY) be permitted to control the remainder of my time for consideration of this amendment.

The SPEAKER pro tempore (Mr. NETHERCUTT). Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Speaker, there are several problems that I have with the substitute that is offered by my distinguished colleague from New York, but I want to touch on two of them in particular. One is the fact that the substitute clearly removes from the committee bill several vital tort reform measures which are in the base bill; and they are in the base bill for a simple reason, for a variety of reasons, but mainly to ensure that in the event that harm is done in a terrorist attack, we want to see a greater share of the payment to the victims actually go to the victims and not a huge windfall going to trial lawyers. That is a big part of what this is about.

That is a serious flaw, but there is another one that I think may be even a bigger flaw in this bill and that is the issue that was raised by my colleague, the distinguished gentleman from Alabama. There is no question, it is very clear, the substitute does impose a new Federal mandate on business, large and small business, every business, specifically by requiring that every commercial insurance policy carry this terrorism provision whether or not the insured wants to buy this provision. It is true that it only applies to commercial policies. You could choose not to buy a commercial policy; but as we all know as a practical matter, you cannot be in business in America today without having a commercial insurance policy. So it really is a universal mandate in that sense.

Think about this. At a time when thousands of businesses are losing money, forced to lay off literally hundreds of thousands of workers in the last several months, layoffs that are continuing today, this substitute, if it were adopted, would force potentially unlimited increases in costs in doing business for every business in America. It says you have got to go out and buy terrorism insurance coverage regardless of what kind of business you are in, regardless of where you are located, regardless of whether or not you perceive yourself to have any risks, and regardless of what it costs. This can only result in more job losses.

I do not know how many folks here have actually gone through the experience of taking their entire life savings, remortgaging their house, borrowing money from family and friends and risking it all to pursue the dream of owning their own business, whether that is a little coffee shop on Tilghman Street in Allentown or a dry cleaner on Chestnut Street in Emmaus or a bookstore in downtown Bethlehem, but I know what that is all about. I have been through that. I think we all know people who have been through that.

These are the people, the people who are willing to take that huge risk to risk everything they have to launch that small business. These are the people and their employees that I am concerned about, and I am concerned about the adverse effect that this provision will have on them. These are the people that are keeping our economy going. These small businesses are the ones that are creating the few new jobs we are creating in our economy. They are creating so many opportunities for so many people. The cards are stacked already against the entrepreneur starting a new business. It is the nature of a new business to have a very risky period.

We have still a crushing tax burden on Americans. We have too much regulation. My argument is let us not stack the deck further against the people who are creating new businesses, running small businesses, creating opportunity. Let us not impose this new costly mandate on them.

Reject the substitute and support the underlying bill.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I had not intended to support the substitute because we wrote a very good bill in the House. Again, I want to commend the chairman and the chairman of the subcommittee as well for the work they did. We worked very hard all day long to put out a good bill; and I thought the approach was the right approach to take in terms of the model, in terms of the deductible, in terms of the way it worked. It combined the pooled premium structure, it protected the taxpayers, it combined the deductible aspect that the administration wanted, and it even had some liability reform, a collateral offset that I was not particularly comfortable with but I thought was the balance we needed because this was also a temporary measure that we were passing, and in fact we made it as temporary as possible. Because I am not very comfortable with us entering the marketplace right now, but I do think it is necessary to get us into the next year so policies can be rewritten, so we do not have the calamity that I discussed that I think other Members are aware of. I know the gentleman from California (Mr. COX) was a securities lawyer before he was here, and he understands how this works and the problems that can occur if we do not do this.

But on the way to the floor, this bill was rewritten and I am left with no choice but to support a substitute that otherwise quite frankly, with all due respect to the gentleman from New York, I would not support because I would support the underlying bill as it was originally written.

I look at the litigation management section in this, and I see a couple of problems. The first problem I see is the question on noneconomic damages that are in here and there is no liability for the defendant if the defendant actually has liability. What if you have a spouse who does not work and is in a building that gets hit by a plane? There are no damages that can be brought. That spouse's worth under the court's eyes is zero dollars. I do not think any Member, whether you are for liability reform or not, thinks that is a particularly good idea.

□ 1430

But the other problem in the haste to write this bill, if you read the section on legal fees the way I read it, it applies to all attorneys. So if defense counsel does their job and wins the case, they can get no more than 20 percent of damages, and if damages are zero, 20 percent of zero, the last time I checked, was still zero. So if the PNC company pays their counsel, which most counsel I know like to get paid, they are not going to be able to pay them anything, or they are going to be subject to fines or imprisonment. So there is a flaw in the bill. I am sure somewhere down the line it will get worked out.

But the bigger concern I have is about this is the bill we ought to pass for the good of the economy, and what this is going to do in the name of "legal reform," which is not what this bill started out about, is it is going to get shot down in the other body and we are either going to be here on December 23 trying to hammer this thing out, or December 24th, or December 25th, maybe we will take the 25th off, the 26th, 27th, trying to work this out, when we had a very good bill in the first place, a bill that made it explicitly clear that the taxpayers would not be on the hook for punitive damages or non-economic damages. But if the defendant, the building owner, the airline owner, was liable in any way for gross negligence, they had to step up to the plate for that liability. That is what we should be doing.

As a result, I am going to have to defy my chairman and support the substitute, because we are left with no other choice. I hope somewhere rationale will prevail and we can get a real bill done.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Staten Island, New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I happen to believe that sometimes when we are confronted with an issue, it is best for Congress to do nothing at times. This is not one of those times. I think we are playing with fire if Congress does not act on passing this legislation this year as soon as possible.

The underlying bill as presented by the chairman is the right vehicle to proceed with. Every day that passes creates more uncertainty, thus more risk and more instability in our economy. It is not just the insurance companies or the reinsurers; it is the very foundation of our Nation.

For example, right now in midtown Manhattan, there is an office project, a major one, being contemplated. It means jobs, it means livelihoods, it means a better quality of life for so many people.

These developers right now are having discussions with their insurance agents. Insurance agents say, we cannot give you this insurance because of the risk associated with a potential terrorist attack. If that does not occur, there may not be and very likely will not be this development project in midtown Manhattan. Hundreds of millions of dollars will stop. That is going to take place across New York and across the country, unless something is done.

I would urge everybody in this Chamber and the other body to come to closure on this as soon as possible, without raising the cost of insurance unnecessarily to small and big business owners across the country, to work cooperatively to do what is right for the American people; not to put the taxpayer on the hook, but to play the vital role that government should play in this capacity, and that is to protect against any potential terrorist attack which, by definition, is random and terrorist in nature. Put it aside, support the underlying bill, and let us move forward.

Mr. LAFALCE. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Mr. KANJORSKI. Mr. Speaker, I speak in favor of the substitute, and it is for a very simple reason. There are three key elements developed in the substitute that I think are important but, more so than being important, I think they make the bill viable so we can get something done.

The previous speaker just indicated that it is important to get something done, and it is. We had something that could have been done, and suddenly some of our friends have lobbed on things called tort reform, or revision, as I call it, changing the whole civil procedure and rights of victims in this country, and I think it caused unfairness.

As my friend the gentleman from Texas (Mr. BENTSEN) pointed out, it seems to me to strip out any benefit or any recovery for non-economic damages and leaves a major part of the victims of this country without coverage.

Now, we are fighting here to make sure real estate can go on, insurance can be sold, business can conclude; and we are going to take care of large entities, big investments, because they are the targets for terrorism. But the small victims, the individual citizens who do not measure into the definition providing the limitations in this bill for victims' recovery, they get nothing or are restricted in their recovery. That is nonsensical.

First of all, it is not going to go anywhere. I plead with the other side. This bill is not going to be the bill. The Senate and White House are in the process of writing another bill which is going to be sent over here, and we are either going to take it or not take it in the waning days of this session.

We have an opportunity, by adopting the substitute that the gentleman from New York (Mr. LAFALCE) has presented, to handle the three key issues. We do provide something the White House and the Senate has indicated they want at all times, deductibility, and the insurance industry did not say that was bad. As a matter of fact, they were in favor of it, $5 billion or $10 billion deductibility.

Two, doing nothing with these victims' rights or tort reform, it does not belong here. We can have another vehicle, another debate, another day, on that issue.

Finally, to provide insurance coverage for everyone, I am led to understand the White House is in favor of that too, because we do not want cherry-picking, we do not want favoritism, and we do not want to lessen the base of those people who are going to stand behind the premiums to pay for the terrorist occasion that occurs before it gets to the taxpayers.

I say that we have a reasonable substitute here that, if we pass it today, can be moved to the Senate very quickly and become the real vehicle for reinsurance protection for terrorism in the United States. Other than that, this is an academic, a political exercise, that will absolutely go nowhere, and we are going to end up, if we do want legislation, and I think it is vitally important, adopting the Senate provisions when they are finally passed.

Mr. OXLEY. Mr. Speaker, I yield myself 30 seconds. I appreciate the gentleman's remarks.

Let everyone understand something. The Senate and the White House apparently have been at this for quite some time and, literally, as we speak, they still have not got their act together. The House of Representatives is on the floor with legislation ready to pass in the next hour, so we have done our job.

So you can talk all you want about what the Senate and White House are doing. We are getting the job done for the people of this country to make certain we have insurance coverage. I think we all should be very, very proud of that.

Mr. Speaker I yield 3½ minutes to the gentleman from California (Mr. COX), a valuable member of our committee.

Mr. COX. Mr. Speaker, I thank the chairman for yielding me time. I particularly wish to thank the gentleman form Ohio (Chairman OXLEY), the gentleman from Louisiana (Chairman BAKER) and the gentleman from Wisconsin (Chairman SENSENBRENNER) for putting together such an important bill for us to move quickly in response to the events of September 11.

This legislation will ensure that victims are compensated after a terrorist loss if another terrorist attack or round of terrorist attacks should occur, quickly, fairly and fully. It will continue, we hope, the opportunity for people throughout our country to have insurance against terrorist risks by using the resources of the Federal Government, of the U.S. taxpayer, as a backstop. But the bill is carefully drafted so that it will not injure taxpayers in the process.

It asks a great deal from the industry. Indeed, it asks the insurance industry to pay the money back, so that taxpayers will not be treated as if they are Osama bin Laden, as if they are culpable for the next round of terrorist attacks.

The substitute, unfortunately, unravels these taxpayer protections. It asks far less of insurance companies than does the bill for which it would be substituting. It asks much more of taxpayers and much less of trial lawyers.

The bill that was so carefully crafted in our committee established a Federal cause of action, to make sure that injured parties could quickly get to court, just as we have already done in this Congress with the victims of September 11, so they could get their money and not have to go through an endless legal process. The substitute simply repeals that protection so that the same-old-same-old will obtain, as it has for the victims of the 1993 World Trade Center bombing. Hundreds of plaintiffs have received, 8 years later, not one penny.

It puts the burden on the consumer in another way. It mandates that consumers buy terrorist risk insurance, rather than offering consumers a choice of high-quality coverage at a reasonable cost. Once the Federal Government mandates that I must buy insurance, if I am the insurer and I know the customer has to buy it, I can offer a lousy product at a high price.

We want to put the consumers in the driver's seat. The whole point is to make sure consumers are protected, and this substitute would repeal that consumer protection.

It would also repeal the fair share rule that is in the bill, and that is the protection for the innocent. If you are innocent, if you are not a terrorist, you should not be treated as if you are one. Yet under the legislation that would be passed in the name of the substitute, the fair share rule would be repealed; and if you are named in a complaint, along with Osama bin Laden who is not before the court, then a jury in any State can say you pay the whole thing, even though you might be only one-half of 1 percent responsible.

President Bush strongly supports the base legislation. His Secretary of the Treasury came to the Hill and asked that we include the litigation management provisions. It is our obligation and our responsibility to pass the bill that was produced by the Committee on Financial Services and by the Committee on the Judiciary staff, who helped us with the litigation management procedures.

I urge strongly that we reject the substitute and its repeal of consumer protections, and I urge us rather rapidly to put this bill into law, the Oxley-Baker-Sensenbrenner base bill.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume to answer a few of the issues that have come up so far.

First of all, what does the administration support or not support? I do not really think they support the basic thrust of the bill that was reported out of committee and is before us right now. Would they sign it? Yes, because it is not an unreasonable approach. And that is why I was willing to go forward with it, and that is why I am not offering an alternative with respect to the underlying approach.

But it is not the best approach we could take. The administration, in their statement of administration policy, points that out. They really think that it could be an administrative nightmare. They do not like this concept of coming up with what is basically a loan that will then have to be paid back from dollar one. They do not like that at all.

The insurance industry does not like it. In Monday's paper there was an op-ed piece by the chairman of the board of American International Group, and they really denounced this concept. In that op-ed piece they said we could handle a $10 billion deductible. That is what the chairman of AIG said in an op-ed piece in the Wall Street Journal on Monday. And you have no deductible.

We make it easy. We just have a $5 billion deductible for the first year, going to a $10 billion the second year, which the insurance industry has said we could accept and we can handle. For the life of me, I do not know why you do not have that deductible provision.

With respect to the restrictions on victims' compensation, now, yes, the administration does support that, and it supports it strongly. But that is like throwing red meat at them. They have wanted to limit victims' rights wherever and whenever they could. They want to do it with respect to a Patients' Bill of Rights, they want to do it with respect to product liability, they want to do it wherever and whenever they can. And it is unnecessary here and it is wrong and it is harmful.

You come up with a euphemism. Your euphemism is case management. That is nonsense. This has nothing to do with case management. This has everything to do with denying victims their rights that they have been entitled to under the laws of the several States from the time that we created the Union to the present. You want to change it.

There is something else, too. The insurance scheme we come up with, that is temporary. That is going to be for 1, 2 or 3 years. This restriction or elimination of victims' rights, that, you have made permanent.

□ 1445

So we have a temporary insurance scheme. But as I understand the Sensenbrenner approach, that goes in and it is independent of the duration of time of the insurance scheme and it effectively takes away victims' rights.

Now, with respect to mandatory coverage, reasonable people can differ on that issue. Let me be the first to admit that. But the fact of the matter is, right now virtually every property and casualty policy on a commercial line that I am aware of includes terrorism coverage. So we are not talking about something new. We are talking about basically, at least in 99 percent of the cases, continuing the status quo so that we can spread the cost so we would minimize it for the little guy, for the small businessperson.

What small businessperson might need it? Well, since P and C includes business interruption insurance, the ice cream parlor at an airport might need it. The pizza store on Pine Avenue in Niagra Falls got the first economic injury disaster loan in the Nation. It was $10,000. But that business had closed its doors because of the terrorist attack in New York City, and that business could have used terrorism coverage immediately, et cetera.

If we do not mandate it, in my judgment, and I could be wrong; this is a negotiable item. I understand that reasonable people can differ on this. But I think that if we do not include this, what we are saying is, if you are rich, if you are a big corporation, if you are a Fortune 500, if you are a big real estate developer of a $1 billion building, you will be able to afford it and buy it and pass the cost along; but if you are a little businessman, a small businessman, a mom and pop businessman, you will just go without coverage; and the fact that your business in Pennsylvania was never expected to be impaired, that will have to go without coverage.

Now, I would inquire of the chairman of the Committee on the Judiciary, did I make a mistake on the permanency of the gentleman's coverage?

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. LAFALCE. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Absolutely, the gentleman made a mistake.

Mr. LAFALCE. Okay. So it is contemporaneous.

Mr. SENSENBRENNER. Mr. Speaker, it is contemporaneous with the bill. It is not here forever, but that is not the gentleman's only mistake; and I will ask the gentleman from Ohio for a little time to talk about those.

Mr. LAFALCE. Mr. Speaker, I thank the gentleman, and I stand corrected on that issue.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, let me blow away the smoke screen from the litigation management provisions of this bill.

Number one, it does not take away anybody's right to sue or anybody's right to get compensation. If there is a cause of action and the Secretary triggers the provisions in this legislation, suits would have to be in one court, and that would prevent a race to courthouses all around the country to see which judge could have the trial quicker and whoever gets the quickest trial will end up exhausting all of the money that is available; and in courts where things move a little bit slower, if the money is exhausted, then the plaintiff would be out of luck.

Now, secondly, what the bill does is it prohibits punitive damages, and this is exactly the way the Federal Tort Claims Act is. We are talking about giving a limited key to the United States Treasury, and we give the same protection to the taxpayer in this bill that we do when there is a tort claim against the Federal Government. We also limit attorneys' fees, also done in the Federal Tort Claims Act. So this is existing law for claims against the Federal Government. Since the Federal Government will be the ultimate reinsurer during this period of time, we provide the taxpayers the same protections and the plaintiffs the same limitations as we would if somebody got run over by a postal service van or ended up falling out the window of a Federal building because of a defect in construction there.

Now, it seems to me that when we are dealing with terrorism, we have to look at the fact that people who buy terrorism insurance pay a premium that is based upon the risk that the insurance company is underwriting; and if they have unlimited liability when there is a terrorist act, then those premiums are going to be so sky high as to make that coverage either unaffordable or less affordable, particularly to small business operators.

So, Mr. Speaker, these litigation management provisions protect the taxpayers, protect the ratepayers of people who have to buy terrorism coverage, and do not significantly limit the recovery that plaintiffs could get.

Mr. LAFALCE. Mr. Speaker, I yield myself 3 minutes.

A couple of issues were addressed by the distinguished chairman of the Committee on the Judiciary. First of all, he spoke about the consolidation of the claims into one court. That is something that is not unreasonable. As a matter of fact, it might be desirable to do something like that. But then the question is, would you obliterate portions of the laws of the many States?

What the gentleman does in his bill is he says that there should be a Federal cause of action that shall be exclusive; and thereby he obliterates the laws of the States, with this exception: he says in applying the Federal cause of action, we shall look to the Federal cause of actions in the States, but not the law of the States with respect to damages. There, we shall just totally obliterate whatever the laws of those States are with respect to damages and impose our own. That is where we run into difficulties. Not that one cannot go into court, but we just severely eliminate or restrict.

Now, we have proportionate liability as opposed to joint and several liability. There we are obliterating the laws of the about half of the States. We use the collateral damages as an offset; and, again, the States are split on that; but, again, that goes to the issue of how much economic damages an individual is able to collect. So it restricts their rights there.

Now, with respect to punitive damages, the gentleman made the argument, and I think it has some resonance, that the Federal taxpayer ought not to pay for punitive damages. I can accept that. The gentleman made an analogy to the Federal Tort Claims Act where one cannot bring punitive damages against the Federal Government. Well, if the gentleman would have retained within the bill the Bentsen amendment, which would have precluded taxpayer money, that is, insurance under this scheme, then the gentleman's argument would be true. But it is incorrect because what the gentleman does is not just eliminate the ability to collect damages against the Federal Government under any scheme, but against anybody.

The gentleman eliminates the basic cause of action or possibility of punitive damages, not just the insurance coverage for it. If the gentleman is willing to talk about that, we might be able to come to terms. If the gentleman's bill would do what the gentleman says it purports to do or wishes to do, we might be able to come to agreement.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time.

The gentleman from New York has offered a well thought-out substitute. However, I believe we simply have different beliefs as to how the market should operate. I believe that we should allow the market to work out problems as much as possible.

We are here today because the reality of a war on terrorism has knocked out the commercial property and casualty insurance industry and put them in a crisis. To stabilize that industry, we have drafted TRPA.

Unfortunately, the Democratic substitute goes farther than I think we should on a number of points. I want to focus on the provision in the substitute that would mandate that property and casualty companies provide terrorism coverage. "Mandate." That is the operative word.

It is our responsibility to ensure consumers have the options to choose from, not mandate that they are forced to comply with. Terrorism coverage will be more expensive to all businesses, but every business should be able to make the choice of whether they should pay for it and take the risk.

Let us consider the cost of this mandate for things like museums, like schools, like hospitals. A hospital in California, a hospital in New York, most hospitals in this Nation operate on a very thin operating edge. They are on the very edge of solvency. A sudden increase in premiums could plunge them into oceans of red, resulting in closure. Schools. A flower shop in Buffalo, New York, ought to have the ability to make that choice to take that risk if they choose, not be mandated. A museum in Katonah, New York, should have the ability to choose. Only these entities know what their risk is. Only these entities know what their need is. These entities ought to not be mandated to share a risk they do not feel they have.

Small business is the strongest bulldozer pushing our economy and its growth. We all know the margins between profitability and failure are razor thin with most small businesses. The cost of mandated coverage could mean the difference between more or less employment or helping these people keep their jobs. I urge that people defeat this Democratic substitute.

This is just one of the many reasons the Democratic substitute should be defeated. There are others.

Give our schools, hospitals and small business the choice and join with me in voting against the Democratic substitute.

Mr. LAFALCE. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Speaker, I almost hesitate rising. I know the gentlewoman that has just spoken is a fine member of our committee and, of course, she does not want to burden the homeowners and all of these small business people and everything.

When we really stand back and analyze the argument, the argument is, there is a free lunch. Now, we are talking about insurance. There is no free lunch here. Insurance companies do not create money or assets. They merely gather premiums, analyze what the proportionate risk will be, the premiums cover that risk, and then they put out the money. If we reduce the number of premium payers, we reduce the base and for the remaining payers we accelerate the rates. It is as simple as that. It is so simple that most States in this Union require terrorism insurance as part of the main policy. We are not putting an extra burden on people here. I will tell my colleagues what burden we are putting on: if we do not have this premium base that spreads across the country for terrorism insurance, we are going to have a 1,000 percent increase in insurance in New York City and Los Angeles, the symbols of the country where terrorism would attack.

Secondly, that is partially what the argument was originally in the committee and the Secretary of the Treasury made and the White House made when we started to put this bill together. They said, terrorism is something that attacks America's symbols, and it is unusual and impossible to identify liability; and maybe that is why the Federal Government should stand in the place of that risk so that premiums do not go crazy.

But I hope our friends from the other side are not sending a message out to the American people that this substitute resolution is going to increase premiums. Quite the contrary. We are not going to have any effect on premiums, and premiums in this country on liability insurance all over are going to go up and go up precipitously. And they already have, for two reasons: not only September 11, but because the stock market has gone down precipitously, and the earnings generated and the income generated is no longer there, and now they have to increase the premiums to effect a pool to pay the risk liability.

Mr. Speaker, sometimes we treat the American people when we talk on the floor like they are idiots, and I refer now back to the gentleman from California who made the point that they are really worried about the victims of the 1993 bombing because, gee, their cases are still in litigation.

□ 1500

It is unfortunate that it takes sometimes 7 or 8 years to get to litigation in this country. There is a solution: do away with the right of suing and collecting damages. From day one, they would not have had a cause of action under this piece of legislation. So yes, we would not tie up the courts or waste 7 or 8 years. The victim would not have a cause of action.

I know that is not the intention the Members have. I know something more than that. I know the Republican party historically has understood the free market system and the basis of our civil process in this country.

I cannot understand. Just after September 11, we are asking America, and I do not have yet a position, but we are asking to throw away the criminal code of the country, the protections of evidence, due process, and go to military tribunals in the criminal sense.

Maybe I could justify in some areas that happening. Well, that tears up 200 years of precedent and procedure in this country in the criminal law area. Now they come on the floor and civilly they want to rip up 200 years of precedent and history because we had this one attack, when in reality the insurance industry only came to the Congress and said, look, we do not know how to set the rates for liability insurance. They came to us and said, we do not know how to set the premium to create the pool that is necessary to cover potential disasters like this. We have no question that we can handle a $10 billion disaster without any problem, but we would like to have something between there and $100 billion that we could not have a dysfunctional economy for a number of years; and after that, we can solve the problem.

Everybody concedes that if the disaster is over $100 billion, the United States is going to be there, just as it has been for every other disaster in the country. I hope we do not let this argument fall to the level that we are misspeaking or misrepresenting what the facts are and what the true information is.

Neither this side of the aisle nor that side of the aisle wants to see an increase in insurance premiums. That has already happened; it has happened because of the economy, the stock market, and September 11.

All we are trying to do is provide a vehicle that this Congress can pass within the next 10 days to provide a stability for the American economy to help come out of the recession and not go further into recession.

Everybody recognizes, all the free marketeers of the insurance industry, that there is a role of government to be played here. We are trying to provide that role with the least interference to the private sector.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the chairman for yielding time to me and commend him on the skill he used in bringing this very complex issue to the floor. As I understand it, the other body is deeply mired in controversy and struggling on this.

I also want to compliment the subcommittee chairman, the gentleman from Louisiana (Mr. BAKER), for his work, and particularly the staff.

Mr. Speaker, this is an extremely important issue, and it is very, very important that we pass this bill. The economic implications if we do not get a bill signed into law before the first of the year could be huge.

I want to just address the issue of the substitute which is at hand right now. I certainly commend the gentleman from New York (Mr. LAFALCE) for his thoughtful attempt to work on this. It has, obviously, some of the same features we have in our underlying bill.

However, the way it is currently drafted, I think it could force some small businesses to pay higher premiums. It could erode the current State regulation system. Very importantly, I think it would potentially discourage insurance companies from using reinsurance, and I think that would be a very bad feature of the substitute.

Mr. Speaker, I believe the sentiments expressed by the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), are very, very well taken. I think it really does have the potential to encourage, in the event of another disaster, a rush to the courthouse; that there could be winners and losers, whereas I think the underlying bill clearly avoids that sort of thing.

I just want to underscore, if people want to sue Osama bin Laden, there are no limits. People can go after Osama bin Laden and his assets and take him to the cleaners, and the attorneys could walk away with 50 or 60 percent of the settlement, if that is in the contingency fee agreement they have reached.

This is about, what are the U.S. taxpayers going to pay? I think this is a very well thought-out bill. Vote no on the substitute and yes on the underlying bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NETHERCUTT). Several remarks by Members during the course of this debate have prompted the Chair to remind Members that it is not in order in a debate to characterize Senate action or inaction. This prohibition includes debate that specifically urges the Senate to take certain action.

PARLIAMENTARY INQUIRY

Mr. WELDON of Florida. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. WELDON of Florida. Mr. Speaker, is it correct that no matter how much inaction there is in the other body, we still cannot talk about it?

The SPEAKER pro tempore. The gentleman fails to state a parliamentary inquiry.

Mr. OXLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Louisiana (Mr. BAKER), the chairman of the subcommittee.

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I think it is important at the close of debate on this important substitute to go through quickly the elements that are of concern to those of us looking for appropriate resolution on the question of terrorism insurance.

First, mandatory coverage. Think about it for a moment. The property and casualty premium will now include an undisclosed terrorism premium.

How do we know how that pricing was done? How will we make a judgment as to whether or not it is appropriate, given the risk we think we perceive to our business interests from a terrorist attack?

Under H.R. 3210, we have a separate pricing of the terrorism premium so we can see it off to the side, as against the property and casualty premium, which we can compare with last year's. And so we clearly identify; we do not mandate. They can shop, the taxpayer can make the decision, the consumer can make the decision, Where do I go, and further, Do I really need terrorism insurance?

Second, with regard to the first $5 billion worth of loss, there has been some suggestion that there is no deductible, no payment by the industry under our approach, and that their approach, having a $5 billion deductible is somehow going to fix that problem.

There is no mechanism in the bill for distributing that $5 billion worth of loss across the industry. So if there are two, three, four, five big companies who take the $5 billion hit, they absorb that hit unfairly against all other companies. There is no mechanism to distribute the loss across all companies. Translation: small businesses get hit.

They attempt to spread the risk, however, by having a complicated process that equals 7 percent of gross premium collected. When we read through it and understand what they are trying to do here, they do not recognize that a direct insurance company who insures our business turns around and lays off part of that risk to the reinsurance industry. When we lay off that risk, we have to give them the premium. But we are going to set the criteria by which they get taxpayer assistance on 7 percent of the total premium.

To translate that: small business gets nailed. This is not a good approach. It is not a sound approach. Under H.R. 3210, taxpayers are protected first, small businesses are protected second. We help the claimants by making sure that liquidity is provided to the insurance company to help the victims of a heinous act in a timely and prompt manner. It is the only way in which we should proceed.

Finally, with regard to the contentious issue of liability reform, it really is very simple: we are using taxpayer money to help avert an economic calamity as the result of an act of terrorism. The modest reforms contained in this bill limit the amount of money that will go to the trial lawyer.

If we are trying to help people in times of real duress and crisis, is that an unreasonable thing to do? Should we not make sure that taxpayer dollars get to the pocket to which they were intended? I think it highly appropriate to do so.

If Members want a bill that says that we are going to respond to a crisis without creating unnecessary bureaucracy; we are going to do it quickly; we are going to make sure if we extend the credit of taxpayer dollars, that they get the money back; we are going to give the Secretary of the Treasury the ability to administer the program to make sure we do not disrupt a fragile economy by saying, If this does not make sense, Secretary of the Treasury, you have the right to administer to the best economic interests of the citizens of this country and collect the repayment later, but collect it you must.

Now, if Members want a bill that will ensure that big insurance companies, as opposed to small, get helped; that trial lawyers get more money out of the taxpayer; and that there is no guarantee of taxpayer repayment, the substitute is the plan.

But if Members want to help victims of heinous acts of violence in a timely, prompt, professional, accountable manner in which taxpayer resources will be repaid, in which only those who need it receive the assistance, the underlying H.R. 3210 is a piece of work that is not perfect, but it is good. We will be back next year to change it. I am sure the market will tell us the changes we need to make. But failing to act today is the most irresponsible act one could engage in.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just make a few points. First of all, I very much want a bill. I think it is important. I have attempted to work in good faith with the members of the opposition, with the administration, to come up with a good bill. I look forward to working in good faith in the days ahead. I hope it will be the days ahead, rather than the weeks ahead, that we will be able to come to an accord.

Secondly, I do think that there should be a deductible, and there is not one in the gentleman's bill; there is in mine. I think the gentleman from Louisiana (Mr. BAKER) inadvertently made a mistake. We do have an assessment mechanism. No company would have to pay a deductible above 7 percent of net premiums, and we use basically the same mechanism that they use. That certainly is our intent.

With respect to the mandatory coverage, maybe I made a political mistake in offering that, but I think that substantively I am right. Why? Because I cannot get over the 8 years that I chaired the Committee on Small Business. I cannot get over the 4 to 6 years that I was chairman of a small business subcommittee, when I had countless hearings on the problems that small business had with insurance.

Take product liability insurance. We had not an unavailability problem; we had an unaffordability problem. There were periods when product liability insurance was so unaffordable that it was tantamount to unavailable. Therefore, the only way we can ensure that terrorism insurance would not become so unconscionably, astronomically unaffordable for the small business men and women of America is to make sure that we continue in the future what we have experienced in the past, that is, that terrorism coverage has been part of all P&C policies. That is the way the world has worked historically; we simply want to continue that. So I think that substantively we ought to wind up there.

On the issue of victims' compensation, we have to resolve this. There will be no bill if we go forward with the gentleman's provisions. But there is a case for consolidation. There is a case to be made that the taxpayers should not pay for punitive damages. If we could come to an accord there, we can do what is necessary. We can remove that Damoclean sword that is hanging over the head of the economy.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore. The gentleman is recognized for the remaining 3½ minutes.

Mr. OXLEY. Mr. Speaker, this has been a very good debate, and first of all, let me thank members of our committee on both sides of the aisle and their respective staffs for what I think will turn out to be a historic legislative product that we have been able to put together.

The chairman of the subcommittee, the gentleman from Louisiana (Mr. BAKER), has done yeoman's work in this area and deserves a great deal of credit. My friend, the gentleman from New York (Mr. LAFALCE), as well as his ranking member, Mr. KANJORSKI, have also performed admirably.

Mr. Speaker, this is a historic moment for a new committee. We have faced issues like anti-money laundering and attended a bill-signing ceremony at the White House just 3 weeks ago. Now we come to this difficult issue, the reinsurance issue, something we did not ask for, something that happened to America after September 11; but this committee stepped up. We were asked by the Speaker to produce legislation, and I am very proud of the product that we put together over a difficult issue, and it is complicated.

□ 1515

I am particularly pleased that the substitute that the gentleman from New York (Mr. LAFALCE) offered has so much in common with the underlying bill. The post-event assessment and surcharge systems are largely the same. Both bills have a $100 million lower trigger, and the idea to protect the taxpayers is clearly inherent in both pieces of legislation.

I would, however, disagree with my friend from New York in regard to the statement he made on the deductible. The summary of the substitute provided to the Committee on Rules says that this 7 percent per company deductible is based on net premiums. That is simply not true. The substitute language actually bases the 7 percent deductible on aggregate premiums. This, of course, penalizes insurers for using reinsurance.

We do not need to be in the business of penalizing insurance companies to provide reinsurance. That is how the system works. As a matter of fact, if my colleagues can imagine a world on September 11 where domestic insurance companies did have not the ability to reinsure, imagine what kind of losses the industry would have taken and imagine what that would have brought to us today.

Indeed, this bill ultimately, when passed, will encourage the growth of reinsurance, and it may be early on that these companies, these domestic companies, will essentially have to reinsure themselves. They cannot go offshore, but I guarantee my colleagues that it will not be long before the reinsurance market offshore, the reinsurers offshore, have to go into the largest market in the world. They cannot afford to stay on the sidelines.

It is one thing on September 12 to announce that they are not going to provide reinsurance coverage for terrorism, but my guess is the American economy, the American people, the American insurance companies, will find a way to provide the kind of coverage for their consumers and their customers and their insurers. When they do that, the reinsurance folks will be running back to try to get back in this game, and that is what this bill is all about.

This is a temporary bill. This is not forever. Even the legal reforms are not forever. They are part of this legislation. So let us defeat the substitute, let us vote for final passage, and let us go on forward to get legislation for the American people.

Mr. CONYERS. Mr. Speaker, I rise in strong support of the substitute and in opposition to the base bill. I do so because the legislation was hijacked by the Rules Committee, which turned a bipartisan insurance relief bill into yet another vehicle to enact a one-sided "tort reform" agenda.

First and foremost, the base text totally eliminates punitive damages. If this passes, Congress would be saying to the future victims of terrorism that the most outrageous acts of gross negligence or intentional misconduct that lead to an act of terrorism are totally immune from punitive damages. Thus, if a baggage screening firm hires a known terrorist who allows a weapon to slip on board a plane, this bill would protect that company from liability.

The base bill also federalizes each and every action involving terrorism, throwing more than 200 years of respect for federalism out the window. Even worse, the liability provisions bear little relationship to the issue of insurance. As a matter of fact, they would apply to cases where the negligent party may have no insurance coverage whatsoever. The bill even takes away all judicial review relating to the bureaucratic decision as to whether terrorism caused the injury, an unprecedented and very likely unconstitutional limitation on victims' rights.

The underlying bill also would limit the ability of the victims of terrorism to collect noneconomic damages. This says to innocent victims that damages from loss of consortium can be ignored and damages for victims who lose a limb or are forced to bear excruciating pain for the remainder of their lives are not as important as lost wages. Why Congress would want to prevent a grieving wife from obtaining monetary relief is beyond me, but that is exactly what this bill does.

The bill goes on and on—comprising a veritable wish list of liability limitations. It mandates collateral source offsets, forcing victims to choose between seeking money from charities and pursuing a grossly negligent party in court. It caps attorneys' fees without providing any comparable limitation on defendant's fees. Amazingly, the legislation would criminalize the fee cap, subjecting lawyers to jail time. The bill also eliminates pre-judgment interest, which takes away any incentive for negligent parties to reach pre-trial settlements. All of these harmful provisions are being proposed in the complete absence of hearings or any committee consideration.

If enacted, the tort provisions would constitute the most radical and one-sided liability limitations ever. I urge the Members to vote "yes" on the substitute, and "no" on final passage.

LIABILITY LIMITATION PROVISIONS IN H.R. 3210, THE "TERRORISM RISK PROTECTION ACT"

(Prepared by the Democratic Staff of the House Judiciary Committee)

Section 15 of H.R. 3210, the "Terrorism Risk Protection Act," proposes new and unnecessary tort reforms that would be harmful to victims of terrorism. Specifically, the bill federalizes all terrorism liability cases, prohibits judicial review of decisions to federalize such cases, eliminates punitive damages, limits the amount of non-economic damages for which defendants (not just insurers or reinsurers) are liable, mandates collateral source offsets, and imposes caps on attorneys' fees. The following is a section-by-section of H.R. 3210, Section 15.

Section 15. Litigation Management.

Subsection (a). Federal Cause of Action for Claims Relating to Terrorist Acts.

Section 15(a)(1)—In General: provides that, if the Secretary of the Treasury decides there has been one or more acts of terrorism, "there shall exist a Federal cause of action, which, except as provided in subsection (b), shall be the exclusive remedy for claims arising out of, relating to, or resulting from such acts of terrorism." This is a broadly-written provision that would limit victims' rights in every conceivable civil action—state or Federal—involving terrorism, even if the insurer is not a party to the action. In addition, the critical term "act of terrorism" is undefined within the text of the legislation and thus grants too much latitude to the Secretary to deem an event an "act of terrorism" and allow wrongdoers to benefit from this section.

Section 15(a)(2)—Effect of Determination: provides that the Secretary's determinations under section 15(a)(1) shall not be subject to judicial review and shall take effect upon publication in the Federal Register. This provision raises two significant concerns. First, it is likely unconstitutional because the Constitution has been held to provide for judicial review of actions by the Executive. Second, denying judicial review of the Secretary's decisions would grant the Secretary wide latitude to make determinations about what events would constitute "acts of terrorism," such that—as before—a hoax or practical joke could be designated an "act of terrorism."

Section 15(a)(3)—Substantive Law: states that an action under this section is governed by the law and choice of law principles of the state in which the terrorism occurred.

Section 15(a)(4)—Jurisdiction: provides that the Judicial Panel on Multi-district Litigation will designate one court and that court will have exclusive jurisdiction on all cases arising out of a particular terrorist event.

Section 15(a)(5)—Limits on Damages: provides a number of limits on damages in actions brought for damages in connection with any type of civil action related to terrorism, not just those pertaining to commercial property and casualty insurance. These limitations on their face apply in every conceivable action—state or Federal—involving terrorism. In fact, the current version of the bill is worse than that reported by the Financial Services Committee because the earlier bill limited damages only in cases involving commercial property or casualty insurance; the current bill applies to any action related to terrorism, regardless of whether an insurance claim is involved.

Section 15(a)(5)(A): would prohibit punitive damages and pre-judgment interest. Punitive damages are monetary damages awarded to plaintiffs in civil actions when a defendant's conduct has been found to flagrantly violate a plaintiff's rights. The standard for awarding punitive damages is set at the state level, but they are generally allowed only in cases of wanton, willful, reckless or malicious conduct. These damages are used to deter and punish particularly egregious conduct. Eliminating punitive damages totally undermines the deterrent and punishment function of the tort law. The threat of meaningful punitive damages is a major deterrent to wrongdoing, and eliminating punitive damages would severely undercut their deterrent value since reckless or malicious defendants could find it more cost effective to continue their callous behavior and risk paying small punitive damage awards. This means baggage screening firms would be protected from liability if they hired incompetent employees or deliberately failed to check for weapons and a terrorist act resulted.

Pre-judgment interest liability is an added incentive to move the judicial process along because a delay would result in a penalty of added interest to the judgment. Without the threat of added interest payments, attorneys for defendants may be prone to delay proceedings because the real dollar value of a judgment amount would be reduced, making the judgment the same no matter how long the process. Limiting interest would unfairly affect the judgment award collected by the victims and leave them vulnerable to a delayed judicial process.

Section 15(a)(5)(B): provides that a defendant will only be liable for non-economic damages in direct proportion to the percentage of the defendant's responsibility for the victim's harm and prohibits plaintiffs from recovering such non-economic damages unless the plaintiff suffered physical harm. This would alter common law rule of joint and several liability between defendants. Under the traditional rule, where more than one defendant is found liable, each defendant is held liable for the full amount of the damages. The justification for this is that it is better that a wrongdoer who can afford to do so pay more than its share, rather than an innocent victim obtain less than full recovery. Also, a defendant who pays more than its share of damages can seek contribution from the other defendants. By holding each defendant responsible only for its percentage of responsibility, this section would supersede state law by eliminating joint and several liability for non-economic damages in these actions. Also, the prohibition on non-economic damages unless physical harm is suffered raises significant concerns. Essentially, a spouse who suffers loss of consortium could not recover any non-economic damages. This is an unprecedented limitation on victims' rights.

In addition, this provision would shift non-economic costs from wrongdoers to victims and discriminate against groups less likely to establish significant economic damages, such as women, children, minorities, seniors, and the poor. It is unconscionable to put more value on the loss of a job than on the loss of a limb, loss of the ability to have children, disfigurement, or other forms of non-economic harms. Also, eliminating joint and several liability for non-economic harms would discourage settlements and thus increase case loads and litigation costs.

Section 15(a)(6)—Collateral Sources: requires that, for compensation of loss related to terrorism, a plaintiff's recovery must be offset by any funds received pursuant to any emergency or disaster relief program or any other collateral source. There are two problems with this provision. First, a reduction of a victim's award due to collateral source compensation would result in wrongdoers escaping their responsibility. This legislation subtracts any other potential sources of recovery the victim may have from any damages the wrongdoer should pay. Losses caused by negligence or wrongdoing would be shifted from liable defendants to the government, private insurers, or disaster relief organizations who made the "collateral source" payment. Second, the provision is too overreaching. The effect would be to require any funding given to the plaintiff, whether it be from health insurance payment or funds from a voluntary organization, be used to offset relief payments made by culpable defendants. Under this provision, funds received by a victim from the Red Cross must be used to offset relief payments and reduce a wrongdoer's liability.

Section 15(a)(7)—Attorney Fees: provides that attorneys' fees shall be limited to twenty percent of either the damages ordered by a court or any court-approved settlement under this section. Any attorney who charges or receives fees in excess of twenty percent shall be fined not more than $2,000, imprisoned not more than on year, or both. Fee caps, which apply only to victims, result in less access to justice for lower-income populations. A payment ceiling or fee cap limits the economic incentive for attorneys to take on complex or difficult-to-prove claims under the contingency fee system; in turn, this would make it much more difficult for lower-income populations to secure good representation. Moreover, the threat of imprisonment is without precedent and could deter attorneys from providing assistance.

Section 15(b)—Exclusion: provides that nothing in section 15 shall limit the liability of a person who attempts to commit, commits, participates, or is engaged in a conspiracy to commit an act of terrorism.

Section 15(c)—Right of Subrogation: provides that the United States has the right of subrogation with respect to any claim it paid under this section.

Section 15(d)—Relationship to Other Laws: states that nothing in section 15 shall affect either any party's contractual right to arbitrate a dispute, or any provision of the Air Transportation Safety and System Stabilization Act of 2001 (Pub. L. No. 107-42).

Section 15(e)—Satisfaction of Judgments from Frozen Assets of Terrorists, Terrorist Organizations, and State Sponsors of Terrorism

Section 15(e)(1)—In General: provides that, in any case in which a person obtains a judgment against a terrorist party, the frozen assets of that terrorist party or of any agency or instrumentality of that party shall be available for satisfaction of the judgment. This provision removes foreign sovereign immunity and is designed to ensure that victims of terrorism receive the compensation they are owed, even if the defendant is a foreign state.

Section 15(e)(2)—Presidential Waiver: states that the President, on an asset-by-asset basis, can waive the requirements of subsection 15(e)(1) for any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations. This waiver authority vitiates the protections for victims of state-sponsored terrorism provided for in subsection 15(e)(1). If the President can waive unilaterally any judgment for a victim, then victims could easily receive no compensation for their claims.

Mr. BAKER. Mr. Speaker, let me begin by aligning myself with the statement of Chairman OXLEY regarding the LaFalce substitute. The LaFalce substitute has many of the same components of H.R. 3210 because H.R. 3210 represents, in large part, the cooperative efforts of Chairman OXLEY, Ranking Member LAFALCE, Mr. KANJORSKI and me. However, the differences in the substitute from H.R. 3210 demonstrate exactly where Chairman OXLEY and I diverge from our Democratic colleagues. The LaFalce substitute includes provisions that we simply would not agree to, which is why I urge my colleagues to vote "no."

First, the amendment is anti-consumer in that it mandates commercial property and casualty insurers to include terrorism risk coverage on all policies on the same terms and amounts as their other commercial coverage. This precludes businesses from creating risk management solutions that meet their particular needs. For instance, many small businesses may not feel that their size, location or exposure merits the additional cost of terrorism insurance—but they would have to pay for it regardless under the LaFalce proposal. By further example, the LaFalce plan would not permit a business to buy only standard commercial property and casualty coverage from one insurer and terrorism coverage from another if there is a pricing advantage in doing so. The plan also denies the insured the ability to self-insure for a certain amount of terrorism risk or to purchase multiple layers of terrorism coverage.

In addition to the problems that mandated coverage creates for consumers, it also unnecessarily preempts state law on form regulation by having the Federal government mandate the terms and conditions of coverage.

The certainty provided by the exposure limits in our Bill and the assessment system in our Bill provides the proper incentives for commercial property and casualty insurers to provide terrorism risk coverage.

Another problem with the LaFalce substitute is that the insurance mechanism that it creates does not effectively spread risk, prevent gaming, provide adequate protections to small insurers, or encourage the spreading of risk through reinsurance. While both Bills require that industry pay the first $5 billion in losses due to terrorism in the first year and the first $10 billion in subsequent years, the LaFalce plan does not effectively spread this risk throughout the industry. By having a $5 billion deductible with no provision of how these losses are calculated or paid, his plan competitively disadvantages small insurance companies who would not be able to absorb the tremendous losses that would be incurred by those small insurers before the industry assistance kicks in.

To try to respond to the small insurer disadvantage, the LaFalce plan has an individual insurance company exposure limit of 7 percent of gross premium—not net premium as stated in his summary. This is a very important point in that gross premium numbers do not give credit to the insurer for the reinsurance that it has purchased. Thus, before federal assistance kicks in, the insurer would have to suffer losses equaling over 7 percent of its gross premium even though it has already spread much of the risk that it cannot cover to reinsurers. The result: insurers are not able to write as much insurance and assistance will not kick in for them until they have already been put into financial duress.

Additionally, the LaFalce plan encourages gaming of the system. Insurers will delay claims and loss reports for months or years so that they occur after the industry deductible is reached. That way, they avoid having to absorb any of the losses themselves. Our plan does provide first dollar coverage once the triggers are met to prevent such gaming; and while the LaFalce plan does not require the industry to retain any losses after his proposal starts to provide assistance, our Bill always requires that the insurer absorb at least 10 percent of the losses at all times, regardless of federal assistance.

Finally, the LaFalce substitute strips out the sovereign immunity provisions of H.R. 3210. Acts of terrorism give rise to very unique sets of facts and a complexity of interested parties that is uncommon in tort law. In the administration of the program established by this Act, it is essential that there is consistency and timely response. Multiple state forums awarding immense damage awards underwritten by federally supported insurance companies would result in a patchwork of inconsistent state court decisions all over the country that would impede the effective and fair implementation of this program. The lack of limited federal forums for claims would result in the kinds of tragic delays in the prompt compensation of victims as we have seen in other mass tort cases, such as the 1993 WTC bombing where cases are just now coming to trial.

Equally as important are the prohibitions on punitive damage awards and joint and several liability for losses caused by terrorist attacks. Acts of terrorism differ fundamentally from other losses that the tort system is designed to deal with in that the overwhelmingly culpable party, the terrorists, will either not be before the court or their assets will be limited or unreachable. To subject effected parties of a terrorism attack and the United States taxpayer to punitive damage awards for the acts of suicidal and maniacal terrorists is a poor allocation of limited resources and simply unfair to the group of victims as a whole. Furthermore, to suggest that an effected party that is found to be 1 percent at fault for a negligent omission of some minor sort could be held responsible for 100 percent of damages due to a terrorist attack is beyond reason.

I strongly urge a "no" vote on this amendment.

The SPEAKER pro tempore (Mr. NETHERCUTT). All time for debate on the amendment in the nature of a substitute has expired.

Pursuant to House Resolution 297, the previous question is ordered on the bill, as amended, and on the amendment offered by the gentleman from New York (Mr. LAFALCE).

The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. LAFALCE).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. LAFALCE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 197, nays 222, not voting 14, as follows:

[Roll No. 462]

YEAS—197

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Gephardt
Gilman
Gonzalez
Gordon
Graham
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Mink
Mollohan
Moore
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NAYS—222

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Coble
Collins
Combest
Costello
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Largent
Larson (CT)
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock

Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stark
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)

NOT VOTING—14

Carson (IN)
Chambliss
Cooksey
Cubin
Davis, Tom
DeFazio
Ford
Frost
Miller, George
Quinn
Rangel
Rothman
Wexler
Wolf

□ 1541

Messrs. SIMMONS, THOMAS, SMITH of Texas, GUTKNECHT, and Ms. HARMAN changed their vote from "yea" to "nay."

Messrs. BERRY, OWENS, and PHELPS changed their vote from "nay" to "yea."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like the record to show that I was right at the door when the vote closed. My colleague, the gentleman from Virginia (Mr. WOLF), and I were in a meeting with the Director of OMB in the Cannon office building. Had I been present, I would have voted no.

Mr. WOLF. Mr. Speaker, I too was in the meeting with the Director of OMB. Had I been present, I would have voted no.

The SPEAKER pro tempore (Mr. NETHERCUTT). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. LAFALCE. Yes, I am opposed, and the National Taxpayers Union is opposed to the bill in its current form.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. LAFALCE moves to recommit the bill H.R. 3210 to the Committee on Financial Service with instructions to report the same back to the House forthwith with the following amendments:

Strike section 15 of the bill (relating to litigation management).

At the end of section 6 of the bill (relating to federal cost-sharing for commercial insurers), add the following new subsection:

(g) REQUIREMENT.—Notwithstanding any other provision of this Act, the Secretary may not provide financial assistance under this section to any commercial insurer unless the commercial insurer provides to the Secretary such assurances, as the Secretary shall by regulation require, that such insurance company will comply with the regulations issued pursuant to section 7(i).

At the end of section 7 of the bill (relating to assessments), add the following new subsection:

(i) PROHIBITION OF PASS-THROUGH.—The Secretary shall, by regulation, prohibit any commercial insurer from including in any premiums or other charges for property and casualty insurance coverage any amounts to cover any costs attributable to any assessment under this section (including the payment of any such assessment and costs of financing such payment).

□ 1545

Mr. LAFALCE (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. NETHERCUTT). Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes in support of his motion to recommit.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me make the following points. The National Taxpayers Union not only requests a "no" vote on final passage of the bill, they will be scoring final passage of the bill as it stands. I just want to make Members aware of that.

Second, what is in the motion to recommit takes the House bill as it is right now, two changes, one, a deletion. It deletes all of the tort provisions. Number two, an addition. It would prevent the insurance industry from passing through the costs of repaying the Federal assistance granted under the bill to its customers. Those are the only two changes. We cut out the tort provisions, and we prevent the pass-through of costs.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DELAHUNT) to speak to these issues.

Mr. DELAHUNT. Mr. Speaker, the provision that was added by the Committee on Rules last night which would limit relief for the victims of terrorist attacks by immunizing wrongdoers in advance from the consequences of their own negligence and reckless conduct, has nothing whatsoever to do with stabilizing the insurance market, nothing to do with ensuring that people would be able to secure insurance against future acts of terrorism. It does not belong in the bill. The motion to recommit, as the ranking member alluded to, would delete it; and it would leave us basically with the bill reported out with strong bipartisan support from the Committee on Financial Services.

If we are genuinely concerned about preventing an insurance crisis, we should agree to this motion and pass a clean bill. Let us not try to rewrite the fundamental rules of the civil justice system late at night without thoughtful and considerate debate. Note that the Committee on Rules' provision would prohibit the courts from awarding punitive damages in cases arising out of terrorist incidents no matter how outrageous the underlying conduct.

For example, even for private airport security contractors who wantonly, recklessly, maliciously hired convicted felons, failed to perform background checks, there would be no punitive damages. Even for landlords who deliberately ignore safety codes and fail to install escape routes in their buildings, there would be no punitive damages. Nobody wants to hold parties responsible if they bear no blame, but this provision lets them off the hook, even if they knowingly engage in conduct that puts our fellow citizens at risk.

Mr. Speaker, I would hope that the motion to recommit would prevail, and I urge support for the motion.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), a member of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Mr. KANJORSKI. Mr. Speaker, I support the motion to recommit because it is certainly in the first provision cleaning up the tort reform provisions, which would go a long way in moving the process along to a final conclusion.

A second provision in the bill allows, of course, for restrictions to pass through. As I understand the concept, rather than allowing insurance companies to keep their profit scales and just pass a rate increase on to the customers, even though they have profits that could afford the cost of those losses, they first would have to look at their profits before there is a pass-through.

The purpose of this motion to recommit is to put a bill together that is more tenable for action in the Senate and eventually to pass this House. I urge my colleagues on both sides to reexamine their conscience and put the real issue at stake, the need for reinsurance in this country, a good underlying bill that was structured to accomplish that, and to do it in a bipartisan way.

Mr. LAFALCE. Mr. Speaker, I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. OXLEY) is recognized for 5 minutes in opposition to the motion to recommit.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in addition to striking the litigation management sections, the motion to recommit imposes price controls on the insurance industry. We can attempt to regulate rates, but we cannot force insurance companies to offer coverage; and States with rate regulation have less competition and higher prices for consumers. Only if we want less insurance availability and higher prices would we vote for this motion to recommit.

Our bill, H.R. 3210, forces the industry, not the taxpayers, to bear the ultimate cost of the terrorist attack. That is what this bill is all about. The bipartisan bill passed out of committee on voice vote allows insurers to price it into future policies.

The motion to recommit says that not only are insurers responsible for spreading terrorist costs, but we are going to force them into insolvency. Why should insurers be punished and not allowed to rebuild their reserves? They should be allowed to reinsure themselves, particularly in light of the fact that the reinsurance industry has gotten out of the business.

These price controls proposed are bad for consumers, bad for policyholders and bad for our national economy.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, I rise in strong opposition to the motion to recommit which would strip from the bill vital litigation management provisions. Without these provisions, the bill would threaten untold numbers of businesses with the loss of capital and credit simply because they might be named in a lawsuit related to a terrorist attack.

Nearly identical litigation management provisions were passed by the House by a vote of 286–139 to cover lawsuits related to the September 11 attacks. Without these provisions, anyone could be on the hook for all damages caused by a terrorist attack, running into billions of dollars, even when they share only 1 percent of the responsibility of the losses and the terrorists share the remaining 99 percent.

If any defendant, even those just marginally involved in such a minuscule portion of any injuries could be made to pay the full amount of noneconomic damages caused by a massive terrorist attack, hundreds of legitimate businesses would be thrown into bankruptcy.

Again, existing tort rules are designed to deal with the typical slip-and-fall case. They may properly apply when the primary cause of an injury is excessive water on the floor of a grocery store, but surely that cannot be true when the primary cause is a suicidal fanatic, motivated by the deepest hatred of America and using weapons of mass destruction intended to kill as many innocent people as possible. If anyone can convince me that a slippery floor is the moral equivalent of a terrorist, I will vote for the gentleman's motion myself.

Mr. Speaker, Congress has already recognized this in passing the liability protection provisions governing lawsuits relating to the September 11 attacks. Without the litigation management provisions, no limits would be placed on the fees of attorneys bringing cases against Americans and their businesses, even when the primary cause of injury is a terrorist.

Without the provisions which allow courts the discretion to keep attorneys' fees reasonable, a few war profiteers can turn attacks that result in multibillion-dollar losses into private jackpots for themselves, that are paid for by the U.S. taxpayers.

Mr. Speaker, I urge all Members to oppose this motion to recommit and ensure equitable compensation to victims while protecting the American economy and the taxpayer.

Mr. OXLEY. Mr. Speaker, I yield the balance of my time to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I had hoped the motion to recommit would offer us the opportunity to fix this bill. I believe the bill is flawed, and I will be voting against it. Unfortunately, minority leadership staff has fouled up, in my opinion, the motion to recommit. I will be voting against the motion to recommit, and voting against the bill as well.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LaFALCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 243, not voting 17, as follows:

[Roll No. 463]

AYES—173

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Berkley
Berman
Berry
Bishop
Blagojevich
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E.B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Luther
Lynch
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Mink
Mollohan
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Phelps
Rahall
Reyes
Rivers
Rodriguez
Ross
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Solis
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wynn

NOES—243

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Biggert
Bilirakis
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Boozman
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Coble
Collins
Combest
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kilpatrick
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Larson (CT)
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Maloney (NY)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pascrell
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering

Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock

Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stark
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauzin

Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—17

Boehner
Boucher
Carson (IN)
Chambliss
Cooksey
Cubin

DeFazio
Ford
Frost
Greenwood
Johnson (CT)
Lowey

Miller, George
Quinn
Rangel
Rothman
Wexler

☐ 1618

Mr. ROEMER and Mr. MORAN of Virginia changed their vote from "aye" to "no."

Mr. CARSON of Oklahoma changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. NETHERCUTT). The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LAFALCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 193, not voting 13, as follows:

[Roll No. 464]

AYES—227

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan

Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Clement
Coble
Collins
Combest
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Dunn

Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood

Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)

Lucas (OK)
Maloney (CT)
Manzullo
Matheson
McCrery
McHugh
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner

Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sununu
Sweeney
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Towns
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch

Dicks
Dingell
Doggett
Doyle
Duncan
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Frank
Gephardt
Gonzalez
Green (TX)
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick

Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Luther
Lynch
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey

Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Platts
Pomeroy
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Ross

Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schaffer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark

Strickland
Stupak
Tancredo
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Turner
Udall (CO)
Udall (NM)
Velízquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—13

Boucher
Carson (IN)
Chambliss
Cooksey
Cubin

DeFazio
Ford
Frost
Lowey
Quinn

Rangel
Rothman
Wexler

☐ 1637

Mr. CROWLEY changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MUSCULAR DYSTROPHY COMMUNITY ASSISTANCE, RESEARCH AND EDUCATION AMENDMENTS OF 2001

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 717) to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and Emery-Dreifuss muscular dystrophies, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Page 17, after line 6 insert:

SEC. 7. STUDY ON THE USE OF CENTERS OF EXCELLENCE AT THE NATIONAL INSTITUTES OF HEALTH.

(a) REVIEW.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the purpose of conducting a study and making recommendations on the impact of, need for, and other issues associated with Centers of Excellence at the National Institutes of Health.

(b) AREAS OF REVIEW.—In conducting the study under subsection (a), the Institute of Medicine shall at a minimum consider the following:

(1) The current areas of research incorporating Centers of Excellence (which shall include a description of such areas) and the relationship of this form of funding mechanism to other forms of funding for research grants, including investigator initiated research, contracts and other types of research support awards.

(2) The distinctive aspects of Centers of Excellence, including the additional knowledge that

may be expected to be gained through Centers of Excellence as compared to other forms of grant or contract mechanisms.

(3) The costs associated with establishing and maintaining Centers of Excellence, and the record of scholarship and training resulting from such Centers. The research and training contributions of Centers should be assessed on their own merits and in comparison with other forms of research support.

(4) Specific areas of research in which Centers of Excellence may be useful, needed, or underused, as well as areas of research in which Centers of Excellence may not be helpful.

(5) Criteria that may be applied in determining when Centers of Excellence are an appropriate and cost-effective research investment and conditions that should be present in order to consider the establishment of Centers of Excellence.

(6) Alternative research models that may accomplish results similar to or greater than Centers of Excellence.

(c) REPORT.—Not later than 1 year after the date on which the contract is entered into under subsection (a), the Institute of Medicine shall complete the study under such subsection and submit a report to the Secretary of Health and Human Services and the appropriate committees of Congress that contains the results of such study.

Mr. TAUZIN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. NETHERCUTT). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Louisiana?

Mr. WICKER. Mr. Speaker, reserving the right to object, and I certainly shall not object as the sponsor of this legislation. I just wanted to take this opportunity to thank the gentleman from Louisiana (Mr. TAUZIN) and also the gentleman from Florida (Mr. BILIRAKIS) for their hard work and cooperation on this issue, along with expressing my thanks to the ranking members, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN), as well as to my principal cosponsor, the gentleman from Minnesota (Mr. PETERSON).

Mr. Speaker, let me just briefly say that this legislation left this House with a unanimous vote and 310 cosponsors, and it will authorize the Centers of Excellence at the National Institutes of Health as well as an epidemiological survey at the CDC for Duchenne muscular dystrophy and other forms of childhood muscular dystrophy.

I have to say that I cannot think of a better Christmas present during this time between Thanksgiving and Christmas for the tens of thousands of parents whose children suffer from this lethal disease. Duchenne muscular dystrophy, as the gentleman from Louisiana (Mr. TAUZIN) knows, is the most common and most lethal form of childhood genetic disease. By the passage of this legislation tonight, we are giving honest, real hope to the parents of these children and to the entire American people who want to fight this disease. My appreciation goes to everyone.

I have been a strong supporter of NIH and all of the scientists and dedicated professionals at the National Institutes of Health. I want to thank them for their cooperation for helping us write a better bill than I had originally offered. I am grateful to everyone, and my hat is off to the Duchenne muscular dystrophy parents who have actually made this possible.

With those words of thanks and appreciation, I yield to the gentleman from Louisiana under my reservation.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding, and I want to commend the gentleman for his extraordinary work in this area. Not only will this bill, because of his great work, authorize NIH to do extensive new research on Duchenne muscular dystrophy, but also other forms of childhood muscular dystrophy. What we have learned is when they do extensive research in these areas, very much of it is genetic research and that genetic research yields all sorts of information on other diseases, such as Friedreich's ataxia, which is a disease of my culture, the Cajun culture. We learn a great deal every time we do extensive research into these genetic disease areas and as the gentleman said, not only tens of thousands of parents whose children suffer with these disease, but countless tens and perhaps hundreds of thousands of families who may get an answer to diseases comparable or similar to these may come out of this research.

I want to thank the gentleman for his great work on it; and again, I think not only many families will receive this as a great Christmas gift, but future generations are going to be grateful for the work he has done on this bill.

Mr. WICKER. Mr. Speaker, reclaiming my time under my reservation, I thank my chairman. I will simply conclude by saying it is not often that we are surprised with this legislative business, but I think the speed with which this legislation swept through the House of Representatives and also the other body has taken my breath away. My hat is off to the leadership of the House and to the gentleman from Louisiana (Mr. TAUZIN).

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Louisiana?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 717.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ACCESS AND OPENNESS IN SMALL BUSINESS LENDING ACT OF 2001

(Mr. MCGOVERN asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include therein extraneous material.)

Mr. MCGOVERN. Mr. Speaker, I join my colleagues today to introduce the Access and Openness in Small Business Lending Act of 2001, a bill that I hope will dramatically improve lending practices that benefit women and minority-owned small businesses.

This legislation will amend the Equal Credit Opportunity Act and require depository lenders such as banks, credit unions, and thrifts to collect race and gender information for small business borrowers. But while the Access and Openness Act requires depository institutions to keep such records, it does not require borrowers to disclose race and gender information if they do not want to.

The Access and Openness Act will effectively eliminate the Federal Reserve's regulation B, which prohibits lenders from collecting data regarding an applicant's gender and race.

The guiding principle behind this bill is time-tested and simple: sunshine is the best disinfectant. Without the specific knowledge of the demographic composition of small business borrowers, including those that apply but do not get approval, we will never be able to unmask discriminatory lending practices or systematically monitor programs that advance women and minority business ownership.

The Access and Openness Act is modeled after the Home Mortgage Disclosure Act, which requires banks to report demographic data on home mortgage lending. It is my hope that this bill will move banks to operate as effectively in the women and minority small business lending market as they have in the home mortgage market where the collection of demographic data has opened lending to underserved communities.

Mr. Speaker, I will include at this point in the RECORD the following supporting material:

ACCESS AND OPENNESS IN SMALL BUSINESS LENDING ACT OF 2001

SUPPORTING ORGANIZATIONS

National Women's Business Council, a federal commission, Association for Women's Business Centers, Women's Business Development Center, Milken Institute, National Community Reinvestment Coalition, Hispanic Economic Development Corporation, and Alternatives Federal Credit Union.

Southern Rural Development Initiative, National Congress for Community Economic Development, Cabrillo Economic Development Corporation, Pittsburgh Community Reinvestment Group, Chelsea Neighborhood Housing Services, Rural Opportunities, and Greater Holyoke Community Development Corporation.

Community Action Committee of the Lehigh Valley, Texas Community Reinvestment Coalition, Charlotte Organizing Project, Common Wealth Development, Wisconsin, Western New York Law Center, and California Reinvestment Committee.

Rural Housing Institute, National Neighborhood Housing Network, Vermont Slauson Economic Development Corporation, Los Angeles, Lawyers' Committee for Civil Rights Under Law, Coastal Enterprises, Inc., and Mon Valley Initiative.

NATIONAL COMMUNITY
REINVESTMENT COALITION,
Washington, DC, June 21, 2001.

Hon. JAMES P. MCGOVERN,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN MCGOVERN: The National Community Reinvestment Coalition (NCRC) strongly supports "the Access and Openness in Small Businesses Lending Act of 2001" as essential to the efforts of lending institutions, community organizations, and local public agencies to increase access to capital and credit for women- and minority-owned businesses. NCRC's 800 member organizations—community groups and local public agencies—around the country also commend the leadership of Representatives McGovern and Morella in sponsoring this bill.

The Access in Small Business Lending Act of 2001 would amend the Equal Credit Opportunity Act (ECOA) to require banks, thrifts, and credit unions to report the race and gender of the small businesses from which they receive applications and to which they make loans. This data is to be disclosed regardless of whether the application is made in person, over the phone, or received via mail or the Internet.

This data disclosure requirement promises to greatly increase access to credit for minority and women-owned businesses. Working together, community groups, lending institutions and local public agencies would analyze publicly available small business data and identify the small business owners and neighborhoods that remain underserved. Stimulated by data disclosure, these types of community-lenders partnerships are a win-win: bankers seize upon untapped markets and find additional profitable lending opportunities; community organizations and small businesses receive more access to private sector credit with which to revitalize their neighborhoods and expand their commercial base.

An amendment to HMDA (Home Mortgage Disclosure Act) data in 1990 to require the reporting of race and gender of applicants unleashed a tremendous increase in lending to traditionally underserved populations. From 1993 to 1999, for example, the number of conventional home purchase loans increased 119 percent for African-Americans, 116 percent for Latinos, and only 42 percent for whites.

Unfortunately, the state of affairs is not as sanguine in the small business area. The truncated CRA small business data (which only reveals the census tract in which a loan is made) suggests that much progress needs to be made. From 1996 to 1999, the number of small business loans increased 39 percent overall but only 8 percent in low-income census tracts. As a result, the percent of small business loans made in low- and moderate-income tracts declined from 21 percent to 18 percent, despite * * *

WORLD AIDS DAY

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, I would like first to thank the gentlewoman from California (Ms. LEE) for asking us to really speak out on this worldwide issue. In fact, we have an opportunity to speak out on this issue 2 days before what we call World AIDS Day. As this day approaches, we are faced with the grim statistics about the spread of HIV/AIDS. From the rural South in my area of North Carolina to South Africa, greater efforts have to be made to fight the spread of AIDS. We hear these statistics. They do not even prick our consciousness. We have got to find a way to make sure that these statistics do not become just sheer rhetoric.

A recent story on the AP wire reports that the AIDS epidemic is spreading across eastern Europe, with HIV infection rates rising faster in the Soviet Union than anywhere else in the world. I would like to submit this article for the RECORD.

There has been more than 75,000 new cases of HIV in Russia as compared to 56,000 cases last year. Here in the United States, HIV infections among U.S. women have increased significantly over the last decade, especially in communities of color.

We must do more. We have an opportunity to do more. The United States must provide more resources for the global AIDS fund of the United Nations. We can do this by providing the resources and being a leader. We must develop long-term strategies to make sure that we rid the world of HIV infections.

REPORT: AIDS SWEEPING EASTERN EUROPE

(By Mara D. Bellaby)

MOSCOW (AP).—The AIDS epidemic is sweeping across Eastern Europe, with HIV infection rates rising faster within the former Soviet Union than anywhere else in the world, according to the latest U.N. report on AIDS, published Wednesday.

The combination of economic insecurity, high unemployment and deteriorating health services in the region are behind the steep rise, which shows no signs of abating, said U.N. officials, in Moscow to launch the report.

Worldwide, "HIV/AIDS is unequivocally the most devastating disease we have ever faced, and it will get worse before it gets better," Peter Pilot, executive director of the Joint U.N. Program on HIV/AIDS wrote in the report, which is updated annually ahead of Worlds AIDS Day, held every Dec. 1.

In Russia, more than 75,000 new cases of HIV infection were reported by early November, compared to 56,000 new cases last year.

"That works out to about 10,000 new cases every month," said Gennady Onishchenko, Russia's first deputy health minister. "This is our reality. . . . It is a very serious problem."

Ukraine has the highest HIV prevalence rate in the region, with an estimated 1 percent of adults infected. In the small Baltic nation of Estonia, 1,112 new cases of HIV infection were recorded in the first nine months of this year, compared to only 12 in all of 1999, officials said.

The U.N. report said that in Eastern Europe, as in the rest of the world, AIDS affects a disproportionate number of young people. The main method of transmission in the former Soviet Union is through injecting drugs.

"It is a teen-age epidemic—teen-agers experimenting with drugs, teen-agers experimenting with sex," Piot said.

Officials in Eastern Europe have blamed the epidemic's increase partly on the sudden opening of borders, the growth of organized crime and weakened social services following the collapse of communist rule a decade ago.

Many young people, bored and unsure about their future, turn to drugs or unprotected sexual encounters, officials said.

Since the first clinical evidence of AIDS appeared 20 years ago, more than 22 million people have died. AIDS is the leading cause of death in sub-Saharan Africa, which has been hit hardest by the epidemic.

This year, African nations will experience 3.4 million new infections and 2.3 million deaths—losses that not only drain national budgets but also put future generations at risk, depriving children of parents and local economies of their work force, officials said.

U.N. officials predicted that some of the most affected African nations could lose more than 20 percent of their GDP by 2020 because of AIDS.

The U.N. report said unsafe sex was on the rise in high-income countries such as the United States and some European nations, subsequently triggering a rise in sexually transmitted diseases, including HIV.

"All the emphasis is put on treatment, which has had a major impact, but prevention has been neglected and education has been neglected," Piot said. "The price that we will have to pay for that neglect is very high."

The report found a bright spot in Cambodia, where prevention measures have had a significant impact, but officials also warned about the deteriorating situation in China and in the Caribbean, which continues to be the second most affected region in the world.

Last June, the U.N. General Assembly held a special session on HIV/AIDS, winning pledges from governments to pursue new preventive actions and contribute more funds to the fight. The United Nations estimates that some $10 billion will be needed every year to fight AIDS in low and middle-income countries.

□ 1645

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

JUMPERTOWN QUILT PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. WICKER) is recognized for 5 minutes.

Mr. WICKER. Mr. Speaker, ever since the events of September 11, people in communities large and small have looked for ways to show their support for the victims of terrorism and to express the pride they have in this great country.

I rise today to share the story of an inspiring, patriotic project undertaken in a community in Mississippi's First Congressional District. The students and residents of Jumpertown, in Prentiss County, Mississippi, chose a unique way to share their words of support and patriotism by including them in a quilt. I was honored to be asked to deliver it to President Bush.

Mrs. Nancy Johnson, a teacher at the school, conceived the idea, which quickly became more than a school project. It was enthusiastically embraced by the entire community.

Mrs. Betty Sue Geno started the process by cutting cloth squares, which were then distributed to each class, kindergarten through 12th grade, in the 365-member student body at Jumpertown School. The office staff and lunchroom ladies also participated. Each group was given the opportunity to create and decorate the individual squares.

When all pieces were completed, Mrs. Penny Padgett designed and sewed the quilt top. Then the squares were turned over to a group of ladies in the community who met at the Barksdale Parents Center for an old-fashioned quilting bee.

The ladies who put it all together were Mrs. Ruby Smart, Mrs. Sue Nell Searcy, Mrs. Mary Odle, and Mrs. Louise Robinson. They were assisted by teachers and staff members from Jumpertown School, including Lisa Cousar, Eleshia Jumper, and Martha Mitchell.

Mr. Speaker, I was proud to be part of a patriotic ceremony on November 12, the day after Veterans Day, to present the quilt officially. The entire school assembled in the gymnasium, along with many people from the community, to pay tribute to Prentiss County veterans and to celebrate this very special project.

Prentiss County superintendent of education Judy Perrigo and Jumpertown principal Kenneth Chisholm took part in the program. It included patriotic musical selections from students Kayla Robinson and Megan Downs and teacher Norma Jo Jones. Sixth-grader Channing Durham also read a poem he had written.

In her remarks, Mrs. Johnson said, "Much as our Nation has come together, our community has pulled together on this quilt. We are sending this to the President with the hope that he knows that in Jumpertown our prayers, our thoughts, and our support are with him and the country."

This project in Jumpertown, Mississippi, Mr. Speaker, is a reflection of the American spirit which has sustained our Nation during these difficult times. I proudly accepted this quilt on behalf of the entire United States Congress, and I look forward to taking it to President Bush at the White House.

BORDER POINTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, on Tuesday evening after returning from a day and a half visit with the Canadian parliamentarians and government leaders in Ottawa, I spoke briefly about the importance of our mutual trade and our mutual concerns about terrorism.

It is important when we are discussing antiterrorism efforts on our north and south borders that we not forget the importance of trade. The trade crossing just the Ambassador Bridge between Windsor, Ontario, and Detroit, Michigan, equals all U.S.-Japan trade.

That said, Americans as well as Canadians and Mexicans are concerned about the movement of terrorists and other illegal activity along our borders. It is not just about terrorists and possible terrorists. Most Americans have been aware of the narcotics problems along the U.S.-Mexican border over the last decade. Andean cocaine and heroin move into the U.S. through Mexico and the Caribbean Sea. The northern border does not have the fences and patrols that we have along the south border.

Now, as drug patterns change in the United States, Canada has become a major narcotics conduit to the United States, as well: Ecstacy, coming mostly from the Netherlands, across into the U.S. from Canada; ephedrine and chemical precursors for methamphetamines, meth, for Ecstacy and other synthetic drugs are moving through Canada. These are in fact our fastest growing drug problems.

Furthermore, potent marijuana from British Columbia, called B.C. Bud, and from Quebec, called Quebec Gold, have potencies similar to cocaine. In fact, Quebec Gold sells for about the same price as cocaine in New York City. But it is important for Americans to understand two basic points: one, it is our consumption that has resulted in our hemispheric neighbors turning into transit and drug-producing nations; and, B, in the case of Canada, the drug-trafficking, like the movement of terrorists, goes both ways.

This does not change the need for border control. The borders are often our best chance to catch drug traffickers and terrorists before they lose themselves within our free nations; thus, we have to work on border control.

So how can we keep our trade, tourism, and shared work forces moving with relative ease, and also protect our nations? It is not a matter of Canada, Mexico, or the U.S. dictating to the other nations about what must be done, but this is a fact: the United States is toughening its laws. If our neighbors do not, as well, trade will suffer.

Changes must include numerous things, including more shared intelligence information among trained professional personnel. The personnel has to be trained so we do not have compromises when we share information, like happened with the Mexican drug czar who was living in an apartment that was owned by the cartel.

The ability to collect intelligence information. We have to have laws that are flexible enough to allow us to gather the intelligence, or we cannot allow the movement across the borders as free as it has been in the past.

The ability to arrest, detain, and prosecute violators, and to keep track of high risks. This is what we are doing in our terrorism bill; and this is what we need from our neighbors, if we are not going to have tighter controls on the border.

The ability to extradite criminals to the U.S. This has been a sticking point for many years with numerous countries, for example, in Colombia where the drug-corrupted President would not allow extradition, and it became a place for them to hide out. It became a process where we in fact cut off trade and assistance to Colombia. It is now a problem with al Qaeda members from Spain, which does not want to send them to us because of our death penalty.

Extradition of those who murder Americans is essential for justice, but also for defense and for protection and deterrence. Terrorists and drug lords would rather face soft justice than U.S. justice.

In Holland, narcotics traffickers find cover. If someone in Holland attempts to escape or escapes from prison, there is no penalty. It is assumed that that is a natural thing, to want to escape from prison. Is it any wonder that people try to hide in Holland, with those kinds of laws? No wonder drug lords and terrorists try to hide out in other nations that do not work with our extradition.

We need also passenger manifest lists, as our Customs Director, Mr. Bonner, has insisted; and we need them now. We cannot have open airports if we do not know who the passengers are coming in, and it is something that needs to be done immediately, to the degree that we can all, including the U.S. And we, the U.S., after all, missed the September 11 terrorists, and they were here, not at the other places. So this is not just about pointing fingers while we live in a glass house. We know we need to make the changes, but so do our neighbors.

We in the U.S. are building a different house. It is not dramatic, but it is going to have major adjustments. If our neighbors do so also, and Canada clearly is working rapidly to do so as we speak, because they are moving their antiterrorism and immigration packages in the next 2 weeks, we can make this.

The laws will be different but similar, with our neighbors devoting resources to their own airports and borders not adjacent to the U.S. For example, the southern border with Mexico and Central America, if we are sure about that border, then we do not have to be as careful on our border; or if the airports coming into Vancouver and Halifax have protections similar to ours, then we do not need to be as tight on the north border.

Furthermore, we need to work towards joint efforts with Canada and Mexico on our joint borders. For example with Canada, we can look for cooperation on truck sites. We can look for shared border crossings where we do not need as much. I believe we can accomplish this with both countries by working together.

ON WORLD AIDS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-McDONALD. Mr. Speaker, this Saturday, December 1, marks the commemoration of World AIDS Day. In my district, I will be holding a special event in support of this occasion.

As our distinguished minority leader, the gentleman from Missouri (Mr. GEPHARDT), stated at the World AIDS Day briefing held earlier today in the Capitol by the African Ambassadors Group and the International AIDS Trust, the issue of HIV/AIDS, he said, is the "moral issue of our time." It affects everyone and everything.

Mr. Speaker, we must leave no stone unturned to bring an end to this pandemic. We must find a way to create an endowment of funding to assist the war against the spread of this disease, both domestically and internationally.

We must increase and accelerate our financial support to the U.N. Secretary General's AIDS Trust Fund, and we must champion our own colleagues in their quest to craft a comprehensive approach to help alleviate the appalling suffering in Africa, as represented by the bill of my distinguished colleague, the gentlewoman from California (Ms. LEE), to establish a Marshall Plan for Africa.

Mr. Speaker, it is vitally important that we focus on ways and means to strengthen infrastructures and services that can help combat the impact of AIDS. HIV/AIDS, after all, is a multidimensional issue that has long-range development implications. It is not just a matter of clinical treatment and curative measures. We must address the issues of poverty and debt relief, so that the poorest countries can apply more of their revenues to the basic human rights and human needs of their people.

We must help and encourage greater gender equity, so women and men can address their sexual dialogue on a more equal basis. We must achieve greater understanding of the cultural values and modes of behavior that undercut safe-sex practices that lead to the spread of this pernicious disease.

Finally, we must increase our financial support to develop activities and programs that can lay a more sustainable foundation for community empowerment and economic livelihood.

Only on this basis will communities around the world, through NGOs and public-private partnerships, be able to find the will to wage this war against AIDS. Our local event will bring together researchers, doctors, and other health professionals, as well as heads of foundations and pharmaceutical companies, together with community leaders to continue to raise support for combatting HIV/AIDS in the 37th district and in the region.

It is our hope that similar commemorative activities across America and around the world will highlight the leadership being brought to bear on this critical concern of our time. Just as we are building a powerful coalition to fight terrorism on a global scale, we can do no less when it comes to HIV/AIDS. Forty million people living with this dreadful disease is one too many.

COMMEMORATING WORLD AIDS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, this week we will commemorate, celebrate, embrace, and share love on World AIDS Day, December 1, 2001. Today I had the pleasure and honor of being with the African Ambassadors Group and the International AIDS Trust to commemorate that for the House and Senate.

It is important that policy leaders stand up and be counted as we move forward to continue the fight against the devastation of HIV/AIDS worldwide.

Let me thank Sandy Thurman and, as well, all of the African ambassadors, and Ambassador Sheila Suzuli of South Africa, who gave very eloquent comments and remarks about the waging of the war in sub-Saharan Africa.

Let me also acknowledge my friends with the Names Project in Houston. I will join them tomorrow in celebrating and commemorating the loss of lives, and as well, the lives of those who are still living with AIDS.

As we do that tomorrow evening at the de Menil Museum, we do it together, embracing and noting the wonderment of the lives that are no longer with us but recommitting ourselves to fighting against the devastation of HIV/AIDS.

□ 1700

I say congratulations and my best wishes to the NAMES Project of Houston and all the other fighters in my community who are advocating against HIV/AIDS and working to provide prevention dollars and treatment dollars throughout the entire city, which includes of course the Donald Watkins Foundation.

September 11 will live forever in our hearts and minds as one of the most tragic and horrific acts of terrorism on our country. We have all joined forces to fight back against this terrible evil. Foreign countries have also responded and lent their support to help combat terrorism. It has proven that by joining together, any challenge can be overcome.

While we have focused our attention to addressing the immediate needs of the survivors and families who lost loved ones, increased security, and the economy, we must refocus our attention as well to the global pandemic that has claimed over 29 million lives. The same strategy we apply in our fight against this terrible, terrible dread of terrorism, we must continue the battle, however, in our fight to beat HIV/AIDS around the Nation. This is a global issue and everyone's problem, nationwide and worldwide.

The Global Health Alliance released a report yesterday, entitled "Pay Now or Pay More Later: An Independent Report on the Response to the Global HIV/AIDS Pandemic." Today, the African Ambassadors Group and International AIDS Trust sponsored a briefing on refocusing and reaffirming our commitment to AIDS. As we approach World AIDS Day on December 1, we must stand strong and continue to fight and raise awareness.

Forty million people around the world live with HIV/AIDS or will be living with it by the end of 2001, adults and children, 28 million of which live in sub-Saharan Africa alone.

Since the first HIV case 20 years ago, over 60 million persons have been infected, and over 20 million have already died from AIDS. The spread continues, especially in poor and developing countries.

In Africa, there are an estimated 11,000 new infections per day; and during 2001, 2.3 million Africans will die from HIV/AIDS. Only 10 percent of the world's population lives south of the Sahara, but the region is home to two-thirds of the world's HIV/AIDS. We must not tolerate such devastation, and it has suffered more than 80 percent of all AIDS deaths in sub-Saharan Africa.

I traveled to the South African region in 1999 and this year, and what I witnessed was unbelievable. First, I would like to commend the indomitable spirit of those who are fighting HIV/AIDS. The leadership, the government, the social agency, the NGOs, the people, they are all fighting unified together. It was a life-changing event to see and meet people infected by this deadly virus but also to meet those who were standing alongside of them, committed to defeat this deadly disease.

What affected me most was witnessing the thousands of orphan children whose parents had died from AIDS. Currently there are approximately 14 million children orphaned by HIV/AIDS, with a projection of 40 million children by 2010 if no action is taken. Every minute, an African child dies of AIDS. These orphans are more likely to be poor, deprived of education, abused or neglected.

Who cares for them when their parents die? HIV/AIDS also decimates the family support system, and when I went on one of my earlier trips to Africa, I saw a 4-year old who was left to be the only healthy individual in a family taking care of dying adults, dying from HIV/AIDS.

A teacher who works near the Chinakas and the Kasongos described how 15 of his 42 students have lost one or both of their parents. He sees thousands of children just sitting around, wanting to be left alone. He also noticed that some of these orphans come to school without shoes or without a sweater in the winter. Either their step-families put them last on the list, or their grandmothers could not scrape together enough money.

It is important to note the impact of HIV/AIDS in the United States. Non-Hispanic blacks represent 33 percent of reported AIDS cases in our Nation, and throughout 1994 more than 80,000 of 146,285 African Americans reported to have AIDS have died.

We must work together to fight AIDS worldwide around this country, because if we do not we will stand to lose the talent, the spirit of those who are infected. We must fight it around the world; otherwise we will lose as well. Cases in Hispanics, among women, African American and children, this is a challenge for us all.

As we look toward World AIDS Day on December 1, let me simply say that we must look toward it with a commitment that we will stand alongside of those battling that disease, and we will not let the funding diminish nor will our spirit diminish nor will our fortitude diminish this fight, and we will win.

Mr. Speaker, September 11 will live forever in our hearts and minds as one of the most tragic and horrific acts of terrorism on our country. We have all joined forces to fight back against the evil. Foreign countries have also responded and lent their support to help combat terrorism. It is proven that by joining together, any challenge can be overcome.

While we have focused our attention to addressing the immediate needs of the survivors and families who lost loved ones, increased security, and the economy, we must refocus our attention to a global pandemic that has claimed over 29 million lives. The same strategy we apply in our fight against terrorism, we must also utilize in our fight to beat HIV/AIDS. This is a global issue and everyone's problem.

Just yesterday, the Global Health Alliance released a report entitled "Pay Now or Pay More Later: An Independent Report on the Response to the Global HIV/AIDS Pandemic". And today, the African Ambassadors Group and International AIDS Trust sponsored a briefing on Refocusing and Reaffirming our Commitment to AIDS". As we approach World AIDS Day on December 1, we must stand strong and continue to fight and raise awareness.

Forty million people around the world live with HIV/AIDS, twenty-eight million of which live in the Sub-Saharan African region alone.

Since the first HIV case 20 years ago, over 60 million persons have been infected, and over 20 million have already died from AIDS. The spread continues, especially in poorer countries.

In Africa, there are an estimated 11,000 new infections per day, and during 2001 approximately 2.3 million Africans will die from HIV/AIDS.

Only 10 percent of the world's population lives south of the Sahara, but the region is home to two-thirds of the world's HIV-positive people, and it has suffered more than 80 percent of all AIDS deaths.

I traveled to the South African region in 1999 and this year and what I witnessed was unbelievable. It was a life-changing event to see and meet with the people infected by this deadly virus. But what affected me the most was witnessing the thousands of orphaned children whose parents died from AIDS. Currently, there are approximately 14 million children orphaned by HIV/AIDS, with a projection of 40 million children by 2010 if no action is taken. Every minute an African child dies of AIDS.

These orphans are more likely to be poor, deprived of education, abused or neglected. Who cares for them when their parents die? HIV/AIDS also decimates the family support system.

A teacher who works near the Chinakas and the Kasongos described how 15 of his 42 students have lost one or both of their parents. He sees thousands of children just sitting around wanting to be left alone. He also noticed that some of these orphans come to school without shoes or without a sweater in the winter. Either their stepfamilies put them last on the list or their grandmothers couldn't scrape together enough money.

In the West, meanwhile, the HIV death rate has dropped steeply thanks to powerful drug cocktails that keep the disease from progressing. But that is not the case in African-American communities.

Non-Hispanic blacks represent 33 percent of reported AIDS cases in our Nation. Through December 1994, more than 80,000 of the 146,285 African-Americans reported to have AIDS have died.

While AIDS related deaths have begun to decline, there has been a dramatically greater decline among whites, 21 percent than among African-Americans 2 percent and Hispanics, 10 percent.

African-Americans and Hispanics have been disproportionately affected by the AIDS epidemic. Although 52 percent of reported AIDS cases occurred among African-Americans and Hispanics, these groups represent only 13 and 10 percent respectively of the total U.S. population.

Among women and children with AIDS, African-Americans and Hispanics have been especially affected, representing approximately 75 percent of reported cases among women and 80 percent among children.

In my District, reported AIDS cases in Blacks increased from 24 to 40 percent within the last 5 years. While reported AIDS cases in Whites decreased from 64 to 44 percent. From 1990 to 1998, the percentage of Blacks in Houston/Harris County diagnosed with AIDS increased from 27 to 53 percent.

The key to fighting this virus must involve a comprehensive approach that includes prevention, education, and support of a health care infrastructure. HIV prevention efforts must take into account not only the multiracial and multicultural nature of our society, but also other social and economic factors, such as poverty, underemployment, and poor access to the health care system, that impact health status and disproportionately affect African and Hispanic populations.

We, as Members of Congress, must continue to fight the struggle and persist in obtaining increased funding of the global AIDS response. This is one of the great challenges of our time and of this generation.

REMEMBERING THE LIVES OF REVEREND CHARLES H. SHYNE, JR., AND HIS WIFE, MRS. VERLENA PRUITT SHYNE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, there were 16,653 alcohol-related fatalities in the year 2000, 40 percent of the total traffic fatalities for that year. Driving under the influence of alcohol continues to be one of our major domestic problems and issues and we must continue to work towards finding lasting solutions to this major problem.

About a week ago, a driver under the influence of alcohol smashed out the lives of two of my community's most beloved citizens, Reverend Charles H. Shyne, Junior, and his wife of 54 years, Mrs. Verlena Pruitt Shyne. Reverend Shyne, at the time of his death, was serving as pastor of the Hamlet-Isom Christian Methodist Episcopal Church on West Division Street in Chicago. Mrs. Verlena Pruitt Shyne was a retired teacher who had worked for the Chicago public schools and other districts, who at the time of her death was serving as first lady of Hamlet-Isom and providing voluntary leadership to many local church initiatives and programs as well as denominational activities and functions.

Reverend and Mrs. Shyne were both college educated, he at Grambling High School, Central State University, Roosevelt University in Chicago, and received his seminary training at Payne Theological Seminary in Wilberforce, Ohio. Mrs. Shyne also attended Grambling High School and graduated from Roosevelt University with a degree in early childhood education and taught for 15 years in the Chicago public school system and retired in 1999.

She was the first lady of Hamlet-Isom CME Church and served on the missionary and stewardess boards. She was past president of the Ministers Spouses of the Chicago District. Mrs. Shyne is survived by two sisters, Ida Mae and Mildred Gipson, and one brother-in-law, Mr. Clarence Mamone. She loved and was loved by children and devoted much of her life and work to them.

Before coming to Hamlet-Isom, Reverend Shyne served as pastor of Beede Chapel CME Church in Ripley, Ohio; Cleaves Temple in Omaha, Nebraska; and Central CME Church in Detroit, Michigan, where he also served as pastor of Bray Temple and director of Bray Temple Daycare Center. He was subsequently appointed presiding elder of the Chicago District, Southeast Missouri, Illinois and Wisconsin Conference in 1985.

After several years of service in that capacity, he was pastor of Jubilee Temple. He retired in 1999, but agreed to serve as supply pastor at Hamlett Isom, where he remained until his untimely and tragic death.

He is survived by one brother, Joe Shyne of Shreveport, Louisiana, and three sisters, Ozeal Brown of Washington, D.C., Mildred Bennett of Grambling, Louisiana, and Florence Bowers of Washington, D.C., and three brothers-in-law, Reverend Arlester Brown, Benny Bennett, and the Honorable Judge Shelli F. Bowers.

The lives of Reverend and Mrs. Charles H. Shyne, Jr. will be cherished by all of us who knew them, and especially their seven loving children, five daughters and two sons: Gregory Shyne of Arlington, Virginia; Sharon Bowman of Detroit, Michigan; Jacqueline Robertson of Southfield, Michigan; Charlotte Shyne of Chicago, Illinois; Howard Shyne of Fairfax, Virginia; Robin Reddick of Memphis, Tennessee; and Rosalind Curry of Chicago.

Also cherishing their memories are one son-in-law, Michael Robinson, husband of Jacqueline; 11 grandchildren, Nicole White, Tracy Bowman, Leslie Bowman, Damien and Jason Shyne, Jessica Curry, Jennifer and Janis Robertson, Iris, Rose and Samuel Roddick; three great grandchildren, Elijah Herron, Dylan, and Donovan White, and a host of nieces, nephews, and other relatives and friends.

Mr. Speaker, here is another example of where two outstanding citizens who have devoted their lives to serving others have had their own lives cut short as a result of overuse of alcohol while operating a mechanized vehicle, an individual driving without any concern for the safety and welfare of others.

We must all join together to find more effective solutions to this problem of people driving under the use of alcohol.

We commend the Shynes for their outstanding work on behalf of humankind.

Mr. Speaker, another subject, I too just want to acknowledge that today is indeed World AIDS Day. I join with all of those who have spoken relative to the tremendous need to make sure that every effort is made to continue to supply resources, come up with programs and activities to make sure that we combat this deadly disease.

Mr. Speaker, as we recognize the 13th anniversary of World AIDS Day, it is noted that the theme for this years Day is; I care. Do you? Mr. Speaker, yes, we care. World AIDS Day emerged from the call by the World Summit of Ministers of Health on Programmes for AIDS Prevention in January 1988 to open channels of communication, strengthen the exchange of information and experience, and forge a spirit of social tolerance. Since then, it has received the support of many notable organizations world-wide. Notably, the AIDS campaign started on September 1, 2001, and ends on December 1, 2001, which is World AIDS Day.

Every single day more than 8,000 people die of AIDS. Every hour almost 600 people become infected and every single minute, a child dies with the virus. World-wide, the AIDS epidemic has become an extremely difficult battle' to combat. While many 'nations' health care systems lag behind the increasing demand for the supply of drugs that treat AIDS and the virus associated with the disease. Many of the infected cannot afford the drugs or may not be able to obtain insurance that will assist during the treatment of the disease. We must continue to visit the issue with extreme importance and caution. Before the terrorist attacks, we were making progress to develop strategies to combat and control the spread of AIDS. We must continue to work with that same passion while balancing the importance of our country's security. Today, more than 40 million people are now living with the virus. A vast majority of these victims are from sub-Saharan Africa, where the spread of AIDS is moving at an alarming rate. Other countries such as Asia, Eastern Europe and parts of the Caribbean have experienced the hardship of the disease's progression.

As the spread of AIDS grows, the importance of treatment must be made a top priority. Now more than ever, more pregnant women are carrying the disease affecting their unborn children. The future of the World's children depends on how precise we are in our judgment, our prognosis and our preparation in the fight against AIDS. Over the past 20 years, AIDS have claimed the lives of 58 million people, killing 22 million of them. "Safe-Sex" messages are simply not enough. A combined effort of education, realization and information is the only answer to detour the spread of the disease.

I urge that we spare no effort to combat this dreadful nuisance.

JUMPSTARTING THE ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Pennsylvania (Mr. TOOMEY) is recognized for 60 minutes as the designee of the majority leader.

Mr. TOOMEY. Mr. Speaker, today I would like to engage in a discussion about the economic situation we find ourselves in, the state of our economy and what it is that we are going to do about it, what we have done about it in the House, what needs to be done by the other body.

I would like to begin by just summarizing, reflecting briefly on something I hope we all understand, I hope we all appreciate, and that is the very difficult situation that we find ourselves in today. The fact is our economy had been in a slowdown mode. We had been slowing down the rate of growth of our economic output for over a year prior to September 11, 2001, and certainly since September 11 the downturn has accelerated. It has gotten to the point now where we know by various experts, government and private sector economists, that we no longer have economic growth that we can talk about. Today we are experiencing economic contraction.

The consensus is almost a half, fourtenths of a percent, anyway, of actual economic contraction in the third quarter of this year. There is very little reason to believe that the fourth quarter is going to turn around and show growth. Many believe that we started the contraction back in March. In any case, in all likelihood we are in a recession right now, and we are going to be in a recession for some time going forward.

Now, of course, one of the very most unfortunate, tragic things about a recession is the job losses that always result. Unemployment now is at a 5-year high, about 5.4 percent. Our Nation has lost literally hundreds of thousands of jobs since September 11 alone, when this downturn accelerated. Consumer confidence fell for the fifth straight month. It is now at its lowest level since 1994.

The bottom line is, the translation of all of that is people are out of work. People who want to be working and productive and supporting their families have lost their jobs and they are wondering how they will get back to work. Layoffs are impacting just about everywhere in our country and, as best as I can gather, certainly hitting my district. Good solid companies that have provided great jobs for years have had to lay off workers, and I know they do that reluctantly. And I hope those openings will come back, those jobs will come back. But for now, folks have been laid off at Kraft, at Rodale, at Lanco, at Pabst, Agere, all across my district. Good companies. Jobs have been lost. Nationally there are all kinds of job losses, Gateway, IBM. Boeing announced huge losses of jobs. Solid companies laying off thousands of workers, hundreds of thousands of workers all across the country.

So the question is what are we doing about this? What are we doing about this in the House? What have we already done about it in the House? What are our colleagues in the other body going to do about it, if anything?

I think we have got a responsibility to create an environment that maximizes the opportunity for our constituents to get back to work, for this economy to pick up steam, for companies to begin to hire back the people that they have laid off.

I think most of my colleagues share that view that that is our responsibility. I think one of things that divides us, one of the points on which we disagree, unfortunately, is how do you go about that. How do you best encourage that economic growth? And to simplify things a bit, but I do not think it is unfair, I think it is a reasonable simplification of the debate that has been carried on in this town, there are two schools of thought, maybe two major philosophies about how we ought to go about getting this economy moving again and getting people back to work.

One is the school that says the way you do this is government spending, big government spending program, new program on all kinds of things helps to get the economy going again. Some would describe that as priming the pump. There are lots of other expressions, but some think that is the way we ought to go. That has been proposed. Especially it had been advocated by the leadership of the other Chamber as the main thrust of how we ought to go forward here.

There are others who believe that there is an alternative that is a better, more effective, more constructive way to get the economy moving again, and that is major immediate tax relief, and that that would be much more effective both in the near term and in the long term than even more government spending.

□ 1715

So let us take a look at these alternatives. Let us discuss this a little bit. On the side of those who favor more government spending, it seems that that is the traditional approach taken by those who hold the Keynesian economic view, the demand-side model for how an economy works. And one of the ways to look at the premise behind that philosophy is that, in a way, it holds the view that the slowdown, an economic slowdown, is generally caused when a demand for goods and services is just too low; there is just not enough demand. That is what it is called the demand-side model sometimes. But this is a Keynesian idea. And if the demand is too low, then the way to solve the problem is to increase the demand. And the easiest way to increase demand is to flood the economy with money, so that people can go out and spend it. That creates demand. And we hear people talking about getting money out in the people's pockets as a way to get the economy going again.

Of course, for many who subscribe to this theory, they would, rather than have individuals have more money in their pockets to spend, they would rather just have the government do the spending. Because the government is part of the demand; government expenditure contributes to the total demand in the economy. So a lot of folks will say, just short-circuit the whole process, go right to a big government spending program, and that will get the economy going again.

Now, it is interesting to note that this, of course, is a convenient theory. It can be used to justify and rationalize some other objectives that some people might have. For instance, some people would like to redistribute income, to a very large degree, in our society. They like to take money from some people and give it to others, and they like to be in control of that process. Well, you can justify that a little bit better if you argue that this is all good for the economy too. And so often this becomes a convenient theory for those who really have ulterior motives.

But without getting into motives, because I do not want to dwell on that, I want to look at the question of whether this is really the best thing for the economy. Is a wave of government spending going to increase the demand? Is that going to solve our problem? Well, I suspect not, and I suspect not for several reasons, the most simple of which is that this model, this way of viewing the economy, just has not held up very well. The bottom line is I think that there has never been a strong correlation. I do not think anyone has been able to prove a correlation, much less a causation, between increases in government spending and economic growth and prosperity. The correlation does not exist. So that ought to give us some real pause.

Now, there are specific periods in times in history where we can look at this and examine what has happened and what has not happened. One case that comes to mind is the whole stagflation of the 1970s. Now, under the Keynesian model, high inflation and high unemployment are supposed to be impossible to occur at the same time. You could have one or the other, but you would not have both. And the reason is because of the idea that inflation is a manifestation of excess demand. If there is too much demand for products and goods and services, then everybody must be working to provide those products and services so unemployment would be very low. Of course, we know in the 1970s that was not true. Unemployment was quite high.

Now, conversely, if you have high unemployment, that supposedly is a manifestation of inadequate demand. And if there is inadequate demand, then there is nobody out there bidding up prices for things, or certainly not a sufficient amount of that, and so we would have very low inflation. If we have high unemployment, we would have to have low inflation. That was not true. As I said, we had both. I think the real reason we had both is we had a weak dollar, which gave us inflation, and we had way excessive taxes, which caused an economic slowdown and huge unemployment.

In any case, whatever you think the cause was, the Keynesian model cannot explain what we know happened as a matter of historical fact in the 1970s. And there are other periods of time when we have seen huge government spending increases that have not resulted in economic growth. The chart that I have here to my left just touches on a few periods.

I will cite the very first here. In the 1930s, government spending tripled; massive government spending beginning in the 1930s. But yet during that very same decade, gross domestic product fell by 27 percent in the first 5 years; and by 1940, 10 years later, unemployment had doubled. Obviously, government spending did not solve the problem in the 1930s. Probably because a lack of government spending was not the cause of the problem we had in the 1930s, but rather protectionist barriers to trade and an increase in taxes probably had a lot more to do with the problems that we had in the 1930s.

It is interesting to take a look at what has happened in recent years. From 1992 to 2001, government spending has grown by 41 percent, and at the end of that period we have entered into a recession here. So, clearly, there is not a strong correlation between increases in government spending and an economic slowdown. But when we think about it, it makes sense. If government spending were all it took to get out of a recession, we would never have one. We would just ratchet up spending a little bit and sail along on our merry way.

As this evidence points out, we certainly would not be facing a slowdown now, because in recent years we have had a massive increase in government spending. As soon as the surpluses arrived, we lost the fiscal discipline that got us to that point in the first place, spending took off; and yet here we find ourselves in a recession.

There is another great example that I want to touch on, and then I will recognize some of my colleagues who have come to join me in this discussion, but the Japanese economy is a fascinating example of how this whole Keynesian demand-side, government-spending approach has not worked.

Beginning in 1991, the Japanese proceeded with this approach to dealing with a recession. Fact is they were 10 years into a terrible recession despite excessive waves of massive government spending. Arguably, they have had 10 different stimulus packages, largely based on public infrastructure spending, massive government spending, which has added up to trillions and trillions of yen, a quarter of a trillion U.S. dollars equivalent, a huge percentage of their economy, and where are they today? They are mired in a serious recession that continues well into its 10th year.

So, clearly, excessive government spending, an increase in government spending, is not the solution. But I will pause at this point and recognize my esteemed colleague, the gentleman from North Carolina (Mr. JONES), for any comments he may want to share with us.

Mr. JONES of North Carolina. I want to first thank the gentleman from Pennsylvania (Mr. TOOMEY), as well as the gentleman from Wisconsin (Mr. RYAN), who has just joined us, for their leadership, both of them, in the area of reducing spending and also reducing taxes. And that is what I want to take a couple of minutes to talk about.

As my colleagues know, we have had several conversations about the capital gains tax. I represent the Third Congressional District of North Carolina, which is a great district to represent; and we have a lot of retirees that have moved into our district. We are more than happy to have them living in the third district. Recently, with the downturn of the economy and what has happened in the stock market, I have had many of those retirees say to me, Congressman, why can you all not, in this stimulus package, reduce the capital gains tax?

Now, I realize that that would not in the short-term be the answer, but I think, and I would like to have my colleagues' comments, as to the benefit not only for our retirees but primarily those who have retired that are dependent on their investments that they worked 20, 25, or 30 years for.

And before I yield back to my colleagues for their answers, many times the other side, the liberals, when we start talking about the capital gains tax, they think we are talking about the rich of America. I am talking about middle-income people who have worked all their lives, and some that really are not middle income but are close to being middle income, who have worked their whole lives, they have invested, and now they are in their retirement years; and they are concerned, and rightly so, as to how they are going to live.

Mr. TOOMEY. I thank the gentleman from North Carolina for mentioning the capital gains tax, and our colleague from Wisconsin may want to comment on especially the job creation aspect of lowering this tax, but if I could follow up on one quick point.

The gentleman's point is exactly right. There just cannot be any question that the capital gains tax is really an irrational tax. In the first place, it is a punishment for saving and investing. Now, what society really wants to punish people for saving their money and investing it in the future? But that is what this tax does.

I think it is particularly unfair, especially to the those folks the gentleman is referring to, in the sense that if someone makes an investment in a stock, in a small business, in a piece of property, anything one can invest in, and that investment grows in value, but only maybe by the rate of inflation, a couple of percentage points here and there, but just pretty much tracks inflation, so that the individual has not really made any money, they have only kept pace with the general price structure of our economy, well, after 10 or 20 years, that is a significant amount of increase in the nominal value of that asset because inflation adds up to a lot over 10 or 20 years. But the individual has not really made a dime in terms of any real gains. All that person has done is kept pace. Yet, if they sell that asset, what do we do here in Washington? We attribute the entire increase to a capital gain and we take up to 20 percent of that, despite the fact that the person has truly made no money.

That strikes me as egregiously unfair. But maybe our colleague, the gentleman from Wisconsin (Mr. RYAN), would like to share his thoughts on it.

Mr. RYAN of Wisconsin. Absolutely. When we take a look at the family farmer, who purchased an asset, or maybe inherited the family farm in their early years, went on to sell it later on, they are going to face a capital gains tax in excess of 20 percent, sometimes nearing as much as 100 percent, because they are taxed on that inflated gain on that asset.

As we take a look at what we can do to get this economy going again, because a lot of people have lost their jobs and a lot more are losing their jobs, the jobless rate is the highest rate of growth it has been since 1981, 1982, we know we need to get people back to work. And when we sit here in Congress trying to figure out how we can grow jobs and retain jobs through growing the economy, we look at what works and what does not work.

I notice my colleague from Pennsylvania was talking about what did the second largest economy in the world do; what have they been trying to do; what have we tried to do in our Nation's history. Look at Japan, and like the gentleman from Pennsylvania said, 10 different stimulus packages of federal infrastructure spending and rebate checks, and just as many recessions. They have a debt-to-GDP ratio of 130 percent. They have spent themselves deeply into debt. Their long-term interest rates are about 1.2 percent, their short-term rates are about zero. They cannot cut interest rates any more. They cannot increase their money supply. They do not have an economy where they can even save. And what did they get from it? A huge debt.

Many around here are talking about doing the same thing the Japanese did: more public infrastructure spending, more rebates. Well, what we learned just 2 days ago from the NBER statistics would show us that we are technically in a recession as of March of this year. And they show us that it was not consumer spending that went down, it was not consumer income that went down, it was investment that dried up. It was business investment that dried up. Venture capital. That seed corn of entrepreneurial activity is down 72 percent.

Mr. TOOMEY. Reclaiming my time for just a moment, the gentleman is pointing to and getting exactly right to the crux of the problem here. What we are talking about is the difference between massive government spending and private sector investment.

I have had colleagues and I have constituents say, well, what difference does it really make, as long as somebody is doing the spending? If it is the government or the private sector, a dollar is a dollar, and the dollar does not really know who is spending it. Right? There is a huge difference for a lot of reasons, and I just want to touch on one.

If we stop and think about it, we all know what drives government spending is politics. What drives government spending is the political system we have, and whose political bed gets feathered by some spending is a big part of what does it. But there is no market force driving political spending or government spending. There is no competition within government over this, whether it is the Department of Housing and Urban Development or any other Department. It does not have a competing Department down the road that it has to outperform. So, basically, the money just gets spent as politicians see fit.

Whereas, in the market, it is a totally different mechanism. Consumers do not buy anything unless they think it is something worthwhile, something of value, something they want to have.

Investors do not invest in anything unless they think it is a process, a business that is providing goods or services that people want. So we have a private sector mechanism that ensures that money goes to where it is needed and where it is wanted. And we have a public sector, a government system, that goes to where politicians want. And that is a big part of the reason why one is much more effective than the other.

I will yield back to my colleague from Wisconsin, but I want to say one more thing quickly, because I think all three of us agree on this issue, which is that there is a huge amount of government spending which is absolutely critical. In fact, right now I think we all agree that we need more government spending on intelligence gathering, on defense, and on homeland security. We need to increase spending there. There is no question. That is something only the government can do, the government must do. But I think it argues for even more restraint in the other areas, especially when we know those other areas are not terribly effective.

And did the gentleman from Wisconsin want to say something else?

□ 1730

Mr. RYAN of Wisconsin. Mr. Speaker, I think the gentleman hit the nail on the head. That is, if we thought more government spending was the answer to our economic ills, we would not be in a recession. We have the most spending we have had in the history of the Federal Government today. We have been increasing spending at a rate greater than inflation. If we thought more spending was the answer, why is Japan mired in a 10-year-long recession?

We know that when we see business investment dry up, job losses take place, we know that is where we need to focus; focus on getting people back to work and getting businesses back up and running. And that is not filtering money through Washington by keeping taxes higher and spending more, it is letting people keep more of what they earn so they can reinvest as they see fit.

When we look at the risk that is out there in the marketplace, when we look at the cost of doing business, government has a negative bias against investment. We have a bias in our Tax Code against saving and investing. If you make money and spend it, the Federal Government leaves you alone. But if you make money and save and invest it for your family and business, the government penalizes you with a high tax.

We can reduce the price of saving and investment by reducing the tax on it. Every time in this country in the last century when we cut the capital gains tax or cut income tax rates, we have grown the economy and encouraged more economic growth and activity. We have grown more revenues coming to those lower tax rates.

I think we see before us a plan that is not necessarily even based on ideology, but based on what works and does not work. Higher taxes and more spending has proven to be utterly useless. Lower spending and lower taxes has worked.

Mr. TOOMEY. Mr. Speaker, reclaiming my time, I thank the gentleman from Wisconsin (Mr. RYAN), and I yield to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I came here in 1995 with Mr. Gingrich. We became the first majority House and Senate in 40-some years. We came here to reduce the size of government, and as the gentleman from Pennsylvania (Mr. TOOMEY) has said and as the gentleman from Wisconsin (Mr. RYAN) has said, we have not done the job. There is more that needs to be done.

I hope sincerely that the American people understand that this is their government and they need to speak through their elected officials in Congress and in the Senate to let people know that we need to return the money to the people, whether it be through capital gains tax, other tax reductions. But the whole key is what has been said; this government is growing too fast, is too large, and we need to do a better job of reducing the size of government so Americans can keep more of their money.

I thank the gentleman for taking the leadership on this Special Order. I will continue to work with the gentleman and my colleagues to do our very best to make sure that we reduce the size of government and we reduce taxes on the American people.

Mr. TOOMEY. Mr. Speaker, reclaiming my time, I hope that we will be able to move on to the discussion that the gentleman from Wisconsin (Mr. RYAN) introduced, the idea, which is the historical fact, that when taxes are excessively high and they are lowered, we get economic prosperity and growth and new jobs. There is a reason why. I would like to discuss why that works and why it has historically worked. But before I do that, I yield to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Speaker, I thank the gentleman for taking the lead in having this discussion about economic stimulus. I think it is something that this Congress needs to act on, and we need to act relatively quickly. It is my hope and expectation before we recess for Christmas that we will complete a stimulus package, including many of the items that my colleague has talked about.

In particular, one of the items that I think is very important to a number of manufacturing companies in my district, and that is about the accelerated depreciation that was included in the House-passed economic stimulus package. It is not actually a tax reduction, it simply delays some of the taxes that corporations will pay and allows and encourages them to invest, to invest in new equipment, new products, new investments which will increase their productivity, make them more globally competitive, and it gets corporations buying again and investing, which is good for all of us, and it is good for their employees especially.

In Michigan, some have said this economic stimulus package is tax breaks for corporations, but it is tax breaks for corporations that kind of piggyback on the larger tax reduction package that we put in place this year which is all targeted at individuals and personal income taxes, so I think it is a very good balance. The end result is that it is corporations, and some corporations in my district have had to lay off 20 to 25 percent of their employees. It is our hope and expectation that if we can pass the accelerated depreciation, get corporations buying again, it will enable these corporations to put these workers back to work.

The specific provision that we are talking about here is modeled after a provision that was put in place in the early 1980s. The impact in the 1980s was when we provided this accelerated depreciation, it spurred corporate spending, it spurred corporate investment and was really one of the things that enabled us to have the prosperity during the Reagan years. And as we all know, during the Reagan years the level of government revenues accelerated very, very quickly. It is good for all of us when we cut tax rates. Most importantly, it is good for American families because it puts workers back to work.

Mr. TOOMEY. Mr. Speaker, I thank the gentleman from Michigan (Mr. HOEKSTRA) for that observation on this particular provision in the bill which the House has passed, and the House has acted to try to lower the tax burden and get this economy moving again. It is our colleagues in the other body who refuse to do a thing about this, which I think is a disgrace given the level of unemployment we have.

The gentleman's point is right; when a business has the opportunity through an incentive in the Tax Code to have greater depreciation or even expensing of a capital item, it benefits the workers who are able to increase their productivity and hold on to their job because that business remains competitive. The other folks that it helps are the consumers. Who do people think pay taxes, corporate taxes? Corporations pass those costs on to the consumer through the form of their prices.

When we lower that burden, we lower the cost of doing business for that company. We enable them to hire more workers and lower their prices and benefit consumers and help accelerate transactions.

This gets into another theme, but at this point I yield to the gentleman from Arizona (Mr. FLAKE). I thank the gentleman for coming here, and salute the gentleman for all of the great work he has been doing to help lower the tax break for American people.

Mr. FLAKE. Mr. Speaker, there are a few comments I would like to make. When I talk to my constituents in Arizona, they are not clamoring for a few more months of unemployment or health care, they are clamoring to get their jobs back. The best way to do that is to recognize that we do not have such a problem with spending, as my colleague from Wisconsin pointed out very effectively. If the problem was spending, we would not have a problem. Government has grown over the past 6 or 7 years at the rate of, I think, an average of 6 percent a year. When we increase the baseline every year, that amounts to a whopping amount of spending. That is not the problem.

The problem is investment for the most part. We penalize investment, and we should not do so. What we need to do is lower the tax burden. The President has said a number of times, and the administration has indicated through a number of people, that the best thing to do is to cut marginal rates. In the President's tax package, we did that. We cut the marginal rate. The problem is that a lot of those cuts do not take effect for a number of years, particularly the rate cuts at the top end.

As our distinguished colleague Senator GRAMM on the other side of the Capitol likes to say, I never got a job from a poor man. We have to recognize that class envy simply does not cut it. We have to recognize that we cannot begrudge those who are making more than we are. We ought to encourage them to make more and invest more. We can do that by cutting the marginal rate at all levels; the top one at 39.6, accelerate that cut, and cut the lower rates as well. That is the first order.

The second thing has also been mentioned, cut capital gains. It has been noted earlier, that is one of the quickest ways to spur stock market, spur increased investment.

Mr. TOOMEY. Mr. Speaker, the gentleman has touched on something which is worth discussing. I have heard people suggest that if we cut the capital gains tax rate, it might be bad for the stock market. People might think the capital gain is lower so I should sell stock now while I enjoy a lower tax rate. I have heard people suggest if we ever cut the capital gains rate, we could have a collapse in the stock market.

That strikes me as exactly the opposite of the likely effect. First of all, we have cut capital gains tax rates before, and the stock market has gone up. We cannot ignore the fact that we have historical evidence on this. We have seen this happen before. And the reason why, if we were to lower the capital gains rate tomorrow, we would immediately increase the value of every asset in America. Because what is the value of an asset? It is its ability to appreciate in value. If you diminish the amount that the government is going to take of that, it is worth more. So why would the stock market collapse when every company in America became more valuable?

The gentleman points out if we cut the capital gains rate, in fact it would help the stock market. That is counterintuitive to some people, for the reason I just mentioned, but it is exactly right.

Mr. FLAKE. Mr. Speaker, we have to look at history. It has been cut before, and the result has been an increase in asset values and more investment. People are not going to take that out and stick it under a mattress. They are going to invest again. There is a compounding effect, and it is beneficial for the entire economy. That is extremely important.

Congress needs to recognize that we have to stop the class warfare. We have to stop saying let us get on this populist theme of spend more, and get money in people's pockets. Let us make sure that Americans can invest. That is where we need help.

Mr. TOOMEY. Mr. Speaker, the gentleman's points are very well taken. Regarding class warfare, the gentleman from North Carolina made the argument that lowering the capital gains burden helps low-income and moderate-income people. It is a job-creation engine. It has nothing to do with class warfare.

As we move on in this discussion, I want to just touch on an issue that is raised sometimes. I think sometimes it is not obvious to see the connection between lowering taxes and economic growth. Why does that happen? How does it really generate economic growth? One of the ways that I think is useful to think about this is the fact that there are a lot of transactions that could be occurring in our economy, transactions on the margin, one more home being sold, one more car being built, and a few more services being provided. These are transactions that are not happening because buyer and seller cannot agree on a price. There are not enough buyers who can quite afford the price that the seller needs, or there are not enough sellers who can lower their price to the point that the consumer can afford. So there is this inability to get the transaction done.

What is one of the biggest costs to every producer, every potential seller of goods and services? It is their tax burden.

□ 1745

What is one of the biggest costs of every consumer that takes away their disposable income? It is the tax burden. So if you lower taxes on producers and you lower taxes on consumers, producers are suddenly able to pass on the lower costs in the form of lower prices and potential buyers have more disposable income so they can afford more, and all of a sudden you have these transactions that start occurring that cannot occur today. If that just happens on the margin with just a small percentage, it can have a huge impact on economic growth.

I think the gentleman from Wisconsin wanted to comment on that.

Mr. RYAN of Wisconsin. I just wanted to ask the gentleman a question. What you are basically saying is that the government actually controls to a large extent the price level of jobs, of retirement, of economic activity. The government through its taxes actually can control the price or the activity of job growth, investment, people's retirements, their take-home pay. So if we lower that price, we get more of it. Is that what you are saying? If we tax more of it, we get less of it; and if we tax less of it, we get more of it?

Mr. TOOMEY. That is absolutely another way to describe it. Another way that I think about it is there is this barrier between buyers and sellers, between consumers and producers. The barrier is the cost imposed by government. It is not only taxes. It is regulation, it is tariffs, it is litigation that is encouraged or tolerated by the government, but taxes are the biggest part of it. That is why it is not just a coincidence that when we lower taxes, we see economic growth. It is because when we lower taxes, we allow more economic transactions and economic activity to take place. That is why every time in our history, as the gentleman from Wisconsin pointed out, that we have had a significant tax reduction, what have we seen without fail? Prosperity, economic growth, people getting back to work, people getting a raise, people having more disposable income. It helps all Americans.

I have on this chart a couple of examples from our history. We have really only had a few major, sweeping, across-the-board tax relief bills enacted in our Nation's history and it was in the 20th century. We have really had three prior to what we did earlier this year. The 1920s was the first. That is not on this board, but the 1920 tax cuts initiated by Treasury Secretary Mellon ushered in an era of unbelievable prosperity in the twenties. That era started to wane when taxes were raised and a trade war began.

But let us look at some other tax cuts. In the 1960s, President Kennedy had the good sense to realize that you lower taxes, you generate more economic output. Sure enough in the 1960s, gross domestic product grew by 50 percent. Staggering growth. The 1980s was the other great tax relief act of the

20th century. President Reagan pushed through a tax reduction. What resulted? Nothing less than the longest peacetime expansion in our history. And, as the gentleman from Michigan pointed out as we all know, a tremendous increase in revenue to the Federal Government.

There were deficits in the eighties, no question about it. It was not because we cut taxes. Cutting taxes caused revenue to double. It was because spending was out of control. Spending tripled. That was the problem that we had in the 1980s.

But further to that point or any other point he chooses to bring up, I would like to recognize the gentleman from Arizona (Mr. SHADEGG), the chairman of the Republican Study Committee, the distinguished member of the Committee on Commerce and the Committee on Financial Services.

Mr. SHADEGG. I thank the gentleman for yielding.

Let me first compliment the gentleman and his colleagues for this important hour discussing these issues. I want to touch on a point the gentleman just raised. It seems that the debate right now has our colleagues on the other side of the aisle saying that any tax cut is being done just to benefit the so-called rich. But I would like to put the lie to that by history and talk about it in terms that the average American can understand. I would just ask the gentleman a question. Was it not President Kennedy, a Democrat President, who cut taxes in 1960? And is he not the one who said in his famous phrase, a rising tide lifts all boats? And was that not a reference to the fact that if you cut Federal Government taxes when they become excessive that you stimulate the economy and the reference to a rising tide lifts all boats was that it did not just help some, it would help everybody. It is not just going to help the rich or those who are currently employed, it is going to help everybody, at every sector of our economy. And that is our goal. And specifically to help those who are unemployed.

I have close friends in Arizona, a close friend who has been unemployed now for quite some time. He does not want unemployment benefits. He wants his job back. And stimulating the economy. That is why I think it is so important. But is my history correct? Was it not President Kennedy that made those points?

Mr. TOOMEY. That is exactly right. Reclaiming my time for just a moment, when the President, President Kennedy at the time, made that observation, he was correct. He initiated a round of tax cuts that generated this prosperity. It is interesting that you pointed out, quite rightly, that lowering taxes really only works when taxes are excessively high. If we had extremely low taxes right now and an appropriate level of government spending, then I do not think we would be advocating for even further tax reductions. But right now we are at a record high. The Federal Government has not consumed as large a share of our total economic output as it does today since 1944.

Mr. SHADEGG. That was a war year, was it not?

Mr. TOOMEY. In 1944 there was a good reason. At this point we are not at that level where the expenditures justify that, that level, and certainly the taxes cannot be justified at this level. You are exactly right. I would make one other observation before yielding back to the gentleman from Arizona about the Kennedy tax cut which is the fact that the Kennedy tax cut was much larger than the tax relief that we passed this summer. The Bush tax cut plan which was originally $1.6 trillion, we ended up at about $1.3 trillion, as you know, over 10 years which we should not even be talking about that number, we never talk about spending over 10 years but we sometimes talk about tax cuts over 10 years. The fact is as a percentage of the economy, the Kennedy tax cut was much bigger.

Mr. SHADEGG. It was almost half again as big or even more, I believe.

Mr. TOOMEY. I think that is correct.

Mr. SHADEGG. It seems to me that this is an important concept for our colleagues and for the people across America to understand. The bottom line is that a stimulus package is not really a stimulus package if it just extends unemployment benefits. If that is all it does, it is not going to boost our economy. It may help people temporarily while they are out of a job, and perhaps we need to do that, but if we do not go beyond that, if we do not stimulate the economy by reducing taxes, those people are not going to get their jobs back. At the end of the day, the bottom line is unemployed Americans want to go back to work, and that is why it is called a stimulus package.

Mr. TOOMEY. If I could reclaim my time for a moment on that point, as the gentleman from Arizona and my other colleagues know very well, the bill that we passed in the House contained a measure to expand and extend unemployment benefits and even health care benefits through the States. It was $12 billion. This is probably very appropriate. It is probably an appropriate and necessary thing to do, but we ought to recognize it does not have anything to do with economic stimulus. That is a different thing. As the gentleman from Arizona pointed out quite rightly and others have, too, the people who have lost their jobs that I talk to, that I know of, they do not want to know how long can I stay out of work, they want to know how quickly can I get back to work. That is why while it is appropriate to make sure that there is an unemployment system that is going to be there to help people get a transition to regain their job, the most important thing is that they get that job back quickly.

Mr. SHADEGG. Just to comment a little bit further, President Bush's economic stimulus proposal would, according to a study by the Heritage Foundation, create 211,000 new jobs next year. It seems to me that is what a stimulus package ought to be about. The key elements of that are acceleration of the personal tax rate reductions, the tax package we passed earlier in the year. Let us move those dates up. The average American understands that that bill passed but that the rate reductions do not occur for years down the line. And a reduction in the capital gains tax. That is a reduction that would affect every American. It does not favor business; it favors every single American because we are all in an investing economy right now. It seems to me as the Senate and the House and our negotiators begin to go at this issue, it is not just critical that we pass a stimulus bill, it is critical that we pass a stimulus bill that will actually stimulate the economy and create the job growth that will put America back to work, which is where people want to go.

I compliment the gentleman and appreciate his efforts.

Mr. TOOMEY. Reclaiming my time, I want to thank the gentleman from Arizona and just to point out, as we all know, I think all of our colleagues need to be reminded, here in the House, we have passed a bill that does those two things. It lowers the capital gains rate. Okay, not as much as I would like to see, but it is a movement in the right direction, and it accelerates the reduction in personal income tax rates that we already passed last summer. It makes some of it go into effect immediately. Okay, I would like to see more of it go into effect immediately, but still this is progress. This can only help the economy. But yet our colleagues in the other Chamber continue to do nothing. This is just not acceptable.

Mr. SHADEGG. They not only do nothing, but what they are demanding is pieces of this bill, large portions of it, their latest demand is that half of it not go to stimulus at all and the other half go to stuff that will not actually stimulate the economy. We do not need a stimulus bill that does not stimulate the economy.

Mr. TOOMEY. Even at that, they refuse to put even a proposal such as that on the Senate floor for debate.

I would be happy to yield to the gentleman from Michigan for his comments on this.

Mr. HOEKSTRA. I thank my colleague for yielding. Just building off the points, we maybe ought to start taking a look at this a little bit differently. Maybe we ought to listen to what the other body is saying. In the House bill, we had a pretty balanced approach. We put in the extended unemployment benefits. We put in the protections to ensure that more people would be able to keep their health care. That, I think, is the right thing to do, to provide the protection for these people in our districts who have been unfortunate and have lost their jobs. But our belief is that by doing the proper tax provisions and the proper incentives, we will stimulate the economy. But we ought to maybe just say, if you want to do some more of that spending or put some more of these government programs in place, put them in place, but give us the stimulus package, because we will recognize that if the stimulus package kicks in, the 13 or the 26 weeks of unemployment benefits will not be needed. And we know that if we got to next summer and they were needed, we would probably vote them in and through, anyway. Let us not be worried about an artificial number because the other thing that we saw in the eighties and again we saw with revenue growth in the nineties is that if the economy grows, what happened during much of the nineties, the economy grew so well, the biggest beneficiary was the Federal Government. And as surprising as it may sound, we could not spend it fast enough.

Mr. SHADEGG. I think the gentleman makes an excellent point. Both the 1960s tax cut and the 1980s tax cut stimulated the economy. Maybe we ought to agree, okay, we will expand the size of the unemployment benefits because as long as you will also give us the tax cuts because then we can stimulate the economy and at the end of the day those unemployment benefits will not be needed because America will go back to work. Historically it has proven true. It is the direction we need to go.

Mr. HOEKSTRA. The best thing for America is to get the stimulus package in place and get Americans back to work. It is the best thing for individual American families. It is the best thing for communities. Some of our communities are really hurting. If they have got some of their largest employers losing 20 to 25 percent of their employees, the whole community feels the pain. Our States are feeling the pain at the State level because of decreased revenues. We are not going to bail our way out of this by more government spending. But if the other body believes that that is the crutch that they want to build it off, we ought to maybe just say, fine, but what we want is we want the tax portions that will stimulate the economy because when we stimulate the economy, we will not need these programs so we may not in effect end up spending that money and we will get back to where we were in terms of before the recession hit and before the war hit, where we will be in a position that we will have a growing economy, people at work, we will lead globally, and we will be back to the position where we were which is paying down public debt and reducing taxes so that we can sustain this growth into the future.

Mr. TOOMEY. I thank the gentleman. I think it makes perfect sense. We have already demonstrated in the House that we fully recognize, our society wants to be there for people who lose their job and who are making every effort to find another one. Unemployment benefits occasionally need to be extended. If that has to happen, that is fine. I do not think any of us object to that. I think we all voted for the bill that would do that. But how much better if you never need to use them? Sure they can be there.

Mr. HOEKSTRA. But failure to act by the other body means that we do not get a stimulus package plus that our unemployed do not get the extension in unemployment benefits and they do not get the access to health care. So their inaction is hurting those that are out of work, short-term and long-term.

Mr. TOOMEY. Ironically, their inaction can guarantee a longer period of time when people are out of work while they have not done anything to help even those people. It is absolutely unacceptable.

I would be happy to yield to the gentleman from Arizona.

Mr. FLAKE. I thank the gentleman for yielding. I just want to echo some of the comments that have been made. My colleague from Arizona pointed out that the most important thing about a stimulus package is that it provide some stimulus. I am reminded of my growing-up years. I grew up on a ranch in Arizona; we often used when we had particularly ornery critters if we could not get them through the chute, we would use a cattle prod. It worked quite well, it stimulated them quite nicely and they ran up ahead. Sometimes by the end of the day the batteries would wear a little thin and we would be left with an instrument that did not do much. It might scare them the first time, but once you laid it on them, they would not move. It is much like the stimulus package. Once the batteries are gone, once that charge is out, once the incentive to invest, these items are out, you might as well go back to a 2 by 4 because the stimulus is not there. You can call it what you want. As my colleague from Michigan says, you might want to provide these other things, but do not call it a stimulus package. Do not assume that it is going to rev up the economy because it is not, because the items simply are not there to do it.

Mr. TOOMEY. Reclaiming my time, I would also observe that we have already engaged in a massive spending program very, very recently. By some accounts, we have spent over $105 billion of additional moneys just since the September 11 attack, emergency supplementals, victims' compensation, airline assistance, additional discretionary spending.

Mr. SHADEGG. It is not as though there is not any spending going on.

Mr. TOOMEY. No, it has been a staggering massive increase. And I think most of us feel it was necessary. These are areas that it was appropriate. But has it gotten the economy out of this recession? No.

□ 1800

Mr. SHADEGG. For those of you who have been here a little less time than I have, I came in the 104th Congress and joined this body in 1995, and for years after that we grew the economy at three and four times the rate of inflation, grew the size of government at three and four times the rate of inflation, year after year after year. We were spending at 8 and 12 percent, year after year, and that did not stimulate the economy.

Indeed, that government spending, as you point out in your chart, from 1992 to 2001, if government spending was going to stimulate the economy, we would have a booming economy.

The reality is, to stimulate the economy in this kind of circumstance, you have to put some cash back into it. The way government can do that is by cutting taxes.

Mr. TOOMEY. Well, I thank the gentleman. At this point we are running low on time and I will probably wrap up with a few concluding thoughts if I could.

Mr. HOEKSTRA. We have about 10 minutes remaining.

Mr. TOOMEY. Anybody who has any further points they would like to add, by all means, let me know.

I think we have had a good discussion here about the fundamental flaws in the premise of the other side, the fundamental flaws in the belief that by government spending, we are going to get out of this problem.

Now, we recognize there is spending we need to do right now, in intelligence gathering, in defense, in homeland security. It is critical. It is increases. We all voted for it and we are going to keep voting for it. But that is all the more reason to be cautious on the other areas that have nothing to do with the threat to our Nation, with the attack that we suffered.

We need to be cautious there and rein in the excessive tendencies, so we can at some point in the near future get back to balancing this budget, get back to retiring some debt. But, most of all, in the meantime, we have got to get this economy going. We have too many people out of work, and that is our obligation.

Our responsibility is to create an environment where folks can get back to work, where our economy can flourish, where businesses can hire new workers. We started that process. In the House we passed a bill that will move us in that direction. The President supports our bill. The President, in fact, called for doing more than we did in the House. I wish we had. But at least we moved in that direction, significantly. And, yet, in the other chamber, we have not a bill on the Senate floor, we have no meaningful progress. It is really a disgrace.

I yield to the gentleman from Michigan.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for yielding. I think that last point is the most important. We need to do a stimulus package, and the inability of the other body to even consider in debate a package is very disappointing. We do not help the workers that are unemployed today. We do not put in place a package of stimulus items that will help ensure that this is a short downturn and not a very deep downturn. And the third thing, I think, is that it is difficult to factor in, but it will send a psychological message that we are ready to move on, and that we are about focusing on domestic issues, as well as waging a war on the other side of the world; that we have not forgotten about the issues at home.

So, these three items coming out of the House and moving forward, I think, speaks well for our ability. It may not be a perfect bill, but it is a whole lot better than doing absolutely nothing and not even being willing to bring a bill to the floor for debate.

If our bill is not perfect, let the other body develop its own version and move forward and bring it to conference, so that by Christmas this President, this country and the American people will have a stimulus package. That is the way the process is supposed to work. But the shear inaction as our economy struggles is totally unacceptable.

I thank my colleague for inviting me here.

Mr. TOOMEY. I thank the gentleman from Michigan very much for participating in the discussion tonight and everything he added to that.

Mr. SHADEGG. If I could just briefly as we summarize here kind of reiterate an important point in this debate, because too often things get politicized and we miss the issue, some people have pointed out that we have already agreed in the House bill there needs to be an extension of unemployment benefits and health care benefits. We need to take care of people who have already lost their jobs.

But the other debate that goes on is a rejection of any kind of tax relief. I think it is important for the listening audience to remember that under both Democrat and Republican presidents, President Kennedy, a Democrat in the sixties, President Reagan, a Republican in the eighties, when we cut taxes, when they had become excessive and we cut taxes, we stimulated the economy, and, as President Kennedy, a Democrat, said, a rising tide lifts all boats. It put all Americans back to work. It stimulated the economy for all Americans.

Every time I hear this phrase that tax cuts are just for the rich or tax cuts for the rich, it enrages me, because the reality is the way to stimulate this economy is to give all Americans some tax relief. That is what we were proposing to do, that is what will stimulate the economy, and that ought to be a part of the package and will benefit every single American, not just one sector, as President Kennedy said.

Mr. TOOMEY. Well, the gentleman is exactly right. I would just conclude with one other thought. You know, many of the fundamentals for our economy are actually quite hopeful. There is reason to believe that we could come out of this and we could have a return to some real prosperity relatively soon if you look at some of those fundamentals.

Inflation is extremely low, our dollar is strong, and it is very clear that all around the world people have enormous confidence in the dollar. Our productivity levels are at an all time high. Never before have American workers been so enormously productive. Our national debt as a percentage of our GDP has declined dramatically, from 50 percent of our economic output around 1995 down to about a third today. It has also declined in absolute dollar terms.

So these fundamentals are strong. If we lower this tax burden now, resist the urge for wasteful, excessive and inappropriate spending, and lower the tax burden that is acting as a barrier between people who could get this economy moving again, we will do that exactly, and the folks who are out of work today can get back to work.

We have done our part in the House. We have taken an important and enormous step forward. I am urging my colleagues in the Senate to do likewise. It is long past time. It has been over 11 weeks since the terrible attack that accelerated the decline in our economy. It is overdue to have the kind of economic stimulus that we all need.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KIRK). The Chair will remind all Members that it is improper in debate to characterize Senate action or inaction.

FAST TRACK PROFITEERING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Ohio. Mr. Speaker, I will be joined today by several Members. I am so far joined by my good friend the gentleman from New Jersey (Mr. PASCRELL), who in his several years in Congress has been a leader on trade issues and fighting for American jobs and American workers and raising labor standards and environmental standards, both in this country and throughout the developing world and in other nations around the world.

Before we talk about fast track, and that is what this special order is about, as some of us just could not resist listening to the last speakers who, already in the space of 11 months of a Republican administration with a Republican House of Representatives and formerly a Republican Senate, have already, through their huge tax cuts for the rich, have already brought on to our government a deficit. We had several years of positive, good budget situations. We are now already spending back into deficit because of these huge tax cuts for the rich.

Second, we are already in a recession. We have had a Republican President since January 20th. There are 1 million fewer jobs, industrial, manufacturing jobs in this country than there were a year ago. And when we talk like this, talk about tax cuts for the rich, my Republican friends love to say we are engaging in class warfare. But the fact is that every day in this chamber as Republicans try to cut spending on unemployment compensation, on health care, on Medicare cuts, on cuts that people in this country that need help would benefit from, that they make those cuts, at the same time they cut taxes on the rich, they commit class warfare in this society; when they are hurting working people and hurting the poor and helping their wealthiest contributors and wealthiest friends, whether they are the drug companies, or whether they are some of the wealthiest people like Rupert Murdoch and others that they seem to care so much about. So in other words, Mr. Speaker, they so often commit class warfare every day in this body. All we do is point out they are doing it, and they just seem to bristle from it.

Mr. Speaker, on the evening of September 11, several gas stations in my district and around Northeast Ohio and other places around this country raised their prices to $4, $5, $6 a gallon. Many of us in this body simply called that as it was, war profiteering, that people would take advantage of the events of September 11 to put a little more money in their pocket.

Unfortunately, over the last 8 or 9 weeks, something not much different has occurred on Capitol Hill. Many of us have called it political profiteering. First, Congress passed a bailout bill that gave the airlines $15 billion in cash and loan guarantees. No sacrifices were required of airline executives, few restrictions were placed on companies that received that money; nothing was provided for airline security; no assistance was given to the 140,000 industry workers who were laid off as a result of the September 11 attacks.

Then, in the name of stimulating the economy, this chamber passed new tax cuts and accelerated others for the richest people and the largest corporations in this country. IBM will get a check from the Federal Government under the Republican plan for $1.4 billion. Ford will get a check from the Federal Government for $1 billion. GM will get a check for $900 million. United and American Airlines, as if they did not do all right with the airline bailout bill, will get several hundred million dollars more from the Republican tax cut for the rich, while they are ignoring unemployed workers.

But now the political profiteering has reached new heights. In the past few months, Mr. Speaker, the Bush Administration's Trade Representative, Bob Zoellick, sought to link the trade negotiation authority known as fast track to our Nation's anti-terrorism efforts. He went further by claiming that people like the gentleman from New Jersey (Mr. PASCRELL) and me and the gentlewoman from California (Ms. SOLIS) and the gentleman from Massachusetts (Mr. LYNCH) and many of the others that will be joining us tonight, that because we oppose fast track, we are indifferent to terrorism, and maybe a little bit less than patriotic.

According to Mr. Zoellick, free trade is the way to combat terrorism around the world, and, if you do not support free trade, if you do not want to do it Mr. Bush's way and Mr. Zoellick's way, if you do not support free trade and do it their way, then you do not really support American values.

Earlier today, Republican leadership took a similar route until support of fast track. They stated that trade is directly related to our battle against the enemies of the United States and the values we hold dear; that fast track is essential to our war effort.

In Qatar are, where the World Trade Organization ministerial was recently held, a place chosen by the leaders, the trade ministers, the administration, the people who support free trade, in Qatar, the people do not have freedom of speech, they do not have freedom of assembly, they do not have freedom to publicly worship anything in any other religion but Islam, they do not have freedom of association, they do not have free elections. Yet the World Trade Organization ignored these abuses of personal freedom in selecting Qatar as the host of the ministerial.

Qatar's human rights record is not in line with American values by any measurement, but it is familiar territory for many of America's corporate trading partners.

Supporters of fast track say interaction with the developing world spreads democracy. But as we engage developing countries in trade and investment, democratic countries are losing grounds to dictatorships and authoritarian governments.

Democratic India is less desirable for investors from the West than totalitarian China. Democratic Taiwan is losing out to autocratic oligarchic Indonesia. In 1989, 57 percent of developing country exports, of poor country exports to the United States, came from democracies. Since then, that number has fallen 22 percent. Today, 65 percent of developing countries exports come from authoritarian countries.

The fact is, Western investors want to go to places like China and Indonesia, which are dictatorships, by and large, because they have pliable workforce, because they have authoritarian governments, because they have a docile workforce that cannot organize and bargain collectively, and they are very predictable for Western business.

They do not want to go to India, they do not want to go to Taiwan, they do not want to go to South Korea, and, all too often, they do not want to stay in this country, because these countries have strong environmental laws, strong worker safety laws, labor unions that can organize and bargain collectively, and free elections.

Instead, Western corporations, as they lobby this body, as the corporate jets pull into National Airport and Dulles and BWI, and they fan the halls of Congress going to office after office after office, begging us for fast track, begging us last year, as the gentleman from New Jersey (Mr. PASCRELL) and I worked hard against PNTR for China, these companies want to invest in countries that have nonexistent environmental standards, that have below poverty wages, that have no worker benefits, that have no opportunities to bargain collectively.

Understand that. Western investors do not like to go to democracies where workers can organize, do not like to go to democracies where they have good environmental laws and worker safety laws. They like to go to China. They like to go to Indonesia.

□ 1815

They like to invest in Burma. Countries where workers cannot talk back, countries where workers cannot vote in elections, countries where workers do not have any kinds of rights. That is the way they like it. That is why they want fast track.

Our trade agreements, Mr. Speaker, go to great lengths to protect investors and property rights. These agreements do not include the same protection for workers or the environment. So in other words, fast track provides protections for property rights, protections for investors, but no protections for the environment, no protections for workers.

The call for an absolute trade negotiation authority in the name of patriotism must be recognized for what it is. When Mr. Zoellick says he has to have trade negotiating authority, trade promotion authority to combat terrorism and to fight this war, recognize it is pure and simple political profiteering.

We have all watched with pride the indomitable spirit of so many Americans in response to the events of September 11. The right response to defend the jobs of these Americans and especially the values of these Americans is a "no" vote on trade promotion authority.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I cannot think of another issue in the last 5 years that I have debated on this floor, and we have had some hot issues, that I feel more viscerally about, and I think the gentleman from Ohio would agree with me, he has been here longer than I have, than the subject of trade. We who oppose fast track do not oppose trade. It is a given. And simply put, what we have asked for on every issue since 1997 when there obviously were not enough votes to bring it to this floor at 3 o'clock in the morning one day in the fall, what we simply asked is that every trade agreement be a reciprocal trade agreement. What is good for one side is good for the other. But what does that mean?

To my friends who want to give away the store, I recommend that they read the Constitution of the United States. Many times, people stand on the floor of this great House and talk about what the Constitution says. We talk and refer to the Constitution on guns, we talk about the Constitution in terms of who has war powers. Well, the folks back in the eighth district in New Jersey sent me to uphold this Constitution, not just some parts of it. Article I, section 8 of the Constitution says that the Congress shall have power to lay and collect taxes and duties imposed and excises to pay the debts and provide for the common defense and general welfare, et cetera; to regulate commerce with foreign nations and among the several States, et cetera.

I did not come here, I say to the gentleman from Ohio, to surrender my responsibilities and obligations under the Constitution, because if it is trade today, what will it be tomorrow?

We need to protect that responsibility as defined in article I, section 8. There is no consistent administration policy on trade besides lower tariffs and cutting quotas. There is no structure; there is no plan. It deals with Vietnam, it deals with the Andean countries, the WTO, Pakistan, our newly found friends, all of which do not take into account the wishes of the

American worker. Cost-benefit analyses just are not there.

Congress cannot allow this administration to craft trade laws without our input under the Constitution. The only reason for fast track is that they want to add things they know that the Congress and the American people do not want. We are patriotic Americans. We are loyal to the President. We are loyal to the commander in chief. To question the loyalty of Members of this Congress for being opposed to fast track, to me is shameless.

We are the people's House. We are directly elected by the people. We hear from those out of work, and we must respond to their needs. Americans want us to keep our voice. We must keep our voice. This job belongs to us. The only way our leverage will be felt is to oppose fast track.

Despite overwhelming evidence, the current trade policies have resulted in massive trade deficits. No one on any side of the argument denies that. Job losses. Just take a look at what NAFTA did to jobs in this country. In my State of New Jersey, we have lost 84,749 jobs. That is according to the Department of Labor. This is not anything that was made up. That is not an illusion. Under two free trade administrations we have lost that many jobs. Imports have risen between 1994 and 2000 by 80.5 percent, and exports went up 60 percent. We have a huge trade deficit.

An example of the impact our Nation sees under these disastrous trade laws as we surrender our rights one after the other, just look at the VF Corporation, the well-known jeans producer. They are cutting 13,000 jobs worldwide. They are closing plants in the United States and, according to their own release, to cut costs, they will increase offshore manufacturing from 75 to 85 percent. They are certainly glad we do not require labor standards for our trading partners. In fact, as the gentleman from Ohio pointed out, it is quite interesting to see what our trade ambassador had to say about that.

Apparently the trade ambassador, who appeared in the WTO meeting at Doha, says that labor rights should not make it into the negotiations on trade. Have we lost our way? Are we not a country of free individuals? Labor and environment are not just social issues. They are issues that bind humanity. They are issues that we feel are no less important than any other.

Two weeks ago, 410 House Members voted to ask the United States Trade Representative to preserve the ability of the United States to enforce rigorously its trade laws and should ensure that United States exports are not subject to the abusive use of trade laws by other countries. Not even this important antidumping mandate was needed at the Doha conference.

I want to conclude at this point, Mr. Speaker. Recently Secretary Powell, who all of us in this Chamber have the greatest amount of respect for, he stated some very powerful words I am about to quote. He said, "Fast track is going to be viewed internationally as a test of the President's leadership at a time when there is all sorts of events going on." A better test is his ability to do what is right for working Americans. The real test of leadership is to make bipartisan policy to help our unemployed brothers and sisters. Do not let this scare tactic fool anyone. The President can show leadership by working with the Congress, not taking them out of the equation, not usurping article I, section 8, as if we did not exist.

Mr. Speaker, I said the same thing on the floor last session when Bill Clinton was the President. This is a bipartisan attack on our very rights as Members of the United States Congress. I do not accept it. I am prepared to fight day in and day out to make sure we begin the process of protecting jobs in the United States of America. This Constitution either is meaningful or we will selectively decide what we will adhere to, and then we will become less of a democracy.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, I thank the gentleman from New Jersey very much for his very well thought-out remarks.

We are joined also by the gentleman from Michigan (Mr. STUPAK), an old friend, who first established his trade predictions during the first fight against NAFTA when we almost defeated that trade agreement which has been shown to be dangerous to this country. We also have a new member, the gentleman from Massachusetts (Mr. LYNCH), an iron worker himself who understands trade from all aspects; and the gentleman from Ohio (Mr. STRICKLAND) from the other end of the State. They will be joining the discussion in a moment.

Mr. Speaker, I want to make one comment before yielding to the gentleman from Michigan (Mr. STUPAK). The gentleman from New Jersey (Mr. PASCRELL) mentioned current trade policies and what happened in Doha and the steel industry. When we see that this Congress voted 410 to 4, as he said, to tell them, to instruct President Bush's trade representative in Qatar not to mess with U.S. dumping laws, he immediately put it on the table for negotiations. It is not difficult to understand why LTV, where many people in my district work, and the rest of the American steel industry, is in trouble when we pass these kinds of trade policies, and the President has not moved fast enough on section 201 of the 1974 Trade Act. The President has refused to support and this Congress has not passed 808, the Steel Revitalization Act, which is absolutely necessary to save this industry, and now these same free traders are pushing more of the same, as if our trade policy has worked. It has not worked. Our trade deficit is almost $370 billion. So the President's answer and Trade Representative Zoellick's answer is let us do more of it. That simply makes no sense.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding, and I thank my colleagues for appearing here with us tonight. I especially appreciate the leadership of the gentleman from Ohio (Mr. BROWN) on this issue and the compassion of the gentleman for the working men and women throughout our district in Ohio, and the gentleman from New Jersey (Mr. PASCRELL) has always been an expert on these issues.

To just pick up a little bit on what the gentleman had said on these trade initiatives and the WTO rules on antidumping, basically what it says is Congress instructed the Trade Representative, when you go to Doha next week not to give up on antidumping laws. We need them. We have other countries illegally dump their product in this country like they are doing right now with steel. It was very, very specific. But if we go to the text of the agreement that was in Doha this past week and go to paragraph 28, and I am quoting now, they are going to clarify and improve WTO antidumping and subsidy rules, an agreement not to use antidumping measures on the same issue once the case has been rejected. The total disregard for Congress's instructions on this issue, even after over 400 Members of Congress said do not give this up, do not give this up.

So we can see while they are saying, we need the authority to negotiate, give us your authority, Congress, because only you can approve it, but give up the authority under fast track, and we will do the best agreement possible and all you have to do is come back here and say yes or no; we cannot amend under fast track. We just give them instructions: over 400 Democrats and Republicans say do not give this up, and they gave it up.

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So now they want to come with a fast track legislation. If you just take a look a little bit at what is going on and the gentleman from Ohio (Mr. BROWN) is correct. We were here and the gentleman from Ohio (Mr. STRICKLAND) was here in 1993, 1994; and a lot of us thought NAFTA, the North American Free Trade Agreement, would be a horrendous thing for this country.

I am talking a little bit about my own northern Michigan district. We have lost manufacturing jobs, agriculture jobs, timber, steel. We are here with a letter. They say even if you lose your job because of foreign imports, we have this trade adjustment assistance. It will help you out, extend your unemployment and do all these things.

I have a letter right here, November 27, to the Honorable Elaine Chow, Secretary of Labor. It was sent to her because we have been waiting since June 9 for a decision, June 9, almost 6 months. One hundred workers from the Besser Company in Alpena, Michigan are at the end of their state unemployment. The State has cut back unemployment. In Michigan we are down to $300 a week now. That is what they have to live on. That is $1,200 a month to try to support their family. That is true unemployment, and we are running out.

Everyone agrees they lost their job because of the flood of imports in the lumber company, in the lumber industry; therefore, they should get trade adjustment. It was a no-brainer case, and here we are still waiting, still waiting for a decision on trade adjustment. We have this letter here. We will make some more phone calls tomorrow. Hopefully, we can move this along.

It was NAFTA, TAA. That was one of the big selling points. Do not worry if you should lose your job. We will take care of it. I think the gentleman from New Jersey (Mr. PASCRELL) was correct on Congress giving up its right underneath the Constitution to approve, amend any agreement before us. Under Fast Track we cannot. That is a good reason not to vote for it.

Let us talk a little bit about steel because I know that has been a big issue lately. I know the gentleman from Ohio (Mr. BROWN) and the gentleman from Ohio (Mr. STRICKLAND) and all of us have been working hard on the steel caucus to try to come to grips with the steel industry since the last 3 or 4 years has just been plagued with this flood of imports on the hot road end, on cold steel, on rod, on wire. You name it, they have been doing it.

As we sat there yesterday in a meeting with Secretary Evans and we will give the Bush administration some credit. Secretary Evans and his assistants have come up and met with us often. They have investigated. The ITC, International Trade Commission, says they are dumping illegally in our country. We must do something and we will.

But if we take a look at it, and I said, I have been hearing this since 1998. I am sort of frustrated. You have 232, 232 trade orders out there; 131 relate to steel. Sixty percent of the trade orders issued by the U.S. Department of Commerce said stop. You are doing this illegally, 131 times; and we have no relief.

What about putting countervailing duties on imports coming in? We have 45 countervailing duties in this country; 28 are related to steel. So we are slapping duties on it. We have 131 trade violations, and we are still losing every 9 days a steel mill or an iron ore mine, like I just lost up in northern Michigan just before Thanksgiving, LTV. They are restructuring their situation. They are 25 percent owner in the mines in northern Michigan. There is only eight iron ore mines left in the United States; two are in my district. LTV is a 25 percent owners in the Empire mine. They are also a big customer of those iron ore pellets. You need iron ore to make steel.

They announced just before Thanksgiving 770 miners will lose their job by the end of the month; 120 salary workers are gone. That is 890 jobs in my little community of Palmer, Michigan, up in the Upper Peninsula of Michigan.

We know they will have trouble getting their TA benefits if Besser is any idea. You go back to them and I say we have 131 orders out there saying you cannot dump steel, but they are still doing it. We have 28 countervailing duties that they cannot do this. They are still doing it.

What is our relief? We are finally going to have a 201. I have testified before the ITC, and I know all of you have too, on that, and saying, look, we need strict, drastic measures. You have all these duties. You have all these trade orders. It is time to put in quotas. It is time to put in tariffs and you have to act now. The President will get that 201 remedy situation or remedy order on or about December 10. He then has 60 days to make up his mind. We urge him to move quickly. Every 9 days we lose a steel mill. Every 9 days another mine goes out. There is going to be nothing left.

I believe we have 27 steel mills right now in bankruptcy. Banks are not lending them money. They cannot keep their mills going. They are shutting them down. And then we just take a look at NAFTA and what has happened after NAFTA. I have been just talking about steel.

In the State of Michigan we have lost over 152,000 jobs. And there is a list here. Table III. They talk about agriculture, mining, construction. Let us just go to manufacturing. Lumber and woods products. I have the mines and I have timber. In lumber and wood products we lost 118,000 jobs since 1994 under NAFTA. Paper and allied products, again paper industry big in my district, we lost over 33,000 jobs since 1994.

Stone, clay, glass, concrete products. We make concrete up in my district. Great limestone mining. 84,000 jobs. Primary metal products, 23,000. Blast furnaces, basic steel products, over 107,000 jobs in the last 6 years.

Motor vehicles and equipment, probably what Michigan is known most for, over 200,000 jobs. The administration comes to us and tells us, give us Fast Track Authority. We will negotiate. We will make sure our trade laws are enforced. That is what we heard in NAFTA. Here are the end result.

We have all of these trade laws, 131 violations on our books; and we cannot get any relief. Where do we go with this?

We must monitor the authority we give any U.S. Trade Representative and ensure that certain special interests such as brand name pharmaceuticals that we have not even talked about yet tonight, they will not gain further concessions at the expense of American workers and the American consumers. No matter what it is, pharmaceuticals, manufacturing, mining, construction, agriculture, forestry, fishing, we have lost. And once again they tell us, trust us. We will take care of it. The last opportunity we had for trust was Doha last week. We said, no more anti-dumping. Do not give in to that. Over 400 of 435 Members said, do not do it. They did it.

How can we now turn and say let us support Fast Track Authority when a trade representative who we said not to do it just did it to us?

American people, Members of Congress, we have to wake up. We are not protectionists. We are not isolationists. We believe in trade, but it is has to be fair. When you have 131 orders on the books, that is not fair. When our mines are shutting down, our steel mills are shutting down and our hands are tied and we cannot do anything, is that fair? I say not. And I say bringing forth a proposal such as Fast Track Authority for this President to continue trade negotiations is just unconscionable, especially in these economic times. We are in a recession.

We are in a recession. And you can blame September 11. It was well before September 11. But just take a look at what happened. And I believe the state of mind we are in right now and the state of our economy is due to these trade laws, is due to the layoffs in the steel industry, in the mining industry, the lumber industry, the furniture industry. You name it.

I certainly want to join my colleagues here tonight and I look forward to hearing their comments. I will stay in case there are other comments that maybe we can go back and forth on some of these issues.

I appreciate the leadership of the gentleman from Ohio (Mr. BROWN). He has been a stalwart in helping out here. And between WTO and GATT and NAFTA and NTR or whatever you want to call them. The bottom line is the American people, our hard-working men and women in the districts we represent, are not protected with these countervailing tariffs, with these steel orders, with trade adjustment. When it comes right down to it there is nothing there for the American worker. We should not give up our right as Members of Congress to modify and demand tough enforcement issues, especially since last week when we told us not to do it and they sold us out at Doha.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from Michigan for his 9 years of leadership against bad trade issue and for fair trade and better working conditions and environmental safeguards for Americans and for people around the world.

One thing that the gentleman from Michigan (Mr. STUPAK) said that was particularly important, and I will then yield to the gentleman from Massachusetts (Mr. LYNCH), we should think about this. When he said, we in this Congress on behalf of American people, 410 votes in support for said to our negotiators in Qatar said that we wanted to stand strong on our steel antidumping laws. And we demanded that on behalf of the American people. Those demands were totally ignored by the administration.

The administration now says, the gentleman from Michigan (Mr. STUPAK) said this, the administration said, give us Fast Track. You can count on us to protect American workers with Fast Track. You can count on us to be fair. You can count on us to protect the environment and workers and all that around the world.

Well, the fact is can we count on them to do that when we saw already the kind of betrayal from our trade negotiators. Not to mention that this President does not seem very concerned domestically about environmental laws, does not seem concerned domestically about food safety, does not seem concerned domestically about labor standards.

This is the same President that tried for 10 months tried to weaken arsenic laws, and tried to allow the mining and chemical companies to allow more arsenic in the drinking water, and we are going to trust them to protect the environment all over the world and in this country? I do not think so. And that is really the reason; as the gentleman from Michigan (Mr. STUPAK) said, that Fast Track is really a betrayal of our values.

Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. LYNCH), who already in his couple of months in Congress, he came here in early October, I believe, late September, and he has already jumped in the trade fight because he knows that is important to the people of Massachusetts and the people of our country.

Mr. LYNCH. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. BROWN) and the gentleman from Michigan (Mr. STUPAK) and the gentleman from New Jersey (Mr. PASCRELL) and all others, including the gentleman from Michigan (Mr. BONIOR), for the great work they have done.

I am new to this debate. I am new. I have watched the work done by all of the Members here, both in this debate and in previous debates over NAFTA. I commend you for living up to your constitutional obligation to represent the people of your districts.

As I said, I am new to this debate; but I am not new to this issue. In my own life prior to the privilege of my office now, I was an iron worker for 18 years; and over that 18 years I worked at the Quincy shipyard just outside of Boston. And I saw that job go away with thousands of others from that shipyard because of foreign competition and the fact that the American shipyards were paying their workers well. And companies could go offshore to exploit low-wage labor.

I also worked at the General Motors plant out in Framingham, which is closed now and they are making those cars down in Mexico now.

I worked in Michigan in some of the auto industry plants there as well, and I understand those plants have closed and many of them have been relocated in Mexico. I also worked in a couple of the steel mills in Indiana and in Chicago, the Inland Steel and the U.S. Steel plants which I now understand are closed. There is a pattern developing here; and at this rate I am afraid that at some point there will be my counterpart in Mexico City taking my congressional responsibility as well.

The point made by the gentleman from New Jersey (Mr. PASCRELL) needs to be emphasized. And that is that the United States Constitution says that Congress shall, not may, not might, it shall have the power to regulate commerce with foreign nations; and it shall have the power to make all necessary laws proper for carrying out those powers.

This fast track mechanism, and this is just a procedural rule, would obligate us to abdicate our responsibilities on behalf of our constituents. Basically, what we would do we would give up those rights and those responsibilities to the very people who sent us here. I need to join the gentleman from New Jersey (Mr. PASCRELL) and the gentleman from Michigan (Mr. STUPAK) and others who have said that I can say also that my constituents did not send me here to give away their rights and responsibilities, to walk away from a job just because it is complex. It is difficult. It is hard. We knew that that was the job we were taking when we ran for office.

This bill is counterintuitive. It flies in the face of our responsibility both under the Constitution and as a moral obligation to the people who we represent.

Another part of this fast track framework that is poorly designed is the fact that while the obligation under the Constitution is given to us as Members, also many of the other responsibilities and procedures that are set up around the Congress guarantee an open and honest debate around trade matters. The Constitution requires that we publish a journal of the actions taken here in the Congress.

If you look at Fast Track, Fast Track allows these negotiations to be done in secret, if they are given to the U.S. Trade Representative.

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These are secret negotiations and they are done in a back room, without the direct representatives of the people being in those negotiations.

It just is an unseemly process that we initiate by supporting a Fast Track-type procedure, and we do not need to look far to see examples of the flaws of that process. We can look directly at NAFTA. We have evidence now to see how this Fast Track procedure plays out.

We see it in the fact that there are no enforceable labor standards in NAFTA nor in the bill before us to expand NAFTA to 34 other countries. There are no firm mandatory or enforceable labor standards in this bill. There are no firm and mandatory and enforceable environmental standards in this bill. Those have been left out.

There is language in here, very fluffy language, that raises the issue of labor standards, raises the issue of environmental standards, but does not allow us in negotiations on these trade matters to require other countries to respect their workers and to respect the environment in those countries.

We can look at what NAFTA has done for Maquiladora, the workers there. Although there was the great promise of the raising the buying power of the average Mexican worker, we still find in Maquiladora that the autoworkers in the Maquiladora are making an average of 67 cents an hour.

I do not have any U.S. autoworkers in Massachusetts anymore. Those jobs are all gone over the border. The U.S. autoworkers today, those left in Michigan and other places across the country, should not be made to compete with workers making 60 cents an hour, living in substandard conditions, with no working conditions, with no right, no voice in their workplace. This bill is completely absent any enforceable standard.

The American worker should not be required to compete with 67-cents-an-hour workers or slave labor or child labor in these other countries. Yet that is exactly what this bill allows. That is exactly what Fast Track and the ministerial directive that came out of Doha; that is just exactly what is allowed here.

The American public should not be faced with the risk of trucks coming over the Mexican border without the safety requirements and the regulatory obligations of the trucks that we have in this country that are registered in any of the 50 States, and we should not allow produce, food products, to come into this country that do not meet the regulatory standards that we have set up in this country.

We have seen examples of that. I know that in Michigan just recently, we had an incident where 200 people were affected by eating strawberries that had been contaminated with the hepatitis A virus and that were allowed into the country because they did not have to undergo the FDA process and the sanitation process that products here in the United States are required to go under. We should also realize that of the 4.4 million trucks a year that come in from Mexico into the United States, we have the ability right now to inspect 2 percent, about 88,000 trucks out of 4.4 million. We do not have the ability to check the licenses, the qualifications of those drivers, the safety mechanisms on those trucks, and there is just a complete lack of accountability. That is the bottom line.

This Fast Track bill takes away the accountability. We are unable to oversee or guarantee that the American workers and the American public are being protected, and we need to do whatever we can to recapture the power and the accountability on behalf of the American people.

I think the easiest way to do that would be to defeat this Fast Track proposal.

Mr. BROWN of Ohio. Mr. Speaker, the gentleman from Massachusetts (Mr. LYNCH) points out something very important about democratic values. At the beginning of this Special Order we talked about political profiteering that some people, the President, the White House and the Bush administration, have said that we need to have Fast Track to wage this war against terrorism. Yet as the gentleman from Massachusetts (Mr. LYNCH) so deftly pointed out, much about trade negotiations and much, not just writing these trade agreements, but actually some of the appeals in front of the tribunals and the three-judge panels at the World Trade Organization and the NAFTA tribunals and all are conducted in secret.

We talk about American values. How can we talk about American values and then turn over our sovereignty on issues of public health and issues of water, as the gentleman from Michigan (Mr. STUPAK) in his district, which borders three of the Great Lakes, how can we turn over those decisions on environment, on food safety, as the gentleman from Massachusetts (Mr. LYNCH) said; on constitutional issues, as the gentleman from New Jersey (Mr. PASCRELL) said.

We are turning those issues over to panels who are people we do not elect, who are making decisions in secret, and then often do not have to publish their findings. And that runs exactly counter to our government, to our way of life, to our values, and to our beliefs as Americans.

I would like to yield to my friend, the gentleman from Ohio (Mr. STRICKLAND), who many years ago during the NAFTA debate used to join the gentleman from Michigan (Mr. STUPAK) and the gentleman from Michigan (Mr. BONIOR), who could not be here tonight, used to join us on these Fast Track issues. I would add that the gentleman from Michigan (Mr. BONIOR), who is a candidate for Governor of Michigan, will be leaving this body at the end of 2002 and has been the real leader on trade issues. He said he could not be here tonight, but he is in there fighting against these bad trade agreements on behalf of Michigan workers and on behalf of all of us.

So I yield to my friend, the gentleman from Ohio (Mr. STRICKLAND), from the other end of Ohio, from southern Ohio.

Mr. STRICKLAND. Mr. Speaker, the fact is that we do represent common areas of our Nation, areas where there has been strong manufacturing in the past and where people are now losing their jobs and where there is great distress. Sometimes I wonder how long the American people are going to be willing to put up with us as they watch what is happening. It seems that the decisions that we make in this Chamber so often favor other countries and other peoples rather than our own country and our own people.

It really bothers me that we would make decisions in this Chamber that would put the American worker at a disadvantage to workers elsewhere in this world. That really troubles me, and I am wondering how long the American people are going to put up with it.

Now, we are going to be facing a decision rather soon and the pressure is building here in Washington, D.C., the lobbying is taking place, the administration is sending people up here to try to twist arms and to convince people that they need to support this Fast Track authority. And we are going to be making a decision, and it is my hope that as the American people observe what is happening, that they will let their voices be heard.

And how can they do that? Well, the old-fashioned way. They can call their representatives. They can send e-mails. They can send letters. They may arrive 2 or 3 weeks late, given the current circumstances. They can call their Representatives and their Senators and ask for a personal meeting in their offices, in their States, in their districts, because unless the American people express themselves, I am afraid this will be pushed through this House and through this Congress, and that once again the American people will be placed at a great disadvantage.

I am the son of a steelworker. I grew up in a family of nine kids. My dad had a fifth-grade education, but he worked in a steel mill and he was able to support us. That steel mill is closed today. There is not a single man or woman or family that is being supported by that steel mill, because it does not exist.

Even today as we met in our Steel Caucus, we heard the fact that if something is not done, over the next 12 months the American steel industry will be decimated, will cease to be a major industry in this country. Yet we are on the verge of being forced to take a position that will extend this, what I would call obscene trade policy that we currently have in place.

When are we going to stop and say what is best for the American worker, the American family? When are we going to do that? When are we going to have an administration that is willing to put Americans first when it comes to these kinds of issues?

We go to a union hall and it is very common in my district when I go to a union hall to have union members stand and pledge allegiance to the flag. We are urging American school children across this Nation to be loyal to our Nation and to express that loyalty by pledging allegiance to the flag. Sometimes I think we should request that these corporate board members who belong to these multinational organizations, who have no particular loyalty to a country or a set of democratic principles or a political philosophy, maybe they should be asked to pledge allegiance to the flag as well.

I am just really getting increasingly concerned about the fact that over the years, in an incremental manner, we are more and more giving up the power that we have within this Chamber to protect our constituents, to make sure that when we cast a vote, when we make a decision, it is in the best interests of the people of southern Ohio or northern Ohio or the upper peninsula of Michigan. We cannot give up this authority. We ought not to. I believe it is a violation of our constitutional responsibilities and our oath of office to just relinquish this responsibility to an administration. And I am not just being critical of this administration because, quite frankly, I think we were critical of the past administration when it came to trade policies and the willingness to stand up for the American worker.

We have got a responsibility as elected representatives to do the right thing, but I am afraid we will not do the right thing if the American people do not make their voices heard. It is my hope that in the next few hours and days, that the American people will call and write and request visits with their Congresspersons and their Senators so that we can stop this and we can once again start reasserting ourselves as the legitimate spokespersons for the people who send us here to represent them.

I want to thank the gentleman from Ohio (Mr. BROWN) for his attention on this issue for many, many years, and he is very knowledgeable about it, as is my Congress friend from the great State of Michigan. I live in a district where the steel mill is already gone. Some of my colleagues live in districts where there is still hope to maintain the jobs, and we will not be able to do it if this Fast Track legislation passes.

We will see more and more jobs going to other countries where those functions are performed by people who earn little more than slave labor salaries, where children are abused, where the environment is raped, where there are no protections in terms of worker rights. How can we do that and say that we are representing the United States of America? I do view this as a patriotic issue and one that calls upon me to oppose this effort to take away and to strip from us our legitimate right as representatives of the people to stand up for them.

I thank the gentleman from Ohio (Mr. BROWN) for this time and for giving me a chance to express myself.

Mr. BROWN of Ohio. Mr. Speaker, I want to reemphasize something the gentleman from Ohio (Mr. STRICKLAND) said. As this debate winds down into next week when the Republican leadership has said it will be scheduled for a floor vote, we have seen the kind of strong-arm lobbying from the President, from the President personally, from administration officials, Cabinet members, up and down the administration, throughout the administration, promises, all kinds of promises, everything from highway projects to support of legislation, to jobs, to all kinds of things that some of these people promise.

We have also seen strong-arm lobbying from America's largest corporations. Every time there is a trade vote here, people at National Airport used to tell me they saw more corporate jets at that airport than anytime during the year, as corporate executives know that these trade agreements mean they can move more jobs overseas, make more money as they hire low-wage workers with no environmental laws, with no food safety laws, with no kind of worker safety laws.

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Mr. STRICKLAND. I would just like to point out that many of these corporations are in fact multinational in nature. They have no loyalty to this country in particular or to any set of democratic principles or anything else, except the bottom line, and we allow these multinational corporations to influence American domestic economic policy. It is just absolutely wrong.

Mr. BROWN of Ohio. Reclaiming my time, one CEO of a major corporation said a couple of years ago, "I wish I could locate my corporate headquarters on an island that is part of no country." He does not mind being an American when he comes to this institution for subsidies, for tax cuts personally or corporate tax cuts, but when it comes time to employing American workers or living under the sovereignty of this Nation, he seems a little bit less interested.

The gentleman from Michigan (Mr. STUPAK) and I, a moment ago, and for years, actually, but a moment ago were talking about food safety. And food safety is a particularly important issue. We have legislation with the gentleman from Michigan (Mr. DINGELL) and some others because we are concerned about country-of-origin labeling; we are concerned about inspections, as more and more fruits and vegetables come into the United States.

Because of budget cuts, and because of increased imports, and because of poor trade laws, only seven- tenths of 1 percent of food coming into this country is inspected at the border, much less than that inspected anyplace else. That means one out of every 140 crates of broccoli, one out of every 140 crates of fruit, one out of every 140 boxes of any kind of food gets inspected at the border. It is a serious problem, and the gentleman from Michigan will tell us more about what all of this means with Fast Track.

Mr. STUPAK. Well, with Fast Track, if we take a look at the proposed legislation, H.R. 3005, the legislation that is going to be proposed, when we get to environmental standards or inspection, it is all voluntary. And when we have voluntary negotiating on objectives, on the environment, on food safety, it usually means nothing will happen. If anything, when we look closely at H.R. 3005, it is a step backwards. We do not have an opportunity to enforce the laws that we have because they are all subject to negotiations. Under H.R. 3005, when it comes to inspections, that is subject to negotiation. Even our laws which prevent adulterated or bad food that does not meet our standards or uses pesticides not allowed in this country, that is subject to negotiation. It is voluntary under these proposals.

The gentleman from Ohio talked about food coming into this country, that seven-tenths of 1 percent is ever inspected. Well, when they do broccoli, they just take a crate and drop it on the ground. If bugs come out, they impound it. If no bugs come out, it goes on. For years, we have asked for sophisticated inspection of food coming into this country. Let us not just drop the crates. Let us do a quick chemical test to see what pesticides are in it that we are consuming. Let us put the country of origin on this food. Let us have inspectors there and be able to impound the food for some time so we can have an opportunity to do a proper inspection.

All that is happening is a quick check, and then we are sending the truck on. By the time they do a sophisticated check, that truck is already hundreds of miles into the United States and has probably dropped its load. They do not know where it is because they do not have the order there in front of them. How do we recall it then? It is consumed.

We had that in Michigan with Guatemalan strawberries and our hot lunch program, and hundreds of kids were ill. Well, it is too late then. And guess what? It was really a U.S. company that imported the food. The U.S. company was supposed to inspect it, but they never did. Tainted water had been used to grow the crops, and that is what we have. We do not even have inspections overseas where this food comes from.

It is amazing. We have worked, as the gentleman said, for a number of years, and we have the bill again this year; but it is frustrating when we see that less than 1 percent is ever inspected. It is wintertime now, and where will most of our fruits and vegetables for our salads come from?

Mr. BROWN of Ohio. When the gentleman and I started this conversation 3 or 4 years ago, 2 percent of food was inspected. This Congress continues to cut the budget on food inspection.

And understand it is not just the adulterated food coming in. The way the trade law works on food safety, there are certain pesticides in the United States that are banned for use. It is illegal to put them on fields. It is not illegal to make them. So in many cases, American manufacturers manufacture these pesticides, sell them to Guatemala to spray on the strawberries or on the raspberries. Those products then come back into the United States with pesticide residues, making the farmers sick that apply the pesticides, and then coming across the border.

We do not spend the money at the border to detect either adulterated food, anything from fecal matter to other kinds of contaminants, nor do they detect any kinds of residues from pesticides. And that is one of the reasons that in this country, and it is not all foreign food, but in this country 5,000 people a year die from food-borne illnesses and 300,000 people go to the hospitals with food-borne illnesses.

Not blaming it all on foreign food by a long shot. We should do a better inspection job with domestic food. But foreign food is a part of it, and food coming from abroad is a growing problem because we are importing more. That is why we get vegetables and fruits in the winter, because we are importing them. That is a good thing. It makes Americans healthier. But give Americans the confidence that our food will be safe by passing trade legislation that upgrades food safety standards everywhere, rather than pulling our standards down to the weaker standards of other countries.

We have about 3 minutes, so I will yield to my friend, the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. I want to say quickly that I think the American consumer deserves information. When they go to the grocery store, as a consumer they deserve the right to know where that food has come from.

I was talking with one of my constituents over the weekend; and he said to me, you know, I would pay a little more for a television set that was made in America by American workers if I could find one. It is just unconscionable that we have reached this place.

But in terms of country-of-origin labeling, that is so basic. And if we cannot give this kind of information to the American consumer, then we will have failed them.

Mr. BROWN of Ohio. Just give more information to people.

In closing, I thank my colleagues, the gentleman from Michigan (Mr. STUPAK), the gentleman from Ohio (Mr. STRICKLAND), the gentleman from New Jersey (Mr. PASCRELL), the gentleman from Massachusetts (Mr. LYNCH), and the gentleman from Texas (Mr. PAUL), who is here on the other side of the aisle, who has always been a strong opponent of bad free trade laws.

I would close by saying, as the gentleman from Ohio (Mr. STRICKLAND) said, corporate CEOs, the President, cabinet officials will all be lobbying this institution big time in the next week. I hope that coming out of this Special Order tonight that people will understand better what our trade policy does to our values and our way of life, and that the American people will rise to the occasion and continue to push Members of Congress to do the right thing next week when we vote down Fast Track Trade Promotion Authority.

THE WAR ON TERRORISM

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under the Speaker's announced policy of January 3, 2001, the gentleman from Texas (Mr. PAUL) is recognized for 60 minutes.

Mr. PAUL. Mr. Speaker, we have been told on numerous occasions to expect a long and protracted war. This is not necessary if one can identify the target, the enemy, and then stay focused on that target. It is impossible to keep one's eye on a target and hit it if we do not precisely understand it and identify it.

In pursuing any military undertaking, it is the responsibility of Congress to know exactly why it appropriates the funding. Today, unlike any time in our history, the enemy and its location remains vague and pervasive. In the undeclared wars of Vietnam and Korea, the enemy was known and clearly defined, even though our policies were confused and contradictory. Today, our policies relating to the growth of terrorism are also confused and contradictory. However, the precise enemy and its location are not known by anyone.

Until the enemy is defined and understood, it cannot be accurately targeted or vanquished. The terrorists are no more an entity than the Mob or some international criminal gang, such as the Mafia. It is certainly not a country, nor is it the Afghan people. The Taliban is obviously a strong sympathizer of bin Laden and his henchmen, but how much more so than the government of Saudi Arabia or even Pakistan? Probably not much.

Ulterior motives have always played a part in the foreign policies of almost every Nation throughout history. Economic gain and a geographic expansion, or even just the desires for more political power, too often drives the militarism of all nations. Unfortunately, in recent years, we have not been exempt. If expansionism, economic interests, desires for hegemony and influential allies affect our policies, and they in turn incite mob attacks against us, they obviously cannot be ignored. The target will be elusive and ever-enlarging rather than vanquished.

We do know a lot about the terrorists who spilled the blood of nearly 4,000 innocent civilians. There were 19 of them, 15 from Saudi Arabia; and they have paid a high price. They are all dead. So those most responsible for the attack have been permanently taken care of. If one encounters a single suicide bomber who takes his own life along with others, without the help from anyone else, no further punishment is possible. The only question that can be raised under that circumstance is why did it happen and how can we change the conditions that drove that individual to perform such a heinous act.

The terrorist attacks on New York and Washington are not quite so simple, but they are similar. These attacks required funding, planning, and inspiration from others. But the total number of people directly involved had to be relatively small in order to have kept the plans thoroughly concealed. Twenty accomplices, or even 100 could have done it; but there is no way thousands of people knew and participated in the planning and carried out the attacks.

Moral support expressed by those who find our policies offensive is a different matter and difficult to determine. Those who enjoyed seeing the United States hit are too numerous to count and impossible to identify. To target and wage war against all of them is like declaring war against an idea or sin. The predominant nationality of the terrorists was Saudi Arabian. Yet, for political and economic reasons, even with the lack of cooperation from the Saudi Government, we have ignored that country in placing blame.

The Afghan people did nothing to deserve another war. The Taliban, of course, is closely tied to bin Laden and the al Qaeda, but so are the Pakistanis and the Saudis. Even the United States was a supporter of the Taliban's rise to power. And as recently as August of this year, we talked pipeline politics with them. The recent French publication of bin Laden, "The Forbidden Truth," revealed our most recent effort to secure control over Caspian Sea oil in collaboration with the Taliban.

According to the two authors, the economic conditions demanded by the U.S. were turned down and led to U.S. military threats against the Taliban. It has been known for years that UniCal, a U.S. company, has been anxious to build a pipeline through northern Afghanistan. But it has not been possible due to the weak Afghan central government. We should not be surprised now that many contend that the plan for the U.N. to nation-build in Afghanistan is a logical and important consequence of this desire. The crisis has merely given those interested in this project an excuse to replace the government of Afghanistan.

Since we do not even know if bin Laden is in Afghanistan; and since other countries are equally supportive of him, our concentration on this Taliban target remains suspect by many. Former FBI Deputy Director John O'Neill resigned in July over duplicitous dealings with the Taliban in our oil interests. O'Neill then took a job as head of the World Trade Center's security and, ironically, was killed in the 9–11 attack.

The charges made by these authors in this recent publication deserves close scrutiny and congressional oversight investigation and not just for the historical record.

To understand world sentiment on this subject, one might note a comment in the "Hindu," India's national newspaper, not necessarily to agree with the paper's sentiment, but to help us better understand what is being thought about us around the world in contrast to the spin put on the war by our five major TV networks.

This quote comes from an article written by Sitaram Yechury on October 13, 2001: "The world today is being asked to side with the United States in a fight against global terrorism. This is only a cover. The world is being asked today in reality to side with the U.S. as it seeks to strengthen its economic hegemony. This is neither acceptable nor will it be allowed. We must forge together to state that we are neither with the terrorists nor with the United States."

The need to define our target is ever so necessary if we are going to avoid letting this war get out of control. It is important to note that in the same article the author quoted Michael Klare, an expert on Caspian Sea oil reserves, from an interview on Radio Free Europe. He said, "We, the United States, view oil as a security consideration, and we have to protect it by any means necessary, regardless of other considerations, other values."

□ 1915

This, of course, was a clearly stated position of our administration in 1990 as our country was being prepared to fight the Persian Gulf War. Saddam Hussein and his weapons of mass destruction only became the issue later on. For various reasons, the enemy with whom we are now at war remains vague and illusive. Those who commit violent terrorist acts should be targeted with a rifle or hemlock, not with vague declarations with some claiming we must root out terrorism in as many as 60 countries.

If we are not precise in identifying our enemy, it is going to be hard to keep our eye on the target. Without this identification, the war will spread and be needlessly prolonged. Why is this definition so crucial? Because without it the special interests and the ill advised will clamor for all kinds of expanded militarism. Planning to expand and fight a never-ending war in 60 countries against worldwide terrorist conflicts with the notion that at most only a few hundred ever knew of the plans to attack the World Trade Center and the Pentagon.

The pervasive and indefinable enemy, terrorism, cannot be conquered without weapons and U.N. nation-building. Only a sensible pro-American foreign policy will accomplish this. This must occur if we are to avoid a cataclysmic expansion of the current hostilities. It was said that our efforts were to be directed towards the terrorists responsible for the attacks, and overthrowing and instituting new governments were not to be part of the agenda.

Already we have clearly taken our eyes off that target and diverted it toward building a pro-Western, U.N.-sanctioned government in Afghanistan. But if bin Laden can hit us in New York and Washington, D.C., what should one expect to happen once the U.S. and the U.N. establishes a new government in Afghanistan with occupying troops? It seems that would be an easy target for the likes of al Qaeda.

Since we do not know in which cave or country bin Laden is hiding, we hear the clamor of many for us to overthrow our next villain, Saddam Hussein, guilty or not. On the short list of countries to be attacked are North Korea, Libya, Syria, Iran and the Sudan, just for starters. But this jingoistic talk is foolhardy and dangerous. The war against terrorism cannot be won in this manner. The drum beat for attacking Baghdad grows louder every day with Paul Wolfowitz, Bill Kristol, Richard Perle and Bill Bennett leading the charge.

In a recent interview, the U.S. Deputy of Defense Paul Wolfowitz, made it clear, "We are going to continue pursuing this entire al Qaeda network which is in 60 countries, not just Afghanistan."

Fortunately, President Bush and Colin Powell so far have resisted the pressure to expand the war into other countries. Let us hope and pray that they do not yield to the clamor of the special interests that want us to take on Iraq. The argument that we need to do so because Hussein is producing weapons of mass destruction is the reddest of all herrings. I sincerely doubt he has developed significant weapons of mass destruction.

However, if that is the argument, we should plan to attack all the countries that have similar weapons or plans to build them, countries like China, North Korea, Israel, Pakistan and India. Iraq has been uncooperative with the U.N. world order, and remains independent of Western control of its oil reserve, unlike Saudi Arabia and Kuwait. This is why she has been bombed steadily for 11 years by the U.S. and Britain.

Mr. Speaker, my guess is that in the not-too-distant future so-called proof will be provided that Saddam Hussein was somehow partially responsible for the attack on the United States, and it will be irresistible then for the United States to retaliate against him. This will greatly and dangerously expand the war and provoke even greater hatred towards the United States, and it is all so unnecessary. It is so hard for many Americans to understand how we inadvertently provoke the Arab Muslim people, and I am not talking about the likes of bin Laden and his gang. I am talking about the Arab Muslim masses.

In 1996 after 5 years of sanctions against Iraq and persistent bombing, CBS reporter Lesley Stahl asked our ambassador to the U.N., Madeleine Albright, a simple question: "We have heard that half a million children have died as a consequence of our policy against Iraq. Is the price worth it?"

Albright's response was, "We think the price is worth it." Although this interview won an Emmy Award, it was rarely related in the U.S., but widely circulated in the Middle East. Some still wonder why America is despised in this region of the world.

Former President George Bush has been criticized for not marching on to Baghdad at the end of the Persian Gulf War. He gave then and stands by its explanation today a superb answer as to why it was ill advised to attempt to remove Saddam Hussein from power. There were strategic and tactical as well as humanitarian arguments against it. But the important and clinching argument against annihilating Baghdad was political. The coalition in no uncertain terms let it be known they wanted no part of it. Besides, the U.N. only authorized the removal of Saddam Hussein from Kuwait. The U.N. has never sanctioned the continued U.S. and British bombing of Iraq, a source of much hatred directed towards the United States.

The placing of U.S. troops on what is seen as Muslim Holy Land in Saudi Arabia seems to have done exactly what the former President was trying to avoid, the breakup of the coalition. The coalition has hung together by a thread, but internal dissention among the secular and religious Arab Muslim nations within individual countries has intensified. Even today, the current crisis threatens the overthrow of every puppet pro-Western Arab leader from Egypt to Saudi Arabia to Kuwait.

Many of the same advisers from the first Bush administration are now urging the current President to finish off Hussein. However, every reason given 11 years ago for not leveling Baghdad still holds true today, if not more so. It has been argued that we needed to maintain a presence in Saudi Arabia after the Persian Gulf War to protect the Saudi Government from Iraqi attack. Others argue it was only a cynical excuse to justify keeping troops to protect what our officials declared were our oil supplies.

Some have even suggested that our expanded presence in Saudi Arabia was prompted by a need to keep King Fahd in power and to thwart any effort by Saudi fundamentalists from overthrowing his regime. Expanding the war by taking on Iraq at this time may please some allies, but it will lead to chaos in the region and throughout the world. It will incite even more anti-American sentiment and expose us to even greater danger. It could prove to be an unmitigated disaster.

Iran and Russia will not be pleased with this move, nor will our European allies. It is not our job to remove Saddam Hussein. That is the job of the Iraqi people. It is not our job to remove the Taliban. That is the business of the Afghan people. It is not our job to insist that the next government in Afghanistan include women, no matter how good of an idea it is. If this really is an issue, why not insist that our friends in Saudi Arabia and Kuwait do the same thing as well as impose our will on them. Talk about hypocrisy. The mere thought that we fight wars for affirmative action in a country 6,000 miles from home with no cultural similarities should insult us all. Of course it does distract from the issue of an oil pipeline through northern Afghanistan. We need to keep our eye on the target and not be so easily distracted.

Assume for a minute that bin Laden is not in Afghanistan. Would any of our military effort in that region be justified? Since none of it would be related to American security, it would be difficult to justify.

Assume for a minute that bin Laden is as ill as I believe he is with serious renal disease. Would he not do everything conceivable for his cause by provoking us into expanding the war and alienating as many Muslims as possible? Remember, to bin Laden martyrdom is a noble calling and he may be more powerful in death than life.

An American invasion of Iraq would please bin Laden because it would rally his troops against any moderate Arab leader who appears to be supporting the United States. It would prove his point that America is up to no good, and oil and Arab infidels are the source of all of the Muslims' problems.

We have recently been reminded of Admiral Yamamoto's quote after the bombing of Pearl Harbor in expressing his fear that the event awakened a sleeping giant. Most everyone agrees with the prophetic wisdom of that comment, but I question the accuracy of drawing an analogy between the Pearl Harbor event and the World Trade Center attack. Hardly are we the same Nation we were in 1941. Today we are anything but a sleeping giant. There is no contest for our status as the only world's only economic, political and military superpower. A sleeping giant would not have troops in 141 countries throughout the world and be engaged in every conceivable conflict with 250,000 troops stationed abroad.

The fear I have is that our policies, along with those of Britain, the U.N. and NATO since World War II inspired and have now awakened a long-forgotten sleeping giant, Islamic fundamentalism. Let us hope for all of our sakes that Iraq is not made the target in this very complex war.

The President, in the 2000 Presidential campaign, argued against nation-building, and he was right to do so. He also said, "If we are an arrogant Nation, they will resent us." He wisely argued for humility and a policy that promotes peace. Attacking Baghdad or declaring war against Saddam Hussein or even continuing the illegal bombing of Iraq is hardly a policy of humility designed to promote peace.

As we continue our bombing of Afghanistan, plans are made to install a new government sympathetic to the West and under U.N. control. The persuasive arguments as always is money. We were able to gain Pakistan's support, although it continually waivers in this manner. Appropriations are already being prepared in the Congress to rebuild all that we destroyed in Afghanistan and then some, even before the bombing has stopped.

"Rumsfeld's plan," as reported and quoted in Turkey's Hurriyet newspaper, lays out the plan for the next Iraqi government. Turkey's support is crucial, so the plan is to give Turkey oil from the norther Iraq Karkuk field. The United States has also promised a pipeline running from Iraq through Turkey. How can the Turks resist such a generous offer? Since we subsidize Turkey and they bomb the Kurds, while we punish the Iraqis for the same thing, this plan it to divvy up wealth in the land of Kurds is hardly a surprise.

It seems that Washington never learns. Our foolish foreign interventions continuously get us into more trouble than we have bargained for, and the spending is endless. I am not optimistic that this Congress will anytime soon come to its senses.

□ 1930

I am afraid that we will never treat the taxpayers with respect. National bankruptcy is a more likely scenario than Congress adopting a frugal and wise spending policy.

Mr. Speaker, we must make every effort to precisely define our target in this war and keep our eye on it. It is safe to assume that the number of people directly involved in the 9-11 attacks is closer to several hundred than the millions we are now talking about targeting with our planned shotgun approach to terrorism. One commentator pointed out that when the Mafia commits violence, no one suggests we bomb Sicily. Today, it seems we are in a symbolic way not only bombing Sicily, but thinking about bombing Athens; that is, Iraq.

If a corrupt city or State government does business with a drug cartel or organized crime and violence results, we do not bomb city hall or the State capital. We limit the target to those directly guilty and punish them. Could we not learn a lesson from these examples?

It is difficult for everyone to put the 9–11 attacks in a proper perspective, because any attempt to do so is construed as diminishing the utter horror of the events of that day.

We must remember though that the 3,900 deaths incurred in the World Trade Center attacks were just slightly more than the deaths that occur on our Nation's highways every month. Could it be that the sense of personal vulnerability we survivors feel motivates us in meting out justice, rather than the concern for the victims of the attacks? Otherwise, the numbers do not add up to the proper response.

If we lose sight of the target and unwisely broaden the war, the tragedy of 9–11 will pale in the death and destruction that could lie ahead. As Members of Congress, we have a profound responsibility to mete out justice, provide security for our Nation and protect the liberties of all the people, without senselessly expanding the war at the urging of narrow political and economic special interests. The price is too high and the danger too great. We must not lose our focus on the real target and inadvertently create new enemies for ourselves.

Mr. Speaker, we have not done any better keeping our eye on the terrorist target on the home front than we have overseas. Not only has Congress come up short in picking the right target, it has directed all its energies in the wrong direction. The target of our efforts has, sadly, been the liberties of all Americans.

With all the new power we have given to the administration, none has truly improved the chances of catching the terrorists who were responsible for the 9–11 attacks. All Americans will soon feel the consequences of this new legislation.

Just as the crisis provided an opportunity for some to promote a special interest agenda in our foreign policy, many have seen the crisis as a chance to achieve changes in our domestic laws which, up until now, were seen as dangerous and unfair to American citizens.

Granting bailouts is not new for Congress, but current conditions have prompted many takers to line up for the handouts. There has always been a large constituency for expanding Federal power, for whatever reason, and these groups have been energized.

The military industrial complex is out in force and is optimistic. Union power is pleased with recent events and has not missed the opportunity to increase membership rolls. Federal policing powers, already in a bull market, received a super shot in the arm. The IRS, which detests financial privacy, gloats, while all the big spenders in Washington applaud the tools made available to crack down on tax dodgers.

The drug warriors and anti-gun zealots love the new powers that now can be used to watch the every move of our citizens. Extremists who talk of the Constitution, promote right-to-life, form citizen militias or participate in non-mainstream religious practices, now can be monitored much more effectively by those who find their views offensive.

Laws recently passed by the Congress apply to all Americans, not just terrorists. But we should remember that if the terrorists are known and identified, existing laws would have been quite adequate to deal with them. Even before the passage of the recent Draconian legislation, hundreds had already been arrested under suspicion and million of dollars of al- Qaida funds had been frozen. None of these new laws will deal with uncooperative foreign entities, like the Saudi government, which chose not to relinquish evidence pertaining to exactly who financed the terrorist operations. Unfortunately, the laws will affect all innocent Americans, yet will do nothing to thwart terrorism.

The laws recently passed in Congress in response to the terrorist attacks can be compared to the efforts of anti-gun fanatics who jump at every chance to undermine the second amendment. When crimes are committed with the use of guns, it is argued that we must remove guns from society, or at least register them and make it difficult to buy them. The counterargument made by the second amendment supporters correctly explained that this would only undermine the freedom of law-abiding citizens, and do nothing to keep guns out of the hands of the criminals or to reduce crime.

Now we hear a similar argument, that a certain amount of privacy and personal liberty of law-abiding citizens must be sacrificed in order to root out possible terrorists. This will result only in liberties being lost, and will not serve to preempt any terrorist attack.

The criminals, just as they know how to get guns even when they are illegal, will still be able to circumvent antiterrorist laws. To believe otherwise is to endorse a Faustian bargain. That is what I believe the Congress has done.

We know from the ongoing drug war that Federal drug police not infrequently make mistakes, break down the wrong doors and destroy property. Abuses of seizure and forfeiture laws are numerous. Yet the new laws will encourage even more mistakes by Federal law enforcement agencies. It has long been forgotten that law enforcement in the United States was supposed to be a state and local government responsibility, not that of the Federal Government.

The Federal Government's policing powers have just gotten a giant boost in scope and authority through both new legislation and executive orders. Before the 9-11 attack, Attorney General Ashcroft let his position be known regarding privacy and government secrecy. Executive Order 13223 made it much more difficult for researchers to gain access to Presidential documents from previous administrations and a "need to know" had to be demonstrated. This was a direct hit at efforts to demand openness in government, even if only for analysis and writing of history. Ashcroft's position is that Presidential records ought to remain secret, even after an administration has left office. He argues that government deserves privacy, while ignoring the fourth amendment protections of the people's privacy.

He argues his case by absurdly claiming that he must protect the privacy of the individuals who might be involved, a non-problem that could easily be resolved without closing public records to the public.

It is estimated that approximately 1,200 men have been arrested as a consequence of the 9-11 attacks, yet their names and charges are not available, and, according to Ashcroft, will not be made available. Once again, he uses the argument he is protecting their privacy.

Unbelievable. Due process for the detainees has been denied. Secret government is winning out over open government. This is the largest number of people to be locked up under these conditions since FDR's internment of Japanese Americans during World War II.

Information regarding these arrests is a must in a constitutional republic. If they are terrorists or accomplices, just let the public know and pursue their prosecution. But secret arrests and silence are not acceptable in a society that professes to be free. Curtailing freedom is not the answer to protecting freedom under adverse circumstances.

The administration has severely curtailed briefings regarding the military operation in Afghanistan for congressional leaders, ignoring a longtime tradition in this country. One person or one branch of government should never control military operations. Our system of government has always required a shared power arrangement.

The antiterrorism bill did little to restrain the growth of big government. In the name of patriotism, the Congress did some very unpatriotic things. Instead of concentrating on the persons or groups that committed the attacks on 9-11, our efforts, unfortunately, have undermined the liberties of all Americans. "Know your customer" type banking regulations, resisted by most Americans for years, have now been put in place in an expanded fashion. Not only will the regulations affect banks, thrifts and credit unions, but all businesses will be required to file suspicious transaction reports if cash is used with a total of the transaction reaching $10,000. Retail stores will be required to spy on all their customers and send reports to the U.S. Government.

Financial service consultants are convinced that this new regulation will affect literally millions of law-abiding American citizens. The odds that this additional paperwork will catch a terrorist are remote. The sad part is that these regulations have been sought after by Federal law enforcement agencies for years. The 9-11 attacks have served as an opportunity to get them by the Congress and the American people.

Only now are the American people hearing about the onerous portions of the antiterrorism legislation, and they are not pleased. It is easy for elected officials in Washington to tell the American people that the government will do whatever it takes to defeat terrorism. Such assurances inevitably are followed by proposals either to restrict the constitutional liberties of the American people or to spend vast sums of money from the Federal Treasury.

The history of the 20th century shows that the Congress violates our Constitution most often during times of crisis. Accordingly, most of our worst unconstitutional agencies and programs began during the World Wars and the Depression. Ironically, the Constitution itself was conceived at a time of great crisis. The founders intended its provisions to place severe restriction on the Federal Government, even in times of great distress.

America must guard against current calls for the government to sacrifice the Constitution in the name of law enforcement. The antiterrorism legislation recently passed by Congress demonstrates how well-meaning politicians make shortsighted mistakes in the rush to respond to a crisis. Most of its provisions were never carefully studied by Congress, nor was a sufficient time taken to debate the bill, despite its importance. No testimony was heard from privacy experts or from other fields outside of law enforcement. Normal congressional committee hearings processes were suspended. In fact, the final version of the bill was not even made available to Members before the vote. The American public should not tolerate these political games, especially when our precious freedoms are at stake.

Almost all of the new laws focus on American citizens rather than potential foreign terrorists. For example, the definition of terrorism for Federal criminal purposes has been greatly expanded. A person could now be considered a terrorist by belonging to a pro-Constitution group, a citizen's militia or a pro-life organization. Legitimate protests against the government could place tens of thousands of other Americans under Federal surveillance.

Similarly, Internet use can be monitored without a user's knowledge, and Internet providers can be forced to hand over user information to law enforcement officials without a warrant or subpoena.

The bill also greatly expands the use of traditional surveillance tools, including wiretaps, search warrants and subpoenas. Probable cause standards for these tools are relaxed, or even eliminated in some circumstances. Warrants become easier to obtain and can be executed without notification. Wiretaps can be placed without a court order. In fact, the FBI and the CIA now can tap telephones or computers nationwide without demonstrating that a criminal suspect is using a particular phone or computer.

The biggest problem with these new law enforcement powers is they bear little relationship to fighting terrorism. Surveillance powers are greatly expanded, while checks and balances on governments are greatly reduced. Most of the provisions have been sought by domestic law enforcement agencies for years, not to fight terrorism, but rather to increase their police powers over the American people.

There is no evidence that our previously held civil liberties posed a barrier to the effective tracking or prosecution of terrorists. The Federal Government has made no showing that it failed to detect or prevent the recent terrorist strike because of the civil liberties that will be compromised by this new legislation.

In his speech to the Joint Session of Congress following the September 11 attack, President Bush reminded all of us that the United States outlasted and defeated Soviet totalitarianism in the last century. The numerous internal problems in the former Soviet Union, its centralized economic planning and lack of free markets, its repression of human liberty and its excessive militarization, all led to its inevitable collapse. We must be vigilant to resist the rush toward ever-increasing state control of our society so that our own government does not become a greater threat to our freedoms than any foreign terrorists.

□ 1945

The Executive Order that has gotten the most attention by those who are concerned that our response to 9-11 is overreaching and dangerous to our liberties is the one authorizing military justice, in secret. Nazi war criminals were tried in public, but plans now are being laid to carry out the trials and punishment, including possibly the death penalty, outside the eyes and ears of the legislative and judicial branches of government and the American public. Since such a process threatens national security and the Constitution, it cannot be used as a justification for their protection.

Some have claimed this military tribunal has been in the planning stages for 5 years. If so, what would have been its justification? The argument that FDR did it and, therefore, it must be okay is a rather weak argument. Roosevelt was hardly one that went by the rule book: the Constitution. But the situation then was quite different from today. There was a declared war by Congress against a precise enemy, the Germans, who sent 8 saboteurs into our country. Convictions were unanimous, not by two-thirds of the panel, and appeals were permitted. That is not what is being offered today. Besides, the previous military tribunal expired when the war as over. Since this war will go on indefinitely, so too will these courts.

The real outrage is that such a usurpation of power can be accomplished with the "stroke of a pen." It may be that we have come to that stage in our history when an Executive Order is the "law of the land," but it is not "kinda cool," as one member of the previous administration bragged. It is a process that is unacceptable, even in this professed time of crisis.

There are well-documented histories of secret military tribunals. Up until now, the United States has consistently condemned them. The fact that a two-thirds majority can sentence a person to death in secrecy in the United States is scary. With no appeals available and no defense attorneys of choice being permitted should compel us to reject such a system outright.

Those who favor these trials claim that they are necessary to halt terrorism in its tracks. We are told that only terrorists will be brought before these tribunals. This means that the so-called suspects must be tried and convicted before they are assigned to this type of "trial", without due process. They will be deemed guilty by hearsay, in contrast to the traditional American system of justice where all are innocent until proven guilty. This turns the justice system on its head.

One cannot be reassured by believing these courts will only apply to foreigners who are terrorists. Sloppiness in convicting criminals is a slippery slope. We should not forget that the Davidians at Waco were convicted and demonized and slaughtered outside our judicial system and they were, for the most part, American citizens. Randy Weaver's family fared no better.

It has been said that the best way for us to spread our message of freedom, justice, and prosperity throughout the world is through example and persuasion, not through force of arms. We have drifted a long way from that concept. Military courts will be another bad example for the world. We were outraged in 1996 when Lori Berenson, an American citizen, was tried, convicted, and sentenced to life by a Peruvian military court. Instead of setting an example, now we are following the lead of a Peruvian dictator.

The ongoing debate regarding the use of torture in rounding up the criminals involved in the 9-11 attacks is too casual. This can only represent progress in the cause of liberty and justice. Once government becomes more secretive, it is more likely this too will be abused. Hopefully, the Congress will not endorse or turn a blind eye to this barbaric proposal. For every proposal made to circumvent the judicial system, it is intended that we visualize that these infractions of the law and the Constitution will apply only to the terrorists and never involve innocent U.S. citizens. This is impossible, because someone has to determine exactly who to bring before the tribunal, and that involves all of us. That is too much arbitrary power for anyone to be given in a representative government and is more characteristic of a totalitarian government.

Many throughout the world, especially those in the Muslim countries, will be convinced by the secretive process that the real reason for military courts is that the U.S. lacks sufficient evidence to convict in an open court. Should we be fighting so strenuously the war against terrorism and carelessly sacrifice our traditions of American justice? If we do, the war will be for naught and we will lose, even if we win.

Congress has a profound responsibility in all of this and should never concede this power to a President or an Attorney General. Congressional oversight powers must be used to their fullest to curtail this unconstitutional assumption of power.

The planned use of military personnel to patrol our streets and airports is another challenge of great importance that should not go uncontested. For years, many in Washington have advocated the national approach to all policing activities. This current crisis has given them a tremendous boost. Believe me, this is no panacea and is a dangerous move. The Constitution never intended that the Federal Government assume this power. This concept was codified in the Posse Comitatus Act of 1878. This act prohibits the military from carrying out law enforcement duties such as searching or arresting people in the United States, the argument being that the military is only used for this type of purpose in a police State. Interestingly, it was the violation of these principles that prompted the Texas revolution against Mexico. The military, under the Mexican Constitution at that time, was prohibited from enforcing civil laws, and when Santa Anna ignored this prohibition, the revolution broke out. We should not so readily concede the principles that have been fought for on more than one occasion in this country.

The threats to liberty seem endless. It seems we have forgotten to target the enemy. Instead, we have inadvertently targeted the rights of American citizens. The crisis has offered a good opportunity for those who have argued all along for bigger government.

For instance, the military draft is the ultimate insult to those who love personal liberty. The Pentagon, even with the ongoing crisis, has argued against the reinstatement of the draft. Yet the clamor for its reinstatement grows louder daily by those who wanted a return to the draft all along. I see the draft as the ultimate abuse of liberty. Morally, it cannot be distinguished from slavery. All the arguments for drafting 18-year-old men and women and sending them off to foreign wars are couched in terms of noble service to the country and benefits to the draftees. The need-for-discipline argument is the most common reason given after the call for service in an effort to make the world safe for democracy. There can be no worse substitute for the lack of parental guidance of teenagers than the Federal Government's domineering control and forcing them to fight an enemy they do not even know in a country they cannot even identify.

Now it is argued that since the Federal government has taken over the entire job of Homeland Security, all kinds of jobs can be found for the draftees to serve the State, even for those who are conscientious objectors.

The proponents of the draft call it "mandatory service." Slavery too was mandatory, but few believed it was a service. They claim that every 18-year-old owes at least 2 years of his life to his country. Let us hope the American people do not fall for this need-to-serve argument. The Congress should refuse even to consider such a proposal. Better yet, what we need to do is abolish the selective service altogether.

However, if we get to the point of returning to the draft, I have a proposal. Every news commentator, every Hollywood star, every newspaper editorialist, and every Member of Congress under the age of 65 who has never served in the military and who now demands that the draft be reinstated should be drafted first; the 18-year-olds last. Since the Pentagon says they do not need draftees, these new recruits can be the first to march to the orders of the general in charge of Homeland Security. For those less robust individuals, they can do the hospital and cooking chores for the rest of the newly-formed domestic Army. After all, someone middle-aged owes a lot more to his country than an 18-year-old.

I am certain that this provision would mute the loud demands for the return of the military draft.

I see good reason for American citizens to be concerned, not only about another terrorist attack, but for their own personal freedoms as the Congress deals with this crisis. Personal freedom is the element of the human condition that has made America great and unique and something we all cherish. Even those who are more willing to sacrifice a little freedom for security do it with the firm conviction that they are acting in the best interests of freedom and justice. However, good intentions can never suffice for sound judgment in the defense of liberty.

I do not challenge the dedication and sincerity of those who disagree with the freedom philosophy and confidently promote government solutions for all of our ills. I am just absolutely convinced that the best formula for giving us peace and prosperity and preserving the American way of life is freedom, limited government, and minding our own business overseas.

Henry Grady Weaver, author of a classic book on freedom, The Mainspring of Human Progress, years ago warned us that good intentions in politics are not good enough and actually are dangerous to the cause. Weaver stated: "Most of the major ills of the world have been caused by well-meaning people who ignored the principle of individual freedom, except as applied to themselves, and who were obsessed with fanatical zeal to improve the lot of mankind-in-the-mass through some pet formula of their own. The harm done by ordinary criminals, murderers, gangsters and thieves is negligible in comparison with the agony inflicted upon human beings by the professional do-gooders who attempt to set themselves up as Gods on earth and who would ruthlessly force their views on all others, with the abiding assurance that the end justifies the means."

Mr. Speaker, this message is one we should all ponder.

RECESS

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 56 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0602

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHIMKUS) at 6 o'clock and 2 minutes a.m.

CONFERENCE REPORT ON H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. ROGERS of Kentucky submitted the following conference report and statement on the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes:

CONFERENCE REPORT (H. REPT. 107–308)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2299) "making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, $67,778,000, of which not to exceed $1,929,000 shall be available for the immediate Office of the Secretary; not to exceed $619,000 shall be available for the immediate Office of the Deputy Secretary; not to exceed $13,355,000 shall be available for the Office of the General Counsel; not to exceed $3,058,000 shall be for the Office of the Assistant Secretary for Policy; not to exceed $7,421,000 shall be available for the Office of the Assistant Secretary for Aviation and International Affairs; not to exceed $7,728,000 shall be available for the Office of the Assistant Secretary for Budget and Programs; not to exceed $2,282,000 shall be available for the Office of the Assistant Secretary for Government Affairs; not to exceed $19,250,000 shall be available for the Office of the Assistant Secretary for Administration; not to exceed $1,723,000 shall be available for the Office of Public Affairs; not to exceed $1,204,000 shall be available for the Office of the Executive Secretariat; not to exceed $507,000 shall be available for the Board of Contract Appeals; not to exceed $1,240,000 shall be available for the Office of Small and Disadvantaged Business Utilization; not to exceed $1,321,000 shall be available for the Office of Intelligence and Security; not to exceed $6,141,000 shall be available for the Office of the Chief Information Officer: Provided, That not to exceed $60,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine: Provided further, That notwithstanding any other provision of law, excluding fees authorized in Public Law 107–71, there may be credited to this appropriation up to $2,500,000 in funds received in user fees: Provided further, That the Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: Provided further, That no appropriation for any office shall be increased or decreased by more than 7 percent by all such transfers: Provided further, That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $8,500,000.

TRANSPORTATION SECURITY ADMINISTRATION

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to Public Law 107–71, $1,250,000,000, to remain available until expended: Provided, That, security service fees authorized under 49 U.S.C. 44940 shall be credited to this appropriation as offsetting collections and used for providing civil aviation security services authorized by that section: Provided further, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 2002 so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $0.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, $11,993,000.

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed $125,323,000, shall be paid from appropriations made available to the Department of Transportation: Provided, That such services shall be provided on a competitive basis to entities within the Department of Transportation: Provided further, That the above limitation on operating expenses shall not apply to non-DOT entities: Provided further, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: Provided further, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of guaranteed loans, $500,000, as authorized by 49 U.S.C. 332: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $18,367,000. In addition, for administrative expenses to carry out the guaranteed loan program, $400,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, $3,000,000, to remain available until September 30, 2003: Provided, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

In addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, to be derived from the Airport and Airway Trust Fund, $13,000,000, to remain available until expended.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare, $3,382,000,000, of which $440,000,000 shall be available for defense-related activities; and of which $24,945,000 shall be derived from the Oil Spill Liability Trust Fund: Provided, That none of the funds appropriated in this or any other Act shall be available for pay of administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: Provided further, That of the amounts made available under this heading, not less than $14,541,000 shall be used solely to increase staffing at Search and Rescue stations, surf stations and command centers, increase the training and experience level of individuals serving in said stations through targeted retention efforts, revise personnel policies and expand training programs, and to modernize and improve the quantity and quality of personal safety equipment, including survival suits, for personnel assigned to said stations: Provided further, That the Department of Transportation Inspector General shall audit and certify to the House and Senate Committees on Appropriations that the funding described in the preceding proviso is being used solely to supplement and not supplant the Coast Guard's level of effort in this area in fiscal year 2001.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $636,354,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund; of which $89,640,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 2006; $9,500,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 2004; $79,293,000 shall be available for other equipment, to remain available until September 30, 2004; $73,100,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 2004; $64,631,000 shall be available for personnel compensation and benefits and related costs, to remain available until September 30, 2003; and $320,190,000 shall be available for the Integrated Deepwater Systems program, to remain available until September 30, 2006: Provided, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and made available only for the National Distress and Response System Modernization program, to remain available for obligation until September 30, 2004: Provided further, That none of the funds provided under this heading may be obligated or expended for the Integrated Deepwater Systems (IDS) system integration contract until the Secretary or Deputy Secretary of Transportation and the Director, Office of Management and Budget jointly certify to the House and Senate Committees on Appropriations that funding for the IDS program for fiscal years 2003 through 2007, funding for the National Distress and Response System Modernization program to allow for full deployment of said system by 2006, and funding for other essential search and rescue procurements, are fully funded in the Coast Guard Capital Investment Plan and within the Office of Management and Budget's budgetary projections for the Coast Guard for those years: Provided further, That none of the funds provided under this heading may be obligated or expended for the Integrated Deepwater Systems (IDS) integration contract until the Secretary or Deputy Secretary of Transportation and the Director, Office of Management and Budget jointly approve a contingency procurement strategy for the recapitalization of assets and capabilities envisioned in the IDS: Provided further, That upon initial submission to the Congress of the fiscal year 2003 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the United States Coast Guard which includes funding for each budget line item for fiscal years 2003 through 2007, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget: Provided further, That the amount herein appropriated shall be reduced by $100,000 per day for each day after initial submission of the President's budget that the plan has not been submitted to the Congress: Provided further, That the Director, Office of Management and Budget shall submit the budget request for the IDS integration contract delineating subheadings which include the following: systems integrator, ship construction, aircraft, equipment, and communications, providing specific assets and costs under each sub-heading.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $16,927,000, to remain available until expended.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $15,466,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses under the National Defense Authorization Act, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $876,346,000.

RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $83,194,000: Provided, That no more than $25,800,000 of funds made available under this heading may be transferred to Coast Guard "Operating expenses" or otherwise made available to reimburse the Coast Guard for financial support of the Coast Guard Reserve: Provided further, That none of the funds in this Act may be used by the Coast Guard to assess direct charges on the Coast Guard Reserves for items or activities which were not so charged during fiscal year 1997.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $20,222,000, to remain available until expended, of which $3,492,000 shall be derived from the Oil Spill Liability Trust Fund: Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 104–264, $6,886,000,000, of which $5,773,519,000 shall be derived from the Airport and Airway Trust Fund, of which not to exceed $5,452,871,000 shall be available for air traffic services program activities; not to exceed $768,769,000 shall be available for aviation regulation and certification program activities; not to exceed $150,154,000 shall be available for civil aviation security program activities; not to exceed $195,799,000 shall be available for research and acquisition program activities; not to exceed $12,456,000 shall be available for commercial space transportation program activities; not to exceed $50,284,000 shall be available for financial services program activities; not to exceed $69,516,000 shall be available for human resources program activities; not to exceed $85,943,000 shall be available for regional coordination program activities; and not to exceed $109,208,000 shall be available for staff offices: Provided, That none of the funds in this Act shall be available for the Federal Aviation Administration to finalize or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the *date of the enactment of this Act: Provided further, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: Provided further, That of the funds appropriated under this heading, not less than $6,000,000 shall be for the contract tower cost-sharing program: Provided further, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: Provided further, That none of the funds in this Act shall be available for new applicants for the second career training program: Provided further, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: Provided further, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: Provided further, That none of the funds in this Act for aeronautical charting and cartography are available for activities conducted by, or coordinated through, the Transportation Administrative Service Center.*

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this heading; to be derived from the Airport and Airway Trust Fund, $2,914,000,000, of which $2,536,900,000 shall remain available until September 30, 2004, and of which $377,100,000 shall remain available until September 30, 2002: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: Provided further, That upon initial submission to the Congress of the fiscal year 2003 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the Federal Aviation Administration which includes funding for each budget line item for fiscal years 2003 through 2007, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget: Provided further, That the amount herein appropriated shall be reduced by $100,000 per day for each day after initial submission of the President's budget that the plan has not been submitted to the Congress.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $15,000,000 are rescinded.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $195,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2004: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations; for procurement, installation, and commissioning of runway incursion prevention devices and systems at airports of such title; for implementation of section 203 of Public Law 106–181; and for inspection activities and administration of airport safety programs, including those related to airport operating certificates under section 44706 of title 49, United States Code, $1,800,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That none of the funds under this heading shall be available for the planning or execution of programs the obligations for which are in excess of $3,300,000,000 in fiscal year 2002, notwithstanding section 47117(h) of title 49, United States Code: Provided further, That notwithstanding any other provision of law, not more than $57,050,000 of funds limited under this heading shall be obligated for administration and not less than $20,000,000 shall be for the Small Community Air Service Development Pilot Program.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the unobligated balances authorized under 49 U.S.C. 48103, as amended, $301,720,000 are rescinded.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Necessary expenses for administration and operation of the Federal Highway Administration, not to exceed $311,000,000, shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: Provided, That of the funds available under section 104(a)(1)(A) of title 23, United States Code: $7,500,000 shall be available for "Child Passenger Protection Education Grants" under section 2003(b) of Public Law 105–178, as amended; $4,000,000 shall be available for motor carrier safety research; $841,000 shall be available for the motor carrier crash data improvement program; $6,000,000 shall be available for the nationwide differential global positioning system program; and $1,500,000 for environmental streamlining activities.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of $31,799,104,000 for Federal-aid highways and highway safety construction programs for fiscal year 2002: Provided, That within the $31,799,104,000 obligation limitation on Federal-aid highways and highway safety construction programs, not more than $447,500,000 shall be available for the implementation or execution of programs for transportation research (sections 502, 503, 504, 506, 507, and 508 of title 23, United States Code, as amended; section 5505 of title 49, United States Code, as amended; and sections 5112 and 5204–5209 of Public Law 105–178) for fiscal year 2002: Provided further, That this limitation on transportation research programs shall not apply to any funds authorized under section 110 of title 23, United States Code, and allocated to these programs, or to any authority previously made available for obligation: Provided further, That within the $225,000,000 obligation limitation on Intelligent Transportation Systems, the following sums shall be made available for Intelligent Transportation System projects that are designed to achieve the goals and purposes set forth in section 5203 of the Intelligent Transportation Systems Act of 1998 (subtitle C of title V of Public Law 105–178; 112 Stat. 453; 23 U.S.C. 502 note) in the following specified areas:

Alameda-Contra Costa, California, $500,000;

Alaska statewide; $2,500,000;

Alexandria, Virginia, $750,000;

Arizona statewide EMS, $500,000;

Army trail road traffic signal coordination project, Illinois, $300,000;

Atlanta smart corridors, Georgia, $1,000,000;

Austin, Texas, $125,000;

Automated crash notification, UAB, Alabama, $2,500,000;

Bay County Area wide traffic signal system, Florida, $500,000;

Beaver County transit mobility manager, Pennsylvania, $800,000;

Brownsville, Texas, $250,000;

Carbondale technology transfer center, Pennsylvania, $1,000,000;

Cargo mate logistics and intermodal management, New York, $1,250,000;

Central Ohio, $1,500,000;

Chattanooga, Tennessee, $2,000,000;

Chinatown intermodal transportation center, California, $1,750,000;

Clark County, Washington, $1,000,000;

Commercial vehicle information systems and networks, New York, $450,000;

Dayton, Ohio, $1,250,000;

Detroit, Michigan (airport), $1,500,000;

Durham, Wake Counties, North Carolina, $500,000;

Eastern Kentucky rural highway information, $2,000,000;

Fargo, North Dakota, $1,000,000;

Forsyth, Guillford Counties, North Carolina, $1,000,000;

Genesee County, Michigan, $1,000,000;

Great Lakes, Michigan, $1,500,000;

Guidestar, Minnesota, $6,000,000;

Harrison County, Mississippi, $500,000;

Hawaii statewide, $1,000,000;

Hoosier SAFE-T, Indiana, $2,000,000;

Houma, Louisiana, $1,000,000;

I-90 connector testbed, New York, $1,000,000;

Illinois statewide, $2,000,000;

Inglewood, California, $500,000;

Integrated transportation management system, Delaware statewide, $2,000,000;

Iowa statewide, $562,000;

Jackson Metropolitan, Mississippi, $500,000;

James Madison University, Virginia, $1,500,000;

Kansas City, Kansas, $500,000;

Kittitas County workzone traffic safety system, Washington, $450,000;

Lansing, Michigan, $750,000;

Las Vegas, Nevada, $1,450,000;

Lexington, Kentucky, $750,000;

Libertyville traffic management center, Illinois, $760,000;

Long Island rail road grade crossing deployment, New York, $1,000,000;

Macomb, Michigan (border crossing), $1,000,000;

Maine statewide (rural), $500,000;

Maryland statewide, $1,000,000;

Miami-Dade, Florida, $1,000,000;

Monterey-Salinas, California, $750,000;

Montgomery County ECC & TMC, Maryland, $1,000,000;

Moscow, Idaho, $1,000,000;

Nebraska statewide, $$4,000,000;

New York statewide information exchange systems, New York, $500,000;

New York, New Jersey, Connecticut (TRANSCOM), $2,500,000;

North Greenbush, New York, $1,000,000;

Oklahoma statewide, $3,000,000;

Oxford, Mississippi, $500,000;

Pennsylvania statewide (turnpike), $500,000;

Philadelphia, Pennsylvania, $1,033,000;

Philadelphia, Pennsylvania (Drexel), $1,500,000;

Pioneer Valley, Massachusetts, $1,500,000;

Port of Long Beach, California, $500,000;

Port of Tacoma trucker congestion notification system, Washington, $200,000;

Roadside animal detection test-bed, Montana, $500,000;

Rochester-Genesse, New York, $800,000;

Rutland, Vermont, $750,000;

Sacramento, California, $3,000,000;

San Diego joint transportation operations center, California, $1,500,000;

San Francisco central control communications, California, $250,000;

Santa Anita, California, $300,000;

Santa Teresa, New Mexico, $750,000;

Shreveport, Louisiana, $750,000;

Silicon Valley transportation management center, California, $700,000;

South Carolina DOT; $3,000,000;

Southeast Corridor, Colorado, $7,000,000;

Southern Nevada (bus), $1,100,000;

Spillway road incident management system, Mississippi, $600,000;

St. Louis, Missouri, $1,000,000;

Statewide transportation operations center, Kentucky, $2,000,000;

Superior, I-39 corridor, Wisconsin, $2,500,000;

Texas statewide, $2,000,000;

Travel network, South Dakota, $2,325,000;

University of Arizona ATLAS Center, Arizona, $500,000;

Utah Statewide, $560,000;

Vermont statewide (rural), $1,500,000;

Washington statewide, $4,500,000;

Washington, D.C. metropolitan region, $2,000,000;

Wayne County road information management system, Michigan, $1,500,000;

Wichita, Kansas, $1,200,000;

Wisconsin communications network, $310,000;

Wisconsin statewide, $1,000,000;

Yakima County adverse weather operations, Washington, $475,000;

Provided further, That, notwithstanding any other provision of law, funds authorized under section 110 of title 23, United States Code, for fiscal year 2002 shall be apportioned to the States in accordance with the distribution set forth in section 110(b)(4)(A) and (B) of title 23, United States Code, except that before such apportionments are made, $35,565,651 shall be set aside for the program authorized under section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century, as amended, and section 204 of title 23, United States Code; $31,815,091 shall be set aside for the program authorized under section 1101(a)(8)(B) of the Transportation Equity Act for the 21st Century, as amended, and section 204 of title 23, United States Code; $21,339,391 shall be set aside for the program authorized under section 1101(a)(8)(C) of the Transportation Equity Act for the 21st Century, as amended, and section 204 of title 23, United States Code; $2,586,593 shall be set aside for the program authorized under section 1101(a)(8)(D) of the Transportation Equity Act for the 21st Century, as amended, and section 204 of title 23, United States Code; $25,579,000 shall be set aside for the program authorized under section 129(c) of title 23, United States Code, and section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991, as amended; $352,256,000 shall be set aside for the programs authorized under sections 1118 and 1119 of the Transportation Equity Act for the 21st Century, as amended; $3,348,128 shall be set aside for the program authorized under section 1101(a)(11) of the Transportation Equity Act for the 21st Century, as amended and section 162 of title 23, United States Code; $76,025,000 shall be set aside for the program authorized under section 118(c) of title 23, United States Code; $62,450,000 shall be set aside for the program authorized under section 144(g) of title 23, United States Code; $251,092,600 shall be set aside for the program authorized under section 1221 of the Transportation Equity Act for the 21st Century, as amended; $10,000,000 shall be set aside for the program authorized under section 502(e) of title 23, United States Code; $56,300,000 shall be available for border infrastructure improvements; $45,122,600 shall be available for allocation by the Secretary for public lands highways; and $23,896,000 shall be set aside and transferred to the Federal Motor Carrier Safety Administration as authorized by section 102 of Public Law 106–159: Provided further, That, of the funds to be apportioned to each State under section 110 for fiscal year 2002, the Secretary shall ensure that such funds are apportioned for the programs authorized under sections 1101(a)(1), 1101(a)(2), 1101(a)(3), 1101(a)(4), and 1101(a)(5) of the Transportation Equity Act for the 21st Century, as amended, in the same ratio that each State is apportioned funds for such programs in fiscal year 2002 but for this section.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, $30,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

For necessary expenses for the Appalachian Development Highway System as authorized under Section 1069(y) of Public Law 102–240, as amended, $200,000,000, to remain available until expended.

STATE INFRASTRUCTURE BANKS

(RESCISSION)

Of the funds made available for State Infrastructure Banks in Public Law 104–205, $5,750,000 are rescinded.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MOTOR CARRIER SAFETY

LIMITATION ON ADMINISTRATIVE EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for administration of motor carrier safety programs and motor carrier safety research, pursuant to section 104(a)(1)(B) of title 23, United States Code, not to exceed $110,000,000 shall be paid in accordance with law from appropriations made available by this Act and from any available take-down balances to the Federal Motor Carrier Safety Administration, together with advances and reimbursements received by the Federal Motor Carrier Safety Administration: Provided, That such amounts shall be available to carry out the functions and operations of the Federal Motor Carrier Safety Administration.

Of the unobligated balances authorized under 23 U.S.C. 104(a)(1)(B), $6,665,342 are rescinded.

NATIONAL MOTOR CARRIER SAFETY PROGRAM

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 31102, 31106 and 31309, $205,896,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $182,000,000 for "Motor Carrier Safety Grants", and "Information Systems": Provided further, That notwithstanding any other provision of law, of the $23,896,000 provided under 23 U.S.C. 110, $18,000,000 shall be for border State grants and $4,837,000 shall be for State commercial driver's license program improvements.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code, $127,780,000, of which $95,835,000 shall remain available until September 30, 2004: Provided, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, to remain available until expended, $72,000,000, to be derived from the Highway Trust Fund: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2002, are in excess of $72,000,000 for programs authorized under 23 U.S.C. 403.

Of the unobligated balances authorized under 23 U.S.C. 403, $1,516,000 are rescinded.

National Driver Register

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to the National Driver Register under chapter 303 of title 49, United States Code, $2,000,000, to be derived from the Highway Trust Fund, and to remain available until expended.

Highway Traffic Safety Grants

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, 410, and 411 to remain available until expended, $223,000,000, to be derived from the Highway Trust Fund: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2002, are in excess of $223,000,000 for programs authorized under 23 U.S.C. 402, 405, 410, and 411 of which $160,000,000 shall be for "Highway Safety Programs" under 23 U.S.C. 402, $15,000,000 shall be for "Occupant Protection Incentive Grants" under 23 U.S.C. 405, $38,000,000 shall be for "Alcohol-Impaired Driving Countermeasures Grants" under 23 U.S.C. 410, and $10,000,000 shall be for the "State Highway Safety Data Grants" under 23 U.S.C. 411: Provided further, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: Provided further, That not to exceed $8,000,000 of the funds made available for section 402, not to exceed $750,000 of the funds made available for section 405, not to exceed $1,900,000 of the funds made available for section 410, and not to exceed $500,000 of the funds made available for section 411 shall be available to NHTSA for administering highway safety grants under chapter 4 of title 23, United States Code: Provided further, That not to exceed $500,000 of the funds made available for section 410 "Alcohol-Impaired Driving Countermeasures Grants" shall be available for technical assistance to the States.

FEDERAL RAILROAD ADMINISTRATION

Safety and Operations

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $110,857,000, of which $6,509,000 shall remain available until expended.

Railroad Research and Development

For necessary expenses for railroad research and development, $29,000,000, to remain available until expended.

Railroad Rehabilitation and Improvement Program

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: Provided, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds for the credit risk premium during fiscal year 2002.

Next Generation High-Speed Rail

For necessary expenses for the Next Generation High-Speed Rail program as authorized under 49 U.S.C. 26101 and 26102, $32,300,000, to remain available until expended.

Alaska Railroad Rehabilitation

To enable the Secretary of Transportation to make grants to the Alaska Railroad, $20,000,000 shall be for capital rehabilitation and improvements benefiting its passenger operations, to remain available until expended.

Capital Grants to the National Railroad Passenger Corporation

For necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $521,476,000, to remain available until expended.

FEDERAL TRANSIT ADMINISTRATION

Administrative Expenses

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, $13,400,000: Provided, That no more than $67,000,000 of budget authority shall be available for these purposes: Provided further, That of the funds in this Act available for the execution of contracts under section 5327(c) of title 49, United States Code, $2,000,000 shall be reimbursed to the Department of Transportation's Office of Inspector General for costs associated with audits and investigations of transit-related issues, including reviews of new fixed guideway systems: Provided further, That not to exceed $2,600,000 for the National transit database shall remain available until expended.

Formula Grants

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5307, 5308, 5310, 5311, 5327, and section 3038 of Public Law 105–178, $718,400,000, to remain available until expended: Provided, That no more than $3,592,000,000 of budget authority shall be available for these purposes: Provided further, That, notwithstanding any other provision of law, of the funds provided under this heading, $5,000,000 shall be available for grants for the costs of planning, delivery, and temporary use of transit vehicles for special transportation needs and construction of temporary transportation facilities for the VIII Paralympiad for the Disabled, to be held in Salt Lake City, Utah: Provided further, That in allocating the funds designated in the preceding proviso, the Secretary shall make grants only to the Utah Department of Transportation, and such grants shall not be subject to any local share requirement or limitation on operating assistance under this Act or the Federal Transit Act, as amended: Provided further, That notwithstanding section 3008 of Public Law 105–178 and 49 U.S.C. 5309(m)(3)(C), $50,000,000 of the funds to carry out 49 U.S.C. 5308 shall be transferred to and merged with funding provided for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities under "Federal Transit Administration, Capital investment grants".

University Transportation Research

For necessary expenses to carry out 49 U.S.C. 5505, $1,200,000, to remain available until expended: Provided, That no more than $6,000,000 of budget authority shall be available for these purposes.

Transit Planning and Research

For necessary expenses to carry out 49 U.S.C. 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, $23,000,000, to remain available until expended: Provided, That no more than $116,000,000 of budget authority shall be available for these purposes: Provided further, That $5,250,000 is available to provide rural transportation assistance (49 U.S.C. 5311(b)(2)), $4,000,000 is available to carry out programs under the National Transit Institute (49 U.S.C. 5315), $8,250,000 is available to carry out transit cooperative research programs (49 U.S.C. 5313(a)), $55,422,400 is available for metropolitan planning (49 U.S.C. 5303, 5304, and 5305), $11,577,600 is available for State planning (49 U.S.C. 5313(b)); and $31,500,000 is available for the national planning and research program (49 U.S.C. 5314).

Trust Fund Share of Expenses

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 5303–5308, 5310–5315, 5317(b), 5322, 5327, 5334, 5505, and sections 3037 and 3038 of Public Law 105–178, $5,397,800,000, to remain available until expended, and to be derived from the Mass Transit Account of the Highway Trust Fund: Provided, That $2,873,600,000 shall be paid to the Federal Transit Administration's formula grants account: Provided further, That $93,000,000 shall be paid to the Federal Transit Administration's transit planning and research account: Provided further, That $53,600,000 shall be paid to the Federal Transit Administration's administrative expenses account: Provided further, That $4,800,000 shall be paid to the Federal Transit Administration's university transportation research account: Provided further, That $100,000,000 shall be paid to the Federal Transit Administration's job access and reverse commute grants program: Provided further, That $2,272,800,000 shall be paid to the Federal Transit Administration's capital investment grants account.

Capital Investment Grants

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, $568,200,000, to remain available until expended: Provided, That no more than $2,841,000,000 of budget authority shall be available for these purposes: Provided further, That there shall be available for fixed guideway modernization, $1,136,400,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $568,200,000, together with $50,000,000 transferred from "Federal Transit Administration, Formula Grants"; and there shall be available for new fixed guideway systems $1,136,400,000, together with $1,488,840 of the funds made available under "Federal Transit Administration, Capital investment grants" in Public Law 105–277; to be available as follows:

$10,296,000 for Alaska or Hawaii ferry projects;

$1,000,000 for the Albuquerque, New Mexico, light rail project;

$25,000,000 for the Atlanta, Georgia, North line extension project;

$13,000,000 for the Baltimore, Maryland, central light rail transit double track project;

$1,500,000 for the Baltimore, Maryland, rail transit project;

$2,000,000 for the Birmingham, Alabama, transit corridor project;

$10,631,245 for the Boston, Massachusetts, South Boston Piers transitway project;

$500,000 for the Boston, Massachusetts, urban ring transit project;

$7,000,000 for the Charlotte, North Carolina, South corridor light rail transit project;

$32,750,000 for the Chicago, Illinois, Douglas branch reconstruction project;

$55,000,000 for the Chicago, Illinois, METRA commuter rail and line extension projects;

$3,000,000 for the Chicago, Illinois, Ravenswood reconstruction project;

$6,000,000 for the Cleveland, Ohio, Euclid corridor transportation project;

$70,000,000 for the Dallas, Texas, North Central light rail transit extension project;

$55,000,000 for the Denver, Colorado, Southeast corridor light rail transit project;

$192,492 for the Denver, Colorado, Southwest corridor light rail transit project;

$150,000 for the Des Moines, Iowa, DSM bus feasibility project;

$200,000 for the Dubuque, Iowa, light rail feasibility project;

$25,000,000 for the Dulles corridor, Virginia, bus rapid transit project;

$27,000,000 for the Fort Lauderdale, Florida, Tri-County commuter rail upgrades project;

$2,000,000 for the Fort Worth, Texas, Trinity railway express project;

$750,000 for the Grand Rapids, Michigan, ITP metro area, major corridor project;

$12,000,000 for Honolulu, Hawaii, bus rapid transit project;

$10,000,000 for the Houston, Texas, Metro advanced transit project;

$300,000 for the Iowa, Metrolink light rail feasibility project;

$1,500,000 for the Johnson County, Kansas-Kansas City, Missouri, I–35 commuter rail project;

$2,000,000 for the Kenosha-Racine-Milwaukee, Wisconsin, commuter rail extension project;

$55,000,000 for the Largo, Maryland, metrorail extension project;

$2,000,000 for the Little Rock, Arkansas, river rail project;

$14,744,420 for the Long Island Rail Road, New York, East Side access project;

$9,289,557 for the Los Angeles, California, North Hollywood extension project;

$7,500,000 for the Los Angeles, California, East Side corridor light rail transit project;

$3,000,000 for the Lowell, Massachusetts-Nashua, New Hampshire commuter rail extension project;

$12,000,000 for the Maryland (MARC) commuter rail improvements projects;

$19,170,000 for the Memphis, Tennessee, Medical center rail extension project;

$5,000,000 for the Miami, Florida, South Miami-Dade busway extension project;

$10,000,000 for the Minneapolis-Rice, Minnesota, Northstar corridor commuter rail project;

$50,000,000 for the Minneapolis-St. Paul, Minnesota, Hiawatha corridor light rail transit project;

$4,000,000 for the Nashville, Tennessee, East corridor commuter rail project;

$141,000,000 for the New Jersey Hudson-Bergen light rail transit project;

$15,000,000 for the New Orleans, Louisiana, Canal Street car line project;

$1,200,000 for the New Orleans, Louisiana, Desire corridor streetcar project;

$2,000,000 for the New York, New York, Second Avenue subway project;

$20,000,000 for the Newark-Elizabeth, New Jersey, rail link project;

$2,500,000 for the Northeast Indianapolis, Indiana, downtown corridor project;

$2,500,000 for the Northern Indiana South Shore commuter rail project;

$6,500,000 for the Oceanside-Escondido, California, light rail extension project;

$500,000 for the Ohio, Central Ohio North corridor rail (COTA) project;

$5,000,000 for the Pawtucket-TF Green, Rhode Island, commuter rail and maintenance facility project;

$9,000,000 for the Philadelphia, Pennsylvania, Schuykill Valley metro project;

$10,000,000 for the Phoenix, Arizona, Central Phoenix/East Valley corridor project;

$8,000,000 for the Pittsburgh, Pennsylvania, North Shore connector light rail transit project;

$18,000,000 for the Pittsburgh, Pennsylvania, stage II light rail transit reconstruction project;

$64,000,000 for the Portland, Oregon, Interstate MAX light rail transit extension project;

$20,000,000 for the Puget Sound, Washington, RTA Sounder commuter rail project;

$9,000,000 for the Raleigh, North Carolina, Triangle transit project;

$328,000 for the Sacramento California, light rail transit extension project;

$14,000,000 for the Salt Lake City, Utah, CBD to University light rail transit project;

$3,000,000 for the Salt Lake City, Utah, University Medical Center light rail transit extension project;

$60,000,000 for the San Diego, California, Mission Valley East light rail project;

$1,000,000 for the San Diego, California, Mid Coast corridor project;

$75,673,790 for the San Francisco, California, BART extension to the airport project;

$113,336 for the San Jose, California, Tasman West light rail transit project;

$40,000,000 for the San Juan, Puerto Rico, Tren Urbano project;

$1,700,000 for the Sioux City, Iowa, light rail project;

$28,000,000 for the St. Louis-St. Clair, Missouri, metrolink extension project;

$5,000,000 for the Stamford, Connecticut, urban transitway project;

$3,000,000 for the Stockton, California, Altamont commuter rail project;

$3,000,000 for the Virginia Railway Express station improvements project;

$500,000 for the Washington County, Oregon, Wilsonville to Beaverton commuter rail project;

$2,500,000 for the Wasilla, Alaska, alternative route project; and

$400,000 for the Yosemite, California, area regional transportation system project.

Job Access and Reverse Commute Grants

Notwithstanding section 3037(l)(3) of Public Law 105–178, as amended, for necessary expenses to carry out section 3037 of the Federal Transit Act of 1998, $25,000,000, to remain available until expended: Provided, That no more than $125,000,000 of budget authority shall be available for these purposes: Provided further, That up to $250,000 of the funds provided under this heading may be used by the Federal Transit Administration for technical assistance and support and performance reviews of the Job Access and Reverse Commute Grants program.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Saint Lawrence Seaway Development Corporation

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

Operations and Maintenance

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $13,345,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Research and Special Programs

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $37,279,000, of which $645,000 shall be derived from the Pipeline Safety Fund, and of which $2,170,000 shall remain available until September 30, 2004: Provided, That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: Provided further, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

Pipeline Safety

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $58,250,000, of which $7,864,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2004; of which $50,386,000 shall be derived from the Pipeline Safety Fund, of which $30,828,000 shall remain available until September 30, 2004.

Emergency Preparedness Grants

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2004: Provided, That not more than $14,300,000 shall be made available for obligation in fiscal year 2002 from amounts made available by 49 U.S.C. 5116(i) and 5127(d): Provided further, That none of the funds made available by 49 U.S.C. 5116(i) and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

Salaries and Expenses

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $50,614,000: Provided, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3) to investigate allegations of fraud, including false statements to the government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department: Provided further, That the funds made available under this heading shall be used to investigate, pursuant to section 41712 of title 49, United States Code: (1) unfair or deceptive practices and unfair methods of competition by domestic and foreign air carriers and ticket agents; and (2) the compliance of domestic and foreign air carriers with respect to item (1) of this proviso.

SURFACE TRANSPORTATION BOARD

Salaries and Expenses

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $18,457,000: Provided, That notwithstanding any other provision of law, not to exceed $950,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: Provided further, That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2002, to result in a final appropriation from the general fund estimated at no more than $17,507,000.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $5,015,000: Provided, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) $68,000,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

TITLE III

GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Such sums as may be necessary for fiscal year 2002 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 303. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 304. None of the funds in this Act shall be available for salaries and expenses of more than 105 political and Presidential appointees in the Department of Transportation: Provided, That none of the personnel covered by this provision or political and Presidential appointees in an independent agency funded in this Act may be assigned on temporary detail outside the Department of Transportation or such independent agency except to the Office of Homeland Security.

SEC. 305. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 306. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 307. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 308. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 309. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

SEC. 310. (a) For fiscal year 2002, the Secretary of Transportation shall—

(1) not distribute from the obligation limitation for Federal-aid Highways amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a)(1)(A) of title 23, United States Code, for the highway use tax evasion program, amounts provided under section 110 of title 23, United States Code, and for the Bureau of Transportation Statistics;

(2) not distribute an amount from the obligation limitation for Federal-aid Highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for the previous fiscal year the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid Highways less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation limitation for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) of section 117 of title 23, United States Code (relating to high priority projects program), section 201 of the Appalachian Regional Development Act of 1965, the Woodrow Wilson Memorial Bridge Authority Act of 1995, and $2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, $2,000,000,000) for such fiscal year;

(5) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highways and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid Highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978; (3) under section 9 of the Federal-Aid Highway Act of 1981; (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; (5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century; and (8) under section 105 of title 23, United States Code (but, only in an amount equal to $639,000,000 for such fiscal year).

(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall after August 1 for such fiscal year revise a distribution of the obligation limitation made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, section 160 (as in effect on the day before the enactment of the Transportation Equity Act for the 21st Century) of title 23, United States Code, and under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943–1945).

(d) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years.

(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds: (1) that are authorized to be appropriated for such fiscal year for Federal-aid highways programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and highway-related programs under chapter 4 of title 23, United States Code; and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) SPECIAL RULE.—Obligation limitation distributed for a fiscal year under subsection (a)(4) of this section for a section set forth in subsection (a)(4) shall remain available until used and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

SEC. 311. (a) No recipient of funds made available in this Act shall disseminate personal information (as defined in 18 U.S.C. 2725(3)) obtained by a State department of motor vehicles in connection with a motor vehicle record as defined *in 18 U.S.C. 2725(1), except as provided in 18 U.S.C. 2721 for a use permitted under 18 U.S.C. 2721.*

(b) Notwithstanding subsection (a), the Secretary shall not withhold funds provided in this Act for any grantee if a State is in noncompliance with this provision.

SEC. 312. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 313. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant: Provided, That, the Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by FAA in accordance with agency criteria.

SEC. 314. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under "Federal Transit Administration, Capital investment grants" for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2004, and other recoveries, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 315. Notwithstanding any other provision of law, any funds appropriated before October 1, 2001, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 316. None of the funds in this Act may be used to compensate in excess of 335 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 2002.

SEC. 317. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's "Federal-Aid Highways" account, the Federal Transit Administration's "Transit Planning and Research" account, and to the Federal Railroad Administration's "Safety and Operations" account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 318. Of the funds made available under section 1101(a)(12) and section 1503 of Public Law 105–178, as amended, $52,973,000 are rescinded.

SEC. 319. Beginning in fiscal year 2002 and thereafter, the Secretary may use up to 1 percent of the amounts made available to carry out 49 U.S.C. 5309 for oversight activities under 49 U.S.C. 5327.

SEC. 320. Funds made available for Alaska or Hawaii ferry boats or ferry terminal facilities pursuant to 49 U.S.C. 5309(m)(2)(B) may be used to construct new vessels and facilities, or to improve existing vessels and facilities, including both the passenger and vehicle-related elements of such vessels and facilities, and for repair facilities: Provided, That not more than $3,000,000 of the funds made available pursuant to 49 U.S.C. 5309(m)(2)(B) may be used by the State of Hawaii to initiate and operate a passenger ferryboat services demonstration project to test the viability of different intra-island and inter-island ferry routes.

SEC. 321. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: Provided, That such funds shall be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 322. Section 3030(a) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by adding at the end, the following line: "Washington County—Wilsonville to Beaverton commuter rail.".

SEC. 323. Section 3030(b) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by adding at the end the following: "Detroit, Michigan Metropolitan Airport rail project.".

SEC. 324. None of the funds in this Act may be obligated or expended for employee training which: (a) does not meet identified needs for knowledge, skills and abilities bearing directly upon the performance of official duties; (b) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (c) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluations; (d) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988; (e) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or (f) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

SEC. 325. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegraph, telephone, letter, printed or written material, radio, television, video presentation, electronic communications, or other device, intended or designed to influence in any manner a Member of Congress or of a State legislature to favor or oppose by vote or otherwise, any legislation or appropriation by Congress or a State legislature after the introduction of any bill or resolution in Congress proposing such legislation or appropriation, or after the introduction of any bill or resolution in a State legislature proposing such legislation or appropriation: Provided, That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress or to Congress, on the request of any Member, or to members of State legislature, or to a State legislature, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of business.

SEC. 326. (a) IN GENERAL.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 327. Rebates, refunds, incentive payments, minor fees and other funds received by the Department from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department and allocated to elements of the Department using fair and equitable criteria and such funds shall be available until December 31, 2002.

SEC. 328. Notwithstanding any other provision of law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.

SEC. 329. For necessary expenses of the Amtrak Reform Council authorized under section 203 of Public Law 105–134, $225,000.

SEC. 330. In addition to amounts otherwise made available in this Act, to enable the Secretary of Transportation to make grants for surface transportation projects, $144,000,000, to remain available until expended.

SEC. 331. During fiscal year 2002, for providing support to the Department of Defense, the Coast Guard Yard and other Coast Guard specialized facilities designated by the Commandant shall qualify as components of the Department of Defense for competition and workload assignment purposes: Provided, That in addition, for purposes of entering into joint public-private partnerships and other cooperative arrangements for the performance of work, the Coast Guard Yard and other Coast Guard specialized facilities may enter into agreements or other arrangements, receive and retain funds from and pay funds to such public and private entities, and may accept contributions of funds, materials, services, and the use of facilities from such entities: Provided further, That amounts received under this section may be credited to appropriate Coast Guard accounts for fiscal year 2002.

SEC. 332. None of the funds in this Act may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than three full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling $1,000,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration other than the emergency relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the formula grants and fixed guideway modernization programs: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 333. (a) None of the funds made available in this Act shall be available for the design or construction of a light rail system in Houston, Texas.

(b) Notwithstanding (a), amounts made available in this Act under the heading "Federal Transit Administration, Capital investment grants" for a Houston, Texas, Metro advanced transit plan project shall be available for obligation or expenditure subject to the following conditions:

(1) Sufficient amounts shall be used for major investment studies in 4 major corridors.

(2) The Texas Department of Transportation shall review and comment on the findings of the studies under paragraph (1). Any comments by such department on such findings shall be included in any final report on such studies.

(3) If a final report on the studies under paragraph (1) is not available for at least the 1-month period preceding the date of any referendum held by the City of Houston, Texas, or by a county of Texas, regarding approval of the issuance of bonds for funding a light rail system in Houston, Texas, all information developed by such studies regarding passenger and cost estimates for such a system shall be made available to the public at least one month before the date of the referendum.

SEC. 334. None of the funds made available in this Act may be used for engineering work related to an additional runway at New Orleans International Airport.

SEC. 335. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to air traffic control, air navigation or weather reporting: Provided, That the prohibition of funds in this section does not apply to negotiations between the agency and airport sponsors to achieve agreement on "below-market" rates for these items or to grant assurances that require airport sponsors to provide land without cost to the FAA for air traffic control facilities.

SEC. 336. Notwithstanding any other provision of law, whenever an allocation is made of the sums authorized to be appropriated for expenditure on the Federal lands highway program, and whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, the Interstate maintenance program, the bridge program, the Appalachian development highway system, and the minimum guarantee program, the Secretary of Transportation shall deduct a sum in such amount not to exceed two-fifths of 1 percent of all sums so made available, as the Secretary determines necessary, to administer the provisions of law to be financed from appropriations for motor carrier safety programs and motor carrier safety research. The sum so deducted shall remain available until expended: Provided, That any deduction by the Secretary of Transportation in accordance with this paragraph shall be deemed to be a deduction under section 104(a)(1)(B) of title 23, United States Code.

SEC. 337. For an airport project that the Administrator of the Federal Aviation Administration (FAA) determines will add critical airport capacity to the national air transportation system, the Administrator is authorized to accept funds from an airport sponsor, including entitlement funds provided under the "Grants-in-Aid for Airports" program, for the FAA to hire additional staff or obtain the services of consultants: Provided, That the Administrator is authorized to accept and utilize such funds only for the purpose of facilitating the timely processing, review, and completion of environmental activities associated with such project.

SEC. 338. None of the funds made available in this Act may be used to further any efforts toward developing a new regional airport for southeast Louisiana until a comprehensive plan is submitted by a commission of stakeholders to the Administrator of the Federal Aviation Administration and that plan, as approved by the Administrator, is submitted to and approved by the Senate Committee on Appropriations and the House Committee on Appropriations.

SEC. 339. Notwithstanding any other provision of law, States may use funds provided in this Act under Section 402 of title 23, United States Code, to produce and place highway safety public service messages in television, radio, cinema and print media, and on the Internet in accordance with guidance issued by the Secretary of Transportation: Provided, That any State that uses funds for such public service messages shall submit to the Secretary a report describing and assessing the effectiveness of the messages: Provided further, That $8,000,000 of the funds allocated for innovative seat belt projects under section 157 of title 23, United States Code, shall be used by the States, as directed by the National Highway Traffic Safety Administrator, to purchase advertising in broadcast or print media to publicize the States' seat belt enforcement efforts during one or more of the Operation ABC National Mobilizations: Provided further, That up to $2,000,000 of the funds allocated for innovative seat belt projects under section 157 of title 23, United States Code, shall be used by the Administrator to evaluate the effectiveness of State seat belt programs that purchase advertising as provided by this section.

SEC. 340. Item 1348 of the table contained in section 1602 of the Transportation Equity Act for the 21st Century is amended by striking "Extend West Douglas Road" and inserting "Construct Gastineau Channel Second Crossing to Douglas Island".

SEC. 341. None of the funds in this Act may be obligated for the Office of the Secretary of Transportation to approve assessments or reimbursable agreements pertaining to funds appropriated to the modal administrations in this Act, except for activities underway on the date of enactment of this Act, unless such assessments or agreements have completed the normal reprogramming process for Congressional notification.

SEC. 342. Item 642 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century, relating to Washington, is amended by striking "Construct passenger ferry facility to serve Southworth, Seattle" and inserting "Passenger only ferry to serve Kitsap and King Counties to Seattle".

SEC. 343. Item 1793 in section 1602 of the Transportation Equity Act for the 21st Century, relating to Washington, is amended by striking "Southworth Seattle Ferry" and inserting "Passenger only ferry to serve Kitsap and King Counties to Seattle".

SEC. 344. Item 576 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 278) is amended by striking "Bull Shoals Lake Ferry in Taney County" and inserting "Construct the Missouri Center for Advanced Highway Safety (MOCAHS)".

SEC. 345. The transit station operated by the Washington Metropolitan Area Transit Authority located at Ronald Reagan Washington National Airport, and known as the National Airport Station, shall be known and designated as the "Ronald Reagan Washington National Airport Station". The Washington Metropolitan Area Transit Authority shall modify the signs at the transit station, and all maps, directories, documents, and other records published by the Authority, to reflect the redesignation.

SEC. 346. None of the funds appropriated or otherwise made available in this Act may be made available to any person or entity convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

SEC. 347. For fiscal year 2002, notwithstanding any other provision of law, historic covered bridges eligible for Federal assistance under section 1224 of the Transportation Equity Act for the 21st Century, as amended, may be funded from amounts set aside for the discretionary bridge program.

SEC. 348. None of the funds provided in this Act or prior Appropriations Acts for Coast Guard "Acquisition, construction, and improvements" shall be available after the fifteenth day of any quarter of any fiscal year, unless the Commandant of the Coast Guard first submits a quarterly report to the House and Senate Committees on Appropriations on all major Coast Guard acquisition projects including projects executed for the Coast Guard by the United States Navy and vessel traffic service projects: Provided, That such reports shall include an acquisition schedule, estimated current and year funding requirements, and a schedule of anticipated obligations and outlays for each major acquisition project: Provided further, That such reports shall rate on a relative scale the cost risk, schedule risk, and technical risk associated with each acquisition project and include a table detailing unobligated balances to date and anticipated unobligated balances at the close of the fiscal year and the close of the following fiscal year should the Administration's pending budget request for the acquisition, construction, and improvements account be fully funded: Provided further, That such reports shall also provide abbreviated information on the status of shore facility construction and renovation projects: Provided further, That all information submitted in such reports shall be current as of the last day of the preceding quarter.

SEC. 349. Funds provided in this Act for the Transportation Administrative Service Center (TASC) shall be reduced by $5,000,000, which limits fiscal year 2002 TASC obligational authority for elements of the Department of Transportation funded in this Act to no more than $120,323,000: Provided, That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included in each account for the Transportation Administrative Service Center.

SEC. 350. SAFETY OF CROSS-BORDER TRUCKING BETWEEN UNITED STATES AND MEXICO. (a) No funds limited or appropriated in this Act may be obligated or expended for the review or processing of an application by a Mexican motor carrier for authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border until the Federal Motor Carrier Safety Administration—

(1)(A) requires a safety examination of such motor carrier to be performed before the carrier is granted conditional operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border;

(B) requires the safety examination to include—

(i) verification of available performance data and safety management programs;

(ii) verification of a drug and alcohol testing program consistent with part 40 of title 49, Code of Federal Regulations;

(iii) verification of that motor carrier's system of compliance with hours-of-service rules, including hours-of-service records;

(iv) verification of proof of insurance;

(v) a review of available data concerning that motor carrier's safety history, and other information necessary to determine the carrier's preparedness to comply with Federal Motor Carrier Safety rules and regulations and Hazardous Materials rules and regulations;

(vi) an inspection of that Mexican motor carrier's commercial vehicles to be used under such operating authority, if any such commercial vehicles have not received a decal from the inspection required in subsection (a)(5);

(vii) an evaluation of that motor carrier's safety inspection, maintenance, and repair facilities or management systems, including verification of records of periodic vehicle inspections;

(viii) verification of drivers' qualifications, including a confirmation of the validity of the Licencia de Federal de Conductor of each driver of that motor carrier who will be operating under such authority; and

(ix) an interview with officials of that motor carrier to review safety management controls and evaluate any written safety oversight policies and practices.

(C) requires that—

(i) Mexican motor carriers with three or fewer commercial vehicles need not undergo on-site safety examination; however 50 percent of all safety examinations of all Mexican motor carriers shall be conducted onsite; and

(ii) such on-site inspections shall cover at least 50 percent of estimated truck traffic in any year.

(2) requires a full safety compliance review of the carrier consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, and gives the motor carrier a satisfactory rating, before the carrier is granted permanent operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border, and requires that any such safety compliance review take place within 18 months of that motor carrier being granted conditional operating authority, provided that;

(A) Mexican motor carriers with three or fewer commercial vehicles need not undergo on-site compliance review; however 50 percent of all compliance reviews of all Mexican motor carriers shall be conducted on-site; and

(B) any Mexican motor carrier with 4 or more commercial vehicles that did not undergo an on-site safety exam under (a)(1)(C), shall undergo an on-site safety compliance review under this section.

(3) requires Federal and State inspectors to verify electronically the status and validity of the license of each driver of a Mexican motor carrier commercial vehicle crossing the border;

(A) for every such vehicle carrying a placardable quantity of hazardous materials;

(B) whenever the inspection required in subsection (a)(5) is performed; and

(C) randomly for other Mexican motor carrier commercial vehicles, but in no case less than 50 percent of all other such commercial vehicles.

(4) gives a distinctive Department of Transportation number to each Mexican motor carrier operating beyond the commercial zone to assist inspectors in enforcing motor carrier safety regulations including hours-of-service rules under part 395 of title 49, Code of Federal Regulations;

(5) requires, with the exception of Mexican motor carriers that have been granted permanent operating authority for three consecutive years—

(A) inspections of all commercial vehicles of Mexican motor carriers authorized, or seeking authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border that do not display a valid Commercial Vehicle Safety Alliance inspection decal, by certified inspectors in accordance with the requirements for a Level I Inspection under the criteria of the North American Standard Inspection (as defined in section 350.105 of title 49, Code of Federal Regulations), including examination of the driver, vehicle exterior and vehicle under-carriage;

(B) a Commercial Vehicle Safety Alliance decal to be affixed to each such commercial vehicle upon completion of the inspection required by clause (A) or a re-inspection if the vehicle has met the criteria for the Level I inspection; and

(C) that any such decal, when affixed, expire at the end of a period of not more than 90 days, but nothing in this paragraph shall be construed to preclude the Administration from requiring reinspection of a vehicle bearing a valid inspection decal or from requiring that such a decal be removed when a certified Federal or State inspector determines that such a vehicle has a safety violation subsequent to the inspection for which the decal was granted.

(6) requires State inspectors who detect violations of Federal motor carrier safety laws or regulations to enforce them or notify Federal authorities of such violations;

(7)(A) equips all United States-Mexico commercial border crossings with scales suitable for enforcement action; equips 5 of the 10 such crossings that have the highest volume of commercial vehicle traffic with weigh-in-motion (WIM) systems; ensures that the remaining 5 such border crossings are equipped within 12 months; requires inspectors to verify the weight of each Mexican motor carrier commercial vehicle entering the United States at said WIM equipped high volume border crossings; and

(B) initiates a study to determine which other crossings should also be equipped with weigh-in-motion systems;

(8) the Federal Motor Carrier Safety Administration has implemented a policy to ensure that no Mexican motor carrier will be granted authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border unless that carrier provides proof of valid insurance with an insurance company licensed in the United States;

(9) requires commercial vehicles operated by a Mexican motor carrier to enter the United States only at commercial border crossings where and when a certified motor carrier safety inspector is on duty and where adequate capacity exists to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of said inspections.

(10) publishes—

(A) interim final regulations under section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 nt.) that establish minimum requirements for motor carriers, including foreign motor carriers, to ensure they are knowledgeable about Federal safety standards, that may include the administration of a proficiency examination;

(B) interim final regulations under section 31148 of title 49, United States Code, that implement measures to improve training and provide for the certification of motor carrier safety auditors;

(C) a policy under sections 218(a) and (b) of that Act (49 U.S.C. 31133 nt.) establishing standards for the determination of the appropriate number of Federal and State motor carrier inspectors for the United States-Mexico border;

(D) a policy under section 219(d) of that Act (49 U.S.C. 14901 nt.) that prohibits foreign motor carriers from leasing vehicles to another carrier to transport products to the United States while the lessor is subject to a suspension, restriction, or limitation on its right to operate in the United States; and

(E) a policy under section 219(a) of that Act (49 U.S.C. 14901 nt.) that prohibits foreign motor carriers from operating in the United States that is found to have operated illegally in the United States.

(b) No vehicles owned or leased by a Mexican motor carrier and carrying hazardous materials in a placardable quantity may be permitted to operate beyond a United States municipality or commercial zone until the United States has completed an agreement with the Government of Mexico which ensures that drivers of such vehicles carrying such placardable quantities of hazardous materials meet substantially the same requirements as U.S. drivers carrying such materials.

(c) No vehicles owned or leased by a Mexican motor carrier may be permitted to operate beyond United States municipalities and commercial zones under conditional or permanent operating authority granted by the Federal Motor Carrier Safety Administration until—

(1) the Department of Transportation Inspector General conducts a comprehensive review of border operations within 180 days of enactment to verify that—

(A) all new inspector positions funded under this Act have been filled and the inspectors have been fully trained;

(B) each inspector conducting on-site safety compliance reviews in Mexico consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, is fully trained as a safety specialist;

(C) the requirement of subparagraph (a)(2) has not been met by transferring experienced inspectors from other parts of the United States to the United States-Mexico border, undermining the level of inspection coverage and safety elsewhere in the United States;

(D) the Federal Motor Carrier Safety Administration has implemented a policy to ensure compliance with hours-of-service rules under part 395 of title 49, Code of Federal Regulations, by Mexican motor carriers seeking authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border;

(E) the information infrastructure of the Mexican government is sufficiently accurate, accessible, and integrated with that of U.S. law enforcement authorities to allow U.S. authorities to verify the status and validity of licenses, vehicle registrations, operating authority and insurance of Mexican motor carriers while operating in the United States, and that adequate telecommunications links exist at all United States-Mexico border crossings used by Mexican motor carrier commercial vehicles, and in all mobile enforcement units operating adjacent to the border, to ensure that licenses, vehicle registrations, operating authority and insurance information can be easily and quickly verified at border crossings or by mobile enforcement units;

(F) there is adequate capacity at each United States-Mexico border crossing used by Mexican motor carrier commercial vehicles to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of said inspections;

(G) there is an accessible database containing sufficiently comprehensive data to allow safety monitoring of all Mexican motor carriers that apply for authority to operate commercial vehicles beyond United States municipalities and commercial zones on the United States-Mexico border and the drivers of those vehicles; and

(H) measures are in place to enable U.S. law enforcement authorities to ensure the effective enforcement and monitoring of license revocation and licensing procedures of Mexican motor carriers.

(2) The Secretary of Transportation certifies in writing in a manner addressing the Inspector General's findings in paragraphs (c)(1)(A) through (c)(1)(H) of this section that the opening of the border does not pose an unacceptable safety risk to the American public.

(d) The Department of Transportation Inspector General shall conduct another review using the criteria in (c)(1)(A) through (c)(1)(H) consistent with paragraph (c) of this section, 180 days after the first review is completed, and at least annually thereafter.

(e) For purposes of this section, the term "Mexican motor carrier" shall be defined as a Mexico-domiciled motor carrier operating beyond United States municipalities and commercial zones on the United States-Mexico border.

(f) In addition to amounts otherwise made available in this Act, to be derived from the Highway Trust Fund, there is hereby appropriated to the Federal Motor Carrier Safety Administration, $25,866,000 for the salary, expense, and capital costs associated with the requirements of this section.

SEC. 351. Notwithstanding any other provision of law, for the purpose of calculating the non-federal contribution to the net project cost of the Regional Transportation Commission Resort Corridor Fixed Guideway Project in Clark County, Nevada, the Secretary of Transportation shall include all non-federal contributions (whether public or private) made on or after January 1, 2000 for engineering, final design, and construction of any element or phase of the project, including any fixed guideway project or segment connecting to that project, and also shall allow non-federal funds (whether public or private) expended on one element or phase of the project to be used to meet the non-federal share requirement of any element or phase of the project.

SEC. 352. (a) FINDINGS.—Congress makes the following findings:

(1) The condition of highway, railway, and waterway infrastructure across the Nation varies widely and is in need of improvement and investment.

(2) Thousands of tons of hazardous materials, including a very small amount of high-level radioactive material, are transported along the Nation's highways, railways, and waterways each year.

(3) The volume of hazardous material transport increased by over one-third in the last 25 years and is expected to continue to increase. Some propose significantly increasing radioactive material transport.

(4) Approximately 261,000 people were evacuated across the Nation because of rail-related incidents involving hazardous materials between 1978 and 1995, and during that period industry reported 8 transportation accidents involving the small volume of high level radioactive waste transported during that period.

(5) The Federal Railroad Administration has significantly decreased railroad inspections and has allocated few resources since 1993 to assure the structural integrity of railroad bridges. Train derailments have increased by 18 percent over roughly the same period.

(6) The poor condition of highway, railway, and waterway infrastructure, increases in the volume of hazardous material transport, and proposed increases in radioactive material transport increase the risk of incidents involving such materials.

(7) Measuring the risks of hazardous or radioactive material incidents and preventing such incidents requires specific information concerning the condition and suitability of specific transportation routes contemplated for such transport to inform and enable investment in related infrastructure.

(8) Mitigating the impact of hazardous and radioactive material transportation incidents requires skilled, localized, and well-equipped emergency response personnel along all specifically identified transportation routes.

(9) Incidents involving hazardous or radioactive material transport pose threats to the public health and safety, the environment, and the economy.

(b) STUDY.—The Secretary of Transportation shall, in consultation with the Comptroller General of the United States, conduct a study of the effects to public health and safety, the environment, and the economy associated with the transportation of hazardous and radioactive material.

(c) MATTERS TO BE ADDRESSED.—The study under subsection (b) shall address the following matters:

(1) Whether the Federal Government conducts or reviews individualized and detailed evaluations and inspections of the condition and suitability of specific transportation routes for the current, and any anticipated or proposed, transport of hazardous and radioactive material, including whether resources and information are adequate to conduct such evaluations and inspections.

(2) The costs and time required to ensure adequate inspection of specific transportation routes and related infrastructure and to complete the infrastructure improvements necessary to ensure the safety of current, and any anticipated or proposed, hazardous and radioactive material transport.

(3) Whether emergency preparedness personnel, emergency response personnel, and medical personnel are adequately trained and equipped to promptly respond to incidents along specific transportation routes for current, anticipated, or proposed hazardous and radioactive material transport.

(4) The costs and time required to ensure that emergency preparedness personnel, emergency response personnel, and medical personnel are adequately trained and equipped to promptly respond to incidents along specific transportation routes for current, anticipated, or proposed hazardous and radioactive material transport.

(5) The availability of, or requirements to, establish governmental and commercial information collection and dissemination systems adequate to provide public and emergency responders in an accessible manner, with timely, complete, specific, and accurate information (including databases) concerning actual, proposed, or anticipated shipments by highway, railway, or waterway of hazardous and radioactive materials, including incidents involving the transportation of such materials by those means and the public safety implications of such dissemination.

(d) DEADLINE FOR COMPLETION.—The study under subsection (b) shall be completed not later than six months after the date of the enactment of this Act.

(e) REPORT.—Upon completion of the study under subsection (b), the Secretary shall submit to Congress a report on the study.

SEC. 353. In selecting projects to carry out using funds apportioned under section 110 of title 23, United States Code, the States of Georgia, Alabama, and Mississippi shall give priority consideration to the following projects:

(1) Improving Johnson Ferry Road from the Chattahoochee River to Abernathy Road, including the bridge over the Chattahoochee River, Georgia;

(2) Widening Abernathy Road from 2 to 4 lanes from Johnson Ferry Road to Roswell Road, Georgia;

(3) Constructing approaches to the Patton Island Bridge, Alabama; and

(4) Planning, design, engineering, and construction of an interchange on I–55, at approximately mile marker 114, and connector roads in Madison County, Mississippi.

SEC. 354. Section 355(a) of the National Highway System Designation Act of 1995 (109 Stat. 624) is amended by striking "has achieved" and all that follows and inserting the following: "has achieved a safety belt use rate of not less than 50 percent.".

SEC. 355. Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall conduct a study and submit to Congress a report on the costs and benefits of constructing a third bridge across the Mississippi River in the Memphis, Tennessee, metropolitan area.

SEC. 356. (a) Congress makes the following findings:

(1) Section 345 of the National Highway System Designation Act of 1995 authorizes limited relief to drivers of certain types of commercial motor vehicles from certain restrictions on maximum driving time and on-duty time.

(2) Subsection (c) of that section requires the Secretary of Transportation to determine by rulemaking proceedings that the exemptions granted are not in the public interest and adversely affect the safety of commercial motor vehicles.

(3) Subsection (d) of that section requires the Secretary of Transportation to monitor the safety performance of drivers of commercial motor vehicles who are subject to an exemption under section 345 and report to Congress prior to the rulemaking proceedings.

(b) It is the sense of Congress that the Secretary of Transportation should not take any action that would diminish or revoke any exemption in effect on the date of the enactment of this Act for drivers of vehicles under section 345 of the National Highway System Designation Act of 1995 (Public Law 104–59; 109 Stat. 613; 49 U.S.C. 31136 note) unless the requirements of subsections (c) and (d) of such section are satisfied.

SEC. 357. Point Retreat Light Station shall be transferred to the Alaska Lighthouse Association consistent with the terms and conditions of section 416(b)(2) of Public Law 105–383.

SEC. 358. PRIORITY HIGHWAY PROJECTS, MINNESOTA. In selecting projects to carry out using funds apportioned under section 110 of title 23, United States Code, the State of Minnesota shall give priority consideration to the following projects:

(1) The Southeast Main and Rail Relocation Project in Moorhead, Minnesota.

(2) Improving access to and from I–35 W at Lake Street in Minneapolis, Minnesota.

SEC. 359. Notwithstanding any other provision of law, the Secretary of Transportation shall approve the use of funds apportioned under paragraphs (1) and (3) of section 104(b) of title 23, United States Code, for construction of Type II noise barriers—

(1) at the locations identified in section 358 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (113 Stat. 1027);

(2) on the west side of Interstate Route 285 from Henderson Mill Road to Chamblee Tucker Road in DeKalb County, Georgia;

(3) on the east and west side of Interstate Route 85, extending from Virginia Avenue to Metropolitan Parkway in Fulton County, Georgia;

(4) on the east and west sides of Interstate 285 from the South Fulton Parkway/Interstate Route 85 interchange north to Interstate Route 20;

(5) on the east side of Interstate Route 75 from Howell Mill Road to West Paces Ferry Road in Fulton County, Georgia;

(6) on the east and west sides of Interstate Route 75 between Chastain Road and Georgia State Route 92 in Cobb and Cherokee Counties, Georgia; and

(7) on the south side of Interstate 95 in Bensalem Township, between exit 25 and exit 26, Bucks County, Pennsylvania.

SEC. 360. Notwithstanding any other provision of law, of the funds apportioned to the State of

Oklahoma under section 110 of title 23, United States Code, for fiscal year 2001, the $4,300,000 specified under the heading "Federal-Aid Highways (Limitation on Obligations)" in the Department of Transportation and Related Agencies Appropriations Act, 2001 (Public Law 106–346) for reconstruction of U.S. 177 in the vicinity of Cimarron River, Oklahoma, shall be available instead only for the widening of U.S. 177 from SH–33 to 32nd Street in Stillwater, Oklahoma, and such amount shall be subject to the provisions of the last proviso under such heading.

SEC. 361. Section 3030(d)(3) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by inserting at the end:

"(D) Alabama State Docks intermodal passenger and freight facility.".

SEC. 362. Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

"(44) The Louisiana Highway 1 corridor from Grand Isle, Louisiana, along Louisiana Highway 1, to the intersection with United States Route 90.".

SEC. 363. Item 425 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 272) is amended by striking "Extend" and all that follows through "Parish" and inserting the following: "Extend and improve Louisiana Route 42 from and along U.S. 61 to I–10 in Ascension and East Baton Rouge Parishes".

SEC. 364. Items 111 and 1583 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 261 and 315), relating to Kentucky, are each amended by inserting after "Paducah" the following: "and other areas in the city of Paducah and McCracken County, Kentucky".

SEC. 365. (a) Section 1105(c)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), as amended, is hereby further amended by striking: "then to a Kentucky Corridor centered on the cities of Pikeville, Jenkins, Hazard, London, Somerset, Columbia, Bowling Green, Hopkinsville, Benton, and Paducah" and inserting: "then to a Kentucky Corridor centered on the cities of Pikeville, Jenkins, Hazard, London, and Somerset; then, generally following the Louie B. Nunn Parkway corridor from Somerset to Columbia, to Glasgow, to I–65; then to Bowling Green, Hopkinsville, Benton, and Paducah".

(b) Section 1105(e)(5)(A) of the Intermodal, Surface Transportation Efficiency Act of 1991 (Public Law 102–240), as amended, is hereby further amended by inserting after "subsection (c)(1)", the following: "subsection (c)(3) (solely as it relates to the Kentucky Corridor),".

SEC. 366. Section 1105(c)(18) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), as amended, is hereby further amended by adding:

"(E) In Kentucky, the corridor shall utilize the existing Purchase Parkway from the Tennessee state line to Interstate 24.".

SEC. 367. Section 1105(e)(5)(B)(i) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), as amended, is hereby further amended by adding: "The Louie B. Nunn Parkway corridor referred to in subsection (c)(3) shall be designated as Interstate Route 66. A state having jurisdiction over any segment of routes and/or corridors referred to in subsections (c)(3) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route 66. Notwithstanding the provisions of subsections (e)(5)(A)(i) and (e)(5)(A)(ii), or any other provisions of this Act, the Commonwealth of Kentucky shall erect signs, as approved by the Secretary, identifying the routes and/or corridors described in subsection (c)(3) for the Commonwealth, as segments of future Interstate Route 66. The Purchase Parkway corridor referred to in subsection (c)(18)(E) shall be designated as Interstate Route 69. A state having jurisdiction over any segment of routes and/or corridors referred to in subsections (c)(18) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route 69. Notwithstanding the provisions of subsections (e)(5)(A)(i) and (e)(5)(A)(ii), or any other provisions of this Act, the Commonwealth of Kentucky shall erect signs, as approved by the Secretary, identifying the routes and/or corridors described in subsection (c)(18) for the Commonwealth, as segments of future Interstate Route 69.".

SEC. 368. Notwithstanding any other provision of law, any funds made available to the southern coalition for advanced transportation (SCAT) in the Department of Transportation and Related Agencies Appropriations Act, 2000, Public Law 106–69, under Capital Investment Grants, or identified in the conference report accompanying the Department of Transportation and Related Agencies Appropriations Act, 2001, Public Law 106–346, that remain unobligated shall be transferred to Transit Planning and Research and made available to the electric transit vehicle institute (ETVI) in Tennessee for research administered under the provisions of 49 U.S.C. 5312.

SEC. 369. Chapter 9 of title II of the Supplemental Appropriations Act, 2001 (Public Law 107–20) is amended by deleting the heading "(Highway Trust Fund)" under the heading "Federal-aid Highways"; and inserting in the body under the heading "Federal-aid Highways" after "available" the following: "from the Highway Trust Fund (other than the mass transit account) or the general fund"; and striking "103–311" and inserting in lieu thereof "103–331".

SEC. 370. Notwithstanding the project descriptions contained in table item number 865 of section 1602 of Public Law 105–178, table item number 77 of section 1106(a) of Public Law 102–240 and section 1069(d) relating to the Riverside Expressway in Fairmont, West Virginia, amounts available under such provision shall be available to carry out any project eligible under title 23, United States Code, in the vicinity of Fairmont, West Virginia.

SEC. 371. Item 71 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century, Public Law 105–178, is amended by replacing "restore First and Main Streets to two-way traffic" with "traffic safety and pedestrian improvements in downtown Miamisburg".

SEC. 372. Item 258 in the table under the heading "Capital Investment Grants" in title I of the Department of Transportation and Related Agencies Appropriations Act, 2000 (Public Law 106–69; 113 Stat. 1006) is amended by striking "Killington-Sherburne satellite bus facility" and inserting "Marble Valley Regional Transit District buses".

SEC. 373. Of the funds available in item 73 of the table contained in section 1106(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), $5,700,000 shall be available for construction of a parking facility for the inner harbor/redevelopment project in Buffalo, New York.

SEC. 374. Of the funds available in item 630 of the table contained in section 1602 of the Transportation Equity Act for the 21st Century (Public Law 105–178) as amended by section 1102 of chapter 11 of the Consolidated Appropriations Act, 2001 (Public Law 106–554) shall be available for the construction of a parking facility for the inner harbor/redevelopment project in Buffalo, New York.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 2002".

And the Senate agree to the same.

Harold Rogers,
Frank R. Wolf,
Tom DeLay,
Sonny Callahan,
Todd Tiahrt,
Robert B. Aderholt,
Kay Granger,
JoAnn Emerson,
John E. Sweeney,
Bill Young,
Martin Olav Sabo,
John W. Olver,
Ed Pastor,
Carolyn C. Kilpatrick,
José E. Serrano,
James E. Clyburn,
David R. Obey,
Managers on the Part of the House.

Patty Murray,
Robert C. Byrd,
Barbara A. Mikulski,
Harry Reid,
Herb Kohl,
Richard J. Durbin,
Patrick Leahy,
Daniel Inouye,
Richard C. Shelby,
Christopher Bond,
Robert F. Bennett,
Ben Nighthorse Campbell,
Kay Bailey Hutchison,
Ted Stevens,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House of Representatives and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, submit the following joint statement to the House of Representatives and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill.

Congressional Directives

The conferees agree that Executive Branch propensities cannot substitute for Congress' own statements concerning the best evidence of Congressional intentions; that is, the official reports of the Congress. The committee of conference approves report language included by the House (House Report 107–108) or the Senate (Senate Report 107–38 accompanying the companion measure S. 1178) that is not changed by the conference. The statement of the managers, while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

Program, Project, and Activity

During fiscal year 2002, for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended, with respect to funds provided for the Department of Transportation and related agencies, the terms "program, project, and activity" shall mean any item for which a dollar amount is contained in an appropriations Act (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. In addition, the reductions made pursuant to any sequestration order to funds appropriated for "Federal Aviation Administration, Facilities and equipment" and for "Coast Guard, Acquisition, construction, and improvements" shall be applied equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriations Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference. The conferees recognize that adjustments to the above allocations may be required due to changing program requirements or priorities. The conferees expect any such adjustment, if required, to be accomplished only through the normal reprogramming process.

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

The conference agreement provides $67,778,000 for the salaries and expenses of the office of the secretary instead of $68,446,000 as proposed by the House and $67,349,000 as proposed by the Senate. New bill language is included that specifies amounts by office, consistent with actions in prior years, and limits transfers among each office to no more than 7 percent. The bill language specifies that any transfer shall be submitted for approval to the House and Senate Committees on Appropriations. The following table summarizes the fiscal year 2002 appropriation for each office:

Immediate office of the Secretary	$1,929,000
Immediate office of the Deputy Secretary	619,000
Office of the General Counsel	13,355,000
Office of the Assistant Secretary for Policy	3,058,000
Office of the Assistant Secretary for Aviation and International Affairs	7,421,000
Office of the Assistant Secretary for Budget and Programs	7,728,000
Office of the Assistant Secretary for Government Affairs	2,282,000
Office of the Assistant Secretary for Administration	19,250,000
Office of Public Affairs	1,723,000
Executive Secretariat	1,204,000
Board of Contract Appeals	507,000
Office of Small and Disadvantaged Business Utilization	1,240,000
Office of Intelligence and Security	1,321,000
Office of the Chief Information Officer	6,141,000

The conferees direct the office of the secretary to submit its congressional justification materials in support of the individual offices of the offices of the secretary at the same level of detail provided in the congressional justifications presented in fiscal year 2002.

Bill language, as proposed by both the House and the Senate, allows the Department to spend up to $60,000 for official reception and representation activities.

The conference agreement modifies bill language that was contained in both the House and the Senate bills that credits to this appropriation up to $2,500,000 in funds received in user fees by excluding fees authorized in Public Law 107–71.

Aviation consumer hotline.—The conference agreement includes $720,000 for the Department's Aviation Consumer Protection Division's consumer hotline. The conferees note that a hotline for consumer complaints currently exists in the Office of the General Counsel. However, the phone line is understaffed, leaving many consumers frustrated when a phone recording is the only place to register a complaint. This can cause considerable hardship for individuals with disabilities who may have travel complaints that warrant immediate attention. The conferees direct that these funds are to be used to establish a 1–800 disability inquiry line that is staffed from 7:00 a.m. until 11:00 p.m. each day.

Study of air travel services.—The conferees are interested in the impact the joint entry of suppliers of air travel services into the market for direct distribution has had to date on consumers, airline competition, and ticket prices.

Accordingly, the conferees request the Office of the Assistant Secretary for Aviation and International Affairs report on its monitoring efforts pursuant to the launch of the joint airline distribution ventures. The report should address, at a minimum, the following issues raised by the Department as potential concerns related to such ventures:

Deviations from plans, polices, and procedures initially proposed in the joint venture's business plan and contained in its charter associate agreements;

The extent to which the joint venture has adhered to its commitment to not bias displays of fares or services;

The extent to which ties between the airline-owners and the "Most Favored Nation" clause in the charter agreement have resulted in monopolistic or other anti-competitive market behavior; and

Whether airline-owners of the joint ventures or charter associates have acted in an anti-competitive manner by choosing not to distribute fares through other online distribution outlets.

The conferees request the Office of Aviation and International Affairs to submit its findings to the DOT Inspector General's office no later than April 1, 2002, for its evaluation and comment. The House and Senate Transportation Appropriations Subcommittees request the Inspector General to report on these findings no later than 90 days after receiving the findings from the Office of Aviation and International Affairs.

Reorganization.—The conferees are aware that consideration is being given to a reorganization of functions and offices within the office of the secretary and the department is in the process of establishing the new Transportation Security Administration. The conferees expect that any transfer of functions or reorganization must be formally approved by the House and Senate Committees on Appropriations through the regular reprogramming process.

Administrative directions.—The conferees direct the department to submit its annual congressional justifications for each modal administration to the House and Senate Committees on Appropriations on the date on which the President's budget is delivered officially to Congress.

Assessments.—The conferees direct that assessments charged by the office of the secretary to modal administrations should be for administrative activities, not policy initiatives. The conferees have seen violations of this direction in fiscal year 2001 and will not tolerate further problems.

OFFICE OF CIVIL RIGHTS

The conference agreement provides $8,500,000 for the office of civil rights as proposed by both the House and the Senate.

TRANSPORTATION SECURITY ADMINISTRATION

The conference agreement provides $1,250,000,000 for the new multi-modal Transportation Security Administration for civil aviation security services pursuant to Public Law 107–71. Neither the House nor the Senate bill contained a similar appropriation. The bill language specifies that the security fees shall be credited to this appropriation as offsetting collections. The bill also specifies that the general fund appropriation shall be reduced, as fees are collected, to result in an anticipated final fiscal year appropriation of zero.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

The conference agreement provides $11,993,000 for transportation planning, research, and development instead of $5,193,000 as proposed by the House and $15,592,000 as proposed by the Senate. Adjustments to the budget request shall be available for the following activities:

Northeast advanced vehicle consortium	$2,600,000
WestStart's vehicular flywheel project in the Pacific Northwest	1,000,000
International ferry service from Blaine, WA to White Rock, B.C.	200,000
North Dakota State University system planning and resource management	150,000
Auburn University, AL campus transit study	375,000
Bypass mail system computer software and hardware upgrades in Alaska	2,075,000
North Puget Sound intermodal center planning study	400,000

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

The conference agreement includes a limitation of $125,323,000 on activities of the transportation administration service center (TASC) as proposed by both the House and the Senate.

Modal usage of TASC.—The conferees direct the department, in its fiscal year 2003 Congressional justifications for each modal administration, to account for increases and decreases in TASC billings based on planned usage requested or anticipated by the modes rather than TASC as proposed by the House.

Information technology omnibus procurement (ITOP).—The conferees direct the DOT Inspector General to conduct a thorough review of the ITOP program and report findings to the House and Senate Committees on Appropriations no later than February 15, 2002 as specified in the House report.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

The conference agreement provides an appropriation of $900,000 for the minority business resource center program and limits the loans to $18,367,000 as proposed by both the House and the Senate.

MINORITY BUSINESS OUTREACH

The conference agreement provides a total of $3,000,000 for minority business outreach as proposed by the House and the Senate. Language pertaining to funding availability, as proposed by the Senate, has been deleted.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement provides $63,000,000 for payments to air carriers as proposed by the House instead of $50,000,000 as proposed by the Senate. Of this total, $13,000,000 is in new appropriations and the remainder is to be derived from overflight user fees and, if necessary, unobligated balances from the facilities and equipment account of the Federal Aviation Administration. The conference agreement does not include a provision contained in the Senate bill that tightens the eligibility criteria for communities to receive essential air service subsidies.

COAST GUARD

OPERATING EXPENSES

The conference agreement provides $3,382,000,000 for Coast Guard operating expenses instead of $3,382,588,000 as proposed by the House and $3,427,588,000 as proposed by the Senate. The agreement specifies that $440,000,000 of the total is available only for defense-related activities instead of $340,000,000 as proposed by the House and $695,000,000 proposed by the Senate. The agreement includes $24,945,000 to be derived from the oil spill liability trust fund as proposed by the House instead of $25,000,000 as proposed by the Senate.

Funding for search and rescue stations, surf stations, and command centers.—The conference agreement specifies that $14,541,000 is only for increased staffing, training, and personnel protective gear at search and rescue stations, surf stations, and command centers, instead of $13,541,000 proposed by the Senate. Further, the agreement includes language, proposed by the Senate, requiring the Inspector General to audit and certify that these funds are being used solely to supplement the fiscal year 2001 level of effort in this area. The conferees agree that these activities are in dire need of increased funding, and that the Coast Guard should give search and rescue a higher priority for funding in future budget submissions.

Specific adjustments.—The following table summarizes the House and Senate's proposed adjustments to the Coast Guard's budget request and the final conference agreement:

	House bill	Senate bill	Conference agreement
Budget estimate	$3,382,838,000	$3,382,838,000	$3,382,838,000
Changes to the budget estimate:			
Minor IT projects (transfer from AC&I)	+1,000,000		+1,000,000
SCBA (transfer from AC&I)	+1,000,000		
Civilian pay raise (4.6%)	+4,000,000		
Selective reenlistment bonuses	−3,000,000		
Aviation career continuation pay	−300,000		
Clothing maintenance allowance	−300,000		
Contract costs	−3,000,000		−4,000,000
Operating funds—"other activities"	−4,000,000		−4,000,000
Local notice to mariners	−925,000		−888,000
Human resources information system	−1,173,000		−1,105,000
Marine transportation system	−845,000		−845,000
Ice operations	−4,457,000		
Search and rescue readiness	+12,000,000	+8,000,000	+9,000,000
Pay and benefits shortfalls		+36,750,000	
Amount recommended	3,382,838,000	3,427,588,000	3,382,000,000

Aviation depot maintenance.—The conferees agree that the Coast Guard should work toward developing full and open competition for aviation depot maintenance services of C-130 aircraft as soon as possible, but no later than fiscal year 2003.

Marine Fire and Safety Association.—The conferees remain supportive of efforts by the Marine Fire and Safety Association (MFSA) to provide specialized firefighting training and retain an oil spill response contingency plan for the Columbia River. The conferees direct the Secretary to provide $255,000 to continue efforts by the nonprofit organization comprised of numerous fire departments on both sides of the Columbia River. The funding will be utilized to provide specialized communications, firefighting training and equipment, and to implement the oil spill response contingency plan for the Columbia River.

Lighthouse conveyances.—The conference agreement includes sufficient funding to complete the conveyance of several Coast Guard lighthouse properties and improvements, as authorized under Public Law 105–383, that have not been transferred. The conferees expect the Coast Guard to convey the remaining authorized lighthouse properties not later than the end of fiscal year 2002. If the Commandant determines, by June 31, 2002, that the Coast Guard is unable to complete any of the conveyances in the coming fiscal year, the conferees direct the Commandant to submit a report to the House and Senate Committees on Appropriations within fifteen days of that decision explaining the reasons why each property has not been transferred and providing an estimated date of completion of that transfer.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The conference agreement includes $636,354,000 for acquisition, construction, and improvement programs of the Coast Guard instead of $600,000,000 as proposed by the House and $669,323,000 as proposed by the Senate. The bill specifies that $20,000,000 of total funding is to be derived from the oil spill liability trust fund, as proposed by the Senate, instead of $19,956,000 proposed by the House. Consistent with past years and the House and Senate bills, the conference agreement distributes funds in the bill by budget activity.

A table showing the distribution of this appropriation by project as included in the fiscal year 2002 budget estimate, House bill, Senate bill, and the conference agreement follows:

Acquisition, Construction, and Improvements
Fiscal Year 2002

Program Name	FY 2002 estimate	House recommended	Senate recommended	Conference agreement
Vessels:	**79,390,000**	**90,990,000**	**79,640,000**	**89,640,000**
Survey and design - cutters and boats	500,000	500,000	500,000	500,000
Seagoing buoy tender (WLB) replacement	70,000,000	68,000,000	70,000,000	68,000,000
Polar class icebreaker reliability improvement program	8,890,000	4,490,000	4,490,000	4,490,000
41 foot utility boat replacement	0	18,000,000	0	12,000,000
85-Foot fast patrol craft	0	0	4,650,000	4,650,000
Aircraft:	**500,000**	**26,000,000**	**12,500,000**	**9,500,000**
Aviation parts and support	0	26,000,000	12,000,000	9,000,000
C-130J system provisioning and training support analyses	500,000	0	500,000	500,000
Other Equipment:	**95,471,000**	**74,173,000**	**97,921,000**	**79,293,000**
Ports and waterways safety system (PAWSS)	17,600,000	6,100,000	14,400,000	6,000,000
Marine information for safety and law enforcement (MISLE)	7,450,000	7,450,000	7,450,000	7,450,000
National distress system modernization	42,000,000	42,000,000	42,000,000	42,000,000
Defense message system implementation	2,000,000	2,000,000	2,000,000	1,500,000
Commercial satellite communications	1,500,000	1,500,000	1,500,000	1,500,000
Global Maritime Distress and Safety System (GMDSS)	2,200,000	2,200,000	2,200,000	2,200,000
Search and Rescue Capabilities Enhancement Project	1,320,000	1,320,000	1,320,000	1,320,000
Thirteenth district microwave modernization project	800,000	800,000	800,000	800,000
Hawaii Rainbow communications system modernization	3,100,000	0	3,100,000	3,100,000
High frequency recapitalization and modernization	2,500,000	2,500,000	2,500,000	2,000,000
Readiness management system	1,675,000	0	1,675,000	0
DOD C4I interoperability	1,530,000	1,530,000	1,530,000	0
Command center readiness/infrastructure recapitalization	727,000	727,000	727,000	727,000
P-250 pump replacement	2,046,000	2,046,000	2,046,000	2,046,000
Configuration management – phase II	6,023,000	4,000,000	6,023,000	3,000,000
Self-contained breathing apparatus (SCBA) replacement	1,000,000	0	1,000,000	1,000,000
Minor information technology projects	2,000,000	0	2,000,000	0
Maritime electro-optical/infrared (EO/IR) sensors for cutters/boats	0	0	5,000,000	4,000,000
Ice detecting radar - Cordova, AK	0	0	650,000	650,000
Shore Facilities and Aids to Navigation:	**79,262,000**	**44,206,000**	**88,862,000**	**73,100,000**
Survey and design - shore projects	5,000,000	7,000,000	7,000,000	4,000,000
Minor AC&I shore construction projects	7,262,000	5,500,000	7,262,000	4,000,000
Housing	11,000,000	13,500,000	11,000,000	13,500,000
Waterways ATON projects	5,000,000	4,706,000	6,000,000	5,500,000
Rebuild Coast Guard Station, Port Huron, MI	3,100,000	3,100,000	3,100,000	3,100,000
Consolidate facilities - Elizabeth City, NC	6,300,000	0	6,300,000	0
Consolidate warehouse - Coast Guard Yard, MD	12,600,000	0	12,600,000	12,600,000
Rebuild Group/MSO - Long Island Sound, NY	4,900,000	4,900,000	4,900,000	0
Construct new Station - Brunswick, GA	3,600,000	3,600,000	3,600,000	3,600,000
Replace utilities, ISC building number 8 - Boston, MA	1,600,000	1,600,000	1,600,000	1,600,000
Construct engineering building, ISC Honolulu - Honolulu, HI	7,200,000	0	7,200,000	7,200,000
Consolidate Kodiak aviation support - Kodiak, AK	5,700,000	0	5,700,000	5,700,000
Unallocated increase	6,000,000	0	0	0
Reconstruction North Wall, Escanaba Municipal Dock, MI	0	300,000	0	300,000
Rebuild ISC Seattle Pier 36 - Phase I	0	0	12,600,000	10,000,000
Coast Guard Marine Safety & Rescue Station - Chicago, IL	0	0	0	2,000,000
Personnel and Related Support:	**66,700,000**	**64,631,000**	**65,200,000**	**64,631,000**
Direct personnel costs	65,700,000	63,931,000	64,500,000	63,931,000
Core acquisition costs	1,000,000	700,000	700,000	700,000
Integrated Deepwater Systems:	**338,000,000**	**300,000,000**	**325,200,000**	**320,190,000**
Total appropriation	**659,323,000**	**600,000,000**	**669,323,000**	**636,354,000**

Integrated deepwater systems (IDS).—The conference agreement includes $320,190,000 for the integrated deepwater systems (IDS) program instead of $300,000,000 proposed by the House and $325,200,000 proposed by the Senate. The agreement includes language, proposed by the House and Senate, prohibiting obligation of funds for the IDS systems integration contract until (1) certification is received from the Department of Transportation and the Office of Management and Budget that the program is fully funded in fiscal year 2003–2007 budget plans; (2) certification is received that the national distress and response system modernization program is funded to allow for full deployment by fiscal year 2006, and that other essential search and rescue procurements are fully funded; and (3) the Department of Transportation and Office of Management and Budget approve a contingency procurement strategy for assets and capabilities encompassed by the IDS program. Certification authorities for the Department of Transportation for the above items are the Secretary or Deputy Secretary, as proposed by the Senate, instead of the Secretary or his designee, as proposed by the House. Further, the bill includes language, proposed by the Senate, requiring future IDS budget submissions to be specified to a certain level of detail, and making funds available for obligation for five years, instead of three years as proposed by the House.

Capital investment plan.—The bill includes language, proposed by the Senate, specifying a rescission of $100,000 per day for each day after initial submission of the fiscal year 2003 President's budget that the Coast Guard capital investment plan has not been submitted to the Congress. A similar provision is included under Federal Aviation Administration, "Facilities and equipment".

41-foot utility boat replacement.—The conference agreement includes $12,000,000 to begin replacement of the existing 41-foot utility boat fleet, instead of $18,000,000 as proposed by the House. The conferees do not accept Coast Guard statements that a full year or more will be needed to develop requirements and specifications for this urgently-needed replacement vessel. The conferees urge the Coast Guard to streamline and expedite the requirements process so that contract award for this replacement project can take place by the end of fiscal year 2002. In the development of requirements, the Coast Guard is to actively involve, and consider the input of, field commanders and enlisted personnel who operate and maintain these boats in carrying out search and rescue missions.

ATC glass technology.—The conferees agree that, of the funds provided for aviation parts and support, $1,000,000 is only for the application of ambient temperature-cured (ATC) glass technology to Coast Guard aircraft, as proposed by the House.

National distress and response system modernization program (NDRSMP).—The conferees believe the Secretary or Deputy Secretary of Transportation and the Director of OMB should be attendant to the following milestones in assessing whether the national distress and response system modernization program (NDRSMP) will be fully deployed by fiscal year 2006. Not later than the end of fiscal year 2003, the Coast Guard should prove, at initial operating capability (IOC), the fully integrated technology of the NDRSMP at two of the 46 NDRSMP regions and complete low rate initial production at an additional four regions. IOC should include: (1) the capability to locate distressed vessels by identifying vessels through identification of the origin of the communications signal; (2) the ability to send and receive data among Coast Guard and other federal and state research and rescue assets; and (3) the compatibility with international communications standards under the International Convention for Safety of Life at Sea. The Coast Guard should also complete the following percentages of the NDRSMP by the end of the corresponding years shown below:

Fiscal year 2004: 35 percent;
Fiscal year 2005: 70 percent; and
Fiscal year 2006: 100 percent.

Coast Guard Marine Safety and Rescue Station, Chicago, IL.—The conference agreement includes $2,000,000 for Coast Guard participation in reconstruction of a joint-use Coast Guard Marine Safety and Rescue Station along the Chicago Lake Michigan shoreline. Specifically, the facility would house Coast Guard, City of Chicago, and State of Illinois equipment and personnel for the purposes of air/marine search and rescue, port security, research, and maritime safety. The conferees expect the Coast Guard to work with the City of Chicago and the State of Illinois to plan, fund, and construct this facility. The conferees intend for the Chicago Coast Guard Marine Safety and Rescue Station to complement the air search and rescue station in Waukegan, Illinois and the Coast Guard Marine Safety Office Chicago in Burr Ridge, Illinois.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(RESCISSIONS)

The conference agreement deletes rescissions proposed by the Senate totaling $8,700,000. Funding in the programs proposed for rescission is no longer available.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

The conference agreement includes $16,927,000 for environmental compliance and restoration as proposed by both the House and Senate.

ALTERATION OF BRIDGES

The conference agreement includes $15,466,000 for alteration of bridges deemed hazardous to marine navigation as proposed by the House and Senate. The conference agreement distributes these funds as follows:

Bridge and location	*Conference agreement*
New Orleans, LA, Florida Avenue RR/HW Bridge	$3,250,000
Brunswick, GA, Sidney Lanier Highway Bridge	1,600,000
Charleston, SC, Limehouse Bridge	1,100,000
Mobile, AL, Fourteen Mile Bridge	5,741,000
Morris, IL, EJ&E Railroad Bridge	1,525,000
Galveston, TX, Galveston Causeway	500,000
Boston, MA, Chelsea Street Bridge	1,750,000
Total	15,466,000

Millenium port selection.—In an effort to expand U.S. trade with Latin America and South America, the State of Louisiana has developed the Millenium Port Commission. Funds were provided in fiscal years 2000 and 2001 for federal support of this commission's activities. The conferees encourage the Millenium Port Commission, cooperating Louisiana ports, and the U.S. Army Corps of Engineers to complete a detailed feasibility analysis of all major options for the Millenium Port by January 1, 2002.

RETIRED PAY

The conference agreement includes $876,346,000 for Coast Guard retired pay as proposed by both the House and the Senate. This is scored as a mandatory program for federal budget purposes. The conference agreement includes language proposed by the Senate authorizing these funds for the payment of fifteen-year career status bonuses.

RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

The conference agreement provides $83,194,000 for reserve training as proposed by the House and Senate. The agreement allows the Reserves to reimburse Coast Guard "Operations" up to $25,800,000 for Coast Guard support of Reserve activities, as proposed by the House and Senate.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

The conference agreement provides $20,222,000 for Coast Guard research, development, test, and evaluation instead of $21,722,000 as proposed by the House and Senate. The conferees agree that within the funding provided, $500,000 is for the University of Maine Advanced Engineered Wood Composites Center's demonstration and evaluation of engineered wood composites at Coast Guard facilities, instead of $1,000,000 as proposed by the Senate.

Columbia River Aquatic Nuisance Species Initiative (CRANSI).—The conferees are concerned over threats that invasive, non-indigenous plants and animals pose to U.S. waterways and the economy. Within the funds provided, the conferees agree that $500,000 is for the Columbia River Aquatic Nuisance Species Initiative (CRANSI), at the Center for Lakes and Reservoirs at Portland State University, to support surveys of non-indigenous aquatic species in the Columbia River, as proposed by the Senate.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

The conference agreement provides $6,886,000,000 for operating expenses of the Federal Aviation Administration instead of $6,870,000,000 as proposed by the House and $6,916,000,000 as proposed by the Senate. These funds are in addition to amounts made available as a mandatory appropriation of user fees in the Federal Aviation Administration Reauthorization Act of 1996 (Public Law 104-264). Of the total amount provided, $5,773,519,000 is to be derived from the airport and airway trust fund, consistent with Public Law 106-181. The total funding provided is $341,765,000 (5.2 percent) above the fiscal year 2001 enacted level and is the maximum amount authorized. The bill specifies amounts by budget activity, as proposed by the House, continuing a practice initiated in fiscal year 2001.

Aeronautical charting and cartography.—The conference agreement includes language proposed by the House prohibiting funds for any aeronautical charting and cartography activities conducted by, or coordinated through, the Transportation Administrative Service Center.

User fees.—The conference agreement modifies language proposed by the House prohibiting funds to plan, finalize, or implement new user fees not specifically authorized by Congress. The agreement prohibits funds only for the finalization or implementation of new, unauthorized fees.

Use of credit hours.—The conferees direct FAA to discontinue the granting of credit hours, or related benefits, in the settlement of union grievances until the OST office of general counsel, working with legal counsel of the FAA and OIG, determines in writing that such practice is consistent with the 1998 collective bargaining agreement with the National Air Traffic Controllers Association (NATCA) and other existing labor agreements. Once this determination is made, the Secretary is requested to make its finding available to the House and Senate Committees on Appropriations. The House proposed a prohibition on the granting of credit hours for the settlement of union grievances during fiscal year 2002.

Travel policy.—The conferees do not agree with House direction prohibiting FAA from changing its travel policy regarding per diem payments for extended temporary duty assignments. The conferees understand that FAA has modified its travel policies to address findings of the DOT Inspector General in this area.

Personnel reform.—The conferees direct the Administrator to report to the House and Senate Committees on Appropriations, not later than January 15, 2002, on how the agency has implemented, and/or plans to implement, the Senate directive regarding personnel reform.

Airspace redesign.—The conference agreement includes $12,500,000 for the New York/New Jersey airspace redesign, as proposed by the Senate, instead of $8,500,000 proposed by the House.

Restoration of air traffic supervisors.—The conference agreement restores $5,000,000 of the proposed reductions in air traffic supervisor staffing included in the President's budget. The budget proposed a reduction of $5,400,000 due to planned expansion of the controller-in-charge (CIC) concept. In restoring these positions, the conferees agree with the position of the House that supervisory levels should not be reduced further at this time.

National airspace system (NAS) handoff.—The conference agreement provides $7,600,000 in this appropriation and $51,006,100 in "Facilities and equipment" (F&E) for second year maintenance costs for newly commissioned equipment under the National airspace system (NAS) handoff program. The President's budget included $76,400,000 under F&E for this purpose. The conferees believe it is inconsistent with the principles of existing authorizing legislation to fund these costs under F&E. In all budget submissions through fiscal year 2001, costs to operate and maintain such systems after the first year of operation were to transition to FAA's operating budget. However, due to operating budget pressures, this year the Administration proposed to shift the second year of such costs to the F&E appropriation. These are, in effect, operating costs transferred to a capital appropriation. While the conferees note that Public Law 106–181 significantly raised F&E funding, it did so with an understanding that those additional funds would be used for capital costs and not to cover shortfalls in a constrained operating budget. The conferees believe that FAA needs to live within its authorized funding levels for operations without program shifts of this nature.

GPS non-precision approaches.—The conference agreement includes $5,000,000 to increase the number of GPS non-precision instrument approaches developed and published for airports that are not part 139 certificated, and to develop GPS routes to help supplement the current airway route system. These routes will provide important safety and other benefits to general aviation pilots, including increased access to currently inaccessible airports. In that regard, the conferees direct FAA to assure that the GPS instrument approaches provide the necessary procedural information known as LNAV/VNAV minima, to enable their use by pilots in obtaining guidance to the runway once the wide area augmentation system is in place.

Aviation safety reporting system.—The conferees are aware that the NASA's aviation safety reporting system (ASRS) is a critical component of our aviation safety system. The success of ASRS lies in its ability to offer confidentiality and limited immunity to those who submit reports on unintentional violations of federal aviation regulations. The conferees direct the FAA to work to meet the goal of funding ASRS at $3,400,000 in fiscal year 2002.

The following table compares the conference agreement to the levels proposed in the House and Senate bills by budget activity:

FAA Operations
Distribution by PPA
Fiscal Year 2002

	House bill	*Senate bill*	*Conference agreement*
Air Traffic Services:			
Budget estimate:	**5,447,421,000**	**5,447,421,000**	**5,447,421,000**
Reduce controller training	-8,574,000	0	0
Controller productivity initiatives	-5,000,000	0	-5,000,000
Information security management	-215,000	0	0
Restoration of air traffic supervisors	5,400,000	0	5,000,000
Base adjustment	-4,102,000	0	0
Contract tower cost sharing	6,000,000	6,000,000	6,000,000
MARC	2,000,000	0	2,000,000
Staffing adjustment	-22,000,000	0	-11,000,000
NAS handoff (transfer from F&E)	44,828,000	0	7,600,000
4.6 percent pay raise	29,125,000	0	0
Air Traffic Services Subcommittee	0	862,000	850,000
Unspecified	0	-6,862,000	0
Proposal	**5,494,883,000**	**5,447,421,000**	**5,452,871,000**
Aviation Regulation and Certification:			
Budget estimate:	**744,744,000**	**744,744,000**	**744,744,000**
Staffing adjustment	-18,000,000	0	-9,000,000
Base adjustment	-3,000,000	0	0
4.6 percent pay raise	4,126,000	0	0
Additional AVR staffing (36.5 FTE)	0	12,200,000	12,200,000
Additional certification activity	0	3,600,000	3,600,000
Safer Skies	0	22,700,000	5,475,000
HIMS	0	500,000	500,000
Medallion Program - Alaska	0	3,000,000	3,000,000
Alien Species Action Plan - Hawaii	0	3,000,000	3,000,000
GPS non-precision instrument approaches	0	5,000,000	5,000,000
Drug and alcohol validity testing	0	250,000	250,000
Unspecified	0	-11,000,000	0
Proposal	**727,870,000**	**783,994,000**	**768,769,000**
Civil Aviation Security:			
Budget estimate	**150,154,000**	**150,154,000**	**150,154,000**
Reduction in discretionary activities	-8,500,000	0	0
Headquarters facility security	-750,000	0	0
Staffing adjustment	-5,750,000	0	0
4.6 percent pay raise	795,000	0	0
Proposal	**135,949,000**	**150,154,000**	**150,154,000**
Research and Acquisition:			
Budget estimate:	**196,674,000**	**196,674,000**	**196,674,000**
Staffing adjustment	-1,750,000	0	-875,000
4.6 percent pay raise	334,000	0	0
Proposal	**195,258,000**	**196,674,000**	**195,799,000**

FAA Operations
Distribution by PPA
Fiscal Year 2002

	House bill	*Senate bill*	*Conference agreement*
Commercial Space Transportation:			
Budget estimate:	**14,706,000**	**14,706,000**	**14,706,000**
Staffing adjustment	-2,500,000	0	-2,000,000
4.6 percent pay raise	48,000	0	0
Unspecified	0	-250,000	-250,000
Proposal	**12,254,000**	**14,456,000**	**12,456,000**
Financial Services:			
Budget estimate:	**50,684,000**	**50,684,000**	**50,684,000**
Staffing adjustment	-800,000	0	-400,000
Resource tracking pgm (transfer from F&E)	500,000	0	0
4.6 percent pay raise	96,000	0	0
Proposal	**50,480,000**	**50,684,000**	**50,284,000**
Human Resources:			
Budget estimate:	**74,516,000**	**74,516,000**	**74,516,000**
Reduction to growth	-7,000,000	0	-5,000,000
4.6 percent pay raise	119,000	0	0
Proposal	**67,635,000**	**74,516,000**	**69,516,000**
Region/Center Operations:			
Budget estimate:	**90,893,000**	**90,893,000**	**90,893,000**
Staffing adjustment	-2,100,000	0	1,050,000
National park overflight tour mgmt plans	-6,000,000	0	-6,000,000
Aeronautical Ctr NAS handoff (transfer)	1,200,000	0	0
4.6 percent pay raise	620,000	0	0
Proposal	**84,613,000**	**90,893,000**	**85,943,000**
Staff Offices:			
Budget estimate:	**116,208,000**	**116,208,000**	**116,208,000**
Staffing adjustment	-5,000,000	0	-4,000,000
Additional adjustment to mirror inflation rate	-3,000,000	0	-3,000,000
4.6 percent pay raise	568,000	0	0
Proposal	**108,776,000**	**116,208,000**	**109,208,000**
Accountwide Adjustments:			
OST assessments	-750,000	0	-750,000
Travel	-5,148,000	0	-5,148,000
Executive bonuses	-500,000	0	-500,000
Vacant executive positions	-1,320,000	0	-1,320,000
Travel, supplies, communications, etc.	0	-9,000,000	-1,282,000
Proposal	**-7,718,000**	**-9,000,000**	**-9,000,000**
Total appropriation	6,870,000,000	6,916,000,000	6,886,000,000

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement provides $2,914,000,000 for facilities and equipment as proposed by the House and the Senate. This is the level mandated by Public Law 106-181, and represents an increase of $257,235,000 (9.7 percent) above the fiscal year 2001 enacted level.

Administration of potential shortfall due to EAS transfer.—Public Law 104-264 requires the FAA Administrator to cover any shortfall in funding for the essential air service program (below the mandatory amount of $50,000,000) out of any funds otherwise available to the Administrator. While P.L. 104-264 authorized the collection of overflight user fees to cover these expenses, fee receipts have never equaled the mandatory appropriation level, and are not expected to do so in fiscal year 2002. The conferees agree that any shortfall due to transfer of funds to the essential air service program should be borne by unobligated balances from the "Facilities and equipment" appropriation, and should not be derived from programs, projects, or activities designated as items of special Congressional interest in Congressional reports or in the fiscal year 2002 base for reprogramming document. The Senate proposed up to $10,000,000 of any shortfall should be derived from "Grants-in-aid for airports".

Capital investment plan.—The conference agreement includes a provision, proposed by the Senate, specifying a rescission of $100,000 per day for each day after initial submission of the fiscal year 2003 President's budget that the FAA's capital investment plan has not been submitted to the Congress. This is similar to a provision enacted for fiscal year 2001.

The following table provides a breakdown of the House and Senate bills and the conference agreement by program:

Facilities and Equipment
Fiscal Year 2002

Program Name	FY 2002 estimate	FY 2002 House	FY 2002 Senate	Conference agreement
ENGINEERING DEVELOPMENT, TEST AND EVALUATION:				
ADVANCED TECHNOLOGY DEVELOPMENT & PROTOTYPING	36,634,000	52,181,000	36,834,000	55,991,000
SAFE FLIGHT 21	26,500,000	35,000,000	39,300,000	39,300,000
SUBTOTAL - ADV DEV/PROTOTYPING	**63,134,000**	**87,181,000**	**76,134,000**	**95,291,000**
EN ROUTE AUTOMATION	72,200,000	72,200,000	46,200,000	46,200,000
OCEANIC AUTOMATION SYSTEM	84,400,000	84,400,000	84,400,000	84,400,000
AERONAUTICAL DATA LINK (ADL) APPLICATIONS	35,813,200	35,813,200	35,813,200	35,813,200
NEXT GENERATION VHF A/G COMMUNICATION SYSTEM	15,950,000	15,950,000	15,950,000	15,950,000
FREE FLIGHT PHASE ONE	122,570,000	193,270,000	122,570,000	122,570,000
FREE FLIGHT PHASE TWO	114,900,000	42,200,000	69,900,000	69,900,000
SUBTOTAL - EN ROUTE PROGRAMS	**445,833,200**	**443,833,200**	**374,833,200**	**374,833,200**
TERMINAL AUTOMATION (STARS)	104,700,000	104,700,000	104,700,000	104,700,000
SUBTOTAL - TERMINAL PROGRAMS	**104,700,000**	**104,700,000**	**104,700,000**	**104,700,000**
LOCAL AREA AUGMENTATION SYSTEM FOR GPS (LAAS)	16,660,000	42,450,000	16,660,000	43,109,700
WIDE AREA AUGMENTATION SYSTEM (WAAS)	49,000,000	75,900,000	49,000,000	80,900,000
SUBTOTAL - LANDING/NAVAIDS	**65,660,000**	**118,350,000**	**65,660,000**	**124,009,700**
NAS IMPROVEMENT OF SYSTEM SUPPORT LABORATORY	2,300,000	2,300,000	2,300,000	2,300,000
TECHNICAL CENTER FACILITIES	11,000.000	9,500,000	11,000,000	10,250,000
TECHNICAL CENTER INFRASTRUCTURE SUSTAINMENT	2,900.000	2,900,000	2,900,000	2,900,000
SUBTOTAL, RDT&E EQUIPMENT AND FACILITIES	**16,200,000**	**14,700,000**	**16,200,000**	**15,450,000**
TOTAL ACTIVITY 1	***695,527,200***	***768,764,200***	***637,527,200***	***714,283,900***
AIR TRAFFIC CONTROL FACILITIES AND EQUIPMENT:				
EN ROUTE AUTOMATION	162,763,000	162,763,000	155,863,000	155,863,000
NEXT GENERATION WEATHER RADAR (NEXRAD)	6,300,000	6,300,000	6,300,000	6,300,000
AIR TRAFFIC OPERATIONS MANAGEMENT	1,000,000	1,000,000	1,000,000	1,000,000
WEATHER AND RADAR PROCESSOR (WARP)	24,171,000	24,171,000	24,171,000	24,171,000
AERONAUTICAL DATA LINK (ADL) APPLICATIONS	2,300,000	2,300,000	2,300,000	2,300,000
ARTCC BUILDING IMPROVEMENTS/PLANT IMPROVEMENTS	44,000,000	44,000,000	44,000,000	44,000,000
VOICE SWITCHING AND CONTROL SYSTEM (VSCS)	13,100,000	13,100,000	16,000,000	16,000,000
AIR TRAFFIC MANAGEMENT	43,300,000	43,300,000	49,300,000	49,300,000
CRITICAL COMMUNICATIONS SUPPORT	1,900,000	1,900,000	1,900,000	1,900,000
AIR/GROUND COMMUNICATION INFRASTRUCTURE	24,400,000	24,400,000	30,700,000	30,700,000
VOLCANO MONITOR	0	0	2,000,000	2,000,000
ATC BEACON INTERROGATOR (ATCBI) REPLACEMENT	65,927,500	65,927,500	66,412,500	66,412,500
ATC EN ROUTE RADAR FACILITIES	3,000,000	3,000,000	3,000,000	3,000,000
EN ROUTE COMMS AND CONTROL FACILITIES IMPROVEMENT	1,540,280	1,540,280	1,540,280	1,540,280
AVIATION WEATHER SERVICES IMPROVEMENTS	15,720,000	14,000,000	22,520,000	22,520,000
CORRIDOR INFORMATION WEATHER SYSTEM (CIWS)	0	0	5,000,000	5,000,000
FAA TELECOMMUNICATIONS INFRASTRUCTURE (FTI)	39.000,000	39,000,000	39,000,000	39,000.000
NEXT GENERATION VHF AIR-GROUND COMMS SYSTEM (NEXCOMM	19,000,000	19,000,000	19,000,000	19,000,000
GUAM CERAP - RELOCATE	6.400,000	6,400,000	6,400,000	6,400,000
OCEANIC AUTOMATION SYSTEM	3,700,000	3,700,000	3,700,000	3,700.000
SUBTOTAL - EN ROUTE PROGRAMS	**477,521,780**	**475,801,780**	**500,106,780**	**500,106,780**
AIRPORT SURFACE DETECTION EQUIPMENT (ASDE)	5,000,000	5,000,000	5,000,000	5,000,000
AIRPORT SURFACE DETECTION EQUIPMENT (ASDE-X)	24,800,000	24,800,000	24,800,000	24,800,000
TERMINAL DOPPLER WEATHER RADAR (TDWR) - PROVIDE	3,000,000	3,000,000	3,000,000	3,000,000
TERMINAL AUTOMATION	98.500,000	98,500,000	87,500,000	96,000,000
TERMINAL AIR TRAFFIC CONTROL FACILITIES REPLACEMENT	100,700,000	150,000,000	117,700,000	131,620,000

Facilities and Equipment
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	FY 2002	FY 2002	FY 2002	Conference
Program Name	estimate	House	Senate	agreement
CONTROL TOWER/TRACON FACILITIES - IMPROVE	54,558,059	57,558,059	57,558,059	57,558,059
TERMINAL VOICE SWITCH REPLACEMENT (TVSR)/ETVS	11,947,500	15,000,000	21,947,500	20,000,000
EMPLOYEE SAFETY/OSHA AND ENVIRONMENTAL COMPLIANCE STD	28,400,000	28,400,000	28,400,000	28,400,000
HOUSTON AREA AIR TRAFFIC SYSTEM	11,000,000	11,000,000	11,000,000	11,000,000
POTOMAC METROPLEX	6,300,000	6,300,000	6,300,000	6,300,000
NORTHERN CALIFORNIA METROPLEX	5,000,000	5,000,000	5,000,000	5,000,000
ATLANTA METROPLEX	1,000,000	1,000,000	1,000,000	1,000,000
NAS INFRASTRUCTURE MANAGEMENT SYSTEM (NIMS)	30,325,100	15,000,000	18,000,000	16,000,000
AIRPORT SURVEILLANCE RADAR (ASR-9)	12,800,000	12,800,000	22,800,000	22,800,000
AIRPORT MOVEMENT AREA SAFETY SYSTEM (AMASS)	12,627,500	12,627,500	13,127,500	12,627,500
VOICE RECORDER REPLACEMENT PROGRAM	3,600,000	8,000,000	3,600,000	6,000,000
TERMINAL DIGITAL RADAR (ASR-11)	156,377,500	98,520,300	108,530,600	65,000,000
WEATHER SYSTEMS PROCESSOR	3,927,500	3,927,500	3,927,500	3,927,500
DOD/FAA ATC FACILITIES TRANSFER	1,100,000	1,100,000	2,800,000	2,800,000
PRECISION RUNWAY MONITORS	3,927,500	3,927,500	3,927,500	3,927,500
TERMINAL RADAR (ASR) - IMPROVE	3,837,500	3,000,000	3,837,500	3,000,000
TERMINAL COMMUNICATIONS IMPROVEMENTS	936,700	936,700	936,700	936,700
MODE S - PROVIDE	2,100,000	2,100,000	2,100,000	2,100,000
TERMINAL APPLIED ENGINEERING	6,500,000	4,000,000	6,500,000	4,000,000
SUBTOTAL - TERMINAL PROGRAMS	**588,264,859**	**571,497,559**	**559,292,859**	**532,797,259**
AUTOMATED SURFACE OBSERVING SYSTEM (ASOS)	12,300,000	12,300,000	13,280,000	13,280,000
OASIS	33,943,000	33,943,000	33,943,000	33,943,000
WEATHER MESSAGE SWITCHING CENTER REPLACEMENT	2,500,000	2,500,000	2,500,000	2,500,000
FLIGHT SERVICE FACILITIES IMPROVEMENT	1,202,100	1,202,100	1,202,100	1,202,100
FLIGHT SERVICE STATION SWITCH MODERNIZATION	10,000,000	10,000,000	10,000,000	10,000,000
FLIGHT SERVICE STATION MODERNIZATION	4,700,000	4,700,000	4,700,000	4,700,000
SUBTOTAL - FLIGHT SERVICE PROGRAMS	**64,645,100**	**64,645,100**	**65,625,100**	**65,625,100**
VOR	2,000,000	2,000,000	2,000,000	2,000,000
INSTRUMENT LANDING SYSTEM (ILS) - ESTABLISH/UPGRADE	18,753,000	45,932,000	30,753,000	45,000,000
TRANSPONDER LANDING SYSTEM (TLS)	0	3,000,000	6,000,000	6,000,000
LOW LEVEL WINDSHEAR ALERT SYSTEM (LLWAS)	1,533,000	1,533,000	1,533,000	1,533,000
RUNWAY VISUAL RANGE (RVR)	3,000,000	7,085,000	3,000,000	7,085,000
NDB SUSTAIN	1,013,000	1,013,000	1,013,000	1,013,000
NAVIGATIONAL AND LANDING AIDS - IMPROVE	2,525,361	2,525,361	2,525,361	2,525,361
APPROACH LIGHTING SYSTEM IMPROVEMENT (ALSIP)	5,367,000	28,517,000	33,331,000	46,481,500
PRECISION APPROACH PATH INDICATORS (PAPI)	13,500,000	13,500,000	13,500,000	13,500,000
DISTANCE MEASURING EQUIPMENT (DME)	2,800,000	2,800,000	4,800,000	4,800,000
VISUAL NAVAIDS	3,000,000	3,000,000	3,000,000	3,000,000
GULF OF MEXICO OFFSHORE PROGRAM	6,900,000	6,900,000	6,900,000	6,900,000
LORAN-C UPGRADE/MODERNIZATION	13,000,000	13,000,000	21,000,000	19,000,000
WIDE AREA AUGMENTATION SYSTEM (WAAS) FOR GPS	26,900,000	0	26,900,000	0
LOCAL AREA AUGMENTATION SYSTEM (LAAS) FOR GPS	17,449,700	0	27,449,700	0
INSTRUMENT APPROACH PROCEDURES AUTOMATION (IAPA)	3,700,000	3,700,000	3,700,000	3,700,000
NAVIGATION AND LANDING AIDS - SERVICE LIFE EXTENSION PROG	3,000,000	3,000,000	3,000,000	3,000,000
SUBTOTAL - LANDING AND NAVIGATIONAL AIDS	**124,441,061**	**137,505,361**	**190,405,061**	**165,537,861**
ALASKAN NAS INTERFACILITY COMM SYSTEM (ANICS)	2,500,000	2,500,000	4,000,000	4,000,000
FUEL STORAGE TANK REPLACEMENT AND MONITORING	9,300,000	9,300,000	9,300,000	9,300,000
FAA BUILDINGS AND EQUIPMENT - IMPROVE/MODERNIZE	11,700,000	11,700,000	11,700,000	11,700,000
ELECTRICAL POWER SYSTEMS - SUSTAIN/SUPPORT	54,200,000	54,200,000	54,200,000	54,200,000
AIR NAVAIDS AND ATC FACILITIES (LOCAL PROJECTS)	2,000,000	2,000,000	2,000,000	2,000,000
AIRCRAFT RELATED EQUIPMENT PROGRAM	14,700,000	14,700,000	7,500,000	7,500,000
COMPUTER AIDED ENG GRAPHICS (CAEG) REPLACEMENT	2,600,000	2,600,000	2,600,000	2,600,000
CABLE LOOP SYSTEMS	4,000,000	4,000,000	4,000,000	4,000,000
INFORMATION TECHNOLOGY INTEGRATION	1,500,000	1,500,000	1,500,000	1,500,000

Facilities and Equipment
Fiscal Year 2002

Program Name	FY 2002 estimate	FY 2002 House	FY 2002 Senate	Conference agreement
AIRCRAFT FLEET MODERNIZATION	1,500,000	1,500,000	1,500,000	1,500,000
SUBTOTAL - OTHER ATC FACILITIES	**104,000,000**	**104,000,000**	**98,300,000**	**98,300,000**
TOTAL ACTIVITY 2	***1,358,872,800***	***1,353,449,800***	***1,413,729,800***	***1,362,367,000***
NON-ATC FACILITIES AND EQUIPMENT:				
NAS MANAGEMENT AUTOMATION PROGRAM (NASMAP)	1,100,000	1,100,000	1,100,000	1,100,000
HAZARDOUS MATERIALS MANAGEMENT	21,700,000	21,700,000	21,700,000	21,700,000
AVIATION SAFETY ANALYSIS SYSTEM (ASAS)	22,100,000	22,100,000	22,100,000	22,100,000
OPERATIONAL DATA MANAGEMENT SYSTEM (ODMS)	3,000,000	3,000,000	3,000,000	3,000,000
LOGISTICS SUPPORT SYSTEM AND FACILITIES	5,000,000	5,000,000	5,000,000	5,000,000
TEST EQUIPMENT - MAINTENANCE SUPPORT	900,000	900,000	900,000	900,000
INTEGRATED FLIGHT QUALITY ASSURANCE	2,000,000	2,000,000	2,000,000	2,000,000
SAFETY PERFORMANCE ANALYSIS SUBSYSTEM (SPAS)	2,100,000	2,100,000	2,100,000	2,100,000
NATIONAL AVIATION SAFETY DATA CENTER	1,800,000	1,800,000	1,800,000	1,800,000
NAS RECOVERY COMMUNICATIONS (RCOM)	4,800,000	4,800,000	4,800,000	4,800,000
PERFORMANCE ENHANCEMENT SYSTEM	2,500,000	2,500,000	2,500,000	2,500,000
EXPLOSIVE DETECTION TECHNOLOGY	97,500,000	97,500,000	97,500,000	97,500,000
FACILITY SECURITY RISK MANAGEMENT	22,400,000	22,400,000	22,400,000	22,400,000
INFORMATION SECURITY	13,600,000	13,600,000	13,600,000	13,600,000
SUBTOTAL - SUPPORT EQUIPMENT	**200,500,000**	**200,500,000**	**200,500,000**	**200,500,000**
AERONAUTICAL CENTER INFRASTRUCTURE MODERNIZATION	12,000,000	12,000,000	12,000,000	12,000,000
NATIONAL AIRSPACE SYSTEM (NAS) TRAINING FACILITIES	2,000,000	2,000,000	0	0
DISTANCE LEARNING	1,300,000	1,300,000	1,300,000	1,300,000
SUBTOTAL - TRAINING EQUIPMENT & FACILITIES	**15,300,000**	**15,300,000**	**13,300,000**	**13,300,000**
TOTAL ACTIVITY 3	***215,800,000***	***215,800,000***	***213,800,000***	***213,800,000***
MISSION SUPPORT:				
SYSTEM ENGINEERING AND DEVELOPMENT SUPPORT	26,300,000	26,300,000	26,300,000	26,300,000
PROGRAM SUPPORT LEASES	35,500,000	35,500,000	35,500,000	35,500,000
LOGISTICS SUPPORT SERVICES	7,200,000	7,200,000	7,200,000	7,200,000
MIKE MONRONEY AERONAUTICAL CENTER - LEASE	14,600,000	14,600,000	14,600,000	14,600,000
IN-PLANT NAS CONTRACT SUPPORT SERVICES	2,800,000	2,800,000	2,800,000	2,800,000
TRANSITION ENGINEERING SUPPORT	38,300,000	38,300,000	38,300,000	38,300,000
FREQUENCY AND SPECTRUM ENGINEERING - PROVIDE	3,000,000	3,000,000	3,000,000	3,000,000
PERMANENT CHANGE OF STATION MOVES	11,800,000	11,800,000	11,800,000	11,800,000
FAA SYSTEM ARCHITECTURE	1,000,000	1,000,000	1,000,000	1,000,000
TECHNICAL SERVICES SUPPORT CONTRACT (TSSC)	45,800,000	45,800,000	45,800,000	45,800,000
RESOURCE TRACKING PROGRAM	4,000,000	4,000,000	4,000,000	4,000,000
CENTER FOR ADVANCED AVIATION SYSTEM DEV. (MITRE)	76,400,000	80,400,000	81,543,000	81,543,000
TOTAL ACTIVITY 4	***266,700,000***	***270,700,000***	***271,843,000***	***271,843,000***
PERSONNEL AND RELATED EXPENSES:				
PERSONNEL AND RELATED EXPENSES	377,100,000	377,100,000	377,100,000	377,100,000
TOTAL ACTIVITY 5	***377,100,000***	***377,100,000***	***377,100,000***	***377,100,000***
ACCOUNTWIDE:	0	***-71,814,000***		***-25,393,900***
TOTAL	**2,914,000,000**	**2,914,000,000**	**2,914,000,000**	**2,914,000,000**

Advanced technology development and prototyping.—The conference agreement includes $55,991,000 for advanced technology development and prototyping. A comparison of the budget estimate to the House and Senate proposed levels and the conference agreement follows:

Item	House recommended	Senate recommended	Conference agreement
Budget estimate	$36,634,000	$36,634,000	$36,634,000
Airport research	+7,547,000	....	+7,457,000
Concrete pavement research	....	+2,000,000	+2,000,000
WAAS navigation	....	-5,700,000	....
ADS–B transfer	....	-2,800,000	-2,800,000
Juneau, AK weather research	+5,000,000	+6,700,000	+6,700,000
Free flight phase 2 transfer	+2,000,000	....	....
Separation standards study	+1,000,000	....	....
Louisville, KY tech demo	....	....	+5,000,000
Fogeye demonstration	....	....	+1,000,000
Total	52,181,000	36,834,000	55,991,000

Concrete pavement research.—Funds provided for concrete pavement research are for airfield pavement improvement activities authorized under sections 905 and 743 of Public Law 106–181.

Louisville, KY technology demonstration.—The conference agreement includes $5,000,000 to initiate an operational demonstration integrating numerous advanced technologies being developed separately by the FAA into a single airport environment. Although FAA has been developing technologies under several programs, there has been limited testing of these concepts as an integrated system at individual airports. This demonstration will focus on the various operational impacts of integrating GPS-based technology, common ARTS, wake vortex alerting systems, and the application of improved area navigation procedures. Louisville International Airport is ideal for such a program due to its unique operating characteristics.

Fogeye demonstration.—The conferees are aware of emerging technology, known as fogeye, which utilizes ultraviolet light to assist in low visibility landings and prevent runway incursions. The conference agreement includes $1,000,000 for further evaluation of this technology. In utilizing these funds, the FAA is encouraged to seek the full participation of an airline and airport sponsor to develop a plan for an operational demonstration of fogeye technology to demonstrate the effectiveness of the system at a commercial service airport.

Local area augmentation system.—The conference agreement includes $43,109,700 for this program, $9,000,000 above the budget estimate, all of which is provided in budget activity one as proposed by the House. The conferees encourage FAA to consider installation of this system at Las Vegas-McCarran International Airport in Nevada once the systems are ready for production. The conferees continue to view the LAAS procurement as an opportunity for FAA to expedite the cost advantageous procurement of precision approach capability through an aggressive public-private cooperative acquisition strategy. The agreement provides the flexibility and resources to continue this innovative acquisition. The following milestones are anticipated in fiscal year 2002: (1) category I contract award by the fourth quarter; (2) category II/III integrity and continuity allocations between avionics and ground equipment determined; (3) finalization of the concept of operations required for fiscal year 2003 development of airport procedures; (4) integration of LAAS capabilities into a certifiable avionics receiver; and (5) development of a data collection plan and initiation of flight evaluations for development of complex LAAS approaches (e.g., curved, segmented, and offset). The FAA is directed to report quarterly to the House and Senate Committees on Appropriations regarding the progress toward these and other LAAS milestones.

Wide area augmentation system.—The conferees agree to provide total funding of $80,900,000 for further development and implementation of the wide area augmentation system (WAAS), all of which is provided in budget activity one as proposed by the House. The conferees do not agree to a specific amount for the development of WAAS standards and procedures. The $5,000,000 provided above the budget estimate is only for initial funds for geostationary satellite services, as recommended by FAA since initial submission of the President's budget. The conferees agree that acquisition of communication services from a third geostationary satellite are critically needed for the program to proceed expeditiously. The conferees continue to have concerns over the schedule slippages and certification issues that plague this program. It appears that the answer to each emerging challenge is a dramatically more expensive version of the original program, with lower performance criteria. The conferees believe the solution to WAAS certification may lie, in part, from the use of positioning data from other navigational or communication capabilities which should not be ignored by the agency. In addition, the FAA should not feel compelled to clear certification hurdles for the entire WAAS program before certifying individual applications for the WAAS signal. Safety and efficiency benefits from WAAS-based applications should be measured against the current national airspace system, not against a notional system should the entire WAAS system be eventually certified for use. As in past years, the conferees continue to urge FAA to assess the role and requirements for emerging communications, navigation, and surveillance capabilities as this troubled procurement proceeds.

ASR–9.—The conferees do not agree with Senate direction to leave in place the ASR–9 radar being sited between Salt Lake City and Provo, Utah for the 2002 Winter Olympics until an ASR–11 radar system is available to replace it. The conferees leave it to the agency's discretion to decide where this system is most needed after completion of the Winter Olympics.

Aviation weather services improvements.—Of the funding provided for this program, the conferees agree that $3,000,000 is to continue the collaborative effort between FAA and NOAA's National Severe Storms Laboratory to continue research and testing of phased array radar technology and to incorporate airport/aircraft tracking and weather information. The same level of funding was provided in fiscal year 2001.

Terminal automation.—The conference agreement provides $96,000,000 for this program, instead of $98,500,000 proposed by the House and $87,500,000 proposed by the Senate. Within the funding provided, the conferees agree that ARTS sustainment activities are to be fully funded at the budget request level.

Automated observation of visibility for cloud height and cloud coverage (AOVCC).—For the past two years, the conferees have requested FAA to implement product improvements and upgrades to current automated weather information programs at airports and report to Congress on the agency's plans to accelerate the deployment of upgrade technology upon successful demonstration of the automated observation of visibility for cloud height and cloud coverage (AOVCC) system. Despite this direction, such report has not been received. Therefore, the conferees direct FAA, in coordination with the National Aeronautics and Space Administration, to complete this testing expeditiously and submit the previously-directed report no later than April 1, 2002.

Instrument landing system establishment/upgrade.—Funding provided for instrument landing systems (ILS) shall be distributed as follows:

Location	*Amount*
ALSF–2 acquisition and installation	$11,300,000
MALSR installation	5,800,000
ILS installations, JFK/LaGuardia, New York, NY	1,653,000
ILS/MALSR installation, Lonesome Pine, VA	1,000,000
Upgrade ILS to CAT III, Kingston, NC	3,780,000
Acquire/install ILS, Madison County, AL	1,500,000
Upgrade ILS, North Bend, OR	3,500,000
ILS/Localizer/glideslope/MALSR, Mena, AR	580,000
Install ILS, Northeastern Regional, NC	500,000
Install ILS, Kissimmee Municipal, FL	1,000,000
Install ILS, Orlando International, FL	2,000,000
ILS/MALSR, Sanford, FL	300,000
ILS/MALSR, Dekalb County, IN	974,000
Install ILS, runway 13/31, Mineral Wells, TX	675,000
Install ILS, Dalles Municipal, OR	1,000,000
Install ILS, runway 17, Max Westheimer, OK	1,534,000
ILS, Klawok Airport, AK	1,000,000
ILS, Elizabethtown Airport, KY	900,000
Lambert-St. Louis International, MO	1,500,000
Wilmington International, NC	1,154,000
Edenton Northeastern Regional, NC	500,000
Reno Stead Airport, NV	2,000,000
Keokuk Airport, IA	350,000
Rice Lake Regional, WI	500,000
Total	45,000,000

Runway visual range.—Of the $7,085,000 provided for this program, $85,000 is for RVR equipment at the Minneapolis-St. Paul International Airport in Minnesota, and $5,000,000 is for continued acquisition of next generation RVR systems.

Airport movement area safety system.—The conference agreement does not include direction proposed by the Senate on this program.

Terminal air traffic control facilities replacement.—The conference agreement includes $131,620,000 for replacement of air traffic control towers and other terminal facilities. The agreement distributes these funds as follows:

Location	*Conference agreement*
Las Vegas McCarran, NV	$4,000,000
Fort Wayne International, IN	3,000,000
Stewart Airport, NY	6,700,000
Cleveland Hopkins, OH	2,000,000
Spokane, WA	3,120,000

Location	*Conference agreement*
Reno-Tahoe, NV	6,000,000
Battle Creek, MI	1,750,000
Rogers, AZ	750,000
Billings, MT	2,725,000
Pascagoula, MS	2,000,000
Topeka, KS	2,875,000
LaGuardia, NY	2,000,000
Boston, MA (Tracon)	5,066,000
Savannah, GA	500,000
Salina, KS	560,000
St. Louis, MO (Tracon)	2,400,000
Corpus Christi, TX	650,000
Roanoke, VA	2,140,000
Newark, NJ	1,407,000
Bedford, MA	468,000
Vero Beach, FL	592,000
Albuquerque, NM	593,000
Beaumont, TX	800,000
Everett, WA	1,064,000
Louisville, KY	1,600,000
Seattle, WA	2,922,000
Richmond, VA	2,500,000
Grand Canyon, AZ	1,500,000
Newport News, VA	1,300,000
Port Columbus, OH	1,229,000
North Las Vegas, NV	550,000
Wilmington, DE	55,000
Phoenix, AZ	26,330,000
Seattle, WA (Tracon)	26,084,000
Manchester, NH	5,840,000
Reno, NV	1,461,000
Chantilly, VA (Dulles)	970,000
Abilene, TX	1,045,000
Ft. Lauderdale Exec, FL	638,000
East St. Louis, IL	572,000
Islip, NY	550,000
Oshkosh, WI	365,000
Deer Valley, AZ	805,000
Swanton, OH	824,000
Indianapolis, IN	820,000
W. Palm Beach, FL	175,000
Baltimore, MD	175,000
Portland, OR (Tracon)	75,000
Houston, TX (Tracon)	75,000
Total	131,620,000

Terminal digital radar (ASR–11).—The conference agreement includes $65,000,000 for continued site implementation and limited production of the ASR–11 radar system. The conferees are aware of the continued uncertainty over the future of this system. If funds become excess to requirements during the year, FAA may use this funding to develop interim or alternate solutions to the problem of providing digital radar coverage in the national airspace system and augmenting funds for upgrade of the ASR–9 radar system.

Transponder landing systems.—The conference agreement includes $6,000,000 for transponder landing systems as proposed by the Senate instead of $3,000,000 as proposed by the House. The conferees agree that, once the system is certified, the funds made available in this and prior appropriations Acts should be used for both the procurement and installation of these systems. The conferees direct the administrator to rapidly conclude benefit-cost studies and site surveys at locations listed in the Senate report, as well as previous Congressional reports, with the goal of funding the procurement and installation of those projects with the highest justifiable need during fiscal year 2002. The conferees continue to support this program and encourage FAA to work rapidly toward certifying the system.

Approach lighting system improvement program (ALSIP).—The conference agreement provides $46,481,500 for this program, to be distributed as follows:

Location	*Conference agreement*
Items in budget request	$3,114,000
MALSR installation and procurement	10,000,000
Lighting beacon, Powell County Airport, KY	150,000
Installation of MALSF, North Las Vegas, NV	650,000
Medium intensity runway lights, Posey Field, AL	100,000
Runway lighting, rural airports in Alaska	10,000,000
ALSF–1 and related, Minneapolis-St. Paul, MN	6,500,000
Lighting upgrades, Hartsfield Atlanta, GA	3,500,000
North Bend Airport, OR	4,000,000
MALSR, Olive Branch Airport, MS	855,000
MALSR, Stennis International, MS	750,000
Lighting, Rutland Airport, VT	1,000,000
MALSR, Reno-Tahoe International, NV	1,000,000
MALSR, Reno Stead Airport, NV	1,462,500
MALSR, Niagara Falls International, NY	2,400,000
MALSR, Reading Airport, PA	500,000
MALSR, Baton Rouge Municipal Airport, LA	500,000
Total	$46,481,500

The recommendation includes elimination of the $967,000 requested for procurement and installation of an ALSF–2 at Minneapolis-St. Paul International Airport. Funds are provided elsewhere in this budget line for similar activities at that location. The conferees emphasize that the $10,000,000 in additional funding for MALSR systems is for installation of previously purchased systems and to keep the production line operational for future procurements.

Explosive detection systems.—The conferees agree to provide $97,500,000 for the acquisition and deployment of explosive detection systems at airports. Consistent with the President's budget, the conference agreement distributes funds as shown below:

Activity	*Conference agreement*
Bulk EDS systems	$38,000,000
Trace detection systems	12,000,000
Threat image projection (TIP) systems	12,000,000
Computer-based training (CBT) systems	2,000,000
System integration	33,500,000
Total	97,500,000

Bulk explosive detection systems.—Given the current security situation and requirements in the recently enacted Aviation and Transportation Security Act for improved baggage screening, orders for bulk explosive detection systems (EDS) are expected to grow substantially. Section 110 of the Aviation and Transportation Security Act requires that systems be in operation to screen all checked baggage at airports in the United States as soon as practicable, but not later than the sixty days following enactment of that Act. Although this provision allows the use of manual or canine searches to supplement electronic screening as an interim measure, to minimize the intrusiveness and inefficiency of this procedure, the Act also requires the Undersecretary of Transportation for Security to ensure that EDS systems are deployed as soon as possible to ensure that airports have the equipment necessary to electronically screen all checked baggage no later than December 31, 2002. Given these requirements, it is imperative for the Federal Government to ensure the continued viability of competition for these systems, which has been a struggle over the past few years. Therefore, the conferees do not agree with direction proposed by the House, but instead direct FAA to take all necessary actions to maintain two certified manufacturers of bulk explosive detection systems within the United States. In addition, implementation of these systems has been plagued by FAA's inability to specify maintenance requirements such as mean time between failure and mean time to restore the system after a failure occurs. Without such guidance, vendors cannot design their systems to meet the operational needs of screening forces at our nation's airports. In order to address this issue as quickly as possible, the conferees direct FAA to develop specifications for reliability, maintainability, and availability for bulk EDS systems over the coming year and include them in solicitations for the further acquisition of these systems.

Trace explosive detection systems.—The conferees understand that new non-intrusive screening technology for the detection of explosives carried by passengers is now ready for deployment after careful and thorough evaluation by the FAA. This commercially available technology, funded by the FAA, builds on existing trace detection instrument capacities already in use protecting airport passengers, the military, U.S. embassies, and commercial nuclear power plants. The conferees urge FAA to accelerate deployment of new non-intrusive screening technologies to airports, to address the threat of explosives carriage on board commercial aircraft.

Model guidelines for encoded data on driver's licenses.—In light of the terrorist attacks of September 11th, it is clear that all levels of government need to work in concert to deter and prevent future attacks. One means of doing so is to ensure that individuals asked to identify themselves are not using false identities. The increasing availability through the internet of expertly crafted false identification makes the task very difficult. The conferees are aware of technology, existing today, that can quickly scan any encoded data on the reverse of a driver's license to validate the license as legitimately issued. By reviewing personal data encoded on the license, it can also be used to assist in making a quick determination that the person displaying the license is the person to whom it was issued. The conferees strongly encourage the department to consider the development of model guidelines specifying the types of encoded data that should be placed on driver's licenses for security purposes, and to work in concert with states and related licensing bodies toward the early implementation of such measures. This could benefit the nation's efforts to improve security as well as assist in reducing fraud and underage drinking.

Document and biometric scanning technologies.—Document and biometric scanners linked to federal databases by computers and containing advanced authentication capabilities would facilitate the processing of background checks, provide fingerprint and additional biometric identification capabilities, and authenticate documents presented for identification. It is the conferees' understanding that such off the shelf, commercially available technology is in use or being tested by the Immigration and Naturalization Service. The conferees encourage FAA to assess such document and biometric scanning technologies for use at all commercial service airports. The conferees also recommend that the Secretary implement standards to make use of technologies that quickly and inexpensively assess the daily fitness-for-duty of airport security screeners with respect to impairment due to illegal drugs, sleep deprivation, legal medications, and alcohol.

Fingerprint identification technologies.—The conferees are aware of the promise of forensic-quality fingerprint and palmprint identification technologies for the rapid verification of identities and employee background checks. The Aviation and Transportation Security Act requires the department to investigate the application of biometric technologies such as these off the shelf systems. The conferees encourage FAA and the Transportation Security Administration to evaluate these technologies for their immediate application to aviation security missions.

Lambert St. Louis International Airport, MO.—In order for the new 9000 foot commercial runway at Lambert St. Louis International Airport to open as scheduled in 2005, the airport must have a mobile ASR-9 Radar Unit moved to St. Louis in 2002. FAA has previously committed to St. Louis to carry out this relocation. The conferees direct FAA to honor this commitment thereby allowing FAA sufficient time to relocate the existing ASR-9 radar to a new site by early 2003 in order to accommodate the navigational aide requirements of the new runway.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

The conference agreement rescinds $15,000,000 in unobligated balances from the "Facilities and equipment" appropriation. The administrator is requested to notify the House and Senate Committees on Appropriations describing the individual programs, projects, or activities from which this reduction is to be drawn before such action is finalized.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement provides $195,000,000 for FAA research, engineering, and development instead of $191,481,000 as proposed by the House and $195,808,000 as proposed by the Senate.

The following table shows the distribution of funds in the House and Senate bills and the conference agreement:

Research, Engineering and Development
Fiscal Year 2002

Program Name	House recommended	Senate recommended	Conference agreement
System Development and Infrastructure	**13,450,000**	**16,584,000**	**16,031,000**
System planning & resource management	1,200,000	1,458,000	1,200,000
Technical laboratory facility	12,250,000	12,545,000	12,250,000
Center for Advanced Aviation System Development	0	0	0
Information security	0	2,581,000	2,581,000
Weather	**21,668,000**	**25,668,000**	**23,668,000**
In-house support	0	1,962,000	0
Weather program	21,668,000	0	23,668,000
Inflight Icing	0	2,068,000	0
Storm Growth and Decay	0	2,964,000	0
NEXRAD Algorithms	0	1,500,000	0
Aviation Gridded Forecast System	0	1,870,000	0
Model Development and Enhancement	0	1,659,000	0
Winter Weather Research	0	1,550,000	0
Ceiling & Visibility	0	750,000	0
Turbulence	0	2,749,000	0
Airborne Humidity Sensor	0	501,000	0
National Ceiling & Visibility	0	1,956,000	0
Ocean Convective Nowcasting	0	1,139,000	0
Wake Turbulence	0	5,000,000	0
Aircraft Safety Technology	**60,223,000**	**64,093,000**	**63,782,000**
Advanced materials/structural safety	4,974,000	2,974,000	2,974,000
Propulsion and fuel systems	5,168,000	8,968,000	8,568,000
Flight safety/atmospheric hazards research	4,150,000	6,420,000	6,420,000
Aging aircraft	32,111,000	31,911,000	32,000,000
Aircraft catastrophic failure prevention research	2,794,000	2,794,000	2,794,000
Aviation safety risk analysis	5,784,000	5,784,000	5,784,000
Fire research and safety	5,242,000	5,242,000	5,242,000
System Security Technology	**44,511,000**	**55,325,000**	**44,511,000**
Explosives and weapons detection	32,624,000	43,438,000	32,624,000
Aircraft hardening	4,640,000	4,640,000	4,640,000
Airport security technology integration	2,084,000	2,084,000	2,084,000
Aviation security human factors	5,163,000	5,163,000	5,163,000
Human Factors & Aviation Medicine	**24,027,000**	**25,927,000**	**24,527,000**
Flight deck/maintenance/system integration human factors	9,906,000	9,906,000	9,906,000
Air traffic control/airway facilities human factors	8,000,000	9,900,000	8,500,000
Aeromedical research	6,121,000	6,121,000	6,121,000
Environment and Energy	**27,602,000**	**7,602,000**	**22,081,000**
Strategic Partnerships	**0**	**609,000**	**400,000**
Total appropriation	191,481,000	195,808,000	195,000,000

System planning and resource management.—The conferees do not agree with Senate direction on this program. Funds for this activity have been provided under Office of the Secretary, "Transportation planning, research, and development".

Propulsion and fuel systems.—Of the funds provided, $2,000,000 is for the Specialty Metals Processing Consortium, $1,000,000 is for research into the use of blended aviation fuels containing at least 80 percent ethanol, and $400,000 is for the General Aviation Propulsion-Compression Ignition Test and Evaluation Program (GAP–CITEP), a joint FAA–NASA effort to evaluate alternative fuels to facilitate the transition away from leaded fuels for general aviation aircraft.

Flight safety/atmospheric hazards research.—As proposed by the Senate, the conferees agree to provide funding for the joint industry-university aviation safety initiative at Roswell Industrial Air Center in New Mexico, and agree to Senate direction on this program. The conferees stipulate that the funding is intended for start-up costs, and that this activity should work to reach a self-sufficient funding level, without Federal support, once the activity has begun operations.

Weather.—Of the funds provided, $4,000,000 is for wake turbulence research, instead of $5,000,000 proposed by the Senate.

Aging aircraft.—The conference agreement provides $32,000,000 for this program instead of $32,111,000 as proposed by the House and $31,911,000 as proposed by the Senate. Of the funds provided, the conferees agree to the following allocations:

Activity	*Conference agreement*
National Institute for Aviation Research	$4,200,000
Center for Aviation System Reliability	3,000,000
Aircraft Nondestructive Inspection Validation Center	3,000,000
Engine Titanium Consortium	3,600,000
Airworthiness Assurance Center of Excellence	4,600,000

Explosives and weapons detection.—Of the funds provided, $5,000,000 is only for further development of pulsed fast neutron analysis (PFNA) technology, as proposed by the Senate. The conferees note that, during fiscal year 2002, additional funds for activities under this heading may materialize, to be offset by new security user fees that are being put in place. The Aviation and Transportation Security Act (Public Law 107–71) authorizes appropriation of the new user fees for research and development related to aviation security.

Environment and energy.—The conference agreement includes $22,081,000, of which $20,000,000 is for lower noise aircraft technologies as proposed by the House. The conferees are concerned that necessary airport infrastructure cannot be expanded in some locations due to understandable community concerns over aircraft noise. Further, aircraft noise results in millions of federal dollars being spent each year on mitigation measures, diverting funds which could be applied to capacity enhancement or safety projects. Therefore, the conferees have provided $20,000,000 to speed up the introduction of lower noise aircraft technologies. The conferees expect FAA to work directly with the National Aeronautics and Space Administration to advance aircraft engine noise research.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement includes a liquidating cash appropriation of $1,800,000,000, as proposed by the House and the Senate.

Obligation limitation.—The conferees agree to an obligation limitation of $3,300,000,000 for the "Grants-in-aid for airports" program as proposed by the House and the Senate. This is the amount mandated by Public Law 106–181.

Administration.—The conference agreement includes funding to administer the "Grants-in-aid for airports" program under a limitation on obligations in this account, as proposed by the Senate, with a modified amount. The agreement includes a limitation of $57,050,000 instead of $64,597,000 as proposed by the Senate. The conference agreement includes $7,497,000 for airport-related research under "Facilities and equipment". The House bill included no funding to administer this program.

Runway incursion prevention devices.—The bill includes language proposed by the House allowing funds under this limitation to be used for procurement, installation, and commissioning of runway incursion prevention devices and systems. This continues a provision initiated in fiscal year 2001.

Small Community Air Service Development Pilot Program.—The bill includes language proposed by the House authorizing the use of funds for section 203 of Public Law 106–181 (the Small Community Air Service Development Pilot Program). Further, the bill specifies that $20,000,000 of the funds limited under this program is available only for the conduct of this program in fiscal year 2002. The Senate bill included $27,000,000 for this program in a separate appropriation.

Letters of intent.—The conference agreement includes funding under the limitation on obligations for the following existing letters of intent:

State and airport	*Fiscal year 2002 funding*
Alaska: Anchorage International	3,500,000
Arkansas: Fayetteville, NW Arkansas Regional	7,000,000
California:	
Mammoth Lakes, Mammoth/Yosemite	7,368,000
San Jose International	9,000,000
Florida:	
Fort Myers, Southwest Florida International	4,000,000
Miami, Miami International	2,840,000
Orlando International	5,000,000
Orlando International	2,000,000
Georgia: William B. Hartsfield Atlanta International Airport	10,178,000
Illinois:	
Chicago Midway	9,000,000
Belleville, MidAmerica	14,000,000
Maryland: Baltimore-Washington International	4,748,000
Michigan: Detroit Metropolitan Wayne County	12,000,000
Minnesota: Minneapolis-St. Paul International	13,000,000
Missouri:	
Springfield-Branson Regional	3,300,000
Lambert-St. Louis International	7,500,000
Nebraska: Omaha, Eppley Airfield	2,200,000
Nevada:	
Las Vegas-Henderson Sky Harbor	2,000,000
Reno/Tahoe International	6,000,000
New Hampshire: Manchester	7,500,000
Ohio: Cleveland Hopkins International	5,000,000
Tennessee: Memphis, Memphis International	6,934,000
Texas:	
Dallas/Fort Worth International	3,292,000
Houston, George Bush Intercontinental	9,400,000
Utah: Salt Lake City International	7,000,000
Washington: Seattle-Tacoma International	12,000,000

High priority projects.—Of the funds covered by the obligation limitation in this bill, the conferees direct FAA to provide not less than the following funding levels, out of available resources, for the following projects in the corresponding amounts. The conferees agree that state apportionment funds may be construed as discretionary funds for the purposes of implementing this provision, consistent with the practice begun in fiscal year 2001. To the maximum extent possible, the administrator is directed to ensure that the airport sponsors for these projects first use available entitlement funds to finance these projects. The conferees note that, separate from the funding for high priority projects cited below, the FAA Administrator will have at least $750,000,000 in additional funds available for competitive discretionary grants for airport projects, new letters of intent, carryover grants from fiscal year 2001, and grants under the Small Community Air Service Development Pilot Program.

Airport	Project Description	Allocation
Akutan SPB Airport	Runway construction, security fencing, and access road	$ 4,000,000
Girdwood Airport	Security and other improvements	1,000,000
Petersburg Airport	Runway extension, apron, expansion, and security measures	2,000,000
St. Paul Airport and St. George Airport , Pribilof Islands,	Runway paving, security fencing, flood control measures, and other improvements	2,000,000
Abbeville Municipal Airport	Master plan and related improvements	1,000,000
Birmingham International	Purchase of residences	2,000,000
Clayton Municipal	Runway extension and security improvements	1,500,000
Fairhope Municipal	Runway replace; conversion of runway to taxiway	1,000,000
Greenville Municipal	Taxiway construction; apron improvements	800,000
Gulf Shores Airport	Land acquisition; taxiway widening; drainage imp.	800,000
Huntsville International	Runway extension and security improvements	1,500,000
Madision County Executive	Land acquisition	500,000
Montgomery Regional Airport	Security improvements/terminal reconstruction ph. II	2,000,000
Northwest Alabama Regional	Taxiway and aircraft parking; apron rehabilitation	550,000
Posey Field	Runway, taxiway, and apron projects	811,000
Rankin-Fite	Parallel taxiway	2,000,000
Russellville Municipal Airport	Security, land acquisition, and runway extension	1,000,000
Bay Minette	Various improvements	500,000
City of Monroeville Airport	Various improvements	450,000
Troy Municipal Airport	Security fencing and runway/taxiway rehabilitation	2,000,000
Benton Airport	Relocation of airport to new site	1,000,000
Jonesboro Municipal	Runway extension and strengthening	500,000
Bishop Airport	Various improvements	3,100,000
Meadows Field	Extension of runway 30L	3,000,000
Santa Barbara Airport	Extend U.S. Forest Service ramp	750,000
Stockton Metropolitan Airport	Various improvements	1,600,000
Panama City-Bay County Airport	Preliminary site design/environmental studies	2,000,000
St. Petersburg-Clearwater	Runway	3,975,000
Glynco Jetport	Terminal renovation	1,000,000
Ankeny Regional Airport	Taxiway, access road & security improvements	1,000,000
Aurora Airport	Rehabilitation/relocation of taxiway	1,500,000
DeKalb Taylor Municipal	ODALS; reconstruction of taxiway	1,900,000
Quad City Airport	Taxiway extension & airfield security	1,000,000
Anderson Municipal	Improve runway safety area	500,000
Gary/Chicago Airport	Expansion of general use apron	1,000,000
Wichita Mid-Continent	Construction of taxiway AAAA	4,500,000
Bluegrass Field	Expansion of air carrier ramp	1,000,000
Georgetown-Scott County	Apron extension	550,000
Glasgow Airport	Helipad for air ambulance	150,000
Harlan County	Various improvements	2,000,000
Henderson City County Airport	Relocate taxiway	350,000
Louisville-Jefferson County Regional Airport Authority	Noise mitigation, and taxiway Lima reconstruction	3,000,000
Somerset Airport	Parallel taxiway; apron and access road work	3,000,000
Williamsburg/Whitley County	Grade & drain for 5,500 foot runway	2,000,000
Baton Rouge Metropolitan	Noise mitigation, apron improvements, master plan and security improvements	4,175,000
Hammond Municipal	Continue runway extension	1,000,000
Lafayette Regional	Various improvements	1,000,000
Howell Livingston County	Construction of new runway	1,500,000
Oakland County International	Land and real property, noise reduction	2,000,000

Otsego Regional	Airway strengthening and widening	1,000,000
Kennett Memorial	Construction of new runway	1,500,000
Lee's Summit Municipal	Runway extension	5,800,000
Mexico Municipal Airport	Runway extension and security improvements	700,000
Golden Triangle Regional	Runway/taxiway lighting system; other improvements	500,000
Gulfport-Biloxi Regional Airport	Land acquisition and security improvements	3,000,000
Jackson International	Apron, taxiway construction for new air cargo area	1,000,000
Billings Logan International	Aircraft parking, noise reduction, security improvements, and other improvements to reduce aircraft incursions	2,000,000
Missoula International	Land acquisition & runway relocation	4,000,000
Andrews-Murphy	Runway extension; etc.	1,000,000
Concorde Regional Airport	Runway extension	1,000,000
Harnett County Airport	Extend runway 5,000 feet	3,122,700
Piedmont Triad International	Construct parallel runway/connecting taxiways	4,000,000
Bismarck Municipal	Construct new terminal; expand parking	1,500,000
Grand Forks International	Runway construction and security improvements	750,000
Minot International Airport	Runway reconstruction	3,600,000
Dona Ana County	Taxiway widening and strengthening	2,700,000
McCarran International	Reconstruct/rehabilitate apron pavement T1	2,000,000
Reno Stead Airport	Runway reconstruction and extension	4,000,000
Buffalo-Niagara International	Land acquisition and runway safety improvements	4,000,000
Floyd Bennett Memorial	Construction of taxiways B and D	594,000
Lake Placid Airport	Rehabilitation of taxiway	383,000
Westchester County Airport	Construct central aircraft deicing facility	5,000,000
Akron-Canton Regional	Safety upgrade & extension of runway 1/19	3,000,000
James A. Rhodes Airport	Extend runway 1/19	600,000
Rickenbacker International	Terminal apron rehabilitation	1,000,000
Toledo Express Airport	Construct aircraft parking aprons;other improvements	1,000,000
Stillwater Regional	Runway extension and taxiway extension	1,000,000
Tulsa International Airport	Terminal and security upgrades	6,000,000
Redmond Airport	Terminal area expansion	1,400,000
Jimmy Stewart Airport	Construct new, longer runway	4,000,000
Lancaster Airport	Runway extension and security improvements	2,000,000
Upper Cumberland Regional	Various improvements	3,000,000
Abilene Regional	Taxiway extension; entrance blvd; aircraft parking	1,000,000
Alliance Airport	Extension of two runways	4,500,000
Galveston Scholes International	Various improvements	500,000
Sugar Land Municipal	GA apron construction	2,880,000
Terrell Municipal	Various improvements	1,000,000
Dulles International	Taxiway improvements	4,632,000
New Lee County Airport	Construct runway/taxiway/apron/access road	500,000
Reagan Washington National	Various improvements	1,777,300
Richmond International Airport	Security and taxiway improvements	2,000,000
Rohlsen Airport	Runway extension	2,000,000
Bennington Airport	Runway extension and security improvements	$500,000
Pearson Airpark	Various improvements	500,000
Quillayute Airport	Master plan and related improvements	500,000
Spokane International Airport	Various improvements	4,000,000
Chippewa Valley Regional	Construct 816 foot runway safety area	3,700,000
La Crosse Municipal	Various improvements	500,000
Rock County Airport	Extend/strengthen runway & parallel taxiway; ILS	5,400,000
State of West Virginia	Various airport improvements	9,000,000
Jackson County	Various improvements	1,500,000

The conferees further direct that the specific funding allocated above shall not diminish or prejudice the application of a specific airport or geographic region to receive other AIP discretionary grants or multiyear letters of intent.

Alliance Airport, TX.—The Alliance facility serves as a major alternative hub for air cargo traffic. The conferees continue to voice strong support for the runway extension project at Alliance Airport, and encourage FAA to complete a letter of intent and support funding for the timely completion of this project.

Baton Rouge Metropolitan Airport, LA.—The FAA is directed to expedite the review, and act upon, the Baton Rouge Metropolitan Airport's application for the reconstruction of runway 4L/22R.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

The conference agreement includes a rescission of unused contract authority totaling $301,720,000. These funds are above the annual obligation ceiling for fiscal year 2002, and remain unavailable to the program. The conference agreement also deletes an appropriation of $720,000, proposed by the House under this heading, for "Office of the secretary, salaries and expenses". The conference agreement includes funding for this office under the Office of the Secretary.

AVIATION INSURANCE REVOLVING FUND

The conference agreement retains language authorizing expenditures and investments from the Aviation Insurance Revolving Fund for aviation insurance activities, as proposed by the Senate. The House had proposed to relocate this language to title III of the bill (general provisions). This provision has been carried in appropriations Acts for many years.

SMALL COMMUNITY AIR SERVICE DEVELOPMENT

The conference agreement deletes the appropriation of $20,000,000 for this program proposed by the Senate. The conferees agree that this is a worthy program, as authorized by Public Law 106–181. Funding of $20,000,000 has been provided for this program under the "Grants-in-aid for airports" program.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

The conference agreement limits administrative expenses of the Federal Highway Administration (FHWA) to $311,000,000, instead of $311,837,000 as proposed by the House and $316,521,000 as proposed by the Senate.

The conference agreement provides that certain sums be made available under section 104(a)(1)(A) of title 23, U.S.C. to carry out specified activities as follows: $7,500,000 shall be available for child passenger protection education grants as authorized under section 2003(b) of Public Law 105–178, as amended; $4,000,000 shall be available for motor carrier safety research; $841,000 shall be available for motor carrier crash data improvement program; $1,500,000 shall be available for environmental streamlining; and $6,000,000 shall be available for the nationwide differential global positioning system.

The conferees recommend the following adjustments to the budget request by program and activity of the funding provided for FHWA's administrative expenses:

Department of Defense trade collections data	−$1,616,000
Equipment (information technology)	−2,529,000
Five new innovative finance positions	−500,000
Undistributed reduction in administrative expenses	−2,048,000

FHWA streamlining.—The conferees direct the Federal Highway Administration (FHWA) to provide the House and Senate Committees on Appropriations a report, not later than January 2, 2002, summarizing FHWA's streamlining efforts. The report should include specific examples of FHWA activities that help streamline the environmental process.

Incidental Appurtenances For Recreational Vehicles.—The conferees encourage the FHWA Administrator to include in its final rule regarding exclusion of devices from commercial vehicle length and width requirements, an allowance for the commercial transport of recreational vehicles with incidental appurtenances (retractable awnings).

Performance based outcomes.—The conferees recognize the impact the performance based outcomes can have on the road building industry by allowing contractors the freedom and flexibility to focus on quality and long term performance and encourage the Department of Transportation to further explore their use.

FEDERAL—AID HIGHWAYS

The conference agreement limits obligations for the federal-aid highways program to $31,799,104,000 instead of $31,716,797,000 as proposed by the House and $31,919,103,000 as proposed by the Senate.

Rural consultation in planning process.—The conferees direct the FHWA to submit a letter to the House and Senate Committees on Appropriations, no later than February 1, 2002, describing actions the administration has taken to ensure that transportation officials from rural areas are being consulted in the long-range transportation planning process.

I–90 Steering Committee.—The conferees direct the FHWA to continue working with the I–90 Steering Committee in Washington State to advance the R–8A alternative through the environmental review process.

Work zone safety.—The conferees are concerned that each year over 700 people are killed in work zones throughout our nation. The conferees are aware that the Federal Highway Administration has collaborated with the Texas transportation institute (TTI) to establish the national work zone safety information clearinghouse. The clearinghouse serves as a valuable resource in the development and distribution of work zone safety materials for state and local agencies. The conferees are aware that TTI has proposed a work zone safety research program that seeks to improve data collection in an effort to better manage the dangers of roadway work zones. The conferees encourage the Federal Highway Administration to evaluate TTI's proposals and consider requesting funding in future budget submissions.

Environmental streamlining pilot projects.—The conferees direct the Secretary of Transportation to give priority consideration to funding for Washington State's environmental permit streamlining program using funds provided for environmental streamlining initiatives under this Act. The conferees expect the regional administrators of the Federal Highway Administration, the Environmental Protection Agency, the National Marine Fisheries Service, the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service to serve on the Washington State transportation permit efficiency and accountability committee as nonvoting members. The Secretary shall issue a report to the House and Senate Committees on Appropriations, the Senate Committee of Environment and Public Works, and the House Committee on Transportation and Infrastructure by April 1, 2002, on the status of this pilot program. The conferees further direct the Secretary to give priority consideration to additional projects, such as the one in Orange County, California.

SURFACE TRANSPORTATION RESEARCH

Within the funds provided for surface transportation research, the conference agreement includes $101,000,000 for highway research and development for the following activities:

Environmental, planning, real estate	$16,042,500
Research and technology program support	8,135,000
International research	500,000
Structures	13,449,500
Safety	15,619,000
Operations and asset management	9,891,000
Pavements research	13,753,000
Long term pavement project (LTPP)	10,000,000
Advanced research	2,640,000
Policy research	8,330,000
Other (field services, delivery, strategic planning) ..	2,640,000
Subtotal	101,000,000
Long-term pavement performance research project and superpave program (additional funds from revenue aligned budget authority)	10,000,000
Total	111,000,000

Environmental, planning, and real estate.—The conference agreement provides $16,042,500 for environmental, planning, and real estate research. Within the funds provided for this research activity, the FHWA is encouraged to provide $1,000,000 for the completion of the dust and persistent particulate abatement demonstration study at Kotzebue, Alaska; and no less than $1,250,000 for environmental streamlining activities.

Research and technology.—The conference agreement provides $8,135,000 for research and technology program support. Within the funds provided for this activity, the FHWA is encouraged to provide up to $600,000 for the Center on Coastal Transportation Engineering Research at the University of South Alabama.

Structures.—The conference agreement provides $13,449,500 for structures research. Within the funds provided for structures research, the conferees encourage the FHWA to provide: $1,250,000 for research into composite structure and related engineering research at West Virginia University's Constructed Facilities Center; $500,000 to conduct non-corrosive anti-icing projects in the Chicago region; $1,500,000 for research conducted at the Transportation Research Center at Washington State University, including non destructive evaluation of bridges to determine load capacities, impacts of earthquake mitigation on elevated highway structures and the development of advanced composite material for bridges; and $400,000 for electromagnetic interrogation of structures project at the University of Vermont to develop wireless methods of assessing structural integrity.

Safety.—The conference agreement provides $15,619,000 for safety research. Within the funds provided for this activity, the conferees encourage FHWA to provide: $300,000 to continue the research into the effectiveness of Freezefree anti-icing systems; and $1,000,000 to the National Transportation Research Center in Tennessee to conduct broad based laboratory-to-roadside research into heavy vehicle safety issues. These funds will also allow FHWA to expedite the State DOT testing on the interactive highway safety design model (IHSDM) to explore the safety implications of alternative designs.

Operations and asset management.—The conference agreement provides $9,891,000 for operations and asset management. Within the funds provided for this activity, the conferees encourage FHWA to provide $1,000,000 to South Carolina State University for the Southern Rural Transportation Center.

Pavements.—The conference agreement provides $13,753,000 for pavements research. Within the funds provided for this activity, the conferees encourage FHWA to provide: $750,000 for a continuation of the alkali silica reactivity research with lithium based technologies to mitigate alkali silica reactivity to prevent highway pavement cracking; $500,000 to the Center for Portland Cement Concrete Pavement Technology at Iowa State; and $750,000 to support the Institute for Aggregate Research at Michigan Technical University.

Policy.—The conference agreement provides $8,330,000 for policy research. Within the funds provided for this activity, FHWA shall provide $2,000,000 to the Academy for Community Transportation Innovation for transportation research on integrating public involvement, technology, and environmental issues in the transportation planning process.

Long term pavement performance research project and SUPERPAVE program.—The conferees recognize the importance of technology development and deployment of research and technology products funded through the federal-aid highways program. The conferees have included an additional $10,000,000 in revenue aligned budget authority to be utilized in conjunction with the administration's planned funds to carry out the long term pavement performance research project and to assure the implementation of the SUPERPAVE program.

INTELLIGENT TRANSPORTATION SYSTEMS

The conference agreement includes a total of $225,000,000 for intelligent transportation systems. Of the total, $105,000,000 is for intelligent transportation systems (ITS) research and development, as provided by both the House and Senate, for the following activities:

Research and development	$48,680,000
Operational tests	12,930,000
Evaluations	7,750,000
Architecture and standards	15,290,000
Integrations	11,350,000
Program support	9,000,000
Total	105,000,000

Research.—The conference agreement provides $48,680,000 for research and development. Within the funds provided for this activity, the conferees encourage FHWA to provide $6,800,000 for commercial vehicle research.

Intelligent transportation systems deployment projects.—Within the funds available for intelligent transportation systems deployment, the conference agreement provides that not less than the following sums shall be available for intelligent transportation projects in these specified areas:

Project name and Conference total

Alameda-Contra Costa, California	$500,000
Alaska statewide	2,500,000
Alexandria, Virginia	750,000
Arizona statewide EMS	500,000
Army trail road traffic signal coordination project, Illinois	300,000
Atlanta smart corridors, Georgia	1,000,000
Austin, Texas	125,000
Automated Crash Notification System, UAB, Alabama	2,500,000
Bay County Area wide traffic signal system, Florida	500,000
Beaver County transit mobility manager, Pennsylvania	800,000
Brownsville, Texas	250,000
Carbondale technology transfer center, Pennsylvania	1,000,000
Cargo mate logistics and intermodal management, New York	1,250,000
Central Ohio	1,500,000
Chattanooga, Tennessee	2,000,000
Chinatown intermodal transportation center, California	1,750,000
Clark County, Washington	1,000,000
Commercial vehicle information systems and networks, New York	450,000
Dayton, Ohio	1,250,000
Detroit, Michigan (airport)	1,500,000
Durham, Wake Counties, North Carolina	500,000
Eastern Kentucky rural highway information	2,000,000
Fargo, North Dakota	1,000,000
Forsyth, Guilford Counties, North Carolina	1,000,000
Genesee County, Michigan	1,000,000
Great Lakes, Michigan	1,500,000
Guidestar, Minnesota	6,000,000
Harrison County, Mississippi	500,000
Hawaii statewide	1,000,000
Hoosier SAFE–T, Indiana	2,000,000
Houma, Louisiana	1,000,000
I–90 connector testbed, New York	1,000,000
Illinois statewide	2,000,000
Inglewood, California	500,000
Integrated transportation management system, Delaware statewide	2,000,000
Iowa Statewide	562,000
Jackson Metropolitan, Mississippi	500,000
James Madison University, Virginia	1,500,000
Kansas City, Kansas	500,000
Kittitas County workzone traffic safety system, Washington	450,000
Lansing, Michigan	750,000
Las Vegas, Nevada	1,450,000
Lexington, Kentucky	750,000
Libertyville traffic management center, Illinois	760,000
Long Island rail road grade crossing deployment, New York	1,000,000
Macomb, Michigan (border crossing)	1,000,000
Maine statewide (rural)	500,000
Maryland statewide	1,000,000
Miami-Dade, Florida	1,000,000
Monterey-Salinas, California	750,000
Montgomery County ECC & TMC, Maryland	1,000,000
Moscow, Idaho	1,000,000
Nebraska statewide	4,000,000
New York statewide information exchange systems, New York	500,000
New York, New Jersey, Connecticut (TRANSCOM)	2,500,000
North Greenbush, New York	1,000,000
Oklahoma statewide	3,000,000
Oxford, Mississippi	500,000
Pennsylvania statewide (turnpike)	500,000
Philadelphia, Pennsylvania	1,033,000
Philadelphia, Pennsylvania (Drexel)	1,500,000
Pioneer Valley, Massachusetts	1,500,000
Port of Long Beach, California	500,000
Port of Tacoma trucker congestion notification system, Washington	200,000
Roadside animal detection test-bed, Montana	500,000
Rochester-Genesse, New York	800,000
Rutland, Vermont	750,000
Sacramento, California	3,000,000
San Diego joint transportation operations center, California	1,500,000
San Francisco central control communications, California	250,000
Santa Anita, California	300,000
Santa Teresa, New Mexico	750,000
Shreveport, Louisiana	750,000
Silicon Valley transportation management center, California	700,000
South Carolina DOT	3,000,000
Southeast Corridor, Colorado	7,000,000
Southern Nevada (bus)	1,100,000
Spillway road incident management system, Mississippi	600,000
St. Louis, Missouri	1,000,000
Statewide transportation operations center, Kentucky	2,000,000
Superior, I–39 corridor, Wisconsin	2,500,000
Texas statewide	2,000,000
Travel network, South Dakota	2,325,000
University of Arizona ATLAS Center, Arizona	500,000
Utah Statewide	560,000
Vermont statewide (rural)	1,500,000
Washington statewide	4,500,000
Washington, D.C. metropolitan region	2,000,000
Wayne County road information management system, Michigan	1,500,000
Wichita, Kansas	1,200,000
Wisconsin communications network	310,000
Wisconsin statewide	1,000,000
Yakima County adverse weather operations, Washington	475,000

Illinois Statewide ITS.—Within the amount made available for Illinois Statewide ITS, funds shall be made available to the City of Quincy for the 18th St. Bridge and to the City of Carbondale for the Southern Illinois University-Carbondale's Materials Technology Center.

Projects selected for funding shall contribute to the integration and interoperability of intelligent transportation systems, consistent with the criteria set forth in TEA21.

FERRY BOATS AND FERRY TERMINAL FACILITIES

Within the funds available for ferry boats and ferry terminal facilities, funds are to be available for the following projects and activities:

Project name and	*Conference total*
Bainbridge-Seattle ferry system, dolphin replacement project, Washington	$4,000,000
Battery Maritime building, New York	750,000
Baylink Ferry intermodal center and upgrades and improvements to facilities (City of Vallejo), California	2,000,000
Cherry Grove ferry dock, New York	90,000
City of Brewer waterfront redevelopment shoreline stabilization, Maine	1,000,000
City of Palatka, Florida	300,000
City of Rochester harbor & ferry terminal improvement projects, New York	4,500,000
Cleveland Trans-Erie ferry, Ohio	800,000
Coffman Cove-Wrangell/Mitkof Island ferries and facilities, Alaska	10,000,000
Corpus Christi ferry landings, Texas	200,000
Ferry Boat terminal building dock construction, Pennsylvania	1,000,000
Fire Island terminal infrastructure, New York	200,000
Fishers Island ferry district, Connecticut	1,500,000
Hatteras Inlet ferry connecting Ocracoke Island and North Carolina Outer Banks, North Carolina	1,450,000
Haverstraw-Ossining-Yonkers ferry service terminals, New York	2,500,000
Jamaica Bay transportation hub, New York	200,000
Jersey City Pier redevelopment & terminal construction project (also bus), New Jersey	2,000,000
Key West ferry terminal, Florida	300,000
Kings Point ferry, Warren County, Mississippi	500,000
New Bedford Massachusetts ferry and ferry facility project, Massachusetts	1,450,000
North Carolina State ferry (dredging and environmental studies), North Carolina	689,000
Oak Harbor Municipal Pier terminal, Washington	200,000
Plaquemines Parish ferry, Louisiana	1,200,000
San Francisco Bay Area Water Transit Authority Fuel Cell project	100,000
Sand Point dock, Rhode Island	250,000
Sandy Hook ferry terminal, New Jersey	1,000,000
Savannah water ferry, Georgia	1,000,000
St. George Ferry terminal, New York	500,000
St. Johns River ferry terminal, Florida	1,000,000
Station Square River landing boat docks, Pennsylvania	1,000,000
Toledo-Lucas County Port Authority Marina ferry, Ohio	500,000
Treasure Island ferry service, California	800,000
Whitehall terminal, New York	600,000

NATIONAL CORRIDOR PLANNING AND DEVELOPMENT PROGRAM

Within the funds available for the national corridor planning and development program, funds are to be available for the following projects and activities:

Project name and	*Conference total*
Alameda Corridor-East construction project, California	$4,000,000
Ambassador Bridge Gateway, Michigan	9,000,000
Arch Road/Sperry Road Corridor Widening	2,000,000
Arizona 95 to I–40 Connector, California	3,000,000
Bristol/First Street intersection Santa Ana, California	1,000,000
Byram-Clinton/Norrell Corridor, Mississippi	3,500,000
Chesapeake Bypass, Lawrence, Ohio	4,000,000
Clay/Leslie Industrial Park access, Kentucky	4,000,000
Coalfields Expressway, West Virginia	16,000,000
Continental 1, Pennsylvania and New York	1,000,000
Curry Pike multilaning project, Indiana	1,000,000
Des Moines metro 1–235 Reconstruction, Iowa	700,000
Dixie Highway Flyover Bridge, Florida	1,500,000
East-West Highway, Maine	3,500,000
Essen Lane & 1–12 Interchagne, Louisiana	1,000,000
Everett Development 41st Street overpass project, Washington	1,500,000
Exit 6 of I–95, Pennsylvania	350,000
Falls to the Falls Corridor, Cook, Minnesota	7,000,000
FAST Corridor project, Washington	20,000,000
FM 1016 from US 83 to Madero, Texas	500,000
Foothills Parkway TN–1, Tennessee	1,000,000
Freeport Business Center off ramp, Texas	500,000
Gravina Bridge, Alaska	1,000,000
Heartland Parkway/Highway 55, Kentucky	500,000
Hendricks county North-South Corridor, Indiana	750,000
Highway 192 in McCreary County, Kentucky	1,600,000
Highway 20 Freeport bypass review, design and engineering, Illinois	1,000,000
Highway 231 Glover Carey Bridge and Owensboro intersection, Kentucky	1,000,000
Highway 61, Avenue of the Saints interchange, Moscow Mills, Missouri	2,500,000
Highway 61, Green County between Greensburg and Columbia, Kentucky	250,000
Highway 71 Texarkana South, Arkansas	7,000,000
Hoosier Heartland Industrial Corridor Lafayette to Logansport, Indiana	1,000,000
Hwy 92 Whitley County, Kentucky	300,000
I–29 construction from Exit 81 North to South of I–90 at Sioux Falls, South Dakota	12,000,000
I–35 expansion, Hill County, Texas	2,000,000
I–35 Replacement Bridge, Dallas County, Texas	1,000,000
I–4 Crosstown Expressway Connector, Florida	1,000,000
I–44/US 65 Interchange, Missouri	1,500,000
I–49 Interchange at Caddo Port Road, Louisiana	3,800,000
I–49 south from Lafayette east to Westbank, Louisiana	15,000,000
I–5 trade corridor, Oregon	5,000,000
I–5/SR56 connectors, California	2,000,000
I–66, Kentucky	20,000,000
I–66, Pike County, Kentucky	2,500,000
I–69 Connector from I–530 in Pine Bluff, Arkansas	4,000,000
I–69 construction Odom Road to I–55, Mississippi	9,000,000
I–69 Corridor, Louisiana	10,000,000
I–69 Corridors 18 and 20, Texas	1,500,000
I–69 Evansville to Indianapolis, Indiana	2,586,000
I–69 Great River Bridge, Arkansas	—
I–69 on SIU 11 along US 61, Mississippi	500,000
I–84 Exit 6/Route 37 interchange, Connecticut	2,300,000
I–85 extension to I–59/20, Alabama	3,000,000
I–87 Corridor Study, New York	2,000,000
I–90/94 new by-pass to Highway 3 EIS, Montana	3,500,000
I–905 Otay Mesa Border port-of-entry, California	7,500,000
Interstate 75 and Central Sarasota Parkway interchange, Florida	1,000,000
King Coal Highway, West Virginia	20,000,000
KY 1848 from I–64 to US 60, Kentucky	320,000
La Entrada al Pacifico feasibility study, Texas	200,000
Lincoln Bypass, California	2,000,000
Memphis-Huntsville-Atlanta Highway preliminary engineering and construction, Alabama	1,000,000
Midland Reliever Route for freeway connection from SH 349 to I–20, Texas	1,000,000
Missouri Highway 7, Missouri	3,750,000
Monticello Street underpass, Kentucky	1,000,000
MS Highway 44/Pearl River Bridge extension project, Mississippi	3,000,000
New Boston Road (a segment of National Great River Road), Illinois	1,000,000
New York Harbor rail freight tunnel, New York	5,000,000
North/South transitway, Charlotte/Mecklenburg, North Carolina	3,500,000
Northern Border Cascadia program of projects, Washington	2,500,000
North-South Highway project, Alabama	1,000,000
Outer Belt Connector, Kendall & Kane Counties, Illinois	15,000,000
Pennyrile Parkway, Kentucky	1,000,000
Phoenix Avenue improvements and airport access construction, Arkansas	1,750,000
Port of Claiborne/Grand Gulf Connector Access Road, Mississippi	8,000,000

Port of South Louisiana to I–10 Connector, Louisiana	1,000,000
Ports-to-Plains Corridor development management plan, Texas	1,700,000
Railroad Avenue Underpass East Chicago, Indiana	2,500,000
Rapid River Bridge, Idaho	1,000,000
Reconstruct MD 117 at MD 124 in Montgomery County, Maryland	1,000,000
Route 10, West Virginia	15,000,000
Route 116 between Ashfield and Conway, Massachusetts	2,500,000
Route 2 bypass & safety improvements in Erving, Massachusetts	3,000,000
Route 340/522 bridge replacement, Virginia	100,000
Route 669 bridge widening, Virginia	500,000
Route 71 McDonald County, Missouri	6,000,000
Seward Highway safety improvements at Bird Creek, Alaska	15,000,000
SR 149 Relocation, Ohio	500,000
SR–67 between I–110 & US–49, Mississippi	9,000,000
St. Rt. 905 phase I, California	1,000,000
State border safety inspection facilities, Texas	12,000,000
Stewart Airport connector study, New York	350,000
STH 29 between I–94 and CTH J, Wisconsin	10,000,000
Stone Coal Road in Johnson County, Kentucky	1,500,000
Tuscaloosa eastern bypass from I–59 to Rice Mine Road, Alabama	20,000,000
U.S. 24 Corridor improvement study between Toledo, Ohio and Indiana	2,500,000
U.S. Highway 212 Hennepin County, Minnesota	3,000,000
U.S. Highway 54, Kansas	4,000,000
Upgrade road to I–64/US Route 35, West Virginia	3,000,000
US 19, Florida	25,000,000
US 231/I–10 freeway Connector from Dothan to AI/FL state line, Alabama	1,000,000
US 25 N to Renfro Valley, Kentucky	2,000,000
US 27 from Somerset to KY70, Kentucky	5,000,000
US 27 to Burnside, Kentucky	800,000
US 278, Alabama	1,000,000
US 395 North Spokane Corridor, Washington	6,000,000
US 412 Overpass at I–44, Oklahoma	1,500,000
US 431 from Epleys Station North to Lewisburg, Kentucky	850,000
US 60 Butler County, Missouri	1,500,000
US 60 right-of-way, KY 425 to US 41, Henderson County, Kentucky	500,000
US Route 15 expansion form Pennsylvania to Presho, New York	3,000,000
US Route 20 in North Huntingdon Township, Pennsylvania	200,000
US–151 expansion Dickeyville & Dodgeville, Wisconsin	3,000,000
US 19/US 129/SR 11 Connector, Georgia	1,000,000
US–2 planning & construction, New Hampshire	1,000,000
US–41A, Kentucky	100,000
US–49/I–55 flyover, Mississippi	1,500,000
US–63 improvements for Corridor 39, Arkansas	15,000,000
US–64/87 Ports to Plains corridor study, New Mexico	1,000,000
US–95 improvements from milepost 522 to Canadian border, Idaho	9,000,000
USH 10 between Stevens Point & Waupaca, Wisconsin	4,000,000
Weidle Road Improvements, Illinois	500,000
Wichita South Area transportation study, Kansas	1,000,000
Yakima grade separation program of projects, Washington	4,000,000

TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM

Within the funds made available for the transportation and community and system preservation program, funds are to be distributed to the following projects and activities:

Project name and Conference total

Access improvement to Rostraver Industrial Park, Pennsylvania	$500,000
Advanced traffic analysis center, North Dakota	500,000
Alkali Creek bike/pedestrian trail, Montana	500,000
Alliance transportation congestion mitigation, Ohio	2,000,000
Artesia Boulevard Rehabilitation, California	200,000
Atlantic Avenue Extension, Queens, New York	2,000,000
Atlantic Avenue Trail Extension, Virginia	800,000
Austin TX Bicycle Commuting Project, Texas	375,000
Bandyville Road, Illinois	525,000
Bicycle/Pedestrian connections to Charlotte's trail systems, North Carolina	200,000
Boston-North Shore corridor study, Massachusetts	250,000
Broadway Armory Parking Facility, Illinois	750,000
Bronx River Greenway, New York	750,000
Brooklyn Bridge Park Development Corporation Study, New York	1,000,000
Buffalo City inner harbor and waterfront development, New York	1,570,000
Cabarrus Avenue Gateway, North Carolina	2,800,000
Cades Cove Loop improvements, Tennessee	2,000,000
Casper Second Street extension, Wyoming	1,000,000
Cedar Rapids Edgewood Road project, Iowa	3,000,000
Central business district trail link Prairie Duneland and Iron Horse Heritage, Indiana	970,000
Charles Town streetscape improvements and welcome center, West Virginia	400,000
Chester waterfront development streetscape, Pennsylvania	500,000
Church Street Marketplace in Burlington, Vermont	1,500,000
City of Elk Point bike/pedestrian trail system, South Dakota	200,000
City of Frisco, Texas	1,000,000
City of Havana, Illinois	1,500,000
City of Tea bike/pedestrian path, South Dakota	50,000
City of Woburn, Massachusetts	200,000
Claymont transportation project, Delaware	100,000
Columbia Harden Street improvements, South Carolina	5,000,000
Completion of US 101 Regional Bikeway System, California	500,000
Concord 20/20 vision program, New Hampshire	500,000
Cross County Corridor study, Maryland	500,000
Crowley Historic Parkerson Avenue redevelopment, Louisiana	500,000
Cullman County pedestrian walkway, Alabama	100,000
Derby, traffic congestion, Connecticut	2,000,000
Downeast Heritage Center project, Calais, Maine	400,000
Downtown Development District, Louisiana	500,000
Dynamic Rollover Laboratory, Auburn University project, Alabama	1,500,000
East Branch DuPage River Greenway Trail Plan, Illinois	75,000
East Chicago Railroad Avenue Project, Indiana	1,000,000
East Haddam Mobility Improvements, Connecticut	500,000
Eastern Market pedestrian overpass park, Michigan	500,000
Eastern shore trail project from USS Alabama to Weeks Bay National Reserve, Alabama	1,500,000
Elimination of grade crossing and redirection of corridor traffic, Ashland, Wisconsin	1,900,000
Estill County bypass lighting around Irvine, Kentucky	50,000
Estill County industrial park access road, Kentucky	300,000
Everett development project track replacement, Washington	3,700,000
Fairhope Trax & Trails, Alabama	1,000,000
Farrington safety enhancements, Hawaii	2,000,000
Fegenbush Lane Bridge at Fern Creek, Kentucky	400,000
FM 494 widening from US 83 to FM 1016, Texas	1,000,000
Foxhall Road Safety Reconstruction Project, DC	2,000,000
Fruitvale, California	2,000,000
Galesburg Railroad Relocation Study, Illinois	150,000
Goucher Wheel and Walk Way, Pennsylvania	1,000,000
Grand Forks greenway trail system, North Dakota	1,000,000

Great Dismal Swamp Corridor Master Plan, Virginia	180,000
Great Lake recreation area traffic study, Oklahoma	250,000
Green Airport Initiative, California	2,000,000
Green Island, New York Road and infrastructure project	2,600,000
GSB-88 Emulsified binder treatment research, Alabama	1,000,000
Gulf Coast Pedestrian Walkover, Highway 98, Florida	1,000,000
Hanceville Downtown Revitalization, Alabama	400,000
Harris County 911 emergency network, Texas	500,000
HART bus tracking, Florida	1,000,000
Henderson downtown street widening, North Carolina	1,000,000
Henderson riverfront project, Kentucky	1,000,000
Highway 2 feasibility project, Montana	1,000,000
Highway 24 segment completion, Texas	1,000,000
Highway 45, Lowndes County	2,000,000
Highway 61 from KY487 to Columbia PE/design, Kentucky	1,000,000
Highway 71 Alma to Mena, Arkansas	1,000,000
Hillsborough weigh station, North Carolina	350,000
Historic Erie Canal Aqueduct redevelopment, New York	1,100,000
Hopewell Borough Street flooding project, New Jersey	300,000
Houston Main Street corridor master plan, Texas	500,000
Huffman Prairie Flying Field pedestrian & multimodal gateway entrance, Ohio	1,500,000
I–15, Sevier River to Mills reconstruction, Utah	2,000,000
I–5/SR 432 Interchange Access, Washington	1,000,000
I–74 Mississippi River Bridge	2,000,000
Injury Control Research Center, UAB project	1,250,000
Interchange at 159th St. and I–35, Olathe, Kansas	2,000,000
Intersection improvements, Highway 41 and US 17, North of Mount Pleasant, South Carolina	500,000
Interstate Route 295 and Commercial Street project, Portland, Maine	1,200,000
Isleta Boulevard Reconstruction Project, New Mexico	5,000,000
Johnstown Road, Kentucky	800,000
Jonesboro Caraway Overpass project, Arkansas	1,500,000
Kalispell Bypass Project, Kalispell, Montana	400,000
Kenai River Trail, Alaska	500,000
Kentucky Transportation Cabinet for Regional Trail Improvements, Kentucky	2,350,000
Lake Street access to I–35 West, Minnesota	4,000,000
Lambertville Street flooding improvements, New Jersey	300,000
Lancaster Avenue improvements, Fort Worth, Texas	1,500,000
Land Use Municipal Resource Center, New Jersey	2,000,000
Lees Town Road project, KY	500,000
Lewis Avenue Bridge, California	200,000
Lincoln Antelope Valley 16th Street overpass, Nebraska	1,600,000
Littleton integrated and networked community, New Hampshire	750,000
Littleton Main Street pedestrian improvements, New Hampshire	2,000,000
Lodi project, improvements to route 46, New Jersey	1,000,000
Los Angeles County bike path, California	1,000,000
Louisville Bypass, Nebraska	1,000,000
Louisville Waterfront/River Road pedestrian islands improvement and park entry Preston Street project, Kentucky	1,000,000
Macon community preservation and redevelopment, Georgia	200,000
Madison State Street project, Wisconsin	1,000,000
Main Street Streetscaping, Jacksonville, Florida	500,000
Maine Avenue Redesign, California	100,000
Mamaroneck pedestrian improvements, New York	125,000
Manalapan Township Woodward Road reconstruction, New Jersey	250,000
Marin Parklands Visitor Access, California	1,000,000
Maryland Route 404 upgrade project	3,000,000
Marysville Road, Montana	1,000,000
Marysville streetscape improvements, Tennessee	4,000,000
McKinley/Riverside Avenue Safety Improvements, Indiana	1,245,000
Median on US 42 from Harrods Creek to River Road, Kentucky	600,000
Metrolina traffic management center, North Carolina	1,000,000
Metrowest Community Transportation Pilot Project, Massachusetts	450,000
Miami-Dade FL multimodal public transportation transfer center	3,500,000
Midwest City downtown revitalization project, Oklahoma	1,000,000
Missouri Highway 21	7,000,000
Mobile Greenways, Alabama	1,750,000
Mobile Waterfront Terminal and Maritime Center of the Gulf Project, Alabama	5,000,000
Mount Vernon, NY commuter rail station improvements, New York	1,000,000
Museum campus trolleys expanded service, Illinois	500,000
Mystic streetscape projects, Connecticut	1,000,000
National Underground Railroad Freedom Center, Ohio	3,000,000
Navajo Gateway, Oklahoma	200,000
New Rochelle NY North Avenue pedestrian street improvements, New York	1,000,000
NFTA Development Plan, New York	100,000
Oceanport Road flooding improvements, New Jersey	300,000
Ohio & Erie Canal Corridor, Ohio	1,000,000
Olympic Discovery Trail, Washington	1,600,000
Ortega Street Pedestrian overcrossing gateway, California	125,000
Owensboro Riverfront redevelopment project, Kentucky	1,800,000
Palmer railroad right-of-way, Alaska	1,100,000
Park City sidewalks, Kentucky	42,600
Parkerson Avenue Pedestrian and Streetscape Improvements, Louisiana	165,000
Parking Facility, Marysville, Tennessee	1,650,000
Payette River Greenway project, Idaho	105,000
Peachtree Corridor project, Georgia	6,000,000
Phalen Boulevard, Minnesota	1,750,000
Pharr bridge toll connector, Texas	415,000
Pioneer Valley Commission, West Springfield, Massachusetts	400,000
Pistol Creek pedestrian bridge, Tennessee	900,000
Port of Vicksburg Study, Mississippi	400,000
Portage Canal Rehabilitation & Pedestrian/Bicycle Facility, Wisconsin	1,000,000
Prattville-Daniel Pratt Historic District development, Alabama	500,000
Queens Boulevard Pedestrian Improvements, New York	500,000
Raritan Township Clover Hill Road Reconstruction, New Jersey	1,000,000
Redlands Transportation & Community Preservation, California	500,000
Rhinelander Relocation, Oneida County, Wisconsin	9,600,000
River Street reconstruction, Linderhurst, New York	500,000
Riverwinds project in West Deptford, New Jersey	500,000
Road 200 South Improvement Project, Indiana	700,000
Roadway expansion, East Metropolitan Business Park, Mississippi	2,000,000
Robbins Commuter Rail Station upgrade, Illinois	250,000
Rose Bowl access mitigation, California	300,000
Rose Crossing in Kingston and Roane Counties, Tennessee (roadways, trails and improvements)	1,050,000

Route 101 corridor study for Amherst, Milford, and Wilton, New Hampshire	200,000
Route 17 Paramus and Essex Street, Hackensack, congestion alleviation, New Jersey	300,000
Route 22/Mill Road pedestrian street improvements, New York	750,000
Route 3 upgrade PE between Franklina and Boscawen, New Hampshire	100,000
Route 710 Connector Improvements and Traffic Calming, Riviera Beach, Florida	300,000
Route 79 relocation and harbor enhancements, Massachusetts	1,000,000
Saddle Road improvement project, Hawaii	4,000,000
Santa Carita Cross Valley Connector, California	1,000,000
Satsop Development Park, Washington	1,500,000
SC 277 Pedestrian Walkway, South Carolina	1,000,000
Schuylkill Valley Metro Feasibility Study, Pennsylvania	500,000
SH 121/Grandview Ave. Railroad Grade Separation, Colorado	250,000
Shore Road, Lindenhurst, New York	500,000
Somerset downtown revitalization, Kentucky	2,000,000
South 7th Street, Lindenhurst, New York	250,000
South Amboy Regional Intermodal Transportation Initiative, New Jersey	1,000,000
South Capitol Gateway & Improvement Study, Maryland and the District of Columbia	500,000
South Carolina Route 38/I–95 Interchange improvements, South Carolina	1,500,000
South Com regional dispatch trauma center, Illinois	170,000
South LaBrea Avenue and Imperial Highway Improvements, California	1,000,000
Southern bypass around the southwestern portion of Somerset, Kentucky	6,600,000
Southern Rural Transportation Center, South Carolina	9,000,000
Springfield center city streetscape improvements, Missouri	1,000,000
Springfield Metro/VRE Pedestrian Access improvements, Virginia	500,000
SR–520 Convening with communities, Washington	1,000,000
SR91 Freeway Corridor Transportation Enhancement, California	500,000
St. Landry Road extension in Ascension Parish and I–10 link study, Louisiana	500,000
Stamford Waterside, Connecticut	250,000
State Route 25 Safety Improvements, California	2,000,000
State Route 46 expansion study, Florida	1,200,000
Stearns Road corridor, multi-use Trails, Illinois	1,000,000
Stockton Miracle Mile/Pacific Avenue resurfacing, California	1,000,000
Strong Avenue improvements and rail location, Vermont	1,500,000
Stuttgart Two-Lane Bypass, Arkansas	750,000
Sunland Park Drive extension, Texas	500,000
Sutherland, NE viaduct to UP tracks and US Highway 30, Nebraska	2,000,000
Syracuse lakefront project, New York	1,500,000
Temple Street reopening project, Connecticut	1,000,000
Tioughnioga waterfront development, New York	500,000
Titan Road improvement project, Colorado	2,000,000
Tompkins County strategic initiative, New York	130,000
Traffic Calming Program, Jackson, Mississippi	2,000,000
Transportation Research Institute, University of Alabama	7,000,000
Trunk Highway 610/10 interchange at I–94, Minnesota	1,600,000
Tukwila transit oriented development at Long Acres, Washington	1,500,000
Tulare County Farm-to-Market Roads, California	2,500,000
Tuscaloosa City riverwalk and parkway development, Alabama	1,000,000
U.S. 51 widening, Illinois	1,500,000
U.S. 98 highway lighting, Daphne, Alabama	2,000,000
University of South Florida, University of Central Florida I–4 Corridor project	1,750,000
US 17–92/Horatio Ave. Intersection Traffic Mitigation, Florida	1,000,000
Vine Grove sidewalks, Kentucky	125,000
Walerga Road Bridge Replacement, California	1,000,000
Warren Sidewalk Reconstruction, Rhode Island	1,000,000
Waterford National Historic District, Virginia	1,000,000
West Windsor Township bicycle path, New Jersey	200,000
White Lake Road, Michigan	1,000,000
Wichita Riverwalk on Arkansas River, Kansas	600,000
Widen highways 159, 269, 379, Florida	750,000
Winooski, Vermont streetscape project	1,500,000
Wyandanch traffic signals, sidewalks and improvements, New York	400,000
Ybor City Streetcar Intermodal Station, Florida	2,000,000

Montana Highway 2.—The conference agreement includes $1,000,000 for Montana Highway 2. These funds may be used only for feasibility studies, the preparation of an EIS, or preliminary engineering and design activities. None of these funds may be spent for any purpose along those sections of Highway 2 that are either contiguous with or are in the general vicinity of Glacier National Park.

South Capitol Gateway.—The Secretary, in cooperation with the District of Columbia Department of Planning, the District of Columbia National Capitol Revitalization Commission, and the Department of Interior and in consultation with the National Capital Planning Commission and other interested parties, shall conduct a study of methods to make improvements to promote commercial, recreational and residential activities and to improve pedestrian and vehicular access on South Capitol Street and the Frederick Douglass Bridge between Independence Avenue and the Suitland Parkway, and on New Jersey Avenue between Independence Avenue and M Street Southeast. Not later than September 20, 2003, the Secretary shall transmit to the House and Senate Committees on Appropriations a report containing the results of the study with an assessment of the impacts (including environmental, aesthetic, economic, and historical impacts) associated with the implementation of each of the methods examined under the study.

BRIDGE DISCRETIONARY PROGRAM

Within the funds available for the bridge discretionary program, funds are to be available for the following projects and activities:

Project name and Conference total

45th Street Bridge over Harlem River, New York	$5,800,000
A. Max Brewer Causeway Bridge, Florida	3,000,000
Atlantic Bridge, California	300,000
Avis overhead bridge WV107, West Virginia	6,000,000
Cooper River Bridge, South Carolina	7,000,000
Covered bridges Sec. 1224 of TEA–21	3,000,000
Cross Road Bridge, Connecticut Deck replacement & rehab of Rt 9 Edison Bridge, New Jersey	2,000,000
Ford Bridge, Minnesota	7,000,000
Gerald Desmond Bridge Replacement, California	4,000,000
Golden Gate Bridge seismic retrofit program, California	2,000,000
Great River Bridge, Arkansas	7,500,000
Hoan Bridge rehabilitation, Wisconsin	7,500,000
Hood Canal Bridge replacement, Washington	5,000,000
I–195 Washington Bridge, Rhode Island	4,000,000
I–84 over Delaware River Twin Bridges, New York	2,000,000
Iowa/Nebraska Missouri River Bridge, Iowa James Rumsey Bridge (Shepherdstown Bridge), West Virginia	11,000,000
Kerner Bridge, Louisiana	1,000,000
Leeville Bridge, Lafourche Parish, Louisiana	3,000,000
Leon River Bridge, Texas	1,500,000
Longfellow Bridge, Cambridge Massachusetts	1,500,000
Martin Luther King Jr. Bridge rehabilitation, Ohio	1,500,000
Metro Parks Zoo historic bridge replace, Ohio	1,250,000
Missisquoi Bay Bridge, Vermont	4,000,000
Missouri River Bridge approach from Route 74, Missouri	1,000,000

Padanaram Bridge, Dartmouth Massachusetts	1,500,000
Pearl Harbor Memorial Bridge, Connecticut	5,000,000
Pennsylvania Avenue Bridge, Michigan	3,300,000
Route 1 & 9/Production Way to east Lincoln Avenue, New Jersey	3,000,000
Route 13 Bridge, Missouri	1,500,000
Route 17 over Wallkill River, New York	1,800,000
Sand Island Bridge resurfacing, Hawaii	5,000,000
South Park Bridge, Washington	1,000,000
SR 240 Yakima Bridge Replacement, Washington	4,500,000
TEA–21 Bridge Setaside for Seismic Retrofit	25,000,000
Topeka boulevard Bridge, Kansas	2,000,000
US 81 Missouri River Bridge PE, South Dakota	1,000,000
Wacker Drive discretionary bridge reconstruction, Illinois	6,000,000
Waldo-Hancock Suspension Bridge replacement, Maine	5,000,000

FEDERAL LANDS

Within the funds available for the federal lands program, funds are to be available for the following projects and activities:

Project name and	*Conference total*
14th Street Bridge interim capacity and safety improvements, Virginia	$11,000,000
Acadia National Park trails and road projects, Maine	500,000
Alaska Maritime National Wildlife Refuge and parking, Alaska	850,000
Amistad National Recreation Area Box Canyon Ramp Road, Texas	4,500,000
Arches National Park Main Entrance Relocation, Utah	1,000,000
Bear River migratory bird refuge access road, Utah	250,000
Belardo Bridge, California	3,000,000
Blackstone River bikeway, Rhode Island	1,500,000
Blueberry Lake road improvements, Green Mountain National Forest, Vermont	500,000
Broughton Bridge over USACOE Miliford Lake, Kansas	1,500,000
Chincoteague Wildlife Refuge access roads, Virginia	1,000,000
City of Rocks Back Country, Idaho	2,000,000
Clark Fork River Bridge replacement, Idaho	2,500,000
Clarks River National Wildlife Refuge, Kentucky	2,000,000
Cold Hill Road, Kentucky	1,400,000
Complete design for CN3480, TPM–00401, New Mexico	150,000
Craigs Creek Road, Kentucky	995,000
Daniel Boone Parkway between mileposts 37 and 44, Kentucky	1,500,000
Death Valley Road reconstruction, California	2,000,000
Delaware Water Gap National Recreation Area, New Jersey	1,000,000
Diamond Bar Road, Arizona	3,000,000
Forkland Park access road improvements, Alabama	475,000
Fort Peck Lake public access road, Montana	500,000
Giant Springs Road, Great Falls, Montana	1,200,000
Glade Creek Road and Brooklyn Road, New River 'Gorge National River, West Virginia	3,500,000
Herbert H. Bateman Education & Administrative Center, Virginia	500,000
Highway 26 between Zigzag and Rhododendron, Oregon (Highway 26, Oregon)	1,750,000
Hoover Dam bypass, Arizona	8,000,000
Ivy Mountain Road, Texas	1,000,000
Lewis & Clark Trail, State Spur 26E, Nebraska	325,000
Lewis and Clark Bicentennial Roadway project, North Dakota	1,000,000
Lewis and Clark Interpretive Center access road, Montana	1,200,000
Little River Canyon National Reserve Road Improvements, Alabama	350,000
Lowell National Historical Park riverwalk design, Massachusetts	563,000
Marshall County #10 & BIA #15 through Sica Hollow State Park, South Dakota	400,000
Mat-Su Borough/Wasilla, Alaska	500,000
Metlakatla/Walden Point Road, Alaska	200,000,000
Miller Creek Road preliminary design and EIA, Montana	5,000,000
New access to Bent's Old Fort National Historic Site, Colorado	500,000
New Bedford Whaling National Historic Park sign project, Massachusetts	400,000
New highway from North Dakota Border to Idaho, Montana	1,000,000
Noxubee River Bridge replacement and access route, Mississippi	1,000,000
Pala Road improvement Project, California	4,000,000
Preliminary and final design to CN2357, FLH–666–11, New Mexico	1,000,000
Presidio Trust, California	1,000,000
Ramport Road, Alaska	500,000
Reconstruction of NM 537: CN2070, FLH–0537, New Mexico	1,000,000
Route 113 Heritage Corridor, Pennsylvania	170,000
Route 4 Jemez Pueblo Bypass, New Mexico	1,000,000
Route 600 road restructuring, Virginia	750,000
S–323 Alzada-Ekalaka, Montana	2,000,000
Sand Point Road improvement, Alaska	1,500,000
Saratoga Monument Access, New York	280,000
SD–63 Corson County reconstruction, South Dakota	4,000,000
SH–149 Rio Grande National Forest, Colorado	3,700,000
Shotgun Cove Road, Alaska	650,000
SR 146 St. Rose Parkway & 1–15 Interchange, Nevada	4,000,000
SR 16 from Loop Road to SR 15, Neshoba County, Mississippi	7,400,000
State Route 153, Beaver to Junction, Utah	1,000,000
Statewide improvements, Hawaii	6,000,000
Timucuan Preserve bike route, Florida	1,000,000
Trail extension at Mount Vernon Circle, Fairfax, Virginia	100,000
US 3 and Acadia National Park road improvement, Maine	500,000
US–30 Morrison/Whiteside County expansion, Illinois	750,000
USA–95 Laughlin cut-off to railroad pass widening, Nevada	8,000,000
USMC Heritage Center Access Improvements, Virginia	800,000
Wind Cave National Park highway resurfacing, South Dakota	1,250,000
Wood River Road upgrades, Alaska	800,000
Woonsocket Depot rehabilitation, Rhode Island	650,000
Yellowstone and Missouri Rivers, and Fort Union Trading Post bike trail, North Dakota	400,000

The conferees direct that the funds allocated above be derived from the FHWA's public lands discretionary program, and not from funds allocated to the Fish and Wildlife Service's and National Park Service's regions.

INTERSTATE MAINTENANCE DISCRETIONARY

Within the funds available for the interstate maintenance discretionary program, funds are to be available for the following projects and activities:

Project name and	*Conference total*
Brent Spence Bridge replacement I–75 and I–71, Kentucky	$2,000,000
City of Renton/Port Quendall project, Washington	1,000,000
Cleyeland inner belt, Ohio	500,000
I–10 Irvington interchange, Alabama	800,000
I–10 Katy Freeway, Houston, Texas	7,000,000
I–10 Riverside Avenue interchange, California	500,000
I–12 Interchange at LA 1088, Louisiana	1,500,000
I–12/Northshore Blvd. Interchange, Louisiana	2,000,000
I–15 Interchange at MP 10, Utah	1,000,000
I–15 reconstruction, Utah	5,000,000
I–180 Lycoming Mall Road interchange, Pennsylvania	2,000,000
I–195 Washington Bridge, Rhode Island	1,000,000
I–215 Southern Beltway to Henderson, Nevada	500,000

I–25 Broadway and Alameda interchanges, Colorado	5,000,000
I–25 North of Raton, New Mexico	1,500,000
I–295 connector, Commercial Street, Maine	500,000
I–295 reconstruction, Rhode Island	3,000,000
I–35 East/I–635 interchange, Texas	5,400,000
I–35 West/US 287 interchange, Texas	4,000,000
I–40 Arizona state line east to milepost 30, New Mexico	5,000,000
I–40 crosstown expressway realignment, Oklahoma	5,500,000
I–44 Fenton industrial corridor improvements in St. Louis County, Missouri	4,000,000
I–44 relocation and improvements, Phelps County, Missouri	4,000,000
I–470 reconstruction and removal of bridges, Missouri	7,000,000
I–49 southern extension from I–10, Louisiana	1,000,000
I–5 Corridor arteries, California	1,000,000
I–5 HOV/general purpose lanes, California	4,000,000
I–5 Medford interchange, Oregon	1,000,000
I–65 and Valley Dale Road interchanges, Alabama	8,000,000
I–70 improvements from CBD to northside, Missouri	5,000,000
I–70/I–75 interchange construction, Ohio	1,000,000
I–70/MD85/MD355 intersection reconstruction, Maryland	8,000,000
I–75 Exit 11, Kentucky	375,000
I–79 Bridgeport to Meadowbrook Road, Harrison County, West Virginia	10,000,000
I–79 Connector, West Virginia	4,800,000
I–79/SR 910 interchange, Pennsylvania	250,000
I–79/Warrendale Technology Park interchange, Pennsylvania	1,750,000
I–80 Exit at Stoney Hollow Road, Pennsylvania	3,000,000
I–80 widening and reconstruction in Johnson County, Iowa,	6,000,000
I–81 South Martinsburg I/C Bridge, Berkeley County, West Virginia	7,000,000
I–84 flyover access, Connecticut	1,500,000
I–85 in Mecklenburg and Cabarrus Counties, North Carolina	3,000,000
I–85 widening completion from Orange County, North Carolina	2,000,000
I–90 two-way transit operations, Washington	1,000,000
I–95 Northern Maine	4,500,000
I–96 Latson Road interchange, Michigan	3,500,000
IH 610 Bridge, Texas	1,500,000
Louisville-Southern Indiana Ohio River Bridges project, Indiana and Kentucky	2,500,000
Montana/Wyoming joint port-of-entry facility, Montana	1,000,000
Pearl River Bridge-I–55 Connector, Mississippi	8,900,000
Port Everglades-Fort Lauderdale/Hollywood airport return loop, Florida	2,500,000
State Route 0039 & I–81 interchange, Pennsylvania	750,000
Tippecanoe/I–10 Interchange, California	2,500,000
US 167/I–20 interchange, Louisiana	1,000,000
Woodall Rogers extension bridge, Texas	8,000,000

SCENIC BYWAYS

Within the funds available for the scenic byways program, funds are to be available for the following projects and activities:

Project name and Conference total

Alabama Scenic Byways	$750,000
Connecticut River scenic farm byway, Massachusetts	500,000
Great River Road Scenic Byways Learning Center in Prescott, Wisconsin	500,000
High Street revitalization project, economic development and historic preservation, Lawrenceberg, Indiana	375,000
Kentucky Scenic byways (Country Music Highway, Wilderness Road Heritage Highway, Cumberland Cultural Heritage Highway)	885,000
Lewis & Clark Northwest Passage Scenic Byway	2,000,000
Mobile Bay Causeway, Alabama	250,000
Program of projects, Washington	750,000
Route 29 scenic byway improvements between I–295 to Frenchtown Borough line, New Jersey	1,000,000
Route 66 scenic byway livable communities and transportation plan, New Mexico	200,000
Seward Highway Millennium Trail improvements, Alaska	350,000
The Cape and islands rural roads initiative (Route 6A), Massachusetts	500,000
Warren County scenic byway, New York	30,000

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

The conference agreement provides a liquidating cash appropriation of $30,000,000,000 for the federal-aid highways program as proposed by both the House and the Senate.

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

The conference agreement provides $200,000,000 for the Appalachian Development Highway System (ADHS) instead of $350,000,000 as proposed by the Senate. The House bill contained no similar appropriation. $100,000,000 shall be allocated in accordance with the system's most recent cost-to-complete study and the remaining $100,000,000 shall be allocated as follows: $30,000,000 for Kentucky Corridors; $10,000,000 for Mississippi Corridor V; $10,000,000 for Tennessee Corridor S; $30,000,000 for West Virginia Corridor D; and $20,000,000 for Alabama Corridor X.

STATE INFRASTRUCTURE BANKS

(RESCISSION)

The conference agreement includes a rescission of $5,750,000 of funds provided for state infrastructure banks that is not allocated to a specific state in fiscal year 1997 under Public Law 104–205 as proposed by the Senate instead of a rescission of $6,000,000 as proposed by the House.

ESTIMATED FISCAL YEAR 2002 DISTRIBUTION OF OBLIGATIONAL AUTHORITY[1]

The following table shows the actual distribution of highway funds apportioned to the States for fiscal year 2001; and the estimated distribution of highway funds apportioned to the States in the President's budget request and the fiscal year 2002 conference agreement:

State	FY 2001 actual	President's budget	Conference
Alabama	525,987,662	559,304,950	560,430,831
Alaska	299,602,164	319,539,358	319,540,065
Arizona	444,257,391	484,638,247	485,392,037
Arkansas	345,831,473	364,825,284	365,616,483
California	2,361,371,050	2,529,726,702	2,535,814,783
Colorado	307,159,912	355,738,430	356,571,570
Connecticut	389,148,164	413,309,266	413,939,498
Delaware	112,968,544	122,080,490	122,338,437
Dist. of Col.	104,349,222	109,709,145	110,052,561
Florida	1,232,852,228	1,285,679,130	1,287,447,472
Georgia	916,707,662	985,563,148	987,127,223
Hawaii	135,311,383	141,835,573	142,143,566
Idaho	202,470,958	210,483,999	210,894,491
Illinois	880,214,981	929,028,704	931,425,218
Indiana	635,845,273	643,457,830	644,611,374
Iowa	315,909,296	331,491,613	332,403,649
Kansas	305,293,124	323,427,894	324,346,857
Kentucky	471,971,981	482,107,642	483,093,023
Louisiana	419,888,462	439,655,410	440,733,363

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[1] Distributions include Special Limitation for Minimum Guarantee, the Appalachian Development Highway System, and High Priority Projects (HPP).

State	FY 2001 actual	President's budget	Conference
Maine	139,051,114	146,462,881	146,809,418
Maryland	416,996,303	452,525,374	453,570,096
Massachusetts	485,116,197	515,922,488	517,214,719
Michigan	845,460,584	891,594,244	893,370,463
Minnesota	389,970,111	411,417,650	412,466,274
Mississippi	311,481,806	357,474,846	358,284,438
Missouri	625,559,105	650,273,494	651,908,448
Montana	251,108,362	271,250,377	271,592,640
Nebraska	199,788,549	215,383,872	215,960,513
Nevada	186,938,046	198,387,281	198,741,203
New Hampshire	136,096,426	142,020,763	142,342,289
New Jersey	702,211,553	721,541,680	723,390,343
New Mexico	252,516,241	270,550,894	271,099,283
New York	1,340,983,556	1,414,039,356	1,417,346,965
North Carolina	737,064,069	773,791,494	775,124,344
North Dakota	168,977,282	180,759,857	181,163,035
Ohio	892,059,208	965,196,101	967,365,570
Oklahoma	390,759,395	426,474,240	427,612,076
Oregon	322,479,138	339,777,033	340,684,607
Pennsylvania	1,331,487,491	1,386,021,505	1,389,343,461
Rhode Island	154,758,492	164,800,244	165,144,826
South Carolina	437,032,280	464,164,383	464,965,557
South Dakota	189,546,127	200,274,630	200,732,567
Tennessee	594,521,880	633,958,835	635,243,821
Texas	1,958,075,662	2,139,081,121	2,142,744,035
Utah	205,736,805	215,660,062	216,239,371
Vermont	117,285,537	126,204,048	126,500,031
Virginia	671,761,845	722,046,984	723,407,902
Washington	469,879,755	491,587,996	492,910,328
West Virginia	296,372,617	310,802,143	311,418,326
Wisconsin	513,262,795	543,767,539	544,732,900
Wyoming	178,559,537	192,949,775	193,412,432
Subtotal	26,320,038,798	27,967,766,009	28,026,764,782
Allocated Programs[1]	3,276,137,054	3,595,390,991	3,772,339,218
Total	29,596,175,852	31,563,157,000	31,799,104,000

[1] Includes High Priority Projects in the Territories and the portion of RABA going to HPP.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MOTOR CARRIER SAFETY

LIMITATION ON ADMINISTRATIVE EXPENSES

(INCLUDING RESCISSION OF FUNDS)

The conference agreement includes $110,000,000 for administrative expenses of the Federal Motor Carrier Safety Administration instead of $92,307,000 as proposed by the House and $105,000,000 as proposed by the Senate. Within the $110,000,000 provided, the conferees allocate the following amounts:

Personnel and administration	$100,341,000
Commercial drivers license program	5,000,000
Hotline	375,000
Reviews of conditional motor carriers	1,000,000
Crash data collection	3,284,000

The conference agreement includes $400,000 to study fatigue management techniques and $100,000 for the deployment of a nation-wide share the road safely program, as outlined in the Senate report.

Highway watch program.—Within the amount provided for motor carrier research, the conferees direct not less than $500,000 be made available to analyze, evaluate, and expand the highway watch program.

Bill language is included that rescinds $6,665,342 in unavailable contract authority associated with administrative balances, as proposed by the Senate. The House bill proposed no similar rescission.

NATIONAL MOTOR CARRIER SAFETY PROGRAM

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

The conference agreement provides a liquidating cash appropriation of $205,896,000 for the national motor carrier safety program as proposed by the House instead of $204,837,000 as proposed by the Senate.

NATIONAL MOTOR CARRIER SAFETY PROGRAM

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

The conference agreement includes a limitation on obligations of $205,896,000 for motor carrier safety grants. This is consistent with the President's budget request. Of this total, $23,896,000 is derived from revenue aligned budget authority. Of this amount $18,000,000 is reserved for Arizona, California, New Mexico, and Texas to hire border truck safety inspectors and $5,896,000 is reserved for the commercial drivers license program.

Hazardous materials motor carriers.—The conferees understand that since September 11th FMCSA is giving top priority to visits to all 34,000 hazardous materials motor carriers to ensure that these carriers are aware of the security measures that should be in place. FMCSA had conducted about half of these visits through the end of November, 2001. The conferees direct the FMCSA to give top priority to continuing such visits and to monitoring these carriers after all visits have been completed. A truck carrying hazardous materials can be used as a weapon and FMCSA and the carriers should take every action to prevent this from happening; no activity should be a higher priority to the FMCSA. The conferees direct the FMCSA to report to the House and Senate Committees on Appropriations by January 31, 2002 on the status of the visits, what FMCSA found during the visits and what further actions are planned by FMCSA.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

The conference agreement provides $127,780,000 from the general fund for highway and traffic safety activities instead of $122,420,000 as proposed by the House and $132,000,000 as proposed by the Senate.

A total of $95,835,000 shall remain available until September 30, 2004 instead of $90,430,000 as proposed by the House and $96,360,000 as proposed by the Senate.

Bill language is included that rescinds $1,516,000 in unobligated balances authorized under 23 U.S.C. 403 as proposed by the Senate. The House bill contained no similar rescission.

The agreement includes a provision carried since fiscal year 1996 that prohibits NHTSA from obligating or expending funds to plan, finalize, or implement any rulemakings that would add requirements pertaining to tire grading standards that are not related to safety performance. This provision was contained in both the House and Senate bills.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATION)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION OF CONTRACT AUTHORIZATION)

The conference agreement provides $72,000,000 from the highway trust fund to carry out provisions of 23 U.S.C. 403 as proposed by both the House and the Senate.

The following table summarizes the conference agreement for operations and research (general fund and highway trust fund combined) by budget activity:

Salaries and benefits	$61,451,000
Travel	1,297,000
Operating expenses	23,113,000
Contract programs:	
Safety performance	7,891,000
Safety assurance	15,064,000
Highway safety programs	46,133,000
Research and analysis	57,338,000
General administration	643,000
Grant administration reimbursements	−11,150,000
Total	$201,780,000

Salaries and benefits.—A total of $61,451,000 is provided for salaries and benefits. This level will support an FTP level of 709, including 15 new FTPs (7.5 FTEs) to assist in regulatory issues as proposed by the Senate. The House approved an FTP level of 664.

Operating expenses.—Within the $23,113,000 provided for operating expenses, the conferees direct that funding for computer support should continue at the fiscal year 2001 level. The conferees believe that this level of funding is adequate, and urge NHTSA to adopt a more cost-effective approach to managing computer support expenses.

Executive bonuses.—The conferees reduce funding within the salaries and benefits account for executive bonuses because performance goals are not being met (-$20,000).

Safety performance.—The conference agreement provides $7,891,000 for safety performance, $550,000 above the budget request as proposed by the Senate. The additional funding should be used to expedite key motor vehicle safety standards including TREAD activities and several other backlogged regulatory items. NHTSA is directed to submit a notification letter to the House and Senate Committees on Appropriations if there is a reasonable likelihood that the agency will not meet any deadlines specified in the TREAD Act. In addition, NHTSA shall submit a strategic implementation plan to both the House and Senate Committees on Appropriations with the submission of the fiscal year 2003 budget that specifies timetables, milestones, and the research necessary to implement each provision of TREAD, as well as the amounts provided to these activities in fiscal years 2001 and 2002.

National occupant protection program.—The conference agreement provides $2,000,000 above the budget request to bolster the national occupant protection program. Of these additional funds, $1,000,000 shall be targeted at high-risk groups, such as minorities, younger drivers, and the occasional seat belt user to increase seat belt usage; and $1,000,000 shall be used to increase local efforts to boost seat belt usage rates in their jurisdictions.

The conferees remain disappointed that NHTSA has been unable to raise seat belt usage to the Presidential directive of 85 percent by 2000 and direct the agency to refocus its program on achieving meaningful results. As part of this effort, NHTSA shall provide a report to the House and Senate Committee on Appropriations describing its plans to accelerate progress in raising seat belt use. This report is due by February 1, 2002.

Within the funds provided, NHTSA shall contract with the National Academy of Sciences to conduct a study on the benefits and acceptability of technologies that may enhance seat belt usage in passenger vehicles, as well as any legislative or regulatory actions that may be necessary to enable installation of devices, as proposed by the House.

Older driver research.—The conferees support NHTSA's efforts to promote the safe mobility of older Americans. As the agency analyzes ways to rehabilitate older Americans who have suffered strokes or other medical conditions to resume some or all of their driving, the conferees encourage NHTSA to closely examine the potential of occupational therapy as an appropriate intervention to improve safety for older drivers.

Impaired driving.—The conference agreement provides $2,500,000 above the budget request to help states and communities decrease the number of impaired driving offenders, including repeat offenders and those with high blood alcohol content. Up to half of these funds may be awarded to states and communities that want to implement promising new strategies.

Emergency medical services head injury research.—A total of $2,245,000 has been provided for emergency medical services. Of this amount, $750,000 shall be used to continue training emergency medical service personnel in delivering prehospital care to patients with traumatic brain injuries.

Biomechanics.—Within the funds provided for biomechanical research, $1,250,000 shall be used to continue research related to traumatic brain and spinal cord injuries caused by motor vehicle, motorcycle, and bicycle accidents at the Injury Control Research Center and other centers of the Southern Consortium for Injury Biomechanics.

Brake lining friction.—Within the funds provided for research and analysis, $300,000 shall be used for research into brake lining friction, as proposed by the Senate.

NATIONAL DRIVER REGISTER

(HIGHWAY TRUST FUND)

The conference agreement provides $2,000,000 for the National Driver Register as proposed by both the House and the Senate.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

The conference agreement provides $223,000,000 to liquidate contract authorizations for highway traffic safety grants, as proposed by both the House and the Senate.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

The conference agreement limits obligations for highway traffic safety grants to $223,000,000 as proposed by both the House and the Senate. The bill includes separate obligation limitations with the following funding allocations:

State and community grants	$160,000,000
Occupant protection incentive grants	15,000,000
Alcohol incentive grants	38,000,000
State highway data improvement grants	10,000,000

A total of $11,150,000 has been provided for administration of the grant programs as proposed by both the House and the Senate. Of this total, not more than $8,000,000 of the funds made available for section 402; not more than $750,000 of the funds made available for section 405; not more than $1,900,000 of the funds made available for section 410; and not more than $500,000 of the funds made available for section 411 shall be available to NHTSA for administering highway safety grants under chapter 4 of title 23. This language is necessary to ensure that each grant program does not contribute more than five percent of the total administrative costs.

The conference agreement retains bill language, proposed by both the House and Senate, that limits technical assistance to states from section 410 to $500,000.

The conference agreement prohibits the use of funds for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for state, local, or private buildings or structures, as proposed by both the House and the Senate.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

The conference agreement provides $110,857,000 for safety and operations instead of $110,461,000 as proposed by the House and $111,357,000 as proposed by the Senate. Within this total, the conferees have funded 26 new positions and provided $350,000 for the Operation Respond Center in Mississippi. The conferees have decreased funding for technical studies and assessments by $500,000 as proposed by the House.

The conference agreement includes language that permits $6,509,000 of the total funding to remain available until expended instead of $6,159,000 as proposed by both the House and the Senate.

The conference agreement deletes language, contained in the Senate bill, that authorizes the Secretary to receive payments from the Union Station Redevelopment Corporation, credit them to the first deed of trust, and make payments on the first deed of trust. This language is no longer necessary, as the deed will be paid in full in 2001.

Railroad freight congestion.—The conferees are aware of significant delays currently affecting railroad freight in and around Chicago, Illinois. It is not uncommon for freight trains in and around Chicago, Illinois to take 72 hours or more to move cargo through the metropolitan area. The conferees direct the Administrator, in cooperation with the Surface Transportation Board, to prepare a comprehensive analysis of the railroad freight congestion problems in the Chicago region, including possible administrative and legislative solutions, and report back to the House and Senate Committees on Appropriations no later than January 15, 2002.

Cuyahoga Valley scenic rail.—The Federal Railroad Administration is strongly encouraged to work closely with the Cuyahoga Valley scenic rail line to assist them in acquiring the necessary resources so that they may extend the line from Akron to Canton.

RAILROAD RESEARCH AND DEVELOPMENT

The conference agreement provides $29,000,000 for railroad research and development instead of $27,375,000 as proposed by the House and $30,325,000 as proposed by the Senate. None of this funding is to be offset from user fees.

The following adjustments were made to the budget request:

Hold Transportation Test Center to 2001 level	–$400,000
Provide half of new request for ride safely	–300,000
Integrated railway remote information service	+1,000,000
Marshall University/University of Nebraska	+1,100,000
Baltimore freight and passenger infrastructure study	+750,000
Freight rail study along I–81 and I–95 corridors	+250,000

Integrated railway remote information service.—The conference agreement provides $1,000,000 for the integrated railway remote information service instead of $2,000,000 as proposed by the Senate. The conferees direct FRA to evaluate this initiative and if the evaluation is positive, FRA should consider including sufficient funding in future budget requests to continue this work.

Marshall University/University of Nebraska.—The conference agreement includes $1,100,000 to support Marshall University/University of Nebraska safety research projects in the areas of human factors, equipment defects, and train control methods, as outlined in the Senate report.

Grade crossing education and enforcement.—FRA should continue to work with affected communities, including those in the states of Illinois and Ohio, to establish a comprehensive strategy to address highway-rail grade crossing safety through voluntary, cooperative, education, and enforcement activities. This program should include public and media information campaigns, meetings with communities on specific crossings and the unique safety problems associated with these crossings, as well as support for increased enforcement at crossings. FRA, in conjunction with the states and localities, should work to identify appropriate state and federal resources that may aid communities in their efforts.

Baltimore, Maryland freight and passenger infrastructure study.—The conference agreement includes $750,000 to conduct a comprehensive study to assess problems in the freight and passenger rail infrastructure in the vicinity of Baltimore, Maryland. FRA shall carry out this study in cooperation with the state of Maryland, Amtrak, CSX Corporation and Norfolk Southern Corporation, as outlined in the Senate bill (Sec. 351). The Administrator of FRA shall submit a report, including recommendations, on the results of the study to the House and Senate Appropriations Committees not later than 24 months after the date of enactment of this Act.

Freight rail study along I–81 and I–95 corridors.—A total of $250,000 has been provided to study ways to address freight rail access problems in Tennessee and Virginia along the I–81 and I–95 corridors. This study should contain a detailed market analysis on options to divert congested highway traffic onto rail and the costs of such options. This work should be carried out in cooperation with the affected states and Norfolk Southern Corporation. Financial support should be provided by each state.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The conference agreement includes a provision, proposed by both the House and the Senate, specifying that no new direct loans or loan guarantee commitments shall be made using federal funds for the payment of any credit premium amounts during fiscal year 2002. No federal appropriation is required since a non-federal infrastructure partner may contribute the subsidy amount required by the Credit Reform Act of 1990 in the form of a credit risk premium. Once received, statutorily established investigation charges are immediately available for appraisals and necessary determinations and findings.

NEXT GENERATION HIGH-SPEED RAIL

The conference agreement provides $32,300,000 for the next generation high-speed rail program instead of $25,100,000 as proposed by the House and $40,000,000 as proposed by the Senate. The following table summarizes the conference agreement by budgetary activity:

Train control systems	$11,750,000
Illinois project	(7,000,000)
Michigan project	(2,000,000)
Train control—TTC	(750,000)
Wisconsin project	(2,000,000)
Non-electric locomotives	6,550,000
ALPS	(3,550,000)
Prototype locomotive	(3,000,000)
Grade crossings and innovative technologies:	3,500,000
N.C. sealed corridor	(700,000)
Mitigating hazards	(2,000,000)
Low-cost technologies	(800,000)
Track and structures	1,000,000
Corridor planning activities	5,900,000
SCAG corridor	(1,000,000)
Gulf Coast corridor	(600,000)
Southeast corridor	(50,000)
Florida corridor	(3,000,000)
California corridor	(1,250,000)
Magnetic levitation	3,600,000
Washington-Baltimore	(1,175,000)
Nevada-California	(1,175,000)
Greensburgh-Pittsburgh	(1,250,000)
Total	$32,300,000

Florida corridor.—The conferees have included $3,000,000 for the study and design of high speed rail service in Florida and would urge that the study include St. Petersburg and Pinellas County as a possible terminus of any route plan.

Rail-highway crossing hazard eliminations.—Under section 1103 of TEA21, an automatic set-aside of $5,250,000 is made available each year for the elimination of rail-highway crossing hazards. A limited number of rail corridors are eligible for these funds. Of these set-aside funds, the following allocations were made:

	Conference
High-speed rail corridor between Mobile, AL and New Orleans, LA	$2,000,000
High-speed rail corridor between Stuyvesant and Rennselaer, NY	1,500,000
Richland County, SC	800,000
Richmond, VA	250,000
Van Nuys, CA	200,000
High-speed rail corridor between Minneapolis/St. Paul, MN and Chicago, IL (TEA21)	250,000
High-speed rail corridor between Milwaukee and Madison, WI	250,000

ALASKA RAILROAD REHABILITATION

The conference agreement provides $20,000,000 for the Alaska Railroad as proposed by the Senate. The House bill contained no similar appropriation.

NATIONAL RAIL DEVELOPMENT AND REHABILITATION PROGRAM

The conference agreement deletes funding for the national rail development and rehabilitation program. The Senate included $12,000,000 for this new program. The House bill contained no similar provision.

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

The conference agreement provides $521,476,000 for capital grants to the National Railroad Passenger Corporation (Amtrak) as proposed by both the House and the Senate.

Federal Transit Administration

ADMINISTRATIVE EXPENSES

The conference agreement provides $67,000,000 for administrative expenses of the Federal Transit Administration as proposed by both the House and the Senate. Within the total, the conference agreement appropriates $13,400,000 from the general fund as proposed by both the House and the Senate.

The conference agreement includes a provision, contained in both bills, that would reimburse the Department of Transportation's Inspector General $2,000,000 for costs associated with audits and investigations of transit-related issues. The conference agreement also includes a provision that limits the amount of funding available for the National transit database to $2,600,000.

Full-time equivalent staff.—The conference agreement approves the budget request for 10 new staff; however, funding has been reduced for these positions by $431,000. The reduction reflects half-year funding for these new positions, which is consistent with staffing requests in other modal administrations and takes into consideration the high attrition rate at FTA (7.6 percent).

Project and financial management oversight activities.—The conferees direct that funding made available for the project management oversight function, section 23, shall include at least $28,580,000 for project management oversight and $4,815,000 for financial management oversight reviews. This funding consists of the takedown from the capital investment grants program ($33,164,000) and savings from funding new staff positions at a half-year level ($431,000). The conferees further direct that the FTA submit to the House and Senate Committees on Appropriations, the Inspector General and the General Accounting Office the quarterly FMO and PMO reports for each project with a full funding grant agreement.

Full funding grant agreements (FFGAs).—TEA21, as amended, requires that the FTA notify the House and Senate Committees on Appropriations as well as the House Committee on Transportation and Infrastructure and the Senate Committee on Banking 60 days before executing a full funding grant agreement. In its notification to the House and Senate Committees on Appropriations, the conferees direct the FTA to include therein the following: (a) a copy of the proposed full funding grant agreement; (b) the total and annual federal appropriations required for that project; (c) yearly and total federal appropriations that can be reasonably planned or anticipated for future FFGAs for each fiscal year through 2003; (d) a detailed analysis of annual commitments for current and anticipated FFGAs against the program authorization; and (e) a financial analysis of the project's cost and sponsor's ability to finance, which shall be conducted by an independent examiner and shall include an assessment of the capital cost estimate and the finance plan; the source and security of all public- and private-sector financial instruments, the project's operating plan which enumerates the project's future revenue and ridership forecasts, and planned contingencies and risks associated with the project.

The conferees also direct the FTA to inform the House and Senate Committees on Appropriations before approving scope changes in any full funding grant agreement. Correspondence relating to scope changes shall include any budget revisions or program changes that materially alter the project as originally stipulated in the full funding grant agreement, and shall include any proposed change in rail car procurements.

FORMULA GRANTS

(INCLUDING TRANSFER OF FUNDS)

The conference agreement provides a total program level of $3,592,000,000 for transit formula grants, as proposed by both the House and the Senate. Within this total, the conference agreement appropriates $718,400,000 from the general fund as proposed by both the House and the Senate. The conference agreement provides that the general fund appropriation shall be available until expended.

The conference agreement provides that funding made available under the clean fuels formula grant program under this heading shall be transferred to and merged with funding provided for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities under "Federal Transit Administration, Capital investment grants".

The conference agreement includes a provision that sets aside $5,000,000 for the VIII Paralympiad for the Disabled, as proposed by the Senate. The House set aside $5,000,000 for both the XIX Winter Olympiad and the VIII Paralympiad for the Disabled. The conferees intend that use of these funds be for the transportation systems for athletes, media, spectators, and other officials associated with the VIII Paralympiad for the Disabled. Language is also included that directs that funds shall be distributed by the Secretary in grants only to the Utah Department of Transportation and that such grants shall not be subject to any local share requirement or limitation on operating assistance, or the Federal Transit Act.

Distribution of formula funding.—Within the total funding level, the conferees anticipate that formula grants will be distributed as follows:

Urbanized area formula (sec. 5307)	$3,199,959,806
Elderly and individuals with disabilities (sec. 5310)	84,604,801
Nonurbanized area formula (sec. 5311)	223,432,467
Paralympiad for the Disabled	5,000,000
Clean fuels programs (sec. 5308)	50,000,000
Alaska Railroad	4,825,700
Over-the-road bus accessibility	6,950,000
Oversight	17,227,226

Within the funding provided for over-the-road bus accessibility program: $5,200,000 for intercity fixed route service and $1,700,000 for local commuter services and charter or tour service.

UNIVERSITY TRANSPORTATION RESEARCH

The conference agreement provides a total of $6,000,000 for the university transportation research program as proposed by both the House and the Senate. Of this amount, $1,200,000 is from the general fund and shall be available until expended.

TRANSIT PLANNING AND RESEARCH

The conference agreement provides a total of $116,000,000 for transit planning and research, as proposed by both the House and the Senate. Within the total, the conference agreement appropriates $23,000,000 from the general fund as proposed by both the House and the Senate. The conference agreement provides that the general fund appropriation shall be available until expended.

Within the funds appropriated for transit planning and research, $5,250,000 is provided for rural transportation assistance; $4,000,000 is provided for the National Transit Institute; $8,250,000 is provided for the transit cooperative research program; $55,422,400 is provided for metropolitan planning; $11,577,600 is provided for state planning; and $31,500,000 is provided for the national planning and research program.

National planning and research.—Within the funding provided for national planning and research, the Federal Transit Administration shall make available the following amounts for the programs and activities listed below:

CALSTART (BRT and Mobility.dot.com)	$2,500,000
Santa Barbara electric transportation institute, CA	400,000
Electric vehicle institute, TN	500,000
Hennepin County, MN community transportation	1,000,000
University of South Florida rapid bus initiative	250,000
Southeast Michigan transportation feasibility study	500,000
Long Island, NY City links study	250,000
Crystal City-Potomac Yard, VA transit alternatives	250,000
North Dakota State University transit center for small Urban areas	400,000
Georgia regional transportation authority/southern California association of governments transit trip Planning partnership	400,000
Center for composites manufacturing	900,000
Washington state WestStart innovative transit vehicle	2,000,000
West Virginia transit vehicle exhaust emissions evaluation	1,400,000
Missouri soybean association biodiesel transit demo	750,000
Joblinks	1,000,000
Project Action (TEA21)	3,000,000

The conference agreement deletes funding for the Garrett A. Morgan program (−$200,000) and reduces funding for increased international activities (−$200,000) as proposed by the House.

Dollar coin study.—The conferees direct the FTA Administrator to conduct a study on the benefits and feasibility of having large transit and toll road systems use fare card technology that recognizes and accepts the Sacagawea dollar coins by April 1, 2002, as proposed by the Senate.

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

The conference agreement provides $5,397,800,000 in liquidating cash for the trust fund share of transit expenses as proposed by both the House and the Senate, and makes technical corrections to bill language, as proposed by the Senate.

CAPITAL INVESTMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

The conference agreement provides a total program level of $2,841,000,000 to remain available until expended for capital investment grants as proposed by the House instead of $2,941,000,000 as proposed by the Senate. Within the total, the conference agreement appropriates $568,200,000 from the general fund as proposed by both the House and the Senate.

Within the total program level, $1,136,400,000 is provided for fixed guideway modernization; $568,200,000 is provided for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities; and $1,136,400,000 is provided for new fixed guideway systems, as proposed by the House. The Senate increased funding for the new fixed guideway systems by $100,000,000, for a total of $1,236,400,000. In addition to the $1,136,400,000 provided in this Act for new starts, the conference agreement reallocates $1,488,840 to other new start projects contained in this Act. Reallocated funds are derived from unobligated balances from the following new start projects:

Hartford-Old Saybrook, CT project	$496,280
New London-Waterfront, CT access project	496,280
North Front Range, CO corridor feasibility study	496,280

The conference agreement deletes bill language, proposed by the House, prohibiting funding for section 3015(b) of Public Law 105–178. The Senate bill contained no similar provision.

Three year availability of section 5309 discretionary funds.—The conferees direct the FTA to reprogram funds from recoveries and previous appropriations that remain available after three years and are available for reallocation to only those new starts that have full funding grant agreements in place on the date of enactment of this Act, and with respect to bus and bus facilities, only to those bus and bus facilities projects identified in the accompanying reports of the fiscal year 2002 Department of Transportation and Related Agencies Appropriations Act. The FTA shall notify the House and Senate Committees on Appropriations 15 days prior to any such proposed reallocation. The conferees, however, direct the FTA not to reallocate funds provided in the 1998 and 1999 Department of Transportation and Related Agencies Appropriations Acts for the following projects:

Riverside County—San Jacinto, CA branch line project
Savannah, GA water taxi
Chambersburg, PA intermodal facility and transit vehicles
Northern New Mexico park and ride facilities
Albuquerque, NM-Alvarado multi-modal transit center
Albuquerque, NM light rail project
New York, New York-Midtown West intermodal ferry terminal project
Birmingham-Jefferson County, AL buses
Prichard, AL bus and bus facilities
King County, Washington-Elliot Bay water taxi
Morgantown, WV fixed guideway modernization project
Wilkes-Barre, PA intermodal facility
Towamencin Township, PA intermodal bus transportation center
Harrisburg, PA-Capital Area Transit/Corridor One project
Philadelphia-Reading, PA–SEPTA Schuylkill Valley Metro
Washington, D.C., intermodal transportation center
Burlington-Essex Junction Commuter Rail, VT
Buffalo, NY Auditorium intermodal center
Cotati Santa Rosa, CA intermodal facility
Cotati/Santa Rosa/Rohnert Park, CA intermodal facility
Fayette County, PA buses
Red·Rose, PA transit bus terminal
Somerset County, PA bus facilities and buses
Ulster County, NY bus facilities and equipment
St. Louis, MO, Bi-state intermodal center
Folsom, CA multimodal center
Cleveland-Berea, OH red line
Orange County, CA transitway project
Hartford, CT bus circulator
Lane County, OR bus rapid transit

The conferees agree that when the Congress extends the availability of funds that remain unobligated after three years and would otherwise be available for reallocation at the discretion of the administrator, such funds are extended only for one additional year, absent further congressional direction.

Bus and bus facilities.—The conference agreement provides $568,200,000, together with $50,000,000 transferred from "Federal Transit Administration, formula grants" and merged with funding under this heading, for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities. No funding is made available to carryout the clean fuels program in this Act. In addition, funds made available for bus and bus facilities are to be supplemented with $1,733,658 from the following projects included in previous Appropriations Acts:

Carroll County, NH transportation alliance buses	$198,500
New Hampshire statewide buses	34,001
Gary, IN transit consortium buses	310,157

Jefferson Parish, LA bus and bus facilities	347,375
Louisiana state infrastructure bank, bus and bus facilities	347,375
North Slope borough, AK	496,250

Funds provided for buses and bus facilities are distributed as follows:

Project name and Conference total

Alabama:	
Alabama A&M buses and bus facilities	$500,000
Alabama State Dock intermodal passenger and freight terminal	5,000,000
Alabama-Tombigbee Regional Commission buses and vans	450,000
Birmingham-Jefferson County Transit Authority buses	2,000,000
Gadsden Transportation Services	250,000
Huntsville Public Transit intermodel facility	1,000,000
Montgomery Union Station/Moulton St. intermodal facility and parking	3,000,000
University of North Alabama transit projects	2,000,000
University of South Alabama	2,500,000
Alaska:	
City of Wasilla bus facility	600,000
Fairbanks buses and bus facility	1,500,000
Fairbanks intermodal facility	2,200,000
Mat-su Community Transit buses and facilities	1,400,000
Port of Anchorage intermodal facility	2,950,000
Port McKenzie buses and bus facilities	1,500,000
Seward intermodal facility	2,800,000
Arizona:	
City of Glendale buses	175,000
Phoenix Regional Public Transportation Authority buses and bus facilities	6,650,000
Sun Tran CNG replacement buses and facilities	1,750,000
Tucson intermodal center	2,800,000
Arkansas: Arkansas statewide buses and bus facilities for urban, rural, elderly and disabled agencies	5,000,000
California:	
AC Transit	500,000
Anaheim Resort transit project	500,000
Antelope Valley transit authority bus facilities	500,000
Belle Vista park and ride	250,000
Boyle Heights bus facility	350,000
City of Burbank shuttle buses	400,000
City of Calabasas CNG smart shuttle	300,000
City of Carpinteria electric-gasoline hybrid bus	500,000
City of Commerce CNG buses and bus facilities	1,000,000
City of Fresno buses	750,000
City of Monrovia natural gas vehicle fueling facility	270,000
City of Sierra Madre bus replacement	150,000
City of Visalia transit center	2,500,000
Contra Costa Connection buses	350,000
Costa Mesa CNG facility	250,000
County of Amador bus replacement	119,000
County of Calaveras bus fleet replacement	105,000
County of El Dorado bus fleet expansion	475,000
Davis, Sacramento hydrogen bus technology	900,000
El Garces train/intermodal station	1,500,000
Folsom railroad block project	600,000
Foothill Transit, CNG buses and bus facilities	1,250,000
Glendale Beeline CNG buses	300,000
Imperial Valley CNG bus maintenance facility	250,000
Livermore Amador Valley Transit Authority buses and facility	1,500,000
Livermore park and ride	250,000
Los Angeles Metro Transportation Authority rapid buses and bus facilities	3,500,000
Merced County Transit CNG buses	300,000
City of Modesto, bus facilities	200,000
Monterey-Salinas Transit facility	1,500,000
Morongo Basin Transit maintenance and administration facility	1,000,000
MUNI Central Control Facility	1,000,000
Municipal Transit Operators Coalition	2,000,000
North Ukiah Transit Center	300,000
Orange County buses	300,000
Palmdale Transportation Center	250,000
Palo Alto intermodal transit center	250,000
Pasadena Area Rapid Transit System	400,000
Placer County, CNG bus project	1,000,000
Sacramento Regional buses and bus facilities	1,000,000
Sam Trans zero-emissions fuel cell buses	1,000,000
San Bernardino CNG/LNG buses	375,000
San Dieguito Transportation Cooperative	300,000
San Francisco Municipal buses and bus facilities	4,000,000
San Joaquin Regional Transit District Bus facility	500,000
San Mateo County Transit Districts clean fuel buses	1,500,000
Santa Ana bus base	1,250,000
Santa Barbara hybrid bus rapid transit project	2,000,000
Santa Clara Valley Transportation Authority line 22 articulated buses	600,000
Santa Fe Springs CNG bus replacement	500,000
Sierra Madre Villa & Chinatown intermodal transportation centers	3,000,000
Solano Beach intermodal transit station	500,000
Sonoma County landfill gas conversion facility	500,000
South Pasadena circulator bus	300,000
Sun Line Transit hydrogen refueling station	500,000
Transportation Hub at the Village of Indian Hills	1,000,000
Yolo County, CNG buses	1,000,000
Colorado: Statewide buses and bus facilities, Colorado	7,750,000
Connecticut:	
Bridgeport intermodal corridor project	5,250,000
East Haddam transportation vehicles and transit facilities	420,000
Greater New Haven Transit District CNG vehicle project (ConnDOT)	1,000,000
Hartford-New Britain bus rapid transitway	9,000,000
New Haven bus facility	500,000
Delaware:	
Statewide buses and bus facilities, Delaware	4,400,000
Wrangle Hill buses and maintenance facility	3,000,000
District of Columbia: Washington Metropolitan Area Transit Authority buses	3,000,000
Florida:	
Broward County alternative vehicle mass transit buses and bus facilities	2,500,000
Central Florida Regional Transportation Authority (LYNX) bus and bus facilities	2,000,000
Duval County/JTA community transportation coordinator program, paratransit vehicles & equipment	1,000,000
Gainesville Regional Transit System, buses	500,000
Hillsborough Area Transit Authority buses and bus facilities	2,000,000
Jacksonville Transit Authority buses	750,000
Lakeland Citrus connection buses and bus facilities	750,000
Miami Beach development electrowave shuttle service	3,000,000
Miami-Dade bus fleet	2,000,000
Northeast Miami-Dade passenger center	375,000
Palm Tran buses	500,000
Pinellas Suncoast Transit buses, trolleys, and information technology	4,000,000
South Florida Regional Transit buses and bus facilities	4,000,000
South Miami intermodal pedestrian access project	1,000,000
Tallahassee bus facilities	400,000
TALTRAN intermodal center	600,000

Tri-Rail Cypress Creek intermodal facilities	500,000
VOTRAN buses	2,750,000
Winter Haven Area Transit bus and bus facilities	750,000
Georgia:	
Atlanta, Metro Atlanta Rapid Transit Authority clean fuel buses	6,000,000
Chatham Area Transit buses and bus facilities	3,600,000
Cobb County Community Transit bus facilities	1,000,000
Georgia Department of Transportation replacement buses	1,000,000
Georgia Regional Transit Authority express bus program	6,000,000
Gwinnett County operations and maintenance facility	500,000
Macon terminal intermodal station	1,500,000
Hawaii:	
Honolulu buses and bus facilities	8,000,000
Middle Street Transit Center	750,000
Idaho: Statewide buses, bus facilities, and equipment, Idaho	3,500,000
Illinois: Statewide buses and bus facilities, Illinois	9,430,000
Indiana:	
Cherry Street Project multi-modal facility	1,300,000
Indiana bus consortium, buses and bus facilities	4,000,000
Indianapolis downtown transit facility	3,175,000
South Bend Public Transit bus fleet replacement	2,500,000
West Lafayette Transit Project buses and bus facilities	1,750,000
Iowa:	
Cedar Rapids intermodal facility	4,630,000
Statewide bus replacement, Iowa	5,000,000
Kansas:	
Fort Scott Public Transit buses and bus facilities	300,000
Kansas City Area Transit Authority buses	1,500,000
Statewide buses and bus facilities, Kansas	3,000,000
Topeka Transit transfer center	600,000
Wichita Transit Authority buses	908,000
Kentucky:	
City of Frankfort transit program buses	96,000
City of Maysville buses	136,000
Leslie County parking structure	2,000,000
Murray-Calloway Transit Authority bus facility	200,000
Pikeville parking and transit facility	5,000,000
Statewide buses and bus facilities, Kentucky	4,534,000
Transit Authority of Northern Kentucky	1,500,000
Transit Authority of River City buses and bus facilities	2,000,000
Louisiana:	
Louisiana Public Transit Association buses and bus facilities	13,050,000
Louisiana State University Health Sciences Center-Shreveport, intermodal parking facility	1,000,000
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St. Bernard Parish intermodal facility	1,000,000
St. Tammany Parish park and ride	450,000
Maine:	
Auburn intermodal facility and parking garage	250,000
Statewide buses, Maine	3,000,000
Maryland: Statewide buses and bus facilities, Maryland	8,500,000
Massachusetts:	
Attleboro intermodal facilities	1,000,000
Berkshire Regional Transit Authority buses	750,000
Brockton Intermodal transit center	1,000,000
Gallagher Intermodal Transportation bus hub and CNG trolleys	1,000,000
Holyoke Pulse Center	750,000
Merrimack Valley Regional Transit Authority (Amesbury) buses and bus facilities	500,000
Merrimack Valley Regional Transit Authority (Lawrence) buses and bus facilities	500,000
MetroWest buses and bus facilities	500,000
Montachusett intermodal facilities and parking in Fitchburg/N. Leominster	2,500,000
Montachusett Regional Transit Authority bus facilities	100,000
Salem/Beverly Intermodal Center	500,000
Springfield Union Station intermodal facility	4,000,000
Michigan:	
Alger County Public Transit	200,000
Antrium County Transportation buses	86,000
Barry County Transit buses	74,000
Bay Area Transit Authority	250,000
Berrien County Department of Planning and Public Works buses	200,000
Blue Water Area Transportation Commission bus facilities	1,500,000
Capital Area Transportation Authority buses, bus facilities, and equipment	2,250,000
Charlevoix County Public Transit	125,000
City of Niles buses and bus facilities	42,000
Crawford County Transportation Authority buses	175,000
Delta County Transit Authority	60,000
Detroit Department of Transportation bus replacement	5,750,000
Eastern UP Transportation Authority	100,000
Flint Mass Transportation Authority replacement buses and vans	1,050,000
Greater Lapeer Transportation Authority bus and bus facilities	350,000
Harbor Transit bus and bus facilities	200,000
Interurban Transit Authority buses	82,000
Interurban Transit Partnership surface transportation center (Grand Rapids)	5,000,000
Ionia Area Transportation Dial-a-Ride	284,000
Isabella County facilities and equipment	227,000
Kalamazoo County Care-A-Van buses and equipment	130,000
Kalkaska Public Transit buses	250,000
Livingston Essential Transportation Service buses and equipment	247,000
Ludington Transit Facility	500,000
Marquette County Transit Authority buses and bus facility	1,000,000
Midland County buses	300,000
Milan Public Transit buses	100,000
Muskegon Area Transit System facility	1,650,000
Northern Oakland Transportation Authority	150,000
Otsego County Public Transit	300,000
Sault Ste. Marie dial-a-ride	88,000
Statewide buses and bus facilities, Michigan	2,000,000
Suburban Mobility Authority for Regional Transportation buses	2,110,000
Van Buren County Public Transit buses	201,000
Minnesota:	
Duluth Transit Authority buses, bus facilities, and equipment	500,000
Grand Rapids/Gilbert buses and bus facilities	210,000
Greater Minnesota Transit Authority bus, paratransit and transit hub (MNDOT)	3,750,000
Metro transit buses and bus facilities (Twin Cities)	13,500,000
Moorhead buses, bus facilities, and equipment	100,000
Mower County Public Transit Initiative facility	500,000
Rush Line Corridor buses and bus facilities	500,000
St. Cloud buses, bus facilities, and equipment	1,500,000
Mississippi:	
Brookhaven multi-modal facility	1,000,000
Harrison county multimodal facilities and shuttle service	4,000,000
Hattiesburg intermodal facility	3,500,000
Jackson multi-modal transportation center	2,000,000
Missouri:	
Cab Care paratransit facility	500,000
Kansas City Area Transit Authority buses and radio equipment	4,500,000

Kansas City bus rapid transit	2,500,000
Missouri Pacific Depot	500,000
OATS buses and bus facilities	2,000,000
Southeast Missouri State, Dunklin, Mississippi, Scott, Stoddard, and Cape Giradeau Counties buses and facilities	1,750,000
Southwest Missouri State University intermodal transfer facility	2,500,000
St. Louis Bi-State Development Authority buses and facilities	4,000,000
Montana:	
Billings Logan international airport bus terminal and facility	1,500,000
Butte-Silver Bow bus facility	500,000
Montana statewide bus and bus facilities	2,150,000
Nebraska: Buffalo County buses and maintenance facility	100,000
Nevada:	
Las Vegas Boulevard North Corridor BRT, clean diesel-electric buses	1,750,000
Regional Transport Commission of Southern Nevada bus rapid transit	4,500,000
Reno Bus Rapid Transit high-capacity articulated buses	1,500,000
Reno/Sparks buses and bus facilities	4,000,000
Reno Suburban transit coaches	500,000
New Hampshire:	
Granite State Clean Cities Coalition CNG buses and facilities	1,000,000
Town of Ossipee multimodal visitor center	1,600,000
New Jersey:	
Bergen intermodal stations, park and ride and shuttle service	2,350,000
Middlesex County jitney transit buses	400,000
Trenton Rail Station rehabilitation	2,500,000
New Mexico:	
Albuquerque Alvarado Transportation Center (phase II)	1,500,000
Albuqerque buses and paratransit vehicles	500,000
Las Cruces buses	500,000
Las Cruces intermodal transit facility	2,000,000
Santa Fe buses and bus facilities	1,000,000
Statewide buses and bus facilities, New Mexico	1,000,000
Village of Taos Ski Valley bus and bus facilities	500,000
West Side Transit facility and buses	3,750,000
New York:	
Binghamton intermodal terminal	2,000,000
Central New York Regional Transportation Authority	3,250,000
Greater Glens Falls Transit bus facility renovation	500,000
Long Island Rail Road Jamaica intermodal facilities	3,000,000
Martin Street Station	325,000
MTA Long Island buses	2,000,000
Nassau University Medical Center bus service extension	1,000,000
New Rochelle intermodal center	1,500,000
New York City Dept. of Transportation, CNG buses and facilities	2,500,000
Niagara Frontier Transportation Authority buses	2,500,000
Pelham trolley	260,000
Poughkeepsie intermodal project	1,000,000
Rochester buses and facilities	1,000,000
Saratoga Springs intermodal station	1,900,000
Station Plaza commuter parking lot	500,000
Sullivan County Coordinated Public Transportation Service bus facility	500,000
Tompkins Consolidated Area transit center	624,000
Tompkins County replacement buses	1,500,000
Union Station—Oneida County facilities	1,250,000
Westchester County Bee-Line low emission buses	1,500,000
North Carolina: Statewide buses and bus facilities, North Carolina	7,000,000
North Dakota: Statewide buses and bus facilities, and rural transit vehicles, North Dakota	3,500,000
Ohio:	
Butler County transit facility	1,000,000
Dayton, Wright-Dunbar Transit Access Project	2,750,000
Alliance intermodal facility	1,000,000
Statewide buses and bus facilities, Ohio	8,800,000
Oklahoma:	
Central Oklahoma transit facilities	4,000,000
Oklahoma Department of Transportation transit program buses and bus facilities	3,000,000
Oregon:	
Canby Transit buses	200,000
Clackamas County south corridor transit improvements	3,750,000
Fort Clatsop Shuttling system	2,000,000
Lincoln County transportation service district bus garage	75,000
Milwaukee Transit Center	200,000
Rogue Valley Transit District, CNG buses	850,000
Salem Area Mass Transit, CNG buses	1,000,000
Springfield bus transfer station	2,000,000
Tillamook County Transportation District bus facilities	350,000
Wasco County buses (Mid-Columbia Council of Governments)	105,000
Pennsylvania:	
Altoona bus facility (TEA–21)	3,000,000
Allentown intermodal transportation center	500,000
Area Transit Authority of North Central PA buses and bus facilities	1,000,000
Berks Area Reading Transportation Authority buses and bus facilities	2,800,000
Bucks County intermodal facility improvement	750,000
Butler Township multimodal transfer center	500,000
Callowhill bus garage replacement	3,300,000
Cambria County operations and maintenance facility	750,000
Centre Area Transportation Authority CNG buses	800,000
County of Lackawanna Transit bus facility	500,000
Doylestown Area Regional Transit buses	100,000
Endless Mountain Transportation Authority buses and bus facilities	350,000
Fayette County Transit facility	1,000,000
Hershey intermodal transportation center	1,250,000
Indiana County Transit Authority buses and bus facilities	500,000
LeHigh and Northampton Transportation Authority bus facility	500,000
Luzerne County Transit Authority buses	300,000
Mid Mon Valley Transit Authority buses and bus facilities	250,000
Mid-County Transit Authority buses and bus facilities	300,000
Monroe County Transit Authority park and ride	600,000
Montgomery County intermodal facility	1,000,000
Port Authority of Allegheny buses	2,250,000
Red Rose transit transfer center	500,000
Schuylkill Transportation System	400,000
Southeastern Pennsylvania Transportation Authority trackless trolleys	1,000,000
Somerset County Transpiration System buses	250,000
Wilkes-Barre Intermodal facility	1,000,000
York County bus replacement	1,000,000
Rhode Island:	
Providence transportation information center	1,500,000
Statewide buses and bus facilities, Rhode Island	4,500,000
South Carolina: Statewide buses and bus facility, South Carolina	10,000,000
South Dakota:	
Aberdeen Ride Line buses	100,000
Mobridge Senior Citizen handicap-accessible vehicles	60,000

Oglala Sioux Tribe buses and bus facilities	2,250,000
Rosebud Sioux Tribe transportation vans	55,000
Tennessee:	
Memphis International Airport intermodal facility	1,740,000
Statewide buses and bus facilities, Tennessee	10,000,000
Texas:	
Abilene bus replacement	500,000
Austin Metrobus	750,000
Brazos Transit ADA compliant buses	400,000
Brazos Transit buses for Texas A & M University	750,000
Brazos Transit buses, intermodal facility, and parking facility	750,000
Brazos Transit park and ride facility	400,000
Brownsville multimodal facility study	100,000
Capital Metro park and ride	500,000
City of Huntsville buses	500,000
Connection Capital Project for Community Transit Facilities	250,000
El Paso buses	500,000
Fort Worth Transportation Authority CNG buses	1,250,000
Fort Worth intermodal center park and ride facility	500,000
Fort Worth 9th Street Transfer Station	1,600,000
Houston Barker Cypress park and ride	5,000,000
Houston Main Street Corridor master plan ...	500,000
Liberty County buses	375,000
San Antonio VIA Metro Transit Authority clean fuel buses	1,750,000
Sun Metro buses and bus facilities	500,000
Texas Tech University buses, park and ride	1,000,000
Waco Transit maintenance and administration facility	1,650,000
Woodlands District park and ride	500,000
Utah:	
Statewide regional intermodal transportation centers, Utah	3,000,000
Utah Transit Authority and Park City Transit buses	500,000
Utah Transit Authority intermodal terminals ..	1,000,000
Vermont: Vermont Public Transit alternative fuel/hybrid buses and facility	2,000,000
Virginia:	
Colonial Williamsburg CNG buses	1,000,000
Greater Richmond Transit Downtown Transit Center	1,000,000
Hampton Roads regional buses	3,500,000
Main Street multi-modal transportation center ..	2,500,000
Potomac & Rappahannock Transportation Commission buses	3,000,000
Roanoke Area Dial-A-Ride	1,000,000
Virgin Island: Virgin Islands Transit (VITRAN) buses	500,000
Washington:	
Bellevue Transportation Center	1,600,000
City of Kent facility/Sound Transit, transit and transit-related facilities	900,000
Everett Transit buses and vans	1.750,000
1-5 Trade Corridor/99th St facility	3.700,000
Issaquah Highlands park and ride	2,000,000
King County Transit Oriented Development Projects	1,000,000
Mukilteo multi-modal terminal and ferry	1,450,000
Pierce Transit buses, vans, and equipment	2,500,000
Snohomish county transit buses and bus facilities	2,000,000
Spokan Transit Authority, buses and bus facilities	1,000,000
Sound Transit regional transit hubs	9,500,000
Statewide small transit systems, buses, and bus facilities, Washington	3,500,000
West Virginia:	
Huntington Tri-State Authority bus facility	750,000
Morgantown Intermodal parking facility	2,000,000
Statewide buses and bus facilities, West Virginia	4,000,000
Wisconsin: Statewide buses, bus facilities, and equipment, Wisconsin	14,000,000
Wyoming:	
Statewide buses and bus facilities, Wyoming	2,500,000
Southern Teton Area Rapid Transit bus facility	500,000
Other: Fuel cell buses and bus facilities (TEA21)	4,850,000

Barker Cypress park and ride.—The fiscal year 2002 bus funds shall be available for land acquisition, design and construction of selected transit facilities in the Houston Metro service area, including Barker Cypress, Kingsland, West Bellfort, and Clear Lake park and ride lots and the South Freeway transit center.

Commonwealth of Kentucky.—The conference agreement provides a total of $4,534,000 for the Kentucky Transportation Department to provide buses, vans, cutaways, and bus facilities in the Commonwealth of Kentucky. Within the funds provided to the state, $200,000 shall be allocated to the Audubon Area Community Services; $600,000 shall be provided to the Bluegrass Community Action Services; $272,000 shall be allocated to the Central Kentucky Community Action Council; $46,000 shall be provided to the Community Action Council of Fayette and Lexington; $200,000 shall be allocated to the Community Action Council of Southern Kentucky; $136,000 shall be provided to Kentucky River Foothills; $80,000 for Lake Cumberland Community services; and $2,000,000 for southern and eastern Kentucky transit vehicles.

State of Louisiana.—The conference agreement provides a total of $13,050,000 for bus and bus related facilities in the State of Louisiana. Within the funds provided to the state, $665,000 is for Baton Rouge, $1,335,000 is for Jefferson Parish, $2,263,000 is for Lafayette, $400,000 is for Lake Charles, $1,195,000 is for the Louisiana Department of Transportation, $535,000 is for Monroe, $5,192,000 is for New Orleans, and $1,465,000 is for Shreveport.

State of Montana.—The conference agreement provides a total of $2,250,000 for buses and bus facilities within the State of Montana. Within the funds provided to the state, $600,000 shall be used for the Ravalli county council on aging bus facility and $550,000 shall be used for Area VII agency on aging bus facility.

State of Washington.—The conference agreement provides $3,500,000 to the Washington State Department of Transportation (WSDOT) for bus and bus facilities. Within the funds provided, $440,000 shall be allocated to Clallam transit, $928,000 shall be allocated to Grays Harbor Transportation, $632,000 shall be allocated to Island Transit, $336,000 shall be allocated to Link Transit, $385,000 shall be allocated to Mason County Transportation Authority, and $750,000 to Valley Transit.

Fiscal year 2001 project clarifications.—The conference agreement permits projects, identified in the House report, to use fiscal year 2001 appropriations for additional work. Specifically, funds appropriated for the Lowell, Massachusetts transit hub can be used for the Hale Street bus maintenance and operations center; funds appropriated for the Municipal Transit Operators in California can be used for bus and bus facilities; funds appropriated for the King County Metro Eastgate park and ride can be used for the Issaquah Highlands park and ride; and funds allocated for buses for Suburban Mobility Authority for Regional Transportation (SMART) in Southeast Michigan may also be available for bus facilities.

Burlington multi-modal.—Funds appropriated to the Burlington, Vermont multimodal transit project in fiscal years 1998, 1999, 2000, and 2001 will be available for construction of the multimodal project and other transit improvements.

New fixed guideway systems.—In total, the conference agreement provides $1,137,888,840 for new fixed guideway systems, of which $1,136,400,000 is from new appropriations and $1,488,840 is derived from funds made available in previous Appropriations Acts that have been reprogrammed to new starts funding in fiscal year 2002.

Appropriations for full funding grant agreements (FFGA).—The number of potential new starts projects is expanding rapidly. Currently, there are over 110 projects under consideration that are estimated to cost over $60 billion, if funded to completion. While the conference agreement has funded many worthy projects in the new starts program, there are not sufficient federal resources available to fund even a fraction of the projects under consideration. As a result, the conferees direct FTA not to sign any new full funding grant agreements after September 30, 2002 that have a maximum federal share of higher than 60 percent. This policy will provide local sponsors sufficient time to increase their contributions to these projects, if necessary, and will free up additional federal resources for other meritorious projects seeking an FFGA.

The conference agreement provides for the following distribution of the recommended funding for new fixed guideway systems as follows:

Project name and Conference level	
Alaska or Hawaii ferry projects	$10,296,000

Albuquerque, New Mexico, light rail project	1,000,000
Atlanta, Georgia, North line extension project	25,000,000
Baltimore, Maryland, central light rail transit double track project	13,000,000
Baltimore, Maryland, rail transit project	1,500,000
Birmingham, Alabama, transit corridor project	2,000,000
Boston, Massachusetts, South Boston Piers transitway project	10,631,245
Boston, Massachusetts, Urban ring transit project	500,000
Charlotte, North Carolina, South corridor light rail transit project	7,000,000
Chicago, Illinois, Douglas branch reconstruction project	32,750,000
Chicago, Illinois, METRA commuter rail and line extension projects	55,000,000
Chicago, Illinois, Ravenswood reconstruction project	3,000,000
Cleveland, Ohio, Euclid corridor transportation project	6,000,000
Dallas, Texas, North central light rail transit extension project	70,000,000
Denver, Colorado, Southeast corridor light rail transit project	55,000,000
Denver, Colorado, Southwest corridor light rail transit project	192,492
Des Moines, Iowa, DSM bus feasibility project	150,000
Dubuque, Iowa, light rail feasibility project	200,000
Dulles corridor, Virginia, bus rapid transit project	25,000,000
Fort Lauderdale, Florida, Tri-County commuter rail upgrades project	27,000,000
Fort Worth, Texas, Trinity railway express project	2,000,000
Grand Rapids, Michigan, ITP metro area, major corridor project	750,000
Honolulu, Hawaii, bus rapid transit project	12,000,000
Houston, Texas, Metro advanced transit plan project	10,000,000
Iowa, Metrolink, light rail feasibility project	300,000
Johnson County, Kansas-Kansas City, Missouri, I-35 commuter rail project	1,500,000
Kenosha-Racine, Milwaukee, Wisconsin, commuter rail extension project	2,000,000
Largo, Maryland, metrorail extension project	55,000,000
Little Rock, Arkansas, river rail project	2,000,000
Long Island Rail Road, New York, East Side access project	14,744,420
Los Angeles, California, North Hollywood extension project	9,289,557
Los Angeles, California, East Side corridor light rail transit project	7,500,000
Lowell, Massachusetts-Nashua, New Hampshire, commuter rail extension project	3,000,000
Maryland (MARC) commuter rail improvements projects	12,000,000
Memphis, Tennessee, Medical center rail extension project	19,170,000
Miami, Florida, South Miami-Dade busway extension project	5,000,000
Minneapolis-Rice, Minnesota, Northstar corridor commuter rail project	10,000,000
Minneapolis-St. Paul, Minnesota, Hiawatha corridor light rail transit project	50,000,000
Nashville, Tennessee, East corridor commuter rail project	4,000,000
New Jersey Hudson-Bergen light rail transit project	141,000,000
New Orleans, Louisiana, Canal Street car line project	15,000,000
New Orleans, Louisiana, Desire corridor streetcar project	$1,200,000
New York, New York, Second Avenue subway project	2,000,000
Newark-Elizabeth, New Jersey, rail link project	20,000,000
Northeast Indianapolis, Indiana downtown corridor project	2,500,000
Northern Indiana South Shore commuter rail project	2,500,000
Oceanside-Escondido, California, light rail extension project	6,500,000
Ohio, Central Ohio North Corridor rail (COTA) project	500,000
Pawtucket-TF Green, Rhode Island, commuter rail and maintenance facility project	5,000,000
Philadelphia, Pennsylvania, Schuylkill Valley metro project	9,000,000
Phoenix, Arizona, Central Phoenix/East Valley corridor project	10,000,000
Pittsburgh, Pennsylvania, North Shore connector light rail transit project	8,000,000
Pittsburgh, Pennsylvania, stage II light rail transit reconstruction project	18,000,000
Portland, Oregon, Interstate MAX light rail transit extension project	64,000,000
Puget Sound, Washington, RTA Sounder commuter rail project	20,000,000
Raleigh, North Carolina, Triangle transit project	9,000,000
Sacramento, California, light rail transit extension project	328,000
Salt Lake City, Utah, CBD to University light rail transit project	14,000,000
Salt Lake City, Utah, University Medical Center light rail transit extension project	3,000,000
San Diego, California, Mission Valley East light rail transit extension	60,000,000
San Diego, California, Mid Coast corridor project	1,000,000
San Francisco, California, BART extension to the airport project	75,673,790
San Jose, California, Tasman West light rail transit project	113,336
San Juan, Puerto Rico, Tren Urbano project	40,000,000
Sioux City, Iowa, light rail project	1,700,000
St. Louis-St. Clair, Missouri, Metrolink extension project	28,000,000
Stamford, Connecticut, urban transitway project	5,000,000
Stockton, California, Altamount commuter rail project	3,000,000
Virginia Railway Express station improvements project	3,000,000
Washington County, Oregon, Wilsonville to Beaverton commuter rail project	500,000
Wasilla, Alaska, alternative route project	2,500,000
Yosemite, California, area regional transportation system project	400,000

Charlotte, North Carolina, South corridor light rail transit project.—The conference agreement provides $7,000,000 for the south corridor light rail project for the design and construction of an 11-mile light rail transit line extending from Uptown Charlotte to the town of Pineville, North Carolina, with continuing service being planned to the City of Rock Hill in York County, South Carolina.

Houston, Texas, advanced transit plan project.—The conference agreement includes $10,000,000 for the Houston advanced transit plan project. The conference agreement modifies the funding prohibition, proposed by the House, to apply only for the design or construction of a light rail system in Houston, Texas until the appropriate studies have been completed and voters in the Houston Metro service-area have approved the rail system in an election called for that purpose.

Puget Sound, Washington, Sounder commuter rail project.—The conference agreement includes $20,000,000 for the Puget Sound, Sounder commuter rail project. These funds may be used both to implement commuter rail service between Lakewood and Everett and to develop facilities between Tacoma and Lakewood.

JOB ACCESS AND REVERSE COMMUTE GRANTS

The conference agreement includes a total program level of $125,000,000 for the job access and reverse commute grants as proposed by both the House and the Senate. Within this total, $25,000,000 is derived from the general fund. The conference agreement includes a provision that waives the cap for small urban and rural areas and provides that up to $250,000 of the funds appropriated under this heading may be used for technical assistance, technical support, and performance reviews of the job access and reverse commute grants program.

Funds appropriated for the job access and reverse commute grants program are to be distributed as follows:

Project name and Conference level	
Abilene, Texas Citilink Program	$150,000
AC Transit, California	2,000,000
Atlanta Regional Commission, Georgia	1,000,000
Austin, Texas	500,000

Baton Rouge, Louisiana Ways to Work	750,000
Bloomington to Normal, Illinois, Wheels to Work	500,000
Broome County, New York Transit	500,000
Buncombe County, North Carolina	100,000
Burlington Community Land Trust/Good News Garage	850,000
Central Arkansas Transit Authority	500,000
Central Ohio Transit Authority	1,000,000
Charlotte Area Transit, North Carolina	500,000
Chatham, Georgia	1,000,000
Chattanooga, Tennessee	500,000
Charlottesville, Virginia Jefferson Area United Transportation	375,000
City of Santa Fe, New Mexico	630,000
Columbia County, New York	100,000
Community Transportation Association of America	625,000
Corpus Christi, Texas	550,000
Del Norte County, California	700,000
Delaware Department of Transportation	750,000
DuPage County, Illinois	500,000
Flint, Michigan Mass Transportation Authority	1,000,000
Galveston, Texas	600,000
Genessee-Rochester Regional Transportation Authority, New York	400,000
Georgetown Metro Connection	1,000,000
Hillsbourgh Area Regional Transit, Tampa, Florida	900,000
Indianapolis Public Transportation Corporation, Indiana (Indyflex)	1,000,000
Jacksonville Transportation Authority's Choice Ride program	1,000,000
Jefferson County, Alabama	2,000,000
Kenai Peninsula Transit Planning, Alaska	500,000
Lancaster County, Pennsylvania	198,000
Lehigh and Northampton Transportation Authority, Pennsylvania	250,000
Los Angeles, California	2,000,000
Macon-Bibb County, Georgia	400,000
Maricopa County, Arizona	1,200,000
MASCOT Matanuska, Susitna Valley, Alaska	200,000
Metropolitan Kansas City, Missouri	1,000,000
Metropolitan Transportation Commission LIFT program, California	3,000,000
Minneapolis/St. Paul, Minnesota	1,000,000
New Mexico State Highway and Transportation Department	2,000,000
New York Metropolitan Area Transportation Authority	1,000,000
Northern Tier Dial-A-Ride, Massachusetts	400,000
Oglala Sioux Tribe, North Dakota	150,000
Ohio Ways to Work	1,500,000
Oklahoma Transit Association	5,000,000
Pace, Illinois suburban buses	561,000
Palm Beach County, Florida	500,000
Pennsylvania Ways to Work program	1,500,000
Pittsburgh, Pennsylvania	2,000,000
Port Authority of Allegheny County	2,000,000
Red Rose Transit, Pennsylvania	200,000
Sacramento, California	2,000,000
Salem Area Transit, Oregon	700,000
Santa Clara County, California	500,000
Santa Fe, New Mexico	630,000
SEPTA, Philadelphia, Pennsylvania	6,000,000
Seward Transit Service, Alaska	200,000
Southeast Missouri Council, Missouri	1,200,000
Southeastern Massachusetts Regional Transit Authority	100,000
Springfield, Illinois Transportation to employment and self-sufficiency	250,000
State of Connecticut	3,500,000
State of Florida, Choice Ride program	1,000,000
State of Idaho	300,000
State of Iowa	1,700,000
State of Maryland	5,000,000
State of Nevada	300,000
State of New Jersey	3,000,000
State of Ohio	1,500,000
State of Pennsylvania	1,500,000
State of Rhode Island	2,000,000
State of Tennessee	4,500,000
State of Washington	3,000,000
State of West Virginia	800,000
State of Wisconsin	5,200,000
Sullivan County, New York	400,000
Tennessee small rural systems	1,000,000
Topeka, Kansas Metropolitan Transit Authority	600,000
Tri-Met Region, Oregon	1,800,000
Tuscaloosa, Alabama disabilities advocacy program	1,000,000
Washington Area Metropolitan Transit Authority	2,500,000
Westchester County, New York	1,000,000
Wichita, Kansas Transit	1,450,000
Winchester, Virginia	1,000,000
Worchester, Massachusetts	400,000
WorkFirst Transportation Initiative, state of Washington	3,000,000
Workforce Investment Board of Southeast, Missouri	800,000
Workforce Investment Board of Southwest Missouri	600,000
Wyandotte County/Kansas City, Kansas	1,000,000

State of Maryland.—Within the funds made available to the state of Maryland, Department of Transportation, $800,000 shall be for the Montgomery County to operate the transit system during expanded hours of service and $200,000 shall be for the Sojourner-Douglass College in Baltimore for the college's workforce transportation and referral, as proposed by the Senate.

Iowa public transit.—Funds appropriated in fiscal year 2001 for the Des Moines, Dubuque, Sioux City, Delaware and Jackson Counties job access and reverse commute grant programs shall also be made available for the Region 3 Regional Service Expansion, Region 4 Evening Service Expansion, Region 8 Job Access program, Regional JARC Expansion and Region 12 Job Corps and ECI Project.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

The conference agreement appropriates $13,345,000 for operations and maintenance of the Saint Lawrence Seaway Development Corporation as proposed by the Senate instead of $13,426,000 as proposed by the House.

Ballast Water Management.—The conferees direct that a report on ballast water management and its efforts to coordinate with the United States Coast Guard to control non-indigenous aquatic nuisance species be submitted to the House and Senate Committee on Appropriations by April 1, 2002.

Detroit River Navigator.—The conferees understand that the Seaway will provide the salary for the Detroit River Navigator during fiscal year 2002. The conferees support such action.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

The conference agreement appropriates $37,279,000 for research and special programs instead of $36,487,000 as proposed by the House and $41,993,000 as proposed by the Senate. Within this total, $2,170,000 is available until September 30, 2004, as proposed by the House instead of $5,434,000 as proposed by the Senate. The following adjustments are made to the budget estimate:

Reduce funding for 14 new computer and administrative positions	-$690,000
Reduce funding for research and development planning	-1,675,000
Reduce funding for human centered fatigue research	-300,000
Reduce funding for business modernization	-1,988,000
Reduce funding for unjustified amounts	-60,000
Net adjustment to budget estimate	-4,713,000

The conference agreement permits up to $1,200,000 in fees be collected and deposited in the general fund of the Treasury as offsetting receipts. Also, the conference agreement includes language that permits funds received from states, counties, municipalities, other public authorities and private sources for expenses incurred for training, reports publication and dissemination, and travel expenses incurred in the performance of hazardous materials exemptions and approval functions. The House and Senate proposed both of these provisions.

The conference agreement directs the Research and Special Programs Administration (RSPA) to submit to both the House and Senate Committees on Appropriations before February 1, 2002, a strategic plan outlining the improvements in information technology and business modernization that will be made during the next few years. The plan should specify the necessary steps to be taken and funds needed to ensure that RSPA's missions and activities will be underpinned by a current information technology infrastructure with the capability for upgrading.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

The conference agreement provides a total of $58,250,000 for the pipeline safety program instead of $48,475,000 as proposed by the House and $58,750,000 as proposed by the Senate. Within this total, $20,707,000 is available until September 30, 2003, as proposed by the Senate instead of $30,828,000 as proposed by the House.

Of this total, the conference agreement specifies that $7,864,000 shall be derived from the Oil Spill Liability Trust Fund and $50,386,000 from the Pipeline Safety Fund. The House bill allocated $7,472,000 from the Oil Spill Liability Trust Fund and $41,003,000 from the Pipeline Safety Trust Fund. The Senate bill provided $11,472,000 from the Oil Spill Liability Trust Fund and $47,278,000 from the Pipeline Safety Fund.

The following table reflects the total allocation for pipeline safety in fiscal year 2002:

Budget activity	Pipeline safety fund	Oil spill liability trust fund	Total
Personnel, compensation, and benefits	$10,955,000	$900,000	$11,855,000
Operating expenses	4,194,000	531,000	4,725,000
Information systems	935,000	400,000	1,335,000
Risk assessment and technical studies	850,000	400,000	1,250,000
Integrity management program	6,253,000	1,190,000	7,443,000
Compliance	200,000	100,000	300,000
Training and information dissemination	900,000	300,000	1,200,000
Emergency notification	100,000		100,000
Damage prevention/public education campaign	3,213,000	200,000	3,413,000
Oil Pollution Act		2,443,000	2,443,000
Research and development	4,736,000		4,736,000
State grants	15,000,000	1,400,000	16,400,000
Risk management	50,000		50,000
One-call notification	1,000,000		1,000,000
Interstate oversight grants	2,000,000		2,000,000
Total	50,386,000	7,864,000	58,250,000

The conference agreement approves the request for 26 new positions to support a new community based program and to support the new integrity management program. In addition, the conference agreement exceeds the budget request for the integrity management program by $2,500,000 for a total of $7,443,000, and by $1,992,000 for office of pipeline safety research and development for a total of $4,736,000.

Within the funds provided for the integrity management program, the conference agreement provides $750,000 for the office of pipeline safety and state training, and adequate funds to interpret pigging data submitted by industry, to witness new construction of pipelines, and to develop improved information systems needed to monitor and evaluate industry data supplied to OPS.

Within the funds provided for the research and development, the conference agreement provides $600,000 for airborne environmental laser mapping technology research and engineering to support improved leak detection, analysis, and response by Federal, state, and industry pipeline safety officials.

State of Washington.—The conferees direct that of the unobligated fiscal year 2001 funds for the Washington State pipeline safety program, which is estimated at $800,000, be obligated in fiscal year 2002 as soon as possible.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

The conference agreement provides $200,000 for emergency preparedness grants as proposed by both the House and the Senate. The conference agreement includes a limitation on obligations of $14,300,000, consistent with both the House and Senate proposals.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

The conference agreement appropriates $50,614,000 for this office as proposed by both the House and the Senate. In addition, the agreement includes language under the Federal Transit Administration that would reimburse the Department of Transportation's Inspector General $2,000,000 for costs associated with audits and investigations of transit-related issues. Bill language is also included that authorizes the use of funds for investigation of fraud, deceptive trade practices, and unfair methods of competition in the airline industry, as proposed by both the House and the Senate.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

The conference agreement appropriates $18,457,000 for salaries and expenses of the Surface Transportation Board as proposed by the Senate instead of $18,563,000 as proposed by the House. The conference agreement includes language as proposed by both the House and Senate that allows the Board to offset $950,000 of its appropriation from fees collected during the fiscal year for a total program level of $17,507,000.

Union Pacific/Southern Pacific merger.—On December 12, 1997, the Board granted a joint request of Union Pacific Railroad Company and the City of Wichita and Sedgwick County, KS (Wichita/Sedgwick) to toll the 18-month mitigation study pending in Finance Docket No. 32760. The decision indicated that at such time as the parties reach agreement or discontinue negotiations, the Board would take appropriate action.

By petition filed June 26, 1998, Wichita/Sedgwick and UP/SP indicated that they had entered into an agreement, and jointly petitioned the Board to impose the agreement as a condition of the Board's approval of the UP/SP merger. By decision dated July 8, 1998, the Board agreed and imposed the agreement as a condition to the UP/SP merger. The terms of the negotiated agreement remain in effect. If UP/SP or any of its divisions or subsidiaries materially changes or is unable to achieve the assumptions on which the Board based its final environmental mitigation measures, then the Board should reopen Finance Docket 32760 if requested by interested parties, and prescribe additional mitigation properly reflecting these changes if shown to be appropriate.

Dakota, Minnesota & Eastern Railroad (DM&E).—For more than 3 years, the Surface Transportation Board has been considering an application on the Dakota, Minnesota & Eastern Railroad. The conferees believe that the board should complete action on this proceeding. A petitioner has a legitimate expectation of receiving a decision on an application within a reasonable period of time.

BUREAU OF TRANSPORTATION STATISTICS

OFFICE OF AIRLINE INFORMATION

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement deletes funding, proposed by the Senate, for the office of airline information. The House bill contained no similar appropriation.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

The conference agreement appropriates $5,015,000 for salaries and expenses of the Architectural and Transportation Barriers Compliance Board as proposed by the Senate instead of $5,046,000 as proposed by the House.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

The conference agreement includes $68,000,000 for salaries and expenses of the National Transportation Safety Board (NTSB), instead of $64,400,000 as proposed by the House and $70,000,000 as proposed by the Senate. This provides an increase of $5,058,000 (8 percent) above the fiscal year 2001 enacted level. The additional $3,520,000 above the budget estimate will help the NTSB address needed financial management improvements and overtime requirements.

TITLE III

GENERAL PROVISIONS

Sec. 301 allows funds for aircraft; motor vehicles; liability insurance; uniforms; or allowances, as authorized by law as proposed by both the House and Senate.

Sec. 302 requires pay raises to be funded within appropriated levels in this Act or previous appropriations Acts as proposed by both the House and Senate.

Sec. 303 limits appropriations for services authorized by 5 U.S.C. 3109 to the rate for an Executive Level IV as proposed by both the House and Senate.

Sec. 304 prohibits funds in this Act for salaries and expenses of more than 105 political and Presidential appointees in the Department of Transportation as proposed by the House instead of 98 political and Presidential appointees as proposed by the Senate. This level of appointees is expected to cover the recently enacted Transportation Security Administration. Sec. 304 also includes a provision that prohibits political and Presidential personnel to be assigned on temporary detail outside the Department of Transportation or an independent agency funded in this Act except for personnel assigned on temporary detail to the Office of Homeland Security. The House proposed a prohibition on all political and Presidential personnel funded in this Act from being assigned on temporary detail outside the Department of Transportation or an independent agency. The Senate proposed no similar provision.

Sec. 305 prohibits pay and other expenses for non-Federal parties in regulatory or adjudicatory proceedings funded in this Act as proposed by both the House and Senate.

Sec. 306 prohibits obligations beyond the current fiscal year and prohibits transfers of funds unless expressly so provided herein as proposed by both the House and Senate.

Sec. 307 limits consulting service expenditures of public record in procurement contracts as proposed by both the House and Senate.

Sec. 308 prohibits funds for the National Highway Safety Advisory Commission as proposed by both the House and Senate.

Sec. 309 exempts previously made transit obligations from limitations on obligations as proposed by both the House and Senate.

Sec. 310 modifies the distribution of the Federal-aid highway program proposed by the Senate. The House proposed no similar provision.

Sec. 311 includes the Senate provision that prohibits recipients of funds made available in this Act to release personal information, including a social security number, medical or disability information, and photographs from a driver's license or motor vehicle record without express consent of the person to whom such information pertains; and prohibits the Secretary from withholding funds provided in this Act for any grantee if a state is in noncompliance with this provision. The House proposed no similar provision.

Sec. 312 prohibits funds to establish a vessel traffic safety fairway less than five miles wide between Santa Barbara and San Francisco traffic separation schemes as proposed by both the House and Senate.

Sec. 313 allows airports to transfer to the Federal Aviation Administration instrument landing systems as proposed by both the House and Senate.

Sec. 314 allows funds for discretionary grants of the Federal Transit Administration for specific projects, except for fixed guideway modernization projects, not obligated by September 30, 2004, and other recoveries to be used for other projects under 49 U.S.C. 5309 as proposed by both the House and Senate.

Sec. 315 allows transit funds appropriated before October 1, 2001, and that remain available for expenditure to be transferred as proposed by both the House and Senate.

Sec. 316 prohibits funds to compensate in excess of 335 technical staff years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development as proposed by both the House and Senate.

Sec. 317 allows funds received by the Federal Highway Administration, Federal Transit Administration, and the Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited to each agency's respective accounts as proposed by both the House and Senate.

Sec. 318 rescinds $9,231,000 of funds made available for the value pricing pilot program under Public Law 105–178 as proposed by the Senate. The House proposed no similar rescission. Sec. 318 also rescinds $43,742,000 of funds made available for the transportation infrastructure finance and innovation program under Public Law 105–178. The House and Senate proposed no similar rescission.

Sec. 319 allows the Secretary of Transportation to use up to 1 percent of the amounts made available for capital investment grants and loans (49 U.S.C. 5309) for project management oversight (49 U.S.C. 5327) beginning in fiscal year 2002 and thereafter as proposed by the Senate. The House proposed the same provision for fiscal year 2002 only.

Sec. 320 allows funds made available for Alaska or Hawaii ferry boats or ferry terminal facilities to be used to construct new vessels and facilities or to improve existing vessels and facilities, and for repair facilities as proposed by both the House and Senate. Sec. 320 also includes a provision proposed by the Senate that allows not more than $3,000,000 of the funds made available for ferry boats may be used by the State of Hawaii to initiate and operate a passenger ferryboat services demonstration project. The House contained no similar provision.

Sec. 321 allows funds received by the Bureau of Transportation Statistics to be subject to the obligation limitation for Federal-aid highways and highway safety construction as proposed by both the House and Senate.

Sec. 322 amends section 3030(a) of Public Law 105–178 to authorize final design and construction of the Washington County-Wilsonville to Beaverton commuter rail project as proposed by the Senate. The House contained no similar provision.

Sec. 323 amends section 3030(b) of Public Law 105–178 to authorize alternative analysis and preliminary engineering for the Detroit, Michigan Metropolitan Airport rail project as proposed by the Senate. The House contained no similar provision.

Sec. 324 prohibits the use of funds for any type of training which: (1) does not meet needs for knowledge, skills, and abilities bearing directly on the performance of official duties; (2) could be highly stressful or emotional to the students; (3) does not provide prior notification of content and methods to be used during the training; (4) contains any religious concepts or ideas; (5) attempts to modify a person's values or lifestyle; or (6) is for AIDS awareness training, except for raising awareness of medical ramifications of AIDS and workplace rights as proposed by both the House and Senate.

Sec. 325 prohibits the use of funds in this Act for activities designed to influence Congress or a state legislature on legislation or appropriations except through proper, official channels as proposed by both the House and Senate.

Sec. 326 requires compliance with the Buy American Act as proposed by both the House and Senate.

Sec. 327 credits to appropriations of the Department of Transportation rebates, refunds, incentive payments, minor fees and other funds received by the Department from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources as proposed by both the House and Senate. Such funds received shall be available until December 31, 2002.

Sec. 328 authorizes the Secretary of Transportation to allow issuers of any preferred stock to redeem or repurchase preferred stock sold to the Department of Transportation as proposed by the House. The Senate contained no similar provision.

Sec. 329 provides $225,000 for the Amtrak Reform Council instead of $450,000 as proposed by the House and $420,000 as proposed by the Senate. The conference agreement did not include the provisions proposed by the House regarding section 203(g)(1) of Public Law 105–134 on the Amtrak Reform Council's recommendations on Amtrak routes identified for closure or realignment. The Senate proposed no similar provisions.

Sec. 330 appropriates $144,000,000 to the Secretary of Transportation to make grants for surface transportation projects instead of $20,000,000 as proposed by the Senate. The House proposed no similar appropriation.

Funds appropriated for surface transportation projects are to be distributed as follows:

Fourteen Mile Bridge replacement, Alabama	$4,300,000
Anderson County, South Carolina Transit System Project	1,500,000
Arterial Railroad Grade Crossing, California	2,000,000
Auburn University Center for Transportation Technology Project, Alabama	20,000,000
Bassett Creek Valley North-South Greenway, Minnesota	10,000,000
Big South Fork Scenic Railroad enhancement project, Kentucky	1,500,000
Burlington to Middlebury Vermont Rail Line Project	1,000,000
California State Polytechnic University roadways to transit center, California	2,000,000
Canton-Akron-Cleveland commuter rail, Ohio	500,000
Chareston South Carolina, Parking Garage Project	20,000,000
Construction of railroad overpass, US 69, Oklahoma	2,000,000
Delaware Memorial Bridge Collision Avoidance Project, Delaware	1,300,000
Enser Bridge, Florida	500,000
Fairfield, Connecticut Commuter Rail Project	4,000,000
General Mitchell International Airport Rail Station Project, Milwaukee, Wisconsin	2,500,000
Greenwood, Mississippi, Rail track relocation and Construction Project	2,000,000
Hawkins Crossing Interchange at Meridan, I–20/I–59, Missouri	1,000,000
Highway decking project I-5 corridor, California	3,500,000
Highway railway grade crossing hazard elimination program, Tennessee	4,000,000
I–74 Mississippi River Bridge, Mississippi	2,000,000
Kansas City, Missouri Bus Rapid Transit Improvements	5,000,000
Kingvale, California Satellite Operations Control Center Project	2,000,000
Lake Rail Line, Lakeview, Oregon to Alturas, California	1,750,000
Las Vegas, Nevada Monorail Project	500,000
Lincoln to Omaha NE Passenger Rail Project	200,000
Maine Marine Highway Development Project, Maine	1,500,000
Marathon County/Wasusau MPO, Wisconsin	1,000,000

Martinsburg Roundhouse Redevelopment Project, Martinsburg, West Virginia	2,000,000
Minnesota Valley Regional Rail Authority Rehabilitation Project, Minnesota	1,000,000
Muskogree grade separation, Oklahoma	500,000
Newark, New Jersey Penn Station Improvements	2,000,000
Odyssey Maritime Project, Seattle, Washington	3,000,000
Portland to Astoria rail improvements, Oregon	2,000,000
Public exhibition of "America's Transportation Stories", Michigan	2,000,000
Rail overpass crossing, Claremore, Oklahoma	100,000
Restoration and Improvement of the Wichita Air Terminal, Kansas	150,000
Roane County bridge replacement, Tennessee	150,000
Route 7 and 123 improvements in Northern Virginia	5,000,000
San Bernardino, California Metrolink project	300,000
Santa Teresa Port of Entry HAZMAT, New Mexico	1,200,000
Scranton, Pennsylvania to New York City Rail Service Project	1,000,000
Southeast Main Rail Relocation Project, Moorhead, Minnesota	1,500,000
Southern Kentucky Intermodal Transportation Park, Kentucky	5,000,000
Syracuse bridge improvements on Auto Row, New York	3,000,000
Truck relief route along US 87, New Big Spring, Texas	2,000,000
Union County Red Bridge, Pennsylvania	1,300,000
Upgrade of 11 grade crossings, Superior, Wisconsin	300,000
US 80/SR 26, Georgia	1,000,000
Utah Central Valley Rail Line Sigurd/Salina to Levan Project	1,000,000
Ventura County Highway Video Camera Monitoring Project, California	500,000
Vertical Clearance Improvement, CP Maine Line, New York	1,500,000
Vickers Rail Crossing grade separation, Northwood, Ohio	4,000,000
West Laredo Multimodal Trade Corridor/grade crossings, Texas	3,250,000
Whittier Bridge between Amesbury and Newburyport, Massachusetts	1,500,000
Wilkes Barre, Pennsylvania to Scranton Passenger Rail Project	200,000

Sec. 331 modifies the Senate provision that allows the Coast Guard Yard (Curtis Bay, MD) and other Coast Guard specialized facilities in fiscal year 2002 to qualify as components of the Department of Defense for competition and workload assignment purposes when providing support to the Department of Defense, and allows the Yard and other specialized facilities to enter into joint public-private partnerships and other cooperative arrangements for the performance of work which includes allowing the Coast Guard to pay and receive funds, materials, services and the use of facilities from such public and private entities. The Senate proposed to amend section 648 of title 14, United States Code, to include other Coast Guard specialized facilities designated by the Commandant and included Sec. 331 as a new subsection of section 648. The House contained no similar provision.

Sec. 332 prohibits funds in this Act unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than three full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling $1,000,000 or more is announced by the department or its modal administration as proposed by both the House and Senate.

Sec. 333 prohibits funds for design or construction of a light rail system in Houston, Texas, instead of prohibiting funds for planning, design, or construction of a light rail system in Houston, Texas, proposed by the House. The Senate proposed no similar provision. The conference agreement also includes a new provision to allow funds available in this Act for a Houston, Texas, metro advanced transit plan project to be available for obligation under certain conditions. The House and Senate proposed no similar provision.

Sec. 334 prohibits funds in this Act for engineering work related to an additional runway at New Orleans International Airport as proposed by the House. The Senate contained no similar provision.

Sec. 335 prohibits funds in this Act to be used to adopt guidelines or regulations requiring airport sponsors to provide the Federal Aviation Administration "without cost" buildings, maintenance, or space for FAA services as proposed by both the House and Senate. The prohibition does not apply to negotiations between FAA and airport sponsors concerning "below market" rates for such services or to grant assurances that require airport sponsors to provide land without cost to the FAA for air traffic control facilities.

Sec. 336 includes the Senate provision that provides funds to administer motor carrier safety programs and motor carrier safety research by allowing the Secretary, as the Secretary determines necessary, to deduct a sum not to exceed two-fifths of 1 percent of all sums made available from the federal lands highways program, the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, the interstate maintenance program, the bridge program, the Appalachian development highway system, and the minimum guarantee program. The House proposed no similar provision.

Sec. 337 includes the Senate provision that authorizes the Federal Aviation Administration to use funds from airport sponsors, including grants-in-aid for airports funds, for the hiring of additional staff or for obtaining services of consultants for the purpose of facilitating environmental activities related to airport projects that add critical airport capacity to the national air transportation system. The House proposed no similar provision.

Sec. 338 includes the Senate provision that prohibits funds in this Act to be used for developing a new regional airport for southeast Louisiana until a commission of stakeholders submits a comprehensive plan that is approved by the administrator of the Federal Aviation Administration and the House and Senate Committees on Appropriations. The House proposed no similar provision.

Sec. 339 modifies the House and Senate provision that allows States to use highway safety program funds (section 402 of title 23, United States Code) to produce and place highway safety service messages in television, radio, cinema, internet, and print media based on guidance issued by the Secretary of Transportation; and requires the States to report to the Secretary on the use of such funds for public service messages. Sec. 339 also modifies the Senate provision to require that $8,000,000 of the funds provided for innovative seat belt projects (section 157 of title 23, United States Code) be used by the States, as directed by the Secretary of Transportation, to purchase advertising to publicize the States' seat belt enforcement efforts during one or more of the Operation ABC national mobilizations; and requires that up to $2,000,000 of the funds provided for innovative seat belt projects be used by the Secretary to evaluate the effectiveness of State seat belt programs that purchase such advertising. The Senate proposed that $15,000,000 designated for innovative grant funds be used for national television and radio advertising to support the national law enforcement mobilizations conducted in all 50 states aimed at increasing safety belt and child safety seat use and controlling drunk driving. The House proposed no similar proposal on funding.

Sec. 340 amends item number 1348 in the table contained in section 1602 of Public Law 105–178 to include "Construct Gastineau Channel Second Crossing to Douglas Island" as proposed by the House. The Senate proposed to amend item 1348 to include "Second Douglas Island Crossing".

Sec. 341 prohibits funds for the Office of the Secretary of Transportation to approve assessments or reimbursable agreements pertaining to funds appropriated to the modal administrations in this Act, unless such assessments or agreements have completed the normal reprogramming process for Congressional notification as proposed by the House. The Senate proposed no similar provision.

Sec. 342 amends item 642 in the table contained in section 1602 of Public Law 105–178 to redesignate such project in Washington as the "Passenger only ferry to serve Kitsap and King Counties to Seattle" instead of "passenger only ferry to serve Kitsap County-Seattle" as proposed by both the House and Senate.

Sec. 343 amends item 1793 in the table contained in section 1602 of Public Law 105–178 to redesignate such project in Washington as the "Passenger only ferry to serve Kitsap and King Counties to Seattle" instead of "passenger only ferry to serve Kitsap County-Seattle" as proposed by both the House and Senate.

Sec. 344 amends item 576 in the table contained in section 1602 of Public Law 105–178 to allow for construction of the Missouri Center for Advanced Highway Safety as proposed by the House. The Senate proposed no similar provision.

Sec. 345 includes the House provision that designates the Washington Metropolitan Area Transit Authority transit station located at Ronald Reagan Washington National Airport as the "Ronald Reagan Washington National Airport Station", and directs the transit authority to modify signs, maps, directories, documents and other records published by the authority to reflect the designation. The Senate proposed no similar provision.

Sec. 346 prohibits funds in this Act to any person or entity convicted of violating the

Buy American Act as proposed by the House. The Senate proposed no similar provision.

Sec. 347 modifies the Senate provision that allows discretionary bridge program funds in fiscal year 2002 to be used for historic covered bridges eligible for federal assistance under section 1224 of Public 105–178. The House proposed no similar provision.

Sec. 348 includes the Senate provision that prohibits funds for Coast Guard Acquisition, construction, and improvements after the fifteenth day of any quarter of any fiscal year unless the Commandant of the Coast Guard first submits a quarterly report to the House and Senate Committees on Appropriations on all major Coast Guard acquisition projects. The House proposed no similar provision.

Sec. 349 reduces transportation administrative service center funds by $5,000,000 instead of reducing funds by $37,000,000 and limiting fiscal year 2002 obligations to no more than $120,323,000 instead of limiting obligations to no more than $88,323,000 as proposed by the Senate. The House proposed no similar provision.

Sec. 350. The conference agreement modifies provisions proposed by the House and Senate regarding the safety of cross-border trucking between the United States and Mexico. The House proposed to prohibit the use of funds for the processing of applications by Mexico-domiciled motor carriers to operate in the interior of the United States, beyond the commercial zones adjacent to the U.S.-Mexican border. The Senate proposed to condition the use of funds to process applications upon the certification by officials of the Department of Transportation that specific safety-related requirements had been met and upon promulgation in final form of related regulations. The conference agreement includes multiple provisions which, among other things:

1. Require safety examinations by the DOT of all Mexican motor carriers before they are granted conditional operating authority. Fifty percent of all such examinations are to be conducted on-site, and on-site examinations are to cover at least fifty percent of carriers and 50 percent of estimated truck traffic in a given year. An exemption from the on-site requirement is provided for Mexican motor carriers with three or fewer commercial vehicles. However, such carriers may be subject to on-site examinations or reviews at the discretion of the DOT;

2. Require a full safety compliance review—and a satisfactory rating resulting from that review—before any Mexican motor carrier can be granted permanent operating authority. Provisions that require on-site performance of safety examinations also apply to compliance reviews. Any carrier that has not received an on-site safety examination must undergo an on-site compliance review. The result of this provision is that every Mexican motor carrier operating four or more commercial vehicles and applying for cross-border authority, will be required to undergo at least one safety or compliance review conducted on-site at the carrier's place of business in Mexico before permanent operating authority is granted;

3. Require Federal and State inspectors at the border to electronically verify the validity of driver's license of every driver carrying a placardable quantity of hazardous material, every driver undergoing a Level I safety inspection, and at least 50 percent of all other Mexican motor carrier drivers crossing the border;

4. Require all Mexican motor carriers granted authority to operate in the United States to display a Commercial Vehicle Safety Alliance decal verifying satisfactory completion of a safety inspection. These vehicles must undergo safety inspections at least every 90 days in order to display such a decal. This requirement will no longer apply to a carrier once that carrier has operated for three consecutive years under permanent operating authority;

5. Require that the 10 highest volume border crossings be equipped with weigh-in motion systems and that inspectors verify the weight of each Mexican motor carrier entering the United States. Of this total, 5 crossings shall be equipped before the border is opened and the remainder shall be equipped within 12 months of enactment of this Act;

6. Require the Department of Transportation to issue interim final safety-related regulations and policies;

7. Prohibit Mexican motor carriers from crossing into the United States at any border crossing where a certified motor carrier safety inspector is not on duty or where there is not adequate capacity to either conduct a sufficient number of meaningful vehicle safety inspections or accommodate vehicles placed out-of-service as a result of safety inspections;

8. Prohibit vehicles that are owned or leased by a Mexican motor carrier, and that carry hazardous materials, to operate beyond the commercial zone, until the United States has completed an agreement with the government of Mexico to ensure that drivers of vehicles carrying a placardable quantity of hazardous materials meet substantially the same safety requirements as those met by U.S. drivers;

9. Prohibit any Mexican motor carrier from operating beyond the commercial zone until (1) the Department of Transportation Inspector General first conducts a comprehensive review of the DOT's ability to ensure safety on U.S. highways once Mexican motor carriers are allowed to operate within the internal U.S.; and (2) the Secretary of Transportation certifies in writing in a manner addressing the IG's findings that the opening of the border does not pose an unacceptable safety risk to the American public; and

10. Require the DOT IG to conduct a follow up review at least 180 days following the first review cited above and then annually thereafter.

The House proposed prohibiting funds in this Act to process applications by Mexico-domiciled motor carriers for conditional or permanent authority to operate beyond the United States municipalities and commercial zones adjacent to the United States-Mexico border. The Senate proposed prohibiting funds for the review or processing of an application by a Mexican motor carrier for authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border until the Federal Motor Carrier Safety Administration performs full safety compliance reviews and inspections of Mexican motor carriers; and until the Department of Transportation Inspector General certifies in writing that certain criteria are met pertaining to fully trained inspectors, the Federal Motor Carrier Safety Administration, the information infrastructure of the Mexican government, border crossing capacity, and an accessible safety monitoring database.

Sec. 351 includes the Senate provision that directs the Secretary of Transportation to include all public and private non-federal contributions made on or after January 1, 2000, for the regional transportation commission resort corridor fixed guideway project in Clark County, Nevada, to be used to meet the non-federal share requirement of any element or phase of the project. The House proposed no similar provision.

Sec. 352 modifies the Senate provision that requires the Secretary, in consultation with the Comptroller General of the United States, to conduct a study of the hazards and risks to public health and safety, the environment, and the economy associated with the transportation of hazardous and radioactive materials. The provision requires the study to be completed not later than six months after the date of the enactment of this Act. The conferees expect that radiopharmaceuticals and medical radionuclides should be exempt from this study. The House proposed no similar provision.

Sec. 353 modifies the Senate provision that directs the State of Georgia to give priority consideration to improving the Johnson Ferry Road, including the bridge over the Chattahoochee River, and to widening Abernathy Road with funds apportioned to the State of Georgia from revenue aligned budget authority by also directing the State of Alabama to give priority consideration to construction of the approaches to the Patton Island Bridge with funds apportioned to the State of Alabama from revenue aligned budget authority and for planning, design, engineering, and construction of an interchange on I–55 at approximately mile marker 114 and connector roads in Madison County with funds apportioned to the State of Mississippi from revenue aligned budget authority. The House proposed no similar provisions.

Sec. 354 includes the Senate provision that amends section 355(a) of the National Highway System Designation Act of 1995 to require certification by the Secretary that the states of New Hampshire and Maine have achieved a safety belt use rate of not less than 50 percent. The House proposed no similar provision.

Sec. 355 includes the Senate provision that requires the Secretary of Transportation to conduct a study on the cost and benefits of constructing a third bridge across the Mississippi River in the Memphis, Tennessee, metropolitan area. The provision requires the study be submitted to the Congress not later than 180 days after the date of enactment of this Act. The House proposed no similar provision.

Sec. 356 provides the sense of Congress that the Secretary of Transportation should not take any action that would diminish or revoke any exemption from certain restrictions on maximum driving time and on-duty time in effect on the date of the enactment of this Act for commercial motor vehicle drivers as proposed by the Senate. The House proposed no similar provision.

Sec. 357 transfers the Point Retreat Light Station, including all property under lease as of June 1, 2000, to the Alaska Lighthouse Association, as authorized in Public Law 105–383. The conferees note that the transfer is subject to conditions contained in that Act and furthermore expect that public access to the property for recreation, hunting, and fishing will be largely unchanged. The House proposed no similar provision.

Sec. 358 modifies the Senate provision that directs the State of Minnesota to give priority consideration to the Southeast main and rail relocation project in Moorhead and to improving I–35 W at Lake Street in Minneapolis with funds apportioned to the State of Minnesota from revenue aligned budget authority. The House proposed no similar provision.

Sec. 359 directs the Secretary of Transportation to approve the use of National highway system and surface transportation program funds for construction of type II noise barriers in specific locations in the States of Georgia and Pennsylvania instead of solely in the State of Georgia as proposed by the Senate. The House proposed no similar provision.

Sec. 360 allows funds provided in Public Law 106–346 to be available for the widening of U.S. 177 from SH–33 to 32nd Street in Stillwater, Oklahoma. The House and Senate proposed no similar provision.

Sec. 361 amends section 3030(d)(3) of Public Law 105–178 to authorize the Alabama State docks intermodal passenger and freight facility for bus and bus-related facilities funding. The House and Senate proposed no similar provision.

Sec. 362 amends section 1105(c) of Public Law 102–240 to include the Louisiana Highway 1 corridor from Grand Isle, Louisiana, along Louisiana Highway 1 to the intersection with United States Route 90 as a high priority corridor on the national highway system. The House and Senate proposed no similar provision.

Sec. 363 amends item 425 in the table contained in section 1602 of Public Law 105–178 to extend and improve Louisiana Route 42 from and along U.S. 61 to I–10 in Ascension and East Baton Rouge Parishes in the State of Louisiana. The House and Senate proposed no similar provision.

Sec. 364 amends items 111 and 1583 in the table contained in section 1602 of Public Law 105–178 to include other areas in the city of Paducah and McCracken County, Kentucky. The House and Senate proposed no similar provision.

Sec. 365 amends section 1105(c)(3) of Public Law 102–240 to clarify the Kentucky corridor by including the Louie B. Nunn Parkway as part of the Interstate 66 high priority corridor of the national highway system. The House and Senate proposed no similar provisions.

Sec. 366 amends section 1105(c)(15) of Public Law 102–240 to include the existing Purchase Parkway from the Tennessee state line to Interstate 24 in Kentucky as part of the Interstate 69 high priority corridor of the national highway system. The House and Senate proposed no similar provision.

Sec. 367 amends section 1105(e)(5)(B)(i) of Public Law 102–240 to designate the Purchase Parkway corridor as interstate route 69 and the Louie B. Nunn Parkway corridor as interstate route 66; and directs the Commonwealth of Kentucky to erect signs identifying such corridors as "future" interstates. The House and Senate proposed no similar provisions.

Sec. 368 allows capital investment funds available to the Southern coalition for advanced transportation (SCAT) in Public Law 106–69 and Public Law 106–346 that remain unobligated to be transferred to the transit planning and research account for the electric transit vehicle institute in Tennessee. The House and Senate proposed no similar provisions.

Sec. 369 makes technical amendments to Public Law 107–20 to clarify the source of funding under federal-aid highways. The House and Senate proposed no similar provisions.

Sec. 370 allows previously provided funds for the Riverside Expressway in Fairmont, West Virginia, to be used to carry out any project eligible under title 23, United States Code, in the vicinity of Fairmont, West Virginia. The House and Senate proposed no similar provisions.

Sec. 371 amends item 71 in the table contained in section 1602 of Public Law 105–178 to allow traffic safety and pedestrian improvements in downtown Miamisburg, Ohio. The House and Senate proposed no similar provisions.

Sec. 372 amends item 258 in the table under the heading, "Capital investment grants" of Public Law 106–69 to allow funds for the Marble Valley regional transit district buses. The House and Senate proposed no similar provisions.

Sec. 373 amends item 73 in the table contained in section 1106(b) of Public Law 102–240 to allow $5,700,000 of the funds provided for the Southtowns connector in Buffalo, New York, to be used for a parking facility for the Inner Harbor redevelopment project in Buffalo, New York. The House and Senate proposed no similar provisions.

Sec. 374 amends item 630 of the table contained in section 1602 of Public Law 105–178 as amended by section 1102 of chapter 11 of Public Law 106–554 to allow funds for the construction of a parking facility for the Inner Harbor/redevelopment project in Buffalo, New York.

The conference agreement includes under Title I, Federal Aviation Administration, Aviation insurance revolving fund, the provision that authorizes the Secretary of Transportation to make expenditures and investments related to aviation insurance activities under chapter 443 of title 49, United States Code as proposed by the Senate. The House proposed to include this provision under Title III.

The conference agreement deletes the House provision that repeals section 232 of Appendix E of Public Law 106–113 that pertains to funding for the James A. Farley Post Office in New York.

The conference agreement deletes the House provision that prohibits funds in this Act to propose or issue rules, regulations, decrees, or orders pertaining to the implementation of the Kyoto Protocol.

The conference agreement deletes the House provision that prohibits funds in this Act for the planning, design, development, or construction of the California State Route 710 freeway extension project through El Sereno, South Pasadena, and Pasadena, California.

The conference agreement deletes the Senate provision that directs that the Commandant of the Coast Guard shall maintain an onboard staffing level at the Coast Guard Yard in Curtis Bay, Maryland, of not less than 530 full time equivalent civilian employees and provides that the Commandant may reconfigure his vessel maintenance schedule and new constructions projects to maximize Yard employment as proposed by the Senate.

The conference agreement deletes the Senate provision that directs the Secretary of Transportation in cooperation with the administrator of the Federal Aviation Administration to encourage a locally developed and executed plan for modernizing O'Hare International Airport, addressing Northwest corridor traffic congestion, increasing commercial air service at Gary-Chicago Airport and Greater Rockford Airport, preserving and utilizing existing Chicago-area reliever and general aviation airports, and moving forward with a third Chicago-area airport. The provision also directs the Secretary and FAA administrator to work with Congress to enact a federal solution to address the aviation capacity crisis in the Chicago area, including northwest Indiana, if such a plan cannot be developed and executed.

The conference agreement deletes the Senate provision that amends section 8335(a) of title 5, United States Code, to allow air traffic controllers in the civil service retirement system who face mandatory separation at age 56 to extend their service beyond age 56 to the earliest date eligible for either controller early retirement or for CSRS optional retirement, whichever comes first, unless the Secretary determines that such action would compromise safety. A similar provision was included in the Treasury and General Government Appropriations Act, 2002.

The conference agreement deletes the Senate provision that amends section 1023(h) of Public Law 102–240 to allow all over-the-road buses to be exempted from federal axle weight restrictions that are presently applicable only to public transit buses.

The conference agreement deletes the Senate provision that amends item 143 in the table under Capital Investment Grants of Public Law 105–277 and item 167 in the table under Capital Investment Grants of Public Law 106–69 to allow funds for Northern New Mexico park and ride facilities and State of New Mexico, buses and bus related facilities. These amendments were included in the Supplemental Appropriations Act, 2001.

The conference agreement deletes the Senate provision that establishes new eligibility criteria, as proposed in the budget, for communities in the United States (except Alaska) to receive essential air service subsidies.

The conference agreement deletes the Senate provision that requires up to $750,000 of the funds appropriated for the Federal Railroad Administration, Railroad research and development be expended to pay 25 percent of the total cost of a freight and passenger rail infrastructure study of the Baltimore, Maryland, area, and requires that the Norfolk-Southern Corporation, the CSX Corporation, and the State of Maryland contribute a total amount of equal funding for this study. The conference agreement addresses the Baltimore, Maryland, freight and passenger rail infrastructure study under Title I, Federal Railroad Administration, Research and development account. The House proposed no similar provision.

The conference agreement deletes the Senate provision that amends section 41703 of title 49, United States Code, to include a new section regarding the transfer of cargo at Anchorage International Airport. The conferees note that the Department of Transportation has not articulated a consistent strategy for achieving "open skies" through the current bilateral negotiating process or through multilateral negotiations. Accordingly, the conferees direct the department to assess the current state of international aviation negotiations and report by March 1, 2002, to the House and Senate Committees on Appropriations regarding emerging multilateral or bilateral international aviation negotiating strategies, including whether those strategies should envision cargo transfer at domestic airports or cargo transfer rights for United States flag carriers at international airports. This report should include specific reference to air transportation issues in Alaska and other similarly situated airports in the United States, and address whether scheduled or anticipated bilateral or multilateral negotiations should address cargo transfer issues at United States airports. The report should also compare the cargo transfer regimes for similarly situated foreign airports engaged in air cargo carriage and transfer to the regimes in place for Alaskan and other similarly situated domestic airports in the United States.

The conference agreement deletes the Senate provision that directs the Secretary of Transportation to give priority consideration to applications for airport improvement grants for Addison Airport, Addison, Texas; Pearson Airpark, Vancouver, Washington; Mobile Regional Airport, Mobile, Alabama; Marks Airport, Mississippi; Madison Airport, Mississippi; and Birmingham International Airport, Birmingham, Alabama The conference agreement addresses airport improvement grants under Title I, Grants-in-aid for airports.

The conference agreement deletes the Senate provision that amends section 5117(b)(3) of Public Law 105–178 regarding follow-on deployment of intelligent transportation infrastructure systems and specifies the follow-on deployment areas in specific metropolitan areas. The House proposed no similar provision.

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
TITLE I - DEPARTMENT OF TRANSPORTATION						
Office of the Secretary						
Salaries and expenses	63,245	69,500	68,446	67,349	67,778	+4,533
Immediate Office of the Secretary	(1,827)	(1,989)	(1,929)	(1,929)	(1,929)	(+102)
Immediate Office of the Deputy Secretary	(587)	(638)	(625)	(619)	(619)	(+32)
Office of the General Counsel	(9,972)	(13,355)	(12,374)	(14,075)	(13,355)	(+3,383)
Office of the Assistant Secretary for Policy	(3,011)	(3,153)	(3,153)	(3,058)	(3,058)	(+47)
Office of the Assistant Secretary for Aviation and International Affairs	(7,289)	(7,650)	(7,650)	(7,421)	(7,421)	(+132)
Office of the Assistant Secretary for Budget and Programs	(7,362)	(7,728)	(7,728)	(7,728)	(7,728)	(+366)
Office of the Assistant Secretary for Governmental Affairs	(2,150)	(2,282)	(2,282)	(2,214)	(2,282)	(+132)
Office of the Assistant Secretary for Administration	(19,020)	(20,262)	(20,262)	(18,236)	(19,250)	(+230)
Office of Public Affairs	(1,674)	(1,776)	(1,776)	(1,723)	(1,723)	(+49)
Executive Secretariat	(1,181)	(1,241)	(1,241)	(1,204)	(1,204)	(+23)
Board of Contract Appeals	(496)	(523)	(523)	(507)	(507)	(+11)
Office of Small and Disadvantaged Business Utilization	(1,192)	(1,251)	(1,251)	(1,213)	(1,240)	(+48)
Office of Intelligence and Security	(1,262)	(1,321)	(1,321)	(1,281)	(1,321)	(+59)
Office of the Chief Information Officer	(6,222)	(6,331)	(6,331)	(6,141)	(6,141)	(-81)
Subtotal	(63,245)	(69,500)	(68,446)	(67,349)	(67,778)	(+4,533)
Across the board (0.22%) rescission	-139	....	....	....	....	+139

NOTE: FY01 rescissions included in Net total lines.

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Office of civil rights	8,140	8,500	8,500	8,500	8,500	+360
Across the board (0.22%) rescission	-18	....	....	....	....	+18
Transportation security administration	....	....	....	....	1,250,000	+1,250,000
Offsetting collections	....	....	....	....	-1,250,000	-1,250,000
Transportation planning, research, and development	11,000	5,193	5,193	15,592	11,993	+993
Across the board (0.22%) rescission	-24	....	....	....	....	+24
Transportation Administrative Service Center	(126,887)[1]	(125,323)	(125,323)	(125,323)	(125,323)	(-1,564)
Minority business resource center program	1,900	900	900	900	900	-1,000
Across the board (0.22%) rescission	-4	....	....	....	....	+4
(Limitation on guaranteed loans)	(13,775)	(18,367)	(18,367)	(18,367)	(18,367)	(+4,592)
Minority business outreach	3,000	3,000	3,000	3,000	3,000	....
Across the board (0.22%) rescission	-7	....	....	....	....	+7
Payments to air carriers (Airport & Airway Trust Fund)	....	....	13,000	....	13,000	+13,000
Rental payments (rescission) (P.L. 107-20)	-440	....	....	....	....	+440
Total, Office of the Secretary	87,285	87,093	99,039	95,341	1,355,171	+1,267,886
ATB rescissions	-192	....	....	....	....	+192
Rescission	-440	....	....	....	....	+440
Offsetting collections	....	....	....	....	-1,250,000	-1,250,000
Net total	86,653	87,093	99,039	95,341	105,171	+18,518

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Coast Guard						
Operating expenses	2,851,000	3,042,588	3,042,588	2,732,588	2,942,000	+91,000
Defense function	341,000	340,250	340,000	695,000	440,000	+99,000
Subtotal	3,192,000	3,382,838	3,382,588	3,427,588	3,382,000	+190,000
Across the board (0.22%) rescission	-6,967					+6,967
Supplemental (P.L. 107-20)	92,000					-92,000
Emergency Response Fund (P.L. 107-38)	18,000					-18,000
Acquisition, construction, and improvements	415,000	659,323	600,000	669,323	636,354	+221,354
Vessels	(156,450)	(79,390)	(90,990)	(79,640)	(89,640)	(-66,810)
Aircraft	(37,650)	(500)	(26,000)	(12,500)	(9,500)	(-28,150)
Other equipment	(60,113)	(95,471)	(74,173)	(97,921)	(79,293)	(+19,180)
Shore facilities & aids to navigation facilities	(63,336)	(79,262)	(44,206)	(88,862)	(73,100)	(+9,764)
Personnel and related support	(55,151)	(66,700)	(64,631)	(65,200)	(64,631)	(+9,480)
Integrated Deepwater Systems	(42,300)	(338,000)	(300,000)	(325,200)	(320,190)	(+277,890)
Subtotal, A C & I (excl rescissions)	(415,000)	(659,323)	(600,000)	(669,323)	(636,354)	(+221,354)
Across the board (0.22%) rescission	-869					+869
Rescissions	-12,000			-8,700		+12,000
Supplemental (P.L. 107-20)	4,000					-4,000

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Environmental compliance and restoration	16,700	16,927	16,927	16,927	16,927	+227
Across the board (0.22%) rescission	-37	....	....	....	....	+37
Alteration of bridges	15,500	15,466	15,466	15,466	15,466	-34
Across the board (0.22%) rescission	-35	....	....	....	....	+35
Retired pay	778,000	876,346	876,346	876,346	876,346	+98,346
Reserve training	80,375	83,194	83,194	83,194	83,194	+2,819
Across the board (0.22%) rescission	-176	....	....	....	....	+176
Research, development, test, and evaluation	21,320	21,722	21,722	21,722	20,222	-1,098
Across the board (0.22%) rescission	-40	....	....	....	....	+40
Trust fund share of expenses (ATB rescission)	-108	....	....	....	....	+108
Total, Coast Guard	4,632,895	5,055,816	4,996,243	5,110,566	5,030,509	+397,614
ATB rescissions	-8,232	....	....	....	....	+8,232
Rescissions	-12,000	....	....	-8,700	....	+12,000
Net total	4,612,663	5,055,816	4,996,243	5,101,866	5,030,509	+417,846
Federal Aviation Administration						
Operations	6,544,235	6,886,000	6,870,000	6,916,000	6,886,000	+341,765
Air traffic services	(5,200,274)	(5,447,421)	(5,494,883)	(5,447,421)	(5,452,871)	(+252,597)
Aviation regulation and certification	(694,979)	(744,744)	(727,870)	(783,994)	(768,769)	(+73,790)
Civil aviation security	(139,301)	(150,154)	(135,949)	(150,154)	(150,154)	(+10,853)
Research and acquisition	(189,988)	(196,674)	(195,258)	(196,674)	(195,799)	(+5,811)
Commercial space transportation	(12,000)	(14,706)	(12,254)	(14,456)	(12,456)	(+456)

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Financial services	(48,444)	(50,684)	(50,480)	(50,684)	(50,284)	(+1,840)
Human resources	(54,864)	(74,516)	(67,635)	(74,516)	(69,516)	(+14,652)
Regional coordination	(99,347)	(90,893)	(84,613)	(90,893)	(85,943)	(-13,404)
Staff offices	(105,038)	(116,208)	(108,776)	(116,208)	(109,208)	(+4,170)
Undistributed			(-7,718)	(-9,000)	(-9,000)	(-9,000)
Subtotal	(6,544,235)	(6,886,000)	(6,870,000)	(6,916,000)	(6,886,000)	(+341,765)
Across the board (0.22%) rescission	-14,397					+14,397
Emergency Response Fund (P.L. 107-38)	123,000					-123,000
Facilities & equipment (Airport & Airway Trust Fund)	2,656,765	2,914,000	2,914,000	2,914,000	2,914,000	+257,235
Across the board (0.22%) rescission	-5,845					+5,845
Rescission (Airport and Airway Trust Fund)					-15,000	-15,000
Research, engineering, and development (Airport and Airway Trust Fund)	187,000	187,781	191,481	195,808	195,000	+8,000
Across the board (0.22%) rescission	-411					+411
Grants-in-aid for airports (Airport and Airway Trust Fund):						
(Liquidation of contract authorization)	(3,200,000)	(1,800,000)	(1,800,000)	(1,800,000)	(1,800,000)	(-1,400,000)
(Limitation on obligations)	(3,200,000)	(3,300,000)	(3,300,000)	(3,300,000)	(3,300,000)	(+100,000)
Across the board (0.22%) rescission	(-7,040)					(+7,040)
Across the board (0.22%) rescission	-4					+4
Rescission of contract authoritization	-609,000	-331,000	-301,720	-301,720	-301,720	+307,280
Net subtotal	(2,583,956)	(2,969,000)	(2,998,280)	(2,998,280)	(2,998,280)	(+414,324)

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Small community air service development pilot program				20,000		
Total, Federal Aviation Administration	9,511,000	9,987,781	9,975,481	10,045,808	9,995,000	+484,000
(Limitations on obligations)	(3,200,000)	(3,300,000)	(3,300,000)	(3,300,000)	(3,300,000)	(+100,000)
Total budgetary resources	(12,711,000)	(13,287,781)	(13,275,481)	(13,345,808)	(13,295,000)	(+584,000)
ATB rescissions	(-7,040)					(+7,040)
ATB rescissions	-20,657					+20,657
Rescission	-609,000	-331,000	-301,720	-301,720	-316,720	+292,280
Net total	(12,074,303)	(12,956,781)	(12,973,761)	(13,044,088)	(12,978,280)	(+903,977)
Federal Highway Administration						
Limitation on administrative expenses	(295,119)	(317,693)	(311,837)	(316,521)	(311,000)	(+15,881)
Limitation on transportation research			(447,500)	(447,500)		
Federal-aid highways (Highway Trust Fund):						
(Limitation on obligations)	(26,603,806)	(27,042,994)	(27,197,693)	(27,400,000)	(27,280,000)	(+676,194)
Across the board (0.22%) rescission	(-58,528)					(+58,528)

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Revenue aligned budget authority (RABA)	(3,058,000)	(4,341,700)	(4,543,000)	(4,326,700)	(4,410,000)	(+1,352,000)
Innovative transportation solutions program (RABA)	....	(45,000)	....	(45,000)	....	....
Alternative transportation grant prog (RABA)	....	(100,000)	....	(100,000)	....	....
Border infrastructure construction prog (RABA)	....	(56,300)	....	(71,300)	(133,000)	(+133,000)
Subtotal, RABA	(3,058,000)	(4,543,000)	(4,543,000)	(4,543,000)	(4,543,000)	(+1,485,000)
Across the board (0.22%) rescission	(-6,728)	....	....	....	....	(+6,728)
RABA transfer to FMCSA	....	(-22,837)	(-23,896)	(-23,897)	(-23,896)	(-23,896)
Subtotal, limitation on obligations	(29,661,806)	(31,563,157)	(31,716,797)	(31,919,103)	(31,799,104)	(+2,137,298)
(Exempt obligations)	(1,069,000)	(955,000)	(955,000)	(955,000)	(955,000)	(-114,000)
(Liquidation of contract authorization)	(28,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(+2,000,000)
Rescission (P.L. 107-20)	-15,918	....	....	....	....	+15,918
Emergency Relief Program (Highway Trust Fund) (contingent emergency appropriation)	720,000	....	....	....	....	-720,000
Across the board (0.22%) rescission	-1,584	....	....	....	....	+1,584
Emergency highway restoration (P.L. 107-20)	27,600	....	....	....	....	-27,600
Appalachian development highway system	279,963	....	....	350,000	200,000	-79,963
Across the board (0.22%) rescission	-649	....	....	....	....	+649
State infrastructure banks (rescission)	....	....	-6,000	-5,750	-5,750	-5,750
Value pricing project (rescission) (Highway Trust Fund) (sec. 318)	....	....	....	-9,231	-9,231	-9,231

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
TIFIA (rescission) (Highway Trust Fund) (sec. 318)					-43,742	-43,742
Total, Federal Highway Administration	307,563			350,000	200,000	-107,563
Contingent emergency	720,000					-720,000
(Limitations on obligations)	(29,661,806)	(31,563,157)	(31,716,797)	(31,919,103)	(31,799,104)	(+2,137,298)
(Exempt obligations)	(1,069,000)	(955,000)	(955,000)	(955,000)	(955,000)	(-114,000)
Total budgetary resources	(31,758,369)	(32,518,157)	(32,671,797)	(33,224,103)	(32,954,104)	(+1,195,735)
ATB rescissions	(-65,256)					(+65,256)
ATB rescissions	-2,233					+2,233
Rescissions	-15,918		-6,000	-14,981	-58,723	-42,805
Net total	(31,674,962)	(32,518,157)	(32,665,797)	(33,209,122)	(32,895,381)	(+1,220,419)
Federal Motor Carrier Safety Administration						
Motor carrier safety (limitation on obligations administrative expenses)	(92,194)	(139,007)	(92,307)	(105,000)	(110,000)	(+17,806)
Across the board (0.22%) rescission	(-202)					(+202)
Rescission				-6,665	-6,665	-6,665
National motor carrier safety program (Highway Trust Fund):						
(Liquidation of contract authorization)	(177,000)	(204,837)	(205,896)	(204,837)	(205,896)	(+28,896)
(Limitation on obligations)	(177,000)	(182,000)	(182,000)	(183,059)	(182,000)	(+5,000)
Across the board (0.22%) rescission	(-389)					(+389)
Rescission of contract authority				-2,333		

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
RABA transfer from FHWA:						
Border-State grants	....	(18,000)	....	(18,000)	(18,000)	(+18,000)
State commercial driver's license	....	(4,837)	....	(4,837)	....	....
Motor carrier safety assistance grants	....	....	(23,896)	....	(5,896)	(+5,896)
Subtotal, RABA	....	(22,837)	(23,896)	(22,837)	(23,896)	(+23,896)
Subtotal, limitation on obligations	(177,000)	(204,837)	(205,896)	(205,896)	(205,896)	(+28,896)
Border enforcement activities (sec. 350)	....	....	....	....	25,866	+25,866
Total, Federal Motor Carrier Safety Admin	....	....	....	....	25,866	+25,866
(Limitations on obligations)	(269,194)	(343,844)	(298,203)	(310,896)	(315,896)	(+46,702)
Total budgetary resources	(269,194)	(343,844)	(298,203)	(310,896)	(341,762)	(+72,568)
ATB rescissions	(-591)	....	....	....	....	(+591)
Rescissions	....	....	....	-8,998	-6,665	-6,665
Net total	(268,603)	(343,844)	(298,203)	(301,898)	(335,097)	(+66,494)

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
National Highway Traffic Safety Administration						
Operations and research	116,876	122,000	122,420	132,000	127,780	+10,904
Operations and research (Highway trust fund):						
(Liquidation of contract authorization)	(72,000)	(72,000)	(72,000)	(72,000)	(72,000)	....
(Limitation on obligations)	(72,000)	(72,000)	(72,000)	(72,000)	(72,000)	....
Rescission of contract authority	....	....	....	-1,516	-1,516	-1,516
National Driver Register (Highway trust fund)	2,000	2,000	2,000	2,000	2,000	....
Subtotal, Operations and research	(190,876)	(196,000)	(196,420)	(204,484)	(200,264)	(+9,388)
Across the board (0.22%) rescission	-261	....	....	....	....	+261
Across the board (0.22%) rescission	(-158)	....	....	....	....	(+158)
Highway traffic safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(213,000)	(223,000)	(223,000)	(223,000)	(223,000)	(+10,000)
(Limitation on obligations):						
Highway safety programs (Sec. 402)	(155,000)	(160,000)	(160,000)	(160,000)	(160,000)	(+5,000)
Occupant protection incentive grants (Sec. 405)	(13,000)	(15,000)	(15,000)	(15,000)	(15,000)	(+2,000)
Alcohol-impaired driving countermeasures grants (Sec. 410)	(36,000)	(38,000)	(38,000)	(38,000)	(38,000)	(+2,000)
State highway safety data grants (Sec. 411)	(9,000)	(10,000)	(10,000)	(10,000)	(10,000)	(+1,000)
Across the board (0.22%) rescission	(-469)	....	....	....	....	(+469)
Rescission of contract authority	....	....	....	-469	....	....

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Total, National Highway Traffic Safety Admin	118,876	124,000	124,420	134,000	129,780	+10,904
(Limitations on obligations)	(285,000)	(295,000)	(295,000)	(295,000)	(295,000)	(+10,000)
Total budgetary resources	(403,876)	(419,000)	(419,420)	(429,000)	(424,780)	(+20,904)
ATB rescissions	(-627)	....	....	....	....	(+627)
ATB rescissions	-261	....	....	....	....	+261
Rescissions	....	....	....	-1,985	-1,516	-1,516
Net total	(402,988)	(419,000)	(419,420)	(427,015)	(423,264)	(+20,276)
Federal Railroad Administration						
Safety and operations	101,717	111,357	110,461	111,357	110,857	+9,140
Across the board (0.22%) rescission	-224	....	....	....	....	+224
Offsetting collections	....	-41,000	....	....	....	....
Railroad research and development	25,325	28,325	27,375	30,325	29,000	+3,675
Across the board (0.22%) rescission	-56	....	....	....	....	+56
Offsetting collections	....	-14,000	....	....	....	....
Rhode Island Rail Development	17,000	....	....	....	....	-17,000
Across the board (0.22%) rescission	-37	....	....	....	....	+37
Pennsylvania Station Redevelopment project (advance appropriations, FY 2001, FY 2002, FY 2003) 1/	20,000	20,000	20,000	20,000	20,000	....
Across the board (0.22%) rescission	-44	....	....	....	....	+44
Rescission	....	....	-20,000	....	....	....
Next generation high-speed rail	25,100	25,100	25,100	40,000	32,300	+7,200
Across the board (0.22%) rescission	-55	....	....	....	....	+55

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Alaska Railroad rehabilitation	20,000			20,000	20,000	
Across the board (0.22%) rescission	-44					+44
West Virginia Rail development	15,000					-15,000
Across the board (0.22%) rescission	-33					+33
National Rail Development and Rehabilitation program				12,000		
Capital grants to the National Railroad Passenger Corporation	521,476[1]	521,476	521,476	521,476	521,476	
Across the board (0.22%) rescission	-1,147					+1,147
Total, Federal Railroad Administration	745,618	651,258	704,412	755,158	733,633	-11,985
ATB rescissions	-1,640					+1,640
Rescission			-20,000			
Net total	743,978	651,258	684,412	755,158	733,633	-10,345
Federal Transit Administration						
Administrative expenses	12,800	13,400	13,400	13,400	13,400	+600
Across the board (0.22%) rescission	-28					+28
Administrative expenses (Highway Trust Fund, Mass Transit Account) (limitation on obligations)	(51,200)	(53,600)	(53,600)	(53,600)	(53,600)	(+2,400)
Subtotal, Administrative expenses	(63,972)	(67,000)	(67,000)	(67,000)	(67,000)	(+3,028)

1/ Funding provided in P.L. 106-113.

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Formula grants	669,000	718,400	718,400	718,400	718,400	+49,400
Across the board (0.22%) rescission	-1,360	....	....	....	....	+1,360
Formula grants (Highway Trust Fund) (limitation on obligations)	(2,676,000)	(2,873,600)	(2,873,600)	(2,873,600)	(2,873,600)	(+197,600)
Across the board (0.22%) rescission	(-5,887)	....	....	....	....	(+5,887)
Subtotal, Formula grants	(3,343,640)	(3,592,000)	(3,592,000)	(3,592,000)	(3,592,000)	(+248,360)
University transportation research	1,200	1,200	1,200	1,200	1,200	....
University transportation research (Highway Trust Fund, Mass Transit Acct) (limitation on obligations)	(4,800)	(4,800)	(4,800)	(4,800)	(4,800)	....
Across the board (0.22%) rescission	(-3)	....	....	....	....	(+3)
Subtotal, University transportation research	(6,000)	(6,000)	(6,000)	(6,000)	(6,000)	....
Transit planning and research	22,200	23,000	23,000	23,000	23,000	+800
Transit planning and research (Highway Trust Fund, Mass Transit Account) (limitation on obligations)	(87,800)	(93,000)	(93,000)	(93,000)	(93,000)	(+5,200)
Subtotal, Transit planning and research	(110,000)	(116,000)	(116,000)	(116,000)	(116,000)	(+6,000)
Rural transportation assistance	(5,250)	(5,250)	(5,250)	(5,250)	(5,250)	....
National transit institute	(4,000)	(4,000)	(4,000)	(4,000)	(4,000)	....
Transit cooperative research	(8,250)	(8,250)	(8,250)	(8,250)	(8,250)	....
Metropolitan planning	(52,114)	(55,422)	(55,422)	(55,422)	(55,422)	(+3,308)

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
State planning	(10,886)	(11,578)	(11,578)	(11,578)	(11,578)	(+692)
National planning and research	(29,500)	(31,500)	(31,500)	(31,500)	(31,500)	(+2,000)
Subtotal	(110,000)	(116,000)	(116,000)	(116,000)	(116,000)	(+6,000)
Across the board (0.22%) rescission	-49					+49
Trust fund share of expenses (Highway Trust Fund) (liquidation of contract authorization)	(5,016,600)	(5,397,800)	(5,397,800)	(5,397,800)	(5,397,800)	(+381,200)
Capital investment grants	529,200	568,200	568,200	568,200	568,200	+39,000
Capital investment grants (Highway Trust Fund, Mass Transit Account) (limitation on obligations)	(2,116,800)	(2,272,800)	(2,272,800)	(2,272,800)	(2,272,800)	(+156,000)
Subtotal, Capital investment grants	(2,646,000)	(2,841,000)	(2,841,000)	(2,841,000)	(2,841,000)	(+195,000)
Fixed guideway modernization	(1,058,400)	(1,136,400)	(1,136,400)	(1,136,400)	(1,136,400)	(+78,000)
Buses and bus-related facilities	(529,200)	(568,200)	(568,200)	(568,200)	(568,200)	(+39,000)
New starts	(1,058,400)	(1,136,400)	(1,136,400)	(1,136,400)	(1,136,400)	(+78,000)
New starts (general funds)				100,000		
Subtotal	(2,646,000)	(2,841,000)	(2,841,000)	(2,841,000)	(2,841,000)	(+195,000)
Across the board (0.22%) rescission	-1,274					+1,274
Discretionary grants (Highway Trust Fund, Mass Transit Account) (liquidation of contract authorization)	(350,000)					(-350,000)

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Job access and reverse commute grants	20,000	25,000	25,000	25,000	25,000	+5,000
Across the board (0.22%) rescission	-44	....	....	....	....	+44
(Highway Trust Fund, Mass Transit Account) (limitation on obligations)	(80,000)	(100,000)	(100,000)	(100,000)	(100,000)	(+20,000)
Trust fund share of expenses (limitation on obligations) (ATB rescission)	(-8,492)	....	....	....	....	(+8,492)
Subtotal, Job access and reverse commute grants	(99,956)	(125,000)	(125,000)	(125,000)	(125,000)	(+25,044)
Total, Federal Transit Administration	1,254,400	1,349,200	1,349,200	1,449,200	1,349,200	+94,800
(Limitations on obligations)	(5,016,600)	(5,397,800)	(5,397,800)	(5,397,800)	(5,397,800)	(+381,200)
Total budgetary resources	(6,271,000)	(6,747,000)	(6,747,000)	(6,847,000)	(6,747,000)	(+476,000)
ATB rescissions	(-14,382)	....	....	....	....	(+14,382)
ATB rescissions	-2,755	....	....	....	....	+2,755
Net total	(6,253,863)	(6,747,000)	(6,747,000)	(6,847,000)	(6,747,000)	(+493,137)
Saint Lawrence Seaway Development Corporation						
Operations and maintenance (Harbor Maintenance Trust Fund)	13,004	13,345	13,426	13,345	13,345	+341
Across the board (0.22%) rescission	-29	....	....	....	....	+29
Net total	12,975	13,345	13,426	13,345	13,345	+370

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Research and Special Programs Administration						
Research and special programs:						
Hazardous materials safety	18,750	21,217	21,348	21,217	21,217	+2,467
Emergency transportation	1,831	1,897	1,897	1,897	1,897	+66
Research and technology	4,816	4,760	1,784	4,760	2,784	-2,032
Program and administrative support	10,976	14,059	11,458	14,059	11,381	+405
Adjustment		60		60		
Subtotal, research and special programs	36,373	41,993	36,487	41,993	37,279	+906
Across the board (0.22%) rescission	-79					+79
Offsetting collections		-12,000				
Pipeline safety:						
Pipeline Safety Fund	36,556	46,286	41,003	47,278	50,386	+13,830
Oil Spill Liability Trust Fund	7,488	7,472	7,472	11,472	7,864	+376
Pipeline safety reserve	(3,000)					(-3,000)
Subtotal, Pipeline safety program (incl reserve)	(47,044)	(53,758)	(48,475)	(58,750)	(58,250)	(+11,206)
Across the board (0.22%) rescission	-19					+19

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Emergency preparedness grants:						
Emergency preparedness fund	200	200	200	200	200	....
Limitation on emergency preparedness fund	(14,300)	(14,300)	(14,300)	(14,300)	(14,300)	....
Total, Research and Special Programs Admin	80,617	83,951	85,162	100,943	95,729	+15,112
ATB rescissions	-98	....	....	....	....	+98
Net total	80,519	83,951	85,162	100,943	95,729	+15,210
Office of Inspector General						
Salaries and expenses	48,450	50,614	50,614	50,614	50,614	+2,164
Across the board (0.22%) rescission	-106	....	....	....	....	+106
(By transfer from FTA)	(1,000)	(2,000)	....	....	....	(-1,000)
Net total	(49,344)	(52,614)	(50,614)	(50,614)	(50,614)	(+1,270)
Surface Transportation Board						
Salaries and expenses	17,954	18,457	18,563	18,457	18,457	+503
Offsetting collections	-900	-950	-950	-950	-950	-50
Net total	17,054	17,507	17,613	17,507	17,507	+453
Across the board (0.22%) rescission	-37	....	....	....	....	+37

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Bureau of Transportation Statistics						
Office of airline information (Airport & Airway Trust Fund)	....	3,760	....	3,760	....	....
General Provisions						
Amtrak Reform Council (sec. 329)	750	785	450	420	225	-525
Across the board (0.22%) rescission	-2	....	....	....	....	+2
Muscle Shoals, Tuscumbia, and Sheffield (sec. 375)	5,000	....	....	....	....	-5,000
Valley trains and tours (sec. 376)	1,000	....	....	....	....	-1,000
Miscellaneous highways (sec. 378)	1,145,000	....	....	....	....	-1,145,000
Across the board (0.22%) rescission	-2,519	....	....	....	....	+2,519
Woodrow Wilson Memorial Bridge (sec. 379)	600,000	....	....	....	....	-600,000
Surface transportation projects (sec. 330)	....	....	....	20,000	144,000	+144,000
Miscellaneous appropriations (P.L. 106-554):						
Huntsville International Airport (sec. 1104)	2,500	....	....	....	....	-2,500
Southeast Light Rail Extension Project (sec. 1105)	1,000	....	....	....	....	-1,000
Newark-Elizabeth rail link project (sec. 1107)	3,000	....	....	....	....	-3,000
Commercial remote sensing products and spatial information technologies (sec. 1109)	4,000	....	....	....	....	-4,000
Rural farm-to-market roads (sec. 1121)	2,400	....	....	....	....	-2,400
Buses & bus facilities, A&M University (sec. 1123)	500	....	....	....	....	-500
Highway Trust Fund, various projects (sec. 1128)	8,700	....	....	....	....	-8,700
Across the board (0.22%) rescission	-1,333	....	....	....	....	+1,333
Total, General provisions	1,769,996	785	450	20,420	144,225	-1,625,771

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Net total, title I, Department of Transportation	18,633,160	17,094,110	17,088,340	17,810,278	17,506,955	-1,126,205
Appropriations	(18,590,612)	(17,425,110)	(17,416,060)	(18,146,662)	(17,890,579)	(-700,033)
Rescissions	(-677,452)	(-331,000)	(-327,720)	(-336,384)	(-383,624)	(+293,828)
Contingent emergency	(720,000)					(-720,000)
(By transfer)	(1,000)	(2,000)				(-1,000)
(Limitations on obligations)	(38,432,600)	(40,899,801)	(41,007,800)	(41,222,799)	(41,107,800)	(+2,675,200)
(Rescissions of limitations on obligations)	(-87,896)					(+87,896)
(Exempt obligations)	(1,069,000)	(955,000)	(955,000)	(955,000)	(955,000)	(-114,000)
Net total budgetary resources	(58,046,864)	(58,948,911)	(59,051,140)	(59,988,077)	(59,569,755)	(+1,522,891)
TITLE II - RELATED AGENCIES						
Architectural and Transportation Barriers Compliance Board						
Salaries and expenses	4,795	5,015	5,046	5,015	5,015	+220
Across the board (0.22%) rescission	-11					+11
Net total	4,784	5,015	5,046	5,015	5,015	+231

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
National Transportation Safety Board						
Salaries and expenses	62,942	64,480	66,400	70,000	68,000	+5,058
Across the board (0.22%) rescission	-139					+139
Subtotal	62,803	64,480	66,400	70,000	68,000	+5,197
Emergency Response Fund (P.L. 107-38)	150[3]					-150
Total, National Transportation Safety Board	62,953	64,480	66,400	70,000	68,000	+5,047
United States-Canada Railroad Commission						
Salaries and expenses (P.L. 107-20)	2,000					-2,000
Total, title II, Related Agencies	69,737	69,495	71,446	75,015	73,015	+3,278
Grand total	18,702,897	17,163,605	17,159,786	17,885,293	17,579,970	-1,122,927
Appropriations	(18,660,499)	(17,494,605)	(17,487,506)	(18,221,677)	(17,963,594)	(-696,905)
Rescissions	(-677,602)	(-331,000)	(-327,720)	(-336,384)	(-383,624)	(+293,978)
Contingent emergency	(720,000)					(-720,000)
(By transfer)	(1,000)	(2,000)				(-1,000)
(Limitation on obligations)	(38,432,600)	(40,899,801)	(41,007,800)	(41,222,799)	(41,107,800)	(+2,675,200)
(Rescissions of limitations on obligations)	(-87,896)					(+87,896)
(Exempt obligations)	(1,069,000)	(955,000)	(955,000)	(955,000)	(955,000)	(-114,000)
Net total budgetary resources	(58,116,601)	(59,018,406)	(59,122,586)	(60,063,092)	(59,642,770)	(+1,526,169)

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Scorekeeping adjustments:						
Pipeline safety (OSLTF)	-7,000	-47,000	-42,000	-48,000	-50,000	-43,000
Across the board cut (0.22%)	-42,000					+42,000
CBO/OMB adjustment	40,244					-40,244
TASC adjustment (sec. 349)				-37,000	-5,000	-5,000
Total, adjustments	-8,756	-47,000	-42,000	-85,000	-55,000	-46,244
Net grand total (including scorekeeping)	18,694,141	17,116,605	17,117,786	17,800,293	17,524,970	-1,169,171
Current year, FY 2002	(18,694,141)	(17,116,605)	(17,117,786)	(17,800,293)	(17,524,970)	(-1,169,171)
Appropriations	(18,653,499)	(17,447,605)	(17,445,506)	(18,136,677)	(17,908,594)	(-744,905)
Rescissions	(-679,358)	(-331,000)	(-327,720)	(-336,384)	(-383,624)	(+295,734)
Contingent emergency	(720,000)					(-720,000)
(By transfer)	(1,000)	(2,000)				(-1,000)
(Limitations on obligations)	(38,432,600)	(40,899,801)	(41,007,800)	(41,222,799)	(41,107,800)	(+2,675,200)
(Rescissions of limitations on obligations)	(-87,896)					(+87,896)
(Exempt obligations)	(1,069,000)	(955,000)	(955,000)	(955,000)	(955,000)	(-114,000)
Net grand total budgetary resources	(58,107,845)	(58,971,406)	(59,080,586)	(59,978,092)	(59,587,770)	(+1,479,925)

(Amounts in thousands of dollars)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
RECAP BY FUNCTION						
Mandatory	778,000	876,346	876,346	876,346	876,346	+98,346
Discretionary:						
Highway category: (Limitation on obligations)	(30,216,000)	(32,202,001)	(32,310,000)	(32,524,999)	(32,410,000)	(+2,194,000)
Mass Transit category	1,254,400	1,349,200	1,349,200	1,349,200	1,349,200	+94,800
(Limitation on obligations)	(5,016,600)	(5,397,800)	(5,397,800)	(5,397,800)	(5,397,800)	(+381,200)
Total, Mass Transit category	(6,271,000)	(6,747,000)	(6,747,000)	(6,747,000)	(6,747,000)	(+476,000)
General purpose discretionary:						
Defense discretionary	341,000	340,250	340,000	695,000	440,000	+99,000
Nondefense discretionary	16,320,741	14,550,809	14,552,240	14,879,747	14,859,424	-1,461,317
Total, General purpose discretionary	16,661,741	14,891,059	14,892,240	15,574,747	15,299,424	-1,362,317
Total, Discretionary	17,916,141	16,240,259	16,241,440	16,923,947	16,648,624	-1,267,517

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2002 recommended by the Committee of Conference, with comparisons to the fiscal year 2001 amount, the 2002 budget estimates, and the House and Senate bills for 2002 follow:

[In thousands of dollars]

New budget (obligational) authority, fiscal year 2001	$18,702,897
Budget estimates of new (obligational) authority, fiscal year 2002	17,163,605
House bill, fiscal year 2002	17,159,786
Senate bill, fiscal year 2002	17,885,293
Conference agreement, fiscal year 2002	17,579,970
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2001	−1,122,927
Budtet estimates of new (obligational) authority, fiscal year 2002	+416,365
House bill, fiscal year 2002	+420,184
senate bill, fiscal year 2002	−305,323

HAROLD ROGERS,
FRANK R. WOLF,
TOM DELAY,
SONNY CALLAHAN,
TOOD TIAHRT,
ROBERT B. ADERHOLT,
KAY GRANGER,
JO ANN EMERSON
JOHN E. SWEENEY,
BILL YOUNG,
MARTIN OLAV SABO,
JOHN W. OLVER,
ED PASTOR,
CAROLYN C. KILPATRICK,
JOSÉ E. SERRANO,
JAMES E. CLYBURN,
DAVID R. OBEY,
Managers on the Part of the House.

PATTY MURRAY,
ROBERT C. BYRD,
BARBARA A. MIKULSKI,
HARRY REID,
HERB KOHL,
RICHARD J. DURBIN,
PATRICK LEAHY,
DANIEL INOUYE,
RICHARD C. SHELBY,
CHRISTOPHER BOND,
ROBERT F. BENNETT,
BEN NIGHTHORSE CAMPBELL,
KAY BAILEY HUTCHISON,
TED STEVENS,
Managers on the Part of the Senate.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 3 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 0721

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SESSIONS) at 7 o'clock and 21 minutes a.m.

RECOGNIZING VICKI SANTOS, STAFF MEMBER OF COMMITTEE ON RULES

(Mr. REYNOLDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REYNOLDS. Mr. Speaker, as we complete our legislative day, before I send to the desk a privileged report from the Committee on Rules for filing under the rule, I would like to just recognize Vicki Santos on the legislative day of November 29 of this year.

Tomorrow, on November 30, she will be having her last day as she goes back home to an accounting practice that her mother has, and we will miss her on the Committee on Rules and on the floor of this House.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–309) on the resolution (H. Res. 299) waiving points of order against the conference report to accompany the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DEFAZIO (at the request of Mr. GEPHARDT) for November 27 and the balance of the week on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. EDDIE BERNICE JOHNSON of Texas) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. TOWNS, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

(The following Members (at the request of Mr. TOOMEY) to revise and extend their remarks and include extraneous material:)

Mr. WICKER, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. SOUDER, for 5 minutes, today.

ADJOURNMENT

Mr. REYNOLDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 22 minutes a.m.), the House adjourned until today, Friday, November 30, 2001, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4652. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Capital Treatment of Recourse, Direct Credit Substitutes and Residual Interests in Asset Securitizations [Regulations H and Y; Docket No. R–1055] received November 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4653. A letter from the Federal Reserve Board, Office of the Comptroller of the Currency, FDIC, and the Office of Thrift Supervision, transmitting a joint report on review of regulations affecting online delivery of financial products and services, as required by Section 729 of the Gramm-Leach-Bliley Act of 1999; to the Committee on Financial Services.

4654. A letter from the Director, Department of Defense, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Austria for defense articles and services (Transmittal No. 02–13), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4655. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

4656. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the semiannual report of the Office of Inspector General covering the period April 1 through September 30, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

4657. A letter from the Acting Assistant Director, Communications, Bureau of Land Management, Department of the Interior, transmitting the Department's final rule—Notice of Interim Final Supplementary Rules on BLM administered Public Lands within the Imperial Sand Dunes Recreation Area [CA–067–1220–NO] received November 20, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4658. A letter from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Rule To List the Vermilion Darter as Endangered (RIN: 1018–AG05) received November 21, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4659. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) AE 2100 turboprop and AE 3007 turbofan Series Engines [Docket No. 2000–NE–27–AD; Amendment 39–12423; AD 2001–17–31] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4660. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) Model AE 3007A and AE 3007C Turbofan Engines [Docket No. 2000–NE–41–AD; Amendment 39–12442; AD 2001–19–03] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4661. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc Dart 525, 525F, 528, 528D, 529, 529D, 530, 532, 535, 542, and 552 Series Turboprop Engines [Docket No. 2001–NE–29–AD; Amendment 39–12446; AD 2001–19–06] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4662. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes, and Model A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600) Series Airplanes [Docket No. 2001–NM–282–AD; Amendment 39–12454; AD 2001–20–06] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4663. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A319 and A320 Series Airplanes [Docket No. 2001–NM–287–AD; Amendment 39–12464; AD 2001–20–16] (RIN: 2120–AA64) received November 16, 2001., pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4664. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A340–211 Series Airplanes Modified by Supplemental Type Certificate ST09092AC–D [Docket No. 2000–NM–246–AD; Amendment 39–12427; AD 2001–18–01] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4665. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes [Docket No. 2001–NM–300–AD; Amendment 39–12481; AD 2001–22–02] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4666. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Various areas on the islands of Oahu, Maui, Hawaii, and Kauai, HI [COTP Honolulu 01–006] (RIN: 2115–AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4667. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone: Lake Michigan, Kewaunee, Wisconsin [CGD09–01–138] (RIN: 2115–AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4668. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Lake Michigan, Point Beach Nuclear Power Plant, WI [CGD09–01–137] (RIN: 2115–AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4669. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Lake Erie, Perry, Ohio [CGD09–01–130] (RIN: 2115–AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1022. A bill to amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials; with an amendment (Rept. 107–305). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3209. A bill to amend title 18, United States Code, with respect to false communications about certain criminal violations, and for other purposes; with an amendment (Rept. 107–306). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3275. A bill to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes; with an amendment (Rept. 107–307). Referred to the Committee of the Whole House on the State of the Union.

[November 30 (legislative day of November 29), 2001]

Mr. ROGERS of Kentucky: Committee of Conference. Conference report on H.R. 2299. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–308). Ordered to be printed.

Mr. REYNOLDS: Committee on Rules. House Resolution 299. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–309). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. McGOVERN (for himself, Mrs. Morella, Mr. Rush, Ms. Slaughter, Mr. Udall of New Mexico, and Mr. Gutierrez):

H.R. 3372. A bill to amend the Equal Credit Opportunity Act to permit the collection of demographic information in connection with small business loan applications with the applicant's consent, and for other purposes; to the Committee on Financial Services.

By Mr. HOUGHTON (for himself, Mr. Rangel, Mr. Fossella, Mr. Gilman, Mr. Towns, Mrs. McCarthy of New York, Mr. Quinn, Mr. King, Mrs. Kelly, Mr. Sweeney, Mr. Reynolds, Mr. Serrano, Mr. Walsh, Mr. McHugh, Mr. Grucci, Mr. Engel, and Mr. Hinchey):

H.R. 3373. A bill to amend the Internal Revenue Code of 1986 to provide tax benefits for the recovery of the area of New York City damaged in the September 11, 2001, terrorist attacks; to the Committee on Ways and Means.

By Mr. BONIOR:

H.R. 3374. A bill to amend title 38, United States Code, to establish a minimum pension rate for certain veterans; to the Committee on Veterans' Affairs.

By Mr. BLUNT (for himself, Mr. Moran of Virginia, Mr. Wolf, Mr. Obey, Mr. Isakson, Mr. Wynn, Mr. Boyd, Ms. McKinney, Mr. Frank, Ms. Waters, Mr. Faleomavaega, Mr. Watt of North Carolina, Mr. Scott, Mr. Thompson of Mississippi, Mr. Owens, and Mr. Payne):

H.R. 3375. A bill to provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; to the Committee on the Judiciary.

By Mr. FERGUSON:

H.R. 3376. A bill to amend the compensation program established under the Air Transportation Safety and System Stabilization Act to clarify that, in reducing the amount of compensation provided to a person under the program by amounts received from collateral sources, collateral sources do not include charitable sources; to the Committee on the Judiciary.

By Mr. HAYWORTH (for himself, Mr. McInnis, and Mr. Shadegg):

H.R. 3377. A bill to improve the safety of houseboat generator exhaust systems; to the Committee on Transportation and Infrastructure.

By Mr. HORN:

H.R. 3378. A bill to establish the Commission on Homeland Security; to the Committee on Government Reform.

By Mr. ISRAEL:

H.R. 3379. A bill to designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the "Raymond M. Downey Post Office Building"; to the Committee on Government Reform.

By Mr. JENKINS:

H.R. 3380. A bill to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park; to the Committee on Resources.

By Mr. LEVIN (for himself, Mr. Camp, Mr. Hoekstra, Mr. Dingell, Mr. Kildee, Mr. Bonior, Ms. Rivers, Mr. Ehlers, Mr. Rogers of Michigan, Mr. Knollenberg, and Mr. Stupak):

H.R. 3381. A bill to amend the Internal Revenue Code of 1986 to provide that certain bonds issued by local governments in connection with delinquent real property taxes may be treated as tax exempt; to the Committee on Ways and Means.

By Mr. MARKEY (for himself and Mrs. Lowey):

H.R. 3382. A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities; to the Committee on Energy and Commerce.

By Mr. MORAN of Kansas:

H.R. 3383. A bill to require the Attorney General of the United States and the Federal Trade Commission to issue guidelines relating to mergers by wholesale purchasers of livestock, poultry, and unprocessed agricultural commodities; to the Committee on the Judiciary.

By Mr. REHBERG (for himself and Mr. YOUNG of Alaska):

H.R. 3384. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for costs of travel for purposes of making retail purchases in States that do not impose sales tax; to the Committee on Ways and Means.

By Mr. TERRY (for himself, Mr. FRELINGHUYSEN, Mr. ADERHOLT, Mr. BONILLA, Mr. CUNNINGHAM, Mr. FERGUSON, Mr. GILMAN, Mr. GOODLATTE, Mr. HOBSON, Mr. JONES of North Carolina, Mrs. KELLY, Mr. KING, Mr. KNOLLENBERG, Mr. LEVIN, Mr. PASCRELL, Mr. QUINN, Mr. SHOWS, Mr. SMITH of New Jersey, Mr. TIAHRT, and Mr. WALSH):

H. Res. 298. A resolution expressing the sense of the House of Representatives that Veterans Day should continue to be observed on November 11 and separate from any other Federal holiday or day for Federal elections or national observances; to the Committee on Government Reform.

By Ms. SOLIS (for herself, Mr. HONDA, Ms. LEE, Mr. KIND, Mr. SANDERS, Mr. SPRATT, Mr. MEEHAN, Mr. BACA, Mr. RODRIGUEZ, Mr. ISRAEL, Mrs. EMERSON, Mr. CLAY, Ms. SCHAKOWSKY, Ms. ROYBAL-ALLARD, Ms. VELÁZQUEZ, Ms. WATSON, Mr. BROWN of Ohio, Mr. BRADY of Pennsylvania, Mr. LANGEVIN, Mr. FROST, Mr. DAVIS of Illinois, Mr. SHERMAN, Mr. SERRANO, Mr. GUTIERREZ, Mr. ORTIZ, Mr. STUPAK, Mr. HASTINGS of Florida, Mr. SCOTT, Mr. HOEFFEL, Mrs. LOWEY, Mr. LARSON of Connecticut, Mr. ENGEL, Mr. CONYERS, Mr. NADLER, Ms. LOFGREN, Mr. HILLIARD, Mr. GEORGE MILLER of California, Mr. HALL of Ohio, Mr. WAXMAN, Mr. BORSKI, Mr. BONIOR, Ms. CARSON of Indiana, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. PELOSI, Mr. MATSUI, Ms. MCCOLLUM, Ms. SLAUGHTER, Mr. KUCINICH, Mr. WALSH, Mr. BLUMENAUER, Mr. DEFAZIO, Mr. KENNEDY of Rhode Island, Mrs. CAPITO, Mrs. JONES of Ohio, Mr. QUINN, Mr. OLVER, Ms. DELAURO, Mr. DOYLE, Ms. KAPTUR, and Mr. CAPUANO):

H. Res. 300. A resolution expressing the sense of the House of Representatives that the President should release emergency funding under the Low-Income Home Energy Assistance Program in view of the large number of people who lost their jobs due to the weak economy or as a result of the terrorist attacks of September 11, 2001; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. DOOLITTLE introduced A bill (H.R. 3386) to provide for the conveyance of two parcels of land within Stanislaus National Forest, California, that contain recreational cabins to the owners of the cabins; which was referred to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 36: Mr. GOODLATTE.

H.R. 179: Mr. JEFF MILLER of Florida.

H.R. 189: Mr. KERNS.

H.R. 218: Mr. JOHNSON of Illinois.

H.R. 220: Mr. LATOURETTE.

H.R. 267: Mrs. LOWEY and Mr. PRICE of North Carolina.

H.R. 630: Mr. OXLEY.

H.R. 664: Mr. TAUZIN.

H.R. 690: Ms. WATERS and Ms. WATSON.

H.R. 782: Ms. SLAUGHTER and Mr. PASCRELL.

H.R. 783: Ms. SLAUGHTER.

H.R. 792: Mrs. LOWEY.

H.R. 910: Mr. WEXLER.

H.R. 951: Ms. HOOLEY of Oregon, Mr. DOOLEY of California, Mr. POMEROY, Mr. KINGSTON, Mr. SHERMAN, Ms. PELOSI, Mr. BERRY, Ms. WOOLSEY, Mr. DEAL of Georgia, and Mr. COBLE.

H.R. 963: Mr. BOEHLERT.

H.R. 1198: Mrs. MEEK of Florida.

H.R. 1331: Mr. SHOWS and Mr. WELDON of Florida.

H.R. 1343: Mr. CONDIT.

H.R. 1431: Mr. JEFF MILLER of Florida.

H.R. 1436: Mr. KENNEDY of Minnesota and Mr. MORAN of Kansas.

H.R. 1556: Mr. PLATTS.

H.R. 1577: Mr. LATHAM, Ms. LEE, Mr. LANGEVIN, and Ms. SCHAKOWSKY.

H.R. 1591: Ms. ESHOO.

H.R. 1609: Mr. SOUDER.

H.R. 1622: Mr. OWENS.

H.R. 1624: Mr. KOLBE.

H.R. 1629: Mr. CANTOR.

H.R. 1701: Mr. PHELPS and Mr. TERRY.

H.R. 1720: Mr. MOORE and Ms. MCKINNEY.

H.R. 1754: Mr. COSTELLO.

H.R. 1773: Mr. PAYNE.

H.R. 1964: Mr. STUMP

H.R. 2211: Mrs. MALONEY of New York and Mr. OLVER.

H.R. 2244: Mr. HALL of Ohio.

H.R. 2308: Mr. PAYNE.

H.R. 2349: Mr. UDALL of Colorado, Mrs. LOWEY, and Mr. MORAN of Virginia.

H.R. 2357: Mr. STUMP, Mr. CANTOR, and Mr. SHUSTER.

H.R. 2377: Mr. MCGOVERN.

H.R. 2380: Mr. HILLIARD, Mr. MCINTYRE, Mr. ISRAEL, and Mrs. NAPOLITANO.

H.R. 2459: Mr. OLVER.

H.R. 2466: Mr. DUNCAN.

H.R. 2486: Mr. WATT of North Carolina.

H.R. 2521: Mr. MASCARA.

H.R. 2527: Mr. MCKEON.

H.R. 2574: Mr. DEAL of Georgia.

H.R. 2594: Mr. OTTER.

H.R. 2622: Mr. HINCHEY.

H.R. 2629: Mr. TOM DAVIS of Virginia.

H.R. 2663: Mrs. LOWEY and Mr. WYNN.

H.R. 2695: Mr. RAMSTAD.

H.R. 2800: Mr. SOUDER.

H.R. 2820: Mrs. MINK of Hawaii.

H.R. 2839: Mr. WEXLER, Mr. STARK, Ms. ESHOO, Mr. LANTOS, and Mr. WATT of North Carolina.

H.R. 2908: Mr. SCHIFF.

H.R. 2965: Mr. BEREUTER.

H.R. 2988: Ms. JACKSON-LEE of Texas.

H.R. 3014: Mr. FORD and Mr. KIRK.

H.R. 3020: Mr. MORAN of Kansas and Mr. WALSH.

H.R. 3046: Mr. BEREUTER.

H.R. 3077: Mr. BEREUTER.

H.R. 3106: Ms. MCCARTHY of New York.

H.R. 3149: Mr. CAMP, Mr. ABERCROMBIE, Ms. KILPATRICK, Mr. ENGLISH, and Mr. UPTON.

H.R. 3154: Mr. LANGEVIN, Mr. CUMMINGS, Mr. ETHERIDGE, Mr. HANSEN, Mr. BARRETT, and Mr. THUNE.

H.R. 3174: Mr. BONIOR and Mr. FALEOMAVAEGA.

H.R. 3175: Mr. MCHUGH and Ms. MCKINNEY.

H.R. 3178: Ms. HARMAN.

H.R. 3206: Mr. GARY G. MILLER of California.

H.R. 3215: Mr. TAYLOR of Mississippi, Mr. GILCHREST, Mr. PRICE of North Caroline, Mr. SHUSTER, Mr. LEWIS of California, Mr. REGULA, Mr. SIMMONS, Mr. ISTOOK, and Mr. GOSS.

H.R. 3230: Mr. BORSKI.

H.R. 3244: Mr. CRAMER, Ms. ROYBAL-ALLARD, Mr. CUMMINGS, Mr. ABERCROMBIE, Mr. MEEKS of New York, Mrs. CHRISTENSEN, and Mr. ARMEY.

H.R. 3267: Mrs. LOWEY.

H.R. 3272: Mrs. LOWEY.

H.R. 3274: Ms. MCKINNEY and Mr. MCDERMOTT.

H.R. 3284: Mr. MCGOVERN and Ms. WOOLSEY.

H.R. 3288: Mr. ALLEN.

H.R. 3290: Mr. STARK, Mr. FROST, Mr. FRANK, and Mr. UDALL of Colorado.

H.R. 3301: Mr. LATHAM, Mr. KERNS, and Ms. PRYCE of Ohio.

H.R. 3303: Mr. SHADEGG.

H.R. 3310: Mrs. LOWEY, Mr. MATSUI, Mr. PLATTS, Mr. KLECZKA, Mr. ROSS, and Mr. POMEROY.

H.R. 3318: Mr. HALL of Texas, Mr. MCGOVERN, Mr. NEAL of Massachusetts, Mr. BERMAN, Ms. WOOLSEY, Mr. STENHOLM, Mr. RAHALL, Mr. FALEOMAVAEGA, Mr. ACKERMAN, and Ms. PELOSI.

H.R. 3319: Mr. KERNS.

H.R. 3323: Mr. CAMP, Mr. MCINNIS, and Mr. EHRLICH.

H.R. 3333: Mr. RYUN of Kansas.

H.R. 3336: Mr. FROST, Mr. RUSH, Mr. MCGOVERN, Mr. CLYBURN, Ms. KILPATRICK, Mr. LANTOS, and Mrs. MINK of Hawaii.

H.R. 3339: Ms. LEE and Mr. BONIOR.

H.R. 3351: Mrs. CAPPS, Mr. MCNULTY, Mr. PALLONE, Mr. BALDACCI, Mr. ISAKSON, Mr. KINGSTON, Mr. WHITFIELD, Mr. HOLT, Mr. BASS, Mr. DUNCAN, Mr. OSE, Mr. COMBEST, Mr. MARKEY, Mr. SHOWS, Mrs. MALONEY of New York, Mr. SAXTON, Mr. BLUNT, Mr. TOM DAVIS of Virginia, Mr. TURNER, Mr. BRADY of Pennsylvania, Mr. HEFLEY, Mr. BOEHLERT, Mr. MCHUGH, Mr. BACHUS, Mr. LAHOOD, Mr. FOLEY, Mr. MORAN of Kansas, Mr. BALLENGER, Mr. WAMP, Ms. GRANGER, Mr. LANGEVIN, Mr. INSLEE, Mr. COSTELLO, Mr. FARR of California, Mr. LEACH, Mr. BARR of Georgia, Ms. WOOLSEY, Mr. CARSON of Oklahoma, Mr. ABERCROMBIE, Mr. SNYDER, Mr. BAIRD, and Mr. GOODE.

H.R. 3352: Mr. MASCARA.

H.R. 3353: Mr. WALSH.

H.R. 3370: Mr. EHLERS and Mr. BARCIA.

H. Con. Res. 222: Mr. CANTOR and Mr. SOUDER.

H. Con. Res. 232: Mr. KENNEDY of Rhode Island, Mr. MEEKS of New York, Mr. ROYCE, Mr. SPRATT, and Mr. GILCHREST.

H. Con. Res. 249: Mr. CLAY.

H. Con. Res. 259: Mr. GILMAN.

H. Con. Res. 260: Mr. FATTAH and Ms. WATSON.

H. Con. Res. 267: Mr. KIRK.

H. Res. 265: Mr. FALEOMAVAEGA and Mr. ENGLISH.

H. Res. 280: Mr. HONDA, Mr. PAYNE, Mr. GONZALEZ, Ms. MILLENDER-MCDONALD, Mr. CLAY, and Mr. RANGEL.

H. Res. 281: Mr. WYNN, Mr. BERRY, and Mr. BONIOR.

SENATE—*Thursday, November 29, 2001*

The Senate met at 9 a.m. and was called to order by the Honorable JEAN CARNAHAN, a Senator from the State of Missouri.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, we thank You for the privilege of living in this land You have blessed so bountifully. You have called the United States to be a demonstration of freedom and equality, righteousness and justice, opportunity and hope that You desire for all nations. O God, help us to be faithful to our heritage in this time of war against terrorism.

Today we gratefully remember the memory of Johnny Michael "Mike" Spann, marine and CIA agent who gave his life in the battle in Afghanistan, in his own words, "to make this world a better place in which to live."

Now we praise You for the way that You have blessed this Senate with great leaders in each period of our history. Through them You continue to give Your vision for the unfolding of the American dream. Bless the Senators with a renewed sense of their calling to greatness through Your grace. You have appointed them; now anoint them afresh with Your spirit. As they confront the soul-sized, crucial issues today, give them a spirit of unity and cooperativeness. The workload is great, the pressure is heavy, the challenges formidable, but nothing is impossible for You.

Fill this Chamber with Your presence. You are the judge of all that will be said and done today. Ultimately, we have no one to please or answer to but You. With renewed commitment to You and reignited patriotism, we press on to live the page of American history that will be written today. Through our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEAN CARNAHAN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 29, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEAN CARNAHAN, a Senator from the State of Missouri, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. CARNAHAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Madam President, this morning the Senate will resume consideration of the motion to proceed to H.R. 10. There will be 60 minutes of debate equally divided between the two leaders. The Senate will vote on cloture on the motion to proceed at approximately 10 a.m.

MEASURE PLACED ON CALENDAR—H.R. 2983

Mr. REID. Madam President, I understand H.R. 2983 is at the desk and due for its second reading.

The ACTING PRESIDENT pro tempore. The leader is correct.

Mr. REID. I ask that H.R. 2983 be read a second time and then I would object to any further proceedings on this legislation at this time.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill.

The legislative clerk read as follows:

> A bill (H.R. 2983) to extend indemnification authority under section 170 of the Atomic Energy Act of 1954, and for other purposes.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to proceed to H.R. 10, which the clerk will report.

The legislative clerk read as follows:

> Motion to proceed to the bill (H.R. 10) to provide for pension reform, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, there shall be 60 minutes of debate prior to the cloture vote.

Who yields time? If neither side yields time, time will be charged equally to both sides.

The Senator from Nevada is recognized.

REPUBLICAN ENERGY PLAN

Mr. REID. Madam President, yesterday there was considerable talk on the Senate floor regarding the Republican energy plan, using that term loosely, talking about the need for us to move forward. The majority leader has announced that we are going to take up an energy bill in February. He has given a date. I guess it is difficult for some to take yes for an answer. We are going to go to an energy bill just as soon as we get back. It is important we do that.

In the meantime, there is this constant harangue from the other side about how important it is that we go to an energy bill right now. We agree that there should be an acknowledged policy in this country. It is very important we do that.

We have to understand that under their plan, an increase in oil import dependence would go from 56 percent today to well over 60 percent by the year 2010.

According to the Energy Information Administration, which is part of the DOE, by 2010, cars, light trucks, and SUVs will use an additional 1.8 million barrels of oil a day. Total oil use will increase by twice that much to about 3.6 million barrels a day. The Republican plan does virtually nothing to address oil consumption. Their mantra is supply, supply, supply.

Nothing the United States does will have any impact on the price of oil. That price is determined in the world market. If we don't address our consumption, we might drive the price higher.

The United States currently uses 25 percent of the world's oil supply.

U.S. oil production has been declining since 1970. Even if ANWR were opened to oil development, the most optimistic scenario would only result in a net increase of less than half a million barrels a day. That is a lot of oil, but certainly it will not do anything to address the major problems we

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

have in this country. Those problems relate to consumption.

This assumes that oil companies don't shift production from other places in the United States. There are 32 million acres in the Gulf of Mexico that have been leased but not developed.

Most of the dollars spent on developing new oil supplies are invested outside the United States. Why? Because there is more oil outside the United States. We, who are so proud of our natural resources, must acknowledge, reluctantly but truthfully, that we don't have a lot of oil in the United States. It is estimated that out of 100 percent of the oil reserves in the world, we have 3 percent in the United States. Most of the dollars spent in developing new oil supplies are in places such as Russia, Africa, Brazil, the Caspian and, of course, the Middle East.

Major oil companies, led by Exxon, just committed $30 billion to develop gas and water projects in Saudi Arabia. This is a picture of the signing of that deal. Mobil has done well. We don't need to cry about how Mobil is doing in the economic world. Let's talk about ExxonMobil. I am glad they are doing well, but let's not cry about how they are doing. Profits in 2000 were $12.40 billion, total upstream profits. Profits from the U.S. oil and gas production is this much; you can see that. Investment in U.S. production is this much. We have learned how much they are doing with the Saudi Arabia program. The picture is of Lee Raymond of Exxon signing that deal. It was for $30 billion. The United States is spending that much. Investment in non-U.S. production in Saudi Arabia, Angola, Qatar, and others, is $5.2 billion. Madam President, we should understand where the money is going.

Natural gas: On the other hand, natural gas is currently being produced from existing oilfields on the North Slope of Alaska, and then reinjected because there is no pipeline to bring the gas to the lower 48 States.

Natural gas demand is projected to increase by 24 percent by 2010. We in the United States have a choice. We can build a pipeline to bring the gas to market. We can do that. It would be expensive, but it would be very productive and good for the consumer. Or we can become dependent on liquefied natural gas from oil and gas exporting countries as we are for our other oil.

So the question is: Arctic gas or liquefied natural gas from OPEC. Eleven of the world's gas-exporting nations gathered in Iran in May of this year for the inaugural meeting of the Gas Exporting Countries Forum. They control two-thirds of the world's natural gas reserves.

According to the OPEC bulletin of June 2001, "Not only was the Gas Exporting Countries Forum born in the capital city of an OPEC member, but the two groups also have five members in common: Algeria, Indonesia, Iran, Nigeria, and Qatar. They can unite and coordinate their policies in much the same way as OPEC has done in the past four decades." That should give us pause.

We need a stimulus from the energy policy. Some argue that opening ANWR to oil development would be a great economic stimulus. As we now know, the job numbers thrown around have been grossly exaggerated.

CRS estimates job creation from ANWR might be between 60,000 and 130,000. Again, this assumes jobs are not just shifted from the Gulf of Mexico or the Rocky Mountain region.

Construction of an Arctic natural gas pipeline would create between 350,000 and 400,000 jobs in steel production, pipe manufacturing, trucking and shipping, and construction jobs for 3 to 4 years for assembling the pipeline. These projections are derived from the estimated construction costs and the Bureau of Labor Statistics for pipeline construction, and this is the same approach as the CRS analysis used for ANWR.

This pipeline would be a mammoth project, requiring 4 times as much steel as used for all the cars produced globally in 1999. The steel for the pipe would be enough to give each person on Earth enough stainless steel to make cutlery for six elaborate table settings. The potential natural gas resources could supply the American market for 50 to 60 years.

It seems that we have an easy choice to make. We can do it ourselves or we can be dependent on foreign oil. In the speeches we hear from the other side, I hope they will recognize that we can't continue to consume, consume, consume and meet our energy needs. We are going to have to cut back on consumption. We can do that in a number of simple ways. We can make cars more fuel efficient. We can save millions of barrels of oil a day by making our cars more efficient. Also, we need to look at what we are going to do with alternative energy sources, such as sun, wind, geothermal, biomass, and also spend some money—real dollars—in hydrogen development. For example, Senator HARKIN, for years, has worked with me in trying to come up with a hydrogen program in the United States. It can be done, but we can't get the research dollars to do it. We know it is a safe product. If you had a container of hydrogen that started leaking, you would get water vapor. That is what you would get—not the sludge and these terrible messes that we get in the ocean and on land.

In short, we are no longer going to stand by and let the other side speak about what a terrible thing is happening and that we are not doing something about energy policy. We want to do something. We want to have a full and complete debate, recognizing that the answer to the problems of America is not drilling in the Arctic pristine wilderness.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. CORZINE. Madam President, I rise this morning to offer my strong support for the Railroad Retirement Survivor Improvement Act of 2001. It is a piece of legislation that truly will modernize the railroad retirement system and help ensure that our railroad retirees are offered benefits that are consistent with what is made available in the private sector to other industrial workers throughout our economy.

Quite frankly, this is simply a fairness issue, to which I think we need to attend. It is strongly supported on both sides of the aisle, and I think we ought to do away with the procedural hangups that are keeping us from addressing this issue and moving forward.

Today's railroad retirement system is deeply outmoded, badly in need of reform. Unlike most pension plans, the current pension system for railroad workers has tied the hands of those who have the fiduciary responsibility to manage it. It can't invest in private market assets, bonds, or equities. Instead, under the current law, the railroad retirement system is required to invest only in Government securities. That is whether it is the tier 1 benefits, which are like Social Security, or tier 2 programs, which are very consistent or the moral equivalent of a private pension system.

The result is that railroad retirees and their families are being placed at a significant and, I believe, unfair disadvantage relative to their peers in the economy.

Throughout modern pension activities, we have a different result than what happens for rail workers because they are not able to retire with the same certainty and security that other workers are, and their families are prejudiced as well because of the lack of effectiveness in their investment programs and retire programs. We need to do something about it.

This program is very simple and very straightforward. The legislation before us also represents a political compromise that enjoys broad support, as I suggested, by Republicans and Democrats, labor and management. It has wide sponsorship throughout all interested parties. It makes sense from an economic standpoint, a consistency standpoint, and certainly a political standpoint. After all, most people in this Chamber—putting this into a personal perspective—are not being forced to invest in pension plans that are limited only to Government securities.

Under the Thrift Savings Plan, Government employees, like most in the private sector, can invest in the private market, stock index funds, debt index funds—a whole host of options that improve the performance profile of the assets involved in the pension funds.

These funds historically have done better, and the academic history and testing objective data show private pension funds need more opportunities than just being limited to Government securities. I do not understand why we are denying to railroad workers the same opportunity that we have as public employees.

Because private debt and equities generally provide these higher returns, this also would allow for significant improvement in the retirees' benefits: For example, a simple concept such as reducing the retirement age from 62 to 60 after 30 years of service. It is a pretty straightforward, simple, commonsense view and is very consistent with what goes on in the private sector.

Also, widows and widowers would be guaranteed benefits at an amount no less than the amount of the annuity that the retiree received. If one works all their life to build up an annuity that is sensible, the widow or widower should receive more than 50 percent of the retiree's annuity. That is also pretty consistent with actions in the private sector.

This legislation will allow a retirement system to reduce its vesting requirement from 10 years to 5 years, a very standard feature in all private sector pensions. We ought to take advantage of this opportunity to modernize the railroad retirement system and put it in a consistent format with other elements in our society's retirement programs.

I am concerned that the reason this legislation is not moving is because there are those who believe we somehow are going to pilfer the money. The opposite is true. I believe when we do not properly manage, as a fiduciary, retirees' money, we are actually limiting their ability, and the pilfering is really our fault, not theirs. We ought to do something about that.

I am concerned about what is really happening. I believe it is sometimes the view of some that we are trying to limit our options in managing retirement funds. It is quite possible people are presuming that if we make this kind of move with respect to railroad retirement activities and pension investments, we must have an analogy that works for Social Security. There is reason to believe we ought to be thinking about how we manage our Social Security trust funds so that we secure their actuarial responsibility over the long run.

I hope we are not standing against doing something that makes sense for railroad workers because we have this great desire to resist modernizing our practices in how we handle our pension funds.

It is time for us to move forward with this legislation. It was overwhelmingly supported in the House. There is something approaching 75 cosponsors in the Senate. This is 21st century investing—actually, it is 20th century investing practices, and we need to make sure our railroad workers have that same right. I hope we will avoid all this haggling about procedure and move forward to protect their retirement the way we expect others in the economy to proceed.

Mr. ROCKEFELLER. Madam President, I am proud to have been an original cosponsor of the bipartisan Railroad Retirement and Survivors' Improvement Act of 2001 when it was introduced this spring. This legislation has strong bipartisan support and it deserves action before Congress adjourns this year.

In West Virginia, we have over 11,000 retirees and their families currently depending on railroad retirement, and almost 3,500 West Virginians working for the railroads who will need their railroad retirement in the future. These hardworking railroad employees have done tough jobs for years, and because of the physical work and often harsh outdoor working conditions, they deserve a good retirement package, at a earlier age than current benefits allow.

Nationwide, there are currently about 673,000 railroad retirees and families, and about 245,000 active rail workers. They, too, deserve a better retirement program, and I want to work with them to promote this historic package supported by both rail labor and rail management.

There can be no doubt that improving retirement benefits for railroad workers, retirees, and their families must be one of our top priorities. Right now, it takes 10 years of service before a railroad worker becomes vested in the retirement plan, while private companies covered by the Employee Retirement Income Security Act, ERISA, vest their employees in just 5 to 7 years.

The need to dramatically improve benefits for railroad widows and widowers is also obvious and has gone unaddressed for far too long. It is cruel to slash the benefits of the widow of a railroad retiree at the death of her spouse, as the current policy does. Railroad widows have called my offices and pleaded with me at West Virginia town meetings to understand how essential this legislation is for them.

A railroad widow living in Hinton, WV, recently told me that her current railroad pension benefit is too small for her to pay the premium for railroad health insurance. This widow's husband died when he was just 56, and she was only 46. She has been struggling to maintain her home and pay her bills, and can just barely do that, but she cannot afford to buy health insurance. She deserves a better deal. Railroad widows in my state and across our country living on fixed incomes face a tough challenge to maintain their homes and their dignity. Increasing pension benefits for railroad widows should be a priority before this Congress adjourns.

Today, experts predict that the Railroad Trust Funds are solvent for the next 25 years, and existing policy offers guaranteed benefits to railroad retirees and their families. Under the new plan, the railroads would pay less taxes into the Railroad Retirement Trust Funds, but the fund would create an investment board to invest its reserves in private equities, so the increased rate of returns would cover the expanded benefits. Under the plan, there is a provision to increase railroad taxes in the future when necessary to fully fund the railroad retirement benefits.

As a member of the Senate Finance Committee, I have been pushing hard to enact this legislation to improve benefits for railroad retirees and their families. I will be working with Finance Chairman BAUCUS and Senate Majority Leader DASCHLE to achieve our goal of improving railroad retirement. Our railroad workers, our retirees, and their widows have been waiting too long for a better retirement package. It would be wrong for Congress to leave without acting on this vital program.

Mr. REID. Madam President, I suggest the absence of a quorum and ask that the time be charged equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ENERGY BILL MUST BE DEBATED

Mr. BURNS. Madam President, I have heard several comments this morning with regard to energy, yet I am still in a fog about why we are even discussing this legislation.

Americans should know that September 11 not only changed the entire Nation but it also changed the mindset in Washington, DC. I can remember that morning because we were in a press conference talking about enhanced 9-1-1, legislation that was passed and signed by President Clinton. Basically what it did was it allowed the technology to move forward in our wireless communications that when someone used their cell phone and they hit 9-1-1, they got the nearest first responder or emergency responder.

In a State such as Montana where we have large rural areas, this is very important. I held a safety conference in Helena during the August break. We had around 200 people attending, saying we need to locate people whenever an emergency comes in on a cell phone because we have great distances to cover.

With the technology of triangulation of the towers and enhanced GPS, we can now locate the 9-1-1, or the emergency caller, just as we can when we pick up a phone in our own home where it is wired.

We were taking a look at the deployment of that technology in a news conference on that morning of September 11 when the terrorists decided to take their bite out of the United States of America. It was a shocking thing when we saw the second airplane go into the second tower and then the one that hit the Pentagon in Washington, DC. It changed our perspective on everything.

I bring that up because we are in a war, and the only defense against terrorists who will forfeit their lives to carry out a mission, the only way to prevent those people from doing great harm to our country, is to keep them on the run where they do not have a lot of time to plan to do bad things to us.

I congratulate the President this morning because we are taking out the al-Qaida and the terrorists who perpetrated this act of war on our country.

We are also in a recession. We have an agricultural sector that is hurting, and we are talking about something that affects none of the things that are affecting our country today. Nothing in this legislation, with the time we think we have left of this year, the first half of the 107th Congress, will stimulate the economy. It has nothing to do with the economy.

I am a cosponsor on the bill. We have farmers who are walking into their banks to renew their operating loans, and what are the bankers telling them? We have to have some concrete evidence this Government is going to be in your corner next year. We have been every year, but now they want to tie it down a little tighter. Yes, that is a stimulus. Agriculture is about 20 percent of the GDP in this country. It is very important, and it all starts at the production level. We do not hear anybody talking about that.

Yesterday morning I brought up the fact that energy is a part of this, and we hear speeches even this morning on energy, but we only hear speeches. Put a bill on the floor. Allow a bill to come to the Senate. We will debate conservation. We will debate the economy. We will debate production. The President had a task force put together headed by Vice President CHENEY, and a lot of the actions he wants taken are not allowed to be debated. Make no doubt about it. We are at war, and then we hear speeches. We have an energy crisis, but we hear speeches. The economy continues to slip; we continue to hear speeches. Put the bill before the Senate. That is all I say.

The Railroad Retirement Act probably has as many cosponsors as have ever cosponsored a bill in this body. Some folks would say fairness. Fairness to whom? Fairness with the rest of the country? It does nothing that would heal some of the ills that are afflicting our country right now.

What I am saying is let us get our work done. If we want to talk about energy, put an energy bill before the Senate. That is all we ask. Then we will let the chips fall where they may. That is what we should be doing this morning if we move forward on anything.

Let us do something substantive. Let us complete the appropriations. I serve on the Appropriations Committee. The assistant minority leader serves on that committee. We have worked together on a lot of issues, and I think he will agree that it is not going to take a lot of work or a lot of time to finish. As soon as we get the Defense appropriations and complete a stimulus bill, then let us go home and let us recharge the batteries. Let us talk to the people back home. Let us find out what their agenda is, what they want to see this Government and this Congress do as we complete the year 2001.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

UNANIMOUS CONSENT REQUEST—H.R. 3090

Mr. REID. Madam President, the junior Senator from Montana, my good friend, and I have worked together on a number of issues. We were the two who handled military construction appropriations for many years. He is a pleasure to work with. I enjoyed working with him this year on the Interior appropriations bill. In answer to my friend, the reason we are talking about energy this morning, it has been talked about so much from the other side, I must reply.

Regarding the railroad retirement bill, it is important legislation. For the widows, it is an important piece of legislation. I acknowledge we should move these appropriations conference reports as quickly as we can. Transportation was resolved yesterday. That is big news. We hope to complete that this week as soon as the House does.

Yesterday it was noted that if we moved to the House bill, which will be the vehicle for the railroad retirement legislation, the stimulus bill would be displaced. We agreed that the stimulus bill should not be displaced. We did not raise a point of order to knock it off the calendar. We could have raised a point of order against a Republican vehicle and then the stimulus bill would be gone forever from this session of the legislature. We chose not to do that. We agreed the stimulus bill should not be displaced. That is the reason we asked to call the railroad bill up by unanimous consent, but that was objected to by a Republican colleague.

To ensure again that the stimulus bill is not displaced by the railroad retirement bill, I ask unanimous consent the stimulus bill, H.R. 3090, recur as the pending business immediately upon the disposition of the railroad retirement bill.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. On behalf of the Republican leadership, I object.

The ACTING PRESIDENT pro tempore. The objection is heard.

SENATE WORK PRIORITIES

Mr. CRAIG. Madam President, let me speak for a few moments on the issue of railroad retirement, the stimulus package, and the business before the Senate. Our assistant Republican leader is on the floor and wants to speak to the motion to proceed, so I will be brief.

I rise in support of railroad retirement and have been a cosponsor of that legislation for the last several years. There is adequate time to deal with this issue. We can deal with it now following the stimulus package or certainly we can deal with it next year. The Democratic leadership has chosen to bring it up and force the issue at this time. It is an important piece of legislation. There are 75 cosponsors in the Senate. The Senate Finance Committee has worked some on it. The House has worked on it and passed it.

Is it a perfect piece of legislation? No. It goes a long way to fix a flawed system, a system at this time that is in deep trouble, a 65-year-old system that has been treated poorly in the past in many respects and will not serve the retirees or the railroad system effectively well in the future.

As a result of an effort on the part of management and labor to bring this issue together, they have worked hard to do so. There are many on my side who disagree and some on the other side who disagree. This issue does not find unanimous support in the Senate. I would hope issues of such critical nature could find unanimous support, but that will not happen.

It is important this issue be addressed. I hope the Senate can work its will. I will support efforts to bring it to the floor. At the same time, I hope the Democrat leadership understands a recession has been declared in this country by the institutions that measure our economics and measure the output of our economy. If we are in recession—and we are—we ought to deal with a stimulus package that will bring investment and job creation back to the marketplace.

We ought to be understanding that we are at war. We ought to move expeditiously, as the House now is, to deal with the DOD package to make sure our men and women in harm's way are adequately funded, and that all of the issues of post-September 11 are dealt with in the appropriate fashion. That doesn't mean we have to stay here for the next 3 weeks to get that done.

We do our timely work now; we come back in late January and do the balance. This is an issue that could have been dealt with in late January, as can agriculture, as energy, I hope, will be with a date definite and a vote up or down to pass. If energy is not dealt with in that fashion, and if the majority leader does not choose to give us a clear signal as to how energy will be voted on, energy will be an amendment to any amendable bill that comes before the Senate following the current effort.

This bill will be amendable. Maybe energy fits well into a railroad retirement package. It is every bit as critical to a broader base of the American economy as this bill is very critical to a lot of people in my State and across the Nation.

To reiterate, I support the railroad retirement legislation. I am one of the 75 cosponsors in the Senate. In the last Congress, when I was briefly a member of the Senate Finance Committee, I had an opportunity to participate in the hearings on the bill and vote in favor of passing it and sending it to the Senate floor for consideration. While I am a supporter of this bill, I can understand why some of my colleagues have genuine problems with it. Does this bill take a flawed system and make it perfect? No. However, does this bill take a flawed system and dramatically improve it? Yes.

I am here today to urge my colleagues: Do not let the perfect be the enemy of the very, very good. It is no small feat that rail labor and rail management came together, reasoned together in good faith, and devoted a great deal of energy, expertise, and old-fashioned innovation to improving a 65-year-old system in a bright and forward-thinking way. They have fashioned a remarkably good bill. It removes a 65-year-old requirement that assets of the system be invested solely in Federal instruments. It permits the kind of investments that any other industry pension plan might make. As a result, over time the system will bring in more revenue, and that will permit better benefits for retirees and surviving spouses, while reducing the contributions needed from rail employers.

It is important to remember that this bill also provides for the possibility that the returns on investments might be less than history suggests they will be. If that should occur, it would trigger an automatic adjustment mechanism requiring more contributions from the industry. This protects the federal government and the nation's taxpayers. On the other hand, if returns are greater than projected, both labor and management will be able to reduce contributions further. The new Investment Trust created by the bill will not include any government employees and will not be appointed by any. Trustees will be subject to ERISA fiduciary standards. They will be able to hire professional pension investment advisors. Congress will annually receive a report on the results of the investment efforts.

Let me also address the so-called "cost" of this bill. I agree with the House of Representatives that changing the investment mix is not an outlay, but just a new means of financing the government's obligations under the system. Those who take balanced federal budgets seriously should have no reason to back away from this legislation.

Mr. President, the thousands of working men and women, retirees, and surviving spouses who will benefit from this legislation have waited patiently while this bill has been reviewed again and again. They have waited long enough. This bill is an enormous step in the right direction, and one the entire Senate should support.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I rise in opposition on a motion to proceed. I have great respect for my friend and colleague from Nevada, but I happen to disagree that moving to railroad retirement is what we should be doing. Railroad retirement is an issue that some people say has been considered by Congress. It hasn't been considered. We didn't have a hearing in the House; we didn't have a hearing in the Senate. We have a bill written by special interest groups, by railroad companies and unions. They negotiated a deal and said, great, now have the American taxpayer pay for it.

If there is ever special interest legislation, this is it. We are going to say we want to set aside the stimulus package so we can take this bill up. I have told my friends and colleagues if we take it up, we will have to have a lot of amendments and a lot of debate.

I read where tier 1 is the same thing as Social Security. But it is not. It is not the same thing. There are differences. People who receive Social Security do not get to retire at age 60 with 100-percent benefits. And this is what this legislation does for railroad retirees.

Under private pension benefit plans, survivors of deceased usually receive 50 percent; the survivors under this bill receive 100 percent. We are going to do that? We are going to put that in the statute and say the Federal Government will pay for it?

People say they want to be treated like the private sector. Private sector gets to invest in the stock market. Great. Make this a private sector plan. We can do that. We are going to give them $15 billion, that is a heck of a cash infusion to a pension system. We have never done that in the history of America where we have taken $15 billion, given it to one industry for their retirement system. It benefits primarily a few companies and a whole lot of employees and retirees. They have worked it out in a mutually beneficial manner. They both benefit, almost exactly the same amount. They negotiated a deal to save $4 billion in 10 years and the employees get $4 billion in new benefits. And the Federal Government will gives them $15 or $16 billion in the process.

I question the wisdom of doing that. We have not had a hearing and have not been able to ask people: Why are we doing this? How does it work? Where does the money come from?

If we move to this bill, as I expect may well happen but, will have to have some amendments. We will have to consider should tier 1 really be equivalent to Social Security. If they are going to be in the Social Security system and pay Social Security taxes, they pay identical tier 1 taxes to Social Security, shouldn't we give them identical Social Security benefits? Or do we give them benefits far in excess of what Social Security provides? We are going to have to consider that.

What about this survivor benefit? They say this is great, we have a survivor benefit, and it is a big increase. Everyone likes it. If we are going to increase the survivor benefit for railroads, should we do it also for Social Security? Or conversely, should survivor benefits, at least for Social Security, be the same for all Social Security beneficiaries? There is a big difference. We have to look at that and we have to look at the cash infusion. The argument is made that this is just moving $16 billion of Government IOUs over into the private sector for real investment.

I asked the Treasury Secretary, how are you going to do it? He said: I am going to go out and borrow $16 billion. We are in a deficit situation. It is all going to be added to debt, so we are going to add $16 billion to our national publicly held debt that you and I and all taxpayers will be paying interest on every year. That means if we are paying something like 6 percent interest on $15 billion, we are going to be paying $1 billion per year in interest maybe forever for this cash infusion to go to this retirement fund which will greatly increase benefits and also reduce the contributions to that retirement fund.

I used to be a fiduciary and trustee of a retirement fund. You can't do that. You would have the Pension Benefit Guarantee Corporation saying: You are not making your minimum allocation requirements to make these funds adequately financed. You are doing just the opposite. You have a grossly underfunded actuarial benefit that is required, and you are not making those payments.

We are doing just the opposite. We have an unfunded plan that has financial problems in the future, and what we are doing is cutting taxes and increasing benefits. Oh, yes, we are going to transfer a whole bunch of money so it will last a little while, but it doesn't last even that long. As a matter of fact, it is kind of startling to find out the amount of money available. This fund starts evaporating pretty quickly. It is projected in 20 years the taxes are going to have to be raised as much as 70 percent—in 20 years, because of the shortfall.

My biggest problem is the way we have directed scorekeeping in here to say we are not going to count that $15 billion. Hocus pocus—write a check, and it doesn't count. That really bothers me.

There is language in the House-passed bill on page 25 that says:

> Means of financing. For purposes of the Congressional Budget Act of 1974 and the Balanced Budget Act and Emergency Deficit Control Act of 1985—and on and on—notwithstanding the purchase or sale of non-Federal assets—shall be treated as a means of financing—i.e., it doesn't count; they are kind of clever legal words that say it doesn't count.

It will be interesting to see how Democrats and Republicans vote on this bill because we have a little section in here that says "the budget doesn't count."

I ask you, if you can do this for the railroad retirement system, why can't you do it for Social Security? Why don't we write a check for $1 trillion or $1.8 trillion, or whatever the Social Security trust fund balance is that is Government-held debt, Government IOUs to itself? Why don't we just write a check for that entire amount and say now we have real securities?

If you do it, you are going to have outlays and we are going to have to borrow money. This $16 billion we are going to have to borrow. We are going to increase the national debt to do this.

I wonder if people really thought about that and what that really means. Can we do this for Social Security? Is this real? Are we moving away from Government T-bills into Government stocks? No, we are not. We are moving away from Government IOUs, which are on paper, into real debt that we will have to write checks for and pay interest on every year—real debt, publicly held debt that could be held in the United States or overseas, on which we will be writing checks. We will have to pay interest on it to the tune of $1 billion a year.

We will put it in the railroad retirement fund and at the same time say: Railroad companies, you don't have to pay as much. We are going to reduce your taxes. Even though you signed contracts that are very generous in retirement benefits, we are going to reduce your contribution. Incidentally, retirees, because you were willing to go along with this, we are going to increase your benefits. We are going to give you benefits nobody else has in the private sector. We are going to give you benefits that are greater than Social Security.

You are tier 1, which is supposed to be equivalent to Social Security. In Social Security, the retirement age is going to 67. For tier 1 benefits, the retirement age is going to 60. For Social Security beneficiaries, for everybody—every Senator, every civil servant, employee who is on Social Security today—when they receive benefits, every person in the private sector on Social Security today, if they retire at 62, they receive 80 percent of their normal retirement benefit—80 percent.

Not railroad retirement; it is 100 percent under age 62, and under this bill it will be 100 percent at age 60. And they pay the same taxes. That is 12.8 percent, 6.4 percent by the employer, 6.4 percent by the employee for tier 1 taxes and Social Security taxes. These are the same taxes everybody else pays in America, but they get a lot better benefit under this bill we are considering.

The House almost passed this bill unanimously. Did they really know what they were doing? Did they realize the cost implications of this legislation? Does that really make sense, and can we afford it? Is this trust fund in such good shape we can give the most generous benefits in America? Does it make financial sense to do that? I don't think so.

I think people are going to be embarrassed when sometime, at some point, if and when this bill ever becomes law—and it has not become law yet because it still has to go through the amendment process, and I hope we can improve it, I hope we can strike out language that says this $16 billion check we are going to write doesn't count.

I am on the Budget Committee. I have been on the Budget Committee for 21 years. I am horrified by this language. I am embarrassed the House passed it, and I am embarrassed we would even consider it in the Senate. So we are going to have amendments to strike it, and we will find out whether or not people think when you write a check it doesn't count. If we say it doesn't count, let's just tear up the Budget Act totally.

Speaking about budgets, a lot of people are talking about emergencies. I met with the President last night, and I said we have been trying to respond to emergency situations in a bipartisan fashion, but I am looking at spending that is growing rather dramatically. The President proposed a budget that grew at 6.1 percent. We had an agreement at $686 billion. We signed a letter. Members of Congress actually asked the President to sign the letter that said: Here is our deal. October 2, our budget deal, $686 billion discretionary spending, a growth rate of 7.1 percent. We added a few billion more for education. All signed on, this is the deal.

Then we agreed, let's add $40 billion as a result of the September 11 attack. So that moved the $686 up to $726 billion. The growth of spending now is 13.3 percent. That doesn't include $16 billion coming in for railroad retirement. That doesn't include $16 billion or $15 billion or $7.5 billion for additional homeland security. That doesn't count the additional billions of dollars—we don't know how much it is going to cost—in the victims' compensation fund that is already the law of the land. That doesn't count the $15 billion we have for airline security and loan guarantees.

If we add all that together, we are on a spending spree in Congress. It looks to me as if people are trying to ram through all the spending they can this year because they know that next year we are in red ink. Next year we are going to have deficits.

There was a front page story in the Washington Post today alluding to the situation that we may have deficits for several years, so let's run this through now and put in little language in the bill that says it doesn't count.

So I hope to have several amendments to this legislation if we are forced to consider it. Although, I think it is more important that we stay on the stimulus package and visit this legislation at another time. I hope we finish the Nation's business. I hope we get our appropriations bills done, pass the stimulus package trying to help this economy which is in a recession, and go home. But if we are going to say let's come out and spend this kind of money, we are going to have to rework this program and improve it.

Let's allow the unions and railroad companies to come up with whatever benefits they want. I don't care if they have retirement at age 40, as long as they pay for it and don't ask us to pay for it. If it is their retirement system and they are responsible for it, great. If they are asking taxpayers to pay for it, wait a minute, we should be a little more cautious. If they are going to have survivor benefits greater than almost every survivor benefit in America, that is fine, as long as they pay for it. But don't ask us to guarantee it.

So I urge my colleagues to vote no on the motion to move off the stimulus package and move on the railroad retirement bill.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. While the distinguished Senator from Oklahoma is on the floor, I ask unanimous consent the time for debate prior to the cloture vote on the motion to proceed to H.R. 10 be extended until 10:30, with the time equally divided and controlled as under the previous order, and that the remaining provisions of the previous order governing the cloture vote remain in effect.

Mr. NICKLES. Reserving the right to object, I suggest the absence of quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Madam President, I renew my request.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The senior assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 69, H.R. 10, an act to provide for pension reform and for other purposes:

Paul Wellstone, Richard Durbin, Byron Dorgan, Harry Reid, Jon Corzine, Hillary Clinton, Blanche Lincoln, Thomas Carper, Patrick Leahy, Tom Harkin, Benjamin Nelson, Mary Landrieu, Bill Nelson, Ron Wyden, Charles Schumer, Bob Graham, and Barbara Mikulski.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 10, an act to provide for pension reform, and for other purposes, shall be brought to a close? The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 96, nays 4, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS —96

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS —4

Gramm
Gregg
Kyl
Nickles

The PRESIDING OFFICER. On this vote, the yeas are 96, the nays are 4. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EDWARDS). Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that I be allowed to speak for up to 15 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Thank you, Mr. President.

NOMINATION OF JOHN WALTERS

Mr. HATCH. Mr. President, I rise today to speak on behalf of all parents and grandparents, teachers, clergy, mentors, law enforcement, treatment and prevention coalitions, and all the others who work every day to prevent illegal drug use from destroying the lives of our young people. Our country needs John Walters, the President's nominee for drug czar, to be confirmed. It is shameful that here we are in November, and Mr. Walters remains the President's only Cabinet member who has not been confirmed.

To say that the confirmation of Mr. Walters has been obstructed is by no means an exaggeration. It has been 203 days since the President announced his choice of John Walters to be the next Director of the Office of National Drug Control Policy. It has been 177 days since the Senate received his nomination. It has been 50 days since Mr. Walters' hearing before the Judiciary Committee. And it has been 21 days since his nomination was voted out of the Judiciary Committee by a wide margin and sent to the Senate floor. How many more days, weeks, and months can we expect this nomination to linger before a vote is finally scheduled? In my view, we have already waited much too long.

John Walters' confirmation will also add another much-needed weapon to our arsenal in the war against terrorism. Since the September 11 attacks, there has been much discussion about the nexus between drug trafficking and terrorism. We know that proceeds from the manufacturing and trafficking of opium poppy helped sustain the Taliban's control of Afghanistan. We also know that terrorist organizations routinely launder the proceeds from drug trafficking and use the funds to support and expand their operations internationally, including purchasing and trafficking illegal weapons. I am sure in the coming months and years, we will continue to learn about the clandestine connection between drugs and terrorists.

The situation in Afghanistan also bodes ill for the world's supply of heroin. In 2000, over 70 percent of the world's heroin was produced in Afghanistan. Stockpiles of Afghan heroin were reportedly dumped on the market after the September 11 attacks. While officials in America and Europe are bracing for the onslaught of cheap heroin that will soon be hitting the markets in all neighborhoods across America and Europe, we have no drug czar. The head of the Drug Enforcement Administration, the DEA, Asa Hutchinson, recently referred to the situation in Afghanistan as a "rare opportunity" for U.S. antidrug efforts to act on the successes of the military campaign and influence the future direction of heroin production in Afghanistan. While I have great confidence in the work Asa Hutchinson and the DEA are doing, the administration needs its lead drug control policy official in place to help formulate a comprehensive policy designed to reduce significantly heroin production in Afghanistan.

Mr. Walters will have to work closely with law enforcement and intelligence authorities to ensure that the international component of the Nation's drug control policy is designed not only to prevent drugs from being trafficked into America but also to prevent the manufacturing and sale of drugs for the purpose of funding terrorist activities. Mr. Walters is eminently qualified to carry out this task, and I am confident that he will be a first-rate Director. He is the right person for this job.

John Walters' career in public service has prepared him well for this office. He has worked tirelessly over the last

2 decades helping to formulate and improve comprehensive policies designed to keep drugs away from our children. By virtue of this experience, he truly has unparalleled knowledge and experience in all facets of drug control policy. Lest there be any doubt that Mr. Walters' past efforts were successful, let me point out that during his tenure at the Department of Education and ONDCP, drug use in America fell to its lowest level at any time in the past 25 years, and drug use by teens plunged over 50 percent. Mr. Walters has remained a vocal advocate for curbing illegal drug use. Tragically, as illegal drug use edged upward under the previous administration, his voice went unheeded.

John Walters enjoys widespread support from distinguished members of the law enforcement community, including the Fraternal Order of Police and the National Troopers Coalition. His nomination is also supported by some of the most prominent members of the prevention and treatment communities, including the National Association of Drug Court Professionals, the American Methadone Treatment Association, the Partnership for Drug Free America, National Families in Action, and the Community Anti-Drug Coalitions of America. All of these organizations agree that if we are to win the war on drugs in America, we need a comprehensive policy aimed at reducing both the demand for and supply of drugs. Mr. Walters' accomplished record demonstrates that he, too, has always believed in such a comprehensive approach. As he stated before Congress in 1993, an effective antidrug strategy must "integrate efforts to reduce the supply of as well as the demand for illegal drugs."

Despite this groundswell of support, ever since Mr. Walters was first mentioned almost 7 months ago to be the next drug czar, several interested individuals and groups have attacked his nomination with a barrage of unfounded criticisms. Because of these untruths, I believe his confirmation has been delayed, and I feel compelled to respond to some of these gross distortions of John Walters' record.

The most common criticism I have heard is that John Walters is hostile to drug treatment. This is categorically false. He has a long, documented history of supporting drug treatment as an integral component of a balanced national drug control policy. You do not have to take my word on this. You need only look at the numbers. Keep in mind, just today, just an hour ago, we passed the Hatch-Leahy "Drug Abuse Education, Prevention, and Treatment Act of 2001" out of the Judiciary Committee. The bulk of the money in that bill will go for drug treatment, education, and prevention programs. And we have done so with the advice and counsel of Mr. Walters. So that is a false accusation. But look at the numbers.

During Mr. Walters' tenure at ONDCP, treatment funding increased 74 percent. Compare that with the increase over 8 years for the Clinton administration of a mere 17 percent. This commitment to expanding treatment explains why John Walters has such broad support from the treatment community. It is simply inconceivable to believe that all of the prominent groups that are supporting Mr. Walters would do so if they believed he was hostile to treatment programs.

Another recurring criticism is that Mr. Walters doesn't support a balanced drug control policy that incorporates both supply and demand reduction programs. This criticism, too, is flat wrong and again belied by his record. For example, in testimony given before this committee in 1991, Mr. Walters, then acting Director of ONDCP, laid out a national drug control strategy that included the following guiding principles: educating our citizens about the dangers of drug use, placing more addicts in effective treatment programs, expanding the number and quality of treatment programs, reducing the supply and availability of drugs on our streets, and dismantling trafficking organizations through tough law enforcement and interdiction measures.

Mr. Walters' support of prevention programs is equally evident. His commitment to prevention became clear during his tenure at the Department of Education during the Reagan administration. He drafted the Department's first drug prevention guide for parents and teachers entitled, "Schools Without Drugs" and created the Department's first prevention advertising campaign, and implemented the Drug-Free Schools grant program.

These are not the words or actions of an ideologue who is hostile to prevention and treatment but, rather, represent the firmly held beliefs of a man of conviction who has fought hard to include effective prevention and treatment programs in the fight against drug abuse.

Some have also charged that Mr. Walters doesn't believe the oft-repeated liberal shibboleth too many low-level, "non-violent" drug offenders are being arrested, prosecuted, and jailed. I, too, plead guilty, and we have the facts on our side. Data from the Bureau of Justice Statistics, BJS, reveals that 67.4 percent of Federal defendants convicted of simple possession had prior arrest records, and 54 percent had prior convictions. Moreover, prison sentences handed down for possession offenses amount to just 1 percent of Federal prison sentences. It is flatly untrue that a significant proportion of our Federal prison population consists of individuals who have done nothing other than possess illegal drugs for their personal consumption.

The simple fact is that the drug legalization camp exaggerates the rate at which defendants are jailed solely for simple possession. Mr. Walters, to his credit, has had the courage to publicly refute these misleading statistics. And to these critics I want to make one other point perfectly clear. Those who sell drugs, whatever type and whatever quantity, are not, to this father and grandfather, nonviolent offenders, not when each pill, each joint, each line, and each needle can—and often does—destroy a young person's life. Mr. Walters' critics have shamefully distorted his statements to claim that he favors jailing first-time, nonviolent offenders.

I am committed 100 percent to expanding and improving drug abuse education, prevention, and treatment programs, and I know that John Walters is my ally in this effort. Earlier this year I introduced S. 304, the Drug Abuse Education, Prevention, and Treatment Act of 2001, a bipartisan bill that I drafted with my good friend, Senator LEAHY, Senators BIDEN, DEWINE, THURMOND, FEINSTEIN, and GRASSLEY. This legislation will dramatically increase prevention and treatment efforts. In drafting the bill, I repeatedly solicited Mr. Walters' expert advice. I know, and his record clearly reflects, that he agrees with me and my colleagues that prevention and treatment must remain integral components of our national drug control policy.

We just passed that bill out of the Judiciary Committee this morning. I hope it will be called up immediately and passed out of the Senate because it will make such a difference in the lives of our young people around this country. If I recall correctly, Joe Califano, the former head of HEW, Health, Education, and Welfare—now Health and Human Services—called this bill truly revolutionary and one that he could support wholeheartedly. He is not alone.

We need to shore up our support for demand reduction programs if we are to reduce illegal drug use in America. This belief is bipartisan. Our President believes it. Our Attorney General believes it. Our Democratic leader in the Senate believes it. My Republican colleagues believe it. And most importantly, John Walters believes it.

Since being nominated in May, Mr. Walters has made himself available to all Senators on the Judiciary Committee. He has throughly answered all questions posed to him by the Judiciary Committee, as well as questions from Senators not on the Committee. I commend the President for his selection and nomination of John Walters, and I call upon the Democratic leader to end the delay, remove all holds, and schedule a vote on Mr. Walters' nomination as early as possible, this week, if he could. At a time when we are at war, it is simply not prudent or proper to play politics with this nomination. I urge my colleagues to reject the efforts of those who have wrongfully sought to taint John Walters and to support an immediate vote on his nomination.

Finally, I urge Chairman LEAHY not to let this session end without holding hearings for the deputy positions at ONDCP. Mr. Walters needs his team in place. I look forward to working with my Senate Republican and Democratic colleagues and the administration to carry forward our fight against drug trafficking and terrorism.

Let me make one or two final remarks. I was pleased to see the Judiciary Committee pass out the nine additional district judges, one a circuit court judge nominee and eight district court nominees, and, in addition, to pass out two other top officials in the Bush administration and, of course, a number of U.S. Attorneys. I commend our chairman for doing that. I commend him for moving forward on these judges.

We have come a long way from when the criticisms reached their height. We still have a long way to go because there are still 101 vacancies in the Federal judiciary as I stand here today. Frankly, that is probably 101 too many. Be that as it may, we all know that we have to do something about them.

As we prepare to recess, there is one startling fact that needs more attention. On May 9, President Bush nominated 11 outstanding attorneys to serve as Federal appellate court judges. To this date, nearly three quarters of those nominees are still pending in the Judiciary Committee without a hearing. Although all of these nominees received qualified or well-qualified ratings from the American Bar Association, only 3 of those first 11 nominees have had a hearing. At present, there are 30 vacancies in the Federal courts of appeals. Some courts, such as the DC circuit, are functioning under a dramatically reduced capacity.

President Bush has responded to the vacancy crisis in the appellate courts by nominating a total of 28 top-notch men and women to these posts, a number of circuit court nominees that is unprecedented in the first years of recent administrations. Yet the Judiciary Committee has managed to move just five appeals court judges from the committee to the Senate floor for a vote. Last year at this time we had 67 vacancies in the Federal judiciary. Since Senator LEAHY has become chairman, the vacancy rate has never been below 100. I am concerned that this number will only continue to grow after Congress recesses next month.

I urge my colleagues on the other side to use the remaining weeks of this session to hold hearings and votes on judicial nominees to combat the alarming vacancy rate.

Having said that, I am pleased that the chairman did allow nine judges to pass out today. I hope he will continue to work in a bipartisan fashion with me to pass more out. I am proud to work with Senator LEAHY. I certainly want to cooperate with him in every way I possibly can. I believe the other Republicans on the committee do as well.

There is a lot of criticism that goes back and forth on judges. I have to say, it is difficult to be chairman of this committee. I sympathize with Senator LEAHY on some of the difficulties he has had. I know there are people on his side who would just as soon not have any Bush judges go on through, as there were occasionally on our side. It is very difficult to meet some of the objections and to overcome them and to resolve some of the political problems that arise. We have to do it. We have to stand up and work with both sides to get the Federal courts as full as we possibly can so that justice can proceed, especially in the case of the Circuit Court of Appeals for the District of Columbia, the District Court of the District of Columbia as well, so that we can handle all of the terrorist issues that will come before that particular court.

Having said all of that, I hope we can move ahead with John Walters; if there are any holds, that they will be removed; and if they won't remove them, I hope the majority leader will ignore the holds, bring this up for a battle on the floor, and then have a vote up or down and let the chips fall where they may.

I believe Mr. Walters will be confirmed. I believe he must be confirmed. If we don't get him confirmed, I believe the rate of youth drug use will continue to rise. Frankly, we have had enough of that. We have to get a very tough policy going again on drugs, and that should include both the supply and demand sides.

I will make sure that this new administration, under John Walters, will take care of the demand side as well as the supply side. If we pass S. 304 through the Senate on which Senator LEAHY and I have worked so hard, I believe it will go to the House. I believe they will pass it, and it will go a long way toward resolving some of the really serious drug problems we have among our young people.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in recess today from 12:30 to 3:30 p.m., and that the time be charged under rule XXII. We will reconvene at 3:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, for those who are listening, this is really important that we do this. We are privileged today that both the Democrat and Republican caucuses will listen to the Secretary of State, Colin Powell, talk about world affairs. Then we are going to have a briefing upstairs.

It is important that all Senators attend the luncheon with Colin Powell and the briefing upstairs about what is going on in Afghanistan.

We know that a number of Senators have expressed a desire to speak. The junior Senator from Michigan is here. She wishes to speak. I understand Senator CARNAHAN is here. So we will recess at 12:30. Everybody should be advised that the time until then is open. Perhaps we could arrange some times, if that is helpful to the parties here. It is my understanding that Senator CARNAHAN wishes to speak, but I don't know for how long. Maybe we can get things set up so people don't have to wait around. The Senator from Michigan wants to speak for 15 minutes. The Senator from Illinois wants 5 minutes. So we have Senator DURBIN for 5, Senator CARNAHAN for 10, Senator STABENOW for 15, and Senator THOMPSON wants 15.

I ask unanimous consent that the Senator from Illinois be recognized for 5 minutes, the Senator from Michigan be recognized for 15 minutes, the Senator from Missouri be recognized for 10 minutes, and then Senator THOMPSON be recognized for the final 15 minutes. That would take us to the recess.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Illinois.

ECONOMIC STIMULUS

Mr. DURBIN. Mr. President, I thank the Senator from Nevada for his leadership. He works so hard on the floor on a regular basis to make sure things run smoothly and we get about the business of deliberating important issues. At this time, there is no more important an issue than the economic stimulus package. As we move around the Nation, clearly people have lost jobs and businesses are hurting. We need to spark this economy, to move it forward.

There was good news yesterday on Capitol Hill. The leaders—Democrats and Republicans—came together to start a process to lead to a stimulus package, a recovery package that will truly help all Americans. I have taken a look at many of the proposals here, and I certainly support the Democrats' position that we need to help families who have lost their jobs. If you are unemployed in America today and you are lucky enough to have unemployment insurance, you get about $230 a week on which to live. Imagine for a moment, as you follow these proceedings, what life would be like on $230 a week, trying to make your mortgage or rental payment, pay utility bills, buy food for your family, and provide for the necessities. It is very difficult.

Over half of the unemployed workers don't even have unemployment insurance. They have left part-time jobs and they have no help. It is no wonder we are finding that food pantries and kitchens for the poor across America are being overwhelmed with those coming in asking for help at the end of the year. It is important that we remember these people as part of the stimulus package. Money given to these families is money that will be spent on the necessities of life, and that would be an expenditure that would not only help them but equally important, spark the economy because they are going to be making purchases that help retailers and producers of goods and services across America.

In addition, health insurance is one of the first casualties of an unemployed family. And $500 or $600 a month for a COBRA plan, a private health insurance plan, is beyond the reach of most families. Think for a moment. If you are one of those lucky Americans, such as myself, whose family is insured, what would it be like to know that tomorrow your health insurance is gone; you are one accident or one illness away from disaster?

We don't want that to happen to the families of the unemployed. That is why the Democrats pushed hard to keep that in the package.

Let me tell you another thing we can do to spark the economy. We need a tax cut that will have an immediate impact and is fair. One I have talked about over the last several weeks—Senator DOMENICI of New Mexico raised it as well—is a Federal tax holiday. It means that for a month we would suspend the collection of Federal payroll taxes on employees and employers across America. What is the impact? If your family earns, say, $40,000 a year, it means that in that month-long payroll tax holiday you would see an additional $250 in your paycheck, $250 at the end of the year for important purchases for your family, for holiday purchases, for year-end purchases that you might otherwise have put off.

The good thing about this approach is that it is fast, focused, and it is fair. It not only helps workers, every worker who gets a payroll check, it is going to help businesses, particularly small businesses.

Let me give you an illustration. If you had a small business with 100 employees, with each employee having an average income of $40,000, it would mean for your small business, in that month-long holiday period, an additional $25,000 in tax savings. Why does small business need that? The last time I talked to people running a small business, they told me, for example, the increase in health insurance premiums is causing a real problem and hardship. So they can turn around and make sure their employees are covered and also have this money through a tax holiday.

This idea has strong bipartisan support. It certainly makes more sense for us to spend the $30 billion involved in this proposal rather than to put it on a tax cut for people in the highest income categories in America. This payroll tax holiday, which I and Senator DOMENICI and others support, would be focused on helping employees and employers across America. We can do this. The Congress can enact it. We can say to the American people, even before this holiday season comes to an end, we are going to provide them a real tax cut and real tax relief.

I hope as part of our bipartisan package we can include this provision. We can get this economy moving and do it in the right way, and do it in a fair fashion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I rise to commend my colleague from Illinois for his comments. I wish to associate myself with the comments of both Senator DURBIN and Senator DOMENICI, who are involved in advocating common-sense approach to put money in people's pockets immediately. I congratulate them for doing that.

I also rise to speak about what needs to happen in terms of economic recovery and an economic stimulus package. I commend our leader, Senator DASCHLE, for bringing together the leaders for discussions. I thank the leaders on both sides of the aisle for sitting down together to move this measure because we do need to move quickly on a stimulus and recovery package. But we all know it has to be the right thing.

I am very concerned about what the House Republicans passed and the fact their approach is so very different from what mainstream economists are telling us needs to be done in terms of moving this economy forward quickly. What we saw in the House was an attempt to place into law another round of large tax cuts for the top 1 percent of the public, and literally billions of dollars in tax cuts for the largest multinational corporations—supply-side economics at its best—hoping that it would trickle down somehow in time to help small businesses, workers, professionals, middle-income people, somehow that it would trickle down in order for people to be able to receive some kind of assistance during this recession.

We know in the past that approach has not worked. I am here today to encourage us to do what mainstream economists across the board have suggested we do, which is to put something in place that is immediate, temporary, and stimulates the economy by putting money directly into people's pockets. I think the payroll tax holiday is one good way to do that. It would certainly support small businesses.

We hear a lot of talk about big business in the Congress. Yet small business is the fastest growing part of our economy, employing millions of people. They, too, have been affected—many times more so by what happened in terms of the recession. We need to make sure we are focusing on support for small business, whether it is being able to write off investments more quickly, whether it is a payroll tax holiday. I think supporting small business in this equation is very important.

I want to share some facts. We know that if we focus on those who have lost their jobs, whether it is through the airline industry since September 11 or other jobs in our economy, when we give dollars directly to those who are unemployed, they turn around and buy groceries for the family, school supplies, Christmas, or other holiday gifts. Those activities are important to keep the economy going. It moves the economy along, and it helps our families. It is a win-win situation for everyone.

Studies have also shown that for every $1 invested in unemployment insurance, we generate $2.15 in the gross domestic product. A 1999 study by the Department of Labor estimated that unemployment insurance mitigated the real loss in GDP by 15 percent. That is real, that is measurable, and it is an immediate stimulus to the economy. In the last 5 recessions, real loss of GDP was mitigated by 15 percent, and the average peak number of jobs saved was 131,000 jobs.

Economists are telling us that this is not just about doing what is fair; it is the best solution. It is the best way to stimulate the economy. Joseph Stiglitz, co-winner of the 2001 Nobel Prize in Economics, has stated: We should extend the duration and magnitude of the benefits we provide to our unemployed. This is not only the fairest proposal but also the most effective. It is the most effective for the economy. People who become unemployed cut back on their expenditures. Giving them more dollars will directly increase expenditures and improve the economy.

We are talking about a demand-side approach. The Republicans in the House of Representatives have said trickle-down economics, supply side, that is the way to get the economy going. Economist after economist has come forward to say the problem is not supply. In my State of Michigan where we make outstanding automobiles, trucks, and SUVs, we want folks to purchase those vehicles. We know the problem is not supply; the problem is demand and people having a job, having income, and being able to purchase that vehicle. It is demand side, and that is what the economists are all telling us.

I want to speak about the economy and why we need to expand the unemployment insurance needs and modernize the system and why the Senate Democratic approach is so important to women in our economy.

When we look at unemployment insurance today, only 23 percent of unemployed women meet the current unemployment insurance eligibility requirements. Only 23 percent of unemployed women meet the eligibility requirements of unemployment insurance. Women who are heads of households and families dependent upon two incomes are disproportionately and unfairly affected by layoffs and by our current unemployment system.

That is why the Senate Democrats have put forward a modernization of unemployment compensation by covering both part-time and low-wage workers. This proportionately helps women more than it does men because women are more likely to be in part-time positions or in lower wage positions.

Unfortunately, the administration plan and the House plan do nothing to include part-time or low-wage workers. Sixty percent of low-income workers are women and 70 percent of part-time workers are women.

I believe it is important for us to understand that those part-time workers may be care giving for their children, may be care giving for a mom, a dad, a gramps or grandma who need assistance. They are fulfilling other family obligations while providing important income for their family. They should not be left out of the economic picture. When we are looking for ways to support the economy and working men and women, we need to remember those women who are working part time or are in low-wage professions.

Women are the majority of workers in industries that have been hardest hit by the economic downturn: 56 percent of retail sales, 69 percent of restaurant and wait staff, 65 percent of kitchen workers, 79 percent of flight attendants.

I find it so disconcerting that here we are, long past September 11 when we immediately responded to the concerns—and I supported doing that—of the airline industry to help them recover from what happened on September 11, we have yet to pass a bill to support the people who work in that industry.

We were promised that if we dealt with the industry first, we would come back to those hundreds of thousands of airline industry-related workers who had been laid off. Yet we have not done that. Again, we see that this disproportionately affects women.

Also, women only earn 76 percent of men's median income, and women of color earn 64 percent of the wages of working men. As a result, women have a greater need for income replacement when they are unemployed. It is important to note that we are talking about women who are providing a significant percentage of their family income, in addition to caring for their children and caring for older adults and all of the other work in which women are involved. For poor female heads of households who work part time, their earnings represent 91 percent of the family income. If they lose their job, we are talking about 91 percent of the family income disappearing. Failure to replace the wages of part-time workers through unemployment insurance benefits detrimentally impacts working women and their families.

This is about doing the right thing in stimulating the economy. It is about coming up with ways that support small business, as well as large, and our workers. It is about tax cuts that go to low- and moderate-income people who will put that back into the economy.

Also, this is about making sure we remember the large part of our workforce, our women, who are disproportionately affected by the current unemployment system. It is designed in a way that unfairly penalizes women who are working part time while caring for their children and caring for loved ones at home or working in important but very low-wage jobs.

This debate about stimulating the economy, about economic recovery, is incredibly important for everyone. We need to keep an eye on the fact that the policies we set may, in fact, have different results for working women than for working men, and we need to remember women and their families as we put together this economic recovery package.

I urge we do what is right, what is fair, and most importantly what is effective, what the economists across this country have said we need to do, put money into the pockets of working people and those who are unemployed, and make sure we do not forget our small businesses as part of this economic recovery process.

The PRESIDING OFFICER (Mr. NELSON of Florida). Under the previous order, the Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I want to address some of the issues my distinguished friend from Michigan has been discussing. First of all, not only can we not agree as to what belongs in the stimulus package, we cannot seem to agree in the Senate, unfortunately, as to what our priorities ought to be. We are a nation at war and in recession. Those ought to be our priorities. Yet we are talking about railroad retirement, we are talking about farm bills, everything but what we ought to be discussing.

We ought to be talking about the issues my friend from Michigan has raised concerning the stimulus package. I will address that for a few moments myself. There is no doubt for some time now there has been pretty much a consensus on the idea we need a stimulus package. Later on in my remarks I will discuss further whether or not that is really necessarily true. I think there has been a consensus, but there certainly has been no consensus as to what we ought to do about it and what belongs in it.

In fact, there is no consensus as to what in fact stimulates the economy. Everybody has their own ideas. We have our own ideas in this Chamber, and we state them authoritatively. But it is not only us, it is the economists. We cannot really say the economists think this or say that. They think everything and they say everything. They are on all sides of all of these issues. So are businesspeople, labor people. Remarkably, their economic philosophy seems to somewhat coincide with their vested interest, which is not really different from the rest of us, I suppose. That is the situation we are confronting.

I want to discuss for a moment where we are, examine the validity of the ideas we are using in support of our positions in general terms, and then discuss what we should do about it.

Assume for a moment this is not a political issue. One could make that case. There have been a lot of disparaging remarks about certain provisions in the House bill. There certainly have been a lot of disparaging remarks about what came out of the Senate Finance Committee, all the pork and unrelated items, but we can put that aside for a moment. We can put aside the remarks of the former adviser to President Clinton, who in a local publication said it is in the Democrats' self-interest to defeat a stimulus package or not have one because it might affect the economy negatively and President Bush would get blamed for a negative economy. I do not think that is the way most of my colleagues believe, but those thoughts exist.

Unfortunately, we do spend a little bit too much time in this body talking about how to divide the pie instead of trying to figure out how to make the pie bigger, who is going to get what. There is the tax-cuts-for-the-rich rhetoric, of course, we all have heard, ignoring the fact that 80 percent of the individual tax cuts would go to small businesspeople who provided 80 percent of the new jobs over the last decade.

I must say I find it somewhat ironic that every time we get into the stimulus discussion, we talk about tax breaks for the rich, when the same folks who make those arguments are also promoting a farm bill where 10 percent of the richest people in farming get 61 percent of the benefits. So tax cuts for the rich are bad, but pork for the rich is good.

Let us set all that aside for a moment, take the political aspects out of it, and talk about the economics of it. Basically, we have two different economic views in this body—at least two main ones—as to what in fact does stimulate the economy. We each make statements as to what will stimulate it and what will not, but we never provide any authority or any evidence or any historical precedence for what we are saying.

There are four or more proposals now before us: The House bill, the Senate Finance bill, the President's bill, a compromise that is being worked on; a lot of things in common among all of those bills: Rebates for low-income folks, additional unemployment benefits, health care provisions. We disagree on the amounts of those, but those are pretty much common to all of these proposals, and if a stimulus package passes, that is going to be in there. That is where the similarity breaks down and the division begins.

There is nothing wrong with philosophical divisions. That is why we have elections, and that is why we have parties. Everyone is entitled to their opinion, but they are not entitled to their facts or their history. Let us examine which side is supported by history or precedent or facts and which is not.

On our side of the aisle, we basically think the majority of the package ought to be tax cuts for the private sector, working men and women who are carrying the load and paying the taxes, and that includes a speed-up of the reduction of the individual tax rates. That way, people can get not just an extra check in their pocket one time, but they can rely on a tax system that is going to be lower, and they can look at it in the future and base their conduct, whether it is additional work or additional investment, on a tax code that has been changed to their benefit on out into the future, not just a check but a change of policy. That is what we believe.

Our friends on the other side of the aisle basically seem to think the way to stimulate the economy is spending by the Federal Government, and therein lie the differences and the debate. Our friends on the other side of the aisle and some on our side, and many in the media and some economists, point out we need to get money into the hands of the consumer by means of the Federal Government, which incidentally is money that either has to be borrowed or on which people have to be taxed. That is where the Federal Government gets its money and redistributes it to others in the form of checks which they will immediately spend.

The argument goes, the lower the income level, the more likely they are to spend it. So getting checks into the hands of consumers will stimulate the economy. The problem is there is not any evidence to support that proposition. I know it is often said. It might even be considered to be common wisdom at this stage of the game. But I submit all of the evidence and historical precedent indicate Federal spending programs designed to grow the economy have not proven to be successful.

What are my citations for that? I am accusing other folks of not giving their reasons, historical precedent or evidence. "Thompson, what are your citations?" one might say. I cite studies prepared by the Joint Economic Committee back in 1988. I cite the 1930s, when in an attempt to ameliorate the effects of the Great Depression, we saw a percentage of the gross domestic product in this country almost triple while unemployment doubled.

I cite the case of Japan. They have been trying to do this fordecades—spend themselves into prosperity. They have had 10 separate spending stimulus packages in the 1990s, to no effect. France and Sweden have had similar problems. I ask, if in fact we really run our economy based on an ATM principle, where we have it figured out, that we have to put in our card, our solution, our congressional solution, and out comes the result we want, why do we ever tolerate recession anyway? Why do we not print some more money? Why do we not send out some more checks? Why do we ever sustain the average recession of 11 months? Why do we go that long if that is the solution? It is an easy solution and an easy one to understand. I submit it is because it has not proven to work.

On the idea the poor will spend more, there is no historical evidence for that either. It might seem logical, but a lot of things that seem logical are not borne out in real practice. The last time we sent checks out, 18 percent of people spent them. According to the Presidential adviser, Mr. Hubbard, I was reading the other day he says all the economic evidence is that people spend at various income levels. People basically spend the same percentage. We already have the budget with $686 billion in spending, an additional $40 billion that has been allocated, and an additional $15 billion in airline support.

Certainly, when we hear of economists saying this is a solution, you would not want to include Mr. Greenspan in that category. He doesn't say that spending is the way to do this. He says if we do it, we cannot do it fast enough to have any effect anyway. In fact, by the time it kicks in, by the time our governmental spending kicks in and the checks get in the mail, are received and spent, even if it works the way we want it to, it will be too late. If the average recession lasts 11 months—and ours started last March—we are going to have to hurry up or the doggone recession will be over before we act and we will not get credit for anything. There is no way we can possibly have anything that affects the economy by next February or spring. We could assist it if we did exactly the right thing. Is it worth $100 billion under those circumstances, when we cannot agree on the components? I question that.

What about the other side? I have been talking about the philosophy of Federal spending being the answer to stimulating the economy. What about this side of the aisle? As to the idea that the private sector is the source of the solution for recession and that tax cuts, and especially marginal rate cuts, is an integral part of that, what about the evidence for that? I submit the historical evidence to support that proposition is just as clear as the historical evidence that fails to support the Federal Government spending proposition.

The evidence is, those kinds of tax cuts not only grow the economy but they produce more revenue to the Federal Government. President Kennedy pointed that out. He said: It is not a matter of either tax cuts or higher deficits; the more you cut taxes, the more revenue you will generate. Of course, he was right.

Incidentally, the rich pay more as a percentage of the taxes paid when you have the marginal rate tax cuts than beforehand. At every level it is borne out, and especially marginal rate reductions, which encourage work, encourage investment, are the kinds of action that get the economy going. Sending someone a check to buy a pair of gym shoes will be momentarily beneficial to somebody, I suppose, but that is not the kind of policy that strengthens our economy or causes that money to recirculate or to be there for a longer period of time.

What is my historical evidence? I refer to the 1920s, the 1960s and the 1980s. During those periods, the country went with that approach. In every instance, we had more economic growth, more revenue to the Federal Government, and the richer paid a higher percentage of the taxes that were paid in terms of dollars. From 1961 to 1968, the economy expanded 42 percent because of President Kennedy's tax cuts, over 5 percent a year. I would settle for that. We could use a little of that right now.

When you look at the package from the Finance Committee or what is being talked about in the Chamber by my friends on the other side of the aisle, the best I can figure is, only 20 to 25 percent of the possibly $100 billion package would in any way justify being called stimulative, if you look at the evidence and do not just pick this economist's statement who is aligned philosophically with one group or another economist aligned with another group or someone who comports with our own philosophy.

My concern is that in all this compromise language talk, we will say, OK, let's do what we often do around here and take both of them: Have the tax cuts and additional spending. That is what got us in trouble before. We do not need to go that way. Not only would it not be good, it would be harmful.

We will need that revenue. If we had good reason to believe such an approach that just gave pennies on the dollar to stuff that would be stimulative, and the rest would make us feel good and help us with certain voters in certain segments of the economy—we are all concerned about the unemployed. I am as concerned about unemployed in Tennessee as unemployed in New York. They are all unemployed and all deserve our consideration, and they will under these bills, but they will not stimulate the economy.

We have only begun to assess the costs of what happened in September. We know now almost overnight not only will we have to spend a whole lot more in our defense budget, but we have law enforcement, public health facilities, nuclear facilities, government buildings, Border Patrol, post offices, airports, mass transit. Those are all directly at the feet of the Government and the private sector. We have handling of the mail, insurance costs, transportation costs. Somebody said it is not that "just in time" philosophy with the average business, it is "just in case" philosophy. That will cost money. Slowing globalization has hit a lot of company pockets; computer security—all these things cost a lot of money in the public and private sectors. Unless we are very sure what we are doing with $100 billion or $85 billion, we should not do it.

Now the OMB Director says we will be in deficit at least until 2005. If we cannot at least get half of a stimulus package that stimulates the economy, we should not do it. We do not know how long the recession will be. If it is average, we have already bottomed out and are working our way back. Nobody knows for sure. But we do know retail sales are up, unemployment stabilized, low oil prices, and interest rate reductions have put more money into the consumer's hands faster than the Federal Government could. The stock market is not doing too badly.

We should give ourselves a chance. There is a good argument to be made that we can do the right thing, have policy that stimulates the economy, which is the private sector, and a large portion has to be tax cuts and rate reductions which are tried and true. We can also make some compromises and do some things in terms of spending that many think are not stimulative but within the bounds of political reality, realizing that has to be part of the package, and have a decent mix and maybe do some good. Anything less than that, I fear, would do harm.

I hope the President draws the line and says something to the effect, if part of this package cannot be stimulative, I will veto it. I think that is a position we ought to take. I don't think we have been talking about this for so long and the markets are so convinced and have been convinced that this is what we are going to do and it is such a great idea. I don't think they are paying that much attention to us in that regard. I don't think that train is down the track that far that we have to pass something, regardless. I will not vote for something "regardless" that is, in the long term interests, detrimental to the economy of this Nation. But it will be unfortunate if we do not have the opportunity to do something that would be beneficial and come together on something that would be beneficial.

I still hope we will be able to do that because I think that would be the best solution for the economy and for the Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I wonder if the senior Senator, the distinguished Senator from Tennessee, would respond to a question.

Mr. THOMPSON. Yes.

Mr. CORZINE. I wonder if the Senator is familiar with the Federal Reserve's view of how they model or look at the economy, and how tax cuts and spending cuts work through the economy. We just had a Joint Economic Committee meeting yesterday in preparation for that. We went back and looked at some of their models which are based on statistics and observations through time.

When you were commenting earlier, I thought it would be worthwhile if I mentioned that, at least according to the Federal Reserve's models, spending has a multiplier effect of 1.4 times in the first year relative to tax cuts, which have about a half of 1 percent impact in the first year.

Sometimes when you drag those out over a longer period, you catch up with the benefits of taxes, depending on the nature of them. But there is solid evidence in the economic community, and I think among the Federal Reserve, that spending can have and often does have meaningful multiplier effects on the economy. That is why so many people would argue, and I think they would argue based on fact, or at least data, that there is reason to believe that spending does have a positive impact on the economy.

Mr. THOMPSON. I will respond to my friend that I do not doubt that. I do not know the details of how they do that. I am aware that they do it. I do not doubt, as I have indicated, someone, going down at the micro level, going down and getting a check and buying some goods has some effect; that a lot of people doing that might not have some effect.

I think the difference has to do with short term versus long term. The history I have read on the subject concerning a concerted effort by the Government, with Federal spending programs over a period of time—whether it be the United States in the 1930s, or Japan for the last decade—has not proved beneficial, has not brought about growth. So we might be talking about the difference between microeconomics and macroeconomics. I am not sure. I do not dispute the statistic that the Senator gave, but I think the studies that were done from the Joint Economic Committee back in 1998 is the other side of that coin.

Mr. CORZINE. Would the Senator comment on whether he believes unemployment benefits tend to get expended or not in the process of going to people who have lost their jobs? Do you think that goes to savings? Is that what I am reading you to say?

Mr. THOMPSON. No, I think you can assume in most cases, if you are talking about that very small part of the economy that has to do with unemployment benefits, that those checks probably are spent.

My concern, I suppose, is that if you expand that concept, then why not send everybody a check. A lot of people laughed at Senator McGovern several years ago—what was the size of the check he wanted to send everybody, $1000? Why not extrapolate that concept, if the concept is the solution?

I think there is some factual validity to what you are saying. But I am saying if you expand that concept in terms of the overall economy, the evidence is not there to support it.

If it is that simple, if that is the solution, why do we ever put up with a recession? When we first see one, why don't we decide to whom we want to send the checks and get it over with and the economy will bounce back?

Mr. CORZINE. I appreciate the remarks of the distinguished Senator. I think there really is—the point that I was trying to make—some evidence that spending does have meaningful impact on the growth of the economy. I will make sure I send you over a copy of the Federal Reserve Bulletin's commentary on this so you can get a sense of what this is about.

Mr. DASCHLE. Mr. President, I ask unanimous consent the recess be postponed until 1 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, 5 months ago, America had a projected budget surplus of $2.7 trillion over the next 10 years. The stock market was soaring. The question before us was one that most leaders could only dream of: "What should be we with out prosperity?"

At that time, we came to this floor to debate our Nation's fiscal future—how could we sustain that hard-won prosperity, meet our great unmet needs, and, yes, provide meaningful tax relief for millions of American families.

Democrats put forward a balanced plan that maintained our fiscal discipline, while at the same time making sound investments in our children, our health, and our security, and provide tax relief.

Because we recognized how fragile and inaccurate budget projections are, we left room to deal with an economic downturn or an unforeseen emergency.

Unfortunately, our approach was not the one that prevailed.

Instead of a balanced and fiscally responsible plan, we ended up with one so top-heavy with tax cuts, it left little room for other investments, and no flexibility for a change in circumstances.

I made no secret of the fact that I was unhappy with that debate, and its outcome. But based on the administration's predictions—and assurances—that we could afford such cuts without running into deficits or shortchanging our priorities, the majority of my colleagues voted for it.

Early this morning, just several months after receiving those assurances, and several months into the administration's 10-year plan, we now learn that the White House budget director is predicting that our government is likely to run budget deficits until 2005. This is a stark reversal from the situation this administration inherited less than a year ago.

This is a marked departure from the rosy predictions we were being offered just months ago.

So, how did this happen? Let's start with how it did not happen.

As deeply as the September 11 attacks impact our lives, our security, and our economy—they are not responsible for the fiscal situation in which we now find ourselves.

While the attacks of September 11 seemed to change everything in a moment, the economic trends before September 11 were clear.

As a panel of economists announced earlier this week, our economy had officially entered a recession in March.

Neither does our current situation have to do with congressional spending.

We have not spent a dollar more than what the President and the Congress agreed to, either in the course of the normal appropriations process, or in response to the events of September 11—not a dollar.

Although we have taken a great deal of action in the aftermath of these attacks—supporting the President's use of force in Afghanistan, keeping the airlines solvent, giving law enforcement additional tools to combat terrorism, and strengthening airport security—to date, we have actually spent less than $40 billion. So why are we now facing deficits when just months ago we were looking at years of surpluses?

Regrettably, what we feared then is what we are faced with now. The economic plan that was passed ate up nearly two-thirds of what was an optimistic prediction of our 10-year surplus. It left no room for an economic slowdown, or an unanticipated emergency.

As Robert Reischauer, the former Director of the nonpartisan Congressional Budget Office said:

> Had we not had the tax cut, it's likely that we would have skated along with close to a balanced budget, despite the costs of the war and the effort to contain terrorism.

Even more ominously, the administration warned that decisions about taxes and spending in the next year "will determine whether we ever see another surplus."

Despite the fact that some of us did not approve of the plan that got us here, all of us should now work together to make sure that we pass an economic recovery plan that helps—rather than exacerbates—the problem.

As we consider a package to stimulate the economy, we need to be extremely careful to pursue a policy that is temporary, truly stimulative, and—now more than ever—fiscally responsible.

As I look at the Republican proposals, I am disappointed to see that they are based on tax cuts that fail these simple yet essential tests, and they do little or nothing for the dislocated workers who most need our help.

In the weeks since September 11, Democrats and Republicans have been able to work together in a way that I haven't seen in all my time in Washington.

Our ability to speak together and work together is one of the reasons, I believe, we have been able do so much, so quickly, in response to the attacks and the continuing terrorist threat. The fiscal outlook we are now facing is as serious as anything we have faced to date.

We need to renew that same spirit, if we are to address this problem as well.

Right now, we have an opportunity to help those who are hurting, and lift our economy in the process.

It is an opportunity we cannot afford to lose.

I appreciate the opportunity to come to the floor because I do fear with these economic projections—we have said on several occasions we knew the real possibility existed—that we will revert right back to the bad old days of deficits and huge new debt. I never dreamed it would be this soon. I never dreamed we would be talking in the third quarter—now the fourth quarter of this calendar year and the first quarter of the new fiscal year—that we would have deficits well into the third year beyond this year.

That ought to be as strong an indication as we ever need that what we did last spring was a mistake; that what we did in economic policy with the passage of that tax cut was a disaster, not only for our economy but for our ability now to respond to the array of challenges we face in the aftermath of the crisis of September 11.

How sad it is that the legacy of the last 8 years did not last longer than a few months. I am very hopeful we will take to heart the admonition of the Budget Committee chairman who has asked every Member of our Senate body to look very carefully at the report made by the OMB Director, to look at it with the recognition that, as we face these other additional challenges, whether it is the economic stimulus plan or the array of other challenges we face as we meet the needs of our current situation in fighting terrorism, that we do so prudently and with the recognition that a major mistake was made last spring.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I ask the Chair, are we under an earlier agreement for a time limit?

The PRESIDING OFFICER. The Senator is correct. Senator CARNAHAN will have 10 minutes, but there is not a particular sequence.

Mr. DAYTON. Mr. President, I ask unanimous consent that at the conclusion of Senator CARNAHAN's remarks I be granted 10 minutes in morning business, and following the conclusion of my remarks Senator REED be granted 10 minutes, and that the time be charged against postcloture.

The PRESIDING OFFICER. Under the previous order, we are to recess at 1 o'clock. Is the Senator asking to extend that time?

Mr. DAYTON. No. I am not asking to extend the time. Maybe the Chair could clarify exactly what we are in.

The PRESIDING OFFICER. We have 16 minutes remaining before the recess time. Under the previous order, the Senator from Missouri is recognized for 10 minutes. That leaves 6 minutes remaining.

Mr. DAYTON. Mr. President, I ask unanimous consent that order be modified: That at the conclusion of Senator CARNAHAN's remarks, I be granted 10 minutes to speak as in morning business, after which Senator REED be granted 10 minutes to speak in morning business, the time be charged against postcloture, and the time for the recess be extended until the completion of Senator REED's remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Missouri.

Mrs. CARNAHAN. Mr. President, I am very encouraged to hear that the leadership has begun negotiations regarding the stimulus package.

Congress has been paralyzed on this issue for weeks now. And while we sat here at an impasse, economists confirmed that our Nation is in a recession.

We must act quickly to jump start our slowing economy. It is well past time for us to find common ground.

As we seek compromise, I encourage my colleagues to keep in mind the goal of a stimulus package.

In order to truly promote economic growth: the policies we approve should take effect immediately, they should have a temporary cost, and they should focus on those individuals and businesses most likely to spend and invest additional cash.

These are the bipartisan principles that we started with. These principles ought to guide our negotiations now.

A wide range of proposals will be on the table for this negotiation.

The Republicans have a plan, and the Democrats have a plan. The Centrist Coalition has its own proposal.

From among all these ideas, we must put together a balanced, reasonable package.

In the end, the stimulus package needs to promote business investment, spur consumer demand, and assist those Americans who have lost their livelihoods during this recession.

Shortly before Thanksgiving, Senator DOMENICI, with the support of my colleague from Missouri, Senator BOND, added a new and interesting idea to the debate. They suggested that Congress should provide a payroll tax holiday for the month of December. This idea has some merit. It would distribute benefits across a broad range of taxpayers, including most individuals who earn less than $80,000 a year. And it would provide needed cash to businesses based on the size of their payrolls.

However, the question remains:

How does this new idea fit into the overall stimulus debate?

It has been suggested that a payroll tax holiday could substitute for proposed rebate checks to low-income workers.

I have serious reservations about such a tradeoff.

Rebate checks of $300 would go to low-income workers who have not yet received any tax refund this year.

Let me give you an example.

A single mother working full time at a minimum wage job would probably be eligible for a $500 rebate check. This money could help her put food on the table, or cover the rent, or keep her old car going a few months more.

However, under the Social Security tax holiday, she would receive about $50 worth of tax relief—not enough to make a real difference.

That is not a fair trade.

I am sure that the single mother who is struggling to make ends meet would not consider that a good deal.

This is not to say that the payroll tax holiday has no place in a stimulus package. Rather, I simply suggest that it is not an appropriate substitute for tax relief for our lowest income workers.

In spite of this observation, I think that the payroll holiday may have a place in the stimulus package. The payroll tax holiday has the benefit of providing assistance to both workers and businesses. It is therefore appropriate that it be included in place of other individual and business tax cuts under consideration.

I propose that the payroll tax holiday is appropriate in lieu of two proposals in the House bill: The acceleration of the 28 percent tax rate cut, and the repeal of the corporate alternative minimum tax, or AMT.

Let us first look at the impact of my suggestion for individuals.

Under current law, the 28 percent tax bracket is scheduled to be reduced to 25 percent by 2006. It has been proposed that it would be stimulative to implement this cut next year. This tax cut would benefit married couples filing jointly with income over $45,000, and individuals who earn more than $27,000. This is approximately one-quarter of all income tax payers.

On the other hand, a payroll tax holiday will help almost all taxpayers.

Americans are subject to payroll taxes on the first $80,400 of income per year.

In other words, every worker who has earned less than about $80,000 by the end of November would get a tax break. And very importantly, the payroll tax break is immediate and temporary.

If we accelerate the rate cuts next year, it will still cost us money in 2003, in 2004, and in 2005.

In all, over the next 10 years the accelerated tax cuts could cost $78 billion. But only the money put into workers' hands now can stimulate the economy. The payroll tax holiday would inject more money into the economy now. It would cost less in the long run than accelerating rate cuts. And it would benefit a much greater number of workers. In short, the payroll tax holiday meets our basic principles for stimulus and accelerating rate cuts simply does not.

Now I will discuss the impact of my suggestion for corporations. The House-passed stimulus bill and the proposal made by Senator GRASSLEY would repeal the corporate alternative minimum tax. Elimination of this tax would cost approximately $25 billion next year.

Let's be clear. This is a tax paid by profitable corporations that would otherwise pay no tax at all. By contrast, a payroll tax holiday would benefit all corporations.

Under current law, corporations pay a Social Security payroll tax equal to 6.2 percent of each employee's income up to $80,400 per year. With a payroll tax holiday for the month of December, these businesses would save $19 billion.

This is additional cash infused into virtually all businesses. It would help our small businesses, the true engine of our economy. The size of the tax benefit is linked directly to the wages the company is paying to its employees. This tax cut would make it easier for businesses to keep workers on their payrolls, and that is the whole goal of this stimulus package, to keep America working.

Congress ought to act quickly to reinvigorate this country. In order to do so, we must be willing to compromise. While I may not think that a payroll tax holiday is the perfect way to stimulate our economy, I understand compromise, and I am willing to support Senator DOMENICI's proposal, if it is offered in place of these other tax cuts that are unpalatable to me.

This is a compromise that makes sense to me. It makes sense to that single mother who is trying to make ends meet. It makes sense to most businesses which would not benefit from a repeal of the corporate AMT. And it makes basic sense, based on the principles that were laid out by the House and Senate Budget Committees at the beginning of this year, that the effects of the stimulus be temporary, immediate, and focused on those most likely to spend the investment.

I hope my colleagues will join me in support of this sensible compromise.

Thank you, Mr. President.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, during the last few weeks we have all heard about and discussed many ideas and proposals for inclusion in the economic stimulus legislation. In fact, one of our difficulties is we have so many meritorious proposals that we could not possibly fit them all in, even if we could all agree on them.

One proposal of which I have heard recently, and one I believe may have merit, deals with tax provisions which apply to many families and small businesses throughout the country. Many were taxed for years under subchapter C of the Internal Revenue Code. In recent years, with the liberalization of the rules under subchapter S of the code, many of these businesses have elected a sub S status, which means, in general, all corporate income is taxed at the shareholder level, not to the corporation as a separate legal entity.

One exception to this rule applies to built-in gains which are taxed at the corporate level in full and at the shareholder level in full for 10 years after a C corporation converts to an S corporation.

The original and primary purpose of this tax on built-in gains was to prevent C corporation shareholders from converting to subcorporation status and thereafter immediately being able to liquidate or mix corporate distributions with only the single level of taxation applicable to an S corporation as opposed to the double layer taxation applicable to a C corporation.

Unfortunately, however, this proper purpose also prevents the shareholders of an S corporation from selling corporate assets without incurring a double tax even if the proceeds are not distributed to shareholders but instead are reinvested in the business to help create new jobs and stimulate the U.S. economy.

This tax burden makes it difficult, if not impossible, for many families and small businesses that have elected S status to access the capital of the business to help stimulate our economy.

This proposal would provide for the elimination of the built-in gain tax where the entire proceeds of the sale are reinvested in the business. In other words, it would permit the business owners to do what we should want any good business to do as much and as often as possible: expand the business and create new jobs. That should be the foundation of our economic stimulus legislation. It will also be the foundation of our national economic recovery.

All of us know that small businesses provide most of the jobs in America. Their abilities to do so have been longstanding concerns of Republican and Democratic Members of this Senate body for many years.

When I worked as a legislative assistant in 1975 and 1976 for one of Minnesota's greatest Senators, Walter Mondale, one of my areas of responsibility was to staff him on the Senate Small Business Committee. The committee operated then, as I understand it does now, largely in the spirit of bipartisan cooperation to help encourage and assist in the creation and growth of as many American businesses as possible.

This proposal presents us with an important opportunity to take another step in that direction.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes 39 seconds remaining.

Mr. DAYTON. I thank the Chair.

Mr. President, I also wish to express my strongest possible support of the Railroad Retirement and Survivors' Improvement Act of 2001. I would like to thank Senator BAUCUS and Senator HATCH for offering this important legislation.

My office has received hundreds of calls and letters from current and retired railroad employees. From St. Paul to St. Cloud, from Brainerd to Duluth—from everywhere in Minnesota—railroad retirees and current railroad employees understand the critical need to pass this legislation now.

My very good friend Tom Dwyer, originally from Hibbing, MN, has been working on railroad retirement issues since 1973. He also was a clerk for different railroad companies for 35 years until he retired in 1997. Tom is now the legislative director for the National Association of Retired and Veteran Railway Employees.

Advocating for retired railroad workers, widows, and widowers is Tom's life work. He reminds me that this debate is not over Government money. This bill is about the pensions that workers have paid into this fund. It is their money.

Throughout our country, there are 673,000 railroad retirees and families and about 245,000 active rail workers. Minnesota's Eighth Congressional District, up in the northeastern part of our State, ranks 10th in the Nation in the number of retired and active railroad employees. Throughout our State there are over 18,000 retirees and their families depending on railroad retirement benefits.

In addition, over 5,500 Minnesotans are presently working for the railroads. They will eventually need pensions for their retirement.

All of these fine men and women have worked hard, and they all deserve the best possible retirement program. They know better than we what kind of retirement program is best for them. They paid in the money, out of their paychecks, for all their working years, and all they are asking us to do now, by passing this legislation, is to return to them their money in a way that is best for them.

What could be controversial about that? Which one of us, if we were in their shoes, would not want the same and think we deserve it. They are right. And they do deserve it.

This bipartisan legislation presents a historic opportunity for our Nation's railroad retirement system. Senator BAUCUS and Senator HATCH deserve tremendous credit, and they have my gratitude, for bringing together railroad companies, labor organizations, and retirees to work together to modernize this system. The result of all that hard work is this legislation, which provides better and more secure benefits, and which does so at a lower cost. What could be better than that?

I say, let's vote on this bill today and pass it.

I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized.

Mr. REED. Thank you, Mr. President. I ask unanimous consent that, at the conclusion of my remarks, Senator GREGG be recognized for 10 minutes, and upon the conclusion of his remarks, the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I am privileged to serve as the vice chairman of the Joint Economic Committee. The Democratic staff of the Joint Economic Committee issued a very pressing report about America's economy.. I would like to read from the first paragraph of the Executive Summary.

> New reports from the Bush Administration's Office of Management and Budget and the Congressional Budget Office confirm that the combination of the large tax cut and the worsened economic situation have essentially eliminated any expected on-budget surplus for the next five years. Indeed, there is a growing possibility that the government's fiscal position could be even worse, with no surplus at all by the end of the decade and with a national debt that might be even higher in ten years than it is now.

What is particularly prescient about this report is the fact that it was not issued this morning, hours after Mr. Daniels of OMB declared that the fiscal policies of this administration have locked this Government into deficits for the next several years. This report was issued on September 7, 2001.

It is also interesting to note that this report suggests very strongly, prior to the attack on America on September 11, that the fiscal policies of this administration had headed us down a road to deficit after deficit after deficit.

The attack on September 11 was a dreadful assault on this country, but it is not the cause of the current deficit we are staring at over the next several years. It may have accelerated the timing, but the fundamental core was the irresponsible tax policies of this administration.

If we look across several years, we see a situation where our colleagues on the other side resisted, in 1993, President Clinton's plan, which mercifully passed by a very narrow margin, which set the fiscal context, together with monetary policy, for the largest expansion of our economy perhaps in our history. Yet when this party came to power, not only in the Senate and the House but in 2001 in the Presidency, it took them a scant 9 to 10 months to reverse years of economic progress and prosperity and cast us back again into deficit after deficit after deficit.

The consequences are severe. We are approaching critical choices about Social Security and Medicare. Just a year ago, we had surpluses which we could use to make these difficult choices. Those surpluses are gone. But the demographic timebomb of the baby boomers is not gone. It will be here. It is virtually on our doorstep. So we now have to respond to these issues bereft of a surplus that was hard-earned over years of effort during the 1990s.

There is something else, obviously, that is one of the direct consequences of September 11. We are at war. This is a war that will demand increased expenditures which we cannot decline to make, not just in the military operations, which are expensive inherently, but if we are not to repeat the mistakes that were made previously in the area of Southwest Asia. We have to maintain a presence there. We have to be one of the international participants to help in the reconstruction of Afghanistan. We have to take steps across the globe to eliminate other terrorist threats, sometimes more sinister than the dreadful events we saw in New York.

We have to recognize there are loose nuclear materials around the world, particularly in Russia, loose biological agents around the world. All of these things will cost money. And the war on terror will not end simply with the defeat of al-Qaida. It will be a constant ongoing battle, perhaps akin to the Cold War—increased expenditures now, because of this tax cut policy, without the benefit of a surplus.

There is something else we must recognize. We are looking at short-run economic consequences of this tax policy. But what is going to happen in the next several months and days and years ahead is that the administration's response will be OK, we can't shun funding defense. We will have to cut back in every other area of effort.

The key to our long-run economic prosperity is the productivity of America. That productivity is not simply machines and tools and computers. It is human capital. It is healthy, educated Americans who can use these tools, who can invent new tools, who can continue this growth. When we cut education and when we refuse to fund special education and when we go ahead and cut back on health care and we do all these things, we are harming our long-run productivity.

That is the dilemma we are in today. It is a dilemma that was entirely avoidable by a more responsible fiscal policy of this administration.

There is no surprise about Mr. Daniels' announcement yesterday. Perhaps the only shock, if you will, was the timing. It was inevitable after we passed this tax cut. Now as we go forward, we are seeing the consequences. Those consequences will be very difficult to bear. What is worse than that, our colleagues are compounding this terrible situation by advancing the same policies in the guise of a stimulus package: Accelerating marginal tax cuts further and proposing corporate AMT that is retroactive. That is not going to get this economy moving. That will simply make the hole we are in much, much deeper and the climb out much steeper and longer and harder, particularly for working Americans.

Again, there should be no surprise about Mr. Daniels' announcement, but there should be surprise, shock, and perhaps even anger, that having brought us down this path, they refuse to see the error of their ways. They refuse to recognize that, yes, we do need a stimulus package but one that would truly stimulate the economy by getting consumers back in the marketplace, by ensuring that middle- and low-income working Americans get access to additional dollars that they will spend quite quickly. We must in fact protect ourselves through increased expenditures on homeland defense.

I hope yesterday's announcement represents not just waking up to the reality of their policies but changing the policies, that in working collectively with the leaders in the House and in the Senate to script and craft a fiscal package that will move America forward, we will begin our slow climb out of this deficit situation. But there should be no confusion about the fundamental cause of our current economic situation—a precipitous collapse from surpluses to deficits. It was an unwise, irresponsible tax plan promoted and proposed by the President and regrettably accepted by this Congress.

I hope the searing news that Mr. Daniels gave us yesterday will provide something more than heat, that will provide a little illumination to those who seek to lead this country.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire is recognized for 10 minutes.

NOMINATIONS

Mr. GREGG. Mr. President, I come to the floor to talk about one of the problems we have had over the last few months, which is a failure of the majority party to address the issue of nominations sent up by the President. This failure has been most blatant, of course, in the area of judicial nominations where we now have well over 100 openings in the judiciary which have not been filled, which is an extraordinary number, especially when you put it in context of the prior administration. It is almost 100 percent larger than what the prior administration experienced under a Republican Senate.

There are also, independent of the judiciary nominations, a number of other nominations critical to the operation of the Government which are being held up by the majority party.

I rise to speak to one specifically. That is the nomination of Eugene Scalia to be the solicitor of the Department of Labor. Most people have never heard of the term or the individual solicitor of the Department of Labor. It is, however, a significant position within a significant department.

It is the fair arbiter of the laws within the Labor Department. It is the place at which the Government represents its cases, the individual who carries forward a great deal of the policy of the Government, as it has been set forth by the Congress and the Executive.

Why is Mr. Scalia not being brought to the floor? First off, you have to understand that it is not because the nomination hasn't been pending. The nomination has now been pending for 213 days. That is the longest period of time that any nomination has been pending around this body. Ironically, I think the reason it is not being brought forward is that it is tied to something that occurred 351 days ago, and that was the case of Gore v. Bush, or Bush v. Gore—the issue settled in the Supreme Court as to how the Florida law would be applied and the prior election, therefore, resolved. You see, Eugene Scalia, through family ties, appears to be tied to that case by the majority in the Senate.

There is a lot of frustration about that case on the other side of the aisle. Many of my colleagues, with great energy, believe it was decided the wrong way. Many have taken it personally, I suspect. Obviously, they have taken it personally because they are applying it personally in the case of Eugene Scalia, a relative to one of the decisionmakers in that process —of course, Justice Anthony Scalia—and who was one of the majority in the decision of Bush v. Gore. Well, Eugene Scalia is his son.

So we now have a scenario where the son has come up for a nomination to serve in the Government. I suppose you can argue, well, maybe he is not being approved because he was sent up quickly. I pointed out it was 313 days ago. You may argue he is not qualified. Actually, he is extraordinarily well qualified. He is one of the finest attorneys in the area of labor law in the country. In fact, five former Solicitors General of the Department of Labor have said he is unquestionably an extraordinarily qualified individual. To quote them, they say:

> We are unaware of any prior solicitor nominee with his combination of academic accomplishment, prolific writing on labor and employment matters, and many years of practice as a labor and employment lawyer.

That is five prior Solicitors of the Department. They have said this is a great nomination. It is not because he holds views that are antithetical or inappropriate to the position. In fact, he strongly is supported by some of the leading civil rights attorneys in this country; for example, William Coleman, who is one of the leading civil rights attorneys in our Nation's history, said that Eugene Scalia would be among the best lawyers who have ever held the important position—the position of Solicitor of the Department of Labor. He went on to say:

Eugene Scalia is a bright, sophisticated lawyer whose writings are well within the mainstream of ideas.

So he is not being attacked because he doesn't have the ability. He has all the ability you could possibly want. In fact, it is great that we can attract people of his talent and capability to public service. No, Eugene Scalia—Scalia the younger—is being attacked because of Scalia the elder. You might say, well, maybe he came up too quickly. We pointed out that isn't right.

Maybe he doesn't qualify. That is not true either.

Maybe he holds outrageous opinions. Actually, during the hearing process, the only significant attack made on his writings was a disagreement over his position on ergonomics. Eugene Scalia committed the "cardinal sin" of opposing the ergonomics rule as put forward by OSHA, so he was aggressively attacked during the hearings—not personally but on that issue relative to policy.

Well, that is OK. You can disagree with him on that policy point, but you have to acknowledge that on that policy point he agreed with the majority of the Congress. The Congress found the regulation that was promulgated by OSHA to be too officious, bureaucratic, counterproductive, and we—the Senate and the House of Representatives—threw the regulation out.

In my experience in the Congress, that has only occurred once or twice. We as a Congress actually rejected the regulation of OSHA on the issue of ergonomics, confirming the arguments that the younger Mr. Scalia had made on that issue.

So it is pretty hard to come to the floor with a straight face and say this man should not be confirmed as Solicitor of the Department of Labor because he took a position on ergonomics, when that position was consistent with the position taken by the Congress earlier this year.

No, regrettably, the younger Scalia is being held hostage because of attitudes toward the elder Scalia. That isn't the way we should govern. We should not prejudice an individual because of their race, their ethnic background, their gender, and we certainly should not prejudice an individual because they happen to be the son of an individual who some people do not agree with and who feel antipathy towards.

Eugene Scalia's nomination should be brought to the floor of this Senate. If people want to vote against him, that is their right. Then if he is defeated on the floor of the Senate, so be it. But let's not shuttle him off and hold him hostage to try to make a point to his father. That is not right and that is what is being done by the leadership of this Senate at this time.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3:30 p.m.

Thereupon, the Senate, at 1:17 p.m. recessed until 3:31 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll?

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant majority leader.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate be in a period for morning business from now until 4:30 p.m., that the time be divided equally, and that at 4:30 the Senate go in recess subject to the call of the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that any time that is used be charged against the 30 hours under postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent to be recognized for 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

PROUD NEW YORKERS

Mr. SCHUMER. Mr. President, I thank all of my colleagues for their understanding for my State and my city of New York over the last 2 months. I particularly thank the majority leader, the Senator from South Dakota; the majority whip, the Senator from Nevada; the Senator from Montana, Mr. BAUCUS, chairman of the Finance Committee; and the chairman of the Appropriations Committee, Senator BYRD; as well as all of our Senate colleagues for being there for New York in its greatest hour of need.

I spoke with the mayor of New York this morning, and we were commenting to one another about what amazing fortitude New Yorkers have. The spirits are high. The desire grows to stay the course and rebuild our city and make it greater than ever before. The desire of New Yorkers to stay in New York, if one looks at the poll numbers, is higher than ever before. The number of people when asked if they expect to be living in New York 5 years from now increased since September 11.

We know all about the bravery of the firefighters and the police officers and the rescue workers, but maybe we do not know enough about the fortitude and the love of the city had by so many in New York City and the metropolitan area of New York have. They are brave people.

As New Yorkers, we come from all over the globe. New York takes us and shapes us and makes us into Americans, and we are proud of that. We now know more than ever that America is proud of that as well.

That is the good news. The good news is the fortitude, the strength, the courage, and the good grace of the people of New York. The bad news is that despite our confidence that our nightmare will soon end, we are in trouble. Two months after the attack, the economic damage to our city is becoming increasingly apparent and has been documented in publication after publication. The damage is enormous.

Let me give some statistics. Our streets are littered with 37 miles of high-voltage electricity lines that are but one prankster away from shutting off power to our Nation's financial center. Over 40 percent of the lower Manhattan subway infrastructure has been destroyed, adding hours to the daily commute of 375,000 people who work in New York City. All our major river crossings: The Brooklyn, Manhattan and Queensboro Bridges, the Lincoln and Holland Tunnels, have been and continue to be subject to nightmarish traffic jams because of security requirements.

Two weeks ago, they were all shut down again because of the crash of flight 587. Twenty-five million square feet of commercial office space was destroyed or heavily damaged. The amount destroyed—nearly 20 million square feet—surpasses the entire office space inventory of large, important cities, such as Miami and Atlanta. Over 125,000 jobs have at least temporarily vanished from the area and the city estimates that 30,000 of those jobs, at a minimum, are gone for good.

Noxious fumes continue to emanate from the hole at the World Trade Center, creating great concern among the workers and residents for their personal health. There is even a possibility that the Hudson River retaining wall, which is underground and stops the Hudson from washing in, will break and flood the area as the debris is removed.

Insurance companies are another problem—problems come from all sides—demanding 100 percent increases from companies doing business in New York simply because they are located in a confirmed terrorist target zone. Those offers are some of the better ones. There are many insurance companies offering no insurance at all.

Mayor Guiliani has had to cut $1 billion from the city budget just to prevent an immediate fiscal meltdown at a time when the need for city services is at an all-time high, and Mayor-elect Bloomberg will have to cut much more than that and begin thinking about it the day he enters office because the city is staring at a $3 billion deficit next year as a direct result of this crisis.

Governor Pataki has it even worse. The State's revenue loss is projected at $9 to $12 billion. The comptroller of the city of New York places the economic loss to the city and its businesses at $105 billion over the next couple of years.

We were so proud as our city grew and grew and grew and added over 800,000 people in the last decade. It was a record. But now we have had the first decline in the city gross product in over 9 years.

In short, we have taken a hit for the Nation. None of the problems I describe was of the making of New Yorkers. None of these problems was the result of a single thing New York did or didn't do. And so we find ourselves in extremely difficult times.

Now, with Chairman BYRD and Senator DASCHLE at the helm and broad support of Senate colleagues, I believe we will ultimately get the disaster aid needed to rebuild our damaged and destroyed infrastructure. That is coming through. Some Members would like it to come through more quickly, but it is coming. We don't have much of a dispute about that.

We thank everybody. Senator CLINTON and I are extremely grateful to all of our colleagues for the support they have shown New Yorkers.

What we are here to talk about today is the need for tax provisions for New York to deal with the kind of economic damage I have mentioned. As we all know, the FEMA dollars go to the Governor, as they have for disaster after disaster. They go to replace the subway lines and streets that were destroyed. They go to pay for the cleaning up of the refuse. They deal with the firefighters and the police officers and their overtime. But none of that will give one iota of help to keep the businesses in New York or get the jobs growing to where they were.

Senator CLINTON and I put together an economic stimulus package. We had great help from the Finance Committee, Chairman BAUCUS and members of the Finance Committee, and help from the staff, led by Russ Sullivan. We were extremely grateful when it was included in our stimulus package that we presented.

The reason I take the floor today, it appears there is a good chance we will have a stimulus package. I remind my colleagues how much we need that part of the package that went for New York to remain in the package. The provisions in it are designed to counter the uncertainty and fear we believe may lead many companies to walk away from us. We believe if we do not do it now, it will be too late.

Company after company, the large ones, the small ones, are making their decisions over the next few months as to whether they stay in lower Manhattan and in New York City or whether they leave. Once they decide to leave, we can be as generous as we want, but come next spring it won't do any good. Their leases will have been signed, their decisions will have been made.

There is urgency to do this now. It is not related to the FEMA spending or even the extra help in some of the appropriations measures that we have asked of the Appropriations Committee. Senator BYRD has been extremely generous to Senator CLINTON and myself. We have been in constant conversation with him. But this relates to tax cuts. This relates to keeping the businesses in New York lest the financial center—not just of New York but of America—dissipates. That would be a real blow to our country—not just our city but our country—because so much of the capital to build the factories and the homes and so much of the capital to start new businesses comes from the financial center located in downtown New York. It is the greatest capital market in the world.

Whether you live in Manhattan, Brooklyn, Buffalo, Albany, or even if you live in Omaha, Seattle or Wilmington, you have a real interest in seeing that financial center remain as strong as it has been. It has helped create the unprecedented prosperity we have seen.

The need to act is now. The amount of money we are asking for in a huge budget is modest. We hear, as we talk about the stimulus package, of many other needs. We are aware of them and want to be helpful, too. Maybe I am a bit parochial, but I can't think of a better need than this one—a need for New York, a need for America.

Let me outline to my colleagues—and I know many are familiar with this—the three complimentary provisions included in the stimulus package. There is $4,800 for an employee tax credit to companies that retain jobs and to not abandon New York in the area immediately around ground zero.

There is the creation of special private activity bonds to lower the cost of redevelopment projects.

There is a provision that would permit companies that replace equipment destroyed in the World Trade Center bombing to take a special deduction if they replace that property in New York, minus the insurance costs they will get back. We all know an insurance company will give $500 for a 2-year-old computer and you have to replace the computer with $1,000 in costs; the difference would be deductible.

There is a one-time residential tax credit designed to encourage residents in Lower Manhattan to continue to live there. They are all afraid. Many visited Senator CLINTON and myself here yesterday. They are scared. They are worried. These are their homes. They don't know if they should stay. This will be an incentive for them to stay and overcome the fear and disruption that has been visited upon their lives.

And there will be permission for New York municipal bond issuers and hospitals to issue advance additional refunding to help enable them to refinance their debt service.

Not a single aspect of the provision is designed to take business from another part of the country. We want to just keep what we had, what bin Laden and al-Qaida tried to take away from us.

The provisions are designed very carefully. We worked closely with both the business and labor communities. They are designed very carefully to do just enough—not more, not overly generous but just enough—to keep the businesses in New York.

I am making a humble plea. There are many, many needs and many, many conflicts embodied in the stimulus package. We need your help. I have tried in my few years as Senator to be generous.

I have tried in my years here to respond when other areas of the country needed help. I did not do it thinking New York would. We do not have the kinds of natural disasters we are accustomed to seeing in many other parts of the country. But when I heard about and read about the earthquake in California, the hurricane in Florida, the floods in North Dakota and North Carolina, I knew they needed help. Now, unexpectedly but in a devastating way, we were hit by, not a natural disaster but one very real. We need your help.

I thank Chairman BAUCUS. These provisions for New York he championed, not because of politics but because it was the right thing. He has done the right thing. I believe the Nation, with his stimulus bill which will also extend unemployment and COBRA to hard-working Americans, is the right thing to do. I thank Senator DASCHLE who has stood with us through thick and thin. Among all my colleagues I have hardly heard a word of dissent. There was tremendous sympathy.

At our Thanksgiving table this year, we closed our eyes and had some moments of silence as we thought of the thousands and thousands of New York families who, that same day, were having their Thanksgiving dinners—their turkeys and stuffing and corn bread—but at whose tables there was an empty seat. Someone wasn't there who had been there for all the previous Thanksgivings. That person will never come back. Those families' hearts will remain broken for the rest of their lives.

We remember them. We think of them. But when we talk to the families who have survived, they tell us: Rebuild New York. Don't let those deaths be in vain. Don't let Mr. bin Laden and his evil band succeed in permanently hurting our country and our city. This is a mission. It is a mission to rebuild New York. It is a mission to rededicate ourselves, in the name of so many in the New York metropolitan area who lost their lives. We hope and we pray that all of you will join us in this effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

RAILROAD RETIREMENT REFORM

Mr. NELSON of Nebraska. Mr. President, I rise today in support of the Railroad Retirement and Survivors' Improvement Act of 2001.

For years, our Nation's railroad workers have played a vital role in moving commerce and passengers around this country, and it is my belief and hope that America will benefit from their hard work for years to come.

This bill is designed to strengthen the Railroad Retirement System and ensure that these men and women who have helped build, run, and maintain our railroads, have adequate resources to care for themselves and their families when they finally complete their years of hard labor.

The current system, which has been around for over 65 years, currently serves more than 690,000 retirees and their family members, and more than 245,00 active employees.

Because the Railroad Retirement System, unlike other industry pension plans, is funded by payroll taxes on employees, it is easy to see why this program, that pays retirement benefits to almost three times as many people as there are paying for those benefits, is in desperate need of reform.

Most Americans are concerned about the future of Social Security for similar reasons—because the number of retirees in America will greatly increase in the coming years as baby boomers retire. Well, the problem for Railroad Retirement is here and now, and so is the right time for a commonsense solution.

Railroad Retirement has always been restricted to investing only in government securities, and while this may have been a good policy 65 years ago, it does not make sense in today's economy.

Because of this policy, the system's annual average investment return has been far lower than that of private multiemployer pension plans.

This bill would solve that problem by allowing Railroad Retirement to be operated more like a private pension plan, by establishing a private trust in which assets of the system can be invested in various ways, including private securities.

Moreover, the legislation would shift greater responsibility to the railroad industry, and away from the government, to ensure adequate funding of the system.

Better financing means enhanced returns to provide for an improved benefit structure for Railroad Retirement beneficiaries.

These benefits would include a lowering of the incredibly high payroll taxes currently paid by railroad workers and employers; a lowering of the retirement age for those with 30 years of service to age 60; reducing the vesting period in the system from 10 years to 5; and improving the benefits paid to widows and widowers.

All of these improved benefits are desirable reforms, and they can be achieved without compromising the solvency of the system, which the Railroad Retirement Board's actuary has projected out to 75 years under this legislation.

Because this legislation is the right solution at the right time, it has received overwhelming bipartisan support in both Houses of Congress.

Last year, when the bill was first introduced, it was approved on the floor of the House by a vote of 391-25, and had the support of 80 Members in the Senate. However, after it was reported favorably by the Finance Committee, it never made it to the Senate floor.

After its reintroduction in the current Congress, the bill has again been approved by a landslide on the floor of the House, and now awaits action here in the Senate, where it has enjoyed the support of 74 cosponsors.

I urge your continued support of this legislation, and speedy passage of the reform that railroad workers and their families throughout this country so badly deserve.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

THE SENATE AGENDA

Mr. THOMAS. Mr. President, we are hopefully working down to the end of this session. We have completed most of those things that we need to do. We need now to focus on those remaining items that I think are imperative for us to complete. Obviously, there are lots of things that could be done. The fact is, we have spent an extraordinary amount of money. We are going to exceed our budget with the budget activities and, of course, about $50 billion in addition to that. I agree that it should indeed be spent for those things. We are in an emergency situation with the terrorists. We are in an emergency situation with the economy.

The two things I believe we have to do are, No. 1, finish our appropriations. We are moving along. The House passed one of the most difficult bills yesterday. We will now undertake to do Defense appropriations. There are about four more with which we need to deal.

Then we need to finish a stimulus package. The President has called upon the Senate to pass a responsible economic stimulus bill.

It is difficult to identify what will have a short-term impact on the economy. Our economy is much lower than we would like. Indeed, as has been said, we are in a recession. But we need to do something that will have some impact.

The President has suggested a package that would extend unemployment benefits for 13 weeks for Americans who lost their jobs as a result of the terrorist attacks; making $11 billion available to low-income people to obtain health insurance in a manner such that the system would not become mandatory in the future; $3 billion in special energy emergency grants to help displaced workers. That has to do with health care coverage.

Then, of course, the other portion has to do with helping create jobs, which, after all, is really the result we would like. We would like to help people without jobs. Most importantly, we provide encouragement to companies and corporations by accelerating depreciation so they will invest in new material; partial expensing to encourage the purchasing of new equipment; and also have payments for low-income workers and get the money in their hands so we can see increased purchasing.

Those are things on which I hope we focus. I know we are talking about agriculture. We are talking about railroad retirement. They need to be completed. But there is a question of whether they need to be completed now with this emergency. We really need to evaluate the money. We have already made available $12 billion in new spending for many of the things we talked about. The President and the administration determine where it will go.

I am hopeful that we can focus in the relatively short time we have left. I am pleased that we seem to be making progress in terms of the economic stimulus. The bill that came out of the committee was not a bipartisan bill. We did not work on it from both sides. Now we have a House bill that is somewhat different. We have a Democratic bill that is somewhat different. The

President's bill is somewhat different. Of course, we need to find a reasonable agreement among those groups to come up with something that works. I certainly encourage that we do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to make my remarks while seated at my desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

THE NORTH SHORE ROAD MUST BE COMPLETED

Mr. HELMS. Mr. President, for some time I have felt inclined to discuss in the Senate a matter for the RECORD and of importance to the people living in the far western counties of North Carolina and in the beautiful mountains adjacent to the Tennessee border.

The matter involved is the federal government's finally fulfilling after a fashion a commitment made in 1943 in writing by the U.S. Government to the citizens of Swain County. The federal government proposed to build a road along the north shore of Fontana Lake which was created in World War II to provide power to the TVA. This written commitment was made to citizens who voluntarily gave up their homes to support the U.S.'s World War II defense efforts.

The federal government has not yet fulfilled its commitment, and that has caused a great deal of resentment and mistrust of the government among the citizens of Swain County and other surrounding counties on the North Carolina side of the Great Smoky Mountains National Park.

These citizens understandably believe that the federal government should now live up to its written commitment made during World War II because these people gave up their homes in order that Fontana Lake could be built so that power could be generated by TVA.

But, there has been a curious development. A small group of citizens in Swain County now proposes to ask that the federal government buy them out, thereby voiding that federal government commitment made in 1943. They presented the proposal that they be bought out to the Swain County Commissioners, and, praise the Lord, the commissioners rejected this suggestion.

So as a result of the $16 million appropriation in the fiscal year 2001 Department of Transportation and Related Agencies Appropriations Bill, this project has at long last begun to move. The National Park Service and the Federal Highway Administration have restarted this process to complete that road as promised, in writing, in 1943 to the citizens of Swain County and western North Carolina.

Mr. President, I have a letter in hand, along with the text of the resolution adopted by the Swain County Commissioners which expresses their thanks for the $16 million that provided for continued road construction and improvements that were included in the fiscal year 2001 Transportation and Related Agencies Appropriations Bill.

The commissioners of Swain County want that road completed. The people of Swain County want that road completed.

Mr. President, I ask unanimous consent that the aforementioned letter and resolution be printed in the RECORD, following which I shall resume my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOVEMBER 9, 2001.

JESSE HELMS,
Dirksen Senate Building,
Washington, DC.

SENATOR JESSE HELMS: I again take this opportunity to thank you for the continued support you have showed for projects in Swain County.

Attached is a statement, which you should have received earlier, thanking you for the work you have done on behalf of Swain County and the North Shore Road.

Sincerely Yours,

JIM DOUTHIT,
Chairman, Swain County Commissioners.

SWAIN COUNTY BOARD OF COMMISSIONERS

STATEMENT REGARDING THE APPROPRIATION OF $16M FOR CONSTRUCTION OF AND IMPROVEMENTS TO THE NORTH SHORE ROAD

The Swain County Board of Commissioners would like to thank Senator Jesse Helms, Congressman Charles Taylor, and President Bill Clinton for making available from the Highway Trust Fund for Swain County 16 million dollars for construction of and improvements to the North Shore Road in Swain County North Carolina.

With the completion of this road, the federal government will have fulfilled their contract with Swain County known as the 1943 Agreement, then trust can be restored between Swain County and the federal government. We feel this appropriation will go a long way in helping Swain County.

Mr. HELMS. Mr. President, roads in national parks are vital pieces of economic infrastructure that fuel the engines of economic growth. In fact, the National Park Service itself recognizes as much on its Web site. Let me quote: "Recreation travel accounts for 20 percent of travel in the United States. Park roads are a vital part of America's transportation network, providing economic opportunity and growth in rural regions of the country. In addition to the park access, motor tourism has created viable gateway communities en route. In some areas entire economies are based on park road access. Examples include communities near Yellowstone, Glacier, and Great Smoky Mountains National Parks, and the Blue Ridge Parkway."

Why on Earth, then, are these economic benefits denied to the people living in the counties on the North Carolina side of the Great Smoky Mountains National Park? I will tell you why. The Department of the Interior and the National Park Service have been held hostage by self-proclaimed environmentalists and their sympathizers in the Interior Department who are horrified, obviously, by their pretended apprehension that environmental Armageddon will somehow result from the construction of a simple "two-lane dustless road," as specifically called for in the 1943 agreement, signed by the Federal Government.

Mind you, this would be a Blue Ridge Parkway-type road allowing for greater access on the North Carolina side of the park just as long ago occurred on the State of Tennessee side a few miles west.

Additionally, according to the National Park Service statistics, there are 5,000 miles of paved roads and 3,000 miles of unpaved roads in the National Park System of this country. My question is, can anybody seriously suggest that 30 more miles will cause an environmental Armageddon? The thought is laughable. Of course not. But that is the ringing cry of these professional environmentalists.

In fact, the Federal Government began building the road back in 1963, and did build 2½ miles of it. In 1965, they built another 2.1 miles. Then in 1969, they built an additional mile, plus a 1,200-foot-long tunnel.

That was when, Mr. President, the self-appointed environmentalists created an uproar and forbade the Federal Government from going further, which has caused, by the way, economic problems for the four North Carolina counties surrounding the park that I am talking about.

Road engineering has improved enormously since that most recent section was built in 1969. Many more improved methods are now available to address the concerns thrown up by these self-appointed environmental opponents of progress.

Let me make it clear, I have no problem with our Tennessee neighbors who are ably represented by Senators FRIST and THOMPSON, but I am obliged, as a Senator from North Carolina, to emphasize some meaningful and relevant statistics of the National Park Service.

In the 2000 report, which has the most recent statistics available, the Park Service stated that 4,477,357 visitors came to the North Carolina side of the park, while 5,698,455 visitors came to the Tennessee side of the park. Of course, for anybody who wants to figure it out, it is a difference of 1,221,098 visitors.

Additionally, according to the latest available retail sales per capita figures from the U.S. Census Bureau, the four Tennessee counties surrounding the park have averaged $9,431.25, but the average for the four North Carolina counties that need that road for more tourists to come there have averaged $7,964.00, a difference of $1,467.25, if you want to get down to the penny.

The North Carolina State average is $9,740.00 per capita, and the Tennessee State average is $9,448.00 per capita. The four Tennessee counties surrounding the park averaged just $16.75 under the Tennessee State average. The four North Carolina counties, on the other hand—the four counties of which we are talking about in terms of building this road along the north shore of Fontana Lake—come in $1,776.00 under the North Carolina average.

Now then, these figures are among countless indications of the inequities between the North Carolina side and the Tennessee side of the Great Smoky Mountains National Park.

Let me assure the Administration of this: I have met with the distinguished Director of the National Park Service, Fran Mianella and she is a very pleasant lady—to let her know that this is a significant issue with citizens of western North Carolina who have been neglected.

I am hopeful she and Secretary Norton will give this matter their highest priorities and will continue to move this project well away from those who have for too long been holding it hostage.

I will continue my opposition to a Federal buyout of the Federal Government's commitment in 1943 to the citizens of Swain County and western North Carolina. I commend the commissioners of Swain County for standing flatfooted against it as well.

Mr. President, I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GINA'S LAW

Mr. DORGAN. Mr. President, I have today written a letter to the Attorney General and to the head of the Office of Management and Budget expressing my great concern over regulations that should now have been in place as a result of a law that was signed by the President last December. That law would have required regulations to be published by the Justice Department in July. No such regulations have been published.

Here is the background of this issue. I, along with my colleague, then-Senator John Ashcroft, authored legislation that became law, when signed by the President, dealing with the transportation of violent criminals around this country. Private companies have been contracted by State and local governments to transport prisoners around America from one prison and one location to another.

These private companies were transporting violent criminals, and all too often those criminals were walking away. We decided the companies that were hauling violent offenders were not adhering to standards or regulations and there should be some regulations. The President signed a bill, authored by myself and then-Senator Ashcroft, establishing regulations with respect to private companies that are transporting violent prisoners.

The law is called Gina's bill. It is named for an 11-year-old girl in Fargo, ND, who was murdered brutally by a man named Kyle Bell. Kyle Bell was being sent to a prison in Oregon after being convicted of first-degree murder, being transported by a private company in a bus. They stopped for gas. One guard was asleep; the other apparently went in to get a cheeseburger. The other guard was filling the bus with gasoline. Kyle Bell slipped out the top vent of the bus, walked in street clothes into a parking lot of a shopping center and was gone for 3 months. They found him. He is now in prison.

This has happened all too often: Violent offenders, including convicted murders, walking away from private companies that are transporting them. There should have been regulations in place in July of this year that establish how these private companies are transporting violent criminals. As for me, I don't believe any State or local government should ever contract with a private company to turn over a murderer to be transported somewhere. Law enforcement officials ought to transport convicted murderers.

As long as some State and local governments are using private companies for that transport, those private companies ought to be subject to regulation as is required by the law signed by the President in December, regulations such as what kind of restraints are used, what color clothing is required to be worn by the violent offender being transported, the training of the guards, and so forth.

Since July, when the regulation should have been in effect, in Wisconsin a private company was hauling a violent criminal and that violent criminal escaped and stabbed a law enforcement officer in the neck. Down South, a private company was transporting a violent offender. The violent offender escaped and went on a bank robbing spree.

When we passed the law, I told the story of a retired sheriff and his wife showing up at a prison to pick up five convicted murderers with a minivan. The warden said: You have to be kidding; you and your wife are here to pick up five convicted murderers to transport them?

He was not kidding. They put them in the minivan. Those five convicted murderers escaped, of course. That is why we wrote the law and why the President signed it. That is why in July the Justice Department had a responsibility to put the regulations in place. To date, nearly 5 months later, those regulations do not exist.

I have written to the Attorney General and the Office of Management and Budget to say lives are at stake. The public safety is at stake. Get this done and get it done now.

This law, called Gina's bill, named after this wonderful 11-year-old girl who was brutally murdered by Kyle Bell, is a law designed to keep violent offenders behind bars, keep them in the arms of law enforcement officials, and make certain if they are transported by those other than law enforcement officials, they are transported safely.

I don't want any American family to drive to a gas pump somewhere and have a minivan drive up next to them with a retired law enforcement officer and his brother-in-law calling themselves a transport company hauling three murderers in the back seat and not having the basic safety standards in place to make sure that transportation is safe. I don't want any family to come up to a gas station and have that situation next to them and put them at risk. That is why we wrote this bill. That is why the President signed it into law.

I hope my letter to the Attorney General and the Office of Management and Budget will stimulate them to do what they should have done in the month of July. I know there are reasons that bureaucracies act in a slow way and drag their feet from time to time. There is no good reason for this to have happened. I ask the Attorney General for his cooperation. I ask the head of the Office of Management and Budget to cooperate. Get this done. The Congress required you to do it after 180 days. That was July. This is December. It should have been done 5 months ago.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the recess be postponed for 10 minutes, and that the Senate stand in recess following my remarks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ELECTION REFORM

Mr. DASCHLE. Mr. President, I wanted to come to the floor for a moment because I feel the need to talk about a lot of unfinished business, as we consider what remains for the balance of the time we have here. We will be going into our caucus shortly.

This morning, prior to the opening of our session, I held my daily news conference and made mention of the fact that among those issues that are of greatest importance to us is the issue of election reform. I don't know of another bill that is pending in this Congress that has the unanimous support of our caucus. It is rare that one ever sees all of the members of our Caucus—51 in this case—as cosponsors of a bill. But election reform has that distinction. All 51 of our caucus members have endorsed the bill introduced by Senator DODD earlier this year.

The reason that they have endorsed that bill unanimously is because of the extraordinary degree of concern that exists within our caucus about the need for election reform as quickly as possible. Because of the tragedy of September 11, and the crisis of being at war, we haven't had the opportunity to focus on the many, many problems associated with the last presidential election—not just in Florida, but across the country.

The studies and the reports that have been issued have made the problems quite clear: outdated and unreliable technology, confusing ballots, language barriers, lack of voter education, lack of poll worker training, and inaccurate voting lists that prevented legitimately registered voters from casting ballots. All of those concerns were of such gravity and magnitude that 6 million voters across the country were disenfranchised.

So it probably should not surprise anybody that almost immediately following the beginning of this session of Congress, Senator DODD went to work as chairman of the Rules Committee. He worked with Members on both sides of the aisle in both the House and the Senate to try to respond to the growing awareness of how serious the situation really is: how problematic, how incredibly unfair, how undemocratic were the results reflected in the degree of difficulty with our election processes—while we should proclaim our democracy with each and every election. So as a result of just a tremendous amount of work, Senator DODD and members of the Rules Committee produced a bill that, as I said, generated 51 cosponsors.

I simply wanted to come to the floor this afternoon to say this: If between now and the end of this session, Senator DODD is able to reach an agreement with our Republican colleagues on a bill that we can bring to the floor to address all of these issues, these serious concerns, it is my intention to bring it to the floor. If somehow that is not possible and the negotiations continue, and we are able to reach an agreement prior to the next session of Congress, one of the very first pieces of legislation I expect to bring up will be election reform. If at any time during the coming year that agreement can be reached, my intention will be to bring the agreement to the Senate floor very quickly. But I will say this: Even absent an agreement, we will come to the floor and we will have a debate about election reform. We will make a comprehensive proposal to deal with this issue. We have no choice. It will be part of the agenda of the second session of the 107th Congress.

I simply wanted to come to the floor to emphasize that and relate my concern, and the concern of a lot of members of our caucus, about the importance of this issue, and reiterate our determination to deal with it in this Congress. We cannot simply sit idly by and watch 6 million people—maybe more next time—as they are disenfranchised when they attempt to exercise their constitutional right to vote and participate in our political process.

I appreciate the attention of my colleagues on this issue, and I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, first of all, I appreciate the comments of the distinguished majority leader on this issue. From the very beginning, he has been a very strong and vocal advocate of this body and the Congress of the United States in fashioning a piece of legislation that would address not just the events of last year. As the majority leader properly points out, this was not a one-time event in one jurisdiction. In the consistent reports, whether by MIT, CalTech, or the General Accounting Office, and surveys done by the media, that analyzed the election last year in Florida, all of these organizations that analyzed it, including the Carter Commission, the story has ultimately been about who wins or loses. That has been the headline.

The real story is about the pathetic and tragic situation of our electoral system of this country. It didn't happen in one event and in one State. It is in all 50 States—some worse than others—and has been going on for years.

So those of us who have been involved in this issue over the last several months, my colleague from New York, Senator SCHUMER, my colleague from New Jersey, Senator TORRICELLI, members of the Rules Committee, have been stalwarts in this effort going back to the earliest days in January, cosponsoring legislation, reaching out, trying to fashion some proposals that would make the Federal Government a true partner with our States and localities in trying to correct a wrong that is in desperate need of being addressed.

Senator MCCONNELL of Kentucky is the ranking member of the Rules Committee, as the majority leader knows. He has a deep interest in this subject matter. I want the majority leader to know that Senator MCCONNELL and his staff—Senator KIT BOND of Missouri and his staff—brings a separate set of issues that he is particularly worried about, the issue of fraud. We have been working with Senator SCHUMER's staff, our staff. There have been serious negotiations, I say to the leader, over the last number of weeks, actually going back even further than that, but most intensely in the last few weeks. We have not yet arrived at a product we can present to this body that is a bipartisan proposal.

I will let Senator SCHUMER speak for himself, but it is my fervent desire, I say to the leader and to my friends on the other side—Senator MCCONNELL and Senator BOND, obviously, they do not need me to speak for them, but I know it is their desire as well to fashion legislation of which all of us can be proud.

I know the events of September 11 have obviously taken over the agenda and debate. It is hard to imagine a year ago what we were in the middle of. We were in the middle of one of the worst debacles in terms of a national election in the history of the United States, and it was not just about Florida. It was in almost every jurisdiction. In my State alone, we have not bought a new voting machine in 26 years, and the company that made them no longer exists. We had an election in one of my communities in Connecticut a few weeks ago where the incumbent officeholder did not receive a single vote in his own hometown because the machines did not record them, which shows us we can go anywhere we want and we will find this system is in need of work.

I say to the leader I appreciate immensely his comments. We are pretty close to getting an agreement. I hope we can. I also take to heart what he has said, that we have been patient in trying to work this out. My hope is we can come to the Senate with a bill that involves ideas and thoughts that we can all live with that will address the problems. I also appreciate his comments that if that is not possible we will come to the Senate with a bill to debate this issue and bring people to the table. We cannot go on and not address this issue.

The majority leader has said it far more eloquently than I can. It would be a travesty of significant proportions if this Congress were to convene and adjourn in the wake of what happened in the election of 2000 in this country and not step up to the plate and offer the kind of assistance our jurisdictions so desperately need. For those reasons, I thank the leader for his comments, and I yield to my colleague from New York.

Mr. DASCHLE. Mr. President, we are out of time under the unanimous consent agreement. I ask unanimous consent that we not enter into recess until we have accommodated the remarks of the Senator from New York and the Senator from Idaho.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I will be very brief because I know we have other business to do. I thank the majority leader, who I know has to get over to the Democratic caucus, for his wonderful leadership on so many issues. This is a man who believes strongly in so many things, including the right to vote. I say to the majority leader, Senator DODD has done a superb job. He has had the patience of Job and the persistence of whatever Biblical character was very persistent.

We are all proud of the job he has done. His leadership in bringing up this issue as soon as we can come up with a compromise, or next year if, God forbid, we cannot, is vital to America.

I wish to add one point, aside from my thanks to the Senator from Connecticut, our chairman of the Rules Committee, for doing such a great job on this. I have been proud to be working with him. My point is this: He made an excellent point, that we almost have forgotten about, the wrenching agony we all went through, whatever party, a year ago last November. There is one point that, if anything, September 11 should increase our ardor and our fervor to bring forward a good bill, hopefully a bipartisan bill. The terrorists hate our right to vote. They want a group of religious leaders controlling everything and not letting people make any determination.

The beauty of America is we can vote, and our job as Senators, our job as citizens, is to perfect that right so nothing stands in the way. Unfortunately, too much stands in the way. Usually not by design but, rather, because we have not paid attention. Malfeasance, we are going to correct that.

The Senator from Connecticut has taken on a great leadership role and brought together Senator MCCONNELL and Senator BOND and myself in hours and hours of painstaking meetings. We talked today. We are willing to move in the direction necessary to get a bill. It is heartening to know we will be voting and debating on this issue in this Congress, if not this year, no matter what happens. I just pledge myself to follow the Senator from Connecticut to follow his leadership to continue those efforts because the issue of the right to vote, the ability to vote, the enfranchisement of all Americans, no matter how rich, poor, or of whatever race, there is no higher duty.

Mr. DODD. Mr. President, I thank our colleague for his remarks. I note again our staffs are working. I want these remarks to be seen as constructive and positive. We appreciate immensely the work being conducted by my friend from Kentucky and my friend from Missouri, and their staffs who have spent a lot of time on this issue. It has not gone smoothly. It has had its ups and downs. It has been a roller coaster ride. I hope when the process is over, sooner rather than later, we will present the Senate a bill for which they can be proud.

The PRESIDING OFFICER. The Senator from Idaho.

CHRISTMAS EVE IN THE SENATE

Mr. CRAIG. Senator BOND and Senator MCCONNELL are not in the Chamber. I know their work with the Senator from Connecticut is dedicated to the end we all want to see in reform because there is an obsolescence to the voting system that has to be addressed. I think that is without question. I guess my only frustration by the majority leader's comments was earlier this week he talked about bringing a farm bill to the Senate. We now have a railroad retirement bill. We still have appropriations to do, and several conference reports coming out of that, and we hope yet a stimulus package now that we know America truly is in a recession. We have known that for some time, but it is now officially proclaimed.

Not in any way to lessen the importance of a debate over election reform, and that is important, I cannot yet quite understand how we get all of this done in time to get out for Christmas.

Before the Thanksgiving recess, I had offered Senator BOXER of California an opportunity to join with me—she from the Democratic side, I from the Republican side—to organize Christmas caroling for the Senate so we could join together in unity, as we have for the last several weeks, and sing Christmas carols on the eve of Christmas.

I suggest if we are going to do election reform, if we are going to do a stimulus package, if we are going to do a farm bill, and I add an energy bill because I think right now energy is every bit as important to the American consumer as election reform is to the American voter, and let us see what else is on that schedule—oh, yes, I forgot, railroad retirement reform—then it is going to be a merry little Christmas in Washington for all Senators who cannot make it out the night before to their home States. My State is about 2,500 miles further away than the Senator from Connecticut. So I say to Senator DODD, have yourself a very merry little Christmas.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess subject to the call of the Chair.

There being no objection, the Senate at 4:48 p.m., recessed subject to the call of the Chair and reassembled at 5:30 p.m. when called to order by the Presiding Officer (Mr. REID).

THE SENATE SCHEDULE

Mr. DASCHLE. Mr. President, we have just completed our caucus. I know the Republicans were caucusing. I am not sure whether they have completed or not. I want to report to the Senate about our current circumstances and what the schedule might be for the remainder of the week.

Senator LOTT and I have been discussing the current schedule and our circumstances involving the railroad retirement bill. My hope is that we can move to proceed to the bill sometime within the next hour. If that is the case, it is my intention to file cloture on the bill at some point this evening.

It is also my intention that we seek unanimous consent to vote on cloture on Monday. We will not be in session on Saturday, but we will be on Monday. We will also entertain amendments. It is my understanding that Senator LOTT may be recognized to offer an amendment, and we will have a debate on that amendment tomorrow and on Monday.

My expectation is that there will not be any votes tonight or tomorrow but that we will have votes on Monday at approximately 5 o'clock.

Senator MURRAY reports to me that the Transportation conference report has now been completed, and it is my hope that we can vote on the Transportation conference report perhaps as early as Monday. If not Monday, then on Tuesday. My hope is that if we can achieve cloture on the railroad retirement bill on Monday, we can bring debate on the bill to a close by Wednesday.

It is then my intention, as I have said on several occasions, to make a motion to proceed to the farm bill. That is a must-pass piece of legislation. It is my hope and expectation that we can complete our work on that, maybe even as early as the end of next week.

I also note that we have made the decision over the course of the last few hours, and in consultation with Senator LOTT as well as our caucus, that we will be in session and voting the week of December 10. That has been an open question until now. But we have now made that decision. Our expectation is we will be voting every day the week after next. Senators ought to be on hand and prepared to vote all week. Of course, it may be that we will have to vote and be in session the week after that. But clearly, for the next 2 weeks the Senate will be in session and Senators need to be prepared to be on the floor and voting, to accommodate the remaining schedule we have for the remainder of this session of Congress.

I also presented to the caucus what amounts to an informal agreement on how we will proceed on the economic stimulus bill. I am pleased to report that our caucus has agreed with the proposal that has been presented to me by the Speaker, as we consider how to proceed on the economic stimulus bill. If we can reach a procedural agreement tonight, it is my expectation we can move to substantive negotiations on the economic stimulus bill tomorrow morning. It is my hope we can work on it through the weekend, if that is possible, in order to try to expedite our work on that bill and our efforts to reach some final agreement early next week.

The procedural agreement would call for consideration of the Senate Finance Committee bill, the House-passed economic stimulus bill, and other issues relating to those two bills. We do not exclusively limit our consideration of economic stimulus to those two vehicles. There are a lot of other issues out there.

Senator DURBIN in particular has expressed to the caucus on numerous occasions, and here on the floor, how important it is that we consider a payroll tax holiday. That is an issue I have indicated I am particularly interested in and intrigued with. I don't know whether or not we have the ability to work it into the agreement. I know Senator DOMENICI has expressed an interest in the proposal; and Senator LOTT has noted his support for the proposal.

On our side, I don't think there has been any more ardent a supporter, any more articulate an advocate of the so-called payroll tax holiday than the distinguished senior Senator from Illinois. I applaud him and appreciate his tutorial to the caucus on the issue. He has been able to bring us to a better understanding of how it would work. I must say I am indebted to him for all of his work in advocating that particular issue.

But my point is that that, along with other vehicles, is going to be considered as we debate the issue in the hope that we can bring some resolution to our negotiations sometime early next week.

I see the Senator standing. I am happy to yield to him.

(Ms. STABENOW assumed the Chair.)

Mr. DURBIN. I thank the leader for his kind remarks.

I hope that in the course of this economic recovery or economic stimulus package we can still stick to our principles that what we do will help the economy, help the right people in the economy, and not do any long-term damage to the economy.

I think this proposed Federal payroll tax holiday, month-long holiday, meets the criteria. Frankly, it will go to workers across America who draw a paycheck. They will see it on payday. It will come as quickly as we can pass the bill and enact it into law. That is money that families can use for important purchases at the end of the year. It is money that will go right into the economy and spark some growth and some activity that we really do need. It is also money that is going to go to workers, to those making incomes up to $80,000—$80,400 is the limit on the Federal payroll tax. So that really gives it to working families.

In addition, it is focused to help small businesses because I think forgiving this tax for employers will say to small businesses, we are going to help you meet some of your expenses, whether they are health insurance premiums or security needs, for your business after September 11.

I have spoken to Senator DOMENICI. I thank my friend and the majority leader for his reference. I hope in the course of this conference, putting together the stimulus and recovery package, that this can be included.

Mr. DASCHLE. I thank the Senator from Illinois. His comments make my point. He is not only knowledgeable and articulate on the issue, but he has certainly persisted in ensuring that this piece of legislation be considered along with many others.

Madam President, there are several key areas the Democratic caucus—and it goes to the point raised by the Senator from Illinois—will be advocating.

First and foremost, I want to emphasize again because I feel the need every time we talk about economic stimulus to ensure that people understand our real priority. Our priority, first and foremost, is to help the 7.5, now almost 8 million workers who are unemployed.

In the last recession, we extended employment benefits four times. We have to consider the fact that those weeks are running out now, for those who are eligible for unemployment assistance, and we have to extend it again this time.

But we also have to understand that 54 percent of those who are unemployed today are not entitled to unemployment benefits, so we have to broaden eligibility. That is certainly going to be a key area for us as we attempt to negotiate some successful solution.

I would say as well that none of them can afford health benefits.

When you are given a few hundred dollars a month in unemployment, it is almost impossible—after you have paid the rent, after you have paid for the groceries and the heating bills and other necessities of the family—to buy health insurance. We have to assist these unemployed workers to pay for their health care during the time they are unemployed as well. That would be a priority for us.

We also will try to ensure that the issue of rebates is addressed for those who pay a lot of payroll tax but were not entitled to an income-tax rebate last year. That ought to be on the table, and we will be talking about that.

Business tax relief is also something we care a lot about. The expensing for small business is something for which we are going to fight.

We are also going to try to assure additional depreciation for all businesses. The high-tech community said that is one of the most important issues for them. That will be a priority for us.

We have a number of very key issues we hope to present to our House colleagues. But I also remind all of my colleagues that whatever we do on the finance side—whatever we do on the revenue side—is only half of our interest. There is an economic stimulus involved here. It is our interest to pass homeland security as well—Senator BYRD and I have been meeting all day long—as we consider the Byrd amendment to ensure that homeland security is part of economic stimulus as we take up the Defense appropriations bill early next week.

Just as soon as that bill comes over to the Senate, we will take it up in committee. Senator BYRD will be offering his amendment on homeland security. It is my hope we can get a bipartisan vote on that as well.

Nothing will stimulate this economy faster than raising people's confidence about their own security. Nothing will help them more in that regard than if we increase law enforcement assistance and provide ways in which to ensure, on bioterrorism and all the other potential possibilities for attacks to our national security, we are more prepared than we are today.

That, too, is economic stimulus. That, too, is part of our plan. But that will be running on a separate track. I want to emphasize how critical we think that piece is, and how important it is to our long-term resolution. They have to go hand in glove. They are going to run in tandem. We are going to be taking both of these sequentially, and both are important to us.

I make that point, as we have made it before on the Senate floor.

I appreciate very much the interest of all Senators.

Mr. DORGAN. Mr. President, will the majority leader yield for a question?

Mr. DASCHLE. Yes. I yield the floor.

Mr. DORGAN. Mr. President, I would like to ask the majority leader if he would entertain a question. I would like to inquire further of the majority leader on this subject of the farm bill. I know it was the stated intent of the majority leader to attempt to offer a motion to proceed to the farm bill this week, perhaps midweek, late in the week, yesterday, or today. I know that was thwarted by the filibuster on the motion to proceed to the bill that the Senate was prepared to debate. The majority leader was unable to make the motion to proceed to the farm bill. The filibuster we have had and cloture vote that was required now puts us into next week.

The majority leader indicated it is still his intention to file a cloture motion to proceed following the disposition of the bill that is on the floor.

Is that correct?

Mr. DASCHLE. Mr. President, the Senator is absolutely correct. I have noted on several occasions my intention to move to the farm bill just as soon as we complete our work on the railroad retirement bill. It can be next Monday or Tuesday. It can be whenever we finish. But we will move to that bill next. We have to move to it.

These are must-pass pieces of legislation that have to be done. We can take them in any order. But it is my intention to follow through with the order that I have already announced, which is to complete our work on the farm bill next.

We will have the Defense appropriations bill, the stimulus bill, and the terrorist insurance bill. All of those have to be addressed.

But as I noted—I see the chairman of the Agriculture Committee in the Chamber—the farm bill will be the next bill after the railroad retirement bill.

Mr. DORGAN. Mr. President, if the Senator will yield for just another moment, that is a reassuring answer. I know how strongly the majority leader feels about the need to write a farm bill.

I observe that the House of Representatives has passed a farm bill. We have now passed one out of the committee under the leadership of Senator HARKIN. We need to get it to the floor of the Senate and then to conference.

The goal here is to get a bill on the President's desk for signature. This is about family farmers hanging on by their financial fingertips and struggling to survive. It is our obligation to get this done.

I know it is not the fault of the majority leader. It was his full intention to bring that to the floor. It would have been on the floor today had we not faced the filibuster.

I wanted to, once again, ask. And I received the answer that I expected I would. The majority leader is a strong advocate of family farms and the need for a better farm program. I am deeply reassured by that answer. I look forward to being here with the majority leader and with the chairman of the Agriculture Committee fighting hard for a farm bill that will give family farmers in this country a decent chance to survive.

I thank the majority leader for his answers.

Mr. DASCHLE. Mr. President, the Senator from North Dakota and I have been through a lot of legislative battles over the years on rural issues. As he has noted, nothing is more important to rural America than passage of this bill to allow us to go to conference first and to allow us to resolve the outstanding issues that remain between the House and the Senate membership on farm policy so we can get the bill to the President in time to provide all the assurance and confidence we can to farmers and ranchers all over this country. We understand their economic plight.

I note, as the Senator from North Dakota has on several occasions, that last month—the month of October—we saw the single biggest 1-month depression in prices that we have seen in all the time the Department of Agriculture has been keeping records. We have never seen the prices plummet as dramatically in 1 month as we saw them plummet last month.

If there is no other reason to move forward on farm legislation than that, it would be enough.

I am hopeful that people understand the urgency of the issue—the urgency of the issue of completing our work on the bill in time to go to conference, resolve our differences, and enact it into the law.

Mr. REID. Mr. President, will the Senator yield?

Mr. DASCHLE. I am happy to yield.

Mr. REID. Mr. President, I congratulate the majority leader for defining our schedule. It makes our lives more definite. I think we have the schedule outlined. As I heard the majority leader say, we are going to be in session starting Monday with votes, perhaps over the next weekend, and the next weekend until we finish.

Regarding the Agriculture bill—the farm bill—I think the Senator from Iowa has done an outstanding job not only in the product that came out of the committee but his willingness to take on issues that are so important. Everybody in America is affected by this farm bill. The conservation provisions in this bill are the best we have ever had, and they are getting better.

I think this farm bill is so important because of the problems the Dakotas, Nebraska, and Iowa have. The farm bill is so important. This bill affects the whole country. It is not just a farm bill.

I also say to the majority leader that I was given a statement by Senators as I walked into this Chamber indicating that Alamo and National car rental companies have filed for bankruptcy. This is really astounding. These two large rental car companies filed for bankruptcy.

I have had a number of conversations and meetings with the distinguished majority leader about companies and individuals who depend on tourism. For 30 States in the United States, their No. 1, No. 2, or No. 3 most important economic force is tourism.

I know the majority leader has stated publicly—and I appreciate it very much—that one of the items we are going to be looking at in an economic stimulus package is how the tourism industry can be helped. It is in such desperate shape—helping rental car companies and other entities that so depend on tourism.

I am very happy that there has been a framework developed. We can move forward. This is not inventing the wheel. In fact, we have done this before on very important issues since September 11. It will go down in history as remarkably good legislation. We have done it on four occasions. We did it with the appropriations for New York City, plus the $20 billion for added defense for the country. We did it with airport security and antiterrorism. There is one other that I can't remember.

That sets the framework for doing some good work on the stimulus package.

I hope the leader will do something about this. I believe we will be very successful in working it out.

Mr. DASCHLE. Mr. President, I thank the distinguished assistant Democratic leader for his comments. He is absolutely right. The tourism industry has been very hard hit. This is yet another indication of the difficult time they are having. I wasn't aware that these two companies declared bankruptcy. But it certainly illustrates yet another instance of just how difficult a time many of these companies are experiencing.

So I appreciate his comment and especially appreciate so much his sensitivity to the agricultural situation. He noted he does not have a lot of farmers, but he has been extremely supportive and understanding about the farm situation. I appreciate that very much.

Madam President, I yield the floor.

Mr. REID. I say to the majority leader, we don't have a lot of farmers; we have a lot of people who eat the food.

The PRESIDING OFFICER. The majority leader.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001

Mr. DASCHLE. Madam President, I move to proceed to the railroad retirement bill.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, if the Senator will yield, I believe we have no further requests for time on the motion to proceed. We are ready to vote.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the motion to proceed.

The motion was agreed to.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 10) to provide for pension reform, and for other purposes.

The Senate proceeded to consider the bill.

Mr. DASCHLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Madam President, I ask for the yeas and nays on the pending substitute amendment.

The PRESIDING OFFICER. There is no pending substitute. There is no pending amendment.

AMENDMENT NO. 2170

(Purpose: To modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.)

Mr. DASCHLE. Madam President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. HATCH, for himself and Mr. BAUCUS, proposes an amendment numbered 2170.

Mr. DASCHLE. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in the RECORD under "Amendments Submitted.")

Mr. LOTT. Madam President, I now ask for the yeas and nays on the pending substitute amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2171 TO AMENDMENT NO. 2170

(Purpose: To enhance energy conservation, research and development, and to provide for security and diversity in the energy supply for the American people, and for other purposes)

Mr. LOTT. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT), for himself, Mr. MURKOWSKI, and Mr. BROWNBACK, proposes an amendment numbered 2171 to amendment No. 2170.

Mr. LOTT. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in the RECORD under "Amendments Submitted.")

Mr. DASCHLE. Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. LOTT. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Lott amendment:

Trent Lott, Frank Murkowski, Robert Bennett, Phil Gramm, Sam Brownback, Don Nickles, Pat Roberts, Mike Crapo, Larry Craig, Jon Kyl, Chuck Grassley, Pete Domenici, Mitch McConnell, Judd Gregg, Conrad Burns, Craig Thomas.

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. DASCHLE. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Daschle for Hatch and Baucus substitute amendment No. 2170 for Calendar No. 69, H.R. 10, an act to provide for pension reform and for other purposes:

Paul Wellstone, Richard Durbin, Byron Dorgan, Harry Reid, Jon Corzine, Hillary Clinton, Blanche Lincoln, Jack Reed, Jean Carnahan, Mark Dayton, Carl Levin, Tim Johnson, Bill Nelson, Charles Schumer, Ron Wyden, Debbie Stabenow, Barbara Mikulski, and Tom Daschle.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. DASCHLE. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 69, H.R. 10, an act to provide for pension reform and for other purposes.

Paul Wellstone, Richard J. Durbin, Byron L. Dorgan, Harry Reid, Jon Corzine, Hillary Clinton, Blanche L. Lincoln, Jack Reed, Tom Carper, Tim Johnson, Daniel Inouye, Christopher Dodd, Ron Wyden, Jeff Bingaman, Joseph Lieberman, John Breaux, Paul Sarbanes.

Mr. DASCHLE. Madam President, just for explanation to all Senators, we have now moved to proceed to the railroad retirement bill. The distinguished Republican leader has offered an amendment for which there will be a cloture vote at 5 o'clock on Monday. Following that vote on cloture, there will be a vote on cloture on the bill at approximately 5:30 on Monday as well. So under the current arrangement, there will be two votes on Monday at about 5 o'clock.

There will be, hopefully, a very good debate tomorrow on the Lott amendment. There can be debate tonight on the amendment or on the bill. But I hope Senators will use the time that is now allotted for the debate to express themselves and to participate in whatever debate may be required. But those cloture votes will occur at 5 o'clock. And there will be no other votes until that time.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, if the distinguished majority leader will yield to respond to an inquiry, I thought also we would have a vote on the Transportation appropriations conference report at some point in the sequence on Monday.

Mr. DASCHLE. That is correct. The Senator is right. I appreciate his reminding me. If the Senate has been presented with the papers on the Transportation conference report by Monday, it is our intention to have a vote on the Transportation conference report as well.

I am told the House is planning to act tomorrow. I know there has been a little bit of a debate. I don't know if that has been resolved. But if the papers arrive, it is our intent—and I had announced it earlier—to bring up the conference report on Transportation as well.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, if I could be heard with regard to the situation as it now exists for my colleagues on both sides of the aisle actually, what has transpired over the past few minutes procedurally is that Senator DASCHLE has offered the railroad retirement substitute to a House bill.

That had to be done to get us on the railroad retirement subject itself. Then, as is in order, I offered an amendment to the substitute. So that will be the issue that can be debated, along with the railroad retirement bill, if Senators so desire.

Let me talk about the content of the amendment that was filed on my behalf as well as Senator MURKOWSKI and Senator BROWNBACK and others.

Regardless of the merits of the railroad retirement bill, I had hoped that the Senate would stay focused on appropriations conference reports, the defense appropriations bill, and the stimulus package that would create economic growth and jobs creation in this country. I am pleased that now an effort is under way to get a conference negotiation going on the stimulus package. That movement yesterday afternoon affected the decision that was made earlier today not to fight the motion to proceed on the railroad retirement bill.

My question is, why we are moving to bills that are not an emergency, not related to appropriations and the stimulus package or even the reinsurance issue? It seems to me we should focus on those urgent and emergency issues that need to be addressed as a result of the events of September 11 and since then, before we go out for the holiday season, for the Christmas period.

That has not been the case. Now we are on the railroad retirement issue. There are other issues we believe urgent and need to be addressed and should be addressed. That is why this amendment is the Murkowski energy bill, basically H.R. 4, the House-passed bill, that we believe and have been believing since June needed to be brought up in the Senate. We need a national energy policy. That needs to be broad-based. It needs to address the need for additional production of oil and natural gas. Clean coal technology needs to be moved forward, the use of nuclear power, alternative fuels, transmission line problems, as well as conservation, which is a very important part of this package.

We see right now circumstances that really bother me. We are dependent on OPEC oil, Russian oil, and Iraqi oil, approaching now well over 50 percent of our energy needs. It is imported oil, and that is extremely dangerous. Just last week we saw where the OPEC countries were lobbying others, including Russia, to cut their production so that the prices could be driven back up. Unbelievably, or perhaps gratefully, we see that the Russians resisted that and said, no, we are going to continue with our production.

Apparently now they have come to some sort of agreement and I guess there will be some reduced production and prices will go up some. But we are on a yo-yo. This past June and the June before that, we saw prices shoot up on gasoline inexplicably and probably unjustifiably in some instances. So we don't have a national energy policy. We were told we would do it later. Then there were the September events and October had other things we were working on. Now we are told we will get to it in January or February.

Every day we lose puts us at risk one more day. We should have a full debate about a national energy policy. We are going to have it. This amendment is offered to the underlying bill because this is an issue that needs to be voted on by the Senate. We are going to see who believes energy is something we need to do or whether there is a potential threat there.

This is not only a national security issue; it is an economic issue. If you want to help the railroads with some of their problems, let's have a reliable energy policy. Let's reduce the cost of what they take to run the industry if you want to help farmers in America. Let's deal with the cost of the energy they need all the way from producing ammonia to diesel. So this is an economic issue.

Remember this: If the OPEC countries decided to cut us off, we would be on our knees economically in less than 30 days. America doesn't depend on anybody else in the world for anything else for our existence but energy. We can not have that. The simple solution, is to have the debate. Let's have the vote.

By the way, this doesn't displace the railroad retirement bill. It would be added to it, and so we would have an opportunity to pass a railroad retirement bill, presumably one that might be amended substantively as we go forward, with an energy package.

The second part of the amendment I offered also puts a 6-month moratorium on cloning. It doesn't say we won't have it for therapeutic research. It doesn't say what we will do. It says "time out here." We have a lot of serious questions that we need to ask and have answered and think about what we want to do. So it is the energy bill and the 6-month moratorium on cloning. This should make for a good debate. It is long overdue.

In the case of energy, in the case of cloning, if we don't do it now, we won't be able to do anything until February or March, and this issue will march forward with uncertainty and concern. Senator BROWNBACK has been advancing the need for us to take some action to have the moratorium. The House acted months ago, overwhelmingly, in a bipartisan manner. We will have the opportunity to do the same here.

I urge my colleagues to take time tonight and tomorrow and Monday. Let's talk about these two issues. We should not invoke cloture on this amendment. We should have a vote. We should not stop the debate. We should have a vote on the substance itself, and then we could move to the underlying bill and could get it done.

Instead of taking shots at each other, we could actually address three big issues in one swoop. That is why I offered the amendment. It is also to serve notice that if we keep going off track on what we need to do to get out of here, other issues will be brought up.

This is the Senate. Wonderful place that it is, no one person and no one party dictates what we can do. Marvelously, any Senator can offer any amendment on any subject he or she wishes at any time. Lots of times it takes 60 votes, but that is the way it works. Therefore, we will have an opportunity now to have a full debate on energy and on cloning as well as railroad retirement.

I thank the Chair and my colleagues for the opportunity to briefly describe what we are doing. I am sure Senator MURKOWSKI and members of the Energy Committee will be here to describe what is in this energy package. Senator BROWNBACK is waiting to describe the details of his moratorium.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Madam President, I have spoken to the minority leader, and I now ask unanimous consent that we go into a period of morning business. We want to be as lenient as we can. I know the Senator from Alaska wants to speak for an extended period of time. Others also want to speak. Therefore, we will have the 10-minute limitation, with the understanding that people can ask unanimous consent to speak for any period of time they want.

Again, I ask unanimous consent that we proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes, and we divide the time, even though it appears that maybe there won't be the need to do that. I ask unanimous consent that we——

Ms. LANDRIEU. Reserving the right to object, would this be OK with the leader? I ask if I may have my 10 minutes starting now if it would be OK with the Senator from Alaska.

Mr. REID. If I may reclaim my time, I think we would be better off not having a 10-minute limitation. I ask unanimous consent that we now go into a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Madam President, as Senator LANDRIEU indicated that her children were getting hungry, I suggest the Chair recognize her first.

Mr. REID. Madam President, the request is that we go into a period for morning business with a 10-minute limitation—I will state it again. It is that we go into a period of morning business, that Senator LANDRIEU be recognized for 10 minutes to begin with, and Senators thereafter be limited to 10 minutes, with the understanding that there will be a number of Senators asking for more time.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Madam President, in order to accommodate Senators, let's be more realistic and make it 15 minutes.

Mr. REID. I have no problem with that.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 3090

Mr. DASCHLE. Madam President, I ask unanimous consent that the majority leader may turn to the consideration of H.R. 3090 with the consent of the Republican leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

ENERGY SECURITY

Ms. LANDRIEU. Madam President, I know the Senator from Kansas is on the floor to speak on several important issues, and the Senator from Alaska will be addressing the Senate later this evening on the important issue of energy security for our Nation. I agree with so many of the points of the Senator from Alaska, as well as the Senator from Mississippi, who has been taking with us this evening on that subject.

I want to talk about a subject that is actually somewhat related. The subject I want to spend a few minutes on tonight is most certainly related to the issue of energy security for our Nation. It is related to the situation that we find ourselves in, combating this new war against terrorism in many different ways and in ways very different than our past conflicts would have us be engaged. Let me just try to bring this into focus.

We have troops in Afghanistan and, luckily and thankfully, and because we have the best equipped, best led, and bravest and most courageous fighting force in the world, we are making extraordinary progress on our front in Afghanistan. You can see the headlines in all of the newspapers that would attest to the great effort that is being made. But we all know, and we are all learning quickly, that this war on terrorism is something we are going to have to fight on many different fronts. One of those fronts is in our own homeland.

We hated to see what happened on September 11, and we were all heart broken and angry and justifiably angry at the devastation and the horrific attack on our Nation.

As I was saying, we now have to fight this war on many different fronts, not just the front in Afghanistan but the front here at home. We were all terribly horrified and righteously angry. We have to turn that righteous anger into concrete steps to protect ourselves in the future. Many of us in our various capacities and many different committees are about doing that. We are stepping up airport security. We are trying to step up the security of our cyberinfrastructure in the Nation. We are looking at ways to set up medical response teams on health care, our public health system. And all of these efforts, if we do them correctly and come up with good policies and funding streams, will most certainly help to protect our Nation against these attacks that, unfortunately, are going to certainly come. Even if we are successful—and we have been—in cornering bin Laden and taking down the Taliban regime and capturing or destroying that particular cell, it is likely, based on everything that we know—not to alarm people or frighten people, but we know that it is likely that there will be future attacks.

The point of my short presentation today is to simply say that we are not sure where these attacks will be aimed. We never imagined that a group of people, with three of our own airplanes filled with fuel, would take down some of the most important buildings in this Nation. So we have to think: What might the next attack be? What could possibly come at us?

There are so many things that could happen that we have to be smart and strategic about how we spend our resources.

One of the issues that I am going to argue for a few minutes on the floor today is some of the critical infrastructure in our Nation—some of it is rail, some transportation issues, such as highways and tunnels, some of it is critical infrastructure protecting our nuclear powerplants, our electric grid, our cyberinfrastructure that we now rely on to run so much of our communications, transportation, health care systems, et cetera. We can't do all of it at once, but we can most certainly begin taking some steps.

I think we need to identify where we can—whether we do it in the supplemental bill or in the energy bill, or whether we do it in the stimulus package—some projects that are worth giving some attention to in the event that there would be some effort to cut our resources. One of those resources is energy.

Let me be very clear. In Louisiana, there are many critical highways, as there are in many States. There is a highway that is of critical importance not just to our State but to the whole Nation. It doesn't look like much because it is a small highway. Right now, it is a two-lane highway. I will show you a picture of it in a moment. It is Louisiana 1. I think it is called LA-1. It is rightfully named because it is the one highway in Louisiana, and perhaps in the Nation, that we rely on so heavily for our oil and gas production in this Nation.

Oil and gas production takes place, as you know, primarily off the southern shore of our Nation, off the coast of Texas and Mississippi and Louisiana and Alabama, primarily.

We get 18 percent of our imported oil off of the loop facility, which is right off the coast of Louisiana and down this highway, which I am going to show a picture of in a minute. One can see clearly from this picture there are a thousand trucks a day on this highway on a regular day. This is not a fancy highway. It is a small highway. It runs from Port Fourchon all the way up to the 90 loop. There are a thousand trucks a day that bring pipes, supplies, men, women, equipment, and engineering services to produce oil and gas in the Gulf of Mexico that help this Nation to be secure every day.

So when people walk into this Chamber or they walk into their building at Cisco or IBM or eBay or whether they walk into Shaw Enterprises or any number of the shipbuilders in Louisiana and they turn the lights on, lights come on. When they fire up those plants, that energy runs. This energy comes, in large measure, off the coasts of Louisiana, Mississippi, and Texas. This highway is the highway that is the bridge to Port Fourchon, where these trucks and this equipment are located.

Even in a slight rain this highway goes under water. Imagine if there was any kind of purposeful attack on the infrastructure with some minor effort. This highway in the shape that it is in and the condition that it is in could cause a major disruption in energy flows to the United States.

The Gulf of Mexico has 20,000 miles of the most extensive network of offshore oil and gas pipelines in the world. There is only 2,000 miles from the east coast to the west coast, approximately, as the crow flies, in the Nation. Ten times the amount of the length of our country are the miles of pipeline that come out of Louisiana to bring oil and gas to the rest of the Nation.

This highway is the only way one could basically get to the point where this oil and gas comes off of our shore. The loop facility is the only offshore oil terminal in the country. There are not three. There are not four. There is one. It is the loop facility, and it is just a few miles off the shore of Louisiana. The only way to get to the loop facility, other than helicopter or ship, is to come down this highway to Port Fourchon, at the end of Louisiana, and to get to the loop facility, where 18 percent of our imported oil comes into the Nation. It comes up through the pipes and again all the supplies for the coast come through this highway.

It is time that this highway be designated as a special highway for the Nation, a high priority corridor for this Nation. There are such designations in the Transportation bill for many of our highways, and I am sure every Senator could stand up and claim there are at least one or two highways in their States that are particularly important, whether it be for trade or for commerce. We could say that, too, about all of our highways, particularly for I–10, that is connecting Houston in the southern part of the State; I–49 that is now going to be a trade route hopefully to Canada and down through Louisiana; I–20 that connects our State, of course, east and west to other parts of the United States. But clearly LA–1, which is primarily responsible to help this Nation keep its oil and gas supply not only operating but in a vigorous, robust manner to supply the rest of the Nation, deserves to have a special designation.

I am requesting by the amendment I am offering to the Transportation bill to get Louisiana-1 designated as a high-impact corridor so we can be in line for appropriations to change this from a two-lane highway to a four-lane highway to give it some of the protections a highway of this magnitude deserves.

Let me show what happens when there is a turnover of an 18-wheeler, one of the thousands that are in this lane. The traffic is backed up for hours. There is no way around it. The services to the rigs out in the gulf are basically shut down for all practical purposes. If one cannot get to the port, they cannot basically get service to the rigs or the supplies or the pipes that are needed.

I hesitate to actually give this speech. Frankly, I hope no terrorist is watching because it would be so easy in some ways to disrupt the supply of the oil to this Nation, but one thing September 11 has to teach us is putting some of our resources into building up the critical infrastructure in this Nation so we are not so vulnerable. I wanted to give this speech because I would feel terrible if something happened and people said: Well, Mary, you did not tell anybody about this highway and, after all, it is not a major interstate and we did not know about it.

So I want to give my colleagues fair warning there is a little highway in Louisiana. It only has two lanes, but it has a thousand trucks a day that are bringing supplies and equipment to the offshore of this Nation that helps turn on lights in every schoolhouse and hospital and office building and run factories from Louisiana to Illinois and from Maine to California. If we cannot find a few million dollars in these trillions of dollars of budget to help us improve this highway so we can withstand a natural occurrence of a hurricane or a man-made attack that we would be better equipped to handle than what we have now, then I do not want to be held responsible for not bringing this into the light.

I have been in this Chamber many times talking about all the critical infrastructure around our Nation. I have several bills and amendments to try to direct some of our resources to fund those projects, but this one comes to mind as one of the most important we should address. I urge my colleagues to look carefully at our needs for LA–1 to help us to direct through any of the bills that are moving forward. I am prepared to stay in this Chamber and to come back many times until we can get some relief to get some funding for Highway 1. I should also mention I–49 and I–10 which handle the bulk of our domestic production.

Production in the United States of America is basically limited to this area of the country. There is virtually no production off the eastern shore, as the Senator from Alaska will say in his speech later tonight. There is virtually no production going off of the eastern shore. All of the offshore oil and gas production is coming off of this part of the gulf.

So the infrastructure, for the Port of New Orleans, for the Port of Mobile, for the Port of Galveston, for the I–10 corridor that links basically Houston and New Orleans into Florida, is critical for the development and the spreading of the gas and the oil that comes off of the gulf to the different parts of the Nation.

Finally, we are not complaining about producing the oil and gas. We recognize it brings jobs and wealth to our State. While others do not want production, we want production that is environmentally responsible. We are happy with the jobs and the wealth that it creates. I need to say, though, we are not creating the wealth and the jobs and the energy for our State. We are creating it for the entire Nation. So it is only right, it is only fitting, that some of the taxes that are paid by the oil companies from this exact production would come back to help us reinvest in Highway 1, in I–49, in I–10, in I–69, because it is those roads that support the oil and gas drilling.

I thank my colleague from Alaska for yielding to me. He knows this subject in many ways even better than I know the subject. He has been in the Senate longer than I have, but it is so obvious to some of us that we have to dedicate some resources to protecting the critical infrastructure of this Nation. This is at least one highway that deserves to be No. 1, as its title would suggest.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I wish to enter a short colloquy with my good friend, the Senator from Louisiana, and ask her if the anticipated opening of ANWR would not require construction of 19 double hull tankers, some of which would be constructed in her State, from Mississippi or Alabama, costing about $4 billion? I think we have several of those ships underway now, creating 5,000 jobs each for 17 years. These are figures that have been released to me by the American Petroleum Institute, estimating that 19 new double hull tankers of a millennium class will be needed if ANWR is open. The assumption is that ANWR will produce 10.3 billion barrels of oil. That is about what has come out of Prudhoe Bay, for a 60-year production life, and the new tankers would be needed because the old North Slope tankers are being phased out in their entirety by the year 2015. That is when the double hull requirements come into effect.

There would be more jobs created because the Jones Act requires that the American oil be transported in U.S.-flagged vessels, built in U.S. shipyards, with U.S. crew, transported within the United States, which is from Alaska and the west coast, which he agreed, according to API's analysis, assuming ANWR passes, it will include any ban on ANWR oil being exported outside the United States. It also assumes that ANWR oil will be transported by tankers to refineries primarily in Washington, California, and Hawaii.

I would like the Senator's confirmation on the estimate it would pump almost $4 billion into the economy, create 2000 construction jobs in the U.S. shipbuilding industry, some perhaps in the State of Washington, and approximately 3,000 other jobs. They predict this will compute to approximately 90,000 job years by estimating it will take approximately 17 years to build all the 19 ships at almost 5,000 jobs each year. The prediction is one ship must be built each year in order to coincide with the schedule of retired existing tankers.

I wish we had the capacity to build the ships in our State of Alaska, but that is not the case and will not be the case. However, Louisiana has been prominent in its shipbuilding and supply of various resources for Alaska's oil development.

Ms. LANDRIEU. I thank the Senator for that inquiry. As he knows, and I completely agree, more production in the continental United States and Alaska is definitely a step we should take to reduce our dependence on foreign oil and to increase job opportunities here in our own country. Particularly at this critical time, not only is it part of our overall energy strategy but now it is part of our security strategy for homeland defense and homeland security to reduce our dependence on oil and gas, liquefied natural gas that may come from other sources.

We are very proud of the shipbuilding we do in Louisiana and the engineering and the construction of the landforms and infrastructure that make it possible to drill in extraordinary conditions, in very deep water, leaving a minimal footprint. In days past, there were terrible environmental consequences to drilling. We simply did not have the know-how or the technology to handle some of the negative environmental impacts. That has changed dramatically over the last few years. While there is risk associated with every human activity, we have minimized the risk to the environment in tremendous ways.

The Senator knows we build some tremendous ships and off- and onshore oil and gas equipment in Louisiana. We agree the production numbers need to get up.

For the record, the Senator from Alaska should know that one-fifth of the entire Nation's energy supply depends on LA-1 and its connection to Port Fourchon. The Department of Interior mineral management identifies Port Fourchon as the focal point of deep water activity in the gulf. There is perhaps a deep water or perhaps a focal point in Alaska. I am not familiar with that focal point, but in Louisiana it is Port Fourchon. Eighty-five percent of the deepwater drilling rigs, working in the gulf, are supported by Port Fourchon. We have a highway that is not worth skating down, let alone with the 1,000 18-wheelers a day trying to supply the Nation with the energy it needs to operate.

I look forward to working with the Senator as we try to improve and increase production. I see the Senator from Hawaii on the floor. He has been an outstanding spokesman of conserving where we can. It will be a combination of strong conservation measures and alternative energy and more production in Alaska and all the States, and in many places in the lower 48.

Mr. MURKOWSKI. I thank the Senator from Louisiana. I have appreciated the good relationship between our two States.

Madam President, this is a fairly significant moment from the standpoint of those interested in passing a comprehensive energy bill. We have that bill, finally, on the floor of the Senate this evening. Procedurally, Senator DASCHLE has offered a substitute amendment. Senator LOTT offered a second-degree that adds the provisions of energy, as well as cloning. At 5 p.m. Monday there will be a vote on cloture on the Lott amendment. The significance of this is clear to those who said we never bring up energy for a vote, are never able to resolve the merits of whether or not the President's request that we pass a comprehensive energy policy will become a reality.

I rise today to say that that time has come. Today it is a reality. I hope in the coming debate we can separate much of the fiction that has been associated with this issue.

I rise today in support of the amendment to the underlying legislation offered by Senator LOTT. Division A through G of the amendment will provide a balanced and comprehensive energy policy to guide this Nation into the future.

Where does the American public stand? I have the results of a poll recently done by the IPSOS-Reid Corporation, with offices in Washington, New York, Toronto, Minneapolis, Vancouver, San Francisco, Montreal, Ottowa, Winnipeg, and Calgary. It is a public opinion poll on energy issues. It was not done last year; it was done in November.

Let me share, with you the results of this poll. This independent and objective poll, conducted by a highly respected research firm, clearly shows that Americans place a high priority of passing an energy bill. The highlights are enlightening because 95 percent of Americans say Federal action on energy is important. That doesn't surprise me.

Continuing, 72 percent of Americans say passing an energy bill is a higher priority than any other action Congress might take. I hope that message is loud and clear. Again, 72 percent say energy is a higher priority than any other action Congress could take. That includes campaign finance reform, railroad retirement, stimulus.

Continuing, 73 percent of Americans say Congress should make the energy bill part of President Bush's stimulus plan. Surprisingly enough, 67 percent say exploration of new energy sources in the United States, including Alaska's Arctic National Wildlife Refuge, is a convincing reason to support passing an energy policy bill.

We have a significant portion of America's public saying we should go ahead and pass an energy bill. That is what is before the Senate, H.R. 4. That bill passed the House of Representatives. Clearly, the House has done its job. Now it is up to the Senate to do its job.

We have heard from our President many times, indicating that:

> We need the energy, we need the jobs, we need a comprehensive energy bill from the Senate. This plan increases our energy independence and therefore our national security.

The Secretary of Energy:

> We need an energy-security policy and we need it soon.

Secretary of Veterans Affairs, Anthony Principi:

> We are engaged in mortal combat with an enemy who wants to see us fail in securing an energy policy.

The Secretary of Labor, Elaine Chao:

> The President's plan will create literally thousands of new jobs that will be needed to dramatically expand America's capacity for energy production.

Let's look at those who have gone overseas and fought wars over oil—the American Legion:

> The development of America's domestic energy resources is vital to our national security.

That is what they wrote to Senator DASCHLE.

The Veterans of Foreign Wars:

> Keeping in mind the horrific event of September 11 and mindful of the threats we are facing, we strongly believe that the development of America's domestic energy resources is a vital national security priority.

That is in a letter to Senator DASCHLE.

The American Veterans Association:

> As you know, our current reliance on foreign oil leaves the United States vulnerable to the whim of individual oil-exporting companies, many existing in the unpredictable and highly dangerous Persian Gulf. . . . [We] firmly believe that we cannot wait for the next crisis before we act.

A letter to Senator DASCHLE.

The Vietnam Veterans Institute:

> War and international terrorism have again brought into sharp focus the heavy reliance of the U.S. on imported oil. During these times of crises, such reliance threatens our national security and economic well being. . . . It is important that we develop domestic sources of oil.

Another letter to Senator DASCHLE.

The Catholic War Veterans of America participated.

How about organized labor? This issue, our energy security, is expressed first by the Seafarers International Union, from Terry Turner, the executive director:

> At a time when the economy is faltering, working men and women all over the country would clearly benefit from the much-needed investment in energy development, storage, and transmission.

The International Brotherhood of Teamsters, Jerry Hood:

> America has gone too long without a solid energy plan. When energy costs rise, working

> families are the first to feel the pinch. The Senate should follow the example passed by the House and ease their burden by sending the President supply-based energy legislation to sign.

The Maritime Laborers Union participated in numerous press conferences; the Operating Engineers, Plumbers and Pipefitters Union; the Carpenters and Joiners Union.

We have a significant group of America's organized labor in support of this because this is truly a jobs bill, much of which could be done without any cost to the taxpayer.

We are talking about stimulus. Let me just indicate what opening ANWR would do as a stimulus to the economy. It would create about 250,000 jobs. Those are direct jobs. The number of secondary jobs—making pipe, making valves—is anybody's guess. Some have come up with as high as 700,000 jobs associated with developing it.

What is the other stimulus? This is Federal land. As a consequence, the Federal Government would lease the land under a bidding process. It is estimated to generate about $3 billion in Federal funding coming into the general fund.

If one considers the number of jobs, the revenue, and the reality that it will not cost the taxpayer one red cent, it is pretty hard to find a better stimulus. If you or anyone else in this body can identify a single more beneficial stimulus than opening ANWR, I would like to know what it is.

The Hispanic community, the Latin American Management Association, has written:

> As we head into the winter season in a time of war, these worries multiply. The possibility of terrorist attacks on oil fields or transportation in the Mideast are very real. This would force energy prices to skyrocket and immediately impact the most vulnerable families across the country.

That is by the Latin American Management Association. They fear bin Laden will disrupt, perhaps, the refining or pipelines either in Saudi Arabia or initiate some terrorist action in the Straits of Hormuz, which would cut off our supply.

We have the Latino Coalition:

> The Senate must act on comprehensive energy legislation before adjourning. Not addressing this issue immediately is both irresponsible and dangerous to America as a nation and particularly to Hispanics as a community. America must increase the level of domestic production so we can reduce our dependency on foreign oil.

It is signed by Robert Despoda, the president of the Latino Coalition.

The U.S. Mexico Chamber of Commerce:

> We urge the Senate leadership, both Democrats and Republicans, to pass comprehensive energy legislation before adjourning. This is not a partisan issue. Millions of needy Hispanic families need your support now. History would not treat inaction kindly, and neither would Hispanic voters next year around.

It is signed by Mario Rodriguez, Hispanic Business Roundtable President.

The seniors organizations have spoken out. The group 60 Plus, which I might add I have joined at some time:

> It's time the Senate leadership quit demagoguing and come to grips with the energy legislation they bottled up. Our economy depends in no minor way on the passage of an energy plan. Much more important, our security depends on it.

It is signed by Roger Zion, chairman, 60 Plus.

The Seniors Coalition participated in support—the United Seniors Association.

I ask unanimous consent for another 5 minutes and I am going to yield to some of my colleagues.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. The Jewish organizations have come aboard. I ask unanimous consent that their letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONFERENCE OF PRESIDENTS OF MAJOR AMERICAN JEWISH ORGANIZATIONS,
New York, NY, November 16, 2001

Hon. FRANK H. MURKOWSKI,
U.S. Senate, HSOB,
Washington, DC.

DEAR SENATOR: The conference of Presidents of Major American Jewish Organizations at its general meeting on November 14th unanimously supported a resolution calling on Congress to act expeditiously to pass the energy bill that will serve to lessen our dependence on foreign sources of oil. We believe that this important legislation has, in addition, to the economic impact, significant security implications. We hope that Congress will move quickly to pass this vital measure.

We look forward to continuing to work with you and your colleagues on this and other matters of importanee to our country.

MORTIMER B. ZUCKERMAN,
Chairman.
MALCOLM HOENLEIN,
Executive Vice Chairman.

Mr. MURKOWSKI. The Conference of Presidents of Major American Jewish Organizations, in their conference, at a general meeting of November 14:

> . . . unanimously supported a resolution calling on Congress to act expeditiously to pass the energy bill that will serve to lessen our dependence on foreign sources of oil.

That was in a letter to Senator DASCHLE.

The Zionist Organizations of America say in their letter:

> At a time when our Nation is at war against international terrorism, it is more important than ever that we work quickly to free ourselves of dependence on oil produced by extremist dictators.

Further, they say on behalf of that organization, which is the oldest and one of the largest Zionist movements in the State:

> We are writing to express our strong support for your efforts to make our country less dependent on foreign oil sources by developing the oil resources in Alaska's national wildlife refuge.

So there you have a fair segment of Americans represented through these organizations.

Then we go to American business, the National Black Chamber of Commerce:

> Our growing membership reflects the opinion of more and more Americans all across the political spectrum that we must act now to lessen our dependence on foreign energy sources by addressing the nation's long-neglected energy needs.

It is signed by Harry Alford, president and CEO.

U.S. Chamber of Commerce—Bruce Josten, executive vice president, U.S. Chamber:

> The events of the last month lend a new urgency to our efforts to increase domestic energy supplies and modernize our nation's energy infrastructure.

And the National Association of Manufacturers:

> The House of Representatives has answered the President's call. It has taken our obvious energy needs into account—along with concerns of many interest groups—and produced reasonable and comprehensive legislation that will help provide stable energy prices and long-term confidence in our economy. But the Senate is dragging its feet. Some seem willing to let politics stop the will of the majority that wants to move forward with comprehensive energy legislation this year. In light of current economic conditions and on behalf of NAM's 14,000 members, I strongly urge Sen. Daschle to move an energy bill to the floor without further delay. It is high time to put the national interest ahead of parochial political interests.

It is signed by Michael Baroody, National Association of Manufacturers.

Last, the Alliance for Energy and Economic Growth.

They indicate, representing 1,100 businesses, large and small, and over 1 million employees:

> All of the members of the Alliance enthusiastically welcome the President's strong appeal for action on a national energy policy. We are also committed to work with Senate Majority Leader Daschle to move forward in a spirit of bipartisanship with comprehensive, national energy legislation.

The Alliance spokesman is Bruce Josten.

That completes my comments to some extent. I will not tax the Presiding Officer further at this time. I will take a little break.

But I think it is important that we all listen carefully to these groups. They are sending a message to the Senate to get on with its obligation to move an energy bill. We have that energy bill here in the Chamber. It is the pending business for the first time in several years.

I think it is very important that we look at the political ramifications associated. We have elections coming up. We have a great deal of unknown exposures relative to the instability in the Mideast.

I remind my colleagues that in about 1973 we had the Arab oil embargo, and the gas lines were around the block. The public was blaming everybody. They were outraged and inconvenienced. Just one terrorist act could bring that situation back.

Some say it will take time. In 1995, this body passed a bill. It included ANWR. The President vetoed it. Had he not vetoed it, we would very possibly have oil flowing from ANWR today and oil coming down in new U.S. ships. But that was the loss of yesterday which is reflected in the vulnerability of our country today.

I urge my colleagues to think seriously before voting Monday about what you are voting for. Are you voting to be responsive to America's somewhat extreme environmental community that has used their ANWR issue as a cash cow to generate revenue and funding for their organizations? When this passes, they will move on to something else. You might say I am perhaps being overly critical. I have seen their actions. I know what this issue means to them. It gives them a cause.

Members are going to have to determine whether it will be a responsive vote for the environmental groups that oppose this effort or a responsive vote to do what is right for America at a time when we are not only at war but we are having a recession in this country.

Indeed, this energy bill would be a significant economic stimulus and would dramatically help remove our dependence on imported oil—particularly at a time when we are contemplating moves in the Mideast, and our dependence on Saddam Hussein's oil is over a million barrels a day. Yet at the same time we are enforcing a no-fly zone. In enforcing that no-fly zone, we are probably using his oil in our aircraft to take out his targets, and he is using our money to pay his Republican Guards and to develop weapons capability. We already lost two U.S. seamen the other day when that tanker sunk.

My time has expired. I defer to the next Senator seeking recognition.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I rise to speak in favor of the pending business, which is the amendment put forward by Senator LOTT containing the energy bill of Senator MURKOWSKI and a number of other Members in a bipartisan fashion.

It also contains a 6-month moratorium on the issue of human cloning. That is the pending business. We are in morning business. I want to speak to that particular issue, the pending business itself.

I think the Senator from Alaska has adequately and very well described the need for an energy bill and what is in that energy package. He has been very aggressive in expressing the need to do that. I wholeheartedly agree with what he is saying. We need an energy bill. We need an energy package, and we need less energy dependence.

If we move soon to address the issue of mass destruction in Iraq, we are going to be in far worse shape if Iraq starts cutting down their oil and not making it available to the United States. If some other countries follow suit, then that means we are going to feel a great pinch. Even though we are doing the right things to address the weapons of mass destruction, we are going to feel a real pinch if they cut down on oil supplies when we have such an international dependence on oil from the Middle East in particularly.

I think what the Senator is putting forward for reducing our energy dependence abroad—particularly from the Persian Gulf—and having our energy sources here is a valuable thing, a necessary thing, and something we need to do today. We need to get it addressed today. I applaud the Senator from Alaska. That is why I am a cosponsor of the amendment which is the pending business on the floor.

CLONING

The issue I wish to address specifically is another issue of great concern and immediacy. It needs to be addressed. I think the world was shocked when they read the papers Sunday about the first human clone. It is something that was theoretical and something that was talked about. It was something in the movies. Now there is a "Star Wars" movie coming out this year called "The Clone Wars." It has been something everybody has been discussing.

I think people were shocked when they read this headline about the first human clone. It isn't something that happened in Europe or South Africa. It was in the United States of America.

People were looking at this and saying: I thought this was in a theoretical mode. I didn't realize we were actually at a point of cloning humans.

The House of Representatives passed a bill to address this issue, saying we should not be cloning humans. The President addressed this issue and said: Send me a bill to ban human cloning; I don't think this is something we should be doing.

The Senate is the only body of the three that has not addressed the issue yet.

In the underlying amendment today on the issue of cloning is a 6-month moratorium. It is not a complete ban. It is a 6-month moratorium on all cloning to say time out. Let's hold up just a little bit while we start catching up philosophically and thoughtfully in this body on what is taking place on human cloning in the United States of America today—not tomorrow, not next month—that we need to address this before we get more stories such as this or we start seeing the face of a child appearing before this body takes its position on addressing the issue of human cloning. Presently, this country has not addressed it.

You can clone in this country, if you choose to do so, even though I have a list of other countries that have acted on this issue. Twenty-eight other countries or bodies such as the European Parliament have already acted on the issue of human cloning. We have not. The Senate has not yet acted on this. Twenty-eight other mostly developed countries have already acted on this issue in some way or another.

What does the public say about it? I want to read from today's Roll Call magazine on page 10 about the issue of cloning. There was a poll of the American public. This is in today's Roll Call magazine, November 29. It says:

> The majority of Americans clearly remain opposed to cloning, with 87 percent telling ABC News interviewers in early August that cloning humans should be illegal. Respondents were told the following about therapeutic cloning:

There is a debate going on about that. I am opposed to reproductive cloning. Some people are saying they want to try to do therapeutic cloning, which I think is a misnomer of the highest order. Therapeutic cloning is where you create a human clone. You grow it for a period to two weeks. You kill it. It is certainly not therapeutic to clone. You harvest the cells out of that for some supposed research or other benefit for another individual. That is so-called therapeutic cloning. I call it destructive cloning. Some call it therapeutic.

Let's see what the respondents said. This is how the question was put forth:

> Some scientists want to use human cloning for medical treatments. They would produce a fertilized egg, or human embryo, that's an exact genetic copy of a person, and then take cells from this embryo to provide medical treatments for that person. Supporters say this could lead to medical breakthroughs. Opponents say it could lead to the creation of a cloned person because someone could take an embryo that was cloned for medical treatments and use it to produce a child.

That was the question. That is the way it was phrased on therapeutic cloning. It might produce medical breakthroughs but also a reproductive clone.

How did the people respond to the question?

Sixty-three percent said therapeutic cloning should be illegal and 33 percent held the opposing view.

Even framed on just the issue of therapeutic cloning, 63 percent say: No, I don't want to do that. I don't want us to go there. Yet we continued to dawdle in this body. We did not take up the issue. We would not hear it or bring it up on the floor until now. It is the pending business with a 6-month moratorium. It is not a complete ban. It is a complete ban for the 6 months. But after that, this would sunset.

I think this is a very prudent move that this body should take in addressing this highly controversial, highly problematic and monumental bioethical issue. Our Nation is currently wrestling with monumental bioethical issues. As I mentioned, the House of Representatives has dealt with this issue. They have passed a ban on human cloning with a 100-vote margin. The President keeps calling for it. This body has not acted.

On these bioethical issues, many of which I have raised on the floor previously—and I am going to keep raising in the future—we need to debate all these issues, but we need to act now to have a moratorium on human cloning so the Senate can properly debate the issue and hopefully resolve it in the coming 2 or 3 months. That is what we are asking for in the underlying amendment.

I would like to take this opportunity to address some of the profound moral issues that this Nation is going to need to wrestle with and the Senate is going to need to wrestle with for us to deal with the issue of human cloning.

Human cloning demands the public's attention, in part, because it implicitly revolves around the meaning of human dignity, around the meaning of human life, and the inalienable rights that belong to every person. Should a clone belong to someone or should a clone not belong to someone? I think we ought to resolve that issue before it starts being forced upon us by private companies creating clones.

Some will argue that the issue simply needs to be studied before any research begins, a notion which does not respect the rights of the clone. Some people say: Let's just create a group of clones out there, and let's see and let's research and let it evolve.

Shouldn't we fundamentally deal with the issue first about what is a clone? Is it the property of somebody who created it? Is it a person? It is genetically identical to the person from whom it was created. It is physically identical. Is this a person or is this a piece of property?

We should be debating that ahead of them being out there in the public. Should we allow people to create clones of themselves for spare body parts? That would be down the road a longways, but people are thinking about those sorts of things now. We now have the creation of the first human clone.

I think clearly we should err on the side of caution at this point in time. We should call a timeout. We should have a 6-month moratorium so we can all sit down and think about this.

This is not going to kill the research into helpful areas of research. Some people looking at this are saying: OK. They are confusing it with embryonic stem cell research, which I personally have a deep problem with because you are destroying an embryo to create that research. But this moratorium does not apply to embryonic stem cell research. That is going on. There is even Federal funding for some embryonic stem cell research, as the President outlined in an August speech with the NIH, much with which I continue to disagree.

I think we ought to focus on the adult stem cell. Be that as it may, the embryonic stem cell work is going on and would not be affected by this moratorium.

What this moratorium goes at is saying: Do not create human clones for any purposes. Do not create that. After a period of 6 months it expires.

So for those purposes, I think this is an entirely appropriate issue for us to push the pause button. The alternative of this is for us to do nothing. But if we do nothing, if we do not put a pause on this, you are going to see a lot more headlines such as the one shown on this magazine. You are going to see a lot more human clones or you are going to hear about them being implanted in women once they get to the point where the technology is such that that can take place. You are going to see all that taking place and this body will not have even spoken. We will not have said, yes, we agree or we disagree. The President has spoken and the House has spoken, but we will not have even said, OK, we agree we should or we disagree. We will not have done anything.

That is why I plead with the sponsors of the bill that we should take up this particular issue. We would allow this amendment that has the important energy language in it for energy security that contains the important moratorium on human cloning. And that would be allowed to be voted on by this body. We would not have a cloture vote that rules out the vote on these two imminently important issues that need to come before this body at this particular time.

So I plead with my colleagues, do not vote on a procedure that knocks off these two very important issues. Let us have a vote on these two issues.

We are going to be in town. We should take up these very important issues that are of immediate importance and need to be considered. I look forward to discussing this further with my colleagues as we get a chance to bring this amendment up for a vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Ohio.

AN ENERGY POLICY AS STIMULUS

Mr. VOINOVICH. Mr. President, I rise to speak on the amendment to the underlying bill before the Senate.

I think the Senator from Kansas has spoken eloquently on the need to pass a moratorium on human cloning. It is interesting to note that about 80 percent of the people in this great Nation agree with that. It is also interesting to note that the other portion of the amendment calling for an energy policy for this country is also supported by about 80 percent of the people in this country. Although I do not ordinarily pay that much attention to polls, I say, in this case, the polls reflect good public policy for the United States of America.

Mr. President, with all the debate that has been going on in this body and throughout the Nation as to whether or not we actually need a stimulus bill, I reiterate my view that, yes, we do need a stimulus bill.

It is important that we pass a bill from several points of view.

Psychologically, the American people need a stimulus bill. For all the talk over the last couple of months about how much we need a stimulus bill, the public has now grown to expect we will pass a stimulus bill. I think that has been taken into consideration in the decisions the American public has been making. They see it as a positive measure, one that will bring us out of our economic doldrums and put things back on track.

As my colleagues know, the National Bureau of Economic Research reported earlier this week what many of us knew; and that is, our country is in recession. The people in my State of Ohio have known that since last year.

We need to spark our economy by getting businesses to boost investment. We need a stimulus package to help raise consumer confidence and get the American people spending again. As you know, consumer spending makes up two-thirds of our economy. We have to get buying. That is what we need to do: We have to get buying.

We need an economic stimulus bill that will put money in people's pockets, one that will restore consumer confidence, give businesses the money they need to survive by letting them recapture taxes they paid in the past.

We need a bill that will lower people's tax rates by expanding the amount of earnings that are taxed at the 10-percent marginal rate. We need a stimulus package that provides a "life preserver" to the unemployed by giving them 13 additional weeks of unemployment benefits and one that responds to their health care needs.

One proposal that responds to what Americans want is the Centrist Coalition package that the Presiding Officer is completely familiar with and that has been sponsored, on a bipartisan basis, by the Presiding Officer, Senators JOHN BREAUX, OLYMPIA SNOWE, ZELL MILLER, and SUSAN COLLINS.

Regardless of what we do involving a stimulus bill, the American people expect us to work together in a bipartisan fashion. They see President Bush doing that. He is more worried about protecting the Nation's interests than in partisan politics.

Indeed, some of my colleagues on this side of the aisle have been critical of the President because he has not been partisan enough. In fact, he has gone the extra mile, I believe, to be nonpartisan.

The American people believe that Congress' motives are the same as the President's. If they become convinced otherwise, that we are working for special interests or succumbing to our past bad habits of playing politics, the consequences are going to be devastating.

It will lower their confidence in us and in the economic future of our Nation. Things changed on the 11th of September. Those of us in Congress should never forget it.

There is one other action we need to take to stimulate our economy, improve and enhance public health and the environment, secure our competitive position in the global marketplace, and secure our homeland and national security. That action is the adoption of an energy policy for this Nation.

That is why I am so enthusiastic about the amendment to the underlying bill. Given the tragedy of September 11 and the actions that have occurred in the aftermath, enacting an energy plan is much more relevant than ever before.

As far as I am concerned, and many others, our adoption of an energy package is, in the long term, more important to this country than the economic stimulus package.

Because of the situation in the Middle East and the Persian Gulf and Southwest and Central Asia, we are more vulnerable today than ever before.

You can see from this chart that one-fourth of our crude oil imports, 27.18 percent, come from the Middle East. Consider the following numbers: Iraq, 6.83 percent; Kuwait, 2.9 percent; Saudi Arabia, 16.79 percent; the United Arab Emirates, about three one-hundreths of 1 percent; Oman, less than three one-hundreths of 1 percent; Yemen, three-tenths of 1 percent. Given the near constant instability in the region, it should give my colleagues little comfort to know that we are so reliant on that part of the world.

OPEC, which produces approximately 40 percent of the world's oil supply, has threatened to cut oil production 4 separate times this year, and they cut oil production a total of 3.5 million barrels per day or 13 percent this year. I know this is a figure that can be difficult for people to comprehend, but every day, the United States receives 750,000 barrels of oil from Iraq. If we look at the chart, over 6.8 percent of the oil we import every day comes from Iraq.

In December, the United Nations will be conducting a periodic review of Iraq's oil-for-food program. In the past Iraq has suspended exports during the review in order to press their case that the program be allowed to continue uninhibited by the United Nations. This could happen again.

As many of you know, Iraq could be next on the list of nations that we go after because of their threat to world peace. It would be surreal if we were importing oil from Iraq at the same time we were engaging in antiterrorist activities against that nation.

It was strange enough that when we had the last oil crunch last year, we were providing them with technology to increase their oil production while at the same time we were conducting air sorties over their no-fly zone. We were bombing them on one hand and providing them technology so they could increase their oil production at the same time. It doesn't make sense.

The attack on Washington and New York could make things even more unpredictable as support for the United States by oil-producing Arab nations could bring Osama bin Laden and al-Qaida attacks on them. It is important to make it clear that Osama bin Laden would dearly like to bring down the Saudi government because of its Western influence and the alleged exploitation by the United States of Saudi oil. Remember, the Saudis provide 16.8 percent of our oil imports.

On the domestic front, we are also in trouble. The refinery fire in Illinois this past August decreased the available supply of gasoline while our inventory was already low. That caused prices to jump in my State of Ohio and other Midwest States. The price of gasoline jumped up 30 cents per gallon in Ohio over a 2-week period because of a fire at a refinery.

We have had no new refineries built in almost 26 years, while the number of refineries has dropped from 231 in 1983 to 155 today. While the refineries today are more efficient, they are not getting the job done. When a refinery shuts down for repairs or accidents such as fires, it creates price spikes that can be felt across the Nation.

We should not be lulled into complacency because of the temporary low cost of gasoline. If you travel the country, the price is down. We must do more to increase domestic production of oil in the United States.

Our transmission system also needs to be improved and opened up. We don't have the infrastructure in place to transmit natural gas and the pipelines to transmit oil. Last year one of the reasons we had the large increase in gasoline prices in the Midwest was because of a break in an oil pipeline coming up from Texas and another one coming from Wolverine, MI. Those two events skyrocketed the price of oil in Ohio and many other States in the Midwest.

Because of this, last month I introduced the Environmental Streamlining of Energy Facilities Act with Senator LANDRIEU. Our bill will streamline the siting process for pipelines and transmission lines.

Utility costs are another major factor in our Nation's competitive position in the global marketplace. Long before the events of September 11, utility costs were exacerbating the recession in Ohio and the Midwest. We need to assure Americans that they can count on reasonable, consistent energy costs if we expect to get their confidence back in terms of the economy.

As a major manufacturing State, energy is the backbone of my State, and Ohio and the Midwest are the backbone of this Nation's economy. Twenty-three percent of our Nation's gross State product for manufacturing is concentrated in five States which comprise the Midwest; Ohio, Indiana, Michigan, Illinois, and Wisconsin. For example, when you compare Ohio's manufacturing production with the New England States, Ohio's gross State product for manufacturing is higher than all six of the New England States combined. Energy is the backbone of the U.S. economy. And without a reliable supply, we are not competitive in the world marketplace.

Congress needs to act on an energy bill as soon as possible. It needs to be done on a bipartisan basis.

This chart is really very illuminating. It looks at projected demand for energy in this country between now and 2020. The green line is what we are going to need. The red line is based on current production and shows what we will have available to meet the demands for energy in this country. As my colleagues can see, there is a large canyon between the lines that needs to be filled. That means that we are going to have to produce more oil, more gas, use more coal, produce more nuclear energy, if we are going to take care of this large gap.

Many of my colleagues would argue that the solution to our need for energy is the issue of renewables and other alternatives. The fact is, today, renewables, that includes hydro- and non-hydropower, take care of only a fraction of our energy needs in the United States of America. That is surprising, because I have had some colleagues come to the floor and argue that all we need are acres and acres of windmills and acres and acres of solar panels and that will take care of our energy problem. The fact is, solar and wind power make up only one-tenth of one percent of our energy needs. There is no way that we are going to be able to deal with our energy problem with renewables because if you look at the bottom line, this purple line, going out to 2020, you can see that it is going to represent a very small part of the production we have in America.

There is no question, we need more energy. We need more oil. We need more gas. We need more nuclear. We need more coal. While conservation helps, it is not going to meet our estimated consumption without drastically changing America's standard of living. We cannot kid ourselves and think otherwise.

Although it won't get the entire job done, a good beginning in our goal of achieving a solid energy policy is a bill that is currently on the Senate calendar, H.R. 4, and which is part of the amendment to the underlying bill before the Senate that was submitted today by Senator LOTT.

It is a good beginning. Those of us who have been on this issue for a long time would like to see amendments dealing with an ethanol component which will help decrease our dependence on foreign oil. We need to use more ethanol. We need to have an electricity title to improve nationwide delivery. We need more funding for clean coal technologies and a nuclear title, including Price-Anderson reauthorization.

It is a beginning, a big beginning, a bill that passed the House of Representatives and one that should be passed in the Senate.

I hope when Monday comes and this body has an opportunity to vote on the issue of cloture dealing with the amendments to the underlying bill that we will vote to allow those amendments to be debated by the Senate. It is important not only to the economic well-being of our country, but it is important to our national security.

We cannot allow ourselves to be lulled into a false sense of complacency simply because energy prices have stabilized. People say, "Natural gas prices are down, GEORGE," and, "Oil prices are down, GEORGE." The fact is that they have been down before and we have seen them go up. These prices are like a yo-yo, up and down and I am worried that one day, we are going to end up hanging at the end of the string.

It is time for us to act. As sure as the Sun will rise, so too will prices. OPEC will make sure it happens. The longer we wait to pass an energy bill, the more vulnerable this Nation will be to supply disruptions, which will, in turn, have a dramatic impact on our economy, our environment, our health and, yes, our national security.

The time has come for the Senate to act and adopt an energy policy for the United States of America.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY POLICY

Mr. MURKOWSKI. Mr. President, let me thank my colleague from Ohio for outlining his position on the legislation we are discussing, the energy bill, H.R. 4. His presentation certainly summarized the fact that this indeed is in the national security interest of our Nation. He pointed out that our continued dependence on such unreliable sources as Iraq, at a time when we are not sure what our next move will be, puts us in a rather embarrassing position. He has certainly highlighted the vulnerability of this country, which is growing; there is absolutely no question about that.

The question we have—legitimate question—is just whether or not H.R. 4, which has passed the House of Representatives and is before us, does the job as a comprehensive energy bill. I am going to spend a little time on that because I think the public deserves to know what is in H.R. 4.

I will again ask my colleagues to reflect on the vote that is going to take place on Monday. This is not a vote on the issue of ANWR; this is a vote on the entire bill that passed the House of Representatives. A vote will be seen and read strictly as a vote on passing an energy bill. I think that is significant. It is a vote for or against passing an energy bill that has passed the House of Representatives.

With that, of course, is the cloning ban. I support that. The Senator from Kansas made an excellent presentation on the merits of that. It is rather unusual to see such devoid issues brought together, but that sometimes happens in this body. It is important to point that out and highlight that Senator BROWNBACK's presentation is simply a 6-month ban. What we are seeing here on cloning is the scientific and medical movement is so fast that we are not sure where the ethical evaluation should come down. Therefore, a 6-month moratorium on cloning is certainly in order. I certainly support that.

Here is what H.R. 4 does for the Nation. The amendment is the legislative portion of the President's comprehensive energy policy. It aims to secure America's energy future with a new national energy strategy that is designed to reduce energy demand, increase energy efficiency and supply, and enhance our energy infrastructure and our energy security.

I think that should address the issue some have raised that this is nothing but a very narrow bill containing ANWR. Let me tell you what we have in here in the sense of reducing demand. This bill reauthorizes Federal energy conservation programs and directs the Federal Government to take leadership in energy conservation with new energy-saving goals.

Secondly, it expands Federal energy savings performance contracting authority. It increases the Low Income Home Energy Assistance Program, LIHEAP. It provides weatherization and State energy program authorization levels to meet the needs of low-income Americans. It expands the EPA and the Department of Energy's so-called energy star program. It directs the EPA and the Department of Energy to determine whether energy star labels should be extended to additional products. We used to see seals of the Underwriters Laboratories. This is much like that, but these stars are awarded for reduction in energy use. In other words, you can get a better, more efficient refrigerator, but you probably won't because your other one is working just fine. But these new ones deserve a particular rating and some identification. That is what the energy star program is all about. It highlights that this is indeed an energy-saving device and technology that has been put on your iron, refrigerator, or dishwasher.

We need to encourage Americans to go out and buy these. But, obviously, some are reluctant because theirs is working fine. But they can reduce energy consumption and therefore their energy bill. It directs the DOE to set standards for appliance standby mode energy use. It reduces light truck fuel consumption by 5 billion gallons over 6 years. Now this is the CAFE—people are saying, "Where are your CAFE savings?" It directs the DOE, in the sense of light truck fuel consumption, to reduce it by 5 billion gallons over 6 years. It also improves Federal fleet fuel economy and expands the use of hybrid vehicles.

What do we mean by Federal fleet? We say before we put mandates on the general public, let's put it on the Government fleet and see how it works. That is kind of the old saying that charity begins at home. So it will improve the Federal fleet economy. It increases funding for the DOE's energy conservation and efficiency R&D programs designed to reduce consumption of energy. It expands HUD programs to promote energy-efficient single and multifamily housing. That should answer pretty much the concern some have raised, well, you don't have anything in your bill to reduce demand. I think we do.

On the issue of increased supply, we have provisions for environmentally sensitive oil and gas exploration on the Arctic Coastal Plain. That is ANWR. I will talk about ANWR later. Clearly, the reserves are there. It is estimated to be between 5 and 16 billion barrels. We have an average somewhere in between 5 and 16. It will be as big as Prudhoe Bay, now producing the 13 billionth barrel. We can get 10 out in the field—the largest field ever found before. I have a chart here that shows a comparison with our good neighbors from Texas, and I am sure my staff can find it in a moment or two. As they look, I will move into the other areas of increased supply.

I think we all assimilate in our minds domestic oil reserves coming from the great State of Texas, and the great State of Texas has been producing a lot of oil for a long time. This says: ANWR, More Oil Than Texas. This is from the Energy Information Administration which reports that Texas proven crude oil reserves are 5.3 billion barrels.

In 1998, the USGS estimated there is a 95-percent chance of more than 5.7 billion barrels from ANWR, a 50/50 chance of more than 10 billion barrels of oil and a 5-percent chance of more than 16 billion barrels of oil. So if we want to use the average, ANWR has more potential than Texas.

I have heard my friend, the junior Senator from Massachusetts, speak in generalities about why this should not be open. I have never heard a good explanation as to whether or not he believes there is evidence to suggest it cannot be opened safely, but he does generalize that it is insignificant.

If the oil in ANWR were to be the average of 10 billion barrels, ANWR would supply 321,428 barrels per day to the State of Massachusetts. That would last the State of Massachusetts 85.2 years. The State of Connecticut uses 216,000 barrels per day. It would last Connecticut 126 years. South Dakota uses 59,000 barrels a day. It would provide South Dakota with 460.3 years for their petroleum needs. I throw that out simply as a matter of comparison when individuals say the increased supply is insignificant. It is not insignificant.

Further, increased supply authorizes new oil and gas R&D for unconventional and ultra-deep-water production. We are seeing that in the Gulf of Mexico. That is where our new finds are, in deep water. The industry has done an extraordinary job of advanced technology, and they have been very fortunate. They have had very few accidents. It provides royalty relief incentives for deepwater leases in the central and western Gulf of Mexico. It streamlines the administration of oil and gas leases on Federal land. It authorizes the Department of Energy to develop accelerated clean coal power initiatives. So it recognizes the significant role of coal, which makes up nearly 50 percent of our power generation in this country.

It establishes alternative fuel vehicles and green school bus demonstration programs. That should appeal to many Members. It reduces the royalty rate for development of biothermal energy and expedites leases. It provides for regular assessment of renewable energy resources and impediments to their use. It streamlines the licensing process for hydroelectric dams and encourages increased output. It provides new authorization for fossil, nuclear, hydrogen, biomass, and renewable R&D.

These things are included to increase the supply, but they are not only in ANWR. There is authorization for new technology, hydrogen, biomass, renewable R&D, because we want to remove our dependence even greater on imported oil. The difficulty many people fail to recognize is America and the world move on oil because we do not have any other alternative. We wish we did. We can generate electricity from coal, from gas, from nuclear, from wind, but we cannot move America and we cannot move the world. That is why we are becoming so dependent on Mideast sources.

If this bill passes this House and this Senate, two things are going to happen. We are going to send a message to OPEC. The message is going to be loud and clear that the United States is committed to reduce its dependence on OPEC. OPEC, I think, will read that and decide, all things being equal, they had better be careful how they operate that cartel because if they move it up too high, why, obviously it is not going to be in their interest. So I think it will be a curb on prices because the more we produce domestically, the less we will import. As we know, those countries need those gas fuels, particularly the Saudis.

Finally, in the area of enhanced infrastructure and energy security, it sets goals for reduction of United States dependence on foreign oil and Iraqi imports. It initiates the review of existing rights of way on Federal lands for energy potential. It directs the Department of Energy to implement R&D and demonstrate use of distributed energy resources. It invests in a new transmission infrastructure R&D program to ensure reliable electricity.

It requires a study of boutique fuels and issues to minimize refinery bottlenecks and supply shortages because, as we remember, it was not so very long ago under the previous administration, when we had a shortage of heating oil in the Northeast in the wintertime, the decision was made to open up SPR. We took 30 million barrels out of SPR. Suddenly we found we did not have the refining capacity because we had not built new refineries in this country in 20, 25 years, so all we did was displace what we were importing. That is kind of the situation. So this does provide some relief.

It initiates supply potential for renewable transportation of fuels to displaced oil imports, it offers scholarships to train the next generation of energy workers, and it prohibits pipelines from being placed on national registers of historic places. That is what the bill does.

Last night the majority whip, Senator REID, my good friend, came to the Chamber, and I do not know whether he was ill informed or not, but in any event I will comment a little bit on his statement. I assume it was an attempt to support the majority leader's priorities from the standpoint of the remaining time we have in this session and what those priorities should be. I know many of my friends on both sides of the aisle feel very strongly about the railroad retirement legislation, but the majority leader stated he thinks it is more important this body consider the railroad retirement legislation than comprehensive energy legislation. That is contrary to polling information I just presented. That polling information, as I said, indicated that 95 percent of Americans say Federal action on an energy bill is important. That is not enough because 72 percent of the Americans say passing an energy bill is a higher priority than other actions Congress might take.

We have seen polls from time to time. We take them or leave them, but this was an IPSOS-Reid poll done in November. So clearly there is a little bit of difference expressed by the polling information on what the priorities should be.

Now, evidently, the leader thinks it is more important that we consider a farm bill. It is kind of interesting about how we set priorities because the farm bill does not expire until the end of next year. Does it have the same prioritization as the exposure we are seeing in the Persian Gulf, the danger of terrorism to Saudi Arabia in bringing down the Royal Family, a couple of tankers colliding in a terrorist attack in the Straits of Hormuz, terrorizing oil fields? These are the crises that would come about, and clearly with our increased dependence on Iraqi oil and the fact we are looking to finalize things over there against those who sponsor terrorism, it is beyond me how the leader would consider the farm bill as being more important, particularly when it is not due to expire until the end of next year.

I know what good soldiers are about. I have been in the majority and I have been in the minority, and sometimes we are asked to defend the indefensible. That is politics. I think the whip is doing a good job as we have come to understand he always does in the Senate. However, I really cannot stand by and watch the facts simply evaporate. As I indicated, we simply cannot stand by and watch the facts simply evaporate. I emphasize "facts."

During his comments, the majority whip stated that the overall benefits to the country for developing a small area of the Arctic Coastal Plain were "nonexistent." I find it rather ironic that he would make that blatant statement. Nonexistent? Did the majority whip really say the overall benefit to the country would be nonexistent when we have seen the Teamsters, the unions, the veterans, the minority groups in this country say they think this is the most important thing for the Senate to take up, and the fact that the House has passed it sends a strong message. We have some work to do.

When he said that would be nonexistent, I asked myself, can he really believe that? Does he really think the facts support his assertion? Knowing that the majority whip would never deliberately mislead other Senators, I only conclude he doesn't know all the facts. He, as well as the majority leader, have never taken the time to visit the area. We have made repeated offers. I have taken many Members there.

It is ironic we only have to justify on the side of the proponents the merits of the issue based on our personal experience, the experience of my senior colleague, Senator STEVENS, and Representative DON YOUNG. The administration has seen the area, physically gone up there. The Secretary of Interior has been up there twice. I took her up last February. We took off with a wind chill factor of 72 degrees below zero. It is tough country.

One chart shows the bleakness of the Arctic in the wintertime. I am also convinced the only way the Senator might learn those facts, if he doesn't visit the area, would be if I were to share more and more facts with him in the hopes he will understand. I am here to make the Nation aware of the significance of what this could mean to our energy security. I will also make the Nation aware of the benefits to the country in opening a small sliver of the Arctic Coastal Plain for development.

Today, I will share with the Senate what the Clinton administration said about ANWR. I think my colleagues should know what the previous administration said about ANWR, as related by the Energy Information Agency in May of 2000, an agency created by Congress to give unbiased energy information. I will come back to this in a moment.

ANWR is the area on this chart to the right on the map of Alaska. Also shown is the State of South Carolina for a size comparison. There are 19 million acres in ANWR. We have 365 in the whole State. ANWR, on the big chart, the 19 million acres, is already predestined by Congress for specific designation. The darker yellow is part of the refuge. The lighter yellow is in a wilderness in perpetuity. That is about 8 million acres. The green at the top is the 1002 area, or the ANWR coastal plain. The geologists say this is a very productive area. It is 60 miles from Prudhoe Bay. Prudhoe Bay, of course, is the field that has been producing for some 27 years.

The TAPS pipeline is an 800-mile pipeline traversing the length of Alaska. Interestingly enough, when that was built 27 years ago, we had arguments in the Senate whether that could be built safely. What would happen to the animals? What would happen to a hot pipeline in permafrost. Would it break? All the same arguments are being used today. There was a tie in the Senate, and the Vice President came in and broke the tie. I cannot recall how many hundreds of billions of barrels we have received, but for an extended period of time that was flowing at 2 million barrels a day. It is a little over 1 million barrels at this time.

This map shows another area worthy of some consideration. That is the red dot. That is the footprint associated with the development. In the House bill that is 2,000 acres. I know the occupant of the chair knows what 2,000 acres is. Robert Redford has a farm in Utah of 5,000 acres. Keep in mind this authorization is for 2,000 acres, a permanent footprint, out of 19 million acres. Is that unreasonable? I don't think it is.

Some are under the impression this is a pristine area that has not been subject to any development or any population. Of course, a village is at the top of the map. Real people live there. They have hopes and aspirations for a better lifestyle and better working conditions, jobs, health conditions, schools. There is a picture of some of the Eskimo kids going to school and nobody there to shovel the walks. There is also a picture of the public buildings, in front of the community hall, with pictures of the Eskimo's two modes of transportation: One is a snow machine and the other is a bicycle. That should take care of the myth that nobody is up there. Real people live there.

The Coastal Plain comprises approximately 8 percent of the 19 million acres. ANWR is along the geological trend that is productive in the sense that the oil flows in the same general area. This is the largest unexplored potential production onshore base in the entire United States, according to the Energy Information Agency.

I return now to the statement of the Clinton administration: This is the largest unexplored potential onshore base in the United States. The Energy Information Agency, under the Clinton administration, did not think the benefits of ANWR would be nonexistent on our Nation's energy supplies. That is why I am amused that the majority whip would use the term "nonexistent."

The Department of Interior says if the Energy Information Administration isn't good enough, how about the Department of the Interior under Bruce Babbitt?

I am wondering if that argument isn't enough to convince the majority whip that the benefits of ANWR are not nonexistent on energy supplies.

According to a 1998 Department of the Interior study under the previous administration, there is a 95-percent probability—that is 19 in 20 chances—that at least 5.7 billion barrels of oil in ANWR is recoverable. That is about half what we would recover initially from Prudhoe Bay. There is a 50–50 chance that there is 10.3 billion barrels of recoverable oil. And there is a 5-percent chance at least 16 billion barrels are recoverable.

These are not my numbers. These are not coming from FRANK MURKOWSKI or DON YOUNG or TED STEVENS. These aren't the environmental fundraiser groups' numbers. These are Interior Secretary Bruce Babbitt's scientific numbers.

I fail to recognize how the majority whip can add these up and suggest that it is nonexistent, as was stated by the whip. How much oil is there reason to believe is there? We don't know. We won't know until we get in there. Senators might wonder how much these numbers add up to. How much impact would oil from ANWR have on our Nation's energy security, our economy, our jobs?

Let me try to put that in perspective. According to the Independent Energy Information Administration, at the end of 2000, Texas had 5.27 billion barrels of proven reserves. That means there is a 95-percent chance that ANWR has more oil than all of Texas. Think of the jobs associated with the oil industry in Texas.

California has 3.8 billion barrels of proven reserves. There is a 95-percent chance that ANWR has more oil than all of California.

New Mexico has 718 million barrels of proven reserve. There is a 95-percent chance that ANWR can recover almost 8 times as much oil as is proven to exist in New Mexico.

Louisiana has 529 million barrels of proven reserves. Oklahoma, 610 million; Michigan, 56 million; Pennsylvania, 15 million; Nevada, Massachusetts, and Connecticut had no proven reserves.

In fact, the Energy Information Agency states that the lower 48 States have total proven reserves of 17,184,000,000 barrels of oil. That's it, 17 billion. This could come in at the high end. If we are lucky enough to hit Secretary Babbitt's high number of 16 billion barrels, ANWR would almost double U.S. reserves.

These are not my figures. They are figures of the previous Secretary of the Interior. Are these benefits nonexistent, as the whip has indicated last evening?

I hope this will clarify the issue for the majority whip, and any other Senators who might wonder whether ANWR would have an impact on our energy security, economy, or our jobs. To repeat, ANWR could potentially double our reserves overnight. Do I know it will? No. Does anyone else? No. But I will certainly take the word of the Clinton administration scientists over the word of the environmental fundraising groups. They have never wanted this issue resolved because they would no longer have their best fundraising issue to lie their way into well-intentioned American wallets. It is easy to understand how people might be misled. These groups have simply not been telling the truth, period.

I am happy to debate any and all, at any time, on the merits of this issue. If there are those who do not believe me, or the Clinton administration, how about organized labor? Teamsters, maritime, construction trade unions, the AFL/CIO, operating engineers, and many other unions have joined us in support of this legislation. They think it will have a great impact on the economy, on our national security, on our jobs. They estimate between 250,000 and 750,000 jobs will be created here at home by opening ANWR.

They do not believe the benefits to our Nation are nonexistent, as the majority whip has indicated.

The PRESIDING OFFICER. The Senator has used 15 minutes.

Mr. MURKOWSKI. I ask unanimous consent I may have another 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I would like to take a note here, relative to the number of ships that would have to be built if, indeed, ANWR were opened. A lot of people overlook the reality that Alaskan oil is unique. It has to move in U.S.-flagged vessels because the Jones Act requires that. Any movement of goods and material between two U.S. ports has to be moved in a U.S.-flagged vessel. So all the oil from Alaska moves down in ships built in U.S. yards, with U.S. crews, and flying the American flag.

This is the largest concentration of U.S.-flagged tankers in existence in our country, in this particular trade. They would require, if ANWR opens, 19 double-hulled tankers which would add about $4 billion to the economy and create 5,000 jobs each for 17 years because these new ships will come on as replacements for others.

I do not know if those benefits are nonexistent, but to the States—Maine, where they are likely to build some of these ships; Alabama, Mississippi, Texas, Washington, California—these are jobs. These are good jobs, good jobs in U.S. shipyards.

What about these other ships that bring in oil, the 56 percent that are coming from overseas? They bring their oil in foreign-flagged vessels. They don't have the deep pockets of an Exxon.

I will conclude because I see other Senators are here waiting for recognition. But I want to ask again, the benefits are nonexistent? I hope this will clarify the issue for the majority whip and any other Senators who might wonder whether ANWR would have any impact on our energy security, the economy, and jobs.

To repeat, ANWR could almost double our reserves overnight. Do I know it will? Does anyone? No. But I, again, would take the word of the Clinton administration scientists over the word of the environmental fundraising groups. They have never wanted this issue resolved because, as I indicated, they would no longer have the best fundraising issue to lie their way into well-intentioned American wallets.

It would be easy to understand how they might be misled but, as I have indicated, they pulled the wool over the public's eyes. This is an issue that involves our national energy security. It is a very fundamental issue.

I will conclude by, again, referring to the other organizations—the Veterans of Foreign Wars, the American Legion, Vietnam Veterans Institute—which think it is good for the national security. They do not believe the benefits to our Nation are nonexistent, and they ought to know. They fought the wars.

The House acted on national energy security legislation before September 11. Frankly, they have shown up the Senate. In that body, committees were allowed to advance energy legislation, debate it, and pass it to the floor for further consideration.

Here, the majority leader seized the bill from the committee of jurisdiction, the Energy and Natural Resources Committee, of which I am a ranking member. I used to be chairman. He has seized the bill from the committee of jurisdiction and has substituted his will for the will of the committee. He has bypassed the committee process entirely.

I am very disappointed that we were not able to bring around the majority to recognize this matter should go to the committee of authorization and not be taken away from it; but I am not chairman of that committee anymore.

Finally, I offer up this question to the Senate: If, indeed, the benefits to this country were nonexistent, there was so little oil there, then why is there such a huge campaign to deny Americans that oil? We can all ask ourselves why—16 billion barrels of oil, times $30 a barrel, is almost one-half trillion dollars.

It is about $480 billion; $480 billion is nonexistent? If that is the price about the time ANWR comes on line, that means $480 billion stays at home rather than being spent abroad for oil. With that kind of money, we can better provide for our schools, our security, our health care system, our elderly.

Here we are today rising before this body at last to take up an energy bill. The amendment offered by Senator LOTT is the underlying legislation. Divisions A through G of the amendment will provide us with the remainder of a comprehensive energy policy to guide this Nation into the future.

As I have indicated specifically, these provisions provide ways to do the following: Reduce our demand for energy, increase our domestic supply of energy, invest in our energy infrastructure, and enhance energy security.

I will go into more detail at a later time.

But for the past decade, America has lacked a comprehensive energy strategy. We are aware of that. Without such a guidebook, our record of economic expansion and resulting growth in demand has outpaced our energy production. We saw a similar situation last year in the sense of a perfect storm, if you will. All the parts of our energy supply were stretched, and there were limits on output. We actually saw that occur.

As we know, when supply doesn't meet demand, prices go up. When you have a cartel such as OPEC, they are able to do things that antitrust laws in the United States simply prohibit. They are able to set prices by reducing supply. As we all know, when supply doesn't meet demand, the price rises.

Rising energy prices have already been blamed by many economists for putting us into the recession we now face. It is a matter of particular importance that we develop a comprehensive national energy strategy for our economic and our national security.

Under previous control of this body by the Republicans, the Senate had a very aggressive timetable. That timetable was to get a comprehensive energy bill passed by the Fourth of July. We were working on this bill and introduced it shortly after we came in last year in late January. We had a change. And the GOP left a legacy to the other side. We have done our part.

When I was chairman, our committee had 24 hearings. We heard from 160 witnesses, and we introduced the Murkowski-Breaux bipartisan bill and were ready to move. The President's national energy policy framed the debate.

I can see no reason why the Democrats should not have kept this schedule. But since they took control, we have had a few hearings and heard from some of the same witnesses. We started a markup on the bill of the new chairman in August. We engaged in good-faith discussions to come to a consensus only to find our committee stripped of its jurisdiction by the majority leader because he pulled the plug on the Energy Committee's deliberations and simply took over the process bypassing the authorizing committee and bypassing Senator BINGAMAN, who is the chairman. I can only guess why.

We had the votes in committee to pass out an energy bill. We asked the majority leader, Senator DASCHLE, for a date certain. We asked the chairman of the committee, Senator BINGAMAN, for a date certain. The statement from our Senate leadership is there will be no new energy bill this year. That statement has been made.

At least we are in the Chamber tonight. We have an energy bill up for consideration. I thank all my colleagues who played a role in assuring this would come about, because I made a commitment that we were going to bring this matter up before we go out on recess. Now we are in it.

In recent weeks, there has been considerable talk of the need to address the Nation's problems in the old spirit in a bipartisan manner. I wish we could. We have seen this with respect to an antiterrorist package, the airline security measure, and several other pieces of legislation. Sadly, this air of "bipartisanship" has broken down with respect to energy policy. We now find ourselves in a partisan standoff.

I think, though, we all agree we need an energy policy. We have one which passed the House. That is before us. It is up to us to address whether we are going to simply walk out of here without an energy policy or take this up seriously, vote it out, get it to conference, and respond to the request of our President.

We have seen threats of filibusters, suspension of committee activities, and a failure to give the American people a fair, open, and honest debate on this issue.

I do not think, and I refuse to accept, that meeting the energy needs of this Nation is a partisan issue.

At the beginning of the session, I sought out my colleagues on the other side of the aisle for their ideas and suggestions. And as committee chairman, I delayed introducing any legislation until a measure could be developed that reflected their interests. We worked hard on that.

S. 389, while not perfect, met that requirement and remains the only bipartisan comprehensive energy measure introduced in the Senate.

At a time when the country is seeking unity and bipartisanship, we should be moving forward with a bipartisan energy bill. Just as we did last year with respect to electricity, we should put the contentious issues to a fair and open debate, and vote on them.

Repeatedly, the President has called on Congress to pass energy legislation as a part of our efforts to enhance national security.

With H.R. 4, the bill now sitting on the Senate calendar, the House of Representatives has done its job. Now it's the Senate's turn. The best thing we can do to ensure this Nation's energy security is to act now: take up the House bill, amend it, and go to conference.

Make no mistake about it. That is what we should do. This energy policy proposal will create new jobs in domestic production and new energy technologies. This will be a significant economic stimulus that couldn't come any sooner—when the economy needs thousands of new jobs.

At stake are billions of dollars in construction spending, hundreds of thousands of jobs, and billions of dollars that won't go overseas in future energy spending.

Our increasing dependence on foreign oil helps to support the very terrorists we now fight in the Middle East and elsewhere. We import nearly a million barrels per day of oil from Iraq, and some of our oil payments to Saudi Arabia may have been used against us in the events of September 11.

As a matter of national importance, we cannot allow our energy security to get bogged down in partisanship and procedural maneuvers. One of the purposes of committees is to test various proposals and to provide the Senate with a considered recommendation. A majority of the members of the Energy Committee have been willing to provide this advice—and report out a bill. Yet the majority leader and the committee chairman have seen fit to "short-circuit" the regular order to avoid votes on certain issues. These votes would prevail if we could get the matter up in the committee.

The American people deserve better than this. They deserve more than just partisan sniping on energy issues. We certainly need to provide for the security of our energy supply. We need to deal with our infrastructure and our domestic capacity for development, refining and transportation and transmission. And we should take those steps that we can all agree on to promote the energy technologies of the next decade and beyond.

Our Nation deserves a fair, honest, and open debate on all aspects of the important energy issues, including ANWR. This is a debate that a majority of members were ready to have in committee, but that opportunity was denied us. We are ready to have that debate and let the votes fall where they may on all the contentious issues that remain.

So let us now finally—since we are on the bill—have this debate so we can look the American people—our constituents—in the eye when we go home for the holidays and say that, yes, we have passed, in the national interest, an energy bill, H.R. 4, which passed the House overwhelmingly; and then tell them we are going to do our part to provide safe, secure, and affordable energy supplies now and into the future.

At this critical point in our Nation's history, we clearly need a national energy strategy to ensure a stable, reliable, and affordable energy supply.

While many choices have been forced upon us in the aftermath of September 11, we now have the chance to choose our energy future. The other alternative is simply to dodge the issue. Will we have the courage to act? Will we have the courage to make the difficult decisions we avoided some 10 years ago?

In 1995, ANWR was in the omnibus bill. It was an energy bill. It passed this body. It was vetoed by the President. Had he signed that order, we would know what was in ANWR. We could be producing from ANWR. The question is, When are we going to start?

As the President said, there was a good bill passed out of the House of Representatives. Now it is the job of the Senate. The Senate can and must act.

I hope my colleagues will join me in voting for this amendment to ensure the security of our energy supply, our economy, and our Nation for years to come.

I thank the Chair for being patient. We are going to be back on this tomorrow. I thank the majority whip for his indulgence as well.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Nevada.

Mr. REID. Before my friend, the distinguished Senator from Alaska, leaves the Chamber, I did want to say that I was a little disappointed, when he went over the reserves in various States, that he said Nevada had nothing.

Mr. MURKOWSKI. I think the terminology is "inexistent."

Mr. REID. Inexistent? The reason I mention that is for 6 years Nevada had the largest single producing oil well in the United States in a place called Railroad Valley. The well went dry about 8 or 9 years ago. But for 6 years it was the best in the country.

Mr. MURKOWSKI. I was talking about current reserves, so there very well may have been a well in Nevada, but there isn't anymore.

RAILROAD RETIREMENT AND SURVIVOR'S IMPROVEMENT ACT OF 2001

Mr. REID. That we have found yet.

Mr. ENZI. Mr. President, I rise today in support of the Railroad Retirement and Survivor's Improvement Act of 2001. As a Senator from Wyoming, I represent a State that bears the undeniable mark of the railroads. Many of the towns across the southern corridor of my State were established on the sites of old railroad shanty towns. These shanty towns were constructed to house the workers that built the railroads. The railroad workers brought diversity to Wyoming. Many of my constituents with Chinese, Irish and Italian heritages call Wyoming home because their ancestors moved there with the railroad.

The railroad is still an integral part of Wyoming today. It transports one of our greatest energy resources, low-sulfur coal, to States that lack our power supply. And today's railroad workers are still an important part of the Wyoming population. I support this bill because I support providing the survivors of railroad employees with the benefits they require to live out their days in my State and other States. I support this bill for another reason; it is a viable option to provide solvency to the railroad retirement fund and increase retirement benefits and while lowering employer taxes.

These two results may sound mutually exclusive, but I assure you that they are not. The bill authorizes the newly created Railroad Retirement Trust Fund to invest the current Railroad Retirement Account in securities, including stocks and bonds. Even a conservative estimate places the rate of return on these investments as greater than the current rate of return in government accounts. This is the mechanism that allows retirement benefits to increase while taxes decrease.

As an accountant, I refrained from sponsoring the bill until I reviewed the actuarial report. After examining the report, I determined that the Railroad Retirement Trust Fund would remain well-capitalized and able to pay benefits under this legislation far into the future. The actuarial report indicated that this would occur even during mediocre economic conditions.

This bill would directly benefit Wyoming railroaders and their spouses by allowing 100 percent benefits for survivors of eligible retirees. It would lower the retirement age from 62 to 60 years for employees that have worked at least 30 years for the railroad. Some of my colleagues have asked why we should lower the railroad retirement age when the Social Security retirement age is increasing from 65 to 67. It is important to make a distinction between Tier I and Tier II benefits in this plan. Tier I benefits are comparable to Social Security benefits, and they do not start paying until the equivalent Social Security benefits are payed. Currently, that is at age 65. Tier II benefits, which are funded by taxes to the railroad employers and employees, pay the early retirement benefits for eligible workers. This is very similar to the "bridge plan" offered by private pension plans. This is important because railroading is a physically rigorous profession that ages a body prematurely and is still considered hazardous.

This legislation includes an automatic tax trigger that initiates an increase or decrease of the employer's taxes if the trust fund's amount moves outside of preset barriers. The barriers would ensure that a cushion of 4 to 6 years' worth of benefits payable remain in the account. A number of my colleagues have been presenting graphs that show benefit levels falling and employer taxes increasing 20 years after the program is initiated. I do not dispute this. In fact, it shows the fund's ability to manage itself and respond to decreases in its cushion.

As a Wyoming Senator and an accountant, I support the Railroad Retirement and Survivor's Improvement Act. I support it as a responsible way to manage the funds entrusted to us by the railroad workers. I support it as a way to fully care for the individuals that have contributed so much to our nation's infrastructure. I ask that my colleagues do the same and pass this bill.

SERVICE MEMBERS OPPORTUNITY COLLEGES

Mr. THURMOND. Mr. President, it is with great pleasure that I rise to bring to the attention of the Senate a true national asset, the Service Members Opportunity Colleges, (SOC). The SOC is a consortium of over 1500 Colleges and Universities across the Nation that have taken on the privilege of educating our Nation's men and women in uniform.

Founded in 1972 the SOC was created to "provide educational opportunities to service members, who, because they frequently moved from place to place, had trouble completing college degrees."

In fulfilling this primary role the SOC and their member institutions currently serve hundreds of thousands of service members. They work very hard to provide opportunities for our brave young men and women to educate themselves while serving our Nation. Consequently the SOC is helping prepare the future leaders of our military and our country. For this I salute them.

However, in addition to their stated mission the SOC, and their director Dr. Steven Kime, have dedicated themselves to ensuring that our men and women in the Guard and Reserve are taken care of when our Nation calls upon them and they are forced to leave school. The SOC does this by using their extensive network to ensure that students called to service are either refunded their tuition or receive credits for later education. Through their hard work SOC has helped create a sense of duty among their member institutions who regularly prove their devotion to this Nation by providing help and assistance to their students called upon to serve.

Consequently SOC has ensured that our brave young men and women called to active duty have one less worry on their already heavy shoulders. In these trying times it is this type of duty and leadership that proves our Nation and the American people are without equal.

Again, I would like to offer my thanks and admiration to the Servicemembers Opportunity Colleges and their men and women working so hard to make life better for our men and women in uniform.

ANOTHER REASON TO CLOSE THE GUN SHOW LOOPHOLE

Mr. LEVIN. Mr. President, I would like to enter into the RECORD some important information about guns and terrorists. Currently, shoppers at gun shows may choose to buy firearms from federally licensed firearms dealers—or from unlicensed dealers. Since unlicensed sellers are not required to run Brady background checks, which involves an instant background check for among other things, criminal history, outstanding warrants and illegal immigration status, gun shows are an important source of guns for criminals and terrorists who would not be able to buy weapons in a store. In fact, several cases have linked the purchase of guns at gun shows to terrorists. For example, in Florida, a man accused of having ties to the Irish Republican Army testified that he purchased thousands of dollars worth of machine guns, rifles, and high-powered ammunition at gun shows and proceeded to smuggle them to Ireland. Now more than ever, we must close the gun show loophole. I urge my fellow Senators to support bringing to the floor legislation that will close the gun show loophole.

MAJOR GENERAL PAUL A. WEAVER, JR.

Mr. STEVENS. Mr. President, I would like to take a moment to recognize one of the finest officers in our Armed Forces, Major General Paul A. Weaver, Jr., the Director of the Air National Guard. Well known and respected by many Members in this chamber, General Weaver will soon retire after almost 35 years of selfless service to our country. Today, I am honored to acknowledge some of General Weaver's distinguished accomplishments and to commend the superb service he has provided to the Air National Guard, the Air Force, and our great Nation.

After completing his Bachelor of Science degree in Communicative Arts at Ithaca College, New York, Paul Weaver entered the Air Force in 1967 and was commissioned through Officer Training School. After earning his pilot wings, he had flying assignments in the F-4E and O-2A, and completed overseas tours in Germany and Korea. In 1975, he joined the New York Air National Guard with which he served in increasing levels of responsibility. This culminated when he took command of the 105th Airlift Group at Stewart Air National Guard Base, New York, in 1985. Following his nine years as commander, General Weaver served as the Air National Guard's Deputy Director for four years and was appointed the Director of the Air Guard in 1998.

General Weaver is a command pilot with more than 2,800 flying hours in five different aircraft. He is a veteran of Operations Desert Shield, Desert Storm, and Just Cause. General Weaver's decorations include the Distinguished Service Medal, the Legion of Merit, Meritorious Service Medal, Aerial Achievement Medal, Air Force Commendation Medal with two oak leaf clusters, Combat Readiness Medal with Service Star, and Southwest Asia Service Medal with two oak leaf clusters.

While serving as Commander of the 105th Airlift Wing, Paul Weaver was responsible for the largest conversion in the history of the Air National Guard. Under his command, the wing converted from the Air Force's smallest aircraft, the O-2 Skymaster, to its largest, the C-5 Galaxy. During this conversion, he oversaw the largest military construction program in the history of the reserve forces as he literally rebuilt Stewart Air National Guard Base.

As the Air National Guard's Director, General Weaver's accomplishments are also noteworthy. He had dedicated each year of his term to a different theme—transition, the enlisted force, the family, and employers, thereby providing focus and enhancements to these four crucial areas. In addition, Paul Weaver's modernization, readiness, people, and infrastructure initiatives have enabled a fuller partnership role in the Air Force's Expeditionary Aerospace Force. The Air Guard achieved all its domestic and global takings and requirements with a force that is also smaller in size. Under General Weaver's leadership, the Air National Guard is even more relevant, ready, responsive, and accessible than it has ever been.

I would be remiss if I also did not mention that the Air National Guard is also fortunate to have another Weaver contributing to its success. Besides fully supporting his chosen profession, Paul's wife, Cathylee Weaver has had a major impact on the Air Guard's Family Enrichment programs. With dignity and grace, she dedicated time and attention to Air National Guard families, which led to her recently being voted as Volunteer of the Year of Family Programs. Clearly, the Air National Guard will lose not one, but two, exceptional people.

Let me close by saying that as both its Deputy and Director, General Weaver has made the Air National Guard a stronger and more capable partner for the Air Force. His distinguished and faithful service has provided significant and lasting contributions to our Nation's security. I know the members of the Senate will join me in paying tribute to this outstanding citizen-airmen and true patriot upon his retirement from the Air National Guard. We thank General Weaver, and wish him, Cathylee, and the entire Weaver family much health, happiness, and Godspeed.

KIDS TO KIDS: WARM CLOTHING FOR AFGHAN CHILDREN

Mr. JEFFORDS. Mr. President, I would like to draw my Colleagues' attention to an important initiative that is taking shape in Vermont. On Monday of this week, I attended a very special ceremony at Lawrence Barnes School in Burlington to kick off a program called Kids to Kids. The event was organized by Vermont Boy and Girl Scouts and its goal is simple—a drive to collect and send warm clothing to Afghan children. My wife, Liz, and I wholeheartedly agreed to be honorary co-chairs of this program and we are pleased to be part of a mission that involves the Boy Scouts and Girl Scouts, the Islamic Society of Vermont, the National Guard and the business community.

We in Vermont know the importance of being well-prepared for the frigid winter months, and we are fortunate to be in a position to help. But I am particularly pleased that the impetus for this clothing drive has come from the children. Vermonters have always stood eager and ready to lend a hand to those in need, and it fascinates me to see how this tradition passes from one generation to the next. It is the Boy Scouts, Girl Scouts, and school children of Vermont who will make this campaign a success, and the importance of their role cannot be stressed enough.

This campaign is so much more than simply a gesture of good will. It is a matter of saving lives. Thousands of children have fled Afghanistan with nothing more than the clothing on their backs. The flood of Afghan refugees started many years ago, and now there are many thousands of displaced children living in refugee camps.

Many of these children are suffering under conditions that no child should have to bear. They are hungry and they are cold. With winter setting in, something like a warm winter sweater, which so many of us take for granted, is a luxury item that is far beyond their reach.

From our small State to Afghan refugee camps, the boys and girls of Vermont are proving that they can make a difference. I am certain their "good turn" will be as rewarding for them as it is for the children of Afghanistan.

NATIVE AMERICAN BREAST AND CERVICAL CANCER TREATMENT TECHNICAL AMENDMENT ACT OF 2001

Mr. BINGAMAN. Mr. President, last evening, the Senate passed by unanimous consent S. 1741, the Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001, which I had introduced with Senator McCAIN and 23 other bipartisan cosponsors.

S. 1741 is identical to S. 535 and was introduced as a freestanding bill to address a jurisdictional concern raised with the committee referral of the initial bill. Due to the importance of the legislation, I am pleased that the entire Senate saw fit to allow this bill to be reintroduced and passed by unanimous consent yesterday.

The legislation makes a simple, yet important, technical change to the Breast and Cervical Cancer Treatment and Prevention Act of 2000 by clarifying that American Indian and Alaska Native women should not be excluded from receiving coverage through Medicaid for breast and cervical cancer treatment.

The Breast and Cervical Cancer Prevention and Treatment Act of 2000 gives States the option to extend coverage for the treatment of breast and cervical cancer through the Medicaid program to certain women who have been screened through the National Breast and Cervical Cancer Early Detection Program, or Title XV of the Public Health Service Act, and who do not have what is called "creditable coverage," as defined by the Health Insurance Portability and Accountability Act of 1996, or HIPPA.

In referencing the HIPPA definition of "creditable coverage," the bill language inadvertently precludes coverage to Native American women who have access to medical care under the Indian Health Service, or IHS. HIPPA included a reference to IHS or tribal care as "creditable coverage" so that members of Indian Tribes eligible for IHS would not be treated as having a break in coverage, and thus subject to pre-existing exclusions and waiting periods when seeking health insurance, simply because they had received care through Indian health programs, rather than through a conventional health insurance program. Thus, in HIPPA, the inclusion of the IHS or tribal provision was intended to benefit American Indians and Alaska Natives, not penalize them.

However, use of the HIPPA definition in the recent Breast and Cervical Cancer Treatment and Prevention Act has the exact opposite effect. In fact, the many Indian women, who rely on IHS or tribal programs for basic health care, are specifically excluded from the law's new eligibility under Medicaid. Clearly it was not the intent of Congress to specifically discriminate against low-income Native American women and to deny them much needed health treatment to combat breast or cervical cancer.

The legislation resolves these problems by clarifying that, for purposes of the Breast and Cervical Cancer Prevention and Treatment Act, the term "creditable coverage" shall not include IHS-funded care so that American Indian and Alaska Native women can be covered by Medicaid for breast and cervical cancer treatment, as they are for all other Medicaid services. Since a number of States are currently moving forward to provide Medicaid coverage under the State option, the need for this legislation is immediate to ensure that some American Indian and Alaska Native women are not denied received life-saving breast and cervical cancer treatment due to a Congressional drafting error.

In addition, this bill would also reduce the administrative burdens this language places on states. Under administrative guidance, some Native American women can be enrolled on the program depending on a determination of their "access" to IHS services, which depends on certain documentation obtained by Native American women seeking breast and cervical cancer treatment from IHS. In order to determine the Medicaid eligibility of Native American women who are screened as having breast or cervical cancer through the Title XV program each year, states are having to put together a whole set of regulations and rules to make these special "access" determinations.

During this year, almost 50,000 women are expected to die from breast or cervical cancer in the United States despite the fact that early detection and treatment of these diseases could substantially decrease this mortality. While passage of last year's bill makes significant strides to address this problem, it fails to do so for certain Native American women and that must be changed as soon as possible.

In support of Native American women across this country that are being diagnosed through CDC screening activities as having breast or cervical cancer, this legislation will assure that they can also access much needed treatment through the Medicaid program while also reducing the unnecessary paperwork and administrative burdens on states.

I would like to thank all Senators for their support and specifically thank Chairman INOUYE and Senator CAMPBELL of the Committee on Indian Affairs and Chairman BAUCUS and Senator GRASSLEY of the Finance Committee for agreeing to move the bill. In addition, I would like to thank the bill's cosponsors, which include Senators MCCAIN, DASCHLE, BAUCUS, CLINTON, DOMENICI, FEINGOLD, KENNEDY, JOHNSON, MURRAY, STABENOW, WELLSTONE, HARKIN, MILLER, SNOWE, INOUYE, SMITH of Oregon, CANTWELL, INHOFE, LANDRIEU, COCHRAN, BOXER, MURKOWSKI, MIKULSKI, and GRASSLEY for their help in getting the bill passed.

I would also like to thank Sara Rosenbaum at George Washington University for bringing this problem to our attention and for her vast knowledge on this issue and Andy Schneider for his technical advice and counsel on correcting the problem.

In addition, this bill would never have passed without the outstanding support and efforts by Fran Visco, Jennifer Katz, Wendy Arends, Alana Wexler, Joanne Huff, and Vicki Tosher at the National Breast Cancer Coalition, Wendy Selig, Licy Docanto, Brian Lee, and Janet Thomas of the American Cancer Society, Dawn McKinney and Laura Hessburg of the American College of Obstetricians and Gynecologists, Leigh Ann McGee of the Cherokee Nation, Jacqueline Johnson of the National Congress of American Indians, and the many Indian health organizations that have helped with the passage of this legislation as well.

I urge the House to immediately take up and pass this legislation and for the President to sign it into law to ensure that Native American women are not inappropriately denied treatment for their breast and cervical cancer. As states proceed with the implementation of last year's bill, any further delay and failure to act could unnecessarily threaten the lives of Native American women across this country.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 16, 1994 in Salt Lake City, UT. Two women, one lesbian and one bisexual, allegedly were beaten by a man who yelled anti-gay slurs. The assailant, Gilberto Arrendondo, 44, was charged with four counts of violating the State hate crime law and four counts of assault.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

ART THERAPY

Mrs. CLINTON. Mr. President, since the terrible tragedies of September 11, many Americans, both adults and children, have been forced to deal with a level of pain and anxiety that most people have never had to endure before. Art therapy—the process of using art therapeutically to treat victims of trauma, illness, physical disability or other personal challenges—has historically been under recognized as a treatment. However, since September 11, many of us have witnessed its enormous benefits in helping both children and adults alike express their emotions in a very personal, touching way.

While nearly every person in our country has been irrevocably changed by that day's events, we know that children are particularly vulnerable to the long-term emotional consequences that often accompany exposure to trauma. One of the ways in which children have coped with the aftermath of September 11 is by reaching for their crayons, pencils, and paintbrushes to express some of what they are feeling. Children all over the country have created images of World Trade Center towers and the Pentagon decorated with hearts, tears, rainbows, and angels. These simple, yet heartfelt, drawings, which do such a wonderful job of expressing the complex emotional terrain that these children are navigating, have moved us all.

Adults, too, have used creativity to help cope with the difficult emotions that so many are experiencing. I heard the story of a woman who was one of the last people to be rescued from the World Trade Center rubble after being trapped for more than a day. She drew a picture while in intensive care of herself under the rubble with angels and God hovering above her. Another victim of the disaster drew pictures of flowers and spoke about how grateful she was to be alive.

Last June, I had the pleasure of viewing an art exhibit here on Capitol Hill in which all of the art was created by patients who were being treated by art therapists. It was a remarkable feat for people coping with such immense personal pain to be able to produce such works of passion and beauty. Although sometimes the healing qualities of art may be less tangible or obvious than its aesthetic qualities, they may be even more important.

I want to thank art therapists, in New York and every community in America, who are assisting survivors, rescuers, and the bereaved. Throughout the country, there are almost 5,000 trained and credentialed art therapists working in hospitals, nursing homes, schools and shelters. They are among the army of mental health professionals who support those suffering from psychological trauma from the attacks, and undoubtedly will continue to serve the needs of individuals coping with subsequent stress disorders.

And that is why I rise today to encourage my colleagues in Congress to support the field of art therapy and expand awareness about this creative form of treatment. At this time of heightened awareness about the importance of maintaining mental health, we should recognize art therapy as a way to treat those among us who have experienced trauma.

RAILROAD RETIREMENT

Mr. CRAPO. Mr. President. I am pleased that we are proceeding on the Railroad Retirement and Survivors' Improvement Act. This important legislation will modernize the retirement system by giving rail employers and employees more responsibility and accountability for a private pension plan.

Moreover, the bill permits the reduction of payroll taxes and improves benefits for widows and widowers.

The overwhelmingly success of today's vote, which transcended party lines and ideological persuasions, shows what can be accomplished when all parties work together. This was a victory for the workers in the yard, all the railroads and especially for the survivors of retirees.

I am hopeful that we can build on today's momentum. This is a smart bill with bipartisan support. The consensus is that it makes sense to modernize the railroad retirement system in a way that increases benefits for railroad retirees and their families.

ADDITIONAL STATEMENTS

TRIBUTE TO HAROLD R. "TUBBY" RAYMOND, HEAD COACH OF THE UNIVERSITY OF DELAWARE FOOTBALL TEAM

• Mr. BIDEN. Mr. President, we in Delaware, and especially those of us associated with the University of Delaware, engaged in a very proud celebration this fall, when on November 10, Harold "Tubby" Raymond won his 300th game as head coach of the University's Fightin' Blue Hens football team.

The win put Coach Raymond into some very elite company, as he became the ninth ranked college coach in all-time wins, fifth among active coaches, second among division I–AA coaches, and one of only four coaches in the 300-wins club to have won all of his games at one school.

Coach Raymond came to the University of Delaware in 1954; to put that in perspective, it means that he had already been coaching at Delaware, as an assistant in football and head coach in baseball, for six years when I arrived on campus as a college freshman. With apologies to my New England colleagues, we stole Tubby from the University of Maine, where he had coached with his fellow University of Michigan alumnus and later College Football Hall of Famer, Dave Nelson. If you've ever seen the University of Delaware football helmets, you know that Coaches Nelson and Raymond never forgot their Michigan roots.

After serving as Dave Nelson's backfield coach for 12 years, Tubby Raymond took over the head coaching job in 1966, leading that first team to a 6–3 record and the first of three Middle Atlantic Conference University Division championships. In his 36-year career as Delaware's head coach, Tubby has gone on to win three national championships, including back-to-back titles in 1971 and '72, and has led Delaware to the national playoffs a total of 16 times, five in Division II and 11 in Division I–AA. His teams have earned 14 Lambert Cup eastern college championships, and have won six Atlantic 10/Yankee Conference titles, five Boardwalk Bowls and nine ECAC "Team of the Year" Awards.

Tubby Raymond's career record stands at 300–119–3, a winning percentage of .714. He is one of only two college division coaches ever to win consecutive American Coaches Association Coach of the Year Awards. He was named NCAA Division II Coach of the Year by ABC Sports and Chevrolet in 1979, following his third national championship season. He is all told, a seven-time honoree as AFCA College Division District II, now I–AA Region I, Coach of the Year; and he has been twice named as the New York Writers Association ECAC I–AA Coach of the Year. In 1998, Coach Raymond received the Vince Lombardi Foundation Lifetime Achievement Award, and in 2000, he was recognized by Sports Illustrated as one of Delaware's top 10 sports figures of the 20th Century.

Most incredibly of all, all the records and championships and statistics, as phenomenal as they are, don't tell the full story of Tubby Raymond's stature and influence on his players, the University, his sport or our State as a whole. Coach Raymond is a leader far beyond the walls of Delaware Stadium; he is respected, admired and beloved by his fellow Delawareans, even those who like to call their own plays from the stands, and even by rival coaches and opposing players. He is an institution, in a word, a legend; in fact, I would say that Tubby Raymond defines the standard of "living legend" in my State.

To top it off, Tubby is a good golfer, though like most of us not as good as he would like to be, and he is also an artist of considerable renown. One of the many ways Tubby expresses his bond to his players has been by painting a portrait of a senior member of the team each week of the season through most of his career. Other Raymond originals have benefited charity auctions and decorated Delaware football media guides. In fact, Tubby's artistic talents have attracted only slightly less national attention than his coaching skills; his paintings have been featured on Good Morning America, NBC Nightly News, Sports Illustrated, CNN and Fox Sports.

To save the best for last, Tubby Raymond is a family man. He lives with his wife, Diane, and daughter, Michelle, and is also the proud father of three grown children from his first marriage to Sue Raymond, who died in 1990. His son, Chris, is a former coach made good as an officer with J.P. Morgan; his daughter, Debbie, is a psychologist; and his son, David, became well known himself to sports fans as the Phillie Phanatic, mascot of the Philadelphia Phillies, and now owns Raymond Entertainment.

It is my privilege to share Delaware's pride in Harold "Tubby" Raymond with the Senate and with the Nation today. He is a legendary coach, an inspiring leader, a good friend and a remarkable human being, and to put it simply, we love him.•

HONORING POLICE OFFICER DANNY FAULKNER

• Mr. SPECTER. Mr. President, on Sunday, December 9, 2001, at 12 Noon, a commemorative plaque will be cemented into the sidewalk at the southeast corner of 13th and Locust Streets in Philadelphia, PA to mark the 20th anniversary of the murder of Police Officer Danny Faulkner at that site.

Officer Faulkner lost his life protecting the people of Philadelphia from the scourge of violent crime. Our society owes a great debt of gratitude to the Thin Blue Line, the police officers of America who fight criminal violence on the streets of our Nation 24 hours a day, 7 days a week and 52 weeks of the year.

From my experience as District Attorney of Philadelphia, I know the extraordinary risks faced by law enforcement officers. One of the most difficult aspects of my District Attorney's duties was the attendance at the funerals of police officers who were killed in the line of duty.

Following the terrorist attack on September 11, America has been focused on the courage and bravery of the police and firefighters. There is now a better understanding of the risks and performance of firefighters and police for their heroic efforts on September 11.

The commemoration of the 20th anniversary of Officer Faulkner's murder should inspire us to redouble our efforts to fight all forms of criminal violence, including terrorism, and to pay tribute to the memory of Officer Faulkner and all the police and firefighters of America.•

TRIBUTE TO LIEUTENANT SUZANNE R. DePRIZIO

• Mr. INOUYE. Mr. President, in my years in the Senate, I have had the opportunity to meet and get to know many of our men and women in uniform. I have always been struck by their enthusiasm, determination, patriotism, and professionalism. Yet sometimes, even in such impressive company, you run across an individual who stands out above the rest. Lt. Suzy DePrizio is one of those standouts.

Lt. DePrizio serves today as the legislative affairs officer for the United States Pacific Command, located in my home State of Hawaii. I've gotten to know Lt. DePrizio on my many trips to visit the command. Lt. DePrizio has constantly provided my staff and me timely, valuable and accurate information on the critical issues of the day.

Her energetic determination and competence inspire all those who work with her. I know first hand from my discussions with Admiral Blair, the commander of the Pacific Command, what a high regard the entire staff of PACOM has for this tremendously talented young officer. No matter how difficult the challenge, Suzy was always up to the task. Her behind-the-scenes efforts to prepare for congressional testimony were recognized by those of us in this business as exemplary. The CINC was always well prepared because of her efforts.

I also know from many of my colleagues that traveled into the Pacific region how smoothly their travel went because of her coordination and attention to detail. I would always tell them, "ask for Suzy, she'll get the job done right." Of course, she always did.

As Lt. DePrizio prepares to leave active duty in the Navy for a civilian career, I salute her for a job well done. On behalf of the entire U.S. Congress, I want to thank America for sending us proud and patriotic professionals such as Lt. DePrizio. She is certainly among our Nations's finest, and she gave tenfold compared to what she received.

In Hawaii, we have many traditions and blessings, one of which is the spirit of Aloha,—not just hello or goodbye or love, but the spirit of giving. When you put it together with the word 'aina, it becomes the Hawaiian phrase for patriotism. And, if there ever was an officer who had the spirit of aloha' aina for the Congress, the armed forces and for America, it is Lt. Suzy DePrizio. In that spirit, we send her on her way, wishing her fair winds and following seas in everything she does.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3338. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

H.R. 2722. An act to implement effective measures to stop trade in conflict diamonds, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 77. Concurrent resolution expressing the sense of the Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3338. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; to the Committee on Appropriations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 77. Concurrent resolution expressing the sense of the Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 2983. An act to extend indemnification authority under section 170 of the Atomic Energy Act of 1954, and for other purposes.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2722. An act to implement effective measures to stop trade in conflict diamonds, and for other purposes.

H.R. 3189. An act to extend the Export Administration Act until April 20, 2002.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4597. A communication from the Acting Director of the Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report on the Accounting of Drug Control Funds for Fiscal Year 2000; to the Committee on the Judiciary.

EC–4598. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, the semiannual report of the Office of the Inspector General for the period beginning April 1 through September 30, 2001; to the Committee on Governmental Affairs.

EC–4599. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–167, "Chesapeake Regional Olympic Games Authority Act of 2001"; to the Committee on Governmental Affairs.

EC–4600. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, twenty-nine quarterly exception Selected Acquisition Reports for the period ending September 30, 2001; to the Committee on Armed Services.

EC–4601. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report relative to the LPD 17 Program Life Cycle Cost Estimate; to the Committee on Armed Services.

EC–4602. A communication from the President of the United States, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–4603. A communication from the Board of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, transmitting jointly, pursuant to law, a report on Review of Regulations Affecting Online Delivery of Financial Products and Services; to the Committee on Banking, Housing, and Urban Affairs.

EC–4604. A communication from the Assistant to the Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled "Regulations H and Y—Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Treatment of Recourse, Direct Credit Substitutes and Residual Interests in Asset Securitizations" (Doc. No. R–1055) received on November 27, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–4605. A communication from the President of the United States (received and referred on November 29, 2001), transmitting, consistent with the War Powers Act, a report relative to NATO-led international security force in Kosovo (KFOR); to the Committee on Foreign Relations.

EC–4606. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–4607. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–4608. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed manufacturing license agreement with Japan; to the Committee on Foreign Relations.

EC–4609. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed manufacturing license agreement with the United Kingdom; to the Committee on Foreign Relations.

EC–4610. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the

Arms Export Control Act, a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–4611. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to France; to the Committee on Foreign Relations.

EC–4612. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Methoxyfenozide: Pesticide Tolerances for Emergency Exemptions" (FRL6806–4) received on November 16, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4613. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imidacloprid; Pesticide Tolerances for Emergency Exemptions" (FRL6806–9) received on November 16, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4614. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Chlororthalonil; Pesticide Tolerances for Emergency Exemptions" (FRL6807–1) received on November 16, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4615. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "NESHAP: for Pesticide Active Ingredient Production" (FRL7106–6) received on November 20, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4616. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "NESHAP: Pesticide Active Ingredient Production" (FRL7106–1) received on November 20, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4617. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Azoxystrobin: Pesticide Tolerances for Emergency Exemptions" (FRL6809–3) received on November 20, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4618. A communication from the Acting Assistant Director of Communications, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Interim Final Supplementary Rules on Bureau of Land Management Public Lands within the Imperial Sand Dunes Recreation Area" received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4619. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Civil Penalty Adjustments" (RIN1029–AC00) received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4620. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Illinois Regulatory Program" (IL–100–FOR) received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4621. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Montana Regulatory Program" (MT–022–FOR) received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4622. A communication from the Assistant Secretary of the Interior, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Mineral Materials Disposal" (RIN1044–AD29) received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4623. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Management of Report Deliverables" (FAL 2001–04) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4624. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Energy Conservation Program for Consumer Products: Amendment to the Definition of 'Electric Refrigerator'" (RIN1902–AB03) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4625. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Energy Efficiency Program for Certain Commercial and Industrial Equipment: Extension of Time for Electric Motor Manufacturers To Certify Compliance With Energy Efficiency Standards" (RIN1904–AB11) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4626. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Security Requirements for Protected Disclosures Under Section 3164 of the National Defense Authorization Act for Fiscal Year 2000" (RIN1992–AA26) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4627. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories; Yucca Mountain Site Suitability Guidelines" (RIN1901–AA72) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4628. A communication from the Attorney-Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Insurer Reporting Requirements; List of Insurers Required to File Reports" (RIN2127–AI07) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4629. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Procedures for Compensation of Air Carriers" (RIN2105–AD06) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4630. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: New Rochelle Harbor, NY" ((RIN2115–AE47)(2001–0118)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4631. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Areas; New York Marine Inspection Zone and Captain of the Port Zone" ((RIN2115–AE84)(2001–0002)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4632. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Prince Williams Sound Captain of the Port Zone, Alaska" ((RIN2115–AA97)(2001–0142)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4633. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Inner Harbor Navigation Canal, LA" ((RIN2115–AE47)(2001–0115)) received on November 16, 2001: to the Committee on Commerce, Science, and Transportation.

EC–4634. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Newton Creek, Dutch Kills, English Kills and their Tributaries, NY" ((RIN2115–AE47)(2001–0116)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4635. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Dorchester Bay, MA" ((RIN2115–AE47)(2001–0113)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4636. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Bayou Lafourche, LA" ((RIN2115–AE47)(2001–0117)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4637. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Harlem River, NY"

((RIN2115–AE47)(2001–0114)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4638. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Areas; Boston Marine Inspection Zone and Captain of the Port Zone" ((RIN2115–AE84)(2001–0004)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4639. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area; Savannah River, Georgia" ((RIN2115–AE84)(2001–0005)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4640. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Areas; New York Marine Inspection Zone and Captain of the Port Zone" ((RIN2115–AE84)(2001–0003)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4641. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Route 1 Bascule Bridge, Mystic River, Mystic, CT" ((RIN2115–AA97)(2001–0140)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4642. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Gulf of Alaska, Southeast of Narrow Cape, Kodiak Island, AK" ((RIN2115–AA97)(2001–0141)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4643. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Port Valdez, Alaska" ((RIN2115–AA97)(2001–0143)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4644. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Trans-Alaska Pipeline Valdez terminal complex, Valdez, Alaska" ((RIN2115–AA97)(2001–0144)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4645. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Michigan, Chicago, IL" ((RIN2115–AA97)(2001–0138)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4646. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Los Angeles Harbor, Los Angeles, CA and Avila Beach, CA" ((RIN2115–AA97)(2001–0139)) received on November 16, 2001; to the Committee on Commerce, Science and Transportation.

EC–4647. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations: SLR; Charleston Christmas Boat Parade and Fireworks Display, Charleston Harbor, Charleston, SC" ((RIN2115–AE46)(2001–0034)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4648. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; SLR; Waverly Hotel Fireworks Display, Biscayne Bay, Miami, FL" ((RIN2115–AE46)(2001–0035)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4649. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Harlem River, Newtown Creek, NY" ((RIN2115–AE47)(2001–0112)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4650. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; SR 84 Bridge, South Fork of the New River, mile 4.4, Ft. Lauderdale, Broward County, Florida" ((RIN2115–AE47)(2001–0111)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4651. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Verrazano Narrows Bridge, New York" ((RIN2115–AA97)(2001–0135)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4652. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; San Francisco Bay, San Francisco, CA and Oakland, CA" ((RIN2115–AA97)(2001–0136)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4653. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Sault Locks, St. Mary's River, Sault Ste. Marie, MI" ((RIN2115–AA97)(2001–0137)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4654. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Certification of Navigation Lights for Uninspected Commercial Vessels and Recreational Vessels" (RIN2115–AF70) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4655. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; The Icebreaker Youth Rowing Championship—Boston Harbor, Boston, Massachusetts" ((RIN2115–AA97)(2001–0145)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4656. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; San Diego Bay" ((RIN2115–AA97)(2001–0119)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4657. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Old Lyme Fireworks Display, Old Lyme, CT" ((RIN2115–AA97)(2001–0098)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4658. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Coast Guard Force Protection for Station Jonesport, Jonesport, Maine; Coast Guard Group Southwest Harbor, Maine; and Station Rockland, Rockland Harbor, Maine" ((RIN2115–AA97)(2001–0122)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4659. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Ouachita River, LA" ((RIN2115–AE47)(2001–0108)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4660. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: New Jersey Intracoastal Waterway, Cape Mary Canal" ((RIN2115–AE47)(2001–0107)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4661. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Shaw Cove, CT" ((RIN2115–AE47)(2001–0105)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4662. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Lake Washington, WA" ((RIN2115–AE47)(2001–01069)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4663. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Port of Jacksonville and Port Canaveral, FL" ((RIN2115-AA97)(2001-0117)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4664. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Selfridge Army National Guard Base, MI" ((RIN2115-AA97)(2001-0116)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4665. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Hampton River, NH" ((RIN2115-AE47)(2001-0102)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4666. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Chehalis River, WA" ((RIN2115-AE47)(2001-0103)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4667. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; DOD Barge Flotilla, Cumberland City, TN to Alexandria, LA" ((RIN2115-AA97)(2001-0121)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4668. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Delaware Bay and River" ((RIN2115-AA97)(2001-0123)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4669. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Naval Force Protection, Bath Iron Works, Kennebec River, Bath, Maine" ((RIN2115-AA97)(2001-0120)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4670. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Gulf of Alaska, Southeast of Narrow Cape, Kodiak Island, Alaska" ((RIN2115-AA97)(2001-0118)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4671. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Duwamish Waterway, WA" ((RIN2115-AE47)(2001-0101)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4672. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: San Francisco, CA" ((RIN2115-AA97)(2001-0133)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4673. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Newport Naval Station, Newport, RI" ((RIN2115-AA97)(2001-0124)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4674. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Port of New York/New Jersey" ((RIN2115-AA97)(2001-0125)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4675. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Various Areas on the Island of Oahu, Maui, Hawaii, and Kauai, HI" ((RIN2115-AA97)(2001-0134)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4676. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; New York Marine Inspection Zone and Captain of the Port Zone" ((RIN2115-AA97)(2001-0132)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4677. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Hutchinson River, Eastchester Creek, NY" ((RIN2115-AE47)(2001-0110)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4678. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Southern Branch of the Elizabeth River, Atlantic Intracoastal Waterway, Chesapeake, Virginia" ((RIN2115-AE47)(2001-0109)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4679. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Erie, Monroe, Michigan" ((RIN2115-AA97)(2001-0128)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4680. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake St. Clair, Grosse Pointe Yacht Club, Grosse, Point Shores, MI" ((RIN2115-AA97)(2001-0127)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4681. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Erie, Toledo, Ohio" ((RIN2115-AA97)(2001-0126)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4682. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Michigan, Kewaunee, Wisconsin" ((RIN2115-AA97)(2001-0131)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4683. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Michigan, Point Beach Nuclear Power, Plant WI" ((RIN2115-AA97)(2001-0130)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4684. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Erie, Perry, Ohio" ((RIN2115-AA97)(2001-0129)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4685. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727 Series Airplanes" ((RIN2120-AA64)(2001-0544)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4686. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model Beech 400A Series Airplanes" ((RIN2120-AA64)(2001-0543)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4687. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney PW4000 Series Turbofan Engines" ((RIN2120-AA64)(2001-0542)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4688. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fairchild Aircraft, Inc. Models SA226 and SA227 Series Airplanes" ((RIN2120-AA64)(2001-0541)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4689. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F28 Mark 1000, 2000, 3000, and 4000 Series Airplanes" ((RIN2120-AA64)(2001-0540)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4690. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757 Series Airplanes" ((RIN2120-AA64)(2001-0545)) received on November 16, 2001: to the Committee on Commerce, Science, and Transportation.

EC-4691. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Robinson Helicopter Company Model R44 Helicopters" ((RIN2120-AA64)(2001-0550)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4692. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica SA EMB 120 Series Airplanes" ((RIN2120-AA64)(2001-0549)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4693. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 9 Series Airplanes and MD 88 Airplanes" ((RIN2120-AA64)(2001-0548)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4694. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319 and A320 Series Airplanes" ((RIN2120-AA64)(2001-0546)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4695. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Company Model 99, 99A, 99A (FACH), A99, A99A, B99 and C99 Airplanes" ((RIN2120-AA64)(2001-0507)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4696. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes" ((RIN2120-AA64)(2001-0511)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4697. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopter Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters" ((RIN2120-AA64)(2001-0510)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4698. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Company Beech Models F33A, A36, B36TC, 58/58A, C90A, B200, and 1900D Airplanes" ((RIN2120-AA64)(2001-0505)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4699. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus Aircraft LTD Models PC 12 and PC 12-45 Airplanes" ((RIN2120-AA64)(2001-0506)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4700. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BMW Rolls Royce GmbH Models BR700, 710A1-10 and BR700 710A2-20 Turbofan Engines" ((RIN2120-AA64)(2001-0512)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4701. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dowty Aerospace Propellers Model R381/6-123 F/5 Propellers" ((RIN2120-AA64)(2001-0513)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4702. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC 8-100, 200, and 300 Series Airplanes" ((RIN2120-AA64)(2001-0514)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4703. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777-200 Series Airplanes" ((RIN2120-AA64)(2001-0515)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4704. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes" ((RIN2120-AA64)(2001-0508)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4705. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (55); Amdt. No. 2073" ((RIN2120-AA65)(2001-0054)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4706. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS 365N3 Helicopters" ((RIN2120-AA64)(2001-0516)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4707. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Israel Aircraft Industries, Ltd., Model 1125 Westwind Astra Series Airplanes" ((RIN2120-AA64)(2001-0517)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4708. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establish Class E Airspace; Charlottesville, VA" ((RIN2120-AA66)(2001-0156)) received on November 16, 2001: to the Committee on Commerce, Science, and Transportation.

EC-4709. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 9 81, 82, 83, and 87 Series Airplanes, and Model MD 88 Airplanes" ((RIN2120-AA64)(2001-0509)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4710. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "IFR Altitudes; Miscellaneous Amendments (32); Amdt. No. 431" ((RIN2120-AA63)(2001-0006)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4711. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (14); Amdt. No. 2071" ((RIN2120-AA65)(2001-0005)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4712. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (28); Amdt. No. 2072" ((RIN2120-AA65)(2001-0057)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4713. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model SA315B, SA316C, SA318B, SA318C, SA319B, SE3160, and SA316B Helicopters" ((RIN2120-AA64)(2001-0539)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4714. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Sikorsky Aircraft Corporation Model S-76B and S-76C Helicopters; request for comments" ((RIN2120-AA64)(2001-0538)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4715. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; Greenwood, MS; correction" ((RIN2120–AA66)(2001–0171)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4716. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727 Series Airplanes" ((RIN2120–AA64)(2001–0556)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4717. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes" ((RIN2120–AA64)(2001–0553)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works:

Special Report entitled "Report to the Senate on Activities of the Committee on Environment and Public Works for the One Hundred Sixth Congress" (Rept. No. 107–100).

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1499: A bill to amend the District of Columbia College Access Act of 1999 to permit individuals who graduated from a secondary school prior to 1998 and individuals who enroll in an institution of higher education more than 3 years after graduating from a secondary school to participate in the tuition assistance programs under such Act, and for other purposes. (Rept. No. 107–101).

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, without amendment:

H.R. 2061: A bill to amend the charter of Southeastern University of the District of Columbia. (Rept. No. 107–102).

H.R. 2199: A bill to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes. (Rept. No. 107–103).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

H. CON. RES. 88: A concurrent resolution expressing the sense of the Congress that the President should issue a proclamation recognizing a National Lao-Hmong Recognition Day.

S. RES. 140: A resolution designating the week beginning September 15, 2002, as "National Civic Participation Week".

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 304: A bill to reduce illegal drug use and trafficking and to help provide appropriate drug education, prevention, and treatment programs.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 986: A bill to allow media coverage of court proceedings.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Army nominations beginning Col. Elder Granger and ending Col. George W. Weightman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2001.

Army nominations beginning Colonel Byron S. Bagby and ending Colonel Howard W. Yellen, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 5, 2001.

Army nomination of Brig. Gen. Lester Martinez-Lopez.

Army nomination of Maj. Gen. Dennis D. Cavin.

Air Force nomination of Maj. Gen. Bruce A. Wright.

Air Force nomination of Lt. Gen. Donald G. Cook.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Army nominations beginning ROBERT A. JOHNSON and ending JOHN T. WASHINGTON III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 25, 2001.

Air Force nominations beginning CESARIO F. FERRER JR. and ending RAYMOND Y. HOWELL, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

Army nominations beginning SAMUEL CALDERON and ending FRANK E. WISMER III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

Navy nominations beginning BRADFORD W. BAKER and ending DAVID J. WICKERSHAM, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

Army nomination of Carol E. Pilat.

Army nomination of Iluminada S. Calicdan.

Army nomination of *James W. Ware.

Army nomination of Mee S. Paek.

Army nominations beginning MARION S. CORNWELL and ending GARY L. WHITE, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning CHERYL A. ADAMS and ending DEBBIE T. WINTERS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning WILLIE J. ATKINSON and ending WILLEM P. VANDEMERWE, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning DAVID S. ALLEMAN and ending WILLIAM P. YEOMANS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning LYNN F. ABRAMS and ending BURKHARDT H. ZORN, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning CHARLES B. COLISON and ending ARLENE SPIRER, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

By Mr. HOLLINGS for the Committee on Commerce, Science, and Transportation.

*R. David Paulison, of Florida, to be Administrator of the United States Fire Administration, Federal Emergency Management Agency.

*Conrad Lautenbacher, Jr., of Virginia, to be Under Secretary of Commerce for Oceans and Atmosphere.

*William Schubert, of Texas, to be Administrator of the Maritime Administration.

*Arden Bement, Jr., of Indiana, to be Director of the National Institute of Standards and Technology.

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Coast Guard nominations beginning Anita K. Abbott and ending Steven G. Wood, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

Coast Guard nominations beginning Albert R. Agnich and ending Jose M. Zuniga, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

By Mr. LEAHY for the Committee on the Judiciary.

Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit.

Danny C. Reeves, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

John D. Bates, of Maryland, to be United States District Judge for the District of Columbia.

Kurt D. Engelhardt, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Joe L. Heaton, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

William P. Johnson, of New Mexico, to be United States District Judge for the District of New Mexico.

Thomas L. Sansonetti, of Wyoming, to be an Assistant Attorney General.

James Edward Rogan, of California, to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

Edward Hachiro Kubo, Jr., of Hawaii, to be United States Attorney for the District of Hawaii for the term of four years.

Sheldon J. Sperling, of Oklahoma, to be United States Attorney for the Eastern District of Oklahoma for the term of four years.

Frederick J. Martone, of Arizona, to be United States District Judge for the District of Arizona.

Julie A. Robinson, of Kansas, to be United States District Judge for the District of Kansas.

Clay D. Land, of Georgia, to be United States District Judge for the Middle District of Georgia.

David E. O'Meilia, of Oklahoma, to be United States Attorney for the Northern District of Oklahoma for the term of four years.

David R. Dugas, of Louisiana, to be United States Attorney for the Middle District of Louisiana for the term of four years.

James A. McDevitt, of Washington, to be United States Attorney for the Eastern District of Washington, for the term of four years.

Johnny Keane Sutton, of Texas, to be United States Attorney for the Western District of Texas, for the term of four years.

Richard S. Thompson, of Georgia, to be United States Attorney for the Southern District of Georgia, for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. CANTWELL:

S. 1742. A bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mrs. BOXER, and Mr. WYDEN):

S. 1743. A bill to create a temporary reinsurance mechanism to enhance the availability of terrorism insurance; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN:

S. 1744. A bill to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; to the Committee on Commerce, Science, and Transportation.

By Mrs. LINCOLN (for herself and Mr. COCHRAN):

S. 1745. A bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals; to the Committee on Finance.

By Mr. REID (for himself, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. JEFFORDS):

S. 1746. A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself and Mr. SPECTER):

S. 1747. A bill to provide funding to improve the security of the American people by protecting against the threat of bioterrorism; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 281

At the request of Mr. HAGEL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 281, a bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial.

S. 611

At the request of Ms. MIKULSKI, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 683

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 683, a bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

S. 948

At the request of Mr. LOTT, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 948, a bill to amend title 23, United States Code, to require the Secretary of Transportation to carry out a grant program for providing financial assistance for local rail line relocation projects, and for other purposes.

S. 1042

At the request of Mr. INOUYE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1042, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 1142

At the request of Mr. LIEBERMAN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1142, a bill to amend the Internal Revenue Code of 1986 to repeal the minimum tax preference for exclusion for incentive stock options.

S. 1478

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1478, a bill to amend the Animal Welfare Act to improve the treatment of certain animals, and for other purposes.

S. 1643

At the request of Mrs. MURRAY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1643, a bill to provide Federal reimbursement to State and local governments for a limited sales, use and retailers' occupation tax holiday.

S. 1646

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1646, a bill to identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System.

S. 1678

At the request of Mr. McCAIN, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alabama (Mr. SHELBY), the Senator from Massachusetts (Mr. KERRY), the Senator from Nebraska (Mr. HAGEL), the Senator from Nevada (Mr. REID), the Senator from Indiana (Mr. LUGAR), the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. WARNER), the Senator from Maine (Ms . COLLINS), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Virginia (Mr. ALLEN), the Senator from Illinois (Mr. FITZGERALD), the Senator from Alaska (Mr. STEVENS), the Senator from Kansas (Mr. ROBERTS), the Senator from Nevada (Mr. ENSIGN), the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. MILLER), and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1707

At the request of Mr. JEFFORDS, the names of the Senator from New Jersey (Mr. TORRICELLI), the Senator from Washington (Ms. CANTWELL), the Senator from South Dakota (Mr. JOHNSON), the Senator from Vermont (Mr. LEAHY), the Senator from Nevada (Mr. ENSIGN), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. CON. RES. 66

At the request of Mr. STEVENS, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. Con. Res. 66, a concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001.

AMENDMENT NO. 2157

At the request of Mr. MCCAIN, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alabama (Mr. SHELBY), the Senator from Massachusetts (Mr. KERRY), the Senator from Nebraska (Mr. HAGEL), the Senator from Nevada (Mr. REID), the Senator from Indiana (Mr. LUGAR), the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. WARNER), the Senator from Maine (Ms. COLLINS), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Virginia (Mr. ALLEN), the Senator from Illinois (Mr. FITZGERALD), the Senator from Alaska (Mr. STEVENS), the Senator from Kansas (Mr. ROBERTS), the Senator from Nevada (Mr. ENSIGN), the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. MILLER), and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of amendment No. 2157 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. CANTWELL:

S. 1742. A bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes; to the Committee on the Judiciary.

Ms. CANTWELL. Mr. President I rise today to introduce legislation that will help victims of identity theft recover from the injuries to their good name and good credit, the Reclaim Your Identity Act of 2001. Earlier this year, Washington State enacted a law to provide needed help to victims of identity theft that I believe serves as a good model for federal legislation. It gives victims of identity theft the tools they need to restore their good credit rating, requires businesses to make available records relevant to a victim's ability to restore his or her credit, and enables a victim to have fraudulent charges blocked from reporting in their consumer credit report. Currently, Federal law addresses the crime of identity theft, providing penalties for the perpetrator, but no specific assistance to the victim trying to recover their identity. Today I am introducing legislation modeled on the state of Washington law that will do just that, help the victim restore their credit rating and their good name.

We need to do more to fight identity theft, a crime the Federal Trade Commission has described as the Nation's fastest growing. Last year there were over 500,000 new victims of identity theft and, according to the Department of Treasury, reports of identity theft to perpetrate fraud against financial institutions grew by 50 percent from 1999 to 2000. From March 2001 to June 2001, the number of ID theft victims contacting the FTC jumped from 45,500 to 69,400—a 50 percent increase in just three months. One in five Americans or a member of their families has been a victim of identity theft. Those numbers underscore why I am introducing this legislation today. The problem is particularly apparent in my State of Washington, which ranks in the top 10 for identity theft per capita.

Identity theft is not a violent crime, but its victims suffer real harm and need help to recover their good credit and good name. On average, it takes 12 months for a victim to learn that he or she has been a victim of identity theft. It takes another 175 hours and $808 of out-of-pocket expenses to clear their names. Today, victims of identity theft are forced to become their own sleuths to clear their names, and all too often they do so without the help or support of the businesses that allowed the identity theft to take place. Believe it or not, when your identity is stolen, many businesses won't give you the records you need to reclaim your identity. My bill puts people first by requiring businesses to cooperate with victims.

We already require this in Washington State, thanks to the hard work of Attorney General Chris Gregoire and others. Now we need to take this good idea to the national level and make it work on behalf of many others. When your TV is stolen, you know it was taken from your living room. But when your identity is stolen, it could be stolen from anywhere, and businesses from every State could be involved. That's why we need a Federal solution to this problem.

The Reclaim Your Identity Act empowers consumers by establishing a transparent process victims can use to reclaim their identity. Under this bill, a victim of identity theft will have the right to request records related to a fraud based on an identity theft from businesses after proving their identity with a copy of the police report or the Federal Trade Commission standardized Identity Theft Affidavit or any other affidavit of fact of the business' choosing. The business must then provide, at no charge, copies of those business records to the victim or a law enforcement agency or officer designated by the victim within 10 days of the victim's request. This will make sure that the victims, or law enforcement investigating an identity theft on behalf of a victim, will be able to obtain the credit applications and other records a business may have that is evidence of the fraud. As a protective measure, the bill gives businesses the option to decline to disclose records where it believes the request is based on a misrepresentation of facts. Further, a business is exempt from liability for any disclosure undertaken in good faith to further a prosecution of identity theft or assist the victim.

In addition, this bill reinstates consumers' right to sue credit-reporting agencies that allow identity theft to harm their good name. On November 12, the Supreme Court ruled that a California woman couldn't sue a credit reporting agency because she filed her claim more than two years after her identity had been stolen and that the two-year statute of limitations ran from the time of the crime. The woman didn't even know her identity had been stolen until two years after the crime had been committed. In the wake of the court decision, Congress must revise the statute of limitations so that common sense prevails and that the clock doesn't begin ticking until victims know that they have been harmed.

The Reclaim Your Identity Act also amends the Internet False Identification Prevention Act to expand the jurisdiction and membership of the coordinating committee currently studying enforcement of Federal identity theft law to examine State and local enforcement problems and identify ways the federal government can assist state and local law enforcement in addressing identity theft and related crimes. In the wake of the September 11 attacks we are painfully aware that identity theft can threaten more than our pocket books. This legislation also requires the Federal coordinating committee to look at how the Federal Government can improve the sharing of information on terrorists and terrorist activity as it relates to identity theft. Further, by giving consumers and law enforcement additional tools to fight identity theft, this bill will make it harder for terrorists to steal identities to hide their true identity.

Importantly, this bill also requires credit-reporting agencies to protect a consumers' good name from bad credit generated by fraud. The Reclaim Your Identity Act amends the Fair Credit Reporting Act to require consumer credit reporting agencies to block information that appears on a victim's credit report as a result of identity theft provided the victim did not knowingly obtain goods, services or money as a result of the blocked transaction.

Businesses too are victims of the fraud perpetrated in conjunction with identity theft. This legislation also provides businesses with new tools to pursue identity thieves by amending Title 18 to make identity theft under State law a predicate for federal RICO violation. This will allow individuals and businesses pursuing a perpetrator of identity theft to seek treble damages and help prosecutors recover stolen assets for businesses victimized by identity theft.

The Reclaim Your Identity Act also gives States additional legal tools by providing that State Attorneys General may bring a suit in Federal court on behalf of State citizens for violation of the Act.

Identity theft and the fraud that can result is on the rise. We have the laws to discourage identity theft, but it is difficult behavior to attack. We have to give the tools to the victims to regain control of their financial life. The Consumers Union, Identity Theft Resource Center, and Privacy Rights Clearinghouse all support this legislation. The Reclaim Your Identity Act of 2001 will help victims of identity theft recover their identity and restore their good credit. I look forward to working with my colleagues to promptly enact this bill into law.

By Mr. HOLLINGS (for himself, Mrs. BOXER, and Mr. WYDEN):

S. 1743. A bill to create a temporary reinsurance mechanism to enhance the availability of terrorism insurance; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, in light of the need to provide additional capacity and reassurance to the insurance industry for terrorism risks without burdening the taxpayer, balanced with the need to protect consumers from excessive increased in commercial insurance rates, I rise today to introduce the National Terrorism Reinsurance Fund Act.

This legislation will create a fund from assessments on the commercial insurance industry as a whole to for the purpose of providing a temporary backstop for terrorism losses for primary insurance companies doing business in the U.S. The Fund and assessment mechanisms would provide the first $50 billion of protection for the insurance industry. In addition to this fund, the bill provides a program to provide direct Federal aid on a temporary basis for losses over $50 billion, in order to increase insurance market capacity and ensure the availability of reinsurance in relation to acts of terrorism. The overall program is to last for 3 years only and is to be administered by the Secretary of Commerce.

All terrorism-related events causing losses beyond $50 billion will be governed by a direct Federal grant program. Once a company has incurred losses of more than 10 percent of its premiums from the previous year, it can apply for assistance from the Fund and the Federal Government. For the first year, the government will cover up to 90 percent of a company's losses. For the second and third years, the government will cover up to 80 percent of that company's losses. This aid will be applicable up to losses of $100 billion. For events casing losses beyond this amount, the Secretary is required to seek guidance from Congress. Additionally, provisions have been included to ensure the industry shoulders the appropriate financial responsibility and to prevent unreasonable increases in insurance rates.

Simply put the legislation accomplishes the following goals: 1. it provides insurance companies the assistance they need to continue writing terrorism coverage; 2. it ensures the availability of insurance coverage for American businesses and consumers; 3. it avoids an unnecessary and potentially massive bailout of an insurance industry by forcing them to use their own resources to ensure the availability of terrorism reinsurance while setting direct Federal aid at levels sufficient to account for the industry's current positive capitalization; and 4. it strikes the right balance regarding the interests of industry, taxpayers and the consumers of insurance and the marketplace in general.

I look forward to working with other Senators to obtain swift passage of this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Terrorism Reinsurance Fund Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purpose.
Sec. 4. National terrorism reinsurance program.
Sec. 5. Fund operations.
Sec. 6. Coverage provided.
Sec. 7. Secretary to determine if loss is attributable to terrorism.
Sec. 8. Mandatory coverage by property and casualty insurers for acts of terrorism.
Sec. 9. Pass-throughs and other rate increases.
Sec. 10. Credit for reinsurance.
Sec. 11. Administrative provisions.
Sec. 12. Inapplicability of certain laws.
Sec. 13. Sunset provision.
Sec. 14. Definitions.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The terrorist attacks on the World Trade Center and Pentagon on September 11, 2001, have inflicted possibly the largest loss ever incurred by insurers and reinsurers.

(2) The magnitude of the loss, and its impact on the current capacity of the reinsurance market, threaten the ability of the property and casualty insurance market to provide coverage to building owners, businesses, and American citizens.

(3) It is necessary to create a temporary reinsurance mechanism to augment the capacity of private insurers to provide insurance for terrorism related risks.

SEC. 3. PURPOSE.

The purpose of this Act is to facilitate the coverage by property and casualty insurers of the peril for losses due to acts of terrorism by providing additional reinsurance capacity for loss or damage due to acts of terrorism occurring within the United States, its territories, and possessions.

SEC. 4. NATIONAL TERRORISM REINSURANCE PROGRAM.

(a) IN GENERAL.—The Secretary of Commerce shall establish and administer a program to provide reinsurance to participating insurers for losses due to acts of terrorism.

(b) ADVISORY COMMITTEE; MEMBERSHIP.—There is established an advisory committee to provide advice and counsel to the Secretary in carrying out the program of reinsurance established by the Secretary. The advisory committee shall consist of 10 members, as follows:

(1) 3 representatives of the property and casualty insurance industry, appointed by the Secretary.

(2) A representative of property and casualty insurance agents, appointed by the Secretary.

(3) A representative of consumers of property-casualty insurance, appointed by the Secretary.

(4) A representative of a recognized national credit rating agency, appointed by the Secretary.

(5) A representative of the banking or real estate industry, appointed by the Secretary.

(6) 2 representatives of the National Association of Insurance Commissioners, designated by that organization.

(7) A representative of the Department of the Treasury, designated by the Secretary of the Treasury.

(c) NATIONAL TERRORISM REINSURANCE FUND.—

(1) ESTABLISHMENT.—To carry out the reinsurance program, the Secretary shall establish a National Terrorism Reinsurance Fund which shall be available, without fiscal year limitations—

(A) to make such payments as may, from time to time, be required under reinsurance contracts under this Act;

(B) to pay such administrative expenses as may be necessary or appropriate to carry out the purposes of this Act, but such expenses may not exceed $5,000,000 for each of fiscal years 2002, 2003, and 2004; and

(C) to repay to the Secretary of the Treasury such sums, including interest thereon, as may be borrowed from the Treasury for purposes of this Act.

(2) CREDITS TO FUND.—The Fund shall be credited with—

(A) reinsurance premiums, fees, and other charges which may be paid or collected in connection with reinsurance provided under this Act;

(B) interest which may be earned on investments of the Fund;

(C) receipts from any other source which may, from time to time, be credited to the Fund; and

(D) Funds borrowed by the Secretary from the Treasury.

(3) INVESTMENT IN OBLIGATIONS ISSUED OR GUARANTEED BY UNITED STATES.—If the Secretary determines that the moneys of the Fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(4) LOANS TO FUND.—The Secretary of the Treasury shall grant loans to the Fund in the manner and to the extent provided in this Act.

(d) UNDERWRITING STANDARDS.—In order to carry out the responsibilities of the Secretary under this Act and protect the Fund, the Secretary shall establish minimum underwriting standards for participating insurers.

(e) MONITORING OF TERRORISM INSURANCE RATES.—

(1) SECRETARY TO ESTABLISH SPECIAL COMMITTEE ON RATES.—The Secretary shall establish a special committee on rates, the size and membership of which shall be determined by the Secretary, except that the committee shall, at a minimum, include—

(A) representatives of providers of insurance for losses due to acts of terrorism;

(B) representatives of purchasers of such insurance;

(C) at least 2 representatives of NAIC; and

(D) at least 2 independent insurance actuaries.

(2) DUTIES.—The special committee on rates shall meet at the call of the Secretary and shall—

(A) review reports filed with the Secretary by State insurance regulatory authorities;

(B) collect data on rate disclosure practices of participating insurers for insurance for covered lines and for losses due to acts of terrorism; and

(C) provide such advice and counsel to the Secretary as the Secretary may require.

SEC. 5. FUND OPERATIONS.

(a) FUNDING BY PREMIUM.—

(1) IN GENERAL.—For the year beginning January 1, 2002, and each subsequent year of operation, participating insurers shall pay into the Fund an annual reinsurance contract premium of not less than 3 percent of their respective gross direct written premiums for covered lines for the calendar year. The annual premium shall be paid in installments at the end of each calendar quarter. The reinsurance contract premium and any annual assessment may be recovered by a participating insurer from its covered lines policyholders as a direct surcharge calculated as a uniform percentage of premium.

(2) ADDITIONAL CREDIT RISK PREMIUM.—If the Secretary determines that a participating insurer has a credit rating that is lower than the second from highest credit rating awarded by nationally recognized credit rating agencies, the Secretary may charge an additional credit risk premium, of up to 0.5 percent of gross direct written premiums for covered lines received by that insurer, to compensate the Fund for credit risk associated with providing reinsurance to that insurer.

(b) INITIAL CAPITAL.—

(1) LOAN.—The Fund shall have an initial capital of $2,000,000,000, which the Secretary shall borrow from the Treasury of the United States. Upon application by the Secretary, the Secretary of the Treasury shall transfer that amount to the Fund, out of amounts in the Treasury not otherwise appropriated, at standard market rates.

(2) REPAYMENT OF START-UP LOAN.—The Secretary shall use premiums received from assessments in calendar year 2002 to repay the loan provided to the Fund under paragraph (1).

(c) SHORTFALL LOANS.—

(1) IN GENERAL.—If the Secretary determines that the balance in the accounts of the Fund is insufficient to cover anticipated claims, administrative expenses, and maintain adequate reserves for any other reason, after taking into account premiums assessed under subsection (a) and any other amounts receivable, the Secretary shall borrow from the Treasury an amount sufficient to satisfy the obligations of the Fund and to maintain a positive balance of $2,000,000,000 in the accounts of the Fund. Upon application by the Secretary, the Secretary of the Treasury shall transfer to the Fund, out of amounts in the Treasury not otherwise appropriated, the requested amount as an interest-bearing loan.

(2) INTEREST RATE.—The rate of interest on any loan made to the Fund under paragraph (1) shall be established by the Secretary of the Treasury and based on the weighted average credit rating of the Fund before the loss that made the loan necessary.

(3) $50 BILLION LOAN LIMIT.—Notwithstanding any other provision of this Act, the total amount of loans outstanding at any time from the Treasury to the Fund may not exceed the amount by which $50,000,000,000 exceeds the Fund's assets.

(4) REPAYMENT OF LOANS BY ASSESSMENT.—Any loan under paragraph (1) shall be repaid from reserves of the Fund, assessments of participating insurers, or a combination thereof. If an assessment is necessary, the maximum annual assessment under this subsection shall be not more than 3 percent of the direct written premium for covered lines. The reinsurance contract premium and any annual assessment may be recovered by a participating insurer from its covered lines policyholders as a direct surcharge calculated as a uniform percentage of premium.

SEC. 6. COVERAGE PROVIDED.

(a) IN GENERAL.—The Fund shall provide reinsurance for losses resulting from acts of terrorism covered by reinsurance contracts entered into between the Fund and participating insurers that write covered lines of insurance within the meaning of section 14(5)(A) or that have elected, under section 14(5)(C), to voluntarily include another line of insurance.

(b) RETENTION.—The Fund shall reimburse participating insurers for losses resulting from acts of terrorism on direct losses in any calendar year in excess of 10 percent of a participating insurer's average gross direct written premiums and policyholders' surplus for covered lines for the most recently ended calendar year for which data are available, based on each participating insurer's annual statement for that calendar year as reported to NAIC.

(c) REIMBURSEMENT AMOUNT.—If a participating insurer demonstrates to the satisfaction of the Secretary that it has paid claims for losses resulting from acts of terrorism equal to or in excess of the amount of retention required by subsection (b), then the Fund shall reimburse the participating insurer for—

(1) 90 percent of its covered losses in calendar year 2002; and

(2) a percentage of its covered losses in calendar years beginning after calendar year 2002 equal to—

(A) 90 percent if the insurer pays an assessment equal to 4 percent of the insurer's average gross direct written premiums and policyholders' surplus for the most recently ended calendar year;

(B) 80 percent if the insurer pays an assessment equal to 3 percent of the insurer's average gross direct written premiums and policyholders' surplus for the most recently ended calendar year; and

(C) 70 percent if the insurer pays an assessment equal to 2 percent of the insurer's average gross direct written premiums and policyholders' surplus for the most recently ended calendar year.

(d) $50,000,000,000 LIMIT.—Except as provided in subsection (e), the Fund may not reimburse participating insurers for covered losses in excess of a total Fund reimbursement amount for all participating insurers of $50,000,000,000.

(e) LOSSES EXCEEDING $50,000,000,000 LIMIT.—If the Secretary determines that reimbursable losses in a calendar year from an event exceed $50,000,000,000, the Secretary—

(1) shall pay, out of amounts in the Treasury not otherwise appropriated—

(A) 90 percent of the covered losses occurring in calendar year 2002 in excess, in the aggregate, of $50,000,000,000 but not in excess of $100,000,000; and

(B) 80 percent of the covered losses occurring in calendar year 2003 or 2004 in excess, in the aggregate, of $50,000,000,000 but not in excess of $100,000,000; and

(2) shall notify the Congress of that determination and transmit to the Congress recommendations for responding to the insufficiency of available amounts to cover reimbursable losses.

(f) REPORTS TO STATE REGULATOR; CERTIFICATION.—

(1) REPORTING TERRORISM COVERAGE.—A participating insurer shall—

(A) report the amount of its terrorism insurance coverage to the insurance regulatory authority for each State in which it does business; and

(B) obtain a certification from the State that it is not providing terrorism insurance coverage in excess of its capacity under State solvency requirements.

(2) REPORTS TO SECRETARY.—The State regulator shall furnish a copy of the certification received under paragraph (1) to the Secretary.

SEC. 7. SECRETARY TO DETERMINE IF LOSS IS ATTRIBUTABLE TO TERRORISM.

(a) INITIAL DETERMINATION.—If a participating insurer files a claim for reimbursement from the Fund, the Secretary shall make an initial determination as to whether the losses or expected losses were caused by an act of terrorism.

(b) NOTICE AND HEARING.—The Secretary shall give public notice of the initial determination and afford all interested parties an opportunity to be heard on the question of whether the losses or expected losses were caused by an act of terrorism.

(c) FINAL DETERMINATION.—Within 30 days after the Secretary's initial determination, the Secretary shall make a final determination as to whether the losses or expected losses were caused by an act of terrorism.

(d) STANDARD OF REVIEW.—The Secretary's determination shall be upheld upon judicial review if based upon substantial evidence.

SEC. 8. MANDATORY COVERAGE BY PROPERTY AND CASUALTY INSURERS FOR ACTS OF TERRORISM.

(a) IN GENERAL.—An insurer that provides lines of coverage described in section 14(5)(A) or 14(5)(B) may not—

(1) exclude or limit coverage in those lines for losses from acts of terrorism in the United States, its territories, and possessions in property and casualty insurance policy forms; or

(2) deny or cancel coverage solely due to the risk of losses from acts of terrorism in the United States.

(b) Terms and Conditions.—Insurance against losses from acts of terrorism in the United States shall be covered with the same deductibles, limits, terms, and conditions as the standard provisions of the policy for noncatastrophic perils.

SEC. 9. PASS-THROUGHS AND OTHER RATE INCREASES.

(a) Limitation on Rate Increases for Covered Risks.—Except as provided in subsection (b), a participating insurer that provides lines of coverage described in section 14(5)(A) or 14(5)(B) may not increase annual rates on covered risks during any period in which the insurer participates in the Fund by a percent in excess of the sum of—

(1) the percent used to determine the insurer's assessment under section 5(a)(1); and

(2) if there is an assessment against the insurer under section 5(c)(4), a percent equivalent-to the percent assessment of the insurer's gross direct written premium for covered lines.

(b) Terrorism-related increases in excess of pass-throughs.—

(1) Reports by insurers.—Not less than 30 days before the date on which a participating insurer increases the premium rate for insurance on any covered line of insurance described in section 14(5) based, in whole or in part, on risk associated with insurance against losses due to acts of terrorism, the insurer shall file a report with the State insurance regulatory authority for the State in which the premium increase is effective that—

(A) explains the need for the increased premium; and

(B) identifies the portion of the increase properly attributable to risk associated with insurance offered by that insurer against losses due to acts of terrorism; and

(C) demonstrates, by substantial evidence, why that portion of the increase is warranted.

(2) Reports by state Regulators.—Within 15 days after a State insurance regulatory authority receives a report from an insurer required by paragraph (1), the authority—

(A) shall transmit a copy of the report to the Secretary;

(B) may include a determination with respect to whether an insurer has met the requirement of paragraph (1)C); and

(C) may include with the report any commentary or analysis it deems appropriate.

SEC. 10. CREDIT FOR REINSURANCE.

Each State shall afford an insurer obtaining reinsurance from the Fund credit for such reinsurance on the same basis and to the same extent that credit for reinsurance would be available to that insurer under applicable State law when reinsurance is obtained from an assuming insurer licensed or accredited in that State.

SEC. 11. ADMINISTRATIVE PROVISIONS; REPORTS AND ANALYSIS.

(a) In General.—In carrying out this Act, the Secretary may—

(1) issue such rules and regulations as may be necessary to administer this Act;

(2) enter into reinsurance contracts, adjust and pay claims as provided in this Act, and carry out the activities necessary to implement this Act;

(3) set forth the coverage provided by the Fund to accomplish the purposes of this Act;

(4) provide for an audit of the books and records of the Fund by the General Accounting Office;

(5) take appropriate action to collect premiums or assessments under this Act; and

(6) audit the reports, claims, books, and records of participating insurers.

(b) Reports From Insurers.—Participating insurers shall submit reports on a quarterly or other basis (as required by the Secretary) to the Secretary, the Federal Trade Commission, and the General Accounting Office setting forth rates, premiums, risk analysis, coverage, reserves, claims made for reimbursement from the Fund, and such additional financial and actuarial information as the Secretary may require regarding lines of coverage described in section 14(5)(A) or 14(5)(B).

(c) FTC Analysis and Enforcement.—The Federal Trade Commission shall review the reports submitted under subsection (b), treating the information contained in the reports as privileged and confidential, for the purpose of determining whether any insurer is engaged in unfair methods of competition or unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45)).

(d) GAO Review.—The Comptroller General shall provide for review and analysis of the reports submitted under subsection (b), and, if necessary, provide of audit of reimbursement claims filed by insurers with the Fund.

(e) Reports by Secretary.—No later than March 31st of each calendar year, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Technology and the House of Representatives Committee on Commerce an annual report on insurance rate increases for the preceding calendar year in the United States based upon the reports received by the Secretary under this Act. The Secretary may include in the report a recommendation for legislation to impose Federal regulation of insurance rates on covered lines of insurance if the Secretary determines that premium rates for insurance on covered lines of insurance are—

(A) unreasonable; and

(B) attributable to insurance for losses from acts of terrorism.

SEC. 12. INAPPLICABILITY OF CERTAIN LAWS.

(a) In General.—State laws relating to insurance rates, insurance policy forms, insurance rates on any covered lines of insurance described in section 14(5)(A) or 14(5)(B), insurer financial requirements, and insurer licensing do not apply to contracts entered into by the Fund. The Fund is not subject to State tax and is exempt from Federal income tax. The reinsurance contract premium paid and assessments collected by insurers shall not be subject to local, State, or Federal tax. The reinsurance contract premium and assessments recovered from policyholders shall not be subject to local, State, or Federal tax.

(b) Exception for Unfair Trade Practice Laws.—Notwithstanding subsection (a), nothing in this Act supersedes or preempts a State law that prohibits unfair methods of competition in commerce, unfair or deceptive acts or practices in commerce, or unfair insurance claims practices.

SEC. 13. SUNSET PROVISION.

(a) Assessment and Collection of Premiums.—The Secretary shall continue the premium assessment and collection operations of the Fund under this Act as long as loans due from the Fund to the United States Treasury are outstanding.

(b) Provision of Reinsurance.—The Secretary shall suspend other operations of the Fund for new contract years on the close of business on December 31, 2004, and may suspend the offering of reinsurance contracts for new contract years at any time before that date if the Secretary determines that the reinsurance provided by the Fund is no longer needed for covered lines due to market conditions.

(c) Review of Private Reinsurance Availability.—The Secretary shall review the cost and availability of private reinsurance for acts of terrorism at least annually and shall report the findings and any recommendations to Congress by June 1 of each year the Fund is in operation.

(d) Dissolution of Fund.—

(1) Distribution for reserves.—When the Secretary determines that all Fund operations have been terminated, the Secretary shall dissolve the Fund. Any unencumbered Fund assets remaining after the satisfaction of all outstanding claims, loans from the Treasury, and other liabilities of the Fund shall be distributed, on a pro rata basis based on premiums paid, to any insurer that—

(A) participated in the Fund during its operation; and

(B) demonstrates, to the satisfaction of the Secretary, that any amount received as a distribution from the Fund will be permanently credited to a reserve account maintained by that insurer against claims for industrywide aggregate losses of $2,000,000,000 from—

(i) acts of terrorism in the United States; or

(ii) the effects of earthquakes, volcanic eruptions, tsunamis, or hurricanes.

(2) Retention requirement for tapping reserve.—Amounts credited to a reserve under paragraph (a) may not be used by an insurer to pay claims until the insurer has paid claims for losses resulting from acts or events described in paragraph (1)(B) in excess of 10 percent of that insurer's average gross direct written premiums and policyholders' surplus for covered lines for the most recently ended calendar year for which data are available.

(3) Officer and director penalties for misuse of reserves.—Any officer or director of an insurer who knowingly authorizes or directs the use of any amount received from the Fund under paragraph (1) for any purpose other than an appropriate use of amounts in the reserve to which the amount is credited shall be guilty of a Class E felony and sentenced in accordance with the provisions of section 3551 of title 18, United States Code.

(4) Residual distribution to treasury.—Any unencumbered Fund assets remaining after the distribution under paragraph (1) shall be covered into the Treasury of the United States as miscellaneous receipts.

SEC. 14. DEFINITIONS.

In this Act:

(1) Secretary.—Except where otherwise specifically provided, the term "Secretary" means the Secretary of Commerce.

(2) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(3) Fund.—The term "Fund" means the National Terrorism Reinsurance Fund established under section 4.

(4) Participating insurer.—The term "participating insurer" means every property and casualty insurer writing on a direct basis a covered line or lines of insurance in any jurisdiction of the United States, its territories, or possessions, including residual market insurers.

(5) Covered line.—

(A) In general.—The term "covered line" means any one or a combination of the following, written on a direct basis, as reported by property and casualty insurers in required financial reports on Statutory Page 14 of the NAIC Annual Statement Blank:

(i) Fire.
(ii) Allied lines.
(iii) Commercial multiple peril.
(iv) Ocean marine.
(v) Inland marine.
(vi) Workers compensation.
(vii) Products liability.
(viii) Commercial auto no-fault (personal injury protection), other commercial auto liability, or commercial auto physical damage.
(ix) Aircraft (all peril).
(x) Fidelity and surety.
(xi) Burglary and theft.
(xii) Boiler and machinery.
(xiii) Any other line of insurance that is reported by property and casualty insurers in required financial reports on Statutory Page 14 of the NAIC Annual Statement Blank which is voluntarily elected by an participating insurer to be included in its reinsurance contract with the Fund.

(B) OTHER LINES.—For purposes of clause (xiii), the lines of business that may be voluntarily selected are the following:
(i) Farmowners multiple peril.
(ii) Homeowners multiple peril.
(iii) Mortgage guaranty.
(iv) Financial guaranty.
(v) Private passenger automobile insurance.

(C) ELECTION.—The election to voluntarily include another line of insurance, if made, must apply to all affiliated insurers that are members of an insurer group. Any voluntary election is on a one-time basis and is irrevocable.

(6) LOSSES.—The term "losses" means direct incurred losses from an act of terrorism for covered lines, plus defense and cost containment expenses. Notwithstanding the preceding sentence, a loss shall not be recognized as a loss for the purpose of determining the amount of an insurer's retention or reimbursement under this Act unless the claim for the loss has been paid within 12 months after the terrorism event occurs and other loss adjustments.

(7) COVERED LOSSES.—The term "covered losses" means direct losses in excess of the participating insurer's retention.

(8) TERRORISM; ACT OF TERRORISM.—

(A) IN GENERAL.—The terms "terrorism" and "act of terrorism" mean any act, certified by the Secretary in concurrence with the Secretary of State and the Attorney General, as a violent act or act dangerous to human life, property or infrastructure, within the United States, its territories and possessions, that is committed by an individual or individuals acting on behalf of foreign agents or foreign interests (other than a foreign government) as part of an effort to coerce or intimidate the civilian population of the United States or to influence the policy or affect the conduct of the United States government.

(B) ACTS OF WAR.—No act shall be certified as an act of terrorism if the act is committed in the course of a war declared by the Congress of the United States or by a foreign government.

(C) FINALITY OF CERTIFICATION.—Any certification, or determination not to certify, by the Secretary under subparagraph (A) is final and not subject to judicial review.

(9) INSURER.—

(A) IN GENERAL.—The term "insurer" means an entity writing covered lines on a direct basis and licensed as a property and casualty insurer, risk retention group, or other entity authorized by law as a residual market mechanism providing property or casualty coverage in at least one jurisdiction of the United States, its territories, or possessions.

(B) VOLUNTARY PARTICIPATION.—A State workers' compensation, auto, or property insurance Fund may voluntarily participate as an insurer.

(10) CONTRACT YEAR.—The term "contract year" means the period of time that obligations exist between a participating insurer and the Fund for a given annual reinsurance contract.

(11) RETENTION.—The term "retention" means the level of direct losses retained by a participating insurer for which the insurer is not entitled to reimbursement by the Fund.

By Mr. McCAIN:

S. 1744. A bill to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, while there are few people in the Senate more skeptical than I of providing Federal assistance to corporations or involving the Federal Government in private industry, the proposed wholesale cancellation of terrorism insurance coverage following the devastating events of September 11, dictates that Congress act before the end of this session to ensure that this coverage continues to be available and affordable. Since 1945 when Congress delegated the responsibility of regulating insurance to the States, the Federal Government has honored this delegation and, with the encouragement of state regulators, kept out of the business of insurance.

In a recent letter to Treasury Secretary O'Neill, however, the National Association of Insurance Commissioners, NAIC, implored the Federal Government for help. "What has not been widely reported is that insurers are now issuing notices of non-renewal and filing across-the-board property and casualty exclusions for terrorist risk with state insurance regulators," the NAIC wrote. "[W]e need the Federal Government to act soon to give certainty to this situation * * * further delay inadvertently could cause greater market disruption, thus making the need for quick action imperative." I agree.

The bill I am introducing today draws from the many good ideas proposed by members of Congress and by the Administration to deal with the imminent cancellation of terrorism insurance coverage, and attempts also to address concerns raised with each of these proposals. It is by no means a perfect bill and I look forward to working with the Administration, my colleagues, state insurance commissioners, and other interested parties to improve it. While rough, the bill does reflect, however, what I believe to be the core principles that should be included in any legislation designed to keep terrorism insurance affordable and available. These principles include making Federal intervention short-term; deferring to states on questions of rate regulation; requiring insurance companies and the insurance industry to bear enough risk to promote responsible claims handling and to ensure that incentives to protect against acts of terrorism are in place; fairly allocating the costs of a terrorist event among insurance companies, and between policy holders and taxpayers; and generally prohibiting the award of punitive damages in claims arising from acts of terrorism.

There has been much debate about whether the taxpayers should bear the cost in the short-term of another terrorist event, or whether this cost should be borne by policy holders. The answer, perhaps, is that the cost should be shared. I propose in this bill that federal assistance up to $50 billion be paid back by commercial property and casualty policy holders through a capped surcharge on their premiums. For Federal assistance between $50 billion and $100 billion, which would be required only in the case of a truly catastrophic, perhaps cataclysmic event, however, the bill does not require repayment.

The following is a summary of the major provision of this bill. I look forward to working to improve it and to passage of needed legislation on terrorism insurance before the end of this session.

The bill provides a Federal backstop for certain insured losses due to acts of terrorism up to $100 billion per year in 2002 and 2003. The Federal Government would get involved, however, only if there is an act of terrorism during these years that exceeded individual company retentions. If a commercial insurer reaches these retention levels, the federal government would provide assistance for 80 percent of the companies' losses above the retention.

To provide uniformity, the bill preempts state definitions of "terrorism" and delegates to the Secretary of Commerce the responsibility of determining whether or not an act of terrorism has occurred.

Federal assistance is available only to companies whose annual terrorism-related losses in certain lines of commercial property and casualty insurance exceed the greater of $10 million or 5 percent of gross direct written premium in the previous year.

Only companies that meet the company retention trigger can obtain assistance from the Federal Government. Outlays for losses up to $50 billion are repaid by insurance policy holders through a surcharge imposed by the Secretary of Commerce on covered lines and collected by commercial insurers. These surcharges cannot exceed 6 percent of annual premiums, and the Secretary has the discretion to adjust the surcharge to reflect different risks in urban and rural areas.

Federal outlays up to $50 billion are paid back over time by commercial property and casualty policy holders. Federal outlays for losses over $50 billion are not recoverable.

Rate regulation is left to the states.

Except with respect to claims against terrorists and their conspirators, punitive damages cannot be recovered in claims arising out of acts of terrorism.

By Mr. REID (for himself, Mrs. CLINTON, Mr. LIEBERMAN and Mr. JEFFORDS):

S. 1746. A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities; to the Committee on Environment and Public Works.

Mr. REID. Mr. President, I would like to discuss an issue of great importance to our Nation, the safety of our Nation's nuclear power plants.

The tragedy of September 11 taught us many things: It taught us the importance of our first responders. It taught us the vulnerability of our Nation's buildings and the strength of our Nation's resolve. Finally, it taught us that we must be prepared for today's threats because they could become tomorrow's attacks.

We must not fail to take what we have learned and apply it to the vulnerabilities of our Nation's energy and transportation infrastructure.

Less than 1 week ago, the President signed a new law to increase the safety at our Nation's airports.

That act turned the first page in a long struggle to secure our Nation's infrastructure.

Today, I am introducing legislation with Senator CLINTON, Senator LIEBERMAN, and Senator JEFFORDS to write the next chapter, which covers commercial nuclear facilities.

I am pleased that Congressman MARKEY and Congresswoman LOWEY will introduce a companion bill in the House of Representatives.

Nuclear facilities provide us with needed electricity, but, in light of the events of September 11, they also present a security risk that we simply must address.

When plants are failing nearly half their security evaluations, we need to do more than update the curriculum. We need a whole new system.

There are some plants that do a good job, but it is not enough to have peaks of success, we need a new high plateau that secures all plants. We can accomplish that by establishing a new nuclear security force.

Our bill also requires the Nuclear Regulatory Commission to take a new look at the threats posed by terrorists.

This is the foundation that will support the efforts of the nuclear security force and overall plant security.

Our bill also establishes a rigorous training and evaluation program for the nuclear security force.

A new office will be established within the Nuclear Regulatory Commission with a dedicated team of mock terrorists whose only jobs is to perfect their skills in challenging the security guards.

When professional sports teams practice, the don't do it against amateur athletes playing in the park. They train against other professionals. Nuclear Security personnel should also.

Our bill will honor the sacrifice of our Nation's emergency responders by ensuring that emergency response plans are in place and work as we expect them to.

Finally, we will require stockpiles of medicine to help out in the event of a release of radioactive material from a nuclear facility.

These potassium iodide tablets block the absorption of harmful iodine in the thyroid gland.

The American people told us how they wanted their airlines and airports protected. The Congress and the President listened and acted.

We will work to make sure their questions about the safety of all our Nation's nuclear power plants are also answered.

This bill starts that process.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nuclear Security Act of 2001".

SEC. 2. DEFINITIONS.

Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) is amended—

(1) by redesignating subsection jj. as subsection ii.; and

(2) by adding at the end the following:

"jj. DESIGN BASIS THREAT.—The term 'design basis threat' means the design basis threat established by the Commission under section 73.1 of title 10, Code of Federal Regulations (or any successor regulation developed under section 170C).

"kk. SENSITIVE NUCLEAR FACILITY.—The term 'sensitive nuclear facility' means—

"(1) a commercial nuclear power plant and associated spent fuel storage facility;

"(2) a decommissioned nuclear power plant and associated spent fuel storage facility;

"(3) a category I fuel cycle facility;

"(4) a gaseous diffusion plant; and

"(5) any other facility licensed by the Commission, or used in the conduct of an activity licensed by the Commission, that the Commission determines should be treated as a sensitive nuclear facility under section 170C.".

SEC. 3. NUCLEAR SECURITY.

(a) IN GENERAL.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

"SEC. 170C. PROTECTION OF SENSITIVE NUCLEAR FACILITIES AGAINST THE DESIGN BASIS THREAT.

"(a) DEFINITIONS.—In this section:

"(1) NUCLEAR SECURITY FORCE.—The term 'nuclear security force' means the nuclear security force established under subsection (b)(1).

"(2) FUND.—The term 'Fund' means the Nuclear Security Fund established under subsection (f).

"(3) QUALIFICATION STANDARD.—The term 'qualification standard' means a qualification standard established under subsection (e)(2)(A).

"(4) SECURITY PLAN.—The term 'security plan' means a security plan developed under subsection (b)(2).

"(b) NUCLEAR SECURITY.—The Commission shall—

"(1) establish a nuclear security force, the members of which shall be employees of the Commission, to provide for the security of all sensitive nuclear facilities against the design basis threat; and

"(2) develop and implement a security plan for each sensitive nuclear facility to ensure the security of all sensitive nuclear facilities against the design basis threat.

"(c) DESIGN BASIS THREAT.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, and at least once every 3 years thereafter, the Commission, in consultation with the Assistant to the President for Homeland Security, the Attorney General, the Secretary of Defense, and other Federal, State, and local agencies, as appropriate, shall revise the design basis threat to include—

"(A) threats equivalent to—

"(i) the events of September 11, 2001;

"(ii) a physical, cyber, biochemical, or other terrorist threat;

"(iii) an attack on a facility by multiple coordinated teams of a large number of individuals;

"(iv) assistance in an attack from several persons employed at the facility;

"(v) a suicide attack;

"(vi) a water-based or air-based threat;

"(vii) the use of explosive devices of considerable size and other modern weaponry;

"(viii) an attack by persons with a sophisticated knowledge of the operations of a sensitive nuclear facility; and

"(ix) fire, especially a fire of long duration; and

"(B) any other threat that the Commission determines should be included as an element of the design basis threat.

"(2) REPORTS.—The Commission shall submit to Congress a report on each revision made under paragraph (1).

"(d) SECURITY PLANS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall develop a security plan for each sensitive nuclear facility to ensure the protection of each sensitive nuclear facility against the design basis threat.

"(2) ELEMENTS OF THE PLAN.—A security plan shall prescribe—

"(A) the deployment of the nuclear security force, including—

"(i) numbers of the members of the nuclear security force at each sensitive nuclear facility;

"(ii) tactics of the members of the nuclear security force at each sensitive nuclear facility; and

"(iii) capabilities of the members of the nuclear security force at each sensitive nuclear facility;

"(B) other protective measures, including—

"(i) designs of critical control systems at each sensitive nuclear facility;

"(ii) restricted personnel access to each sensitive nuclear facility;

"(iii) perimeter site security, internal site security, and fire protection barriers;

“(iv) increases in protection for spent fuel storage areas;

“(v) placement of spent fuel in dry cask storage; and

“(vi) background security checks for employees and prospective employees; and

“(C) a schedule for completing the requirements of the security plan not later than 18 months after the date of enactment of this section.

“(3) ADDITIONAL REQUIREMENTS.—A holder of a license for a sensitive nuclear facility under section 103 or 104 or the State or local government in which a sensitive nuclear facility is located may petition the Commission for additional requirements in the security plan for the sensitive nuclear facility.

“(4) IMPLEMENTATION OF SECURITY PLAN.—Not later than 270 days after the date of enactment of this section, the Commission, in consultation with a holder of a license for a sensitive nuclear facility under section 103 or 104, shall, by direct action of the Commission or by order requiring action by the licensee, implement the security plan for the sensitive nuclear facility in accordance with the schedule under paragraph (2)(C).

“(5) SUFFICIENCY OF SECURITY PLAN.—If at any time the Commission determines that the implementation of the requirements of the security plan for a sensitive nuclear facility is insufficient to ensure the security of the sensitive nuclear facility against the design basis threat, the Commission shall immediately submit to Congress and the President a classified report that—

“(A) identifies the vulnerability of the sensitive nuclear facility; and

“(B) recommends actions by Federal, State, or local agencies to eliminate the vulnerability.

“(e) NUCLEAR SECURITY FORCE.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Commission, in consultation with other Federal agencies, as appropriate, shall establish a program for the hiring and training of the nuclear security force.

“(2) HIRING.—

“(A) QUALIFICATION STANDARDS.—Not later than 30 days after the date of enactment of this section, the Commission shall establish qualification standards that individuals shall be required to meet to be hired by the Commission as members of the nuclear security force.

“(B) EXAMINATION.—The Commission shall develop and administer a nuclear security force personnel examination for use in determining the qualification of individuals seeking employment as members of the nuclear security force.

“(C) CRIMINAL AND SECURITY BACKGROUND CHECKS.—The Commission shall require that an individual to be hired as a member of the nuclear security force undergo a criminal and security background check.

“(D) DISQUALIFICATION OF INDIVIDUALS WHO PRESENT NATIONAL SECURITY RISKS.—The Commission, in consultation with the heads of other Federal agencies, as appropriate, shall establish procedures, in addition to any background check conducted under subparagraph (B), to ensure that no individual who presents a threat to national security is employed as a member of the nuclear security force.

“(3) ANNUAL PROFICIENCY REVIEW.—

“(A) IN GENERAL.—The Commission shall provide that an annual evaluation of each member of the nuclear security force is conducted and documented.

“(B) REQUIREMENTS FOR CONTINUATION.—An individual employed as a member of the nuclear security force may not continue to be employed in that capacity unless the evaluation under subparagraph (A) demonstrates that the individual—

“(i) continues to meet all qualification standards;

“(ii) has a satisfactory record of performance and attention to duty; and

“(iii) has the knowledge and skills necessary to vigilantly and effectively provide for the security of a sensitive nuclear facility against the design basis threat.

“(4) TRAINING.—

“(A) IN GENERAL.—The Commission shall provide for the training of each member of the nuclear security force to ensure each member has the knowledge and skills necessary to provide for the security of a sensitive nuclear facility against the design basis threat.

“(B) TRAINING PLAN.—Not later than 60 days after the date of enactment of this section, the Commission shall develop a plan for the training of members of the nuclear security force.

“(C) USE OF OTHER AGENCIES.—The Commission may enter into a memorandum of understanding or other arrangement with any other Federal agency with appropriate law enforcement responsibilities, to provide personnel, resources, or other forms of assistance in the training of members of the nuclear security force.

“(f) NUCLEAR SECURITY FUND.—

“(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ‘Nuclear Security Fund’, which shall be used by the Commission to administer programs under this section to provide for the security of sensitive nuclear facilities.

“(2) DEPOSITS IN THE FUND.—The Commission shall deposit in the Fund—

“(A) the amount of fees collected under paragraph (5); and

“(B) amounts appropriated under subsection (g).

“(3) INVESTMENT OF AMOUNTS.—

“(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

“(B) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under subparagraph (A), obligations may be acquired—

“(i) on original issue at the issue price; or

“(ii) by purchase of outstanding obligations at the market price.

“(C) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

“(D) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

“(4) USE OF AMOUNTS IN THE FUND.—The Commission shall use amounts in the Fund to pay the costs of—

“(A) salaries, training, and other expenses of the nuclear security force; and

“(B) developing and implementing security plans.

“(5) FEE.—To ensure that adequate amounts are available to provide assistance under paragraph (4), the Commission shall assess licensees a fee in an amount determined by the Commission, not to exceed 1 mill per kilowatt-hour of electricity generated by a sensitive nuclear facility.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.”.

(b) IMPLEMENTATION.—The Commission shall complete the full implementation of the amendment made by subsection (a) as soon as practicable after the date of enactment of this Act, but in no event later than 270 days after the date of enactment of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by adding at the end the following:

“Sec. 170B. Uranium supply.
“Sec. 170C. Protection of sensitive nuclear facilities against the design basis threat.”.

SEC. 4. OPERATION SAFEGUARDS AND RESPONSE UNIT.

Section 204 of the Energy Reorganization Act of 1974 (42 U.S.C. 5844) is amended by adding at the end the following:

“(d) OPERATION SAFEGUARDS AND RESPONSE UNIT.—

“(1) DEFINITIONS.—In this subsection:

“(A) ASSISTANT DIRECTOR.—The term ‘Assistant Director’ means the Assistant Director for Operation Safeguards and Response.

“(B) DESIGN BASIS THREAT.—The term ‘design basis threat’ has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

“(C) SENSITIVE NUCLEAR FACILITY.—The term ‘sensitive nuclear facility’ has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

“(D) UNIT.—The term ‘Unit’ means the Operation Safeguards and Response Unit established under paragraph (2)(A).

“(2) ESTABLISHMENT OF UNIT.—

“(A) IN GENERAL.—There is established within the Office of Nuclear Material Safety and Safeguards the Operation Safeguards and Response Unit.

“(B) HEAD OF UNIT.—The Unit shall be headed by the Assistant Director for Operation Safeguards and Response.

“(C) DUTIES.—The Assistant Director shall—

“(i) establish a program for the conduct of operation safeguards and response evaluations under paragraph (3); and

“(ii) establish a program for the conduct of emergency response exercises under paragraph (4).

“(D) MOCK TERRORIST TEAM.—The personnel of the Unit shall include a Mock Terrorist Team comprised of—

“(i) not fewer than 20 individuals with advanced knowledge of special weapons and tactics comparable to special operations forces of the Armed Forces;

“(ii) at least 1 nuclear engineer;

“(iii) for each evaluation at a sensitive nuclear facility under paragraph (3), at least 1 individual with knowledge of the operations of the sensitive nuclear facility who is capable of actively disrupting the normal operations of the sensitive nuclear facility; and

“(iv) any other individual that the Assistant Director determines should be a member of the Mock Terrorist Team.

“(3) OPERATION SAFEGUARDS AND RESPONSE EVALUATIONS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Assistant Director shall establish an operation safeguards and response evaluation program to assess the ability of each sensitive nuclear facility to defend against the design basis threat.

“(B) FREQUENCY OF EVALUATIONS.—Not less often than once every 2 years, the Assistant

Director shall conduct and document operation safeguards and response evaluations at each sensitive nuclear facility to assess the ability of the members of the nuclear security force at the sensitive nuclear facility to defend against the design basis threat.

"(C) Activities.—The evaluation shall include 2 or more force-on-force exercises by the Mock Terrorist Team against the sensitive nuclear facility that simulate air, water, and land assaults (as appropriate).

"(D) Criteria.—The Assistant Director shall establish criteria for judging the success of the evaluations.

"(E) Corrective action.—If a sensitive nuclear facility fails to complete successfully an operation safeguards and response evaluation, the Commission shall require additional operation safeguards and response evaluations not less often than once every 6 months until the sensitive nuclear facility successfully completes an operation safeguards and response evaluation.

"(F) Reports.—Not less often than once every year, the Commission shall submit to Congress and the President a report that describes the results of each operation safeguards and response evaluation under this paragraph for the previous year.

"(4) Emergency response exercises.—

"(A) In general.—Not later than 1 year after the date of enactment of this subsection, the Assistant Director, in consultation with the Assistant to the President for Homeland Security, the Director of the Federal Emergency Management Agency, the Attorney General, and other Federal, State, and local agencies, as appropriate, shall establish an emergency response program to evaluate the ability of Federal, State, and local emergency response personnel within a 50-mile radius of a sensitive nuclear facility to respond to a radiological emergency at the sensitive nuclear facility.

"(B) Frequency.—Not less often than once every 3 years, the Assistant Director shall conduct emergency response exercises to evaluate the ability of Federal, State, and local emergency response personnel within a 50-mile radius of a sensitive nuclear facility to respond to a radiological emergency at the sensitive nuclear facility.

"(C) Activities.—The response exercises shall evaluate—

"(i) the response capabilities, response times, and coordination and communication capabilities of the response personnel;

"(ii) the effectiveness and adequacy of emergency response plans, including evacuation plans; and

"(iii) the ability of response personnel to distribute potassium iodide or other prophylactic medicines in an expeditious manner.

"(D) Revision of emergency response plans.—The Commission shall revise the emergency response plan for a sensitive nuclear facility to correct for any deficiencies identified by an evaluation under this paragraph.

"(E) Reports.—Not less often than once every year, the Commission shall submit to Congress and the President a report that describes—

"(i) the results of each emergency response exercise under this paragraph conducted in the previous year; and

"(ii) each revision of an emergency response plan made under subparagraph (D) for the previous year.".

SEC. 5. POTASSIUM IODIDE STOCKPILES.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following:

"u. Not later than 180 days after the date of enactment of this subsection, the Commission, in consultation with the Director of the Federal Emergency Management Agency, the Secretary of Health and Human Services, and other Federal, State, and local agencies, as appropriate, shall—

"(1) ensure that sufficient stockpiles of potassium iodide tablets have been established at public facilities (such as schools and hospitals) within at least a 50-mile radius of all sensitive nuclear facilities;

"(2) develop plans for the prompt distribution of the stockpiles described in paragraph (1) to all individuals located within at least a 50-mile radius of a sensitive nuclear facility in the event of a release of radionuclides; and

"(3) submit to Congress a report—

"(A) certifying that stockpiles have been established as described in paragraph (1); and

"(B) including the plans described in paragraph (2).".

SEC. 6. DEFENSE OF FACILITIES.

(a) In General.—In a case in which a state of war or national emergency exists, the Commission shall—

(1) request the Governor of each State in which a sensitive nuclear facility is located to deploy the National Guard to each sensitive nuclear facility in that State; and

(2) request the President to—

(A) deploy the Coast Guard to sensitive nuclear facilities on the coastline of the United States; and

(B) restrict air space in the vicinity of sensitive nuclear facilities in the United States.

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2170. Mr. DASCHLE (for Mr. Hatch (for himself and Mr. Baucus)) proposed an amendment to the bill H.R. 10, to provide for pension reform, and for other purposes.

SA 2171. Mr. LOTT (for himself, Mr. Murkowski, and Mr. Brownback) proposed an amendment to amendment SA 2170 submitted by Mr. Daschle and intended to be proposed to the bill (H.R. 10) supra.

SA 2172. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1743, to create a temporary reinsurance mechanism to enhance the availability of terrorism insurance; which was referred to the Committee on Commerce, Science, and Transportation.

SA 2173. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table.

SA 2174. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2170. Mr. DASCHLE (for Mr. Hatch (for himself and Mr. Baucus)) proposed an amendment to the bill H.R. 10, to provide for pension reform, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Railroad Retirement and Survivors' Improvement Act of 2001".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1974

Sec. 101. Expansion of widow's and widower's benefits.
Sec. 102. Retirement age restoration.
Sec. 103. Vesting requirement.
Sec. 104. Repeal of railroad retirement maximum.
Sec. 105. Investment of railroad retirement assets.
Sec. 106. Elimination of supplemental annuity account.
Sec. 107. Transfer authority revisions.
Sec. 108. Annual ratio projections and certifications by the Railroad Retirement Board.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 201. Amendments to the Internal Revenue Code of 1986.
Sec. 202. Exemption from tax for National Railroad Retirement Investment Trust.
Sec. 203. Repeal of supplemental annuity tax.
Sec. 204. Employer, employee representative, and employee tier 2 tax rate adjustments.

TITLE I—AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1974

SEC. 101. EXPANSION OF WIDOW'S AND WIDOWER'S BENEFITS.

(a) In General.—Section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) is amended by adding at the end the following new subdivision:

"(10)(i) If for any month the unreduced annuity provided under this section for a widow or widower is less than the widow's or widower's initial minimum amount computed pursuant to paragraph (ii) of this subdivision, the unreduced annuity shall be increased to that initial minimum amount. For the purposes of this subdivision, the unreduced annuity is the annuity without regard to any deduction on account of work, without regard to any reduction for entitlement to an annuity under section 2(a)(1) of this Act, without regard to any reduction for entitlement to a benefit under title II of the Social Security Act, and without regard to any reduction for entitlement to a public service pension pursuant to section 202(e)(7), 202(f)(2), or 202(g)(4) of the Social Security Act.

"(ii) For the purposes of this subdivision, the widow or widower's initial minimum amount is the amount of the unreduced annuity computed at the time an annuity is awarded to that widow or widower, except that—

"(A) in subsection (g)(1)(i) '100 per centum' shall be substituted for '50 per centum'; and

"(B) in subsection (g)(2)(ii) '130 per centum' shall be substituted for '80 per centum' both places it appears.

"(iii) If a widow or widower who was previously entitled to a widow's or widower's annuity under section 2(d)(1)(ii) of this Act becomes entitled to a widow's or widower's annuity under section 2(d)(1)(i) of this Act, a new initial minimum amount shall be computed at the time of award of the widow's or widower's annuity under section 2(d)(1)(i) of this Act.".

(b) Effective Date.—

(1) In general.—The amendment made by this section shall take effect on the first day of the first month that begins more than 30 days after enactment, and shall apply to annuity amounts accruing for months after the

effective date in the case of annuities awarded—

(A) on or after that date; and

(B) before that date, but only if the annuity amount under section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) was computed under such section, as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 95 Stat. 357).

(2) SPECIAL RULE FOR ANNUITIES AWARDED BEFORE THE EFFECTIVE DATE.—In applying the amendment made by this section to annuities awarded before the effective date, the calculation of the initial minimum amount under new section 4(g)(10)(ii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)(10)(ii)), as added by subsection (a), shall be made as of the date of the award of the widow's or widower's annuity.

SEC. 102. RETIREMENT AGE RESTORATION.

(a) EMPLOYEE ANNUITIES.—Section 3(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(2)) is amended by inserting after "(2)" the following new sentence: "For purposes of this subsection, individuals entitled to an annuity under section 2(a)(1)(ii) of this Act shall, except for the purposes of recomputations in accordance with section 215(f) of the Social Security Act, be deemed to have attained retirement age (as defined by section 216(l) of the Social Security Act).".

(b) SPOUSE AND SURVIVOR ANNUITIES.—Section 4(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)(2)) is amended by striking "if an" and all that follows through "section 2(c)(1) of this Act" and inserting "a spouse entitled to an annuity under section 2(c)(1)(ii)(B) of this Act".

(c) CONFORMING REPEALS.—Sections 3(a)(3), 4(a)(3), and 4(a)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(3), 231c(a)(3), and 231c(a)(4)) are repealed.

(d) EFFECTIVE DATES.—

(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by this section shall apply to annuities that begin to accrue on or after January 1, 2002.

(2) EXCEPTION.—The amount of the annuity provided for a spouse under section 4(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)) shall be computed under section 4(a)(3) of such Act, as in effect on December 31, 2001, if the annuity amount provided under section 3(a) of such Act (45 U.S.C. 231b(a)) for the individual on whose employment record the spouse annuity is based was computed under section 3(a)(3) of such Act, as in effect on December 31, 2001.

SEC. 103. VESTING REQUIREMENT.

(a) CERTAIN ANNUITIES FOR INDIVIDUALS.—Section 2(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(a)) is amended—

(1) by inserting in subdivision (1) "(or, for purposes of paragraphs (i), (iii), and (v), five years of service, all of which accrues after December 31, 1995)" after "ten years of service"; and

(2) by adding at the end the following new subdivision:

"(4) An individual who is entitled to an annuity under paragraph (v) of subdivision (1), but who does not have at least ten years of service, shall, prior to the month in which the individual attains age 62, be entitled only to an annuity amount computed under section 3(a) of this Act (without regard to section 3(a)(2) of this Act) or section 3(f)(3) of this Act. Upon attainment of age 62, such an individual may also be entitled to an annuity amount computed under section 3(b), but such annuity amount shall be reduced for early retirement in the same manner as if the individual were entitled to an annuity under section 2(a)(1)(iii).".

(b) COMPUTATION RULE FOR INDIVIDUALS' ANNUITIES.—Section 3(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)), as amended by section 102 of this Act, is further amended by adding at the end the following new subdivision:

"(3) If an individual entitled to an annuity under section 2(a)(1)(i) or (iii) of this Act on the basis of less than ten years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(a)(1)(i) or (iii) of this Act, the annuity amount provided such individual under this subsection, shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began, or (B) the date on which the individual first met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.".

(c) SURVIVORS' ANNUITIES.—Section 2(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(d)(1)) is amended by inserting "(or five years of service, all of which accrues after December 31, 1995)" after "ten years of service".

(d) LIMITATION ON ANNUITY AMOUNTS.—Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended by adding at the end the following new subsection:

"(i) An individual entitled to an annuity under this section who has completed five years of service, all of which accrues after 1995, but who has not completed ten years of service, and the spouse, divorced spouse, and survivors of such individual, shall not be entitled to an annuity amount provided under section 3(a), section 4(a), or section 4(f) of this Act unless the individual, or the individual's spouse, divorced spouse, or survivors, would be entitled to a benefit under title II of the Social Security Act on the basis of the individual's employment record under both this Act and title II of the Social Security Act.".

(e) COMPUTATION RULE FOR SPOUSES' ANNUITIES.—Section 4(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)), as amended by section 102 of this Act, is further amended by adding at the end the following new subdivision:

"(3) If a spouse entitled to an annuity under section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), or section 2(c)(2) of this Act or a divorced spouse entitled to an annuity under section 2(c)(4) of this Act on the basis of the employment record of an employee who will have completed less than 10 years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), section 2(c)(2), or section 2(c)(4) of this Act, the annuity amount provided under this subsection shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began or (B) the first date on which the annuitant met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.".

(f) APPLICATION DEEMING PROVISION.—Section 5(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231d(b)) is amended by striking the second sentence and inserting the following new sentence: "An application filed with the Board for an employee annuity, spouse annuity, or divorced spouse annuity on the basis of the employment record of an employee who will have completed less than ten years of service shall be deemed to be an application for any benefit to which such applicant may be entitled under this Act or section 202(a), section 202(b), or section 202(c) of the Social Security Act. An application filed with the Board for an annuity on the basis of the employment record of an employee who will have completed ten years of service shall, unless the applicant specified otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under this Act or title II of the Social Security Act.".

(g) CREDITING SERVICE UNDER THE SOCIAL SECURITY ACT.—Section 18(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231q(2)) is amended—

(1) by inserting "(or less than five years of service, all of which accrues after December 31, 1995)" after "ten years of service" every place it appears; and

(2) by inserting "(or five or more years of service, all of which accrues after December 31, 1995)" after "ten or more years of service".

(h) AUTOMATIC BENEFIT ELIGIBILITY ADJUSTMENTS.—Section 19 of the Railroad Retirement Act of 1974 (45 U.S.C. 231r) is amended—

(1) by inserting "(or five or more years of service, all of which accrues after December 31, 1995)" after "ten years of service" in subsection (c); and

(2) by inserting "(or five or more years of service, all of which accrues after December 31, 1995)" after "ten years of service" in subsection (d)(2).

(i) CONFORMING AMENDMENTS.—

(1) Section 6(e)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231e(1)) is amended by inserting "(or five or more years of service, all of which accrues after December 31, 1995)" after "ten years of service".

(2) Section 7(b)(2)(A) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(2)(A)) is amended by inserting "(or five or more years of service, all of which accrues after December 31, 1995)" after "ten years of service".

(3) Section 205(i) of the Social Security Act (42 U.S.C. 405(i)) is amended by inserting "(or five or more years of service, all of which accrues after December 31, 1995)" after "ten years of service".

(4) Section 6(b)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231e(b)(2)) is amended by inserting "(or five or more years of service, all of which accrues after December 31, 1995)" after "ten years of service" the second place it appears.

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SEC. 104. REPEAL OF RAILROAD RETIREMENT MAXIMUM.

(a) EMPLOYEE ANNUITIES.—

(1) IN GENERAL.—Section 3(f) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(f)) is amended—

(A) by striking subdivision (1); and

(B) by redesignating subdivisions (2) and (3) as subdivisions (1) and (2), respectively.

(2) CONFORMING AMENDMENTS.—

(A) The first sentence of section 3(f)(1) of the Railroad Retirement Act of 1974 (45

U.S.C. 231b(f)(1)), as redesignated by paragraph (1)(B), is amended by striking ", without regard to the provisions of subdivision (1) of this subsection,".

(B) Paragraphs (i) and (ii) of section 7(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)(2)) are each amended by striking "section 3(f)(3)" and inserting "section 3(f)(2)".

(b) Spouse and Survivor Annuities.—Section 4 of the Railroad Retirement Act of 1974 (45 U.S.C. 231c) is amended by striking subsection (c).

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2002, and shall apply to annuity amounts accruing for months after December 2001.

SEC. 105. INVESTMENT OF RAILROAD RETIREMENT ASSETS.

(a) Establishment of National Railroad Retirement Investment Trust.—Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n) is amended by inserting after subsection (i) the following new subsection:

"(j) National Railroad Retirement Investment Trust.—

"(1) Establishment.—The National Railroad Retirement Investment Trust (hereinafter in this subsection referred to as the 'Trust') is hereby established as a trust domiciled in the District of Columbia and shall, to the extent not inconsistent with this Act, be subject to the laws of the District of Columbia applicable to such trusts. The Trust shall manage and invest its assets in the manner set forth in this subsection.

"(2) Not a Federal agency or instrumentality.—The Trust is not a department, agency, or instrumentality of the Government of the United States and shall not be subject to title 31, United States Code.

"(3) Board of trustees.—

"(A) Generally.—

"(i) Membership.—The Trust shall have a Board of Trustees, consisting of 7 members. Three shall represent the interests of labor, 3 shall represent the interests of management, and 1 shall be an independent Trustee. The members of the Board of Trustees shall not be considered officers or employees of the Government of the United States.

"(ii) Selection.—

"(I) The 3 members representing the interests of labor shall be selected by the joint recommendation of labor organizations, national in scope, organized in accordance with section 2 of the Railway Labor Act, and representing at least ⅔ of all active employees, represented by such national labor organizations, covered under this Act.

"(II) The 3 members representing the interests of management shall be selected by the joint recommendation of carriers as defined in section 1 of the Railway Labor Act employing at least ⅔ of all active employees covered under this Act.

"(III) The independent member shall be selected by a majority of the other 6 members of the Board of Trustees.

A member of the Board of Trustees may be removed in the same manner and by the same constituency that selected that member.

"(iii) Dispute resolution.—In the event that the parties specified in subclause (I), (II), or (III) of the previous clause cannot agree on the selection of Trustees within 60 days of the date of enactment or 60 days from any subsequent date that a position of the Board of Trustees becomes vacant, an impartial umpire to decide such dispute shall, on the petition of a party to the dispute, be appointed by the District Court of the United States for the District of Columbia.

"(B) Qualifications.—Members of the Board of Trustees shall be appointed only from among persons who have experience and expertise in the management of financial investments and pension plans. No member of the Railroad Retirement Board shall be eligible to be a member of the Board of Trustees.

"(C) Terms.—Except as provided in this subparagraph, each member shall be appointed for a 3-year term. The initial members appointed under this paragraph shall be divided into equal groups so nearly as may be, of which one group will be appointed for a 1-year term, one for a 2-year term, and one for a 3-year term. The Trustee initially selected pursuant to clause (ii)(III) shall be appointed to a 3-year term. A vacancy in the Board of Trustees shall not affect the powers of the Board of Trustees and shall be filled in the same manner as the selection of the member whose departure caused the vacancy. Upon the expiration of a term of a member of the Board of Trustees, that member shall continue to serve until a successor is appointed.

"(4) Powers of the board of trustees.—The Board of Trustees shall—

"(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

"(B) retain independent investment managers to invest the assets of the Trust in a manner consistent with such investment guidelines;

"(C) invest assets in the Trust, pursuant to the policies adopted in subparagraph (A);

"(D) pay administrative expenses of the Trust from the assets in the Trust; and

"(E) transfer money to the disbursing agent or as otherwise provided in section 7(b)(4), to pay benefits payable under this Act from the assets of the Trust.

"(5) Reporting requirements, and fiduciary standards.—The following reporting requirements and fiduciary standards shall apply with respect to the Trust:

"(A) Duties of the board of trustees.—The Trust and each member of the Board of Trustees shall discharge their duties (including the voting of proxies) with respect to the assets of the Trust solely in the interest of the Railroad Retirement Board and through it, the participants and beneficiaries of the programs funded under this Act—

"(i) for the exclusive purpose of—

"(I) providing benefits to participants and their beneficiaries; and

"(II) defraying reasonable expenses of administering the functions of the Trust;

"(ii) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

"(iii) by diversifying investments so as to minimize the risk of large losses and to avoid disproportionate influence over a particular industry or firm, unless under the circumstances it is clearly prudent not to do so; and

"(iv) in accordance with Trust governing documents and instruments insofar as such documents and instruments are consistent with this Act.

"(B) Prohibitions with respect to members of the board of trustees.—No member of the Board of Trustees shall—

"(i) deal with the assets of the Trust in the trustee's own interest or for the trustee's own account;

"(ii) in an individual or in any other capacity act in any transaction involving the assets of the Trust on behalf of a party (or represent a party) whose interests are adverse to the interests of the Trust, the Railroad Retirement Board, or the interests of participants or beneficiaries; or

"(iii) receive any consideration for the trustee's own personal account from any party dealing with the assets of the Trust.

"(C) Exculpatory provisions and insurance.—Any provision in an agreement or instrument that purports to relieve a trustee from responsibility or liability for any responsibility, obligation, or duty under this Act shall be void: *Provided, however*, That nothing shall preclude—

"(i) the Trust from purchasing insurance for its trustees or for itself to cover liability or losses occurring by reason of the act or omission of a trustee, if such insurance permits recourse by the insurer against the trustee in the case of a breach of a fiduciary obligation by such trustee;

"(ii) a trustee from purchasing insurance to cover liability under this section from and for his own account; or

"(iii) an employer or an employee organization from purchasing insurance to cover potential liability of one or more trustees with respect to their fiduciary responsibilities, obligations, and duties under this section.

"(D) Bonding.—Every trustee and every person who handles funds or other property of the Trust (hereafter in this subsection referred to as 'Trust official') shall be bonded. Such bond shall provide protection to the Trust against loss by reason of acts of fraud or dishonesty on the part of any Trust official, directly or through the connivance of others, and shall be in accordance with the following:

"(i) The amount of such bond shall be fixed at the beginning of each fiscal year of the Trust by the Railroad Retirement Board. Such amount shall not be less than 10 percent of the amount of the funds handled. In no case shall such bond be less than $1,000 nor more than $500,000, except that the Railroad Retirement Board, after consideration of the record, may prescribe an amount in excess of $500,000, subject to the 10 per centum limitation of the preceding sentence.

"(ii) It shall be unlawful for any Trust official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Trust without being bonded as required by this subsection and it shall be unlawful for any Trust official, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any Trust official, with respect to whom the requirements of this subsection have not been met.

"(iii) It shall be unlawful for any person to procure any bond required by this subsection from any surety or other company or through any agent or broker in whose business operations such person has any control or significant financial interest, direct or indirect.

"(E) Audit and report.—

"(i) The Trust shall annually engage an independent qualified public accountant to audit the financial statements of the Trust.

"(ii) The Trust shall submit an annual management report to the Congress not later than 180 days after the end of the Trust's fiscal year. A management report under this subsection shall include—

"(I) a statement of financial position;

"(II) a statement of operations;

"(III) a statement of cash flows;

"(IV) a statement on internal accounting and administrative control systems;

"(V) the report resulting from an audit of the financial statements of the Trust conducted under clause (i); and

"(VI) any other comments and information necessary to inform the Congress about the operations and financial condition of the Trust.

"(iii) The Trust shall provide the President, the Railroad Retirement Board, and the Director of the Office of Management and Budget a copy of the management report when it is submitted to Congress.

"(F) ENFORCEMENT.—The Railroad Retirement Board may bring a civil action—

"(i) to enjoin any act or practice by the Trust, its Board of Trustees, or its employees or agents that violates any provision of this Act; or

"(ii) to obtain other appropriate relief to redress such violations, or to enforce any provisions of this Act.

"(6) RULES AND ADMINISTRATIVE POWERS.—The Board of Trustees shall have the authority to make rules to govern its operations, employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory, or other services necessary for the proper administration of this subsection. In the case of contracts with investment advisory services, compensation for such services may be on a fixed contract fee basis or on such other terms and conditions as are customary for such services.

"(7) QUORUM.—Five members of the Board of Trustees constitute a quorum to do business. Investment guidelines must be adopted by a unanimous vote of the entire Board of Trustees. All other decisions of the Board of Trustees shall be decided by a majority vote of the quorum present. All decisions of the Board of Trustees shall be entered upon the records of the Board of Trustees.

"(8) FUNDING.—The expenses of the Trust and the Board of Trustees incurred under this subsection shall be paid from the Trust.".

(b) CONFORMING AND TECHNICAL AMENDMENTS GOVERNING INVESTMENTS.—Section 15(e) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(e)) is amended—

(1) in the first sentence, by striking ", the Dual Benefits Payments Account" and all that follows through "may be made only" in the second sentence and inserting "and the Dual Benefits Payments Account as are not transferred to the National Railroad Retirement Investment Trust as the Board may determine";

(2) by striking "the Second Liberty Bond Act, as amended" and inserting "chapter 31 of title 31"; and

(3) by striking "the foregoing requirements" and inserting "the requirements of this subsection".

(c) MEANS OF FINANCING.—For all purposes of the Congressional Budget Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and chapter 11 of title 31, United States Code, and notwithstanding section 20 of the Office of Management and Budget Circular No. A-11, the purchase or sale of non-Federal assets (other than gains or losses from such transactions) by the National Railroad Retirement Investment Trust shall be treated as a means of financing.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the month that begins more than 30 days after enactment.

SEC. 106. ELIMINATION OF SUPPLEMENTAL ANNUITY ACCOUNT.

(a) SOURCE OF PAYMENTS.—Section 7(c)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(1)) is amended by striking "payments of supplemental annuities under section 2(b) of this Act shall be made from the Railroad Retirement Supplemental Account, and".

(b) ELIMINATION OF ACCOUNT.—Section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) is repealed.

(c) AMENDMENT TO RAILROAD RETIREMENT ACCOUNT.—Section 15(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(a)) is amended by striking ", except those portions of the amounts covered into the Treasury under sections 3211(b)," and all that follows through the end of the subsection and inserting a period.

(d) TRANSFER.—

(1) DETERMINATION.—As soon as possible after December 31, 2001, the Railroad Retirement Board shall—

(A) determine the amount of funds in the Railroad Retirement Supplemental Account under section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) as of the date of such determination; and

(B) direct the Secretary of the Treasury to transfer such funds to the National Railroad Retirement Investment Trust under section 15(j) of such Act (as added by section 105).

(2) TRANSFER BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall make the transfer described in paragraph (1).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a), (b), and (c) shall take effect January 1, 2002.

(2) ACCOUNT IN EXISTENCE UNTIL TRANSFER MADE.—The Railroad Retirement Supplemental Account under section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) shall continue to exist until the date that the Secretary of the Treasury makes the transfer described in subsection (d)(2).

SEC. 107. TRANSFER AUTHORITY REVISIONS.

(a) RAILROAD RETIREMENT ACCOUNT.—Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n) is amended by adding after subsection (j) the following new subsection:

"(k) TRANSFERS TO THE TRUST.—The Board shall, upon establishment of the National Railroad Retirement Investment Trust and from time to time thereafter, direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, that portion of the Railroad Retirement Account that is not needed to pay current administrative expenses of the Board to the National Railroad Retirement Investment Trust. The Secretary shall make that transfer.".

(b) TRANSFERS FROM THE NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.—Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n), as amended by subsection (a), is further amended by adding after subsection (k) the following new subsection:

"(l) NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.—The National Railroad Retirement Investment Trust shall from time to time transfer to the disbursing agent described in section 7(b)(4) or as otherwise directed by the Railroad Retirement Board pursuant to section 7(b)(4), such amounts as may be necessary to pay benefits under this Act (other than benefits paid from the Social Security Equivalent Benefit Account or the Dual Benefit Payments Account).".

(c) SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT.—

(1) TRANSFERS TO TRUST.—Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(d)(2)) is amended to read as follows:

"(2) Upon establishment of the National Railroad Retirement Investment Trust and from time to time thereafter, the Board shall direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, the balance of the Social Security Equivalent Benefit Account not needed to pay current benefits and administrative expenses required to be paid from that Account to the National Railroad Retirement Investment Trust, and the Secretary shall make that transfer. Any balance transferred under this paragraph shall be used by the National Railroad Retirement Investment Trust only to pay benefits under this Act or to purchase obligations of the United States that are backed by the full faith and credit of the United States pursuant to chapter 31 of title 31, United States Code. The proceeds of sales of, and the interest income from, such obligations shall be used by the Trust only to pay benefits under this Act.".

(2) TRANSFERS TO DISBURSING AGENT.—Section 15A(c)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(c)(1)) is amended by adding at the end the following new sentence: "The Secretary shall from time to time transfer to the disbursing agent under section 7(b)(4) amounts necessary to pay those benefits.".

(3) CONFORMING AMENDMENT.—Section 15A(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(d)(1)) is amended by striking the second and third sentences.

(d) DUAL BENEFITS PAYMENTS ACCOUNT.—Section 15(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(d)(1)) is amended by adding at the end the following new sentence: "The Secretary of the Treasury shall from time to time transfer from the Dual Benefits Payments Account to the disbursing agent under section 7(b)(4) amounts necessary to pay benefits payable from that Account.".

(e) CERTIFICATION BY THE BOARD AND PAYMENT.—Paragraph (4) of section 7(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(4)) is amended to read as follows:

"(4)(A) The Railroad Retirement Board, after consultation with the Board of Trustees of the National Railroad Retirement Investment Trust and the Secretary of the Treasury, shall enter into an arrangement with a nongovernmental financial institution to serve as disbursing agent for benefits payable under this Act who shall disburse consolidated benefits under this Act to each recipient. Pending the taking effect of that arrangement, benefits shall be paid as under the law in effect prior to the enactment of the Railroad Retirement and Survivors' Improvement Act of 2001.

"(B) The Board shall from time to time certify—

"(i) to the Secretary of the Treasury the amounts required to be transferred from the Social Security Equivalent Benefit Account and the Dual Benefits Payments Account to the disbursing agent to make payments of benefits and the Secretary of the Treasury shall transfer those amounts;

"(ii) to the Board of Trustees of the National Railroad Retirement Investment Trust the amounts required to be transferred from the National Railroad Retirement Investment Trust to the disbursing agent to make payments of benefits and the Board of Trustees shall transfer those amounts; and

"(iii) to the disbursing agent the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which the payment should be made.".

(f) BENEFIT PAYMENTS.—Section 7(c)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(1)) is amended—

(1) by striking "from the Railroad Retirement Account" and inserting "by the disbursing agent under subsection (b)(4) from money transferred to it from the National Railroad Retirement Investment Trust or the Social Security Equivalent Benefit Account, as the case may be"; and

(2) by inserting "by the disbursing agent under subsection (b)(4) from money transferred to it" after "Public Law 93-445 shall be made".

(g) TRANSITIONAL RULE FOR EXISTING OBLIGATION.—In making transfers under sections 15(k) and 15A(d)(2) of the Railroad Retirement Act of 1974, as amended by subsections (a) and (c), respectively, the Railroad Retirement Board shall consult with the Secretary of the Treasury to design an appropriate method to transfer obligations held as of the date of enactment of this Act or to convert such obligations to cash at the discretion of the Railroad Retirement Board prior to transfer. The National Railroad Retirement Investment Trust may hold to maturity any obligations so received or may redeem them prior to maturity, as the Trust deems appropriate.

SEC. 108. ANNUAL RATIO PROJECTIONS AND CERTIFICATIONS BY THE RAILROAD RETIREMENT BOARD.

(a) PROJECTIONS.—Section 22(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231u(a)(1)) is amended—

(1) by inserting after the first sentence the following new sentence: "On or before May 1 of each year beginning in 2003, the Railroad Retirement Board shall compute its projection of the account benefits ratio and the average account benefits ratio (as defined by section 3241(c) of the Internal Revenue Code of 1986) for each of the next succeeding five fiscal years."; and

(2) by striking "the projection prepared pursuant to the preceding sentence" and inserting "the projections prepared pursuant to the preceding two sentences".

(b) CERTIFICATIONS.—The Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) is amended by adding at the end the following new section:

"COMPUTATION AND CERTIFICATION OF ACCOUNT BENEFIT RATIOS

"SEC. 23. (a) INITIAL COMPUTATION AND CERTIFICATION.—On or before November 1, 2003, the Railroad Retirement Board shall—

"(1) compute the account benefits ratios for each of the most recent 10 preceding fiscal years, and

"(2) certify the account benefits ratios for each such fiscal year to the Secretary of the Treasury.

"(b) COMPUTATIONS AND CERTIFICATIONS AFTER 2003.—On or before November 1 of each year after 2003, the Railroad Retirement Board shall—

"(1) compute the account benefits ratio for the fiscal year ending in such year, and

"(2) certify the account benefits ratio for such fiscal year to the Secretary of the Treasury.

"(c) DEFINITION.—As used in this section, the term 'account benefits ratio' has the meaning given that term in section 3241(c) of the Internal Revenue Code of 1986.".

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 201. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Except as otherwise provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 202. EXEMPTION FROM TAX FOR NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.

Subsection (c) of section 501 is amended by adding at the end the following new paragraph:

"(28) The National Railroad Retirement Investment Trust established under section 15(j) of the Railroad Retirement Act of 1974.".

SEC. 203. REPEAL OF SUPPLEMENTAL ANNUITY TAX.

(a) REPEAL OF TAX ON EMPLOYEE REPRESENTATIVES.—Section 3211 is amended by striking subsection (b).

(b) REPEAL OF TAX ON EMPLOYERS.—Section 3221 is amended by striking subsections (c) and (d) and by redesignating subsection (e) as subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2001.

SEC. 204. EMPLOYER, EMPLOYEE REPRESENTATIVE, AND EMPLOYEE TIER 2 TAX RATE ADJUSTMENTS.

(a) RATE OF TAX ON EMPLOYERS.—Subsection (b) of section 3221 is amended to read as follows:

"(b) TIER 2 TAX.—

"(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the compensation paid during any calendar year by such employer for services rendered to such employer.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) 15.6 percent in the case of compensation paid during 2002,

"(B) 14.2 percent in the case of compensation paid during 2003, and

"(C) in the case of compensation paid during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.".

(b) RATE OF TAX ON EMPLOYEE REPRESENTATIVES.—Section 3211, as amended by section 203, is amended by striking subsection (a) and inserting the following new subsections:

"(a) TIER 1 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representative for services rendered by such employee representative. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year.

"(b) TIER 2 TAX.—

"(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representatives for services rendered by such employee representative.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) 14.75 percent in the case of compensation received during 2002,

"(B) 14.20 percent in the case of compensation received during 2003, and

"(C) in the case of compensation received during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.

"(c) CROSS REFERENCE.—

"For application of different contribution bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2).".

(c) RATE OF TAX ON EMPLOYEES.—Subsection (b) of section 3201 is amended to read as follows:

"(b) TIER 2 TAX.—

"(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the applicable percentage of the compensation received during any calendar year by such employee for services rendered by such employee.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) 4.90 percent in the case of compensation received during 2002 or 2003, and

"(B) in the case of compensation received during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.".

(d) DETERMINATION OF RATE.—Chapter 22 is amended by adding at the end the following new subchapter:

"Subchapter E—Tier 2 Tax Rate Determination

"Sec. 3241. Determination of tier 2 tax rate based on average account benefits ratio.

"SEC. 3241. DETERMINATION OF TIER 2 TAX RATE BASED ON AVERAGE ACCOUNT BENEFITS RATIO.

"(a) IN GENERAL.—For purposes of sections 3201(b), 3211(b), and 3221(b), the applicable percentage for any calendar year is the percentage determined in accordance with the table in subsection (b).

"(b) TAX RATE SCHEDULE.—

"Average account benefits ratio		Applicable percentage for sections 3211(b) and 3221(b)	Applicable percentage for section 3201(b)
At least	But less than		
	2.5	22.1	4.9
2.5	3.0	18.1	4.9
3.0	3.5	15.1	4.9
3.5	4.0	14.1	4.9
4.0	6.1	13.1	4.9
6.1	6.5	12.6	4.4
6.5	7.0	12.1	3.9
7.0	7.5	11.6	3.4
7.5	8.0	11.1	2.9
8.0	8.5	10.1	1.9
8.5	9.0	9.1	0.9
9.0		8.2	0

"(c) DEFINITIONS RELATED TO DETERMINATION OF RATES OF TAX.—

"(1) AVERAGE ACCOUNT BENEFITS RATIO.—For purposes of this section, the term 'average account benefits ratio' means, with respect to any calendar year, the average determined by the Secretary of the account benefits ratios for the 10 most recent fiscal years ending before such calendar year. If the amount determined under the preceding sentence is not a multiple of 0.1, such amount shall be increased to the next highest multiple of 0.1.

"(2) ACCOUNT BENEFITS RATIO.—For purposes of this section, the term 'account benefits ratio' means, with respect to any fiscal year, the amount determined by the Railroad Retirement Board by dividing the fair market value of the assets in the Railroad Retirement Account and of the National Railroad Retirement Investment Trust (and for years before 2002, the Social Security Equivalent Benefits Account) as of the close of such fiscal year by the total benefits and administrative expenses paid from the Railroad Retirement Account and the National Railroad Retirement Investment Trust during such fiscal year.

"(d) NOTICE.—No later than December 1 of each calendar year, the Secretary shall publish a notice in the Federal Register of the rates of tax determined under this section which are applicable for the following calendar year.".

(e) CONFORMING AMENDMENTS.—

(1) Section 24(d)(3)(A)(iii) is amended by striking "section 3211(a)(1)" and inserting "section 3211(a)".

(2) Section 72(r)(2)(B)(i) is amended by striking "3211(a)(2)" and inserting "3211(b)".

(3) Paragraphs (2)(A)(iii)(II) and (4)(A) of section 3231(e) are amended by striking "3211(a)(1)" and inserting "3211(a)".

(4) Section 3231(e)(2)(B)(ii)(I) is amended by striking "3211(a)(2)" and inserting "3211(b)".

(5) The table of subchapters for chapter 22 is amended by adding at the end the following new item:

"Subchapter E. Tier 2 tax rate determination.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2001.

Amend the title so as to read: "An Act to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.".

SA 2171. Mr. LOTT (for himself, Mr. MURKOWSKI, and Mr. BROWNBACK) proposed an amendment to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; as follows:

At the appropriate place, insert the following and redesignate accordingly:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Securing America's Future Energy Act of 2001" or the "SAFE Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Energy policy.

DIVISION A

Sec. 100. Short title.

TITLE I—ENERGY CONSERVATION

Subtitle A—Reauthorization of Federal Energy Conservation Programs

Sec. 101. Authorization of appropriations.

Subtitle B—Federal Leadership in Energy Conservation

Sec. 121. Federal facilities and national energy security.
Sec. 122. Enhancement and extension of authority relating to Federal energy savings performance contracts.
Sec. 123. Clarification and enhancement of authority to enter utility incentive programs for energy savings.
Sec. 124. Federal central air conditioner and heat pump efficiency.
Sec. 125. Advanced building efficiency testbed.
Sec. 126. Use of interval data in Federal buildings.
Sec. 127. Review of Energy Savings Performance Contract program.
Sec. 128. Capitol complex.

Subtitle C—State Programs

Sec. 131. Amendments to State energy programs.
Sec. 132. Reauthorization of energy conservation program for schools and hospitals.
Sec. 133. Amendments to Weatherization Assistance Program.
Sec. 134. LIHEAP.
Sec. 135. High performance public buildings.

Subtitle D—Energy Efficiency for Consumer Products

Sec. 141. Energy Star program.
Sec. 141A. Energy sun renewable and alternative energy program.
Sec. 142. Labeling of energy efficient appliances.
Sec. 143. Appliance standards.

Subtitle E—Energy Efficient Vehicles

Sec. 151. High occupancy vehicle exception.
Sec. 152. Railroad efficiency.
Sec. 153. Biodiesel fuel use credits.
Sec. 154. Mobile to stationary source trading.

Subtitle F—Other Provisions

Sec. 161. Review of regulations to eliminate barriers to emerging energy technology.
Sec. 162. Advanced idle elimination systems.
Sec. 163. Study of benefits and feasibility of oil bypass filtration technology.
Sec. 164. Gas flare study.
Sec. 165. Telecommuting study.

TITLE II—AUTOMOBILE FUEL ECONOMY

Sec. 201. Average fuel economy standards for nonpassenger automobiles.
Sec. 202. Consideration of prescribing different average fuel economy standards for nonpassenger automobiles.
Sec. 203. Dual fueled automobiles.
Sec. 204. Fuel economy of the Federal fleet of automobiles.
Sec. 205. Hybrid vehicles and alternative vehicles.
Sec. 206. Federal fleet petroleum-based nonalternative fuels.
Sec. 207. Study of feasibility and effects of reducing use of fuel for automobiles.

TITLE III—NUCLEAR ENERGY

Sec. 301. License period.
Sec. 302. Cost recovery from Government agencies.
Sec. 303. Depleted uranium hexafluoride.
Sec. 304. Nuclear Regulatory Commission meetings.
Sec. 305. Cooperative research and development and special demonstration projects for the uranium mining industry.
Sec. 306. Maintenance of a viable domestic uranium conversion industry.
Sec. 307. Paducah decontamination and decommissioning plan.
Sec. 308. Study to determine feasibility of developing commercial nuclear energy production facilities at existing department of energy sites.
Sec. 309. Prohibition of commercial sales of uranium by the United States until 2009.

TITLE IV—HYDROELECTRIC ENERGY

Sec. 401. Alternative conditions and fishways.
Sec. 402. FERC data on hydroelectric licensing.

TITLE V—FUELS

Sec. 501. Tank draining during transition to summertime RFG.
Sec. 502. Gasoline blendstock requirements.
Sec. 503. Boutique fuels.
Sec. 504. Funding for MTBE contamination.

TITLE VI—RENEWABLE ENERGY

Sec. 601. Assessment of renewable energy resources.
Sec. 602. Renewable energy production incentive.
Sec. 603. Study of ethanol from solid waste loan guarantee program.
Sec. 604. Study of renewable fuel content.

TITLE VII—PIPELINES

Sec. 701. Prohibition on certain pipeline route.
Sec. 702. Historic pipelines.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Waste reduction and use of alternatives.
Sec. 802. Annual report on United States energy independence.
Sec. 803. Study of aircraft emissions.

DIVISION B

Sec. 2001. Short title.
Sec. 2002. Findings.
Sec. 2003. Purposes.
Sec. 2004. Goals.
Sec. 2005. Definitions.
Sec. 2006. Authorizations.
Sec. 2007. Balance of funding priorities.

TITLE I—ENERGY CONSERVATION AND ENERGY EFFICIENCY

Subtitle A—Alternative Fuel Vehicles

Sec. 2101. Short title.
Sec. 2102. Definitions.
Sec. 2103. Pilot program.
Sec. 2104. Reports to Congress.
Sec. 2105. Authorization of appropriations.

Subtitle B—Distributed Power Hybrid Energy Systems

Sec. 2121. Findings.
Sec. 2122. Definitions.
Sec. 2123. Strategy.
Sec. 2124. High power density industry program.
Sec. 2125. Micro-cogeneration energy technology.
Sec. 2126. Program plan.
Sec. 2127. Report.
Sec. 2128. Voluntary consensus standards.

Subtitle C—Secondary Electric Vehicle Battery Use

Sec. 2131. Definitions.
Sec. 2132. Establishment of secondary electric vehicle battery use program.
Sec. 2133. Authorization of appropriations.

Subtitle D—Green School Buses

Sec. 2141. Short title.
Sec. 2142. Establishment of pilot program.
Sec. 2143. Fuel cell bus development and demonstration program.
Sec. 2144. Authorization of appropriations.

Subtitle E—Next Generation Lighting Initiative

Sec. 2151. Short title.
Sec. 2152. Definition.
Sec. 2153. Next Generation Lighting Initiative.
Sec. 2154. Study.
Sec. 2155. Grant program.

Subtitle F—Department of Energy Authorization of Appropriations

Sec. 2161. Authorization of appropriations.

Subtitle G—Environmental Protection Agency Office of Air and Radiation Authorization of Appropriations

Sec. 2171. Short title.
Sec. 2172. Authorization of appropriations.
Sec. 2173. Limits on use of funds.
Sec. 2174. Cost sharing.
Sec. 2175. Limitation on demonstration and commercial applications of energy technology.
Sec. 2176. Reprogramming.
Sec. 2177. Budget request format.
Sec. 2178. Other provisions.

Subtitle H—National Building Performance Initiative

Sec. 2181. National Building Performance Initiative.

TITLE II—RENEWABLE ENERGY

Subtitle A—Hydrogen

Sec. 2201. Short title.
Sec. 2202. Purposes.
Sec. 2203. Definitions.
Sec. 2204. Reports to Congress.
Sec. 2205. Hydrogen research and development.
Sec. 2206. Demonstrations.
Sec. 2207. Technology transfer.
Sec. 2208. Coordination and consultation.
Sec. 2209. Advisory Committee.
Sec. 2210. Authorization of appropriations.
Sec. 2211. Repeal.

Subtitle B—Bioenergy

Sec. 2221. Short title.
Sec. 2222. Findings.
Sec. 2223. Definitions.
Sec. 2224. Authorization.
Sec. 2225. Authorization of appropriations.

Subtitle C—Transmission Infrastructure Systems

Sec. 2241. Transmission infrastructure systems research, development, demonstration, and commercial application.
Sec. 2242. Program plan.
Sec. 2243. Report.

Subtitle D—Department of Energy Authorization of Appropriations

Sec. 2261. Authorization of appropriations.

TITLE III—NUCLEAR ENERGY

Subtitle A—University Nuclear Science and Engineering

Sec. 2301. Short title.
Sec. 2302. Findings.
Sec. 2303. Department of Energy program.
Sec. 2304. Authorization of appropriations.

Subtitle B—Advanced Fuel Recycling Technology Research and Development Program

Sec. 2321. Program.

Subtitle C—Department of Energy Authorization of Appropriations

Sec. 2341. Nuclear Energy Research Initiative.
Sec. 2342. Nuclear Energy Plant Optimization program.
Sec. 2343. Nuclear energy technologies.
Sec. 2344. Authorization of appropriations.

TITLE IV—FOSSIL ENERGY

Subtitle A—Coal

Sec. 2401. Coal and related technologies programs.

Subtitle B—Oil and Gas

Sec. 2421. Petroleum-oil technology.
Sec. 2422. Gas.
Sec. 2423. Natural gas and oil deposits report.
Sec. 2424. Oil shale research.

Subtitle C—Ultra-Deepwater and Unconventional Drilling

Sec. 2441. Short title.
Sec. 2442. Definitions.
Sec. 2443. Ultra-deepwater program.
Sec. 2444. National Energy Technology Laboratory.
Sec. 2445. Advisory Committee.
Sec. 2446. Research Organization.
Sec. 2447. Grants.
Sec. 2448. Plan and funding.
Sec. 2449. Audit.
Sec. 2450. Fund.
Sec. 2451. Sunset.

Subtitle D—Fuel Cells

Sec. 2461. Fuel cells.

Subtitle E—Department of Energy Authorization of Appropriations

Sec. 2481. Authorization of appropriations.

TITLE V—SCIENCE

Subtitle A—Fusion Energy Sciences

Sec. 2501. Short title.
Sec. 2502. Findings.
Sec. 2503. Plan for fusion experiment.
Sec. 2504. Plan for fusion energy sciences program.
Sec. 2505. Authorization of appropriations.

Subtitle B—Spallation Neutron Source

Sec. 2521. Definition.
Sec. 2522. Authorization of appropriations.
Sec. 2523. Report.
Sec. 2524. Limitations.

Subtitle C—Facilities, Infrastructure, and User Facilities

Sec. 2541. Definition.
Sec. 2542. Facility and infrastructure support for nonmilitary energy laboratories.
Sec. 2543. User facilities.

Subtitle D—Advisory Panel on Office of Science

Sec. 2561. Establishment.
Sec. 2562. Report.

Subtitle E—Department of Energy Authorization of Appropriations

Sec. 2581. Authorization of appropriations.

TITLE VI—MISCELLANEOUS

Subtitle A—General Provisions for the Department of Energy

Sec. 2601. Research, development, demonstration, and commercial application of energy technology programs, projects, and activities.
Sec. 2602. Limits on use of funds.
Sec. 2603. Cost sharing.
Sec. 2604. Limitation on demonstration and commercial application of energy technology.
Sec. 2605. Reprogramming.

Subtitle B—Other Miscellaneous Provisions

Sec. 2611. Notice of reorganization.
Sec. 2612. Limits on general plant projects.
Sec. 2613. Limits on construction projects.
Sec. 2614. Authority for conceptual and construction design.
Sec. 2615. National Energy Policy Development Group mandated reports.
Sec. 2616. Periodic reviews and assessments.

DIVISION D

Sec. 4101. Capacity building for energy-efficient, affordable housing.
Sec. 4102. Increase of CDBG public services cap for energy conservation and efficiency activities.
Sec. 4103. FHA mortgage insurance incentives for energy efficient housing.
Sec. 4104. Public housing capital fund.
Sec. 4105. Grants for energy-conserving improvements for assisted housing.
Sec. 4106. North American Development Bank.

DIVISION E

Sec. 5000. Short title.
Sec. 5001. Findings.
Sec. 5002. Definitions.
Sec. 5003. Clean coal power initiative.
Sec. 5004. Cost and performance goals.
Sec. 5005. Authorization of appropriations.
Sec. 5006. Project criteria.
Sec. 5007. Study.
Sec. 5008. Clean coal centers of excellence.

DIVISION F

Sec. 6000. Short title.

TITLE I—GENERAL PROTECTIONS FOR ENERGY SUPPLY AND SECURITY

Sec. 6101. Study of existing rights-of-way on Federal lands to determine capability to support new pipelines or other transmission facilities.
Sec. 6102. Inventory of energy production potential of all Federal public lands.
Sec. 6103. Review of regulations to eliminate barriers to emerging energy technology.
Sec. 6104. Interagency agreement on environmental review of interstate natural gas pipeline projects.
Sec. 6105. Enhancing energy efficiency in management of Federal lands.
Sec. 6106. Efficient infrastructure development.

TITLE II—OIL AND GAS DEVELOPMENT

Subtitle A—Offshore Oil and Gas

Sec. 6201. Short title.
Sec. 6202. Lease sales in Western and Central Planning Area of the Gulf of Mexico.
Sec. 6203. Savings clause.
Sec. 6204. Analysis of Gulf of Mexico field size distribution, international competitiveness, and incentives for development.

Subtitle B—Improvements to Federal Oil and Gas Management

Sec. 6221. Short title.
Sec. 6222. Study of impediments to efficient lease operations.
Sec. 6223. Elimination of unwarranted denials and stays.
Sec. 6224. Limitations on cost recovery for applications.
Sec. 6225. Consultation with Secretary of Agriculture.

Subtitle C—Miscellaneous

Sec. 6231. Offshore subsalt development.
Sec. 6232. Program on oil and gas royalties in kind.
Sec. 6233. Marginal well production incentives.
Sec. 6234. Reimbursement for costs of NEPA analyses, documentation, and studies.
Sec. 6235. Encouragement of State and provincial prohibitions on offshore drilling in the Great Lakes.

TITLE III—GEOTHERMAL ENERGY DEVELOPMENT

Sec. 6301. Royalty reduction and relief.
Sec. 6302. Exemption from royalties for direct use of low temperature geothermal energy resources.
Sec. 6303. Amendments relating to leasing on Forest Service lands.
Sec. 6304. Deadline for determination on pending noncompetitive lease applications.

Sec. 6305. Opening of public lands under military jurisdiction.
Sec. 6306. Application of amendments.
Sec. 6307. Review and report to Congress.
Sec. 6308. Reimbursement for costs of NEPA analyses, documentation, and studies.

TITLE IV—HYDROPOWER

Sec. 6401. Study and report on increasing electric power production capability of existing facilities.
Sec. 6402. Installation of powerformer at Folsom power plant, California.
Sec. 6403. Study and implementation of increased operational efficiencies in hydroelectric power projects.
Sec. 6404. Shift of project loads to off-peak periods.

TITLE V—ARCTIC COASTAL PLAIN DOMESTIC ENERGY

Sec. 6501. Short title.
Sec. 6502. Definitions.
Sec. 6503. Leasing program for lands within the Coastal Plain.
Sec. 6504. Lease sales.
Sec. 6505. Grant of leases by the Secretary.
Sec. 6506. Lease terms and conditions.
Sec. 6507. Coastal Plain environmental protection.
Sec. 6508. Expedited judicial review.
Sec. 6509. Rights-of-way across the Coastal Plain.
Sec. 6510. Conveyance.
Sec. 6511. Local government impact aid and community service assistance.
Sec. 6512. Revenue allocation.

TITLE VI—CONSERVATION OF ENERGY BY THE DEPARTMENT OF THE INTERIOR

Sec. 6601. Energy conservation by the Department of the Interior.
Sec. 6602. Amendment to Buy Indian Act.

TITLE VII—COAL

Sec. 6701. Limitation on fees with respect to coal lease applications and documents.
Sec. 6702. Mining plans.
Sec. 6703. Payment of advance royalties under coal leases.
Sec. 6704. Elimination of deadline for submission of coal lease operation and reclamation plan.

TITLE VIII—INSULAR AREAS ENERGY SECURITY

Sec. 6801. Insular areas energy security.

DIVISION G

Sec. 7101. Buy American.

SEC. 2. ENERGY POLICY.

It shall be the sense of the Congress that the United States should take all actions necessary in the areas of conservation, efficiency, alternative source, technology development, and domestic production to reduce the United States dependence on foreign energy sources from 56 percent to 45 percent by January 1, 2012, and to reduce United States dependence on Iraqi energy sources from 700,000 barrels per day to 250,000 barrels per day by January 1, 2012.

DIVISION A

SEC. 100. SHORT TITLE.

This division may be cited as the "Energy Advancement and Conservation Act of 2001".

TITLE I—ENERGY CONSERVATION

Subtitle A—Reauthorization of Federal Energy Conservation Programs

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 660 of the Department of Energy Organization Act (42 U.S.C. 7270) is amended as follows:

(1) By inserting "(a)" before "Appropriations".

(2) By inserting at the end the following new subsection:

"(b) There are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002, $950,000,000; for fiscal year 2003, $1,000,000,000; for fiscal year 2004, $1,050,000,000; for fiscal year 2005, $1,100,000,000; and for fiscal year 2006, $1,150,000,000, to carry out energy efficiency activities under the following laws, such sums to remain available until expended:

"(1) Energy Policy and Conservation Act, including section 256(d)(42 U.S.C. 6276(d)) (promote export of energy efficient products), sections 321 through 346 (42 U.S.C. 6291–6317) (appliances program).

"(2) Energy Conservation and Production Act, including sections 301 through 308 (42 U.S.C. 6831–6837) (energy conservation standards for new buildings).

"(3) National Energy Conservation Policy Act, including sections 541–551 (42 U.S.C. 8251–8259) (Federal Energy Management Program).

"(4) Energy Policy Act of 1992, including sections 103 (42 U.S.C. 13458) (energy efficient lighting and building centers), 121 (42 U.S.C. 6292 note) (energy efficiency labeling for windows and window systems), 125 (42 U.S.C. 6292 note) (energy efficiency information for commercial office equipment), 126 (42 U.S.C. 6292 note) (energy efficiency information for luminaires), 131 (42 U.S.C. 6348) (energy efficiency in industrial facilities), and 132 (42 U.S.C. 6349) (process-oriented industrial energy efficiency).".

Subtitle B—Federal Leadership in Energy Conservation

SEC. 121. FEDERAL FACILITIES AND NATIONAL ENERGY SECURITY.

(a) Purpose.—Section 542 of the National Energy Conservation Policy Act (42 U.S.C. 8252) is amended by inserting ", and generally to promote the production, supply, and marketing of energy efficiency products and services and the production, supply, and marketing of unconventional and renewable energy resources" after "by the Federal Government".

(b) Energy Management Requirements.—Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended as follows:

(1) In subsection (a)(1), by striking "during the fiscal year 1995" and all that follows through the end and inserting "during—

"(1) fiscal year 1995 is at least 10 percent;
"(2) fiscal year 2000 is at least 20 percent;
"(3) fiscal year 2005 is at least 30 percent;
"(4) fiscal year 2010 is at least 35 percent;
"(5) fiscal year 2015 is at least 40 percent; and
"(6) fiscal year 2020 is at least 45 percent,

less than the energy consumption per gross square foot of its Federal buildings in use during fiscal year 1985. To achieve the reductions required by this paragraph, an agency shall make maximum practicable use of energy efficiency products and services and unconventional and renewable energy resources, using guidelines issued by the Secretary under subsection (d) of this section.".

(2) In subsection (d), by inserting "Such guidelines shall include appropriate model technical standards for energy efficiency and unconventional and renewable energy resources products and services. Such standards shall reflect, to the extent practicable, evaluation of both currently marketed and potentially marketable products and services that could be used by agencies to improve energy efficiency and increase unconventional and renewable energy resources." after "implementation of this part.".

(3) By adding at the end the following new subsection:

"(e) Studies.—To assist in developing the guidelines issued by the Secretary under subsection (d) and in furtherance of the purposes of this section, the Secretary shall conduct studies to identify and encourage the production and marketing of energy efficiency products and services and unconventional and renewable energy resources. To conduct such studies, and to provide grants to accelerate the use of unconventional and renewable energy, there are authorized to be appropriated to the Secretary $20,000,000 for each of the fiscal years 2003 through 2010.".

(c) Definition.—Section 551 of the National Energy Conservation Policy Act (42 U.S.C. 8259) is amended as follows:

(1) By striking "and" at the end of paragraph (8).

(2) By striking the period at the end of paragraph (9) and inserting "; and".

(3) By adding at the end the following new paragraph:

"(10) the term 'unconventional and renewable energy resources' includes renewable energy sources, hydrogen, fuel cells, cogeneration, combined heat and power, heat recovery (including by use of a Stirling heat engine), and distributed generation.".

(d) Exclusions From Requirement.—The National Energy Conservation Policy Act (42 U.S.C. 7201 and following) is amended as follows:

(1) In section 543(a)—

(A) by striking "(1) Subject to paragraph (2)" and inserting "Subject to subsection (c)"; and

(B) by striking "(2) An agency" and all that follows through "such exclusion.".

(2) By amending subsection (c) of such section 543 to read as follows:

"(c) Exclusions.—(1) A Federal building may be excluded from the requirements of subsections (a) and (b) only if—

"(A) the President declares the building to require exclusion for national security reasons; and

"(B) the agency responsible for the building has—

"(i) completed and submitted all federally required energy management reports; and

"(ii) achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executive Orders, and other Federal law;

"(iii) implemented all practical, life cycle cost-effective projects in the excluded building.

"(2) The President shall only declare buildings described in paragraph (1)(A) to be excluded, not ancillary or nearby facilities that are not in themselves national security facilities.".

(3) In section 548(b)(1)(A)—

(A) by striking "copy of the"; and

(B) by striking "sections 543(a)(2) and 543(c)(3)" and inserting "section 543(c)".

(e) Acquisition Requirement.—Section 543(b) of such Act is amended—

(1) in paragraph (1), by striking "(1) Not" and inserting "(1) Except as provided in paragraph (5), not"; and

(2) by adding at the end the following new paragraph:

"(5)(A)(i) Agencies shall select only Energy Star products when available when acquiring energy-using products. For product groups where Energy Star labels are not yet available, agencies shall select products that are in the upper 25 percent of energy efficiency as designated by FEMP. In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficiency motors that meet a standard designated by the Secretary, and shall replace (not rewind) failed motors with motors meeting such standard. The Secretary shall designate such standard within 90 days of the enactment of paragraph, after considering recommendations by the National Electrical Manufacturers Association. The Secretary of Energy shall develop guidelines within 180 days after the enactment of this paragraph for exemptions to this section when equivalent products do not exist, are impractical, or do not meet the agency mission requirements.

"(ii) The Administrator of the General Services Administration and the Secretary of Defense (acting through the Defense Logistics Agency), with assistance from the Administrator of the Environmental Protection Agency and the Secretary of Energy, shall create clear catalogue listings that designate Energy Star products in both print and electronic formats. After any existing federal inventories are exhausted, Administrator of the General Services Administration and the Secretary of Defense (acting through the Defense Logistics Agency) shall only replace inventories with energy-using products that are Energy Star, products that are rated in the top 25 percent of energy efficiency, or products that are exempted as designated by FEMP and defined in clause (i).

"(iii) Agencies shall incorporate energy-efficient criteria consistent with Energy Star and other FEMP designated energy efficiency levels into all guide specifications and project specifications developed for new construction and renovation, as well as into product specification language developed for Basic Ordering Agreements, Blanket Purchasing Agreements, Government Wide Acquisition Contracts, and all other purchasing procedures.

"(iv) The legislative branch shall be subject to this subparagraph to the same extent and in the same manner as are the Federal agencies referred to in section 521(1).

"(B) Not later than 6 months after the date of the enactment of this paragraph, the Secretary of Energy shall establish guidelines defining the circumstances under which an agency shall not be required to comply with subparagraph (A). Such circumstances may include the absence of Energy Star products, systems, or designs that serve the purpose of the agency, issues relating to the compatibility of a product, system, or design with existing buildings or equipment, and excessive cost compared to other available and appropriate products, systems, or designs.

"(C) Subparagraph (A) shall apply to agency acquisitions occurring on or after October 1, 2002.".

(f) METERING.—Section 543 of such Act (42 U.S.C. 8254) is amended by adding at the end the following new subsection:

"(f) METERING.—(1) By October 1, 2004, all Federal buildings including buildings owned by the legislative branch and the Federal court system and other energy-using structures shall be metered or submetered in accordance with guidelines established by the Secretary under paragraph (2).

"(2) Not later than 6 months after the date of the enactment of this subsection, the Secretary, in consultation with the General Services Administration and representatives from the metering industry, energy services industry, national laboratories, colleges of higher education, and federal facilities energy managers, shall establish guidelines for agencies to carry out paragraph (1). Such guidelines shall take into consideration each of the following:

"(A) Cost.

"(B) Resources, including personnel, required to maintain, interpret, and report on data so that the meters are continually reviewed.

"(C) Energy management potential.

"(D) Energy savings.

"(E) Utility contract aggregation.

"(F) Savings from operations and maintenance.

"(3) A building shall be exempt from the requirement of this section to the extent that compliance is deemed impractical by the Secretary. A finding of impracticability shall be based on the same factors as identified in subsection (c) of this section.".

(g) RETENTION OF ENERGY SAVINGS.—Section 546 of such Act (42 U.S.C. 8256) is amended by adding at the end the following new subsection:

"(e) RETENTION OF ENERGY SAVINGS.—An agency may retain any funds appropriated to that agency for energy expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings. Except as otherwise provided by law, such funds may be used only for energy efficiency or unconventional and renewable energy resources projects.".

(h) REPORTS.—Section 548 of such Act (42 U.S.C. 8258) is amended as follows:

(1) In subsection (a)—

(A) by inserting "in accordance with guidelines established by and" after "to the Secretary,";

(B) by striking "and" at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(D) by adding at the end the following new paragraph:

"(3) an energy emergency response plan developed by the agency.".

(2) In subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) all information transmitted to the Secretary under subsection (a).".

(3) By amending subsection (c) to read as follows:

"(c) AGENCY REPORTS TO CONGRESS.—Each agency shall annually report to the Congress, as part of the agency's annual budget request, on all of the agency's activities implementing any Federal energy management requirement.".

(i) INSPECTOR GENERAL ENERGY AUDITS.—Section 160(c) of the Energy Policy Act of 1992 (42 U.S.C. 8262f(c)) is amended by striking "is encouraged to conduct periodic" and inserting "shall conduct periodic".

(j) FEDERAL ENERGY MANAGEMENT REVIEWS.—Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

"(g) PRIORITY RESPONSE REVIEWS.—Each agency shall—

"(1) not later than 9 months after the date of the enactment of this subsection, undertake a comprehensive review of all practicable measures for—

"(A) increasing energy and water conservation, and

"(B) using renewable energy sources; and

"(2) not later than 180 days after completing the review, develop plans to achieve not less than 50 percent of the potential efficiency and renewable savings identified in the review.

The agency shall implement such measures as soon thereafter as is practicable, consistent with compliance with the requirements of this section.".

SEC. 122. ENHANCEMENT AND EXTENSION OF AUTHORITY RELATING TO FEDERAL ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) EXPANSION OF DEFINITION OF ENERGY SAVINGS TO INCLUDE WATER AND REPLACEMENT FACILITIES.—

(1) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

"(2) The term 'energy savings' means a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

"(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

"(ii) the increased efficient use of existing energy sources by solar and ground source geothermal resources, cogeneration or heat recovery (including by the use of a Stirling heat engine), excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

"(iii) the increased efficient use of existing water sources.

(2) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

"(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations.".

(3) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

"(4) The term 'energy or water conservation measure' means—

"(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

"(B) a water conservation measure that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.".

(4) CONFORMING AMENDMENT.—Section 801(a)(2)(C) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(C)) is amended by inserting "or water" after "financing energy".

(b) EXTENSION OF AUTHORITY.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

(c) CONTRACTING AND AUDITING.—Section 801(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)) is amended by adding at the end the following new subparagraph:

"(E) A Federal agency shall engage in contracting and auditing to implement energy savings performance contracts as necessary and appropriate to ensure compliance with the requirements of this Act, particularly the energy efficiency requirements of section 543.".

SEC. 123. CLARIFICATION AND ENHANCEMENT OF AUTHORITY TO ENTER UTILITY INCENTIVE PROGRAMS FOR ENERGY SAVINGS.

Section 546(c) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)) is amended as follows:

(1) In paragraph (3) by adding at the end the following: "Such a utility incentive program may include a contract or contract term designed to provide for cost-effective electricity demand management, energy efficiency, or water conservation.".

(2) By adding at the end of the following new paragraphs:

"(6) Federal agencies are encouraged to participate in State or regional demand side reduction programs, including those operated by wholesale market institutions such as independent system operators, regional transmission organizations and other entities. The availability of such programs, and the savings resulting from such participation, should be included in the evaluation of energy options for Federal facilities.".

SEC. 124. FEDERAL CENTRAL AIR CONDITIONER AND HEAT PUMP EFFICIENCY.

(a) Requirement.—Federal agencies shall be required to acquire central air conditioners and heat pumps that meet or exceed the standards established under subsection (b) or (c) in the case of all central air conditioners and heat pumps acquired after the date of the enactment of this Act.

(b) Standards.—The standards referred to in subsection (a) are the following:

(1) For air-cooled air conditioners with cooling capacities of less than 65,000 Btu/hour, a Seasonal Energy Efficiency Ratio of 12.0.

(2) For air-source heat pumps with cooling capacities less than 65,000 Btu/hour, a Seasonal Energy Efficiency Ratio of 12 SEER, and a Heating Seasonal Performance Factor of 7.4.

(c) Modified Standards.—The Secretary of Energy may establish, after appropriate notice and comment, revised standards providing for reduced energy consumption or increased energy efficiency of central air conditioners and heat pumps acquired by the Federal Government, but may not establish standards less rigorous than those established by subsection (b).

(d) Definitions.—For purposes of this section, the terms "Energy Efficiency Ratio", "Seasonal Energy Efficiency Ratio", "Heating Seasonal Performance Factor", and "Coefficient of Performance" have the meanings used for those terms in Appendix M to Subpart B of Part 430 of title 10 of the Code of Federal Regulations, as in effect on May 24, 2001.

(e) Exemptions.—An agency shall be exempt from the requirements of this section with respect to air conditioner or heat pump purchases for particular uses where the agency head determines that purchase of a air conditioner or heat pump for such use would be impractical. A finding of impracticability shall be based on whether—

(1) the energy savings pay-back period for such purchase would be less than 10 years;

(2) space constraints or other technical factors would make compliance with this section cost-prohibitive; or

(3) in the case of the Departments of Defense and Energy, compliance with this section would be inconsistent with the proper discharge of national security functions.

SEC. 125. ADVANCED BUILDING EFFICIENCY TESTBED.

(a) Establishment.—The Secretary of Energy shall establish an Advanced Building Efficiency Testbed program for the development, testing, and demonstration of advanced engineering systems, components, and materials to enable innovations in building technologies. The program shall evaluate government and industry building efficiency concepts, and demonstrate the ability of next generation buildings to support individual and organizational productivity and health as well as flexibility and technological change to improve environmental sustainability.

(b) Participants.—The program established under subsection (a) shall be led by a university having demonstrated experience with the application of intelligent workplaces and advanced building systems in improving the quality of built environments. Such university shall also have the ability to combine the expertise from more than 12 academic fields, including electrical and computer engineering, computer science, architecture, urban design, and environmental and mechanical engineering. Such university shall partner with other universities and entities who have established programs and the capability of advancing innovative building efficiency technologies.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Energy to carry out this section $18,000,000 for fiscal year 2002, to remain available until expended, of which $6,000,000 shall be provided to the lead university described in subsection (b), and the remainder shall be provided equally to each of the other participants referred to in subsection (b).

SEC. 126. USE OF INTERVAL DATA IN FEDERAL BUILDINGS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following new subsection:

"(h) Use of Interval Data in Federal Buildings.—Not later than January 1, 2003, each agency shall utilize, to the maximum extent practicable, for the purposes of efficient use of energy and reduction in the cost of electricity consumed in its Federal buildings, interval consumption data that measure on a real time or daily basis consumption of electricity in its Federal buildings. To meet the requirements of this subsection each agency shall prepare and submit at the earliest opportunity pursuant to section 548(a) to the Secretary, a plan describing how the agency intends to meet such requirements, including how it will designate personnel primarily responsible for achieving such requirements, and otherwise implement this subsection.".

SEC. 127. REVIEW OF ENERGY SAVINGS PERFORMANCE CONTRACT PROGRAM.

Within 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, and energy efficiency services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

SEC. 128. CAPITOL COMPLEX.

(a) Energy Infrastructure.—The Architect of the Capitol, building on the Master Plan Study completed in July 2000, shall commission a study to evaluate the energy infrastructure of the Capital Complex to determine how the infrastructure could be augmented to become more energy efficient, using unconventional and renewable energy resources, in a way that would enable the Complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

(b) Authorization.—There is authorized to be appropriated to the Architect of the Capitol to carry out this section, not more than $2,000,000 for fiscal years after the enactment of this Act.

Subtitle C—State Programs

SEC. 131. AMENDMENTS TO STATE ENERGY PROGRAMS.

(a) State Energy Conservation Plans.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

"(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.".

(b) State Energy Efficiency Goals.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended by inserting "Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of the enactment of Energy Advancement and Conservation Act of 2001, shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2010 as compared to the calendar year 1990, and may contain interim goals." after "contain interim goals.".

(c) Authorization of Appropriations.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking "for fiscal years 1999 through 2003 such sums as may be necessary" and inserting "$75,000,000 for fiscal year 2002, $100,000,000 for fiscal years 2003 and 2004, $125,000,000 for fiscal year 2005".

SEC. 132. REAUTHORIZATION OF ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.

Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended by striking "2003" and inserting "2010".

SEC. 133. AMENDMENTS TO WEATHERIZATION ASSISTANCE PROGRAM.

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking "for fiscal years 1999 through 2003 such sums as may be necessary" and inserting "$273,000,000 for fiscal year 2002, $325,000,000 for fiscal year 2003, $400,000,000 for fiscal year 2004, and $500,000,000 for fiscal year 2005".

SEC. 134. LIHEAP.

(a) Authorization of Appropriations.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking the first sentence and inserting the following: "There are authorized to be appropriated to carry out the provisions of this title (other than section

2607A), $3,400,000,000 for each of fiscal years 2001 through 2005.".

(b) GAO Study.—The Comptroller General of the United States shall conduct a study to determine—

(1) the extent to which Low-Income Home Energy Assistance (LIHEAP) and other government energy subsidies paid to consumers discourage or encourage energy conservation and energy efficiency investments when compared to structures of the same physical description and occupancy in compatible geographic locations;

(2) the extent to which education could increase the conservation of low-income households who opt to receive supplemental income instead of Low-Income Home Energy Assistance funds;

(3) the benefit in energy efficiency and energy savings that can be achieved through the annual maintenance of heating and cooling appliances in the homes of those receiving Low-Income Home Energy Assistance funds; and

(4) the loss of energy conservation that results from structural inadequacies in a structure that is unhealthy, not energy efficient, and environmentally unsound and that receives Low-Income Home Energy Assistance funds for weatherization.

SEC. 135. HIGH PERFORMANCE PUBLIC BUILDINGS.

(a) Program Establishment and Administration.—

(1) Establishment.—There is established in the Department of Energy the High Performance Public Buildings Program (in this section referred to as the "Program").

(2) In general.—The Secretary of Energy may, through the Program, make grants—

(A) to assist units of local government in the production, through construction or renovation of buildings and facilities they own and operate, of high performance public buildings and facilities that are healthful, productive, energy efficient, and environmentally sound;

(B) to State energy offices to administer the program of assistance to units of local government pursuant to this section; and

(C) to State energy offices to promote participation by units of local government in the Program.

(3) Grants to assist units of local government.—Grants under paragraph (2)(A) for new public buildings shall be used to achieve energy efficiency performance that reduces energy use at least 30 percent below that of a public building constructed in compliance with standards prescribed in Chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent results. Grants under paragraph (2)(A) for existing public buildings shall be used to achieve energy efficiency performance that reduces energy use below the public building baseline consumption, assuming a 3-year, weather-normalized average for calculating such baseline. Grants under paragraph (2)(A) shall be made to units of local government that have—

(A) demonstrated a need for such grants in order to respond appropriately to increasing population or to make major investments in renovation of public buildings; and

(B) made a commitment to use the grant funds to develop high performance public buildings in accordance with a plan developed and approved pursuant to paragraph (5)(A).

(4) Other grants.—

(A) Grants for administration.—Grants under paragraph (2)(B) shall be used to evaluate compliance by units of local government with the requirements of this section, and in addition may be used for—

(i) distributing information and materials to clearly define and promote the development of high performance public buildings for both new and existing facilities;

(ii) organizing and conducting programs for local government personnel, architects, engineers, and others to advance the concepts of high performance public buildings;

(iii) obtaining technical services and assistance in planning and designing high performance public buildings; and

(iv) collecting and monitoring data and information pertaining to the high performance public building projects.

(B) Grants to promote participation.—Grants under paragraph (2)(C) may be used for promotional and marketing activities, including facilitating private and public financing, promoting the use of energy service companies, working with public building users, and communities, and coordinating public benefit programs.

(5) Implementation.—

(A) Plans.—A grant under paragraph (2)(A) shall be provided only to a unit of local government that, in consultation with its State office of energy, has developed a plan that the State energy office determines to be feasible and appropriate in order to achieve the purposes for which such grants are made.

(B) Supplementing grant funds.—State energy offices shall encourage qualifying units of local government to supplement their grant funds with funds from other sources in the implementation of their plans.

(b) Allocation of Funds.—

(1) In general.—Except as provided in paragraph (3), funds appropriated to carry out this section shall be provided to State energy offices.

(2) Purposes.—Except as provided in paragraph (3), funds appropriated to carry out this section shall be allocated as follows:

(A) Seventy percent shall be used to make grants under subsection (a)(2)(A).

(B) Fifteen percent shall be used to make grants under subsection (a)(2)(B).

(C) Fifteen percent shall be used to make grants under subsection (a)(2)(C).

(3) Other funds.—The Secretary of Energy may retain not to exceed $300,000 per year from amounts appropriated under subsection (c) to assist State energy offices in coordinating and implementing the Program. Such funds may be used to develop reference materials to further define the principles and criteria to achieve high performance public buildings.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Energy to carry out this section such sums as may be necessary for each of the fiscal years 2002 through 2010.

(d) Report to Congress.—The Secretary of Energy shall conduct a biennial review of State actions implementing this section, and the Secretary shall report to Congress on the results of such reviews. In conducting such reviews, the Secretary shall assess the effectiveness of the calculation procedures used by the States in establishing eligibility of units of local government for funding under this section, and may assess other aspects of the State program to determine whether they have been effectively implemented.

(e) Definitions.—For purposes of this section:

(1) High performance public building.—The term "high performance public building" means a public building which, in its design, construction, operation, and maintenance, maximizes use of unconventional and renewable energy resources and energy efficiency practices, is cost-effective on a life cycle basis, uses affordable, environmentally preferable, durable materials, enhances indoor environmental quality, protects and conserves water, and optimizes site potential.

(2) Renewable energy.—The term "renewable energy" means energy produced by solar, wind, geothermal, hydroelectric, or biomass power.

(3) Unconventional and renewable energy resources.—The term "unconventional and renewable energy resources" means renewable energy, hydrogen, fuel cells, cogeneration, combined heat and power, heat recovery (including by use of a Stirling heat engine), and distributed generation.

Subtitle D—Energy Efficiency for Consumer Products

SEC. 141. ENERGY STAR PROGRAM.

(a) Amendment.—The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting the following after section 324:

"SEC. 324A. ENERGY STAR PROGRAM.

"(a) In General.—There is established at the Department of Energy and the Environmental Protection Agency a program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through labeling of products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the two agencies. The Administrator and the Secretary shall—

"(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

"(2) work to enhance public awareness of the Energy Star label; and

"(3) preserve the integrity of the Energy Star label.

For the purposes of carrying out this section, there is authorized to be appropriated for fiscal years 2002 through 2006 such sums as may be necessary, to remain available until expended.

"(b) Study of Certain Products and Buildings.—Within 180 days after the date of the enactment of this section, the Secretary and the Administrator, consistent with the terms of agreements between the two agencies (including existing agreements with respect to which agency shall handle a particular product or building), shall determine whether the Energy Star label should be extended to additional products and buildings, including the following:

"(1) Air cleaners.

"(2) Ceiling fans.

"(3) Light commercial heating and cooling products.

"(4) Reach-in refrigerators and freezers.

"(5) Telephony.

"(6) Vending machines.

"(7) Residential water heaters.

"(8) Refrigerated beverage merchandisers.

"(9) Commercial ice makers.

"(10) School buildings.

"(11) Retail buildings.

"(12) Health care facilities.

"(13) Homes.

"(14) Hotels and other commercial lodging facilities.

"(15) Restaurants and other food service facilities.

"(16) Solar water heaters.

"(17) Building-integrated photovoltaic systems.

"(18) Reflective pigment coatings.

"(19) Windows.

"(20) Boilers.

"(21) Devices to extend the life of motor vehicle oil.

"(c) COOL ROOFING.—In determining whether the Energy Star label should be extended to roofing products, the Secretary and the Administrator shall work with the roofing products industry to determine the appropriate solar reflective index of roofing products.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324 the following new item:

"Sec. 324A. Energy Star program.".

SEC. 141A. ENERGY SUN RENEWABLE AND ALTERNATIVE ENERGY PROGRAM.

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting the following after section 324A:

"SEC. 324B. ENERGY SUN RENEWABLE AND ALTERNATIVE ENERGY PROGRAM.

"(a) PROGRAM.—There is established at the Environmental Protection Agency and the Department of Energy a government-industry partnership program to identify and promote the purchase of renewable and alternative energy products, to recognize companies that purchase renewable and alternative energy products for the environmental and energy security benefits of such purchases, and to educate consumers about the environmental and energy security benefits of renewable and alternative energy. Responsibilities under the program shall be divided between the Environmental Protection Agency and the Department of Energy consistent with the terms of agreements between the two agencies. The Administrator of the Environmental Protection Agency and the Secretary of Energy—

"(1) establish an Energy Sun label for renewable and alternative energy products and technologies that the Administrator or the Secretary (consistent with the terms of agreements between the two agencies regarding responsibility for specific product categories) determine to have substantial environmental and energy security benefits and commercial marketability.

"(2) establish an Energy Sun Company program to recognize private companies that draw a substantial portion of their energy from renewable and alternative sources that provide substantial environmental and energy security benefits, as determined by the Administrator or the Secretary.

"(3) promote Energy Sun compliant products and technologies as the preferred products and technologies in the marketplace for reducing pollution and achieving energy security; and

"(4) work to enhance public awareness and preserve the integrity of the Energy Sun label.

For the purposes of carrying out this section, there is authorized to be appropriated $10,000,000 for each of fiscal years 2002 through 2006.

"(b) STUDY OF CERTAIN PRODUCTS, TECHNOLOGIES, AND BUILDINGS.—Within 18 months after the enactment of this section, the Administrator and the Secretary, consistent with the terms of agreements between the two agencies, shall conduct a study to determine whether the Energy Sun label should be authorized for products, technologies, and buildings in the following categories:

"(1) Passive solar, solar thermal, concentrating solar energy, solar water heating, and related solar products and building technologies.

"(2) Solar photovoltaics and other solar electric power generation technologies.

"(3) Wind.

"(4) Geothermal.

"(5) Biomass.

"(6) Distributed energy (including, but not limited to, microturbines, combined heat and power, fuel cells, and stirling heat engines).

"(7) Green power or other renewables and alternative based electric power products (including green tag credit programs) sold to retail consumers of electricity.

"(8) Homes.

"(9) School buildings.

"(10) Retail buildings.

"(11) Health care facilities.

"(12) Hotels and other commercial lodging facilities.

"(13) Restaurants and other food service facilities.

"(14) Rest area facilities along interstate highways.

"(15) Sports stadia, arenas, and concert facilities.

"(16) Any other product, technology or building category, the accelerated recognition of which the Administrator or the Secretary determines to be necessary or appropriate for the achievement of the purposes of this section.

Nothing in this subsection shall be construed to limit the discretion of the Administrator or the Secretary under subsection (a)(1) to include in the Energy Sun program additional products, technologies, and buildings not listed in this subsection. Participation by private-sector entities in programs or studies authorized by this section shall be (A) voluntary, and (B) by permission of the Administrator or Secretary, on terms and conditions the Administrator or the Secretary (consistent with agreements between the agencies) deems necessary or appropriate to carry out the purposes and requirements of this section.

"(c) DEFINITION.—For the purposes of this section, the term 'renewable and alternative energy' shall have the same meaning as the term 'unconventional and renewable energy resources' in Section 551 of the National Energy Conservation Policy Act (42 U.S.C. 8259).".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324A the following new item:

"Sec. 324B. Energy Sun renewable and alternative energy program.".

SEC. 142. LABELING OF ENERGY EFFICIENT APPLIANCES.

(a) STUDY.—Section 324(e) of the Energy Policy and Conservation Act (42 U.S.C. 6294(e)) is amended as follows:

(1) By inserting "(1)" before "The Secretary, in consultation".

(2) By redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(3) By adding the following new paragraph at the end:

"(2) The Secretary shall make recommendations to the Commission within 180 days of the date of the enactment of this paragraph regarding labeling of consumer products that are not covered products in accordance with this section, where such labeling is likely to assist consumers in making purchasing decisions and is technologically and economically feasible.".

(b) NONCOVERED PRODUCTS.—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding the following at the end:

"(F) Not later than 1 year after the date of the enactment of this subparagraph, the Commission shall initiate a rulemaking to prescribe labeling rules under this section applicable to consumer products that are not covered products if it determines that labeling of such products is likely to assist consumers in making purchasing decisions and is technologically and economically feasible.

"(G) Not later than 3 months after the date of the enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the label that would improve the effectiveness of the label. Such rulemaking shall be completed within 15 months of the date of the enactment of this subparagraph.".

SEC. 143. APPLIANCE STANDARDS.

(a) STANDARDS FOR HOUSEHOLD APPLIANCES IN STANDBY MODE.—(1) Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

"(u) STANDBY MODE ELECTRIC ENERGY CONSUMPTION BY HOUSEHOLD APPLIANCES.—(1) In this subsection:

"(A) The term 'household appliance' means any device that uses household electric current, operates in a standby mode, and is identified by the Secretary as a major consumer of electricity in standby mode, except digital televisions, digital set top boxes, digital video recorders, any product recognized under the Energy Star program, any product that was on the date of the enactment of this Act subject to an energy conservation standard under this section, and any product regarding which the Secretary finds that the expected additional cost to the consumer of purchasing such product as a result of complying with a standard established under this section is not economically justified within the meaning of subsection (o).

"(B) The term 'standby mode' means a mode in which a household appliance consumes the least amount of electric energy that the household appliance is capable of consuming without being completely switched off (provided that, the amount of electric energy consumed in such mode is substantially less than the amount the household appliance would consume in its normal operational mode).

"(C) The term 'major consumer of electricity in standby mode' means a product for which a standard prescribed under this section would result in substantial energy savings as compared to energy savings achieved or expected to be achieved by standards established by the Secretary under subsections (o) and (p) of this section for products that were, at the time of the enactment of this subsection, covered products under this section.

"(2)(A) Except as provided in subparagraph (B), a household appliance that is manufactured in, or imported for sale in, the United States on or after the date that is 2 years after the date of the enactment of this subsection shall not consume in standby mode more than 1 watt.

"(B) In the case of analog televisions, the Secretary shall prescribe, on or after the date that is 2 years after the date of the enactment of this subsection, in accordance with subsections (o) and (p) of section 325, an energy conservation standard that is technologically feasible and economically justified under section 325(o)(2)(A) (in lieu of the 1 watt standard under subparagraph (A)).

"(3)(A) A manufacturer or importer of a household appliance may submit to the Secretary an application for an exemption of the household appliance from the standard under paragraph (2).

"(B) The Secretary shall grant an exemption for a household appliance for which an application is made under subparagraph (A) if the applicant provides evidence showing that, and the Secretary determines that—

"(i) it is not technically feasible to modify the household appliance to enable the household appliance to meet the standard;

"(ii) the standard is incompatible with an energy efficiency standard applicable to the household appliance under another subsection; or

"(iii) the cost of electricity that a typical consumer would save in operating the household appliance meeting the standard would not equal the increase in the price of the household appliance that would be attributable to the modifications that would be necessary to enable the household appliance to meet the standard by the earlier of—

"(I) the date that is 7 years after the date of purchase of the household appliance; or

"(II) the end of the useful life of the household appliance.

"(C) If the Secretary determines that it is not technically feasible to modify a household appliance to meet the standard under paragraph (2), the Secretary shall establish a different standard for the household appliance in accordance with the criteria under subsection (l).

"(4)(A) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall establish a test procedure for determining the amount of consumption of power by a household appliance operating in standby mode.

"(B) In establishing the test procedure, the Secretary shall consider—

"(i) international test procedures under development;

"(ii) test procedures used in connection with the Energy Star program; and

"(iii) test procedures used for measuring power consumption in standby mode in other countries.

"(5) Further reduction of standby power consumption.—The Secretary shall provide technical assistance to manufacturers in achieving further reductions in standby mode electric energy consumption by household appliances.

"(v) Standby Mode Electric Energy Consumption by Digital Televisions, Digital Set Top Boxes, and Digital Video Recorders.—The Secretary shall initiate on January 1, 2007 a rulemaking to prescribe, in accordance with subsections (o) and (p), an energy conservation standard of standby mode electric energy consumption by digital television sets, digital set top boxes, and digital video recorders. The Secretary shall issue a final rule prescribing such standards not later than 18 months thereafter. In determining whether a standard under this section is technologically feasible and economically justified under section 325(o)(2)(A), the Secretary shall consider the potential effects on market penetration by digital products covered under this section, and shall consider any recommendations by the FCC regarding such effects.".

(2) Section 325(o)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(n)(1)) is amended by inserting at the end of the paragraph the following: "Notwithstanding any provision of this part, the Secretary shall not amend a standard established under subsection (u) or (v) of this section.".

(b) Standards for Noncovered Products.—Section 325(m) of the Energy Policy and Conservation Act (42 U.S.C. 6295(m)) is amended as follows:

(1) Inserting "(1)" before "After".

(2) Inserting the following at the end:

"(2) Not later than 1 year after the date of the enactment of the Energy Advancement and Conservation Act of 2001, the Secretary shall conduct a rulemaking to determine whether consumer products not classified as a covered product under section 322(a)(1) through (18) meet the criteria of section 322(b)(1) and is a major consumer of electricity. If the Secretary finds that a consumer product not classified as a covered product meets the criteria of section 322(b)(1), he shall prescribe, in accordance with subsections (o) and (p), an energy conservation standard for such consumer product, if such standard is reasonably probable to be technologically feasible and economically justified within the meaning of subsection (o)(2)(A). As used in this paragraph, the term 'major consumer of electricity' means a product for which a standard prescribed under this section would result in substantial aggregate energy savings as compared to energy savings achieved or expected to be achieved by standards established by the Secretary under paragraphs (o) and (p) of this section for products that were, at the time of the enactment of this paragraph, covered products under this section.".

(c) Consumer Education on Energy Efficiency Benefits of Air Conditioning, Heating and Ventilation Maintenance.—Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding the following new subsection after subsection (b):

"(c) HVAC Maintenance.—For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, within 180 days of the date of the enactment of this subsection, develop and implement a public education campaign to educate homeowners and small business owners concerning the energy savings resulting from regularly scheduled maintenance of air conditioning, heating, and ventilating systems. In developing and implementing this campaign, the Secretary shall consider support by the Department of public education programs sponsored by trade and professional and energy efficiency organizations. The public service information shall provide sufficient information to allow consumers to make informed choices from among professional, licensed (where State or local licensing is required) contractors. There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal years 2002 and 2003 in addition to amounts otherwise appropriated in this part.".

(d) Efficiency Standards for Furnace Fans, Ceiling Fans, and Cold Drink Vending Machines.—

(1) Definitions.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by adding the following at the end thereof:

"(32) The term 'residential furnace fan' means an electric fan installed as part of a furnace for purposes of circulating air through the system air filters, the heat exchangers or heating elements of the furnace, and the duct work.

"(33) The terms 'residential central air conditioner fan' and 'heat pump circulation fan' mean an electric fan installed as part of a central air conditioner or heat pump for purposes of circulating air through the system air filters, the heat exchangers of the air conditioner or heat pump, and the duct work.

"(34) The term 'suspended ceiling fan' means a fan intended to be mounted to a ceiling outlet box, ceiling building structure, or to a vertical rod suspended from the ceiling, and which as blades which rotate below the ceiling and consists of an electric motor, fan blades (which rotate in a direction parallel to the floor), an optional lighting kit, and one or more electrical controls (integral or remote) governing fan speed and lighting operation.

"(35) The term 'refrigerated bottled or canned beverage vending machine' means a machine that cools bottled or canned beverages and dispenses them upon payment.".

(2) Testing Requirements.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended by adding the following at the end thereof:

"(f) Additional Consumer Products.—The Secretary shall within 18 months after the date of the enactment of this subsection prescribe testing requirements for residential furnace fans, residential central air conditioner fans, heat pump circulation fans, suspended ceiling fans, and refrigerated bottled or canned beverage vending machines. Such testing requirements shall be based on existing test procedures used in industry to the extent practical and reasonable. In the case of residential furnace fans, residential central air conditioner fans, heat pump circulation fans, and suspended ceiling fans, such test procedures shall include efficiency at both maximum output and at an output no more than 50 percent of the maximum output.".

(3) Standards for Additional Consumer Products.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding the following at the end thereof:

"(w) Residential Furnace Fans, Central Air and Heat Pump Circulation Fans, Suspended Ceiling Fans, and Vending Machines.—(1) The Secretary shall, within 18 months after the date of the enactment of this subsection, assess the current and projected future market for residential furnace fans, residential central air conditioner and heat pump circulation fans, suspended ceiling fans, and refrigerated bottled or canned beverage vending machines. This assessment shall include an examination of the types of products sold, the number of products in use, annual sales of these products, energy used by these products sold, the number of products in use, annual sales of these products, energy used by these products, estimates of the potential energy savings from specific technical improvements to these products, and an examination of the cost-effectiveness of these improvements. Prior to the end of this time period, the Secretary shall hold an initial scoping workshop to discuss and receive input to plans for developing minimum efficiency standards for these products.

"(2) The Secretary shall within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to section 323(f), prescribe, by rule, energy conservation standards for residential furnace fans, residential central air conditioner and heat pump circulation fans, suspended ceiling fans, and refrigerated bottled or canned beverage vending machines. In establishing these standards, the Secretary shall use the criteria and procedures contained in subsections (l) and (m). Any standard prescribed under this section shall apply to products manufactured 36 months after the date such rule is published.".

(4) LABELING.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended by adding the following at the end thereof:

"(5) The Secretary shall within 6 months after the date on which energy conservation standards are prescribed by the Secretary for covered products referred to in section 325(w), prescribe, by rule, labeling requirements for such products. These requirements shall take effect on the same date as the standards prescribed pursuant to section 325(w).".

(5) COVERED PRODUCTS.—Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended by redesignating paragraph (19) as paragraph (20) and by inserting after paragraph (18) the following:

"(19) Beginning on the effective date for standards established pursuant to subsection (v) of section 325, each product referred to in such subsection (v).".

Subtitle E—Energy Efficient Vehicles

SEC. 151. HIGH OCCUPANCY VEHICLE EXCEPTION.

(a) IN GENERAL.—Notwithstanding section 102(a)(1) of title 23, United States Code, a State may, for the purpose of promoting energy conservation, permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if such vehicle is a hybrid vehicle or is fueled by an alternative fuel.

(b) HYBRID VEHICLE DEFINED.—In this section, the term "hybrid vehicle" means a motor vehicle—

(1) which draws propulsion energy from onboard sources of stored energy which are both—

(A) an internal combustion or heat engine using combustible fuel; and

(B) a rechargeable energy storage system;

(2) which, in the case of a passenger automobile or light truck—

(A) for 2002 and later model vehicles, has received a certificate of conformity under section 206 of the Clean Air Act (42 U.S.C. 7525) and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act (42 U.S.C. 7583(e)(2)) for that make and model year; and

(B) for 2004 and later model vehicles, has received a certificate that such vehicle meets the Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

(3) which is made by a manufacturer.

(c) ALTERNATIVE FUEL DEFINED.—In this section, the term "alternative fuel" has the meaning such term has under section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)).

SEC. 152. RAILROAD EFFICIENCY.

(a) LOCOMOTIVE TECHNOLOGY DEMONSTRATION.—The Secretary of Energy shall establish a public-private research partnership with railroad carriers, locomotive manufacturers, and a world-class research and test center dedicated to the advancement of railroad technology, efficiency, and safety that is owned by the Federal Railroad Administration and operated in the private sector, for the development and demonstration of locomotive technologies that increase fuel economy and reduce emissions.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy $25,000,000 for fiscal year 2002, $30,000,000 for fiscal year 2003, and $35,000,000 for fiscal year 2004 for carrying out this section.

SEC. 153. BIODIESEL FUEL USE CREDITS.

Section 312(c) of the Energy Policy Act of 1992 (42 U.S.C. 13220(c)) is amended—

(1) by striking "NOT" in the subsection heading; and

(2) by striking "not".

SEC. 154. MOBILE TO STATIONARY SOURCE TRADING.

Within 90 days after the enactment of this section, the Administrator of the Environmental Protection Agency is directed to commence a review of the Agency's policies regarding the use of mobile to stationary source trading of emission credits under the Clean Air Act to determine whether such trading can provide both nonattainment and attainment areas with additional flexibility in achieving and maintaining healthy air quality and increasing use of alternative fuel and advanced technology vehicles, thereby reducing United States dependence on foreign oil.

Subtitle F—Other Provisions

SEC. 161. REVIEW OF REGULATIONS TO ELIMINATE BARRIERS TO EMERGING ENERGY TECHNOLOGY.

(a) IN GENERAL.—Each Federal agency shall carry out a review of its regulations and standards to determine those that act as a barrier to market entry for emerging energy-efficient technologies, including, but not limited to, fuel cells, combined heat and power, and distributed generation (including small-scale renewable energy).

(b) REPORT TO CONGRESS.—No later than 18 months after the date of the enactment of this section, each agency shall provide a report to Congress and the President detailing all regulatory barriers to emerging energy-efficient technologies, along with actions the agency intends to take, or has taken, to remove such barriers.

(c) PERIODIC REVIEW.—Each agency shall subsequently review its regulations and standards in the manner specified in this section no less frequently than every 5 years, and report their findings to Congress and the President. Such reviews shall include a detailed analysis of all agency actions taken to remove existing barriers to emerging energy technologies.

SEC. 162. ADVANCED IDLE ELIMINATION SYSTEMS.

(a) DEFINITIONS.—

(1) ADVANCED IDLE ELIMINATION SYSTEM.—The term "advanced idle elimination system" means a device or system of devices that is installed at a truck stop or other location (for example, a loading, unloading, or transfer facility) where vehicles (such as trucks, trains, buses, boats, automobiles, and recreational vehicles) are parked and that is designed to provide to the vehicle the services (such as heat, air conditioning, and electricity) that would otherwise require the operation of the auxiliary or drive train engine or both while the vehicle is stationary and parked.

(2) EXTENDED IDLING.—The term "extended idling" means the idling of a motor vehicle for a period greater than 60 minutes.

(b) RECOGNITION OF BENEFITS OF ADVANCED IDLE ELIMINATION SYSTEMS.—Within 90 days after the date of the enactment of this subsection, the Administrator of the Environmental Protection Agency is directed to commence a review of the Agency's mobile source air emissions models used under the Clean Air Act to determine whether such models accurately reflect the emissions resulting from extended idling of heavy-duty trucks and other vehicles and engines, and shall update those models as the Administrator deems appropriate. Additionally, within 90-days after the date of the enactment of this subsection, the Administrator shall commence a review as to the appropriate emissions reductions credit that should be allotted under the Clean Air Act for the use of advanced idle elimination systems, and whether such credits should be subject to an emissions trading system, and shall revise Agency regulations and guidance as the Administrator deems appropriate.

SEC. 163. STUDY OF BENEFITS AND FEASIBILITY OF OIL BYPASS FILTRATION TECHNOLOGY.

(a) STUDY.—The Secretary of Energy and the Administrator of the Environmental Protection Agency shall jointly conduct a study of oil bypass filtration technology in motor vehicle engines. The study shall analyze and quantify the potential benefits of such technology in terms of reduced demand for oil and the potential environmental benefits of the technology in terms of reduced waste and air pollution. The Secretary and the Administrator shall also examine the feasibility of using such technology in the Federal motor vehicle fleet.

(b) REPORT.—Not later than 6 months after the enactment of this Act, the Secretary of Energy and the Administrator of the Environmental Protection Agency shall jointly submit a report containing the results of the study conducted under subsection (a) to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

SEC. 164. GAS FLARE STUDY.

(a) STUDY.—The Secretary of Energy shall conduct a study of the economic feasibility of installing small cogeneration facilities utilizing excess gas flares at petrochemical facilities to provide reduced electricity costs to customers living within 3 miles of the petrochemical facilities. The Secretary shall solicit public comment to assist in preparing the report required under subsection (b).

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Energy shall transmit a report to the Congress on the results of the study conducted under subsection (a).

SEC. 165. TELECOMMUTING STUDY.

(a) STUDY REQUIRED.—The Secretary, in consultation with Commission, and the NTIA, shall conduct a study of the energy conservation implications of the widespread adoption of telecommuting in the United States.

(b) REQUIRED SUBJECTS OF STUDY.—The study required by subsection (a) shall analyze the following subjects in relation to the energy saving potential of telecommuting:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to broadband telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(c) REPORT REQUIRED.—The Secretary shall submit to the President and the Congress a report on the study required by this section not later than 6 months after the date of the enactment of this Act. Such report shall include a description of the results of the analysis of each of the subject described in subsection (b).

(d) Definitions.—As used in this section:

(1) Secretary.—The term "Secretary" means the Secretary of Energy.

(2) Commission.—The term "Commission" means the Federal Communications Commission.

(3) NTIA.—The term "NTIA" means the National Telecommunications and Information Administration of the Department of Commerce.

(4) Telecommuting.—The term "telecommuting" means the performance of work functions using communications technologies, thereby eliminating or substantially reducing the need to commute to and from traditional worksites.

TITLE II—AUTOMOBILE FUEL ECONOMY

SEC. 201. AVERAGE FUEL ECONOMY STANDARDS FOR NONPASSENGER AUTOMOBILES.

Section 32902(a) of title 49, United States Code, is amended—

(1) by inserting "(1)" after "Nonpassenger Automobiles.—"; and

(2) by adding at the end the following:

"(2) The Secretary shall prescribe under paragraph (1) average fuel economy standards for automobiles (except passenger automobiles) manufactured in model years 2004 through 2010 that are calculated to ensure that the aggregate amount of gasoline projected to be used in those model years by automobiles to which the standards apply is at least 5 billion gallons less than the aggregate amount of gasoline that would be used in those model years by such automobiles if they achieved only the fuel economy required under the average fuel economy standard that applies under this subsection to automobiles (except passenger automobiles) manufactured in model year 2002.".

SEC. 202. CONSIDERATION OF PRESCRIBING DIFFERENT AVERAGE FUEL ECONOMY STANDARDS FOR NONPASSENGER AUTOMOBILES.

(a) In General.—The Secretary of Transportation shall, in prescribing average fuel economy standards under section 32902(a) of title 49, United States Code, for automobiles (except passenger automobiles) manufactured in model year 2004, consider the potential benefits of—

(1) establishing a weight-based system for automobiles, that is based on the inertia weight, curb weight, gross vehicle weight rating, or another appropriate measure of such automobiles; and

(2) prescribing different fuel economy standards for automobiles that are subject to the weight-based system.

(b) Specific Considerations.—In implementing this section the Secretary—

(1) shall consider any recommendations made in the National Academy of Sciences study completed pursuant to the Department of Transportation and Related Agencies Appropriations Act, 2000 (Public Law 106–346; 114 Stat. 2763 et seq.); and

(2) shall evaluate the merits of any weight-based system in terms of motor vehicle safety, energy conservation, and competitiveness of and employment in the United States automotive sector, and if a weight-based system is established by the Secretary a manufacturer may trade credits between or among the automobiles (except passenger automobiles) manufactured by the manufacturer.

SEC. 203. DUAL FUELED AUTOMOBILES.

(a) Purposes.—The purposes of this section are—

(1) to extend the manufacturing incentives for dual fueled automobiles, as set forth in subsections (b) and (d) of section 32905 of title 49, United States Code, through the 2008 model year; and

(2) to similarly extend the limitation on the maximum average fuel economy increase for such automobiles, as set forth in subsection (a)(1) of section 32906 of title 49, United States Code.

(b) Amendments.—

(1) Manufacturing incentives.—Section 32905 of title 49, United States Code, is amended as follows:

(A) Subsections (b) and (d) are each amended by striking "model years 1993–2004" and inserting "model years 1993–2008".

(B) Subsection (f) is amended by striking "Not later than December 31, 2001, the Secretary" and inserting "Not later than December 31, 2005, the Secretary".

(C) Subsection (f)(1) is amended by striking "model year 2004" and inserting "model year 2008".

(D) Subsection (g) is amended by striking "Not later than September 30, 2000" and inserting "Not later than September 30, 2004".

(2) Maximum fuel economy increase.—Subsection (a)(1) of section 32906 of title 49, United States Code, is amended as follows:

(A) Subparagraph (A) is amended by striking "the model years 1993–2004" and inserting "model years 1993–2008".

(B) Subparagraph (B) is amended by striking "the model years 2005–2008" and inserting "model years 2009–2012".

SEC. 204. FUEL ECONOMY OF THE FEDERAL FLEET OF AUTOMOBILES.

Section 32917 of title 49, United States Code, is amended to read as follows:

"§ 32917. Standards for executive agency automobiles

"(a) Baseline Average Fuel Economy.—The head of each executive agency shall determine, for all automobiles in the agency's fleet of automobiles that were leased or bought as a new vehicle in fiscal year 1999, the average fuel economy for such automobiles. For the purposes of this section, the average fuel economy so determined shall be the baseline average fuel economy for the agency's fleet of automobiles.

"(b) Increase of Average Fuel Economy.—The head of an executive agency shall manage the procurement of automobiles for that agency in such a manner that—

"(1) not later than September 30, 2003, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 1 mile per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet; and

"(2) not later than September 30, 2005, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet.

"(c) Calculation of Average Fuel Economy.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

"(d) Definitions.—In this section:

"(1) The term 'automobile' does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work.

"(2) The term 'executive agency' has the meaning given that term in section 105 of title 5.

"(3) The term 'new automobile', with respect to the fleet of automobiles of an executive agency, means an automobile that is leased for at least 60 consecutive days or bought, by or for the agency, after September 30, 1999.".

SEC. 205. HYBRID VEHICLES AND ALTERNATIVE VEHICLES.

(a) In General.—Section 303(b)(1) of the Energy Policy Act of 1992 is amended by adding the following at the end: "Of the total number of vehicles acquired by a Federal fleet in fiscal years 2004 and 2005, at least 5 percent of the vehicles in addition to those covered by the preceding sentence shall be alternative fueled vehicles or hybrid vehicles and in fiscal year 2006 and thereafter at least 10 percent of the vehicles in addition to those covered by the preceding sentence shall be alternative fueled vehicles or hybrid vehicles.".

(b) Definition.—Section 301 of such Act is amended by striking "and" at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting "; and" and by adding at the end the following:

"(15) The term 'hybrid vehicle' means a motor vehicle which draws propulsion energy from onboard sources of stored energy which are both—

"(A) an internal combustion or heat engine using combustible fuel; and

"(B) a rechargeable energy storage system.".

SEC. 206. FEDERAL FLEET PETROLEUM-BASED NONALTERNATIVE FUELS.

(a) In General.—Title III of the Energy Policy Act of 1992 (42 U.S.C. 13212 et seq.) is amended as follows:

(1) By adding at the end thereof the following:

"SEC. 313. CONSERVATION OF PETROLEUM-BASED FUELS BY THE FEDERAL GOVERNMENT FOR LIGHT-DUTY MOTOR VEHICLES.

"(a) Purposes.—The purposes of this section are to complement and supplement the requirements of section 303 of this Act that Federal fleets, as that term is defined in section 303(b)(3), acquire in the aggregate a minimum percentage of alternative fuel vehicles, to encourage the manufacture and sale or lease of such vehicles nationwide, and to achieve, in the aggregate, a reduction in the amount of the petroleum-based fuels (other than the alternative fuels defined in this title) used by new light-duty motor vehicles acquired by the Federal Government in model years 2004 through 2010 and thereafter.

"(b) Implementation.—In furtherance of such purposes, such Federal fleets in the aggregate shall reduce the purchase of petroleum-based nonalternative fuels for such fleets beginning October 1, 2003, through September 30, 2009, from the amount purchased for such fleets over a comparable period since enactment of this Act, as determined by the Secretary, through the annual purchase, in accordance with section 304, and the use of alternative fuels for the light-duty motor vehicles of such Federal fleets, so as to achieve levels which reflect total reliance by such fleets on the consumptive use of alternative fuels consistent with the provisions of section 303(b) of this Act. The Secretary shall, within 120 days after the enactment of this section, promulgate, in consultation with the Administrator of the General Services Administration and the Director of the Office of Management and Budget and such other heads of entities referenced in section 303 within the executive branch as such Director may designate, standards for the full and prompt implementation of this section by such entities. The Secretary shall monitor compliance with this section and such standards by all such fleets and shall report annually to the Congress, based on reports by the heads of such fleets, on the extent to which the requirements of this section and such standards are being achieved. The report shall include information on annual reductions achieved of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels and in requiring their use.".

(2) By amending section 304(b) of such Act to read as follows:

"(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary or, as appropriate, the head of each Federal fleet subject to the provisions of this section and section 313 of this Act, such sums as may be necessary to achieve the purposes of section 313(a) and the provisions of this section. Such sums shall remain available until expended.".

(b) Clerical Amendment.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title III the following:

"Sec. 313. Conservation of petroleum-based fuels by the Federal Government for light-duty motor vehicles.".

SEC. 207. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.

(a) In General.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall enter into an arrangement with the National Academy of Sciences under which the Academy shall study the feasibility and effects of reducing by model year 2010, by a significant percentage, the use of fuel for automobiles.

(b) Subjects of Study.—The study under this section shall include—

(1) examination of, and recommendation of alternatives to, the policy under current Federal law of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles it manufactures;

(2) examination of how automobile manufacturers could contribute toward achieving the reduction referred to in subsection (a);

(3) examination of the potential of fuel cell technology in motor vehicles in order to determine the extent to which such technology may contribute to achieving the reduction referred to in subsection (a); and

(4) examination of the effects of the reduction referred to in subsection (a) on—

(A) gasoline supplies;

(B) the automobile industry, including sales of automobiles manufactured in the United States;

(C) motor vehicle safety; and

(D) air quality.

(c) Report.—The Secretary shall require the National Academy of Sciences to submit to the Secretary and the Congress a report on the findings, conclusion, and recommendations of the study under this section by not later than 1 year after the date of the enactment of this Act.

TITLE III—NUCLEAR ENERGY

SEC. 301. LICENSE PERIOD.

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—

(1) by striking "c. Each such" and inserting the following:

"c. License Period.—

"(1) In general.—Each such"; and

(2) by adding at the end the following:

"(2) Combined licenses.—In the case of a combined construction and operating license issued under section 185 b., the initial duration of the license may not exceed 40 years from the date on which the Commission finds, before operation of the facility, that the acceptance criteria required by section 185 b. are met.".

SEC. 302. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking "for or is issued" and all that follows through "1702" and inserting "to the Commission for, or is issued by the Commission, a license or certificate";

(2) by striking "483a" and inserting "9701"; and

(3) by striking ", of applicants for, or holders of, such licenses or certificates".

SEC. 303. DEPLETED URANIUM HEXAFLUORIDE.

Section 1(b) of Public Law 105–204 is amended by striking "fiscal year 2002" and inserting "fiscal year 2005".

SEC. 304. NUCLEAR REGULATORY COMMISSION MEETINGS.

If a quorum of the Nuclear Regulatory Commission gathers to discuss official Commission business the discussions shall be recorded, and the Commission shall notify the public of such discussions within 15 days after they occur. The Commission shall promptly make a transcript of the recording available to the public on request, except to the extent that public disclosure is exempted or prohibited by law. This section shall not apply to a meeting, within the meaning of that term under section 552b(a)(2) of title 5, United States Code.

SEC. 305. COOPERATIVE RESEARCH AND DEVELOPMENT AND SPECIAL DEMONSTRATION PROJECTS FOR THE URANIUM MINING INDUSTRY.

(a) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $10,000,000 for each of fiscal years 2002, 2003, and 2004 for—

(1) cooperative, cost-shared, agreements between the Department of Energy and domestic uranium producers to identify, test, and develop improved in situ leaching mining technologies, including low-cost environmental restoration technologies that may be applied to sites after completion of in situ leaching operations; and

(2) funding for competitively selected demonstration projects with domestic uranium producers relating to—

(A) enhanced production with minimal environmental impacts;

(B) restoration of well fields; and

(C) decommissioning and decontamination activities.

(b) Domestic Uranium Producer.—For purposes of this section, the term "domestic uranium producer" has the meaning given that term in section 1018(4) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except that the term shall not include any producer that has not produced uranium from domestic reserves on or after July 30, 1998.

SEC. 306. MAINTENANCE OF A VIABLE DOMESTIC URANIUM CONVERSION INDUSTRY.

There are authorized to be appropriated to the Secretary $800,000 for contracting with the Nation's sole remaining uranium converter for the purpose of performing research and development to improve the environmental and economic performance of United States uranium conversion operations.

SEC. 307. PADUCAH DECONTAMINATION AND DECOMMISSIONING PLAN.

The Secretary of Energy shall prepare and submit a plan to Congress within 180 days after the date of the enactment of this Act that establishes scope, cost, schedule, sequence of activities, and contracting strategy for—

(1) the decontamination and decommissioning of the Department of Energy's surplus buildings and facilities at the Paducah Gaseous Diffusion Plant that have no future anticipated reuse; and

(2) the remediation of Department of Energy Material Storage Areas at the Paducah Gaseous Diffusion Plant.

Such plan shall inventory all surplus facilities and buildings, and identify and rank health and safety risks associated with such facilities and buildings. Such plan shall inventory all Department of Energy Material Storage Areas, and identify and rank health and safety risks associated with such Department of Energy Material Storage Areas. The Department of Energy shall incorporate these risk factors in designing the sequence and schedule for the plan. Such plan shall identify funding requirements that are in addition to the expected outlays included in the Department of Energy's Environmental Management Plan for the Paducah Gaseous Diffusion Plan.

SEC. 308. STUDY TO DETERMINE FEASIBILITY OF DEVELOPING COMMERCIAL NUCLEAR ENERGY PRODUCTION FACILITIES AT EXISTING DEPARTMENT OF ENERGY SITES.

(a) In General.—The Secretary of Energy shall conduct a study to determine the feasibility of developing commercial nuclear energy production facilities at Department of Energy sites in existence on the date of the enactment of this Act, including—

(1) options for how and where nuclear power plants can be developed on existing Department of Energy sites;

(2) estimates on cost savings to the Federal Government that may be realized by locating new nuclear power plants on Federal sites;

(3) the feasibility of incorporating new technology into nuclear power plants located on Federal sites;

(4) potential improvements in the licensing and safety oversight procedures of nuclear power plants located on Federal sites;

(5) an assessment of the effects of nuclear waste management policies and projects as a result of locating nuclear power plants located on Federal sites; and

(6) any other factors that the Secretary believes would be relevant in making the determination.

(b) Report.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subsection (a).

SEC. 309. PROHIBITION OF COMMERCIAL SALES OF URANIUM BY THE UNITED STATES UNTIL 2009.

Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–10) is amended by adding at the end the following new subsection:

"(g) Prohibition on Sales.—With the exception of sales pursuant to subsection (b)(2) (42 U.S.C.2297h-10(b)(2)), notwithstanding any other provision of law, the United States Government shall not sell or transfer any uranium (including natural uranium concentrates, natural uranium hexafluoride, enriched uranium, depleted uranium, or uranium in any other form) through March 23, 2009 (except sales or transfers for use by the Tennessee Valley Authority in relation to the Department of Energy's HEU or Tritium programs, or the Department or Energy research reactor sales program, or any depleted uranium hexaflouride to be transferred to a designated Department of Energy contractor in conjunction with the planned construction of the Depleted Uranium Hexaflouride conversion plants in Portsmouth, Ohio, and Paducah, Kentucky, to any natural uranium transferred to the U.S. Enrichment Corporation from the Department of Energy to replace contaminated uranium received from the Department of Energy when the U.S. Enrichment Corporation was privatized in July, 1998, or for emergency purposes in the event of a disruption in supply to end users in the United States). The aggregate of sales or transfers of uranium by the United States Government after March 23, 2009, shall not exceed 3,000,000 pounds U_3O_8 per calendar year.".

TITLE IV—HYDROELECTRIC ENERGY

SEC. 401. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) Alternative Mandatory Conditions.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

"(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls deems a condition to such license to be necessary under the first proviso of subsection (e), the license applicant or any other party to the licensing proceeding may propose an alternative condition.

"(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative condition, that the alternative condition—

"(A) provides no less protection for the reservation than provided by the condition deemed necessary by the Secretary; and

"(B) will either—

"(i) cost less to implement, or

"(ii) result in improved operation of the project works for electricity production,

as compared to the condition deemed necessary by the Secretary.

"(3) Within 1 year after the enactment of this subsection, each Secretary concerned shall, by rule, establish a process to expeditiously resolve conflicts arising under this subsection.".

(b) Alternative Fishways.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

(1) inserting "(a)" before the first sentence; and

(2) adding at the end the following:

"(b)(1) Whenever the Commission shall require a licensee to construct, maintain, or operate a fishway prescribed by the Secretary of the Interior or the Secretary of Commerce under this section, the licensee or any other party to the proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

"(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative, that the alternative—

"(A) will be no less effective than the fishway initially prescribed by the Secretary, and

"(B) will either—

"(i) cost less to implement, or

"(ii) result in improved operation of the project works for electricity production,

as compared to the fishway initially prescribed by the Secretary.

"(3) Within 1 year after the enactment of this subsection, the Secretary of the Interior and the Secretary of Commerce shall each, by rule, establish a process to expeditiously resolve conflicts arising under this subsection.".

SEC. 402. FERC DATA ON HYDROELECTRIC LICENSING.

(a) Data Collection Procedures.—The Federal Energy Regulatory Commission shall revise its procedures regarding the collection of data in connection with the Commission's consideration of hydroelectric licenses under the Federal Power Act. Such revised data collection procedures shall be designed to provide the Commission with complete and accurate information concerning the time and costs to parties involved in the licensing process. Such data shall be available for each significant stage in the licensing process and shall be designed to identify projects with similar characteristics so that analyses can be made of the time and costs involved in licensing proceedings based upon the different characteristics of those proceedings.

(b) Reports.—Within 6 months after the date of the enactment of this Act, the Commission shall notify the Committee on Energy and Commerce of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of the progress made by the Commission under subsection (a), and within 1 year after such date of the enactment, the Commission shall submit a report to such Committees specifying the measures taken by the Commission pursuant to subsection (a).

TITLE V—FUELS

SEC. 501. TANK DRAINING DURING TRANSITION TO SUMMERTIME RFG.

Not later than 60 days after the enactment of the Act, the Administrator of the Environmental Protection Agency shall commence a rulemaking to determine whether modifications to the regulations set forth in 40 CFR Section 80.78 and any associated regulations regarding the transition to high ozone season reformulated gasoline are necessary to ensure that the transition to high ozone season reformulated gasoline is conducted in a manner that minimizes disruptions to the general availability and affordability of gasoline, and maximizes flexibility with regard to the draining and inventory management of gasoline storage tanks located at refineries, terminals, wholesale and retail outlets, consistent with the goals of the Clean Air Act. The Administrator shall propose and take final action in such rulemaking to ensure that any modifications are effective and implemented at least 60 days prior to the beginning of the high ozone season for the year 2002.

SEC. 502. GASOLINE BLENDSTOCK REQUIREMENTS.

Not later than 60 days after the enactment of this Act, the Administrator of the Environmental Protection Agency shall commence a rulemaking to determine whether modifications to product transfer documentation, accounting, compliance calculation, and other requirements contained in the regulations of the Administrator set forth in section 80.102 of title 40 of the Code of Federal Regulations relating to gasoline blendstocks are necessary to facilitate the movement of gasoline and gasoline feedstocks among different regions throughout the country and to improve the ability of petroleum refiners and importers to respond to regional gasoline shortages and prevent unreasonable short-term price increases. The Administrator shall take into consideration the extent to which such requirements have been, or will be, rendered unnecessary or inefficient by reason of subsequent environmental safeguards that were not in effect at the time the regulations in section 80.102 of title 40 of the Code of Federal Regulations were promulgated. The Administrator shall propose and take final action in such rulemaking to ensure that any modifications are effective and implemented at least 60 days prior to the beginning of the high ozone season for the year 2002.

SEC. 503. BOUTIQUE FUELS.

(a) Joint Study.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of all Federal, State, and local requirements regarding motor vehicle fuels, including requirements relating to reformulated gasoline, volatility (Reid Vapor Pressure), oxygenated fuel, diesel fuel and other requirements that vary from State to State, region to region, or locality to locality. The study shall analyze—

(1) the effect of the variety of such requirements on the price of motor vehicle fuels to the consumer;

(2) the availability and affordability of motor vehicle fuels in different States and localities;

(3) the effect of Federal, State, and local regulations, including multiple fuel requirements, on domestic refineries and the fuel distribution system;

(4) the effect of such requirements on local, regional, and national air quality requirements and goals;

(5) the effect of such requirements on vehicle emissions;

(6) the feasibility of developing national or regional fuel specifications for the contiguous United States that would—

(A) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(B) reduce price volatility and costs to consumers and producers;

(C) meet local, regional, and national air quality requirements and goals; and

(D) provide increased gasoline market liquidity;

(7) the extent to which the Environmental Protection Agency's Tier II requirements for conventional gasoline may achieve in future years the same or similar air quality results as State reformulated gasoline programs and State programs regarding gasoline volatility (RVP); and

(8) the feasibility of providing incentives to promote cleaner burning fuel.

(b) Report.—By December 31, 2001, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit a report to the Congress containing the results of the study conducted under subsection (a). Such report shall contain recommendations for legislative and administrative actions that may be taken to simplify the national distribution system for motor vehicle fuel, make such system more cost-effective, and reduce the costs and increase the availability of motor vehicle fuel to the end user while meeting the requirements of the Clean Air Act. Such recommendations shall take into account the need to provide lead time for refinery and fuel distribution system modifications necessary to assure adequate fuel supply for all States.

SEC. 504. FUNDING FOR MTBE CONTAMINATION.

Notwithstanding any other provision of law, there is authorized to be appropriated to the Administrator of the Environmental Protection Agency from the Leaking Underground Storage Trust Fund not more than $200,000,000 to be used for taking such action, limited to assessment, corrective action, inspection of underground storage tank systems, and groundwater monitoring in connection with MTBE contamination, as the Administrator deems necessary to protect human health and the environment from releases of methyl tertiary butyl ether (MTBE) from underground storage tanks.

TITLE VI—RENEWABLE ENERGY

SEC. 601. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than 1 year after the date of the enactment of this Act, and each year thereafter, the Secretary of Energy shall publish an assessment by the National Laboratories of all renewable energy resources available within the United States.

(b) CONTENTS OF REPORT.—The report published under subsection (a) shall contain each of the following:

(1) A detailed inventory describing the available amount and characteristics of solar, wind, biomass, geothermal, hydroelectric and other renewable energy sources.

(2) Such other information as the Secretary of Energy believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource.

SEC. 602. RENEWABLE ENERGY PRODUCTION INCENTIVE.

Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended as follows:

(1) In subsection (a) by striking "and which satisfies" and all that follows through "Secretary shall establish." and inserting ". The Secretary shall establish other procedures necessary for efficient administration of the program. The Secretary shall not establish any criteria or procedures that have the effect of assigning to proposals a higher or lower priority for eligibility or allocation of appropriated funds on the basis of the energy source proposed.".

(2) In subsection (b)—

(A) by striking "a State or any political" and all that follows through "nonprofit electrical cooperative" and inserting "an electricity-generating cooperative exempt from taxation under section 501(c)(12) or section 1381(a)(2)(C) of the Internal Revenue Code of 1986, a public utility described in section 115 of such Code, a State, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government or subdivision thereof,"; and

(B) By inserting "landfill gas," after "wind, biomass,".

(3) In subsection (c) by striking "during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section" and inserting "before October 1, 2013".

(4) In subsection (d) by inserting "or in which the Secretary finds that all necessary Federal and State authorizations have been obtained to begin construction of the facility" after "eligible for such payments".

(5) In subsection (e)(1) by inserting "landfill gas," after "wind, biomass,".

(6) In subsection (f) by striking "the expiration of" and all that follows through "of this section" and inserting "September 30, 2023".

(7) In subsection (g)—

(A) by striking "1993, 1994, and 1995" and inserting "2003 through 2023"; and

(B) by inserting "Funds may be appropriated pursuant to this subsection to remain available until expended." after "purposes of this section.".

SEC. 603. STUDY OF ETHANOL FROM SOLID WASTE LOAN GUARANTEE PROGRAM.

The Secretary of Energy shall conduct a study of the feasibility of providing guarantees for loans by private banking and investment institutions for facilities for the processing and conversion of municipal solid waste and sewage sludge into fuel ethanol and other commercial byproducts, and not later than 90 days after the date of the enactment of this Act shall transmit to the Congress a report on the results of the study.

SEC. 604. STUDY OF RENEWABLE FUEL CONTENT.

(a) STUDY.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of the feasibility of developing a requirement that motor vehicle fuel sold or introduced into commerce in the United States in calendar year 2002 or any calendar year thereafter by a refiner, blender, or importer shall, on a 6-month average basis, be comprised of a quantity of renewable fuel, measured in gasoline-equivalent gallons. As part of this study, the Administrator and Secretary shall evaluate the use of a banking and trading credit system and the feasibility and desirability of requiring an increasing percentage of renewable fuel to be phased in over a 15-year period.

(b) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Administrator and the Secretary shall transmit to the Congress a report on the results of the study conducted under this section.

TITLE VII—PIPELINES

SEC. 701. PROHIBITION ON CERTAIN PIPELINE ROUTE.

No license, permit, lease, right-of-way, authorization or other approval required under Federal law for the construction of any pipeline to transport natural gas from lands within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that traverses—

(1) the submerged lands (as defined by the Submerged Lands Act) beneath, or the adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees North latitude.

SEC. 702. HISTORIC PIPELINES.

Section 7 of the Natural Gas Act (15 U.S.C. 717(f)) is amended by adding at the end the following new subsection:

"(i) Notwithstanding the National Historic Preservation Act, a transportation facility shall not be eligible for inclusion on the National Register of Historic Places unless—

"(1) the Commission has permitted the abandonment of the transportation facility pursuant to subsection (b) of this section, or

"(2) the owner of the facility has given written consent to such eligibility.

Any transportation facility deemed eligible for inclusion on the National Register of Historic Places prior to the date of the enactment of this subsection shall no longer be eligible unless the owner of the facility gives written consent to such eligibility.".

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. WASTE REDUCTION AND USE OF ALTERNATIVES.

(a) GRANT AUTHORITY.—The Secretary of Energy is authorized to make a single grant to a qualified institution to examine and develop the feasibility of burning post-consumer carpet in cement kilns as an alternative energy source. The purposes of the grant shall include determining—

(1) how post-consumer carpet can be burned without disrupting kiln operations;

(2) the extent to which overall kiln emissions may be reduced; and

(3) how this process provides benefits to both cement kiln operations and carpet suppliers.

(b) QUALIFIED INSTITUTION.—For the purposes of subsection (a), a qualified institution is a research-intensive institution of higher learning with demonstrated expertise in the fields of fiber recycling and logistical modeling of carpet waste collection and preparation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out this section $275,000 for fiscal year 2002, to remain available until expended.

SEC. 802. ANNUAL REPORT ON UNITED STATES ENERGY INDEPENDENCE.

(a) REPORT.—The Secretary of Energy, in consultation with the heads of other relevant Federal agencies, shall include in each report under section 801(c) of the Department of Energy Organization Act a section which evaluates the progress the United States has made toward obtaining the goal of not more than 50 percent dependence on foreign oil sources by 2010.

(b) ALTERNATIVES.—The information required under this section to be included in the reports under section 801(c) of the Department of Energy Organization Act shall include a specification of what legislative or administrative actions must be implemented to meet this goal and set forth a range of options and alternatives with a cost/benefit analysis for each option or alternative together with an estimate of the contribution each option or alternative could make to reduce foreign oil imports. The Secretary shall solicit information from the public and request information from the Energy Information Agency and other agencies to develop the information required under this section. The information shall indicate, in detail, options and alternatives to—

(1) increase the use of renewable domestic energy sources, including conventional and nonconventional sources;

(2) conserve energy resources, including improving efficiencies and decreasing consumption; and

(3) increase domestic production and use of oil, natural gas, nuclear, and coal, including any actions necessary to provide access to, and transportation of, these energy resources.

SEC. 803. STUDY OF AIRCRAFT EMISSIONS.

The Secretary of Transportation and the Administrator of the Environmental Protection Agency shall jointly commence a study within 60 days after the enactment of this Act to investigate the impact of aircraft emissions on air quality in areas that are considered to be in nonattainment for the national ambient air quality standard for ozone. As part of this study, the Secretary and the Administrator shall focus on the impact of emissions by aircraft idling at airports and on the contribution of such emissions as a percentage of total emissions in the nonattainment area. Within 180 days of the commencement of the study, the Secretary and the Administrator shall submit a report to the Committees on Energy and Commerce and Transportation and Infrastructure of the United States House of Representatives and to the Committees on Environment and Public Works and Commerce, Science, and Transportation of the United States Senate containing the results of the study and recommendations with respect to a plan to maintain comprehensive data on aircraft emissions and methods by which such emissions may be reduced, without increasing individual aircraft noise, in order to assist in the attainment of the national ambient air quality standards.

DIVISION B

SEC. 2001. SHORT TITLE.

This division may be cited as the "Comprehensive Energy Research and Technology Act of 2001".

SEC. 2002. FINDINGS.

The Congress finds that—

(1) the Nation's prosperity and way of life are sustained by energy use;

(2) the growing imbalance between domestic energy production and consumption means that the Nation is becoming increasingly reliant on imported energy, which has the potential to undermine the Nation's economy, standard of living, and national security;

(3) energy conservation and energy efficiency help maximize the use of available energy resources, reduce energy shortages, lower the Nation's reliance on energy imports, mitigate the impacts of high energy prices, and help protect the environment and public health;

(4) development of a balanced portfolio of domestic energy supplies will ensure that future generations of Americans will have access to the energy they need;

(5) energy efficiency technologies, renewable and alternative energy technologies, and advanced energy systems technologies will help diversify the Nation's energy portfolio with few adverse environmental impacts and are vital to delivering clean energy to fuel the Nation's economic growth;

(6) development of reliable, affordable, and environmentally sound energy efficiency technologies, renewable and alternative energy technologies, and advanced energy systems technologies will require maintenance of a vibrant fundamental scientific knowledge base and continued scientific and technological innovations that can be accelerated by Federal funding, whereas commercial deployment of such systems and technologies are the responsibility of the private sector;

(7) Federal funding should focus on those programs, projects, and activities that are long-term, high-risk, noncommercial, and well-managed, and that provide the potential for scientific and technological advances; and

(8) public-private partnerships should be encouraged to leverage scarce taxpayer dollars.

SEC. 2003. PURPOSES.

The purposes of this division are to—

(1) protect and strengthen the Nation's economy, standard of living, and national security by reducing dependence on imported energy;

(2) meet future needs for energy services at the lowest total cost to the Nation, including environmental costs, giving balanced and comprehensive consideration to technologies that improve the efficiency of energy end uses and that enhance energy supply;

(3) reduce the air, water, and other environmental impacts (including emissions of greenhouse gases) of energy production, distribution, transportation, and use through the development of environmentally sustainable energy systems;

(4) consider the comparative environmental impacts of the energy saved or produced by specific programs, projects, or activities;

(5) maintain the technological competitiveness of the United States and stimulate economic growth through the development of advanced energy systems and technologies;

(6) foster international cooperation by developing international markets for domestically produced sustainable energy technologies, and by transferring environmentally sound, advanced energy systems and technologies to developing countries to promote sustainable development;

(7) provide sufficient funding of programs, projects, and activities that are performance-based and modeled as public-private partnerships, as appropriate; and

(8) enhance the contribution of a given program, project, or activity to fundamental scientific knowledge.

SEC. 2004. GOALS.

(a) IN GENERAL.—Subject to subsection (b), in order to achieve the purposes of this division under section 2003, the Secretary should conduct a balanced energy research, development, demonstration, and commercial application portfolio of programs guided by the following goals to meet the purposes of this division under section 2003.

(1) ENERGY CONSERVATION AND ENERGY EFFICIENCY.—

(A) For the Building Technology, State and Community Sector, the program should develop technologies, housing components, designs, and production methods that will, by 2010—

(i) reduce the monthly energy cost of new housing by 20 percent, compared to the cost as of the date of the enactment of this Act;

(ii) cut the environmental impact and energy use of new housing by 50 percent, compared to the impact and use as of the date of the enactment of this Act; and

(iii) improve durability and reduce maintenance costs by 50 percent compared to the durability and costs as of the date of the enactment of this Act.

(B) For the Industry Sector, the program should, in cooperation with the affected industries, improve the energy intensity of the major energy-consuming industries by at least 25 percent by 2010, compared to the energy intensity as of the date of the enactment of this Act.

(C) For Power Technologies, the program should, in cooperation with the affected industries—

(i) develop a microturbine (40 to 300 kilowatt) that is more than 40 percent more efficient by 2006, and more than 50 percent more efficient by 2010, compared to the efficiency as of the date of the enactment of this Act; and

(ii) develop advanced materials for combustion systems that reduce emissions of nitrogen oxides by 30 to 50 percent while increasing efficiency 5 to 10 percent by 2007, compared to such emissions as of the date of the enactment of this Act.

(D) For the Transportation Sector, the program should, in cooperation with affected industries—

(i) develop a production prototype passenger automobile that has fuel economy equivalent to 80 miles per gallon of gasoline by 2004;

(ii) develop class 7 and 8 heavy duty trucks and buses with ultra low emissions and the ability to use an alternative fuel that has an average fuel economy equivalent to—

(I) 10 miles per gallon of gasoline by 2007; and

(II) 13 miles per gallon of gasoline by 2010;

(iii) develop a production prototype of a passenger automobile with zero equivalent emissions that has an average fuel economy of 100 miles per gallon of gasoline by 2010; and

(iv) improve, by 2010, the average fuel economy of trucks—

(I) in classes 1 and 2 by 300 percent; and

(II) in classes 3 through 6 by 200 percent, compared to the fuel economy as of the date of the enactment of this Act.

(2) RENEWABLE ENERGY.—

(A) For Hydrogen Research, to carry out the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990, as amended by subtitle A of title II of this division.

(B) For bioenergy:

(i) The program should reduce the cost of bioenergy relative to other energy sources to enable the United States to triple bioenergy use by 2010.

(ii) For biopower systems, the program should reduce the cost of such systems to enable commercialization of integrated power-generating technologies that employ gas turbines and fuel cells integrated with bioenergy gasifiers within 5 years after the date of the enactment of this Act.

(iii) For biofuels, the program should accelerate research, development, and demonstration on advanced enzymatic hydrolysis technology for making ethanol from cellulosic feedstock, with the goal that between 2010 and 2015 ethanol produced from energy crops would be fully competitive in terms of price with gasoline as a neat fuel, in either internal combustion engines or fuel cell vehicles.

(C) For Geothermal Technology Development, the program should focus on advanced concepts for the long term. The first priority should be high-grade enhanced geothermal systems; the second priority should be lower grade, hot dry rock, and geopressured systems; and the third priority should be support of field demonstrations of enhanced geothermal systems technology, including sites in lower grade areas to demonstrate the benefits of reservoir concepts to different conditions.

(D) For Hydropower, the program should provide a new generation of turbine technologies that will increase generating capacity and will be less damaging to fish and aquatic ecosystems.

(E) For Concentrating Solar Power, the program should strengthen ongoing research, development, and demonstration combining high-efficiency and high-temperature receivers with advanced thermal storage and power cycles, with the goal of making solar-only power (including baseload solar power) widely competitive with fossil fuel power by 2015. The program should limit or halt its research and development on power-tower and power-trough technologies because further refinements to these concepts will not further their deployment, and should assess the market prospects for solar dish/engine technologies to determine whether continued research and development is warranted.

(F) For Photovoltaic Energy Systems, the program should pursue research, development, and demonstration that will, by 2005, increase the efficiency of thin film modules from the current 7 percent to 11 percent in multi-million watt production; reduce the direct manufacturing cost of photovoltaic modules by 30 percent from the current $2.50 per watt to $1.75 per watt by 2005; and establish greater than a 20-year lifetime of photovoltaic systems by improving the reliability and lifetime of balance-of-system components and reducing recurring cost by 40 percent. The program's top priority should be the development of sound manufacturing technologies for thin-film modules, and the program should make a concerted effort to integrate fundamental research and basic engineering research.

(G) For Solar Building Technology Research, the program should complete research and development on new polymers and manufacturing processes to reduce the cost of solar water heating by 50 percent by 2004, compared to the cost as of the date of the enactment of this Act.

(H) For Wind Energy Systems, the program should reduce the cost of wind energy to three cents per kilowatt-hour at Class 6 (15 miles-per-hour annual average) wind sites by 2004, and 4 cents per kilowatt-hour in Class 4 (13 miles-per-hour annual average) wind sites by 2015, and further if required so that wind power can be widely competitive with fossil-fuel-based electricity in a restructured electric industry. Program research on advanced wind turbine technology should focus on turbulent flow studies, durable materials to extend turbine life, blade efficiency, and higher efficiency operation in low quality wind regimes.

(I) For Electric Energy Systems and Storage, including High Temperature Superconducting Research and Development, Energy Storage Systems, and Transmission Reliability, the program should develop high capacity superconducting transmission lines and generators, highly reliable energy storage systems, and distributed generating systems to accommodate multiple types of energy sources under common interconnect standards.

(J) For the International Renewable Energy and Renewable Energy Production Incentive programs, and Renewable Program Support, the program should encourage the commercial application of renewable energy technologies by developed and developing countries, State and local governmental entities and nonprofit electric cooperatives, and by the competitive domestic market.

(3) NUCLEAR ENERGY.—

(A) For university nuclear science and engineering, the program should carry out the provisions of subtitle A of title III of this division.

(B) For fuel cycle research, development, and demonstration, the program should carry out the provisions of subtitle B of title III of this division.

(C) For the Nuclear Energy Research Initiative, the program should accomplish the objectives of section 2341(b) of this Act.

(D) For the Nuclear Energy Plant Optimization Program, the program should accomplish the objectives of section 2342(b) of this Act.

(E) For Nuclear Energy Technologies, the program should carry out the provisions of section 2343 of this Act.

(F) For Advanced Radioisotope Power Systems, the program should ensure that the United States has adequate capability to power future satellite and space missions.

(4) FOSSIL ENERGY.—

(A) For core fossil energy research and development, the program should achieve the goals outlined by the Department's Vision 21 Program. This research should address fuel-flexible gasification and turbines, fuel cells, advanced-combustion systems, advanced fuels and chemicals, advanced modeling and systems analysis, materials and heat exchangers, environmental control technologies, gas-stream purification, gas-separation technology, and sequestration research and development focused on cost-effective novel concepts for capturing, reusing or storing, or otherwise mitigating carbon and other greenhouse gas emissions.

(B) For offshore oil and natural gas resources, the program should investigate and develop technologies to—

(i) extract methane hydrates in coastal waters of the United States, in accordance with the provisions of the Methane Hydrate Research and Development Act of 2000; and

(ii) develop natural gas and oil reserves in the ultra-deepwater of the Central and Western Gulf of Mexico. Research and development on ultra-deepwater resource recovery shall focus on improving the safety and efficiency of such recovery and of sub-sea production technology used for such recovery, while lowering costs.

(C) For transportation fuels, the program should support a comprehensive transportation fuels strategy to increase the price elasticity of oil supply and demand by focusing research on reducing the cost of producing transportation fuels from natural gas and indirect liquefaction of coal.

(5) SCIENCE.—The Secretary, through the Office of Science, should—

(A) develop and maintain a robust portfolio of fundamental scientific and energy research, including High Energy and Nuclear Physics, Biological and Environmental Research, Basic Energy Sciences (including Materials Sciences, Chemical Sciences, Engineering and Geosciences, and Energy Biosciences), Advanced Scientific Computing, Energy Research and Analysis, Multiprogram Energy Laboratories-Facilities Support, Fusion Energy Sciences, and Facilities and Infrastructure;

(B) maintain, upgrade, and expand, as appropriate, and in accordance with the provisions of this division, the scientific user facilities maintained by the Office of Science, and ensure that they are an integral part of the Department's mission for exploring the frontiers of fundamental energy sciences; and

(C) ensure that its fundamental energy sciences programs, where appropriate, help inform the applied research and development programs of the Department.

(b) REVIEW AND ASSESSMENT.—The Secretary shall perform an assessment that establishes measurable cost and performance-based goals, or that modifies the goals under subsection (a), as appropriate, for 2005, 2010, 2015, and 2020 for each of the programs authorized by this division that would enable each such program to meet the purposes of this division under section 2003. Such assessment shall be based on the latest scientific and technical knowledge, and shall also take into consideration, as appropriate, the comparative environmental impacts (including emissions of greenhouse gases) of the energy saved or produced by specific programs.

(c) CONSULTATION.—In establishing the measurable cost and performance-based goals under subsection (b), the Secretary shall consult with the private sector, institutions of higher learning, national laboratories, environmental organizations, professional and technical societies, and any other persons as the Secretary considers appropriate.

(d) SCHEDULE.—The Secretary shall—

(1) issue and publish in the Federal Register a set of draft measurable cost and performance-based goals for the programs authorized by this division for public comment—

(A) in the case of a program established before the date of the enactment of this Act, not later than 120 days after the date of the enactment of this Act; and

(B) in the case of a program not established before the date of the enactment of this Act, not later than 120 days after the date of establishment of the program;

(2) not later than 60 days after the date of publication under paragraph (1), after taking into consideration any public comments received, transmit to the Congress and publish in the Federal Register the final measurable cost and performance-based goals; and

(3) update all such cost and performance-based goals on a biennial basis.

SEC. 2005. DEFINITIONS.

For purposes of this division, except as otherwise provided—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "appropriate congressional committees" means—

(A) the Committee on Science and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate;

(3) the term "Department" means the Department of Energy; and

(4) the term "Secretary" means the Secretary of Energy.

SEC. 2006. AUTHORIZATIONS.

Authorizations of appropriations under this division are for environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology programs, projects, and activities.

SEC. 2007. BALANCE OF FUNDING PRIORITIES.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the funding of the various programs authorized by titles I through IV of this division should remain in the same proportion to each other as provided in this division, regardless of the total amount of funding made available for those programs.

(b) REPORT TO CONGRESS.—If for fiscal year 2002, 2003, or 2004 the amounts appropriated in general appropriations Acts for the programs authorized in titles I through IV of this division are not in the same proportion to one another as are the authorizations for such programs in this division, the Secretary and the Administrator shall, within 60 days after the date of the enactment of the last general appropriations Act appropriating amounts for such programs, transmit to the appropriate congressional committees a report describing the programs, projects, and activities that would have been funded if the proportions provided for in this division had been maintained in the appropriations. The amount appropriated for the program receiving the highest percentage of its authorized funding for a fiscal year shall be used as the baseline for calculating the proportional deficiencies of appropriations for other programs in that fiscal year.

TITLE I—ENERGY CONSERVATION AND ENERGY EFFICIENCY

Subtitle A—Alternative Fuel Vehicles

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the "Alternative Fuel Vehicle Acceleration Act of 2001".

SEC. 2102. DEFINITIONS.

For the purposes of this subtitle, the following definitions apply:

(1) ALTERNATIVE FUEL VEHICLE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "alternative fuel vehicle" means a motor vehicle that is powered—

(i) in whole or in part by electricity, including electricity supplied by a fuel cell;

(ii) by liquefied natural gas;

(iii) by compressed natural gas;

(iv) by liquefied petroleum gas;

(v) by hydrogen;

(vi) by methanol or ethanol at no less than 85 percent by volume; or

(vii) by propane.

(B) EXCLUSIONS.—The term "alternative fuel vehicle" does not include—

(i) any vehicle designed to operate solely on gasoline or diesel derived from fossil fuels, regardless of whether it can also be operated on an alternative fuel; or

(ii) any vehicle that the Secretary determines, by rule, does not yield substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels.

(2) PILOT PROGRAM.—The term "pilot program" means the competitive grant program established under section 2103.

(3) ULTRA-LOW SULFUR DIESEL VEHICLE.—The term "ultra-low sulfur diesel vehicle" means a vehicle powered by a heavy-duty diesel engine that—

(A) is fueled by diesel fuel which contains sulfur at not more than 15 parts per million; and

(B) emits not more than the lesser of—

(i) for vehicles manufactured in—

(I) model years 2001 through 2003, 3.0 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(II) model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; or

(ii) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of ultra-low sulfur diesel vehicles of the same type that are commercially available.

SEC. 2103. PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a competitive grant pilot program to provide not more than 15 grants to State governments, local governments, or metropolitan transportation authorities to carry out a project or projects for the purposes described in subsection (b).

(b) GRANT PURPOSES.—Grants under this section may be used for the following purposes:

(1) The acquisition of alternative fuel vehicles, including—

(A) passenger vehicles;

(B) buses used for public transportation or transportation to and from schools;

(C) delivery vehicles for goods or services;

(D) ground support vehicles at public airports, including vehicles to carry baggage or push airplanes away from terminal gates; and

(E) motorized two-wheel bicycles, scooters, or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of ultra-low sulfur diesel vehicles.

(3) Infrastructure necessary to directly support an alternative fuel vehicle project funded by the grant, including fueling and other support equipment.

(4) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(c) APPLICATIONS.—

(1) REQUIREMENTS.—The Secretary shall issue requirements for applying for grants under the pilot program. At a minimum, the Secretary shall require that applications be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and shall include—

(A) at least one project to enable passengers or goods to be transferred directly from one alternative fuel vehicle or ultra-low sulfur diesel vehicle to another in a linked transportation system;

(B) a description of the projects proposed in the application, including how they meet the requirements of this subtitle;

(C) an estimate of the ridership or degree of use of the projects proposed in the application;

(D) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the projects proposed in the application, and a plan to collect and disseminate environmental data, related to the projects to be funded under the grant, over the life of the projects;

(E) a description of how the projects proposed in the application will be sustainable without Federal assistance after the completion of the term of the grant;

(F) a complete description of the costs of each project proposed in the application, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(G) a description of which costs of the projects proposed in the application will be supported by Federal assistance under this subtitle; and

(H) documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the projects, and a commitment by the applicant to use such fuel in carrying out the projects.

(2) PARTNERS.—An applicant under paragraph (1) may carry out projects under the pilot program in partnership with public and private entities.

(d) SELECTION CRITERIA.—In evaluating applications under the pilot program, the Secretary shall consider each applicant's previous experience with similar projects and shall give priority consideration to applications that—

(1) are most likely to maximize protection of the environment;

(2) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed projects and the greatest likelihood that each project proposed in the application will be maintained or expanded after Federal assistance under this subtitle is completed; and

(3) exceed the minimum requirements of subsection (c)(1)(A).

(e) PILOT PROJECT REQUIREMENTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide more than $20,000,000 in Federal assistance under the pilot program to any applicant.

(2) COST SHARING.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(3) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of alternative fuel vehicles through the pilot program, and shall ensure a broad geographic distribution of project sites.

(5) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(f) SCHEDULE.—

(1) PUBLICATION.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a request for applications to undertake projects under the pilot program. Applications shall be due within 6 months of the publication of the notice.

(2) SELECTION.—Not later than 6 months after the date by which applications for grants are due, the Secretary shall select by competitive, peer review all applications for projects to be awarded a grant under the pilot program.

(g) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for the acquisition of ultra-low sulfur diesel vehicles.

SEC. 2104. REPORTS TO CONGRESS.

(a) INITIAL REPORT.—Not later than 2 months after the date grants are awarded under this subtitle, the Secretary shall transmit to the appropriate congressional committees a report containing—

(1) an identification of the grant recipients and a description of the projects to be funded;

(2) an identification of other applicants that submitted applications for the pilot program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(b) EVALUATION.—Not later than 3 years after the date of the enactment of this Act, and annually thereafter until the pilot program ends, the Secretary shall transmit to the appropriate congressional committees a report containing an evaluation of the effectiveness of the pilot program, including an assessment of the benefits to the environment derived from the projects included in the pilot program as well as an estimate of the potential benefits to the environment to be derived from widespread application of alternative fuel vehicles and ultra-low sulfur diesel vehicles.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary $200,000,000 to carry out this subtitle, to remain available until expended.

Subtitle B—Distributed Power Hybrid Energy Systems

SEC. 2121. FINDINGS.

The Congress makes the following findings:

(1) Our ability to take advantage of our renewable, indigenous resources in a cost-effective manner can be greatly advanced through systems that compensate for the intermittent nature of these resources through distributed power hybrid systems.

(2) Distributed power hybrid systems can—

(A) shelter consumers from temporary energy price volatility created by supply and demand mismatches;

(B) increase the reliability of energy supply; and

(C) address significant local differences in power and economic development needs and resource availability that exist throughout the United States.

(3) Realizing these benefits will require a concerted and integrated effort to remove market barriers to adopting distributed power hybrid systems by—

(A) developing the technological foundation that enables designing, testing, certifying, and operating distributed power hybrid systems; and

(B) providing the policy framework that reduces such barriers.

(4) While many of the individual distributed power hybrid systems components are either available or under development in existing private and public sector programs, the capabilities to integrate these components into workable distributed power hybrid systems that maximize benefits to consumers in a safe manner often are not coherently being addressed.

SEC. 2122. DEFINITIONS.

For purposes of this subtitle—

(1) the term "distributed power hybrid system" means a system using 2 or more distributed power sources, operated together with associated supporting equipment, including storage equipment, and software necessary to provide electric power onsite and to an electric distribution system; and

(2) the term "distributed power source" means an independent electric energy source of usually 10 megawatts or less located close to a residential, commercial, or industrial load center, including—

(A) reciprocating engines;

(B) turbines;

(C) microturbines;

(D) fuel cells;

(E) solar electric systems;

(F) wind energy systems;

(G) biopower systems;

(H) geothermal power systems; or

(I) combined heat and power systems.

SEC. 2123. STRATEGY.

(a) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and transmit to the Congress a distributed power hybrid systems strategy showing—

(1) needs best met with distributed power hybrid systems configurations, especially systems including one or more solar or renewable power sources; and

(2) technology gaps and barriers (including barriers to efficient connection with the power grid) that hamper the use of distributed power hybrid systems.

(b) ELEMENTS.—The strategy shall provide for development of—

(1) system integration tools (including databases, computer models, software, sensors, and controls) needed to plan, design, build, and operate distributed power hybrid systems for maximum benefits;

(2) tests of distributed power hybrid systems, power parks, and microgrids, including field tests and cost-shared demonstrations with industry;

(3) design tools to characterize the benefits of distributed power hybrid systems for consumers, to reduce testing needs, to speed commercialization, and to generate data characterizing grid operations, including interconnection requirements;

(4) precise resource assessment tools to map local resources for distributed power hybrid systems; and

(5) a comprehensive research, development, demonstration, and commercial application program to ensure the reliability, efficiency, and environmental integrity of distributed energy resources, focused on filling gaps in distributed power hybrid systems technologies identified under subsection (a)(2), which may include—

(A) integration of a wide variety of advanced technologies into distributed power hybrid systems;

(B) energy storage devices;

(C) environmental control technologies;

(D) interconnection standards, protocols, and equipment; and

(E) ancillary equipment for dispatch and control.

(c) IMPLEMENTATION AND INTEGRATION.—The Secretary shall implement the strategy transmitted under subsection (a) and the research program under subsection (b)(5). Activities pursuant to the strategy shall be integrated with other activities of the Department's Office of Power Technologies.

SEC. 2124. HIGH POWER DENSITY INDUSTRY PROGRAM.

(a) IN GENERAL.—The Secretary shall develop and implement a comprehensive research, development, demonstration, and commercial application program to improve energy efficiency, reliability, and environmental responsibility in high power density industries, such as data centers, server farms, telecommunications facilities, and heavy industry.

(b) AREAS.—In carrying out this section, the Secretary shall consider technologies that provide—

(1) significant improvement in efficiency of high power density facilities, and in data and telecommunications centers, using advanced thermal control technologies;

(2) significant improvements in air-conditioning efficiency in facilities such as data centers and telecommunications facilities;

(3) significant advances in peak load reduction; and

(4) advanced real time metering and load management and control devices.

(c) IMPLEMENTATION AND INTEGRATION.—Activities pursuant to this program shall be integrated with other activities of the Department's Office of Power Technologies.

SEC. 2125. MICRO-COGENERATION ENERGY TECHNOLOGY.

The Secretary shall make competitive, merit-based grants to consortia of private sector entities for the development of micro-cogeneration energy technology. The consortia shall explore the creation of small-scale combined heat and power through the use of residential heating appliances. There are authorized to be appropriated to the Secretary $20,000,000 to carry out this section, to remain available until expended.

SEC. 2126. PROGRAM PLAN.

Within 4 months after the date of the enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to the Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of the distributed energy resources, power transmission, and high power density industries to prioritize appropriate program areas. The Secretary shall also seek the advice of utilities, energy services providers, manufacturers, institutions of higher learning, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons the Secretary considers appropriate.

SEC. 2127. REPORT.

Two years after date of the enactment of this Act and at 2-year intervals thereafter, the Secretary, jointly with other appropriate Federal agencies, shall transmit a report to Congress describing the progress made to achieve the purposes of this subtitle.

SEC. 2128. VOLUNTARY CONSENSUS STANDARDS.

Not later than 2 years after the date of the enactment of this Act, the Secretary, in consultation with the National Institute of Standards and Technology, shall work with the Institute of Electrical and Electronic Engineers and other standards development organizations toward the development of voluntary consensus standards for distributed energy systems for use in manufacturing and using equipment and systems for connection with electric distribution systems, for obtaining electricity from, or providing electricity to, such systems.

Subtitle C—Secondary Electric Vehicle Battery Use

SEC. 2131. DEFINITIONS.

For purposes of this subtitle, the term—

(1) "battery" means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity; and

(2) "associated equipment" means equipment located at the location where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

SEC. 2132. ESTABLISHMENT OF SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

(a) PROGRAM.—The Secretary shall establish and conduct a research, development, and demonstration program for the secondary use of batteries where the original use of such batteries was in transportation applications. Such program shall be—

(1) designed to demonstrate the use of batteries in secondary application, including utility and commercial power storage and power quality;

(2) structured to evaluate the performance, including longevity of useful service life and costs, of such batteries in field operations, and evaluate the necessary supporting infrastructure, including disposal and reuse of batteries; and

(3) coordinated with ongoing secondary battery use programs underway at the national laboratories and in industry.

(b) SOLICITATION.—(1) Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(2)(A) Proposals submitted in response to a solicitation under this section shall include—

(i) a description of the project, including the batteries to be used in the project, the proposed locations and applications for the batteries, the number of batteries to be demonstrated, and the type, characteristics, and estimated life-cycle costs of the batteries compared to other energy storage devices currently used;

(ii) the contribution, if any, of State or local governments and other persons to the demonstration project;

(iii) the type of associated equipment to be demonstrated and the type of supporting infrastructure to be demonstrated; and

(iv) any other information the Secretary considers appropriate.

(B) If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the batteries and associated equipment.

(c) SELECTION OF PROPOSALS.—(1)(A) The Secretary shall, not later than 3 months after the closing date established by the Secretary for receipt of proposals under subsection (b), select at least 5 proposals to receive financial assistance under this section.

(B) No one project selected under this section shall receive more than 25 percent of the funds authorized under this section. No more than 3 projects selected under this section shall demonstrate the same battery type.

(2) In selecting a proposal under this section, the Secretary shall consider—

(A) the ability of the proposer to acquire the batteries and associated equipment and to successfully manage and conduct the demonstration project, including the reporting requirements set forth in paragraph (3)(B);

(B) the geographic and climatic diversity of the projects selected;

(C) the long-term technical and competitive viability of the batteries to be used in the project and of the original manufacturer of such batteries;

(D) the suitability of the batteries for their intended uses;

(E) the technical performance of the battery, including the expected additional useful life and the battery's ability to retain energy;

(F) the environmental effects of the use of and disposal of the batteries proposed to be used in the project selected;

(G) the extent of involvement of State or local government and other persons in the demonstration project and whether such involvement will—

(i) permit a reduction of the Federal cost share per project; or

(ii) otherwise be used to allow the Federal contribution to be provided to demonstrate a greater number of batteries; and

(H) such other criteria as the Secretary considers appropriate.

(3) CONDITIONS.—The Secretary shall require that—

(A) as a part of a demonstration project, the users of the batteries provide to the proposer information regarding the operation, maintenance, performance, and use of the batteries, and the proposer provide such information to the battery manufacturer, for 3 years after the beginning of the demonstration project;

(B) the proposer provide to the Secretary such information regarding the operation, maintenance, performance, and use of the batteries as the Secretary may request during the period of the demonstration project; and

(C) the proposer provide at least 50 percent of the costs associated with the proposal.

SEC. 2133. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, from amounts authorized under section 2161(a), for purposes of this subtitle—

(1) $1,000,000 for fiscal year 2002;

(2) $7,000,000 for fiscal year 2003; and

(3) $7,000,000 for fiscal year 2004.

Such appropriations may remain available until expended.

Subtitle D—Green School Buses

SEC. 2141. SHORT TITLE.

This subtitle may be cited as the "Clean Green School Bus Act of 2001".

SEC. 2142. ESTABLISHMENT OF PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a pilot program for awarding grants on a competitive basis to eligible entities for the demonstration and commercial application of alternative fuel school buses and ultra-low sulfur diesel school buses.

(b) REQUIREMENTS.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish and publish in the Federal register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including certification requirements to ensure compliance with this subtitle.

(c) SOLICITATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals for grants under this section.

(d) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local governmental entity responsible for providing school bus service for one or more public school systems; or

(2) jointly to an entity described in paragraph (1) and a contracting entity that provides school bus service to the public school system or systems.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—Grants under this section shall be for the demonstration and commercial application of technologies to facilitate the use of alternative fuel school buses and ultra-low sulfur diesel school buses in lieu of buses manufactured before model year 1977 and diesel-powered buses manufactured before model year 1991.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Secretary shall give priority to awarding grants to applicants who can demonstrate the use of alternative fuel buses and ultra-low sulfur diesel school buses in lieu of buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel school buses, including State taxes and contract fees; and

(B) to provide—

(i) up to 10 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 15 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) The grant recipient shall be required to provide at least the lesser of 15 percent of the total cost of each bus received or $15,000 per bus.

(4) In the case of a grant recipient receiving a grant to demonstrate ultra-low sulfur diesel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(g) BUSES.—Funding under a grant made under this section may be used to demonstrate the use only of new alternative fuel school buses or ultra-low sulfur diesel school buses—

(1) with a gross vehicle weight of greater than 14,000 pounds;

(2) that are powered by a heavy duty engine;

(3) that, in the case of alternative fuel school buses, emit not more than—

(A) for buses manufactured in model years 2001 and 2002, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(B) for buses manufactured in model years 2003 through 2006, 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(4) that, in the case of ultra-low sulfur diesel school buses, emit not more than—

(A) for buses manufactured in model years 2001 through 2003, 3.0 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(B) for buses manufactured in model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter,

except that under no circumstances shall buses be acquired under this section that emit nonmethane hydrocarbons, oxides of nitrogen, or particulate matter at a rate greater than the best performing technology of ultra-low sulfur diesel school buses commercially available at the time the grant is made.

(h) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of alternative fuel school buses through the program under this section, and shall ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for any fiscal year for the acquisition of ultra-low sulfur diesel school buses.

(j) DEFINITIONS.—For purposes of this section—

(1) the term "alternative fuel school bus" means a bus powered substantially by electricity (including electricity supplied by a fuel cell), or by liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume; and

(2) the term "ultra-low sulfur diesel school bus" means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.

SEC. 2143. FUEL CELL BUS DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program for entering into cooperative agreements with private sector fuel cell bus developers for the development of fuel cell-powered school buses, and subsequently with not less than 2 units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) COST SHARING.—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) Funding.—No more than $25,000,000 of the amounts authorized under section 2144 may be used for carrying out this section for the period encompassing fiscal years 2002 through 2006.

(d) Reports to Congress.—Not later than 3 years after the date of the enactment of this Act, and not later than October 1, 2006, the Secretary shall transmit to the appropriate congressional committees a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

SEC. 2144. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this subtitle, to remain available until expended—

(1) $40,000,000 for fiscal year 2002;
(2) $50,000,000 for fiscal year 2003;
(3) $60,000,000 for fiscal year 2004;
(4) $70,000,000 for fiscal year 2005; and
(5) $80,000,000 for fiscal year 2006.

Subtitle E—Next Generation Lighting Initiative

SEC. 2151. SHORT TITLE.

This subtitle may be cited as "Next Generation Lighting Initiative Act".

SEC. 2152. DEFINITION.

In this subtitle, the term "Lighting Initiative" means the "Next Generation Lighting Initiative" established under section 2153(a).

SEC. 2153. NEXT GENERATION LIGHTING INITIATIVE.

(a) Establishment.—The Secretary is authorized to establish a lighting initiative to be known as the "Next Generation Lighting Initiative" to research, develop, and conduct demonstration activities on advanced lighting technologies, including white light emitting diodes.

(b) Research Objectives.—The research objectives of the Lighting Initiative shall be to develop, by 2011, advanced lighting technologies that, compared to incandescent and fluorescent lighting technologies as of the date of the enactment of this Act, are—

(1) longer lasting;
(2) more energy-efficient; and
(3) cost-competitive.

SEC. 2154. STUDY.

(a) In General.—Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with other Federal agencies, as appropriate, shall complete a study on strategies for the development and commercial application of advanced lighting technologies. The Secretary shall request a review by the National Academies of Sciences and Engineering of the study under this subsection, and shall transmit the results of the study to the appropriate congressional committees.

(b) Requirements.—The study shall—

(1) develop a comprehensive strategy to implement the Lighting Initiative; and

(2) identify the research and development, manufacturing, deployment, and marketing barriers that must be overcome to achieve a goal of a 25 percent market penetration by advanced lighting technologies into the incandescent and fluorescent lighting market by the year 2012.

(c) Implementation.—As soon as practicable after the review of the study under subsection (a) is transmitted to the Secretary by the National Academies of Sciences and Engineering, the Secretary shall adapt the implementation of the Lighting Initiative taking into consideration the recommendations of the National Academies of Sciences and Engineering.

SEC. 2155. GRANT PROGRAM.

(a) In General.—Subject to section 2603 of this Act, the Secretary may make merit-based competitive grants to firms and research organizations that conduct research, development, and demonstration projects related to advanced lighting technologies.

(b) Annual Review.—’

(1) In general.—An annual independent review of the grant-related activities of firms and research organizations receiving a grant under this section shall be conducted by a committee appointed by the Secretary under the Federal Advisory Committee Act (5 U.S.C. App.), or, at the request of the Secretary, a committee appointed by the National Academies of Sciences and Engineering.

(2) Requirements.—Using clearly defined standards established by the Secretary, the review shall assess technology advances and progress toward commercialization of the grant-related activities of firms or research organizations during each fiscal year of the grant program.

(c) Technical and Financial Assistance.—The national laboratories and other Federal agencies, as appropriate, shall cooperate with and provide technical and financial assistance to firms and research organizations conducting research, development, and demonstration projects carried out under this subtitle.

Subtitle F—Department of Energy Authorization of Appropriations

SEC. 2161. AUTHORIZATION OF APPROPRIATIONS.

(a) Operation and Maintenance.—In addition to amounts authorized to be appropriated under section 2105, section 2125, and section 2144, there are authorized to be appropriated to the Secretary for subtitle B, subtitle C, subtitle E, and for Energy Conservation operation and maintenance (including Building Technology, State and Community Sector (Nongrants), Industry Sector, Transportation Sector, Power Technologies, and Policy and Management) $625,000,000 for fiscal year 2002, $700,000,000 for fiscal year 2003, and $800,000,000 for fiscal year 2004, to remain available until expended.

(b) Limits on Use of Funds.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Building Technology, State and Community Sector—

(A) Residential Building Energy Codes;
(B) Commercial Building Energy Codes;
(C) Lighting and Appliance Standards;
(D) Weatherization Assistance Program; or
(E) State Energy Program; or

(2) Federal Energy Management Program.

Subtitle G—Environmental Protection Agency Office of Air and Radiation Authorization of Appropriations

SEC. 2171. SHORT TITLE.

This subtitle may be cited as the "Environmental Protection Agency Office of Air and Radiation Authorization Act of 2001".

SEC. 2172. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator for Office of Air and Radiation Climate Change Protection Programs $121,942,000 for fiscal year 2002, $126,800,000 for fiscal year 2003, and $131,800,000 for fiscal year 2004 to remain available until expended, of which—

(1) $52,731,000 for fiscal year 2002, $54,800,000 for fiscal year 2003, and $57,000,000 for fiscal year 2004 shall be for Buildings;

(2) $32,441,000 for fiscal year 2002, $33,700,000 for fiscal year 2003, and $35,000,000 for fiscal year 2004 shall be for Transportation;

(3) $27,295,000 for fiscal year 2002, $28,400,000 for fiscal year 2003, and $29,500,000 for fiscal year 2004 shall be for Industry;

(4) $1,700,000 for fiscal year 2002, $1,800,000 for fiscal year 2003, and $1,900,000 for fiscal year 2004 shall be for Carbon Removal;

(5) $2,500,000 for fiscal year 2002, $2,600,000 for fiscal year 2003, and $2,700,000 for fiscal year 2004 shall be for State and Local Climate; and

(6) $5,275,000 for fiscal year 2002, $5,500,000 for fiscal year 2003, and $5,700,000 for fiscal year 2004 shall be for International Capacity Building.

SEC. 2173. LIMITS ON USE OF FUNDS.

(a) Production or Provision of Articles or Services.—None of the funds authorized to be appropriated by this subtitle may be used to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Administrator determines that comparable articles or services are not available from a commercial source in the United States.

(b) Requests for Proposals.—None of the funds authorized to be appropriated by this subtitle may be used by the Environmental Protection Agency to prepare or initiate Requests for Proposals for a program if the program has not been authorized by Congress.

SEC. 2174. COST SHARING.

(a) Research and Development.—Except as otherwise provided in this subtitle, for research and development programs carried out under this subtitle, the Administrator shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Administrator may reduce or eliminate the non-Federal requirement under this subsection if the Administrator determines that the research and development is of a basic or fundamental nature.

(b) Demonstration and Commercial Application.—Except as otherwise provided in this subtitle, the Administrator shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this subtitle to be provided from non-Federal sources. The Administrator may reduce the non-Federal requirement under this subsection if the Administrator determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this subtitle.

(c) Calculation of Amount.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Administrator may include personnel, services, equipment, and other resources.

SEC. 2175. LIMITATION ON DEMONSTRATION AND COMMERCIAL APPLICATIONS OF ENERGY TECHNOLOGY.

The Administrator shall provide funding for scientific or energy demonstration or commercial application of energy technology programs, projects, or activities of the Office of Air and Radiation only for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

SEC. 2176. REPROGRAMMING.

(a) Authority.—The Administrator may use amounts appropriated under this subtitle for a program, project, or activity other than the program, project, or activity for which such amounts were appropriated only if—

(1) the Administrator has transmitted to the appropriate congressional committees a report described in subsection (b) and a period of 30 days has elapsed after such committees receive the report;

(2) amounts used for the program, project, or activity do not exceed—

(A) 105 percent of the amount authorized for the program, project, or activity; or

(B) $250,000 more than the amount authorized for the program, project, or activity,

whichever is less; and

(3) the program, project, or activity has been presented to, or requested of, the Congress by the Administrator.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this subtitle exceed the total amount authorized to be appropriated by this subtitle.

(2) Funds appropriated pursuant to this subtitle may not be used for an item for which Congress has declined to authorize funds.

SEC. 2177. BUDGET REQUEST FORMAT.

The Administrator shall provide to the appropriate congressional committees, to be transmitted at the same time as the Environmental Protection Agency's annual budget request submission, a detailed justification for budget authorization for the programs, projects, and activities for which funds are authorized by this subtitle. Each such document shall include, for the fiscal year for which funding is being requested and for the 2 previous fiscal years—

(1) a description of, and funding requested or allocated for, each such program, project, or activity;

(2) an identification of all recipients of funds to conduct such programs, projects, and activities; and

(3) an estimate of the amounts to be expended by each recipient of funds identified under paragraph (2).

SEC. 2178. OTHER PROVISIONS.

(a) ANNUAL OPERATING PLAN AND REPORTS.—The Administrator shall provide simultaneously to the Committee on Science of the House of Representatives—

(1) any annual operating plan or other operational funding document, including any additions or amendments thereto; and

(2) any report relating to the environmental research or development, scientific or energy research, development, or demonstration, or commercial application of energy technology programs, projects, or activities of the Environmental Protection Agency,

provided to any committee of Congress.

(b) NOTICE OF REORGANIZATION.—The Administrator shall provide notice to the appropriate congressional committees not later than 15 days before any reorganization of any environmental research or development, scientific or energy research, development, or demonstration, or commercial application of energy technology program, project, or activity of the Office of Air and Radiation.

Subtitle H—National Building Performance Initiative

SEC. 2181. NATIONAL BUILDING PERFORMANCE INITIATIVE.

(a) INTERAGENCY GROUP.—Not later than 3 months after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall establish an Interagency Group responsible for the development and implementation of a National Building Performance Initiative to address energy conservation and research and development and related issues. The National Institute of Standards and Technology shall provide necessary administrative support for the Interagency Group.

(b) PLAN.—Not later than 9 months after the date of the enactment of this Act, the Interagency Group shall transmit to the Congress a multiyear implementation plan describing the Federal role in reducing the costs, including energy costs, of using, owning, and operating commercial, institutional, residential, and industrial buildings by 30 percent by 2020. The plan shall include—

(1) research, development, and demonstration of systems and materials for new construction and retrofit, on the building envelope and components; and

(2) the collection and dissemination in a usable form of research results and other pertinent information to the design and construction industry, government officials, and the general public.

(c) NATIONAL BUILDING PERFORMANCE ADVISORY COMMITTEE.—A National Building Performance Advisory Committee shall be established to advise on creation of the plan, review progress made under the plan, advise on any improvements that should be made to the plan, and report to the Congress on actions that have been taken to advance the Nation's capability in furtherance of the plan. The members shall include representatives of a broad cross-section of interests such as the research, technology transfer, architectural, engineering, and financial communities; materials and systems suppliers; State, county, and local governments; the residential, multifamily, and commercial sectors of the construction industry; and the insurance industry.

(d) REPORT.—The Interagency Group shall, within 90 days after the end of each fiscal year, transmit a report to the Congress describing progress achieved during the preceding fiscal year by government at all levels and by the private sector, toward implementing the plan developed under subsection (b), and including any amendments to the plan.

TITLE II—RENEWABLE ENERGY

Subtitle A—Hydrogen

SEC. 2201. SHORT TITLE.

This subtitle may be cited as the "Robert S. Walker and George E. Brown, Jr. Hydrogen Energy Act of 2001".

SEC. 2202. PURPOSES.

Section 102(b) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

"(b) PURPOSES.—The purposes of this Act are—

"(1) to direct the Secretary to conduct research, development, and demonstration activities leading to the production, storage, transportation, and use of hydrogen for industrial, commercial, residential, transportation, and utility applications;

"(2) to direct the Secretary to develop a program of technology assessment, information dissemination, and education in which Federal, State, and local agencies, members of the energy, transportation, and other industries, and other entities may participate; and

"(3) to develop methods of hydrogen production that minimize adverse environmental impacts, with emphasis on efficient and cost-effective production from renewable energy resources.".

SEC. 2203. DEFINITIONS.

Section 102(c) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2), as so redesignated by paragraph (1) of this section, the following new paragraph:

"(1) 'advisory committee' means the advisory committee established under section 108;".

SEC. 2204. REPORTS TO CONGRESS.

Section 103 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

"SEC. 103. REPORTS TO CONGRESS.

"(a) REQUIREMENT.—Not later than 1 year after the date of the enactment of the Robert S. Walker and George E. Brown, Jr. Hydrogen Energy Act of 2001, and biennially thereafter, the Secretary shall transmit to Congress a detailed report on the status and progress of the programs and activities authorized under this Act.

"(b) CONTENTS.—A report under subsection (a) shall include, in addition to any views and recommendations of the Secretary—

"(1) an assessment of the extent to which the program is meeting the purposes specified in section 102(b);

"(2) a determination of the effectiveness of the technology assessment, information dissemination, and education program established under section 106;

"(3) an analysis of Federal, State, local, and private sector hydrogen-related research, development, and demonstration activities to identify productive areas for increased intergovernmental and private-public sector collaboration; and

"(4) recommendations of the advisory committee for any improvements needed in the programs and activities authorized by this Act.".

SEC. 2205. HYDROGEN RESEARCH AND DEVELOPMENT.

Section 104 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

"SEC. 104. HYDROGEN RESEARCH AND DEVELOPMENT.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall conduct a hydrogen research and development program relating to production, storage, transportation, and use of hydrogen, with the goal of enabling the private sector to demonstrate the technical feasibility of using hydrogen for industrial, commercial, residential, transportation, and utility applications.

"(b) ELEMENTS.—In conducting the program authorized by this section, the Secretary shall—

"(1) give particular attention to developing an understanding and resolution of critical technical issues preventing the introduction of hydrogen as an energy carrier into the marketplace;

"(2) initiate or accelerate existing research and development in critical technical issues that will contribute to the development of more economical hydrogen production, storage, transportation, and use, including critical technical issues with respect to production (giving priority to those production techniques that use renewable energy resources as their primary source of energy for hydrogen production), liquefaction, transmission, distribution, storage, and use (including use of hydrogen in surface transportation); and

"(3) survey private sector and public sector hydrogen research and development activities worldwide, and take steps to ensure that research and development activities under this section do not—

"(A) duplicate any available research and development results; or

"(B) displace or compete with the privately funded hydrogen research and development activities of United States industry.

"(c) Evaluation of Technologies.—The Secretary shall evaluate, for the purpose of determining whether to undertake or fund research and development activities under this section, any reasonable new or improved technology that could lead or contribute to the development of economical hydrogen production, storage, transportation, and use.

"(d) Research and Development Support.—The Secretary is authorized to arrange for tests and demonstrations and to disseminate to researchers and developers information, data, and other materials necessary to support the research and development activities authorized under this section and other efforts authorized under this Act, consistent with section 106 of this Act.

"(e) Competitive Peer Review.—The Secretary shall carry out or fund research and development activities under this section only on a competitive basis using peer review.

"(f) Cost Sharing.—For research and development programs carried out under this section, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.".

SEC. 2206. DEMONSTRATIONS.

Section 105 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended—

(1) in subsection (a), by striking ", preferably in self-contained locations,";

(2) in subsection (b), by striking "at self-contained sites" and inserting ", which shall include a fuel cell bus demonstration program to address hydrogen production, storage, and use in transit bus applications"; and

(3) in subsection (c), by inserting "Non-Federal Funding Requirement.—" after "(c)".

SEC. 2207. TECHNOLOGY TRANSFER.

Section 106 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

"SEC. 106. TECHNOLOGY ASSESSMENT, INFORMATION DISSEMINATION, AND EDUCATION PROGRAM.

"(a) Program.—The Secretary shall, in consultation with the advisory committee, conduct a program designed to accelerate wider application of hydrogen production, storage, transportation, and use technologies, including application in foreign countries to increase the global market for the technologies and foster global economic development without harmful environmental effects.

"(b) Information.—The Secretary, in carrying out the program authorized by subsection (a), shall—

"(1) undertake an update of the inventory and assessment, required under section 106(b)(1) of this Act as in effect before the date of the enactment of the Robert S. Walker and George E. Brown, Jr. Hydrogen Energy Act of 2001, of hydrogen technologies and their commercial capability to economically produce, store, transport, or use hydrogen in industrial, commercial, residential, transportation, and utility sector; and

"(2) develop, with other Federal agencies as appropriate and industry, an information exchange program to improve technology transfer for hydrogen production, storage, transportation, and use, which may consist of workshops, publications, conferences, and a database for the use by the public and private sectors.".

SEC. 2208. COORDINATION AND CONSULTATION.

Section 107 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) shall establish a central point for the coordination of all hydrogen research, development, and demonstration activities of the Department; and"; and

(2) by amending subsection (c) to read as follows:

"(c) Consultation.—The Secretary shall consult with other Federal agencies as appropriate, and the advisory committee, in carrying out the Secretary's authorities pursuant to this Act.".

SEC. 2209. ADVISORY COMMITTEE.

Section 108 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

"SEC. 108. ADVISORY COMMITTEE.

"(a) Establishment.—The Secretary shall enter into appropriate arrangements with the National Academies of Sciences and Engineering to establish an advisory committee consisting of experts drawn from domestic industry, academia, Governmental laboratories, and financial, environmental, and other organizations, as appropriate, to review and advise on the progress made through the programs and activities authorized under this Act.

"(b) Cooperation.—The heads of Federal agencies shall cooperate with the advisory committee in carrying out this section and shall furnish to the advisory committee such information as the advisory committee reasonably deems necessary to carry out this section.

"(c) Review.—The advisory committee shall review and make any necessary recommendations to the Secretary on—

"(1) the implementation and conduct of programs and activities authorized under this Act; and

"(2) the economic, technological, and environmental consequences of the deployment of hydrogen production, storage, transportation, and use systems.

"(d) Responsibilities of the Secretary.—The Secretary shall consider, but need not adopt, any recommendations of the advisory committee under subsection (c). The Secretary shall provide an explanation of the reasons that any such recommendations will not be implemented and include such explanation in the report to Congress under section 103(a) of this Act.".

SEC. 2210. AUTHORIZATION OF APPROPRIATIONS.

Section 109 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

"SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

"(a) Research and Development; Advisory Committee.—There are authorized to be appropriated to the Secretary to carry out sections 104 and 108—

"(1) $40,000,000 for fiscal year 2002;

"(2) $45,000,000 for fiscal year 2003;

"(3) $50,000,000 for fiscal year 2004;

"(4) $55,000,000 for fiscal year 2005; and

"(5) $60,000,000 for fiscal year 2006.

"(b) Demonstration.—There are authorized to be appropriated to the Secretary to carry out section 105—

"(1) $20,000,000 for fiscal year 2002;

"(2) $25,000,000 for fiscal year 2003;

"(3) $30,000,000 for fiscal year 2004;

"(4) $35,000,000 for fiscal year 2005; and

"(5) $40,000,000 for fiscal year 2006.".

SEC. 2211. REPEAL.

(a) Repeal.—Title II of the Hydrogen Future Act of 1996 is repealed.

(b) Conforming Amendment.—Section 2 of the Hydrogen Future Act of 1996 is amended by striking "titles II and III" and inserting "title III".

Subtitle B—Bioenergy

SEC. 2221. SHORT TITLE.

This subtitle may be cited as the "Bioenergy Act of 2001".

SEC. 2222. FINDINGS.

Congress finds that bioenergy has potential to help—

(1) meet the Nation's energy needs;

(2) reduce reliance on imported fuels;

(3) promote rural economic development;

(4) provide for productive utilization of agricultural residues and waste materials, and forestry residues and byproducts; and

(5) protect the environment.

SEC. 2223. DEFINITIONS.

For purposes of this subtitle—

(1) the term "bioenergy" means energy derived from any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal and other organic wastes;

(2) the term "biofuels" includes liquid or gaseous fuels, industrial chemicals, or both;

(3) the term "biopower" includes the generation of electricity or process steam or both; and

(4) the term "integrated bioenergy research and development" includes biopower and biofuels applications.

SEC. 2224. AUTHORIZATION.

The Secretary is authorized to conduct environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology programs, projects, and activities related to bioenergy, including biopower energy systems, biofuels energy systems, and integrated bioenergy research and development.

SEC. 2225. AUTHORIZATION OF APPROPRIATIONS.

(a) Biopower Energy Systems.—There are authorized to be appropriated to the Secretary for Biopower Energy Systems programs, projects, and activities—

(1) $45,700,000 for fiscal year 2002;

(2) $52,500,000 for fiscal year 2003;

(3) $60,300,000 for fiscal year 2004;

(4) $69,300,000 for fiscal year 2005; and

(5) $79,600,000 for fiscal year 2006.

(b) Biofuels Energy Systems.—There are authorized to be appropriated to the Secretary for biofuels energy systems programs, projects, and activities—

(1) $53,500,000 for fiscal year 2002;
(2) $61,400,000 for fiscal year 2003;
(3) $70,600,000 for fiscal year 2004;
(4) $81,100,000 for fiscal year 2005; and
(5) $93,200,000 for fiscal year 2006.

(c) INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Secretary for integrated bioenergy research and development programs, projects, and activities, $49,000,000 for each of the fiscal years 2002 through 2006. Activities funded under this subsection shall be coordinated with ongoing related programs of other Federal agencies, including the Plant Genome Program of the National Science Foundation. Of the funds authorized under this subsection, at least $5,000,000 for each fiscal year shall be for training and education targeted to minority and social disadvantaged farmers and ranchers.

(d) INTEGRATED APPLICATIONS.—Amounts authorized to be appropriated under this subtitle may be used to assist in the planning, design, and implementation of projects to convert rice straw and barley grain into biopower or biofuels.

Subtitle C—Transmission Infrastructure Systems

SEC. 2241. TRANSMISSION INFRASTRUCTURE SYSTEMS RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.

(a) IN GENERAL.—The Secretary shall develop and implement a comprehensive research, development, demonstration, and commercial application program to ensure the reliability, efficiency, and environmental integrity of electrical transmission systems. Such program shall include advanced energy technologies and systems, high capacity superconducting transmission lines and generators, advanced grid reliability and efficiency technologies development, technologies contributing to significant load reductions, advanced metering, load management and control technologies, and technology transfer and education.

(b) TECHNOLOGY.—In carrying out this subtitle, the Secretary may include research, development, and demonstration on and commercial application of improved transmission technologies including the integration of the following technologies into improved transmission systems:

(1) High temperature superconductivity.

(2) Advanced transmission materials.

(3) Self-adjusting equipment, processes, or software for survivability, security, and failure containment.

(4) Enhancements of energy transfer over existing lines.

(5) Any other infrastructure technologies, as appropriate.

SEC. 2242. PROGRAM PLAN.

Within 4 months after the date of the enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of the transmission infrastructure systems industry to select and prioritize appropriate program areas. The Secretary shall also seek the advice of utilities, energy services providers, manufacturers, institutions of higher learning, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons as the Secretary considers appropriate.

SEC. 2243. REPORT.

Two years after the date of the enactment of this Act, and at 2-year intervals thereafter, the Secretary, in consultation with other appropriate Federal agencies, shall transmit a report to Congress describing the progress made to achieve the purposes of this subtitle and identifying any additional resources needed to continue the development and commercial application of transmission infrastructure technologies.

Subtitle D—Department of Energy Authorization of Appropriations

SEC. 2261. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATION AND MAINTENANCE.—There are authorized to be appropriated to the Secretary for Renewable Energy operation and maintenance, including activities under subtitle C, Geothermal Technology Development, Hydropower, Concentrating Solar Power, Photovoltaic Energy Systems, Solar Building Technology Research, Wind Energy Systems, High Temperature Superconducting Research and Development, Energy Storage Systems, Transmission Reliability, International Renewable Energy Program, Renewable Energy Production Incentive Program, Renewable Program Support, National Renewable Energy Laboratory, and Program Direction, and including amounts authorized under the amendment made by section 2210 and amounts authorized under section 2225, $535,000,000 for fiscal year 2002, $639,000,000 for fiscal year 2003, and $683,000,000 for fiscal year 2004, to remain available until expended.

(b) WAVE POWERED ELECTRIC GENERATION.—Within the amounts authorized to be appropriated to the Secretary under subsection (a), the Secretary shall carry out a research program, in conjunction with other appropriate Federal agencies, on wave powered electric generation.

(c) ASSESSMENT OF RENEWABLE ENERGY RESOURCES.—

(1) IN GENERAL.—Using funds authorized in subsection (a), of this section, the Secretary shall transmit to the Congress, within 1 year after the date of the enactment of this Act, an assessment of all renewable energy resources available within the United States.

(2) RESOURCE ASSESSMENT.—Such report shall include a detailed inventory describing the available amount and characteristics of solar, wind, biomass, geothermal, hydroelectric, and other renewable energy sources, and an estimate of the costs needed to develop each resource. The report shall also include such other information as the Secretary believes would be useful in siting renewable energy generation, such as appropriate terrain, population and load centers, nearby energy infrastructure, and location of energy resources.

(3) AVAILABILITY.—The information and cost estimates in this report shall be updated annually and made available to the public, along with the data used to create the report.

(4) SUNSET.—This subsection shall expire at the end of fiscal year 2004.

(d) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Departmental Energy Management Program; or

(2) Renewable Indian Energy Resources.

TITLE III—NUCLEAR ENERGY

Subtitle A—University Nuclear Science and Engineering

SEC. 2301. SHORT TITLE.

This subtitle may be cited as "Department of Energy University Nuclear Science and Engineering Act".

SEC. 2302. FINDINGS.

The Congress finds the following:

(1) United States university nuclear science and engineering programs are in a state of serious decline, with nuclear engineering enrollment at a 35-year low. Since 1980, the number of nuclear engineering university programs has declined nearly 40 percent, and over two-thirds of the faculty in these programs are 45 years of age or older. Also, since 1980, the number of university research and training reactors in the United States has declined by over 50 percent. Most of these reactors were built in the late 1950s and 1960s with 30-year to 40-year operating licenses, and many will require relicensing in the next several years.

(2) A decline in a competent nuclear workforce, and the lack of adequately trained nuclear scientists and engineers, will affect the ability of the United States to solve future nuclear waste storage issues, operate existing and design future fission reactors in the United States, respond to future nuclear events worldwide, help stem the proliferation of nuclear weapons, and design and operate naval nuclear reactors.

(3) The Department of Energy's Office of Nuclear Energy, Science and Technology, a principal Federal agency for civilian research in nuclear science and engineering, is well suited to help maintain tomorrow's human resource and training investment in the nuclear sciences and engineering.

SEC. 2303. DEPARTMENT OF ENERGY PROGRAM.

(a) ESTABLISHMENT.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall support a program to maintain the Nation's human resource investment and infrastructure in the nuclear sciences and engineering consistent with the Department's statutory authorities related to civilian nuclear research, development, and demonstration and commercial application of energy technology.

(b) DUTIES OF THE OFFICE OF NUCLEAR ENERGY, SCIENCE AND TECHNOLOGY.—In carrying out the program under this subtitle, the Director of the Office of Nuclear Energy, Science and Technology shall—

(1) develop a robust graduate and undergraduate fellowship program to attract new and talented students;

(2) assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering through a Junior Faculty Research Initiation Grant Program;

(3) maintain a robust investment in the fundamental nuclear sciences and engineering through the Nuclear Engineering Education Research Program;

(4) encourage collaborative nuclear research among industry, national laboratories, and universities through the Nuclear Energy Research Initiative;

(5) assist universities in maintaining reactor infrastructure; and

(6) support communication and outreach related to nuclear science and engineering.

(c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall provide for the following university research and training reactor infrastructure maintenance and research activities:

(1) Refueling of university research reactors with low enriched fuels, upgrade of operational instrumentation, and sharing of reactors among universities.

(2) In collaboration with the United States nuclear industry, assistance, where necessary, in relicensing and upgrading university training reactors as part of a student training program.

(3) A university reactor research and training award program that provides for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY-DOE LABORATORY INTERACTIONS.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall develop—

(1) a sabbatical fellowship program for university faculty to spend extended periods of time at Department of Energy laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which laboratory staff can spend time in academic nuclear science and engineering departments.

The Secretary may under subsection (b)(1) provide for fellowships for students to spend time at Department of Energy laboratories in the areas of nuclear science and technology under the mentorship of laboratory staff.

(e) OPERATIONS AND MAINTENANCE.—To the extent that the use of a university research reactor is funded under this subtitle, funds authorized under this subtitle may be used to supplement operation of the research reactor during the investigator's proposed effort. The host institution shall provide at least 50 percent of the cost of the reactor's operation.

(f) MERIT REVIEW REQUIRED.—All grants, contracts, cooperative agreements, or other financial assistance awards under this subtitle shall be made only after independent merit review.

(g) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall prepare and transmit to the appropriate congressional committees a 5-year plan on how the programs authorized in this subtitle will be implemented. The plan shall include a review of the projected personnel needs in the fields of nuclear science and engineering and of the scope of nuclear science and engineering education programs at the Department and other Federal agencies.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS.

(a) TOTAL AUTHORIZATION.—The following sums are authorized to be appropriated to the Secretary, to remain available until expended, for the purposes of carrying out this subtitle:

(1) $30,200,000 for fiscal year 2002.
(2) $41,000,000 for fiscal year 2003.
(3) $47,900,000 for fiscal year 2004.
(4) $55,600,000 for fiscal year 2005.
(5) $64,100,000 for fiscal year 2006.

(b) GRADUATE AND UNDERGRADUATE FELLOWSHIPS.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(1):

(1) $3,000,000 for fiscal year 2002.
(2) $3,100,000 for fiscal year 2003.
(3) $3,200,000 for fiscal year 2004.
(4) $3,200,000 for fiscal year 2005.
(5) $3,200,000 for fiscal year 2006.

(c) JUNIOR FACULTY RESEARCH INITIATION GRANT PROGRAM.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(2):

(1) $5,000,000 for fiscal year 2002.
(2) $7,000,000 for fiscal year 2003.
(3) $8,000,000 for fiscal year 2004.
(4) $9,000,000 for fiscal year 2005.
(5) $10,000,000 for fiscal year 2006.

(d) NUCLEAR ENGINEERING EDUCATION RESEARCH PROGRAM.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(3):

(1) $8,000,000 for fiscal year 2002.
(2) $12,000,000 for fiscal year 2003.
(3) $13,000,000 for fiscal year 2004.
(4) $15,000,000 for fiscal year 2005.
(5) $20,000,000 for fiscal year 2006.

(e) COMMUNICATION AND OUTREACH RELATED TO NUCLEAR SCIENCE AND ENGINEERING.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(5):

(1) $200,000 for fiscal year 2002.
(2) $200,000 for fiscal year 2003.
(3) $300,000 for fiscal year 2004.
(4) $300,000 for fiscal year 2005.
(5) $300,000 for fiscal year 2006.

(f) REFUELING OF UNIVERSITY RESEARCH REACTORS AND INSTRUMENTATION UPGRADES.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(1):

(1) $6,000,000 for fiscal year 2002.
(2) $6,500,000 for fiscal year 2003.
(3) $7,000,000 for fiscal year 2004.
(4) $7,500,000 for fiscal year 2005.
(5) $8,000,000 for fiscal year 2006.

(g) RELICENSING ASSISTANCE.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(2):

(1) $1,000,000 for fiscal year 2002.
(2) $1,100,000 for fiscal year 2003.
(3) $1,200,000 for fiscal year 2004.
(4) $1,300,000 for fiscal year 2005.
(5) $1,300,000 for fiscal year 2006.

(h) REACTOR RESEARCH AND TRAINING AWARD PROGRAM.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(3):

(1) $6,000,000 for fiscal year 2002.
(2) $10,000,000 for fiscal year 2003.
(3) $14,000,000 for fiscal year 2004.
(4) $18,000,000 for fiscal year 2005.
(5) $20,000,000 for fiscal year 2006.

(i) UNIVERSITY-DOE LABORATORY INTERACTIONS.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(d):

(1) $1,000,000 for fiscal year 2002.
(2) $1,100,000 for fiscal year 2003.
(3) $1,200,000 for fiscal year 2004.
(4) $1,300,000 for fiscal year 2005.
(5) $1,300,000 for fiscal year 2006.

Subtitle B—Advanced Fuel Recycling Technology Research and Development Program

SEC. 2321. PROGRAM.

(a) IN GENERAL.—The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct an advanced fuel recycling technology research and development program to further the availability of proliferation-resistant fuel recycling technologies as an alternative to aqueous reprocessing in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) REPORTS.—The Secretary shall report on the activities of the advanced fuel recycling technology research and development program, as part of the Department's annual budget submission.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $10,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

Subtitle C—Department of Energy Authorization of Appropriations

SEC. 2341. NUCLEAR ENERGY RESEARCH INITIATIVE.

(a) PROGRAM.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a Nuclear Energy Research Initiative for grants to be competitively awarded and subject to peer review for research relating to nuclear energy.

(b) OBJECTIVES.—The program shall be directed toward accomplishing the objectives of—

(1) developing advanced concepts and scientific breakthroughs in nuclear fission and reactor technology to address and overcome the principal technical and scientific obstacles to the expanded use of nuclear energy in the United States;

(2) advancing the state of nuclear technology to maintain a competitive position in foreign markets and a future domestic market;

(3) promoting and maintaining a United States nuclear science and engineering infrastructure to meet future technical challenges;

(4) providing an effective means to collaborate on a cost-shared basis with international agencies and research organizations to address and influence nuclear technology development worldwide; and

(5) promoting United States leadership and partnerships in bilateral and multilateral nuclear energy research.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $60,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

SEC. 2342. NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.

(a) PROGRAM.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a Nuclear Energy Plant Optimization research and development program jointly with industry and cost-shared by industry by at least 50 percent and subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) OBJECTIVES.—The program shall be directed toward accomplishing the objectives of—

(1) managing long-term effects of component aging; and

(2) improving the efficiency and productivity of existing nuclear power stations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $15,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003 and 2004.

SEC. 2343. NUCLEAR ENERGY TECHNOLOGIES.

(a) IN GENERAL.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a study of Generation IV nuclear energy systems, including development of a technology roadmap and performance of research and development necessary to make an informed technical decision regarding the most promising candidates for commercial application.

(b) REACTOR CHARACTERISTICS.—To the extent practicable, in conducting the study under subsection (a), the Secretary shall study nuclear energy systems that offer the highest probability of achieving the goals for Generation IV nuclear energy systems, including—

(1) economics competitive with any other generators;

(2) enhanced safety features, including passive safety features;

(3) substantially reduced production of high-level waste, as compared with the quantity of waste produced by reactors in operation on the date of the enactment of this Act;

(4) highly proliferation-resistant fuel and waste;

(5) sustainable energy generation including optimized fuel utilization; and

(6) substantially improved thermal efficiency, as compared with the thermal efficiency of reactors in operation on the date of the enactment of this Act.

(c) CONSULTATION.—In conducting the study under subsection (a), the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, and international, professional, and technical organizations.

(d) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2002, the Secretary shall transmit to the appropriate congressional committees a report describing the activities of the Secretary under this section, and plans for research and development leading to a public/private cooperative demonstration of one or more Generation IV nuclear energy systems.

(2) CONTENTS.—The report shall contain—

(A) an assessment of all available technologies;

(B) a summary of actions needed for the most promising candidates to be considered as viable commercial options within the five to ten years after the date of the report, with consideration of regulatory, economic, and technical issues;

(C) a recommendation of not more than three promising Generation IV nuclear energy system concepts for further development;

(D) an evaluation of opportunities for public/private partnerships;

(E) a recommendation for structure of a public/private partnership to share in development and construction costs;

(F) a plan leading to the selection and conceptual design, by September 30, 2004, of at least one Generation IV nuclear energy system concept recommended under subparagraph (C) for demonstration through a public/private partnership;

(G) an evaluation of opportunities for siting demonstration facilities on Department of Energy land; and

(H) a recommendation for appropriate involvement of other Federal agencies.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section and to carry out the recommendations in the report transmitted under subsection (d)—

(1) $20,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

SEC. 2344. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATION AND MAINTENANCE.—There are authorized to be appropriated to the Secretary to carry out activities authorized under this title for nuclear energy operation and maintenance, including amounts authorized under sections 2304(a), 2321(c), 2341(c), 2342(c), and 2343(e), and including Advanced Radioisotope Power Systems, Test Reactor Landlord, and Program Direction, $191,200,000 for fiscal year 2002, $199,000,000 for fiscal year 2003, and $207,000,000 for fiscal year 2004, to remain available until expended.

(b) CONSTRUCTION.—There are authorized to be appropriated to the Secretary—

(1) $950,000 for fiscal year 2002, $2,200,000 for fiscal year 2003, $1,246,000 for fiscal year 2004, and $1,699,000 for fiscal year 2005 for completion of construction of Project 99-E-200, Test Reactor Area Electric Utility Upgrade, Idaho National Engineering and Environmental Laboratory; and

(2) $500,000 for fiscal year 2002, $500,000 for fiscal year 2003, $500,000 for fiscal year 2004, and $500,000 for fiscal year 2005, for completion of construction of Project 95-E-201, Test Reactor Area Fire and Life Safety Improvements, Idaho National Engineering and Environmental Laboratory.

(c) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Nuclear Energy Isotope Support and Production;

(2) Argonne National Laboratory-West Operations;

(3) Fast Flux Test Facility; or

(4) Nuclear Facilities Management.

TITLE IV—FOSSIL ENERGY

Subtitle A—Coal

SEC. 2401. COAL AND RELATED TECHNOLOGIES PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $172,000,000 for fiscal year 2002, $179,000,000 for fiscal year 2003, and $186,000,000 for fiscal year 2004, to remain available until expended, for other coal and related technologies research and development programs, which shall include—

(1) Innovations for Existing Plants;

(2) Integrated Gasification Combined Cycle;

(3) advanced combustion systems;

(4) Turbines;

(5) Sequestration Research and Development;

(6) innovative technologies for demonstration;

(7) Transportation Fuels and Chemicals;

(8) Solid Fuels and Feedstocks;

(9) Advanced Fuels Research; and

(10) Advanced Research.

(b) LIMIT ON USE OF FUNDS.—Notwithstanding subsection (a), no funds may be used to carry out the activities authorized by this section after September 30, 2002, unless the Secretary has transmitted to the Congress the report required by this subsection and 1 month has elapsed since that transmission. The report shall include a plan containing—

(1) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(2) a detailed list of technical milestones for each coal and related technology that will be pursued;

(3) a description of how the programs authorized in this section will be carried out so as to complement and not duplicate activities authorized under division E.

(c) GASIFICATION.—The Secretary shall fund at least one gasification project with the funds authorized under this section.

Subtitle B—Oil and Gas

SEC. 2421. PETROLEUM-OIL TECHNOLOGY.

The Secretary shall conduct a program of research, development, demonstration, and commercial application on petroleum-oil technology. The program shall address—

(1) Exploration and Production Supporting Research;

(2) Oil Technology Reservoir Management/Extension; and

(3) Effective Environmental Protection.

SEC. 2422. GAS.

The Secretary shall conduct a program of research, development, demonstration, and commercial application on natural gas technologies. The program shall address—

(1) Exploration and Production;

(2) Infrastructure; and

(3) Effective Environmental Protection.

SEC. 2423. NATURAL GAS AND OIL DEPOSITS REPORT.

Two years after the date of the enactment of this Act, and at 2-year intervals thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall transmit a report to the Congress assessing the contents of natural gas and oil deposits at existing drilling sites off the coast of Louisiana and Texas.

SEC. 2424. OIL SHALE RESEARCH.

There are authorized to be appropriated to the Secretary of Energy for fiscal year 2002 $10,000,000, to be divided equally between grants for research on Eastern oil shale and grants for research on Western oil shale.

Subtitle C—Ultra-Deepwater and Unconventional Drilling

SEC. 2441. SHORT TITLE.

This subtitle may be cited as the "Natural Gas and Other Petroleum Research, Development, and Demonstration Act of 2001".

SEC. 2442. DEFINITIONS.

For purposes of this subtitle—

(1) the term "deepwater" means water depths greater than 200 meters but less than 1,500 meters;

(2) the term "Fund" means the Ultra-Deepwater and Unconventional Gas Research Fund established under section 2450;

(3) the term "institution of higher education" has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

(4) the term "Research Organization" means the Research Organization created pursuant to section 2446(a);

(5) the term "ultra-deepwater" means water depths greater than 1,500 meters; and

(6) the term "unconventional" means located in heretofore inaccessible or uneconomic formations on land.

SEC. 2443. ULTRA-DEEPWATER PROGRAM.

The Secretary shall establish a program of research, development, and demonstration of ultra-deepwater natural gas and other petroleum exploration and production technologies, in areas currently available for Outer Continental Shelf leasing. The program shall be carried out by the Research Organization as provided in this subtitle.

SEC. 2444. NATIONAL ENERGY TECHNOLOGY LABORATORY.

The National Energy Technology Laboratory and the United States Geological Survey, when appropriate, shall carry out programs of long-term research into new natural gas and other petroleum exploration and production technologies and environmental mitigation technologies for production from unconventional and ultra-deepwater resources, including methane hydrates. Such Laboratory shall also conduct a program of research, development, and demonstration of new technologies for the reduction of greenhouse gas emissions from unconventional and ultra-deepwater natural gas or other petroleum exploration and production activities, including sub-sea floor carbon sequestration technologies.

SEC. 2445. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary shall, within 3 months after the date of the enactment of this Act, establish an Advisory Committee consisting of 7 members, each having extensive operational knowledge of and experience in the natural gas and other petroleum exploration and production industry who are not Federal Government employees or contractors. A minimum of 4 members shall have extensive knowledge of ultra-deepwater natural gas or other petroleum exploration and production technologies, a minimum of 2 members shall have extensive knowledge of unconventional natural gas or other petroleum exploration and production technologies, and at least 1 member shall have extensive knowledge of greenhouse gas emission reduction technologies, including carbon sequestration.

(b) FUNCTION.—The Advisory Committee shall advise the Secretary on the selection of an organization to create the Research Organization and on the implementation of this subtitle.

(c) COMPENSATION.—Members of the Advisory Committee shall serve without compensation but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(d) ADMINISTRATIVE COSTS.—The costs of activities carried out by the Secretary and the Advisory Committee under this subtitle shall be paid or reimbursed from the Fund.

(e) DURATION OF ADVISORY COMMITTEE.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

SEC. 2446. RESEARCH ORGANIZATION.

(a) SELECTION OF RESEARCH ORGANIZATION.—The Secretary, within 6 months after the date of the enactment of this Act, shall solicit proposals from eligible entities for the creation of the Research Organization, and within 3 months after such solicitation, shall select an entity to create the Research Organization.

(b) ELIGIBLE ENTITIES.—Entities eligible to create the Research Organization shall—

(1) have been in existence as of the date of the enactment of this Act;

(2) be entities exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986; and

(3) be experienced in planning and managing programs in natural gas or other petroleum exploration and production research, development, and demonstration.

(c) PROPOSALS.—A proposal from an entity seeking to create the Research Organization shall include a detailed description of the proposed membership and structure of the Research Organization.

(d) FUNCTIONS.—The Research Organization shall—

(1) award grants on a competitive basis to qualified—

(A) research institutions;

(B) institutions of higher education;

(C) companies; and

(D) consortia formed among institutions and companies described in subparagraphs (A) through (C) for the purpose of conducting research, development, and demonstration of unconventional and ultra-deepwater natural gas or other petroleum exploration and production technologies; and

(2) review activities under those grants to ensure that they comply with the requirements of this subtitle and serve the purposes for which the grant was made.

SEC. 2447. GRANTS.

(a) TYPES OF GRANTS.—

(1) UNCONVENTIONAL.—The Research Organization shall award grants for research, development, and demonstration of technologies to maximize the value of the Government's natural gas and other petroleum resources in unconventional reservoirs, and to develop technologies to increase the supply of natural gas and other petroleum resources by lowering the cost and improving the efficiency of exploration and production of unconventional reservoirs, while improving safety and minimizing environmental impacts.

(2) ULTRA-DEEPWATER.—The Research Organization shall award grants for research, development, and demonstration of natural gas or other petroleum exploration and production technologies to—

(A) maximize the value of the Federal Government's natural gas and other petroleum resources in the ultra-deepwater areas;

(B) increase the supply of natural gas and other petroleum resources by lowering the cost and improving the efficiency of exploration and production of ultra-deepwater reservoirs; and

(C) improve safety and minimize the environmental impacts of ultra-deepwater developments.

(3) ULTRA-DEEPWATER ARCHITECTURE.—The Research Organization shall award a grant to one or more consortia described in section 2446(d)(1)(D) for the purpose of developing and demonstrating the next generation architecture for ultra-deepwater production of natural gas and other petroleum in furtherance of the purposes stated in paragraph (2)(A) through (C).

(b) CONDITIONS FOR GRANTS.—Grants provided under this section shall contain the following conditions:

(1) If the grant recipient consists of more than one entity, the recipient shall provide a signed contract agreed to by all participating members clearly defining all rights to intellectual property for existing technology and for future inventions conceived and developed using funds provided under the grant, in a manner that is consistent with applicable laws.

(2) There shall be a repayment schedule for Federal dollars provided for demonstration projects under the grant in the event of a successful commercialization of the demonstrated technology. Such repayment schedule shall provide that the payments are made to the Secretary with the express intent that these payments not impede the adoption of the demonstrated technology in the marketplace. In the event that such impedance occurs due to market forces or other factors, the Research Organization shall renegotiate the grant agreement so that the acceptance of the technology in the marketplace is enabled.

(3) Applications for grants for demonstration projects shall clearly state the intended commercial applications of the technology demonstrated.

(4) The total amount of funds made available under a grant provided under subsection (a)(3) shall not exceed 50 percent of the total cost of the activities for which the grant is provided.

(5) The total amount of funds made available under a grant provided under subsection (a)(1) or (2) shall not exceed 50 percent of the total cost of the activities covered by the grant, except that the Research Organization may elect to provide grants covering a higher percentage, not to exceed 90 percent, of total project costs in the case of grants made solely to independent producers.

(6) An appropriate amount of funds provided under a grant shall be used for the broad dissemination of technologies developed under the grant to interested institutions of higher education, industry, and appropriate Federal and State technology entities to ensure the greatest possible benefits for the public and use of government resources.

(7) Demonstrations of ultra-deepwater technologies for which funds are provided under a grant may be conducted in ultra-deepwater or deepwater locations.

(c) ALLOCATION OF FUNDS.—Funds available for grants under this subtitle shall be allocated as follows:

(1) 15 percent shall be for grants under subsection (a)(1).

(2) 15 percent shall be for grants under subsection (a)(2).

(3) 60 percent shall be for grants under subsection (a)(3).

(4) 10 percent shall be for carrying out section 2444.

SEC. 2448. PLAN AND FUNDING.

(a) TRANSMITTAL TO SECRETARY.—The Research Organization shall transmit to the Secretary an annual plan proposing projects and funding of activities under each paragraph of section 2447(a).

(b) REVIEW.—The Secretary shall have 1 month to review the annual plan, and shall approve the plan, if it is consistent with this subtitle. If the Secretary approves the plan, the Secretary shall provide funding as proposed in the plan.

(c) DISAPPROVAL.—If the Secretary does not approve the plan, the Secretary shall notify the Research Organization of the reasons for disapproval and shall withhold funding until a new plan is submitted which the Secretary approves. Within 1 month after notifying the Research Organization of a disapproval, the Secretary shall notify the appropriate congressional committees of the disapproval.

SEC. 2449. AUDIT.

The Secretary shall retain an independent, commercial auditor to determine the extent to which the funds authorized by this subtitle have been expended in a manner consistent with the purposes of this subtitle. The auditor shall transmit a report annually to the Secretary, who shall transmit the report to the appropriate congressional committees, along with a plan to remedy any deficiencies cited in the report.

SEC. 2450. FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Ultra-Deepwater and Unconventional Gas Research Fund" which shall be available for obligation to the extent provided in advance in appropriations Acts for allocation under section 2447(c).

(b) FUNDING SOURCES.—

(1) LOANS FROM TREASURY.—There are authorized to be appropriated to the Secretary $900,000,000 for the period encompassing fiscal years 2002 through 2009. Such amounts shall be deposited by the Secretary in the Fund, and shall be considered loans from the Treasury. Income received by the United States in connection with any ultra-deepwater oil and gas leases shall be deposited in the Treasury and considered as repayment for the loans under this paragraph.

(2) ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for the fiscal years 2002 through 2009, to be deposited in the Fund.

(3) OIL AND GAS LEASE INCOME.—To the extent provided in advance in appropriations Acts, not more than 7.5 percent of the income of the United States from Federal oil and gas leases may be deposited in the Fund for fiscal years 2002 through 2009.

SEC. 2451. SUNSET.

No funds are authorized to be appropriated for carrying out this subtitle after fiscal year 2009. The Research Organization shall be terminated when it has expended all funds made available pursuant to this subtitle.

Subtitle D—Fuel Cells

SEC. 2461. FUEL CELLS.

(a) IN GENERAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells. The program shall address—

(1) Advanced Research;

(2) Systems Development;

(3) Vision 21-Hybrids; and

(4) Innovative Concepts.

(b) MANUFACTURING PRODUCTION AND PROCESSES.—In addition to the program under subsection (a), the Secretary, in consultation other Federal agencies, as appropriate, shall establish a program for the demonstration of fuel cell technologies, including fuel cell proton exchange membrane technology, for commercial, residential, and transportation applications. The program shall specifically focus on promoting the application of and improved manufacturing production and processes for fuel cell technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—Within the amounts authorized to be appropriated under section 2481(a), there are authorized to be appropriated to the Secretary for the purpose of carrying out subsection (b), $28,000,000 for each of fiscal years 2002 through 2004.

Subtitle E—Department of Energy Authorization of Appropriations

SEC. 2481. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATION AND MAINTENANCE.—There are authorized to be appropriated to the Secretary for operation and maintenance for subtitle B and subtitle D, and for Fossil Energy Research and Development Headquarters Program Direction, Field Program Direction, Plant and Capital Equipment, Cooperative Research and Development, Import/Export Authorization, and Advanced Metallurgical Processes $282,000,000 for fiscal year 2002, $293,000,000 for fiscal year 2003, and $305,000,000 for fiscal year 2004, to remain available until expended.

(b) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Gas Hydrates.

(2) Fossil Energy Environmental Restoration; or

(3) research, development, demonstration, and commercial application on coal and related technologies, including activities under subtitle A.

TITLE V—SCIENCE

Subtitle A—Fusion Energy Sciences

SEC. 2501. SHORT TITLE.

This subtitle may be cited as the "Fusion Energy Sciences Act of 2001".

SEC. 2502. FINDINGS.

The Congress finds that—

(1) economic prosperity is closely linked to an affordable and ample energy supply;

(2) environmental quality is closely linked to energy production and use;

(3) population, worldwide economic development, energy consumption, and stress on the environment are all expected to increase substantially in the coming decades;

(4) the few energy options with the potential to meet economic and environmental needs for the long-term future should be pursued as part of a balanced national energy plan;

(5) fusion energy is an attractive long-term energy source because of the virtually inexhaustible supply of fuel, and the promise of minimal adverse environmental impact and inherent safety;

(6) the National Research Council, the President's Committee of Advisers on Science and Technology, and the Secretary of Energy Advisory Board have each recently reviewed the Fusion Energy Sciences Program and each strongly supports the fundamental science and creative innovation of the program, and has confirmed that progress toward the goal of producing practical fusion energy has been excellent, although much scientific and engineering work remains to be done;

(7) each of these reviews stressed the need for a magnetic fusion burning plasma experiment to address key scientific issues and as a necessary step in the development of fusion energy;

(8) the National Research Council has also called for a broadening of the Fusion Energy Sciences Program research base as a means to more fully integrate the fusion science community into the broader scientific community; and

(9) the Fusion Energy Sciences Program budget is inadequate to support the necessary science and innovation for the present generation of experiments, and cannot accommodate the cost of a burning plasma experiment constructed by the United States, or even the cost of key participation by the United States in an international effort.

SEC. 2503. PLAN FOR FUSION EXPERIMENT.

(a) PLAN FOR UNITED STATES FUSION EXPERIMENT.—The Secretary, on the basis of full consultation with the Fusion Energy Sciences Advisory Committee and the Secretary of Energy Advisory Board, as appropriate, shall develop a plan for United States construction of a magnetic fusion burning plasma experiment for the purpose of accelerating scientific understanding of fusion plasmas. The Secretary shall request a review of the plan by the National Academy of Sciences, and shall transmit the plan and the review to the Congress by July 1, 2004.

(b) REQUIREMENTS OF PLAN.—The plan described in subsection (a) shall—

(1) address key burning plasma physics issues; and

(2) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.

(c) UNITED STATES PARTICIPATION IN AN INTERNATIONAL EXPERIMENT.—In addition to the plan described in subsection (a), the Secretary, on the basis of full consultation with the Fusion Energy Sciences Advisory Committee and the Secretary of Energy Advisory Board, as appropriate, may also develop a plan for United States participation in an international burning plasma experiment for the same purpose, whose construction is found by the Secretary to be highly likely and where United States participation is cost effective relative to the cost and scientific benefits of a domestic experiment described in subsection (a). If the Secretary elects to develop a plan under this subsection, he shall include the information described in subsection (b), and an estimate of the cost of United States participation in such an international experiment. The Secretary shall request a review by the National Academies of Sciences and Engineering of a plan developed under this subsection, and shall transmit the plan and the review to the Congress not later than July 1, 2004.

(d) AUTHORIZATION OF RESEARCH AND DEVELOPMENT.—The Secretary, through the Fusion Energy Sciences Program, may conduct any research and development necessary to fully develop the plans described in this section.

SEC. 2504. PLAN FOR FUSION ENERGY SCIENCES PROGRAM.

Not later than 6 months after the date of the enactment of this Act, the Secretary, in full consultation with FESAC, shall develop and transmit to the Congress a plan for the purpose of ensuring a strong scientific base for the Fusion Energy Sciences Program and to enable the experiments described in section 2503. Such plan shall include as its objectives—

(1) to ensure that existing fusion research facilities and equipment are more fully utilized with appropriate measurements and control tools;

(2) to ensure a strengthened fusion science theory and computational base;

(3) to ensure that the selection of and funding for new magnetic and inertial fusion research facilities is based on scientific innovation and cost effectiveness;

(4) to improve the communication of scientific results and methods between the fusion science community and the wider scientific community;

(5) to ensure that adequate support is provided to optimize the design of the magnetic fusion burning plasma experiments referred to in section 2503;

(6) to ensure that inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development;

(7) to develop a roadmap for a fusion-based energy source that shows the important scientific questions, the evolution of confinement configurations, the relation between these two features, and their relation to the fusion energy goal;

(8) to establish several new centers of excellence, selected through a competitive peer-review process and devoted to exploring the frontiers of fusion science;

(9) to ensure that the National Science Foundation, and other agencies, as appropriate, play a role in extending the reach of fusion science and in sponsoring general plasma science; and

(10) to ensure that there be continuing broad assessments of the outlook for fusion energy and periodic external reviews of fusion energy sciences.

SEC. 2505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the development and review, but not for implementation, of the plans described in this subtitle and for activities of the Fusion Energy Sciences Program $320,000,000 for fiscal year 2002 and $335,000,000 for fiscal year 2003, of which up to $15,000,000 for each of fiscal year 2002 and fiscal year 2003 may be used to establish several new centers of excellence, selected through a competitive peer-review process and devoted to exploring the frontiers of fusion science.

Subtitle B—Spallation Neutron Source

SEC. 2521. DEFINITION.

For the purposes of this subtitle, the term "Spallation Neutron Source" means Department Project 99–E–334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

SEC. 2522. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF CONSTRUCTION FUNDING.—There are authorized to be appropriated to the Secretary for construction of the Spallation Neutron Source—

(1) $276,300,000 for fiscal year 2002;

(2) $210,571,000 for fiscal year 2003;

(3) $124,600,000 for fiscal year 2004;

(4) $79,800,000 for fiscal year 2005; and

(5) $41,100,000 for fiscal year 2006 for completion of construction.

(b) AUTHORIZATION OF OTHER PROJECT FUNDING.—There are authorized to be appropriated to the Secretary for other project costs (including research and development necessary to complete the project, preoperations costs, and capital equipment not related to construction) of the Spallation Neutron Source $15,353,000 for fiscal year 2002 and $103,279,000 for the period encompassing fiscal years 2003 through 2006, to remain available until expended through September 30, 2006.

SEC. 2523. REPORT.

The Secretary shall report on the Spallation Neutron Source as part of the Department's annual budget submission, including a description of the achievement of milestones, a comparison of actual costs to estimated costs, and any changes in estimated project costs or schedule.

SEC. 2524. LIMITATIONS.

The total amount obligated by the Department, including prior year appropriations, for the Spallation Neutron Source may not exceed—

(1) $1,192,700,000 for costs of construction;

(2) $219,000,000 for other project costs; and

(3) $1,411,700,000 for total project cost.

Subtitle C—Facilities, Infrastructure, and User Facilities

SEC. 2541. DEFINITION.

For purposes of this subtitle—

(1) the term "nonmilitary energy laboratory" means—

(A) Ames Laboratory;

(B) Argonne National Laboratory;

(C) Brookhaven National Laboratory;

(D) Fermi National Accelerator Laboratory;

(E) Lawrence Berkeley National Laboratory;

(F) Oak Ridge National Laboratory;

(G) Pacific Northwest National Laboratory;

(H) Princeton Plasma Physics Laboratory;

(I) Stanford Linear Accelerator Center;

(J) Thomas Jefferson National Accelerator Facility; or

(K) any other facility of the Department that the Secretary, in consultation with the Director, Office of Science and the appropriate congressional committees, determines to be consistent with the mission of the Office of Science; and

(2) the term "user facility" means—

(A) an Office of Science facility at a nonmilitary energy laboratory that provides special scientific and research capabilities, including technical expertise and support as appropriate, to serve the research needs of the Nation's universities, industry, private laboratories, Federal laboratories, and others, including research institutions or individuals from other nations where reciprocal accommodations are provided to United States research institutions and individuals or where the Secretary considers such accommodation to be in the national interest; and

(B) any other Office of Science funded facility designated by the Secretary as a user facility.

SEC. 2542. FACILITY AND INFRASTRUCTURE SUPPORT FOR NONMILITARY ENERGY LABORATORIES.

(a) FACILITY POLICY.—The Secretary shall develop and implement a least-cost nonmilitary energy laboratory facility and infrastructure strategy for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility modifications; and

(4) building new facilities.

(b) PLAN.—The Secretary shall prepare a comprehensive 10-year plan for conducting future facility maintenance, making repairs, modifications, and new additions, and constructing new facilities at each nonmilitary energy laboratory. Such plan shall provide for facilities work in accordance with the following priorities:

(1) Providing for the safety and health of employees, visitors, and the general public with regard to correcting existing structural, mechanical, electrical, and environmental deficiencies.

(2) Providing for the repair and rehabilitation of existing facilities to keep them in use and prevent deterioration, if feasible.

(3) Providing engineering design and construction services for those facilities that require modification or additions in order to meet the needs of new or expanded programs.

(c) REPORT.—

(1) TRANSMITTAL.—Within 1 year after the date of the enactment of this Act, the Secretary shall prepare and transmit to the appropriate congressional committees a report containing the plan prepared under subsection (b).

(2) CONTENTS.—For each nonmilitary energy laboratory, such report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current ten-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facilities and infrastructure project compared to the original baseline cost, schedule, and scope.

(3) ADDITIONAL ELEMENTS.—The report shall also—

(A) include a plan for new facilities and facility modifications at each nonmilitary energy laboratory that will be required to meet the Department's changing missions of the twenty-first century, including schedules and estimates for implementation, and including a section outlining long-term funding requirements consistent with anticipated budgets and annual authorization of appropriations;

(B) address the coordination of modernization and consolidation of facilities among the nonmilitary energy laboratories in order to meet changing mission requirements; and

(C) provide for annual reports to the appropriate congressional committees on accomplishments, conformance to schedules, commitments, and expenditures.

SEC. 2543. USER FACILITIES.

(a) NOTICE REQUIREMENT.—When the Department makes a user facility available to universities and other potential users, or seeks input from universities and other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users.

(b) COMPETITION REQUIREMENT.—When the Department considers the participation of a university or other potential user in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a participant.

(c) PROHIBITION.—The Department may not redesignate a user facility, as defined by section 2541(b) as something other than a user facility for avoid the requirements of subsections (a) and (b).

Subtitle D—Advisory Panel on Office of Science

SEC. 2561. ESTABLISHMENT.

The Director of the Office of Science and Technology Policy, in consultation with the Secretary, shall establish an Advisory Panel on the Office of Science comprised of knowledgeable individuals to—

(1) address concerns about the current status and the future of scientific research supported by the Office;

(2) examine alternatives to the current organizational structure of the Office within the Department, taking into consideration existing structures for the support of scientific research in other Federal agencies and the private sector; and

(3) suggest actions to strengthen the scientific research supported by the Office that might be taken jointly by the Department and Congress.

SEC. 2562. REPORT.

Within 6 months after the date of the enactment of this Act, the Advisory Panel shall transmit its findings and recommendations in a report to the Director of the Office of Science and Technology Policy and the Secretary. The Director and the Secretary shall jointly—

(1) consider each of the Panel's findings and recommendations, and comment on each as they consider appropriate; and

(2) transmit the Panel's report and the comments of the Director and the Secretary on the report to the appropriate congressional committees within 9 months after the date of the enactment of this Act.

Subtitle E—Department of Energy Authorization of Appropriations

SEC. 2581. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATION AND MAINTENANCE.—Including the amounts authorized to be appropriated for fiscal year 2002 under section 2505 for Fusion Energy Sciences and under section 2522(b) for the Spallation Neutron Source, there are authorized to be appropriated to the Secretary for the Office of Science (also including subtitle C, High Energy Physics, Nuclear Physics, Biological and Environmental Research, Basic Energy Sciences (except for the Spallation Neutron Source), Advanced Scientific Computing Research, Energy Research Analysis, Multiprogram Energy Laboratories-Facilities Support, Facilities and Infrastructure, Safeguards and Security, and Program Direction) operation and maintenance $3,299,558,000 for fiscal year 2002, to remain available until expended.

(b) RESEARCH REGARDING PRECIOUS METAL CATALYSIS.—Within the amounts authorized to be appropriated to the Secretary under subsection (a), $5,000,000 for fiscal year 2002 may be used to carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysis, either directly though national laboratories, or through the award of grants, cooperative agreements, or contracts with public or nonprofit entities.

(c) CONSTRUCTION.—In addition to the amounts authorized to be appropriated under section 2522(a) for construction of the Spallation Neutron Source, there are authorized to be appropriated to the Secretary for Science—

(1) $19,400,000 for fiscal year 2002, $14,800,000 for fiscal year 2003, and $8,900,000 for fiscal year 2004 for completion of constuction of

Project 98–G–304, Neutrinos at the Main Injector, Fermi National Accelerator Laboratory;

(2) $11,405,000 for fiscal year 2002 for completion of construction of Project 01-E-300, Laboratory for Comparative and Functional Genomics, Oak Ridge National Laboratory;

(3) $4,000,000 for fiscal year 2002, $8,000,000 for fiscal year 2003, and $2,000,000 for fiscal year 2004 for completion of construction of Project 02-SC-002, Project Engineering Design (PED), Various Locations;

(4) $3,183,000 for fiscal year 2002 for completion of construction of Project 02-SC-002, Multiprogram Energy Laboratories Infrastructure Project Engineering Design (PED), Various Locations; and

(5) $18,633,000 for fiscal year 2002 and $13,029,000 for fiscal year 2003 for completion of construction of Project MEL-001, Multiprogram Energy Laboratories, Infrastructure, Various Locations.

(d) Limits on Use of Funds.—None of the funds authorized to be appropriated in subsection (c) may be used for construction at any national security laboratory as defined in section 3281(1) of the National Defense Authorization Act for Fiscal Year 2000 (50 U.S.C. 2471(1)) or at any nuclear weapons production facility as defined in section 3281(2) of the National Defense Authorization Act for Fiscal Year 2000 (50 U.S.C. 2471(2)).

TITLE VI—MISCELLANEOUS

Subtitle A—General Provisions for the Department of Energy

SEC. 2601. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION OF ENERGY TECHNOLOGY PROGRAMS, PROJECTS, AND ACTIVITIES.

(a) Authorized Activities.—Except as otherwise provided in this division, research, development, demonstration, and commercial application programs, projects, and activities for which appropriations are authorized under this division may be carried out under the procedures of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other Act under which the Secretary is authorized to carry out such programs, projects, and activities, but only to the extent the Secretary is authorized to carry out such activities under each such Act.

(b) Authorized Agreements.—Except as otherwise provided in this division, in carrying out research, development, demonstration, and commercial application programs, projects, and activities for which appropriations are authorized under this division, the Secretary may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, and any other form of agreement available to the Secretary.

(c) Definition.—For purposes of this section, the term "joint venture" has the meaning given that term under section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301), except that such term may apply under this section to research, development, demonstration, and commercial application of energy technology joint ventures.

(d) Protection of Information.—Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)), relating to the protection of information, shall apply to research, development, demonstration, and commercial application of energy technology programs, projects, and activities for which appropriations are authorized under this division.

(e) Inventions.—An invention conceived and developed by any person using funds provided through a grant under this division shall be considered a subject invention for the purposes of chapter 18 of title 35, United States Code (commonly referred to as the Bayh-Dole Act).

(f) Outreach.—The Secretary shall ensure that each program authorized by this division includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, universities, facility planners and managers, State and local governments, and other entities.

(g) Guidelines and Procedures.—The Secretary shall provide guidelines and procedures for the transition, where appropriate, of energy technologies from research through development and demonstration to commercial application of energy technology. Nothing in this section shall preclude the Secretary from—

(1) entering into a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grant, joint venture, or any other form of agreement available to the Secretary under this section that relates to research, development, demonstration, and commercial application of energy technology; or

(2) extending a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary that relates to research, development, and demonstration to cover commercial application of energy technology.

(h) Application of Section.—This section shall not apply to any contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grant, joint venture, or any other form of agreement available to the Secretary that is in effect as of the date of the enactment of this Act.

SEC. 2602. LIMITS ON USE OF FUNDS.

(a) Management and Operating Contracts.—

(1) Competitive procedure requirement.—None of the funds authorized to be appropriated to the Secretary by this division may be used to award a management and operating contract for a federally owned or operated nonmilitary energy laboratory of the Department unless such contract is awarded using competitive procedures or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(2) Congressional notice.—At least 2 months before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the appropriate congressional committees a report notifying the committees of the waiver and setting forth the reasons for the waiver.

(b) Production or Provision of Articles or Services.—None of the funds authorized to be appropriated to the Secretary by this division may be used to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Secretary determines that comparable articles or services are not available from a commercial source in the United States.

(c) Requests for Proposals.—None of the funds authorized to be appropriated to the Secretary by this division may be used by the Department to prepare or initiate Requests for Proposals for a program if the program has not been authorized by Congress.

SEC. 2603. COST SHARING.

(a) Research and Development.—Except as otherwise provided in this division, for research and development programs carried out under this division, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) Demonstration and Commercial Application.—Except as otherwise provided in this division, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this division to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this division.

(c) Calculation of Amount.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may include personnel, services, equipment, and other resources.

SEC. 2604. LIMITATION ON DEMONSTRATION AND COMMERCIAL APPLICATION OF ENERGY TECHNOLOGY.

Except as otherwise provided in this division, the Secretary shall provide funding for scientific or energy demonstration and commercial application of energy technology programs, projects, or activities only for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

SEC. 2605. REPROGRAMMING.

(a) Authority.—The Secretary may use amounts appropriated under this division for a program, project, or activity other than the program, project, or activity for which such amounts were appropriated only if—

(1) the Secretary has transmitted to the appropriate congressional committees a report described in subsection (b) and a period of 30 days has elapsed after such committees receive the report;

(2) amounts used for the program, project, or activity do not exceed—

(A) 105 percent of the amount authorized for the program, project, or activity; or

(B) $250,000 more than the amount authorized for the program, project, or activity, whichever is less; and

(3) the program, project, or activity has been presented to, or requested of, the Congress by the Secretary.

(b) Report.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) Limitations.—(1) In no event may the total amount of funds obligated by the Secretary pursuant to this division exceed the total amount authorized to be appropriated to the Secretary by this division.

(2) Funds appropriated to the Secretary pursuant to this division may not be used for an item for which Congress has declined to authorize funds.

Subtitle B—Other Miscellaneous Provisions

SEC. 2611. NOTICE OF REORGANIZATION.

The Secretary shall provide notice to the appropriate congressional committees not later than 15 days before any reorganization of any environmental research or development, scientific or energy research, development, or demonstration, or commercial application of energy technology program, project, or activity of the Department.

SEC. 2612. LIMITS ON GENERAL PLANT PROJECTS.

If, at any time during the construction of a civilian environmental research and development, scientific or energy research, development, or demonstration, or commercial application of energy technology project of the Department for which no specific funding level is provided by law, the estimated cost (including any revision thereof) of the project exceeds $5,000,000, the Secretary may not continue such construction unless the Secretary has furnished a complete report to the appropriate congressional committees explaining the project and the reasons for the estimate or revision.

SEC. 2613. LIMITS ON CONSTRUCTION PROJECTS.

(a) Limitation.—Except as provided in subsection (b), construction on a civilian environmental research and development, scientific or energy research, development, or demonstration, or commercial application of energy technology project of the Department for which funding has been specifically provided by law may not be started, and additional obligations may not be incurred in connection with the project above the authorized funding amount, whenever the current estimated cost of the construction project exceeds by more than 10 percent the higher of—

(1) the amount authorized for the project, if the entire project has been funded by the Congress; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(b) Notice.—An action described in subsection (a) may be taken if—

(1) the Secretary has submitted to the appropriate congressional committees a report on the proposed actions and the circumstances making such actions necessary; and

(2) a period of 30 days has elapsed after the date on which the report is received by the committees.

(c) Exclusion.—In the computation of the 30-day period described in subsection (b)(2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(d) Exception.—Subsections (a) and (b) shall not apply to any construction project that has a current estimated cost of less than $5,000,000.

SEC. 2614. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) Requirement for Conceptual Design.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a civilian environmental research and development, scientific or energy research, development, or demonstration, or commercial application of energy technology program, project, or activity of the Department, the Secretary shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $750,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds for a construction project, the total estimated cost of which is less than $5,000,000.

(b) Authority for Construction Design.—(1) The Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project that is in support of a civilian environmental research and development, scientific or energy research, development, and demonstration, or commercial application of energy technology program, project, or activity of the Department if the total estimated cost for such design does not exceed $250,000.

(2) If the total estimated cost for construction design in connection with any construction project described in paragraph (1) exceeds $250,000, funds for such design must be specifically authorized by law.

SEC. 2615. NATIONAL ENERGY POLICY DEVELOPMENT GROUP MANDATED REPORTS.

(a) The Secretary's Review of Energy Efficiency Renewable Energy, and Alternative Energy Research and Development.—Upon completion of the Secretary's review of current funding and historic performance of the Department's energy efficiency, renewable energy, and alternative energy research and development programs in response to the recommendations of the May 16, 2001, Report of the National Energy Policy Development Group, the Secretary shall transmit a report containing the results of such review to the appropriate congressional committees.

(b) Review and Recommendations on Using the Nation's Energy Resources More Efficiently.—Upon completion of the Office of Science and Technology Policy and the President's Council of Advisors on Science and Technology reviewing and making recommendations on using the Nation's energy resources more efficiently, in response to the recommendation of the May 16, 2001, Report of the National Energy Policy Development Group, the Director of the Office of Science and Technology Policy shall transmit a report containing the results of such review and recommendations to the appropriate congressional committees.

SEC. 2616. PERIODIC REVIEWS AND ASSESSMENTS.

The Secretary shall enter into appropriate arrangements with the National Academies of Sciences and Engineering to ensure that there be periodic reviews and assessments of the programs authorized by this division, as well as the measurable cost and performance-based goals for such programs as established under section 2004, and the progress on meeting such goals. Such reviews and assessments shall be conducted at least every 5 years, or more often as the Secretary considers necessary, and the Secretary shall transmit to the appropriate congressional committees reports containing the results of such reviews and assessments.

DIVISION D

SEC. 4101. CAPACITY BUILDING FOR ENERGY-EFFICIENT, AFFORDABLE HOUSING.

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: ", including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures"; and

(2) in paragraph (2), by inserting before the semicolon the following: ", including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families".

SEC. 4102. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by inserting "or efficiency" after "energy conservation";

(2) by striking ", and except that" and inserting "; except that"; and

(3) by inserting before the period at the end the following: "; and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services concerning energy conservation or efficiency".

SEC. 4103. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.

(a) Single Family Housing Mortgage Insurance.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated paragraph beginning after subparagraph (B)(iii) (relating to solar energy systems)—

(1) by inserting "or paragraph (10)"; and

(2) by striking "20 percent" and inserting "30 percent".

(b) Multifamily Housing Mortgage Insurance.—Section 207(c) of the National Housing Act (12 U.S.C. 1713(c)) is amended, in the second undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking "20 percent" and inserting "30 percent".

(c) Cooperative Housing Mortgage Insurance.—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking "20 per centum" and inserting "30 percent".

(d) Rehabilitation and Neighborhood Conservation Housing Mortgage Insurance.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended by striking "20 per centum" and inserting "30 percent".

(e) Low-Income Multifamily Housing Mortgage Insurance.—Section 221(k) of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking "20 per centum" and inserting "30 percent".

(f) Elderly Housing Mortgage Insurance.—The proviso at the end of section 213(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended by striking "20 per centum" and inserting "30 percent".

(g) Condominium Housing Mortgage Insurance.—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking "20 per centum" and inserting "30 percent".

SEC. 4104. PUBLIC HOUSING CAPITAL FUND.

Section 9(d)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)(1)) is amended—

(1) in subparagraph (I), by striking "and" at the end;

(2) in subparagraph (K), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(L) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate.".

SEC. 4105. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended—

(1) by striking "financed with loans" and inserting "assisted";

(2) by inserting after "1959," the following: "which are eligible multifamily housing projects (as such term is defined in section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)) and are subject to a mortgage restructuring and rental assistance sufficiency plans under such Act,"; and

(3) by inserting after the period at the end of the first sentence the following new sentence: "Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation.".

SEC. 4106. NORTH AMERICAN DEVELOPMENT BANK.

Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 290m–290m-3) is amended by adding at the end the following:

"SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.

"Consistent with the focus of the Bank's Charter on environmental infrastructure projects, the Board members representing the United States should use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy, including energy conservation, that prevent, control, or reduce environmental pollutants or contaminants.".

DIVISION E

SEC. 5000. SHORT TITLE.

This division may be cited as the "Clean Coal Power Initiative Act of 2001".

SEC. 5001. FINDINGS.

Congress finds that—

(1) reliable, affordable, increasingly clean electricity will continue to power the growing United States economy;

(2) an increasing use of electrotechnologies, the desire for continuous environmental improvement, a more competitive electricity market, and concerns about rising energy prices add importance to the need for reliable, affordable, increasingly clean electricity;

(3) coal, which, as of the date of the enactment of this Act, accounts for more than ½ of all electricity generated in the United States, is the most abundant fossil energy resource of the United States;

(4) coal comprises more than 85 percent of all fossil resources in the United States and exists in quantities sufficient to supply the United States for 250 years at current usage rates;

(5) investments in electricity generating facility emissions control technology over the past 30 years have reduced the aggregate emissions of pollutants from coal-based generating facilities by 21 percent, even as coal use for electricity generation has nearly tripled;

(6) continuous improvement in efficiency and environmental performance from electricity generating facilities would allow continued use of coal and preserve less abundant energy resources for other energy uses;

(7) new ways to convert coal into electricity can effectively eliminate health-threatening emissions and improve efficiency by as much as 50 percent, but initial deployment of new coal generation methods and equipment entails significant risk that generators may be unable to accept in a newly competitive electricity market; and

(8) continued environmental improvement in coal-based generation and increasing the production and supply of power generation facilities with less air emissions, with the ultimate goal of near-zero emissions, is important and desirable.

SEC. 5002. DEFINITIONS.

In this division:

(1) Cost and Performance Goals.—The term "cost and performance goals" means the cost and performance goals established under section 5004.

(2) Secretary.—The term "Secretary" means the Secretary of Energy.

SEC. 5003. CLEAN COAL POWER INITIATIVE.

(a) In General.—The Secretary shall carry out a program under—

(1) this division;

(2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.);

(3) the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); and

(4) title XIII of the Energy Policy Act of 1992 (42 U.S.C. 13331 et seq.),

to achieve cost and performance goals established by the Secretary under section 5004.

SEC. 5004. COST AND PERFORMANCE GOALS.

(a) Review and Assessment.—The Secretary shall perform an assessment that establishes measurable cost and performance goals for 2005, 2010, 2015, and 2020 for the programs authorized by this division. Such assessment shall be based on the latest scientific, economic, and technical knowledge.

(b) Consultation.—In establishing the cost and performance goals, the Secretary shall consult with representatives of—

(1) the United States coal industry;

(2) State coal development agencies;

(3) the electric utility industry;

(4) railroads and other transportation industries;

(5) manufacturers of advanced coal-based equipment;

(6) institutions of higher learning, national laboratories, and professional and technical societies;

(7) organizations representing workers;

(8) organizations formed to—

(A) promote the use of coal;

(B) further the goals of environmental protection; and

(C) promote the production and generation of coal-based power from advanced facilities; and

(9) other appropriate Federal and State agencies.

(c) Timing.—The Secretary shall—

(1) not later than 120 days after the date of the enactment of this Act, issue a set of draft cost and performance goals for public comment; and

(2) not later than 180 days after the date of the enactment of this Act, after taking into consideration any public comments received, submit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, the final cost and performance goals.

SEC. 5005. AUTHORIZATION OF APPROPRIATIONS.

(a) Clean Coal Power Initiative.—Except as provided in subsection (b), there are authorized to be appropriated to the Secretary to carry out the Clean Coal Power Initiative under section 5003 $200,000,000 for each of the fiscal years 2002 through 2011, to remain available until expended.

(b) Limit on Use of Funds.—Notwithstanding subsection (a), no funds may be used to carry out the activities authorized by this Act after September 30, 2002, unless the Secretary has transmitted to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, the report required by this subsection and 1 month has elapsed since that transmission. The report shall include, with respect to subsection (a), a 10-year plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued;

(4) recommendations for a mechanism for recoupment of Federal funding for successful commercial projects; and

(5) a detailed description of how the program will avoid problems enumerated in General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

(c) Applicability.—Subsection (b) shall not apply to any project begun before September 30, 2002.

SEC. 5006. PROJECT CRITERIA.

(a) In General.—The Secretary shall not provide funding under this division for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in operation or have been demonstrated as of the date of the enactment of this Act.

(b) Technical Criteria for Clean Coal Power Initiative.—

(1) Gasification.—(A) In allocating the funds authorized under section 5005(a), the Secretary shall ensure that at least 80 percent of the funds are used only for projects on coal-based gasification technologies, including gasification combined cycle, gasification fuel cells, gasification coproduction and hybrid gasification/combustion.

(B) The Secretary shall set technical milestones specifying emissions levels that coal gasification projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2020 coal gasification projects able—

(i) to remove 99 percent of sulfur dioxide;

(ii) to emit no more than .05 lbs of NOx per million BTU;

(iii) to achieve substantial reductions in mercury emissions; and

(iv) to achieve a thermal efficiency of 60 percent (higher heating value).

(2) OTHER PROJECTS.—For projects not described in paragraph (1), the Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2010 projects able—

(A) to remove 97 percent of sulfur dioxide;

(B) to emit no more than .08 lbs of NOx per million BTU;

(C) to achieve substantial reductions in mercury emissions; and

(D) to achieve a thermal efficiency of 45 percent (higher heating value).

(c) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this division unless the recipient has documented to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of subsections (a), (b), and (c) and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities that use coal as the primary feedstock as of the date of the enactment of this Act.

(e) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology project funded by the Secretary shall not exceed 50 percent.

(f) APPLICABILITY.—Neither the use of any particular technology, nor the achievement of any emission reduction, by any facility receiving assistance under this title shall be taken into account for purposes of making any determination under the Clean Air Act in applying the provisions of that Act to a facility not receiving assistance under this title, including any determination concerning new source performance standards, lowest achievable emission rate, best available control technology, or any other standard, requirement, or limitation.

SEC. 5007. STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and once every 2 years thereafter through 2016, the Secretary, in cooperation with other appropriate Federal agencies, shall transmit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, a report containing the results of a study to—

(1) identify efforts (and the costs and periods of time associated with those efforts) that, by themselves or in combination with other efforts, may be capable of achieving the cost and performance goals;

(2) develop recommendations for the Department of Energy to promote the efforts identified under paragraph (1); and

(3) develop recommendations for additional authorities required to achieve the cost and performance goals.

(b) EXPERT ADVICE.—In carrying out this section, the Secretary shall give due weight to the expert advice of representatives of the entities described in section 5004(b).

SEC. 5008. CLEAN COAL CENTERS OF EXCELLENCE.

As part of the program authorized in section 5003, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Energy Systems of the Future. The Secretary shall provide grants to universities that can show the greatest potential for advancing new clean coal technologies.

DIVISION F

SEC. 6001. SHORT TITLE.

This division may be cited as the "Energy Security Act".

TITLE I—GENERAL PROTECTIONS FOR ENERGY SUPPLY AND SECURITY

SEC. 6101. STUDY OF EXISTING RIGHTS-OF-WAY ON FEDERAL LANDS TO DETERMINE CAPABILITY TO SUPPORT NEW PIPELINES OR OTHER TRANSMISSION FACILITIES.

(a) IN GENERAL.—Within 1 year after the date of the enactment of this Act, the head of each Federal agency that has authorized a right-of-way across Federal lands for transportation of energy supplies or transmission of electricity shall review each such right-of-way and submit a report to the Secretary of Energy and the Chairman of the Federal Energy Regulatory Commission regarding—

(1) whether the right-of-way can be used to support new or additional capacity; and

(2) what modifications or other changes, if any, would be necessary to accommodate such additional capacity.

(b) CONSULTATIONS AND CONSIDERATIONS.—In performing the review, the head of each agency shall—

(1) consult with agencies of State, tribal, or local units of government as appropriate; and

(2) consider whether safety or other concerns related to current uses might preclude the availability of a right-of-way for additional or new transportation or transmission facilities, and set forth those considerations in the report.

SEC. 6102. INVENTORY OF ENERGY PRODUCTION POTENTIAL OF ALL FEDERAL PUBLIC LANDS.

(a) INVENTORY REQUIREMENT.—The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall conduct an inventory of the energy production potential of all Federal public lands other than national park lands and lands in any wilderness area, with respect to wind, solar, coal, and geothermal power production.

(b) LIMITATIONS.—

(1) IN GENERAL.—The Secretary shall not include in the inventory under this section the matters to be identified in the inventory under section 604 of the Energy Act of 2000 (43 U.S.C. 6217).

(2) WIND AND SOLAR POWER.—The inventory under this section—

(A) with respect to wind power production shall be limited to sites having a mean average wind speed—

(i) exceeding 12.5 miles per hour at a height of 33 feet; and

(ii) exceeding 15.7 miles per hour at a height of 164 feet; and

(B) with respect to solar power production shall be limited to areas rated as receiving 450 watts per square meter or greater.

(c) EXAMINATION OF RESTRICTIONS AND IMPEDIMENTS.—The inventory shall identify the extent and nature of any restrictions or impediments to the development of such energy production potential.

(d) GEOTHERMAL POWER.—The inventory shall include an update of the 1978 Assessment of Geothermal Resources by the United States Geological Survey.

(e) COMPLETION AND UPDATING.—The Secretary—

(1) shall complete the inventory by not later than 2 years after the date of the enactment of this Act; and

(2) shall update the inventory regularly thereafter.

(f) REPORTS.—The Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and make publicly available—

(1) a report containing the inventory under this section, by not later than 2 years after the effective date of this section; and

(2) each update of such inventory.

SEC. 6103. REVIEW OF REGULATIONS TO ELIMINATE BARRIERS TO EMERGING ENERGY TECHNOLOGY.

(a) IN GENERAL.—Each Federal agency shall carry out a review of its regulations and standards to determine those that act as a barrier to market entry for emerging energy-efficient technologies, including fuel cells, combined heat and power, and distributed generation (including small-scale renewable energy).

(b) REPORT TO CONGRESS.—No later than 18 months after date of the enactment of this Act, each agency shall provide a report to the Congress and the President detailing all regulatory barriers to emerging energy-efficient technologies, along with actions the agency intends to take, or has taken, to remove such barriers.

(c) PERIODIC REVIEW.—Each agency shall subsequently review its regulations and standards in this manner no less frequently than every 5 years, and report their findings to the Congress and the President. Such reviews shall include a detailed analysis of all agency actions taken to remove existing barriers to emerging energy technologies.

SEC. 6104. INTERAGENCY AGREEMENT ON ENVIRONMENTAL REVIEW OF INTERSTATE NATURAL GAS PIPELINE PROJECTS.

(a) IN GENERAL.—The Secretary of Energy, in coordination with the Federal Energy Regulatory Commission, shall establish an administrative interagency task force to develop an interagency agreement to expedite and facilitate the environmental review and permitting of interstate natural gas pipeline projects.

(b) TASK FORCE MEMBERS.—The task force shall include a representative of each of the Bureau of Land Management, the United States Fish and Wildlife Service, the Army Corps of Engineers, the Forest Service, the Environmental Protection Agency, the Advisory Council on Historic Preservation, and such other agencies as the Secretary of Energy and the Federal Energy Regulatory Commission consider appropriate.

(c) TERMS OF AGREEMENT.—The interagency agreement shall require that agencies complete their review of interstate pipeline projects within a specific period of time after referral of the matter by the Federal Energy Regulatory Commission.

(d) SUBMITTAL OF AGREEMENT.—The Secretary of Energy shall submit a final interagency agreement under this section to the Congress by not later than 6 months after the effective date of this section.

SEC. 6105. ENHANCING ENERGY EFFICIENCY IN MANAGEMENT OF FEDERAL LANDS.

(a) Sense of the Congress.—It is the sense of Congress that Federal land managing agencies should enhance the use of energy efficient technologies in the management of natural resources.

(b) Energy Efficient Buildings.—To the extent economically practicable, the Secretary of the Interior and the Secretary of Agriculture shall seek to incorporate energy efficient technologies in public and administrative buildings associated with management of the National Park System, National Wildlife Refuge System, National Forest System, and other public lands and resources managed by such Secretaries.

(c) Energy Efficient Vehicles.—To the extent economically practicable, the Secretary of the Interior and the Secretary of Agriculture shall seek to use energy efficient motor vehicles, including vehicles equipped with biodiesel or hybrid engine technologies, in the management of the National Park System, National Wildlife Refuge System, and other public lands and managed by the Secretaries.

SEC. 6106. EFFICIENT INFRASTRUCTURE DEVELOPMENT.

(a) In General.—The Secretary of Energy and the Chairman of the Federal Energy Regulatory Commission shall jointly undertake a study of the location and extent of anticipated demand growth for natural gas consumption in the Western States, herein defined as the area covered by the Western System Coordinating Council.

(b) Contents.—The study under subsection (a) shall include the following:

(1) A review of natural gas demand forecasts by Western State officials, such as the California Energy Commission and the California Public Utilities Commission, which indicate the forecasted levels of demand for natural gas and the geographic distribution of that forecasted demand.

(2) A review of the locations of proposed new natural gas-fired electric generation facilities currently in the approval process in the Western States, and their forecasted impact on natural gas demand.

(3) A review of the locations of existing interstate natural gas transmission pipelines, and interstate natural gas pipelines currently in the planning stage or approval process, throughout the Western States.

(4) A review of the locations and capacity of intrastate natural gas pipelines in the Western States.

(5) Recommendations for the coordination of the development of the natural gas infrastructure indicated in paragraphs (1) through (4).

(c) Report.—The Secretary shall report the findings and recommendations resulting from the study required by this section to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 6 months after the date of the enactment of this Act. The Chairman of the Federal Energy Regulatory Commission shall report on how the Commission will factor these results into its review of applications of interstate pipelines within the Western States to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 6 months after the date of the enactment of this Act.

TITLE II—OIL AND GAS DEVELOPMENT

Subtitle A—Offshore Oil and Gas

SEC. 6201. SHORT TITLE.

This subtitle may be referred to as the "Royalty Relief Extension Act of 2001".

SEC. 6202. LEASE SALES IN WESTERN AND CENTRAL PLANNING AREA OF THE GULF OF MEXICO.

(a) In General.—For all tracts located in water depths of greater than 200 meters in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any oil or gas lease sale under the Outer Continental Shelf Lands Act occurring within 2 years after the date of the enactment of this Act shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (30 U.S.C. 1337(a)(1)(H)), except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 5 million barrels of oil equivalent for each lease in water depths of 400 to 800 meters.

(2) 9 million barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters.

(3) 12 million barrels of oil equivalent for each lease in water depths greater than 1,600 meters.

(b) Relationship to Existing Authority.—Except as expressly provided in this section, nothing in this section is intended to limit the authority of the Secretary of the Interior under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) to provide royalty suspension.

SEC. 6203. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.

SEC. 6204. ANALYSIS OF GULF OF MEXICO FIELD SIZE DISTRIBUTION, INTERNATIONAL COMPETITIVENESS, AND INCENTIVES FOR DEVELOPMENT.

(a) In General.—The Secretary of the Interior and the Secretary of Energy shall enter into appropriate arrangements with the National Academy of Sciences to commission the Academy to perform the following:

(1) Conduct an analysis and review of existing Gulf of Mexico oil and natural gas resource assessments, including—

(A) analysis and review of assessments recently performed by the Minerals Management Service, the 1999 National Petroleum Council Gas Study, the Department of Energy's Offshore Marginal Property Study, and the Advanced Resources International, Inc. Deepwater Gulf of Mexico model; and

(B) evaluation and comparison of the accuracy of assumptions of the existing assessments with respect to resource field size distribution, hydrocarbon potential, and scenarios for leasing, exploration, and development.

(2) Evaluate the lease terms and conditions offered by the Minerals Management Service for Lease Sale 178, and compare the financial incentives offered by such terms and conditions to financial incentives offered by the terms and conditions that apply under leases for other offshore areas that are competing for the same limited offshore oil and gas exploration and development capital, including offshore areas of West Africa and Brazil.

(3) Recommend what level of incentives for all water depths are appropriate in order to ensure that the United States optimizes the domestic supply of oil and natural gas from the offshore areas of the Gulf of Mexico that are not subject to current leasing moratoria. Recommendations under this paragraph should be made in the context of the importance of the oil and natural gas resources of the Gulf of Mexico to the future energy and economic needs of the United States.

(b) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Committee on Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate, summarizing the findings of the National Academy of Sciences pursuant to subsection (a) and providing recommendations of the Secretary for new policies or other actions that could help to further increase oil and natural gas production from the Gulf of Mexico.

Subtitle B—Improvements to Federal Oil and Gas Management

SEC. 6221. SHORT TITLE.

This subtitle may be cited as the "Federal Oil and Gas Lease Management Improvement Demonstration Program Act of 2001".

SEC. 6222. STUDY OF IMPEDIMENTS TO EFFICIENT LEASE OPERATIONS.

(a) In General.—The Secretary of the Interior and the Secretary of Agriculture shall jointly undertake a study of the impediments to efficient oil and gas leasing and operations on Federal onshore lands in order to identify means by which unnecessary impediments to the expeditious exploration and production of oil and natural gas on such lands can be removed.

(b) Contents.—The study under subsection (a) shall include the following:

(1) A review of the process by which Federal land managers accept or reject an offer to lease, including the timeframes in which such offers are acted upon, the reasons for any delays in acting upon such offers, and any recommendations for expediting the response to such offers.

(2) A review of the approval process for applications for permits to drill, including the timeframes in which such applications are approved, the impact of compliance with other Federal laws on such timeframes, any other reasons for delays in making such approvals, and any recommendations for expediting such approvals.

(3) A review of the approval process for surface use plans of operation, including the timeframes in which such applications are approved, the impact of compliance with other Federal laws on such timeframes, any other reasons for delays in making such approvals, and any recommendations for expediting such approvals.

(4) A review of the process for administrative appeal of decisions or orders of officers or employees of the Bureau of Land Management with respect to a Federal oil or gas lease, including the timeframes in which such appeals are heard and decided, any reasons for delays in hearing or deciding such appeals, and any recommendations for expediting the appeals process.

(c) Report.—The Secretaries shall report the findings and recommendations resulting from the study required by this section to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 6 months after the date of the enactment of this Act.

SEC. 6223. ELIMINATION OF UNWARRANTED DENIALS AND STAYS.

(a) In General.—The Secretary shall ensure that unwarranted denials and stays of lease issuance and unwarranted restrictions on lease operations are eliminated from the administration of oil and natural gas leasing on Federal land.

(b) Preparation of Leasing Plan or Analysis.—In preparing a management plan or leasing analysis for oil or natural gas leasing on Federal lands administered by the Bureau of Land Management or the Forest Service, the Secretary concerned shall—

(1) identify and review the restrictions on surface use and operations imposed under the laws (including regulations) of the State in which the lands are located;

(2) consult with the appropriate State agency regarding the reasons for the State restrictions identified under paragraph (1);

(3) identify any differences between the State restrictions identified under paragraph (1) and any restrictions on surface use and operations that would apply under the lease; and

(4) prepare and provide upon request a written explanation of such differences.

(c) Rejection of Offer To Lease.—

(1) In general.—If the Secretary rejects an offer to lease Federal lands for oil or natural gas development on the ground that the land is unavailable for oil and natural gas leasing, the Secretary shall provide a written, detailed explanation of the reasons the land is unavailable for leasing.

(2) Previous resource management decision.—If the determination of unavailability is based on a previous resource management decision, the explanation shall include a careful assessment of whether the reasons underlying the previous decision are still persuasive.

(3) Segregation of available land from unavailable land.—The Secretary may not reject an offer to lease Federal land for oil and natural gas development that is available for such leasing on the ground that the offer includes land unavailable for leasing. The Secretary shall segregate available land from unavailable land, on the offeror's request following notice by the Secretary, before acting on the offer to lease.

(d) Disapproval or Required Modification of Surface Use Plans of Operations and Application for Permit To Drill.—The Secretary shall provide a written, detailed explanation of the reasons for disapproving or requiring modifications of any surface use plan of operations or application for permit to drill with respect to oil or natural gas development on Federal lands.

(e) Preservation of Federal Authority.—Nothing in this section or in any identification, review, or explanation prepared under this section shall be construed—

(1) to limit the authority of the Federal Government to impose lease stipulations, restrictions, requirements, or other terms that are different than those that apply under State law; or

(2) to affect the procedures that apply to judicial review of actions taken under this subsection.

SEC. 6224. LIMITATION ON COST RECOVERY FOR APPLICATIONS.

Notwithstanding sections 304 and 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734, 1764) and section 9701 of title 31, United States Code, the Secretary shall not recover the Secretary's costs with respect to applications and other documents relating to oil and gas leases.

SEC. 6225. CONSULTATION WITH SECRETARY OF AGRICULTURE.

Section 17(h) of the Mineral Leasing Act (30 U.S.C. 226(h)) is amended to read as follows:

"(h)(1) In issuing any lease on National Forest System lands reserved from the public domain, the Secretary of the Interior shall consult with the Secretary of Agriculture in determining stipulations on surface use under the lease.

"(2)(A) A lease on lands referred to in paragraph (1) may not be issued if the Secretary of Agriculture determines, after consultation under paragraph (1) and consultation with the Regional Forester having administrative jurisdiction over the National Forest System Lands concerned, that the terms and conditions of the lease, including any prohibition on surface occupancy for lease operations, will not be sufficient to adequately protect such lands under the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

"(B) The authority of the Secretary of Agriculture under this paragraph may be delegated only to the Undersecretary of Agriculture for Natural Resources and Environment.

"(3) The Secretary of Agriculture shall include in the record of decision for a determination under paragraph (2)(A)—

"(A) any written statement regarding the determination that is prepared by a Regional Forester consulted by the Secretary under paragraph (2)(A) regarding the determination; or

"(B) an explanation why such a statement by the Regional Forester is not included.

Subtitle C—Miscellaneous

SEC. 6231. OFFSHORE SUBSALT DEVELOPMENT.

Section 5 of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1334) is amended by adding at the end the following:

"(k) Suspension of Operations for Subsalt Exploration.—Notwithstanding any other provision of law or regulation, to prevent waste caused by the drilling of unnecessary wells and to facilitate the discovery of additional hydrocarbon reserves, the Secretary may grant a request for a suspension of operations under any lease to allow the reprocessing and reinterpretation of geophysical data to identify and define drilling objectives beneath allocthonus salt sheets.".

SEC. 6232. PROGRAM ON OIL AND GAS ROYALTIES IN KIND.

(a) Applicability of Section.—Notwithstanding any other provision of law, the provisions of this section shall apply to all royalty in kind accepted by the Secretary of the Interior under any Federal oil or gas lease or permit under section 36 of the Mineral Leasing Act (30 U.S.C. 192), section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353), or any other mineral leasing law, in the period beginning on the date of the enactment of this Act through September 30, 2006.

(b) Terms and Conditions.—All royalty accruing to the United States under any Federal oil or gas lease or permit under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) shall, on the demand of the Secretary of the Interior, be paid in oil or gas. If the Secretary of the Interior makes such a demand, the following provisions apply to such payment:

(1) Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies the lessee's royalty obligation for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) The Secretary of the Interior may—

(A) sell or otherwise dispose of any royalty oil or gas taken in kind (other than oil or gas taken under section 27(a)(3) of the Outer Continental Shlief Lands Act (43 U.S.C. 1353(a)(3)) for not less than the market price; and

(B) transport or process any oil or gas royalty taken in kind.

(4) The Secretary of the Interior may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas royalties taken in kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use royalty production, to pay the cost of—

(A) transporting the oil or gas,

(B) processing the gas, or

(C) disposing of the oil or gas.

(5) The Secretary may not use revenues from the sale of oil and gas royalties taken in kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(c) Reimbursement of Cost.—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary of the Interior shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) at the discretion of the Secretary of the Interior, allow the lessee to deduct such transportation or processing costs in reporting and paying royalties in value for other Federal oil and gas leases.

(d) Benefit to the United States Required.—The Secretary may receive oil or gas royalties in kind only if the Secretary determines that receiving such royalties provides benefits to the United States greater than or equal to those that would be realized under a comparable royalty in value program.

(e) Report to Congress.—For each of the fiscal years 2002 through 2006 in which the United States takes oil or gas royalties in kind from production in any State or from the Outer Continental Shelf, excluding royalties taken in kind and sold to refineries under subsection (h), the Secretary of the Interior shall provide a report to the Congress describing—

(1) the methodology or methodologies used by the Secretary to determine compliance with subsection (d), including performance standards for comparing amounts received by the United States derived from such royalties in kind to amounts likely to have been received had royalties been taken in value;

(2) an explanation of the evaluation that led the Secretary to take royalties in kind from a lease or group of leases, including the expected revenue effect of taking royalties in kind;

(3) actual amounts received by the United States derived from taking royalties in kind, and costs and savings incurred by the United States associated with taking royalties in kind; and

(4) an evaluation of other relevant public benefits or detriments associated with taking royalties in kind.

(f) Deduction of Expenses.—

(1) In general.—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (30 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in kind from a

lease, the Secretary of the Interior shall deduct amounts paid or deducted under subsections (b)(4) and (c), and shall deposit such amounts to miscellaneous receipts.

(2) Accounting for deductions.—If the Secretary of the Interior allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) Consultation With States.—The Secretary of the Interior—

(1) shall consult with a State before conducting a royalty in kind program under this title within the State, and may delegate management of any portion of the Federal royalty in kind program to such State except as otherwise prohibited by Federal law; and

(2) shall consult annually with any State from which Federal oil or gas royalty is being taken in kind to ensure to the maximum extent practicable that the royalty in kind program provides revenues to the State greater than or equal to those which would be realized under a comparable royalty in value program.

(h) Provisions for Small Refineries.—

(1) Preference.—If the Secretary of the Interior determines that sufficient supplies of crude oil are not available in the open market to refineries not having their own source of supply for crude oil, the Secretary may grant preference to such refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in such refineries at private sale at not less than the market price.

(2) Proration among refineries in production area.—In disposing of oil under this subsection, the Secretary of the Interior may, at the discretion of the Secretary, prorate such oil among such refineries in the area in which the oil is produced.

(i) Disposition to Federal Agencies.—

(1) Onshore royalty.—Any royalty oil or gas taken by the Secretary in kind from onshore oil and gas leases may be sold at not less than the market price to any department or agency of the United States.

(2) Offshore royalty.—Any royalty oil or gas taken in kind from Federal oil and gas leases on the Outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) Preference for Federal Low-Income Energy Assistance Programs.—In disposing of royalty oil or gas taken in kind under this section, the Secretary may grant a preference to any person, including any State or Federal agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

SEC. 6233. MARGINAL WELL PRODUCTION INCENTIVES.

To enhance the economics of marginal oil and gas production by increasing the ultimate recovery from marginal wells when the cash price of West Texas Intermediate crude oil, as posted on the Dow Jones Commodities Index chart, is less than $15 per barrel for 180 consecutive pricing days or when the price of natural gas delivered at Henry Hub, Louisiana, is less than $2.00 per million British thermal units for 180 consecutive days, the Secretary shall reduce the royalty rate as production declines for—

(1) onshore oil wells producing less than 30 barrels per day;

(2) onshore gas wells producing less than 120 million British thermal units per day;

(3) offshore oil wells producing less than 300 barrels of oil per day; and

(4) offshore gas wells producing less than 1,200 million British thermal units per day.

SEC. 6234. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) In General.—The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by inserting after section 37 the following:

"REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

"Sec. 38. (a) In General.—The Secretary of the Interior may, through royalty credits, reimburse a person who is a lessee, operator, operating rights owner, or applicant for an oil or gas lease under this Act for amounts paid by the person for preparation by the Secretary (or a contractor or other person selected by the Secretary) of any project-level analysis, documentation, or related study required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

"(b) Conditions.—The Secretary may provide reimbursement under subsection (b) only if—

"(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

"(2) the person paid the costs voluntarily; and

"(3) the person maintains records of its costs in accordance with regulations prescribed by the Secretary.".

(b) Application.—The amendments made by this section shall apply with respect to any lease entered into before, on, or after the date of the enactment of this Act.

(c) Deadline for Regulations.—The Secretary shall issue regulations implementing the amendments made by this section by not later than 90 days after the date of the enactment of this Act.

SEC. 6235. ENCOURAGEMENT OF STATE AND PROVINCIAL PROHIBITIONS ON OFF-SHORE DRILLING IN THE GREAT LAKES.

(a) Findings.—The Congress finds the following:

(1) The water resources of the Great Lakes Basin are precious public natural resources, shared and held in trust by the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin, and the Canadian Province of Ontario.

(2) The environmental dangers associated with off-shore drilling in the Great Lakes for oil and gas outweigh the potential benefits of such drilling.

(3) In accordance with the Submerged Lands Act (43 U.S.C. 1301 et seq.), each State that borders any of the Great Lakes has authority over the area between that State's coastline and the boundary of Canada or another State.

(4) The States of Illinois, Michigan, New York, Pennsylvania, and Wisconsin each have a statutory prohibition of off-shore drilling in the Great Lakes for oil and gas.

(5) The States of Indiana, Minnesota, and Ohio do not have such a prohibition.

(6) The Canadian Province of Ontario does not have such a prohibition, and drilling for and production of gas occurs in the Canadian portion of Lake Erie.

(b) Encouragement of State and Provincial Prohibitions.—The Congress encourages—

(1) the States of Illinois, Michigan, New York, Pennsylvania, and Wisconsin to continue to prohibit off-shore drilling in the Great Lakes for oil and gas;

(2) the States of Indiana, Minnesota, and Ohio and the Canadian Province of Ontario to enact a prohibition of such drilling; and

(3) the Canadian Province of Ontario to require the cessation of any such drilling and any production resulting from such drilling.

TITLE III—GEOTHERMAL ENERGY DEVELOPMENT

SEC. 6301. ROYALTY REDUCTION AND RELIEF.

(a) Royalty Reduction.—Section 5(a) of the Geothermal Steam Act of 1970 (30 U.S.C. 1004(a)) is amended by striking "not less than 10 per centum or more than 15 per centum" and inserting "not more than 8 per centum".

(b) Royalty Relief.—

(1) In general.—Notwithstanding section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004(a)) and any provision of any lease under that Act, no royalty is required to be paid—

(A) under any qualified geothermal energy lease with respect to commercial production of heat or energy from a facility that begins such production in the 5-year period beginning on the date of the enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) 3-year application.—Paragraph (1) applies only to commercial production of heat or energy from a facility in the first 3 years of such production.

(c) Definitions.—In this section:

(1) Qualified expansion geothermal energy.—The term "qualified expansion geothermal energy"—

(A) subject to subparagraph (B), means geothermal energy produced from a generation facility for which the rated capacity is increased by more than 10 percent as a result of expansion of the facility carried out in the 5-year period beginning on the date of the enactment of this Act; and

(B) does not include the rated capacity of the generation facility on the date of the enactment of this Act.

(2) Qualified geothermal energy lease.—The term "qualified geothermal energy lease" means a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.)—

(A) that was executed before the end of the 5-year period beginning on the date of the enactment of this Act; and

(B) under which no commercial production of any form of heat or energy occurred before the date of the enactment of this Act.

SEC. 6302. EXEMPTION FROM ROYALTIES FOR DIRECT USE OF LOW TEMPERATURE GEOTHERMAL ENERGY RESOURCES.

(a) In General.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in paragraph (c) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B);

(2) by redesignating paragraphs (a) through (d) in order as paragraphs (1) through (4);

(3) by inserting "(a) In General.—" after "Sec. 5."; and

(4) by adding at the end the following new subsection:

"(b) Exemption for Use of Low Temperature Resources.—

"(1) In general.—In lieu of any royalty or rental under subsection (a), a lease for qualified development and direct utilization of low temperature geothermal resources shall provide for payment by the lessee of an annual fee of not less than $100, and not more than $1,000, in accordance with the schedule issued under paragraph (2).

"(2) Schedule.—The Secretary shall issue a schedule of fees under this section under which a fee is based on the scale of development and utilization to which the fee applies.

“(3) DEFINITIONS.—In this subsection:

“(A) LOW TEMPERATURE GEOTHERMAL RESOURCES.—The term ‘low temperature geothermal resources’ means geothermal steam and associated geothermal resources having a temperature of less than 195 degrees Fahrenheit.

“(B) QUALIFIED DEVELOPMENT AND DIRECT UTILIZATION.—The term ‘qualified development and direct utilization’ means development and utilization in which all products of geothermal resources, other than any heat utilized, are returned to the geothermal formation from which they are produced.”.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on October 1, 2003.

SEC. 6303. AMENDMENTS RELATING TO LEASING ON FOREST SERVICE LANDS.

The Geothermal Steam Act of 1970 is amended—

(1) in section 15(b) (30 U.S.C. 1014(b))—

(A) by inserting “(1)” after “(b)”; and

(B) in paragraph (1) (as designated by subparagraph (A) of this paragraph) in the first sentence—

(i) by striking “with the consent of, and” and inserting “after consultation with the Secretary of Agriculture and”; and

(ii) by striking “the head of that Department” and inserting “the Secretary of Agriculture”; and

(2) by adding at the end the following:

“(2)(A) A geothermal lease for lands withdrawn or acquired in aid of functions of the Department of Agriculture may not be issued if the Secretary of Agriculture, after the consultation required by paragraph (1) and consultation with any Regional Forester having administrative jurisdiction over the lands concerned, determines that no terms or conditions, including a prohibition on surface occupancy for lease operations, would be sufficient to adequately protect such lands under the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

“(B) The authority of the Secretary of Agriculture under this paragraph may be delegated only to the Undersecretary of Agriculture for Natural Resources and Environment.

“(3) The Secretary of Agriculture shall include in the record of decision for a determination under paragraph (2)(A)—

“(A) any written statement regarding the determination that is prepared by a Regional Forester consulted by the Secretary under paragraph (2)(A) regarding the determination; or

“(B) an explanation why such a statement by the Regional Forester is not included.

SEC. 6304. DEADLINE FOR DETERMINATION ON PENDING NONCOMPETITIVE LEASE APPLICATIONS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Interior shall, with respect to each application pending on the date of the enactment of this Act for a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), issue a final determination of—

(1) whether or not to conduct a lease sale by competitive bidding; and

(2) whether or not to award a lease without competitive bidding.

SEC. 6305. OPENING OF PUBLIC LANDS UNDER MILITARY JURISDICTION.

(a) IN GENERAL.—Except as otherwise provided in the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other provisions of Federal law applicable to development of geothermal energy resources within public lands, all public lands under the jurisdiction of a Secretary of a military department shall be open to the operation of such laws and development and utilization of geothermal steam and associated geothermal resources, as that term is defined in section 2 of the Geothermal Steam Act of 1970 (30 U.S.C. 1001), without the necessity for further action by the Secretary or the Congress.

(b) CONFORMING AMENDMENT.—Section 2689 of title 10, United States Code, is amended by striking “including public lands,” and inserting “other than public lands,”.

(c) TREATMENT OF EXISTING LEASES.—Upon the expiration of any lease in effect on the date of the enactment of this Act of public lands under the jurisdiction of a military department for the development of any geothermal resource, such lease may, at the option of the lessee—

(1) be treated as a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), and be renewed in accordance with such Act; or

(2) be renewed in accordance with the terms of the lease, if such renewal is authorized by such terms.

(d) REGULATIONS.—The Secretary of the Interior, with the advice and concurrence of the Secretary of the military department concerned, shall prescribe such regulations to carry out this section as may be necessary. Such regulations shall contain guidelines to assist in determining how much, if any, of the surface of any lands opened pursuant to this section may be used for purposes incident to geothermal energy resources development and utilization.

(e) CLOSURE FOR PURPOSES OF NATIONAL DEFENSE OR SECURITY.—In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the military department concerned, shall close any lands that have been opened to geothermal energy resources leasing pursuant to this section.

SEC. 6306. APPLICATION OF AMENDMENTS.

The amendments made by this title apply with respect to any lease executed before, on, or after the date of the enactment of this Act.

SEC. 6307. REVIEW AND REPORT TO CONGRESS.

The Secretary of the Interior shall promptly review and report to the Congress regarding the status of all moratoria on and withdrawals from leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) of known geothermal resources areas (as that term is defined in section 2 of that Act (30 U.S.C. 1001), specifying for each such area whether the basis for such moratoria or withdrawal still applies.

SEC. 6308. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) IN GENERAL.—The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is amended by adding at the end the following:

“REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

“SEC. 38. (a) IN GENERAL.—The Secretary of the Interior may, through royalty credits, reimburse a person who is a lessee, operator, operating rights owner, or applicant for a lease under this Act for amounts paid by the person for preparation by the Secretary (or a contractor or other person selected by the Secretary) of any project-level analysis, documentation, or related study required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

“(b) CONDITIONS.—The Secretary shall may provide reimbursement under subsection (a) only if—

“(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

“(2) the person paid the costs voluntarily; and

“(3) the person maintains records of its costs in accordance with regulations prescribed by the Secretary.”.

(b) APPLICATION.—The amendments made by this section shall apply with respect to any lease entered into before, on, or after the date of the enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations implementing the amendments made by this section by not later than 90 days after the date of the enactment of this Act.

TITLE IV—HYDROPOWER

SEC. 6401. STUDY AND REPORT ON INCREASING ELECTRIC POWER PRODUCTION CAPABILITY OF EXISTING FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior shall conduct a study of the potential for increasing electric power production capability at existing facilities under the administrative jurisdiction of the Secretary.

(b) CONTENT.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) REPORT.—The Secretary shall submit to the Congress a report on the findings, conclusions, and recommendations of the study under this section by not later than 12 months after the date of the enactment of this Act. The Secretary shall include in the report the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities the Secretary is currently conducting or considering, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of action that has already been taken by the Secretary to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners.

(7) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by performing generator uprates and rewinds.

(8) The impact of increased hydroelectric power production on irrigation, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(9) Any additional recommendations the Secretary considers advisable to increase hydroelectric power production from, and reduce costs and improve efficiency at, facilities under the jurisdiction of the Secretary.

SEC. 6402. INSTALLATION OF POWERFORMER AT FOLSOM POWER PLANT, CALIFORNIA.

(a) IN GENERAL.—The Secretary of the Interior may install a powerformer at the Bureau of Reclamation Folsom power plant in Folsom, California, to replace a generator and transformer that are due for replacement due to age.

(b) REIMBURSABLE COSTS.—Costs incurred by the United States for installation of a powerformer under this section shall be treated as reimbursable costs and shall bear interest at current long-term borrowing rates of the United States Treasury at the time of acquisition.

(c) LOCAL COST SHARING.—In addition to reimbursable costs under subsection (b), the Secretary shall seek contributions from power users toward the costs of the powerformer and its installation.

SEC. 6403. STUDY AND IMPLEMENTATION OF INCREASED OPERATIONAL EFFICIENCIES IN HYDROELECTRIC POWER PROJECTS.

(a) IN GENERAL.—The Secretary of Interior shall conduct a study of operational methods and water scheduling techniques at all hydroelectric power plants under the administrative jurisdiction of the Secretary that have an electric power production capacity greater than 50 megawatts, to—

(1) determine whether such power plants and associated river systems are operated so as to maximize energy and capacity capabilities; and

(2) identify measures that can be taken to improve operational flexibility at such plants to achieve such maximization.

(b) REPORT.—The Secretary shall submit a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of the enactment of this Act, including a summary of the determinations and identifications under paragraphs (1) and (2) of subsection (a).

(c) COOPERATION BY FEDERAL POWER MARKETING ADMINISTRATIONS.—The Secretary shall coordinate with the Administrator of each Federal power marketing administration in—

(1) determining how the value of electric power produced by each hydroelectric power facility that produces power marketed by the administration can be maximized; and

(2) implementing measures identified under subsection (a)(2).

(d) LIMITATION ON IMPLEMENTATION OF MEASURES.—Implementation under subsections (a)(2) and (b)(2) shall be limited to those measures that can be implemented within the constraints imposed on Department of the Interior facilities by other uses required by law.

SEC. 6404. SHIFT OF PROJECT LOADS TO OFF-PEAK PERIODS.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) review electric power consumption by Bureau of Reclamation facilities for water pumping purposes; and

(2) make such adjustments in such pumping as possible to minimize the amount of electric power consumed for such pumping during periods of peak electric power consumption, including by performing as much of such pumping as possible during off-peak hours at night.

(b) CONSENT OF AFFECTED IRRIGATION CUSTOMERS REQUIRED.—The Secretary may not under this section make any adjustment in pumping at a facility without the consent of each person that has contracted with the United States for delivery of water from the facility for use for irrigation and that would be affected by such adjustment.

(c) EXISTING OBLIGATIONS NOT AFFECTED.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Bureau of Reclamation facilities.

TITLE V—ARCTIC COASTAL PLAIN DOMESTIC ENERGY

SEC. 6501. SHORT TITLE.

This title may be cited as the "Arctic Coastal Plain Domestic Energy Security Act of 2001".

SEC. 6502. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term "Coastal Plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)), comprising approximately 1,549,000 acres.

(2) SECRETARY.—The term "Secretary", except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

SEC. 6503. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement in accordance with this title a competitive oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.) that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966, the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of the enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) SPECIAL AREAS.—

(1) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map referred to in section 6502(1).

(2) MANAGEMENT.—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal

Plain, by no later than 15 months after the date of the enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

SEC. 6504. LEASE SALES.

(a) IN GENERAL.—Lands may be leased pursuant to this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—In the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) conduct the first lease sale under this title within 22 months after the date of the enactment of this title; and

(2) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 6505. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 6504 any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

(b) SUBSEQUENT TRANSFERS.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

SEC. 6506. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, and the environment as required pursuant to section 6503(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this title and the regulations issued under this title.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this title and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 6507. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall, consistent with the requirements of section 6503, administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times, if—

(A) the Secretary determines, after affording an opportunity for public comment and review, that special circumstances exist necessitating that exploration activities be conducted at other times of the year; and

(B) the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or reduction of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) Considerations.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC–ASRC private lands that are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) Facility Consolidation Planning.—

(1) In general.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) Objectives.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

SEC. 6508. EXPEDITED JUDICIAL REVIEW.

(a) Filing of Complaint.—

(1) Deadline.—Subject to paragraph (2), any complaint seeking judicial review of any provision of this title or any action of the Secretary under this title shall be filed in any appropriate district court of the United States—

(A) except as provided in subparagraph (B), within the 90-day period beginning on the date of the action being challenged; or

(B) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) Venue.—Any complaint seeking judicial review of an action of the Secretary under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(3) Limitation on scope of certain review.—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this division and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this division shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) Limitation on Other Review.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 6509. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

(a) Exemption.—Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.) shall not apply to the issuance by the Secretary under section 28 of the Mineral Leasing Act (30 U.S.C. 185) of rights-of-way and easements across the Coastal Plain for the transportation of oil and gas.

(b) Terms and Conditions.—The Secretary shall include in any right-of-way or easement referred to in subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) Regulations.—The Secretary shall include in regulations under section 6503(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

SEC. 6510. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611); and

(2) to the Arctic Slope Regional Corporation the subsurface estate beneath such surface estate pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 6511. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) Financial Assistance Authorized.—

(1) In general.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this title.

(2) Eligible entities.—The North Slope Borough, Kaktovik, and other boroughs, municipal subdivisions, villages, and any other community organized under Alaska State law shall be eligible for financial assistance under this section.

(b) Use of Assistance.—Financial assistance under this section may be used only for—

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects; and

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including firefighting, police, water, waste treatment, medivac, and medical services.

(c) Application.—

(1) In general.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) North slope borough communities.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

(3) Application assistance.—The Secretary shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

(d) Establishment of Fund.—

(1) In general.—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

(2) Use.—Amounts in the fund may be used only for providing financial assistance under this section.

(3) Deposits.—Subject to paragraph (4), there shall be deposited into the fund amounts received by the United States as revenues derived from rents, bonuses, and royalties under on leases and lease sales authorized under this title.

(4) Limitation on deposits.—The total amount in the fund may not exceed $10,000,000.

(5) Investment of balances.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(e) Authorization of Appropriations.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund $5,000,000 for each fiscal year.

SEC. 6512. REVENUE ALLOCATION.

(a) FEDERAL AND STATE DISTRIBUTION.—

(1) IN GENERAL.—Notwithstanding section 6504 of this Act, the Mineral Leasing Act (30 U.S.C. 181 et. seq.), or any other law, of the amount of adjusted bonus, rental, and royalty revenues from oil and gas leasing and operations authorized under this title—

(A) 50 percent shall be paid to the State of Alaska; and

(B) the balance shall be deposited into the Renewable Energy Technology Investment Fund and the Royalties Conservation Fund as provided in this section.

(2) ADJUSTMENTS.—Adjustments to bonus, rental, and royalty amounts from oil and gas leasing and operations authorized under this title shall be made as necessary for overpayments and refunds from lease revenues received in current or subsequent periods before distribution of such revenues pursuant to this section.

(3) TIMING OF PAYMENTS TO STATE.—Payments to the State of Alaska under this section shall be made semiannually.

(b) RENEWABLE ENERGY TECHNOLOGY INVESTMENT FUND.—

(1) ESTABLISHMENT AND AVAILABILITY.—There is hereby established in the Treasury of the United States a separate account which shall be known as the "Renewable Energy Technology Investment Fund".

(2) DEPOSITS.—Fifty percent of adjusted revenues from bonus payments for leases issued under this title shall be deposited into the Renewable Energy Technology Investment Fund.

(3) USE, GENERALLY.—Subject to paragraph (4), funds deposited into the Renewable Energy Technology Investment Fund shall be used by the Secretary of Energy to finance research grants, contracts, and cooperative agreements and expenses of direct research by Federal agencies, including the costs of administering and reporting on such a program of research, to improve and demonstrate technology and develop basic science information for development and use of renewable and alternative fuels including wind energy, solar energy, geothermal energy, and energy from biomass. Such research may include studies on deployment of such technology including research on how to lower the costs of introduction of such technology and of barriers to entry into the market of such technology.

(4) USE FOR ADJUSTMENTS AND REFUNDS.—If for any circumstances, adjustments or refunds of bonus amounts deposited pursuant to this title become warranted, 50 percent of the amount necessary for the sum of such adjustments and refunds may be paid by the Secretary from the Renewable Energy Technology Investment Fund.

(5) CONSULTATION AND COORDINATION.—Any specific use of the Renewable Energy Technology Investment Fund shall be determined only after the Secretary of Energy consults and coordinates with the heads of other appropriate Federal agencies.

(6) REPORTS.—Not later than 1 year after the date of the enactment of this Act and on an annual basis thereafter, the Secretary of Energy shall transmit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the use of funds under this subsection and the impact of and efforts to integrate such uses with other energy research efforts.

(c) ROYALTIES CONSERVATION FUND.—

(1) ESTABLISHMENT AND AVAILABILITY.—There is hereby established in the Treasury of the United States a separate account which shall be known as the "Royalties Conservation Fund".

(2) DEPOSITS.—Fifty percent of revenues from rents and royalty payments for leases issued under this title shall be deposited into the Royalties Conservation Fund.

(3) USE, GENERALLY.—Subject to paragraph (4), funds deposited into the Royalties Conservation Fund—

(A) may be used by the Secretary of the Interior and the Secretary of Agriculture to finance grants, contracts, cooperative agreements, and expenses for direct activities of the Department of the Interior and the Forest Service to restore and otherwise conserve lands and habitat and to eliminate maintenance and improvements backlogs on Federal lands, including the costs of administering and reporting on such a program; and

(B) may be used by the Secretary of the Interior to finance grants, contracts, cooperative agreements, and expenses—

(i) to preserve historic Federal properties;

(ii) to assist States and Indian Tribes in preserving their historic properties;

(iii) to foster the development of urban parks; and

(iv) to conduct research to improve the effectiveness and lower the costs of habitat restoration.

(4) USE FOR ADJUSTMENTS AND REFUNDS.—If for any circumstances, refunds or adjustments of royalty and rental amounts deposited pursuant to this title become warranted, 50 percent of the amount necessary for the sum of such adjustments and refunds may be paid from the Royalties Conservation Fund.

(d) AVAILABILITY.—Moneys covered into the accounts established by this section—

(1) shall be available for expenditure only to the extent appropriated therefor;

(2) may be appropriated without fiscal-year limitation; and

(3) may be obligated or expended only as provided in this section.

TITLE VI—CONSERVATION OF ENERGY BY THE DEPARTMENT OF THE INTERIOR

SEC. 6601. ENERGY CONSERVATION BY THE DEPARTMENT OF THE INTERIOR.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) conduct a study to identify, evaluate, and recommend opportunities for conserving energy by reducing the amount of energy used by facilities of the Department of the Interior; and

(2) wherever feasible and appropriate, reduce the use of energy from traditional sources by encouraging use of alternative energy sources, including solar power and power from fuel cells, throughout such facilities and the public lands of the United States.

(b) REPORTS.—The Secretary shall submit to the Congress—

(1) by not later than 90 days after the date of the enactment of this Act, a report containing the findings, conclusions, and recommendations of the study under subsection (a)(1); and

(2) by not later than December 31 each year, an annual report describing progress made in—

(A) conserving energy through opportunities recommended in the report under paragraph (1); and

(B) encouraging use of alternative energy sources under subsection (a)(2).

SEC. 6602. AMENDMENT TO BUY INDIAN ACT.

Section 23 of the Act of June 25, 1910 (25 U.S.C. 47; commonly known as the "Buy Indian Act") is amended by inserting "energy products, and energy by-products," after "printing,".

TITLE VII—COAL

SEC. 6701. LIMITATION ON FEES WITH RESPECT TO COAL LEASE APPLICATIONS AND DOCUMENTS.

Notwithstanding sections 304 and 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734, 1764) and section 9701 of title 31, United States Code, the Secretary shall not recover the Secretary's costs with respect to applications and other documents relating coal leases.

SEC. 6702. MINING PLANS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following:

"(B) The Secretary may establish a period of more than 40 years if the Secretary determines that the longer period—

"(i) will ensure the maximum economic recovery of a coal deposit; or

"(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resources.".

SEC. 6703. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

(a) IN GENERAL.—Section 7(b) of the Mineral Leasing Act of 1920 (30 U.S.C. 207(b)) is amended to read as follows:

"(b)(1) Each lease shall be subjected to the condition of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

"(2)(A) The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties.

"(B) Such advance royalties shall be computed based on the average price for coal sold in the spot market from the same region during the last month of each applicable continued operation year.

"(C) The aggregate number of years during the initial and any extended term of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20.

"(3) The amount of any production royalty paid for any year shall be reduced (but not below zero) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year.

"(4) This subsection shall be applicable to any lease or logical mining unit in existence on the date of the enactment of this paragraph or issued or approved after such date.

"(5) Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of 10 years.".

(b) AUTHORITY TO WAIVE, SUSPEND, OR REDUCE ADVANCE ROYALTIES.—Section 39 of the Mineral Leasing Act (30 U.S.C. 209) is amended by striking the last sentence.

SEC. 6704. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking "and not later than three years after a lease is issued,".

TITLE VIII—INSULAR AREAS ENERGY SECURITY

SEC. 6801. INSULAR AREAS ENERGY SECURITY.

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved December 24, 1980 (Public Law 96–597; 94 Stat. 3480–3481), is amended—

(1) in subsection (a)(4) by striking the period and inserting a semicolon;

(2) by adding at the end of subsection (a) the following new paragraphs:

"(5) electric power transmission and distribution lines in insular areas are inadequate to withstand damage caused by the hurricanes and typhoons which frequently occur in insular areas and such damage often costs millions of dollars to repair; and

"(6) the refinement of renewable energy technologies since the publication of the 1982 Territorial Energy Assessment prepared pursuant to subsection (c) reveals the need to reassess the state of energy production, consumption, infrastructure, reliance on imported energy, and indigenous sources in regard to the insular areas.";

(3) by amending subsection (e) to read as follows:

"(e)(1) The Secretary of the Interior, in consultation with the Secretary of Energy and the chief executive officer of each insular area, shall update the plans required under subsection (c) by—

"(A) updating the contents required by subsection (c);

"(B) drafting long-term energy plans for such insular areas with the objective of reducing, to the extent feasible, their reliance on energy imports by the year 2010 and maximizing, to the extent feasible, use of indigenous energy sources; and

"(C) drafting long-term energy transmission line plans for such insular areas with the objective that the maximum percentage feasible of electric power transmission and distribution lines in each insular area be protected from damage caused by hurricanes and typhoons.

"(2) Not later than May 31, 2003, the Secretary of the Interior shall submit to Congress the updated plans for each insular area required by this subsection."; and

(4) by amending subsection (g)(4) to read as follows:

"(4) Power line grants for territories.—

"(A) In general.—The Secretary of the Interior is authorized to make grants to governments of territories of the United States to carry out eligible projects to protect electric power transmission and distribution lines in such territories from damage caused by hurricanes and typhoons.

"(B) Eligible projects.—The Secretary may award grants under subparagraph (A) only to governments of territories of the United States that submit written project plans to the Secretary for projects that meet the following criteria:

"(i) The project is designed to protect electric power transmission and distribution lines located in one or more of the territories of the United States from damage caused by hurricanes and typhoons.

"(ii) The project is likely to substantially reduce the risk of future damage, hardship, loss, or suffering.

"(iii) The project addresses one or more problems that have been repetitive or that pose a significant risk to public health and safety.

"(iv) The project is not likely to cost more than the value of the reduction in direct damage and other negative impacts that the project is designed to prevent or mitigate. The cost benefit analysis required by this criterion shall be computed on a net present value basis.

"(v) The project design has taken into consideration long-term changes to the areas and persons it is designed to protect and has manageable future maintenance and modification requirements.

"(vi) The project plan includes an analysis of a range of options to address the problem it is designed to prevent or mitigate and a justification for the selection of the project in light of that analysis.

"(vii) The applicant has demonstrated to the Secretary that the matching funds required by subparagraph (D) are available.

"(C) Priority.—When making grants under this paragraph, the Secretary shall give priority to grants for projects which are likely to—

"(i) have the greatest impact on reducing future disaster losses; and

"(ii) best conform with plans that have been approved by the Federal Government or the government of the territory where the project is to be carried out for development or hazard mitigation for that territory.

"(D) Matching requirement.—The Federal share of the cost for a project for which a grant is provided under this paragraph shall not exceed 75 percent of the total cost of that project. The non-Federal share of the cost may be provided in the form of cash or services.

"(E) Treatment of funds for certain purposes.—Grants provided under this paragraph shall not be considered as income, a resource, or a duplicative program when determining eligibility or benefit levels for Federal major disaster and emergency assistance.

"(F) Authorization of appropriations.—There is authorized to be appropriated to carry out this paragraph $5,000,000 for each fiscal year beginning after the date of the enactment of this paragraph.".

DIVISION G

SEC. 7101. BUY AMERICAN.

No funds authorized under this Act shall be available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

DIVISION H

Sec. 8101. PROHIBITION ON HUMAN CLONING.

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

"CHAPTER 16—HUMAN CLONING

"Sec.
"301. Definitions.
"302. Prohibition on human cloning.

"§ 301. Definitions

"In this chapter:

"(1) Human cloning.—The term 'human cloning' means human asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism (at any stage of development) that is genetically virtually identical to an existing or previously existing human organism.

"(2) Asexual reproduction.—The term 'asexual reproduction' means reproduction not initiated by the union of oocyte and sperm.

"(3) Somatic cell.—The term 'somatic cell' means a diploid cell (having a complete set of chromosomes) obtained or derived from a living or deceased human body at any stage of development.

"§ 302. Prohibition on human cloning

"(a) In General.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce, knowingly—

"(1) to perform or attempt to perform human cloning;

"(2) to participate in an attempt to perform human cloning; or

"(3) to ship or receive for any purpose an embryo produced by human cloning or any product derived from such embryo.

"(b) Importation.—It shall be unlawful for any person or entity, public or private, knowingly to import for any purpose an embryo produced by human cloning, or any product derived from such embryo.

"(c) Penalties.—

"(1) Criminal penalty.—Any person or entity that violates this section shall be fined under this title or imprisoned not more than 10 years, or both.

"(2) Civil penalty.—Any person or entity that violates any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by 2, if that amount is greater than $1,000,000.

"(d) Scientific Research.—Nothing in this section restricts areas of scientific research not specifically prohibited by this section, including research in the use of nuclear transfer or other cloning techniques to produce molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans.".

(b) Study and Report.—

(1) In general.—The General Accounting Office shall conduct a study to assess the need (if any) for amendment of the prohibition on human cloning, as defined in section 301 of title 18, United States Code, as added by this section, which study shall include—

(A) a discussion of new developments in medical technology concerning human cloning and somatic cell nuclear transfer, the need (if any) for somatic cell nuclear transfer to produce medical advances, current public attitudes and prevailing ethical views concerning the use of somatic cell nuclear transfer, and potential legal implications of research in somatic cell nuclear transfer; and

(B) a review of any technological developments that may require that technical changes be made to chapter 16 of title 18, United States Code, as added by this section.

(2) Report.—The General Accounting Office shall transmit to Congress, within 4 years after the date of enactment of this Act, a report containing the findings and conclusions of its study, together with recommendations for any legislation or administrative actions which it considers appropriate.

(c) Clerical Amendment.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 15 the following:

"16. Human Cloning .... **301".**

(d) Effective Date.—This section, and the amendments made by this section, shall take effect the day after the date of enactment of this Act, and shall expire on the date that is 180 days after the date of enactment of this Act.

SA 2172. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1743, to create a temporary reinsurance mechanism to enhance the availability of terrorism insurance; which was referred to the Committee on Commerce, Science, and Transportation, as follows:

At the appropriate place, insert the following:

SEC. . TAX-EXEMPT STATUS OF TERRORISM RISK-RELATED INCREASED PREMIUM PASSTHROUGH ACCOUNTS.

Amounts received by participating insurers as increased premiums under section 9(a) and deposited in the separate segregated account required by section 9(b), and amounts earned as interest, dividends, or other income on funds deposited in such account, shall be exempt from all Federal, State, and local income and excise taxes, and may not be taken into account for the purpose of determining any other tax liability of the participating insurer.

SA 2173. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IX—CAPITAL GRANTS FOR RAILROAD TRACK

SEC. 901. ESTABLISHMENT OF PROGRAM.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.

"22301. Capital grants for railroad track.

"§22301. Capital grants for railroad track

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

"(A) directly to the class II or class III railroad; or

"(B) with the concurrence of the class II or class III railroad, to a State or local government.

"(2) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

"(3) INTERIM REGULATIONS.—Not later than December 31, 2001, the Secretary shall issue temporary regulations to implement the program under this section. Subchapter II of chapter 5 of title 5 does not apply to a temporary regulation issued under this paragraph or to an amendment to such a temporary regulation.

"(4) FINAL REGULATIONS.—Not later than October 1, 2002, the Secretary shall issue final regulations to implement the program under this section.

"(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) PROJECT ELIGIBILITY.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2001.

"(d) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

"(e) ADDITIONAL PURPOSE.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

"(f) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

"(g) LABOR STANDARDS.—

"(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

"(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).

"(h) STUDY.—The Secretary shall conduct a study of the projects carried out with grant assistance under this section to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system. Not later than March 31, 2003, the Secretary shall report to Congress any recommendations the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of the fiscal years 2002 through 2004 for carrying out this section.".

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRANTS FOR RAILROAD TRACK .... 22301".

SA 2174. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IX—RAILROAD COMPETITION, ARBITRATION, AND SERVICE

SEC. 901. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This title may be cited as the "Railroad Competition, Arbitration, and Service Act of 2001".

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 902. PURPOSES.

The purposes of this title are as follows:

(1) To eliminate unreasonable barriers to competition among rail carriers.

(2) To provide for use of expedited, private means for the resolution of disputes between shippers and carriers.

SEC. 903. CLARIFICATION OF RAIL TRANSPORTATION POLICY.

Section 10101 is amended—

(1) by inserting "(a) IN GENERAL.—" before "In regulating"; and

(2) by adding at the end the following:

"(b) PRIMARY OBJECTIVES.—The primary objectives of the rail transportation policy of the United States are as follows:

"(1) To ensure effective competition among rail carriers at origins and destinations.

"(2) To maintain reasonable rates for rail transportation where effective competition among rail carriers has not been achieved.

"(3) To maintain consistent and efficient rail transportation service for shippers.".

SEC. 904. ARBITRATION OF CERTAIN RAIL RATE, SERVICE, AND OTHER DISPUTES.

(a) IN GENERAL.—

(1) AUTHORITY.—Chapter 117 of title 49 is amended by adding the following section after section 11707:

"§11708. Arbitration of certain rail rate, service, and other disputes

"(a) ELECTION OF ARBITRATION.—A dispute described in subsection (b) shall be submitted for resolution by arbitration upon the election of any party to the dispute that is not a rail carrier.

"(b) COVERED DISPUTES.—(1) Except as provided in paragraph (2), subsection (a) applies to any dispute between a party described in subsection (a) and a rail carrier that—

"(A) arises under section 10701(c), 10701(d), 10702, 10704(a)(1), 10707, 10741, 10745, 10746, 11101(a), 11102, 11121, 11122, or 11706 of this title; and

"(B) involves—

"(i) the payment of money;

"(ii) a rate charged by the rail carrier; or

"(iii) transportation by the rail carrier.

"(2) Subsection (a) does not apply to a dispute if the resolution of the dispute would necessarily involve the promulgation of regulations generally applicable to all rail carriers.

"(c) ARBITRATION PROCEDURES.—The Secretary of Transportation shall prescribe in regulations the procedures for the resolution of disputes submitted for arbitration under subsection (a). The regulations shall include the following:

“(1) Procedures, including time limits, for the selection of an arbitrator or panel of arbitrators for a dispute from among arbitrators listed on the roster of arbitrators established and maintained by the Secretary under subsection (d)(1).

“(2) Policies, requirements, and procedures for the compensation of each arbitrator for a dispute to be paid by the parties to the dispute.

“(3) Procedures for expedited arbitration of a dispute, including procedures for discovery authorized in the exercise of discretion by the arbitrator or panel of arbitrators.

“(d) Selection of Arbitrators.—(1) The Secretary of Transportation shall establish, maintain, and revise as necessary a roster of arbitrators who—

“(A) are experienced in transportation or economic issues within the jurisdiction of the Board or issues similar to those issues;

“(B) satisfy requirements for neutrality and other qualification requirements prescribed by the Secretary;

“(C) consent to serve as arbitrators under this section; and

“(D) are not officers or employees of the United States.

(2) For a dispute involving an amount not in excess of $1,000,000, the regulations under subsection (c) shall provide for arbitration by a single arbitrator selected by—

“(A) the parties to the dispute; or

“(B) if the parties cannot agree, the Secretary of Transportation, from the roster of arbitrators prescribed under paragraph (1).

“(3)(A) For a dispute involving an amount in excess of $1,000,000, the regulations under subsection (c) shall provide for arbitration by a panel of three arbitrators selected as follows:

“(i) One arbitrator selected by the party electing the arbitration.

“(ii) One arbitrator selected by the rail carrier or all of the rail carriers who are parties to the dispute, as the case may be.

“(iii) One arbitrator selected by the two arbitrators selected under clauses (i) and (ii).

“(B) If a selection of an arbitrator is not made under clause (ii) or (iii) of subparagraph (A) within the time limits prescribed in the regulations, then the Secretary shall select the arbitrator from the roster of arbitrators prescribed under paragraph (1).

“(e) Disputes on Rates or Charges.—(1) The requirements of this subsection apply to a dispute submitted under this section for resolution of an issue of the reasonableness of a rate or charge imposed by a rail carrier.

“(2)(A) Subject to subparagraph (B), the decision of an arbitrator or panel of arbitrators in a dispute on an issue described in paragraph (1) shall be one of the final offers of the parties to the dispute.

“(B) A decision under subparagraph (A) may not provide for a rate for transportation by a rail carrier that would result in a revenue-variable cost percentage for such transportation that is less than 180 percent, as determined under standards applied in the administration of section 10707(d) of this title.

“(3) If the party electing arbitration of a dispute described in paragraph (1) seeks compensation for damages incurred by the party as a result of a specific rate or charge imposed by a rail carrier for the transportation of items for the party and the party alleges an amount of damages that does not exceed $500,000 for any year as a result of the imposition of the specific rate or charge, the arbitrator, in making a decision on the dispute, shall consider the rates or charges, respectively, that are imposed by rail carriers for the transportation of similar items under similar circumstances in rail transportation markets where there is effective competition, as determined under standards applied by the Board in the administration of section 10707(a) of this title.

“(f) Time for Issuance of Arbitration Decision.—Notwithstanding any other provision of this subtitle limiting the time for the taking of an action under this subtitle, the arbitrator or panel of arbitrators for a dispute submitted for resolution under this section shall issue a final decision on the dispute within the maximum period after the date on which the arbitrator or panel is selected to resolve the dispute under this section, as follows:

“(1) In the case of a dispute involving $1,000,000 or less, 120 days.

“(2) In the case of a dispute involving more than $1,000,000, 180 days.

“(g) Authorized Relief.—A decision of an arbitrator or panel of arbitrators under this section may grant relief in either or both of the following forms:

“(1) Monetary damages, to the extent authorized to be provided by the Board in such a dispute under this subtitle.

“(2) An order that requires specific performance of any obligation under a statute determined to be applicable, including any limitation of rates to reasonable rates, for any period not in excess of two years beginning on the date of the decision.

“(h) Judicial Confirmation and Review.—The following provisions of title 9 shall apply to an arbitration decision issued in a dispute under this section:

“(1) Section 9 (relating to confirmation of an award in an arbitration decision), which shall be applied as if the parties had entered into an agreement under title 9 to submit the dispute to the arbitration and had provided in that agreement for a judgment of a unspecified court to be entered on the award made pursuant to the arbitration.

“(2) Section 10 (relating to judicial vacation of an award in an arbitration decision).”.

(2) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 11707 the following:

“11708. Arbitration of certain rail rate, service, and other disputes.”.

(b) Time for Implementing Certain Requirements.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall promulgate regulations, prescribe a roster of arbitrators, and complete any other action that is necessary for the implementation of section 11708 of title 49, United States Code (as added by subsection (a)).

SEC. 905. ELIMINATION OF BARRIERS TO COMPETITION BETWEEN CLASS I CARRIERS AND CLASS II AND CLASS III CARRIERS.

(a) Restriction on Approval or Exemption of Carriers' Activities by Surface Transportation Board.—Section 10901 is amended by adding at the end the following new subsection:

“(e)(1) The Board may not issue under this section a certificate authorizing an activity described in subsection (a), or exempt from the applicability of this section under section 10502 of this title such an activity that involves a transfer of interest in a line of railroad, by a Class I rail carrier to a Class II or III rail carrier if the activity directly or indirectly would result in—

“(A) a restriction of the ability of the Class II or Class III rail carrier to interchange traffic with other carriers; or

“(B) a restriction of competition between or among rail carriers in the region affected by the activity in a manner or to an extent that would violate antitrust laws of the United States (notwithstanding any exemption from the applicability of antitrust laws that is provided under section 10706 of this title or any other provision of law).

“(2) Any party to an activity referred to in paragraph (1) that has been carried out, or any rail shipper affected by such an activity, may request the Board to review the activity to determine whether the activity has resulted in a restriction described in that paragraph. If, upon review of the activity, the Board determines that the activity resulted in such a restriction and the restriction has been in effect for at least 10 years, the Board shall declare the restriction to be unlawful and terminate the restriction unless the Board finds that the termination of the restriction would materially impair the ability of an affected rail carrier to provide service to the public or would otherwise be inconsistent with the public interest.

“(3) In this subsection:

“(A) The term ‘antitrust laws’ has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term also means section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

“(B) The terms ‘class I rail carrier’, ‘class II rail carrier’, and ‘class III rail carrier’ mean, respectively, a rail carrier classified under regulations of the Board as a Class I rail carrier, Class II rail carrier, and Class III rail carrier.”.

(b) Applicability to Previously Approved or Exempted Activities.—Paragraph (2) of section 10901(e) of title 49, United States Code (as added by subsection (a)), shall apply with respect to any activity referred to in that paragraph for which the Surface Transportation Board issued a certificate authorizing the activity under section 10901 of such title, or exempted the activity from the necessity for such a certificate under section 10502 of such title, before, on, or after the date of the enactment of this Act.

SEC. 906. SYSTEM WIDE COMPETITION.

(a) Trackage Rights.—Chapter 111 is amended by inserting after section 11102 the following new section:

“§ 11102a. Trackage rights

“(a) Alternative Rail Carrier Service.—(1) A person who uses or seeks to use rail service for major train load shipments to or from a facility (whether located in a terminal area or served by terminal facilities) that has physical access solely to one rail carrier may request, as provided in this subsection, that rail service for such shipments be provided to or from that facility by—

“(A) an existing Class I rail carrier; or

“(B) an existing Class II rail carrier, existing Class III rail carrier, or new rail service provider that, as determined by the Federal Railroad Administration before the person makes the request—

“(i) is or is likely to be capable of transporting the major train load shipments over the facilities of the one rail carrier to or from the facility with the physical access solely to that rail carrier;

“(ii) is or is likely to be capable of doing so in compliance with applicable Federal Railroad Administration regulations and with the operating and safety rules of the rail carrier responsible for dispatching for the use of the facilities; and

“(iii) has or is likely to have the financial ability (or insurance coverage with limits customary in the railroad industry) to satisfy liability claims arising from its operations.

“(2) For the purposes of this section a major train load shipment is any train load shipment that consists of 50 or more rail cars and is tendered all at one time on a single bill of lading.

“(b) Procedure for Requesting Service.—(1) A person seeking under subsection (a) to obtain from an alternative rail service provider transportation for major train load shipments to or from a facility described in paragraph (1) of that subsection shall file with the Board a notice of intent to request that service. The notice shall include the following:

“(A) A description of the facilities to be used by the alternative service provider.

“(B) A statement that the person has attempted without success, through negotiations with the rail carrier that has been providing the person with rail service to or from the facility, to obtain the proposed service from that rail carrier on terms similar to those available from the alternative rail service provider.

“(C) Any other details of the proposed service.

“(D) If the alternative rail service provider is a provider described in subparagraph (B) of subsection (a)(1), a certification by the Federal Railroad Administration of the determinations required for eligibility under that subparagraph.

“(2)(A) Subject to subparagraph (D), rail service described in a notice filed with the Board under paragraph (1) may be provided by the alternative rail service provider referred to in the notice beginning 60 days after the notice is so filed unless, before the expiration of that 60-day period, the Board determines that the alternative rail service provider's use of the facilities involved—

“(i) will be unsafe;

“(ii) is not operationally feasible; or

“(iii) will substantially impair the ability of the other rail carrier or rail carriers using the facilities to provide transportation over those facilities in accordance with the reasonable requirements of the customers served by the other carrier or carriers as of the date of the Board's determination.

“(B) The rail carrier or carriers that own or provide transportation over the facilities to be used by an alternative rail service provider in rail service covered by a notice filed with the Board under paragraph (1) shall have the burden of proving the matters described in clauses (i), (ii), and (iii) of subparagraph (A).

“(C) The Board shall consult with the Federal Railroad Administration in determining the facts regarding any allegation by a rail carrier or rail carriers that an alternative rail service provider's use of facilities would be unsafe.

“(D) An alternative rail service provider may not begin to provide any rail service under subparagraph (A) before the provider's train crews are qualified to operate over the facilities to be used to provide the service, as determined under rules applicable to such operations.

“(c) Dispatching and Other Responsibilities.—(1) The rail carrier responsible for controlling rail operations on, or for dispatching for the use of, facilities used by any alternative rail service provider pursuant to a notice filed with the Board under subsection (b) shall—

“(A) continue to perform those functions for all rail carriers using the facilities, including the alternative rail service provider; and

“(B) dispatch trains for the alternative rail service provider, without discrimination, on the same basis that the rail carrier would apply if it were providing the transportation for the traffic transported by the alternative rail service provider.

“(2) The Board shall have jurisdiction over, and shall promptly resolve, any disputes arising under paragraph (1)(B).

“(d) Compensation for Use of Facilities.—(1) An alternative rail service provider that, pursuant to a notice filed with the Board under subsection (b), is providing transportation over facilities owned by another rail carrier shall compensate the owner of the facilities on such terms as the alternative rail service provider and the owner may agree. The terms of compensation shall be adjusted annually, as the parties may agree, effective as of the anniversary of the date on which the alternative rail service provider began to use the facilities.

“(2)(A) The terms of compensation for an owner of facilities for the use of facilities by an alternative rail service provider shall be established on a basis that provides for the alternative rail service provider to compensate the owner at a level that—

“(i) defrays the relevant costs incurred by the owner for transportation over those facilities to the extent of a share that is proportionate to the use of those facilities by the alternative rail service provider in relation to the use of those facilities by all users of the facilities; and

“(ii) provides the owner with a reasonable return on and of the owner's net book investment in road property for the facilities (exclusive of write-ups or write-downs resulting from mergers and consolidations of any of the facilities that were acquired from another rail carrier on or after July 1, 1995).

“(B) For the purposes of subparagraph (A), an alternative rail service provider's proportionate share of the total relevant costs incurred by the owner of facilities for the use of facilities during the first 12 months of the provider's use of the facilities pursuant to a notice filed with the Board under subsection (b) shall be the ratio of—

“(i) the extent to which the alternative rail service provider is reasonably expected to use the facilities during that 12-month period, measured in gross ton-miles, to

“(ii) the total volume of the use of the facilities by all users of the facilities during the 12 calendar months preceding the month in which the notice was filed with the Board, measured in gross ton-miles.

“(C) For the purpose of calculating an annual adjustment of the terms of compensation for an owner of facilities for the use of those facilities for rail service by an alternative rail service provider, the ratio applied under subparagraph (A) for determining the alternative rail service provider's proportionate share of the total relevant costs incurred by the owner of facilities for the use of facilities shall be the ratio of—

“(i) the total volume of the use of the facilities by the alternative rail service provider during the 12 calendar months preceding the month in which the adjustment takes effect, measured in gross ton-miles, to

“(ii) the total volume of the use of the facilities by all users of the facilities during those 12 months, measured in gross ton-miles.

“(D) For the purposes of subparagraph (A), the total relevant costs for use of facilities shall include the following:

“(i) Roadway maintenance expenses.

“(ii) Costs reasonably related to the dispatching or control of the operation of users' trains.

“(iii) Any ad valorem taxes.

“(3)(A) If the owner of facilities to be used by an alternative rail service provider pursuant to a notice filed with the Board under subsection (b) and the alternative rail service provider do not agree on the terms of compensation for the initial use of the facilities before the expiration of the 60-day period applicable to the notice under paragraph (2) of that subsection (b), either party (or the person requesting the rail service from the alternative rail service provider) may request the Board to establish the terms of compensation. The Board shall establish those terms of compensation, in accordance with the standards applicable under this subsection, within 60 days after receiving such a request. The terms so established shall be effective retroactively as of the date on which the 60-day period applicable under subsection (b)(2) expires.

“(B) If the owner of facilities and an alternative rail service provider do not agree on an annual adjustment to terms of compensation under paragraph (1) before the anniversary of the date on which the alternative rail service provider began to use the facilities, either party may submit the dispute to the Board. The Board shall resolve the dispute within 60 days after the dispute is submitted. Any adjustment pursuant to a resolution of the dispute shall take effect retroactively as of that anniversary date.

“(e) New and Enhanced Facilities.—(1) If it is necessary for an owner of facilities to construct a new connecting track or interlocker or any other new facility or to improve a connecting track, interlocker, or other facility of that owner solely to accommodate the commencement of rail service by an alternative rail service provider under this section, the person requesting the rail service by the alternative rail service provider over those facilities shall pay the entire reasonable cost of the construction or improvement. The owner constructing the new facility or facilities shall own the newly constructed or improved facility or facilities, as the case may be.

“(2) If, at any time during the period of use of facilities by one or more alternative rail service providers pursuant to this section, it is necessary to construct or improve facilities to ensure the safe or efficient operation of rail service by the alternative rail service providers and all other rail carriers using the facilities to provide rail service, the reasonable cost of the construction or improvement shall be shared by the owner and each of the users of the facilities on such terms as those parties may agree. Any dispute concerning such terms shall be promptly resolved by the Board upon the request of any such user.

“(f) Relationship to Other Authorities.—This section may not be construed to provide an exclusive remedy, nor to limit the availability of any other remedy under this part, to users of rail transportation for the enhancement of intramodal rail competition.”.

(b) Clerical Amendment.—The table of contents at the beginning of such chapter is amended by inserting after section 11102 the following new item:

“11102a. Trackage rights.”.

SEC. 907. EFFECTIVE DATES.

(a) In General.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on January 1, 2002.

(b) EXCEPTIONS.—Section 906 and the amendment made by that section shall take effect on the date of enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 29, 2001, at 10 a.m., to conduct a hearing on "Housing and Community Development Needs: The FY 2003 HUD Budget."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 29, 2001, at 10:30 a.m. to hold a nomination hearing.

Agenda

Nominees: John V. Hanford, III, of Virginia, to be Ambassador at Large for International Religious Freedom; Arthur E. Dewey, of Maryland, to be an Assistant Secretary of State (Population, Refugees, and Migration); and John D. Ong, of Ohio, to be Ambassador to Norway.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, November 29, 2001, at 10 a.m. in Dirksen room 226.

Agenda

I. Committee Business: Subcommittees.

II. Unfinished Business: S. 986, A bill to allow media coverage of court proceedings [Grassley/Schumer/Leahy/Smith/Allard/Feingold / Specter/Durbin/DeWine/Allen/Edwards/Cantwell].

III. Nominations: Harris L. Hartz to be United States Circuit Court Judge for the Tenth Circuit; John D. Bates to be United States District Court Judge for the District of Columbia; Kurt D. Engelhardt to be United States District Court Judge for the Eastern District of Louisiana; Joe L. Heaton to be United States District Court Judge for the Western District of Oklahoma; William P. Johnson to be United States District Court Judge for the District of New Mexico; Clay D. Land to be United States District Court Judge for the Middle District of Georgia; Frederick J. Martone to be United States District Court Judge for the District of Arizona; Danny C. Reeves to be United States District Court Judge for the Eastern District of Kentucky; Julie A. Robinson to be United States District Court Judge for the District of Kansas; James E. Rogan to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office at the Department of Commerce; and Thomas L. Sansonetti to be Assistant Attorney General for the Environment and Natural Resources Division.

To be United States Attorney: David R. Dugas for the Middle District of Louisiana; Edward H. Kubo for the District of Hawaii; James A. McDevitt for the Eastern District of Washington; David E. O'Meilia for the Northern District of Oklahoma; Sheldon S. Sperling for the Eastern District of Oklahoma; Johnny Keane Sutton for the Western District of Texas; and Richard S. Thompson for the Southern District of Georgia.

IV. Bills: S. 304, Drug Abuse Education, Prevention, and Treatment Act of 2001 [Hatch/Leahy/Biden/DeWine/Thurmond].

V. Resolutions:

S. Res. 140, A resolution designating the week beginning September 15, 2002, as "National Civic Participation Week" [Roberts/Feinstein/Reid/Warner].

H. Con. Res. 88, Expressing the sense of the Congress that the President should issue a proclamation recognizing a National Lao-Hmong Recognition Day.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 29, 2001 at 2:30 p.m. to hold a nomination hearing.

Agenda

Nominees: James McGee, of Florida, to be Ambassador to the Kingdom of Swaziland; Kenneth Moorefield, of Florida, to be Ambassador to the Gabonese Republic; and John Price, of Utah, to be Ambassador to the Republic of Mauritius, and to serve concurrently and without additional compensation as Ambassador to the Federal and Islamic Republic of The Comoros and Ambassador to the Republic of Seychelles.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION AND FEDERAL SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on International Security, Proliferation and Federal Services be authorized to meet on Thursday, November 29, 2001 at 9:30 A.M. for a hearing entitled "Combating Proliferation of Weapons of Mass Destruction (WMD) with Non-Proliferation Programs: Non-Proliferation Assistance Coordination Act of 2001, Part II."

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 180

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on S. 180, that the Senate disagree to the House amendment, agree to the request for a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, with no intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. On behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Nos. 573, 574, 576, 577 through 582, and the nominations on the Secretary's desk; that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

FEDERAL HOUSING FINANCE BOARD

John Thomas Korsmo, of North Dakota, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2002.

John Thomas Korsmo, of North Dakota, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2009. (Reappointment)

Franz S. Leichter, of New York, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2006.

Allan I. Mendelowitz, of Connecticut, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2007.

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Bruce A. Wright, 5759

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Donald G. Cook, 6452

ARMY

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Elder Granger, 1583
Col. George W. Weightman, 6988

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel Byron S. Bagby, 3934
Colonel Leo A. Brooks, Jr., 5819
Colonel Sean J. Byrne, 2057
Colonel Charles A. Cartwright, 2898
Colonel Philip D. Coker, 7623
Colonel Thomas R. Csrnko, 1332
Colonel Robert L. Davis,2604
Colonel John DeFreitas, III, 7924
Colonel Robert E. Durbin, 9354
Colonel Gina S. Farrisee, 7084
Colonel David A. Fastabend, 5081
Colonel Richard P. Formica, 7015
Colonel Kathleen M. Gainey, 4227
Colonel Daniel A. Hahn, 0301
Colonel Frank G. Helmick, 8189
Colonel Rhett A. Hernandez, 7009
Colonel Mark P. Hertling, 3917
Colonel James T. Hirai, 5860
Colonel Paul S. Izzo, 1942
Colonel James L. Kennon, 4010
Colonel Mark T. Kimmitt, 8655
Colonel Robert P. Lennox, 8104
Colonel Douglas E. Lute, 2691
Colonel Timothy P. McHale, 0796
Colonel Richard W. Mills, 9267
Colonel Benjamin R. Mixon, 7168
Colonel James R. Moran, 2618
Colonel James R. Myles, 2299.
Colonel Larry C. Newman, 6949
Colonel Carroll F. Pollett, 9096
Colonel Robert J. Reese, 3946
Colonel Stephen V. Reeves, 2272
Colonel Richard J. Rowe, Jr., 5346
Colonel Edward J. Sinclair, 9044
Colonel Eric F. Smith, 3800
Colonel Abraham J. Turner, 5542
Colonel Volney J. Warner, 3024
Colonel John C. Woods, 4554
Colonel Howard W. Yellen, 3205

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Lester Martinez-Lopez, 1323

NOMINATIONS PLACED ON THE SECRETARY'S DESK

AIR FORCE

PN1175 Air Force nominations (2) beginning CESARIO F. FERRER, JR., and ending RAYMOND Y. HOWELL, which nominations were received by the Senate and appeared in the Congressional Record of October 30, 2001.

ARMY

PN1165 Army nominations (4) beginning ROBERT A. JOHNSON, and ending JOHN T. WASHINGTON III, which nominations were received by the Senate and appeared in the Congressional Record of October 25, 2001.

PN1176 Army nominations (12) beginning SAMUEL CALDERON, and ending FRANK E. WISMER, III, which nominations were received by the Senate and appeared in the Congressional Record of October 30, 2001.

PN1203 Army nomination of Carol E. Pilat, which was received by the Senate and appeared in the Congressional Record of November 8, 2001.

PN1204 Army nomination of Iluminada S. Calicdan, which was received by the Senate and appeared in the Congressional Record of November 8, 2001.

PN1205 Army nomination of *James W. Ware, which was received by the Senate and appeared in the Congressional Record of November 8, 2001.

PN1206 Army nomination of Mee S. Paek, which was received by the Senate and appeared in the Congressional Record of November 8, 2001.

PN1224 Army nominations (8) beginning MARION S. CORNWELL, and ending GARY L. WHITE, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 2001.

PN1225 Army nominations (30) beginning CHERYL A. ADAMS, and ending DEBBIE T. WINTERS, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 2001.

PN1226 Army nominations (40) beginning WILLIE J. ATKINSON, and ending WILLEM P. VANDEMERWE, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 2001.

PN1227 Army nominations (50) beginning DAVID S. ALLEMAN, and ending WILLIAM P. YEOMANS, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 2001.

PN1228 Army nominations (112) beginning LYNN F. ABRAMS, and ending BURKHARDT H. ZORN, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 2001.

PN1229 Army nominations (4) beginning CHARLES B. COLISON, and ending ARLENE SPIRER, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 2001.

NAVY

PN1177 Navy nominations (39) beginning BRADFORD W. BAKER, and ending DAVID J. WICKERSHAM, which nominations were received by the Senate and appeared in the Congressional Record of October 30, 2001.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MEASURES INDEFINITELY POSTPONED—S. 1191,. S. 1215, AND S. 1216

Mr. REID. Mr. President, I ask unanimous consent that the following calendar items be indefinitely postponed: Calendar No. 91, S. 1191; Calendar No. 95, S. 1215; and Calendar No. 97, S. 1216.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. For the information of the Senate, these items are Senate-numbered appropriations bills. The conference reports on the House-numbered bills are now public laws.

NATIONAL COMMUNITY ANTIDRUG COALITION INSTITUTE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 159, H.R. 2291.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2291) to extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be considered, read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating to this bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2291) was read the third time and passed.

APPOINTMENT OF PATRICIA Q. STONESIFER

Mr. REID. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of S.J. Res. 26 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 26) providing for the appointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Mr. President, I ask unanimous consent that the joint resolution be read three times, passed, the motion to reconsider be laid on the table, and that any statements relating thereto be printed in the Record, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S.J. Res. 26) was read the third time and passed, as follows:

S.J. Res. 26

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Dr. Homer Neal of Michigan on December 7, 2001, is filled by the appointment of Patricia Q. Stonesifer of Washington. The appointment is for a term of 6 years and shall take effect on December 8, 2001.

MEASURE READ THE FIRST TIME—H.R. 2722

Mr. REID. Mr. President, it is my understanding that H.R. 2722, which was just received from the House, is at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2722) to implement effective measures to stop trade in conflict diamonds, and for other purposes.

Mr. REID. Mr. President, I now ask for its second reading and object to my own request on behalf of a number of my colleagues.

The PRESIDING OFFICER. Objection having been heard, the bill will be read the second time on the next legislative day.

MEASURE READ THE FIRST TIME—H.R. 3189

Mr. REID. Mr. President, I understand that H.R. 3189, received from the House, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3189) to extend the Export Administration Act until April 20, 2002.

Mr. REID. I now ask for its second reading but object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

ORDERS FOR FRIDAY, NOVEMBER 30, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Friday, November 30; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I remind the Senate that there have been three cloture motions filed with respect to H.R. 10. All first-degree amendments must be filed prior to 1 p.m. tomorrow, Friday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:17 p.m., adjourned until Friday, November 30, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 29, 2001:

EXPORT-IMPORT BANK OF THE UNITED STATES

J. JOSEPH GRANDMAISON, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2005, VICE RITA M. RODRIGUEZ.

THE JUDICIARY

JEANETTE J. CLARK, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE GEORGE W. MITCHELL, DECEASED.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 29, 2001:

FEDERAL HOUSING FINANCE BOARD

JOHN THOMAS KORSMO, OF NORTH DAKOTA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2002.

JOHN THOMAS KORSMO, OF NORTH DAKOTA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2009.

FRANZ S. LEICHTER, OF NEW YORK, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2006.

ALLAN I. MENDELOWITZ, OF CONNECTICUT, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2007.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. BRUCE A. WRIGHT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. DONALD G. COOK

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. ELDER GRANGER
COL. GEORGE W. WEIGHTMAN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL BYRON S. BAGBY
COLONEL LEO A. BROOKS, JR.
COLONEL SEAN J. BYRNE
COLONEL CHARLES A. CARTWRIGHT
COLONEL PHILIP D. COKER
COLONEL THOMAS R. CSRNKO
COLONEL ROBERT L. DAVIS
COLONEL JOHN DEFREITAS III
COLONEL ROBERT E. DURBIN
COLONEL GINA S. FARRISEE
COLONEL DAVID A. FASTABEND
COLONEL RICHARD P. FORMICA
COLONEL KATHLEEN M. GAINEY
COLONEL DANIEL A. HAHN
COLONEL FRANK G. HELMICK
COLONEL RHETT A. HERNANDEZ
COLONEL MARK P. HERTLING
COLONEL JAMES T. HIRAI
COLONEL PAUL S. IZZO
COLONEL JAMES L. KENNON
COLONEL MARK T. KIMMITT
COLONEL ROBERT P. LENNOX
COLONEL DOUGLAS E. LUTE
COLONEL TIMOTHY P. MCHALE
COLONEL RICHARD W. MILLS
COLONEL BENJAMIN R. MIXON
COLONEL JAMES R. MORAN
COLONEL JAMES R. MYLES
COLONEL LARRY C. NEWMAN
COLONEL CARROLL F. POLLETT
COLONEL ROBERT J. REESE
COLONEL STEPHEN V. REEVES
COLONEL RICHARD J. ROWE, JR.
COLONEL EDWARD J. SINCLAIR
COLONEL ERIC F. SMITH
COLONEL ABRAHAM J. TURNER
COLONEL VOLNEY J. WARNER
COLONEL JOHN C. WOODS
COLONEL HOWARD W. YELLEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. LESTER MARTINEZ-LOPEZ

AIR FORCE NOMINATIONS BEGINNING CESARIO F. FERRER, JR. AND ENDING RAYMOND Y. HOWELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.

ARMY NOMINATIONS BEGINNING ROBERT A. JOHNSON AND ENDING JOHN T. WASHINGTON III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 25, 2001.

ARMY NOMINATIONS BEGINNING SAMUEL CALDERON AND ENDING FRANK E. WISMER III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.

ARMY NOMINATION OF CAROL E. PILAT.

ARMY NOMINATION OF ILUMINADA S. CALICDAN.

ARMY NOMINATION OF *JAMES W. WARE.

ARMY NOMINATION OF MEE S. PAEK.

ARMY NOMINATIONS BEGINNING MARION S. CORNWELL AND ENDING GARY L. WHITE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING CHERYL A. ADAMS AND ENDING DEBBIE T. WINTERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING WILLIE J. ATKINSON AND ENDING WILLEM P. VANDEMERWE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING DAVID S. ALLEMAN AND ENDING WILLIAM P. YEOMANS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING LYNN F. ABRAMS AND ENDING BURKHARDT H. ZORN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING CHARLES B. COLISON AND ENDING ARLENE SPIRER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

NAVY NOMINATIONS BEGINNING BRADFORD W. BAKER AND ENDING DAVID J. WICKERSHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.

EXTENSIONS OF REMARKS

PRAYER FOR AMERICA

HON. PATRICK J. TOOMEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. TOOMEY. Mr. Speaker, I rise today to share a poem entitled "Prayer For America" written by Miss Ruth Werner, a constituent of mine who lives in Bangor, Pennsylvania. Miss Werner was inspired to pen this poem following the September 11th attacks. I was touched when she gave me this poem and thought that my colleagues in the House of Representatives, the Senate and President Bush would enjoy it as well.

PRAYER FOR AMERICA

Dear Heavenly Father,
We pray for peace on earth.
Let it begin with us.
With you as our Father we are all made one.
We are all brothers and sisters.
Let us walk in each other in all 50 states and throughout the world with President Bush, Vice President Cheney and all the Leaders.
With children and adults, male and female, with families and people who are lonely, with rich and poor, with people who have homes and the homeless;
With all kinds of people with different careers and with the unemployed;
You love all your children of the world whether red, yellow, black or white.
We are all precious in your sight because you love everyone with an unconditional love; always ready to forgive.
Today God let this be our prayer because we know that United We Stand Divided We Fall.
Let us stand for peace for America, a most beautiful land.
And let us keep this as one nation under you with liberty and justice for all.
It makes us proud to be an American to be among the red, white and blue as we are just passing through, but most importantly we are honored to be Christians who believe in you and will live with you and our loved ones in our heavenly home forever.
God we know you will bless the USA today and always.
In your name we pray, AMEN

I commend Miss Werner for her heartfelt words and for her dedication to God and country.

* * *

COMMEMORATING WORLD AIDS DAY 2001

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. MEEK of Florida. Mr. Speaker, this Saturday, the nation and the World will observe World AIDS Day 2001.

World AIDS Day provides an opportunity to focus the world's attention on this global pandemic. It is a day to remember those living with AIDS and those who have died from the disease.

Like our recent tragedy, the HIV/AIDS pandemic has challenged many to have courage and hope in spite of grief, anger, and despair. More than 60 million people worldwide have been infected with HIV since the start of the epidemic 20 years ago, and current statistics point to an even greater spread of the disease than anticipated.

HIV/AIDS is now the leading cause of death in sub-Saharan Africa. Worldwide, it is the fourth biggest killer. According to a United Nations report, by the end of this year there will be an estimated 40 million people living with HIV worldwide.

In the United States, research has shown that the number of AIDS cases among some populations has decreased. Unfortunately, we have not seem similar declines in new HIV cases among people of color or our Nation's youth. Today, at least half of all new HIV infections in our country are among people under age 25. Young Americans between the ages of 13 and 25 are contracting HIV at the rate of two per hour.

World AIDS Day has special significance in my community of South Florida, which has more HIV/AIDS cases than 44 states.

As we observe World AIDS Day 2001, we must reaffirm our commitment to work together to protect all our citizens from the threat of HIV. By promoting, education, research and care, we can reach millions of individuals who face life-changing decisions that can affect their health and the future of our Nation and the world, and help those who are already affected by this disease.

* * *

INTRODUCTION OF A SIMPLE RESOLUTION TO ENCOURAGE THE PRESIDENT TO USE HIS POWER TO RELEASE LIHEAP EMERGENCY FUNDS TO THOSE WHO LOST THEIR JOBS AS A RESULT OF 9/11/01

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Ms. SOLIS. Mr. Speaker, hundreds of thousands of people who recently have been laid off from work are reliving the terrorist attacks in the economic aftermath of September 11th.

As of today, 638,000 layoffs have already been announced in our country.

Fewer than 2 out of 5 employers who have handed out pink slips in the third quarter of this year indicate that they anticipate calling their laid off employees back to work.

The nation's unemployment rate soared from 4.9 percent in September to 5.4 percent in October.

In Los Angeles County the unemployment rate is 6 percent.

In my congressional district, the City of El Monte has an unemployment rate of 7.6 percent and South El Monte has an unemployment rate of 9.3 percent.

All of this in time for Christmas—and the cold winter to follow.

It is our duty—and responsibility—to help those who are suffering the ripple effects of the worst domestic attack in our country's history.

We need to act immediately, because the federal government's assistance is needed now.

The resolution that I bring before the House today would encourage the President to answer this immediate need by expanding the Low Income Energy Assistance Program—LIHEAP.

The LIHEAP program is a federally funded block grant program that helps ease the energy cost burden of low-income households.

The need for this program has been great.

Residential heating oil prices were 48 percent higher in 2000 than in 1999.

Residential natural gas prices were 44 percent higher in 2000 than in 1999.

Higher prices mean an added burden to those who are already struggling to make ends meet.

As you can imagine, Mr. Speaker, there are many more people who will need this energy assistance because of our country's recent tragedies.

Unfortunately, the more people there are—the less there is to go around.

LIHEAP has two pots of money—one which goes to States in the form of a block grant and another that is distributed by the President for emergency use.

This resolution will encourage the President to use this emergency fund in our current time of uncertainty to help those who have lost their jobs as a result of the attack on our nation.

We must act now to get our country's working families through this horrible time.

The other body has already passed a similar resolution.

I encourage my colleagues to adopt this resolution and ask the President to use his powers to release LIHEAP funds to those who have lost their jobs in the wake of the September 11th terrorist attacks and to those that have suffered prolonged unemployment since early this year.

This bill is a step in the right direction and could mean the difference between a family's financial ruin and their foundation for the future.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

RECOGNIZING THE SERVICE OF EDWARD JESSER

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today in recognition of Mr. Edward "Ned" Jesser, resident of Mahwah, New Jersey, and proud and enthusiastic supporter of the Boy Scouts of America. Mr. Jesser will be honored today at the "Evening with the Governors" 2001 Good Scout Awards of the Northern New Jersey Council Boy Scouts of America. With more than forty years of dedicated service to the Boy Scouts of America, he will be the recipient of the Distinguished Scouter Award. The Boy Scouts of American pride themselves on producing fine citizens, strong family members, and community leaders. In this respect, Ned Jesser truly leads by example.

Today, Mr. Jesser sits on the Executive Board of the Northern New Jersey Council of Boy Scouts. However his involvement with the scouts began some forty years ago as the President of Bergen County Council of Scouts. It is his firm belief that scouting truly creates good lives and good citizens. Mr. Jesser has said that "scouting is the only national organization that is making a major effort to bring a better and healthier life for our boys." Clearly, this man is recognized as a leader for scouts—and a committed one at that!

As I am sure Mr. Jesser's wife Ruth can attest, Mr. Jesser is a very active member of the Bergen County community. Mr. Jesser served as Chairman of the Board and Chief Executive Officer of Summit Bank for twenty years. In addition, he has sat on many boards in our county. To list just a few of his involvements: President of the New Jersey Chamber of Commerce, President of the New Jersey Bankers Association, and Trustee of Lafayette College. As a man who is generous with his time and his talents, Mr. Jesser has truly contributed to making northern New Jersey a better place to live.

A fine citizen, a family man, and an involved community leader, Mr. Jesser is not only an outstanding role model for Scouts, but also an outstanding example of the fine residents of Bergen County. He contributes much to both the development of young men in our region, and to our community itself. Ned Jesser, we are lucky to have you with us.

IN HONOR OF P.O. NIURCA QUINONES AND P.O. DARRELL CLARK

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Police Officers Niurca Quinones and Darrell Clark in recognition of their outstanding work to rid the streets of Bedford-Stuyvesant from the scourge of drugs.

Officer Quinones joined the New York City Police Department on April 30, 1991. Officer Clark joined the New York City Police Department on October 15, 1990. Both officers were assigned to the 79th Precinct, where they worked together as partners. As a unit, they have done an outstanding job in serving the community of Bedford-Stuyvesant.

In a short period of time, these officers have successfully reduced the presence of drugs and the number of drug-related crimes. In the past two years alone, these officers executed 48 search warrants leading to 97 arrests. Officers Quinones and Clark also recovered 14 guns, 300 rounds of ammunition, 436 decks of heroin, 1 large bag of heroin, 167 vials of crack, 412 glass vials of crack, 10 oz. of crack, three pounds of marijuana, 51 bottles of hydro, 284 bags of marijuana, and over $9,000 in illegal funds.

Mr. Speaker, Officers Quinones and Clark are two outstanding examples of New York's finest. They have gone above and beyond the call of duty to help clear the Bedford-Stuyvesant community of dangerous drugs and criminals. As such they are more than worthy of our praise. I urge my colleagues to join me in honoring these two dedicated public servants.

A TRIBUTE TO EDWARD AND DOLLY MASON

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. EHRLICH. Mr. Speaker, I rise today to pay special tribute to Edward and Dolly Mason, and to honor the memory of their son, Eddie. On March 10, 1999 Eddie Mason died of a sudden and unexpected heart attack. The death of their son, less than three weeks before his nineteenth birthday, was a bitter and heart wrenching tragedy for the Masons. I know the Mason family; it has been personally painful for me to witness their struggle to cope with such an inconsolable loss.

Eddie Mason was a vibrant young man who embraced life; one who sought the opportunities presented each day. At the age of fifteen, he was diagnosed with Friedreich's Ataxia, a degenerative neurological disease that impairs muscular function throughout the body. His condition, however, was not life-threatening. Indeed, Eddie's passion for athletic endeavors was unquenchable. From an early age, Eddie was an avid participant in soccer, baseball, football, and wrestling; he also pursued karate, achieving the rank of Green Belt after eight years of training. Yet, Eddie's excellent physical conditioning offered no protection against the deadly symptoms of his disease.

The Masons' grief for their son will never be completely assuaged. Ed and Dolly, however, hoped to preserve Eddie's memory at the community church their family has attended for many years. Accordingly, twelve months ago, the Mason family resolved to construct the tower that now stands between the sanctuary and rectory of St. Luke's Church in Edgemere, Maryland. I was honored to be present at the ground breaking ceremony held on March 27, 2001, the twenty-first anniversary of Eddie's birth. Seeing such familial devotion and community support is something I will not soon forget.

On Sunday, October 14, at St. Luke's Church, a thirty-five-foot bell tower, the home of "Eddie's Bell," was officially blessed. In the presence of over 350 neighbors, friends, and fellow citizens, the Masons' tribute to their son was consecrated, and "Eddie's Bell" rung for the first time.

Friends, family, neighbors, and even strangers have helped sustain the Masons since the terrible event of March 10, 1999. Yet, the newly created monument was not a community effort. The money and time required for the bell tower were invested solely by Ed and Dolly Mason. "Eddie's Bell" was a gift from "Mom and Dad' to the son they love so much.

The bell tower has become a centerpiece of St. Luke's Church. Each day the bell is rung at noon and six p.m.—its bold notes call members to worship before each weekend mass. The bell's toll can be heard up to two miles away, a range which includes the Mason home. I sincerely hope that Ed and Dolly will take comfort in the notes of "Eddie's Bell," knowing that all the love and devotion they feet for their son has been given musical form.

Mr. Speaker, I am proud to represent the Mason family in Maryland's Second Congressional District, and I ask that my colleagues join me in offering them our deepest condolences for their loss, congratulations on their dedication to family and community, and our very best wishes for the future.

EXPRESSING SENSE OF CONGRESS REGARDING EFFORTS OF PEOPLE OF UNITED STATES OF KOREAN ANCESTRY TO REUNITE WITH FAMILY MEMBERS IN NORTH KOREA

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 2001

Ms. McCOLLUM. Mr. Speaker, I rise today in support of H. Con. Res. 77, a resolution expressing the sense of Congress to reunite United States citizens with their family members in North Korea.

North and South Korea have made significant progress in their relationship, as has the United States made very important steps in its relationship with both North and South Korea in the past two decades. H. Con. Res. 77 is the next step.

This very important resolution recognizes the need to reunite Americans of Korean ancestry with their family members in North Korea.

Over 500,000 Americans of Korean ancestry were separated from family members with the division of North and South Korea. This simple measure will bring about a long awaited family reunion, over 50 years later.

I believe it is very important for the United States to be involved in reunification and peace efforts in Korea, and this resolution brings us one step closer. This is a significant effort in mending relations with North and South Korea, and their relationship with the United States.

TRIBUTE TO CHRISTMAS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. SCHAFFER. Mr. Speaker, Christmas during wartime is an unsettling conflict in vision and emotion for Americans. A peace-loving nation, the United States has always been resolved in the face of tyranny to crush the purveyors of terror and to vanquish the enemies of freedom; and with firm reliance upon the protection of Divine Providence. Celebrating the birth of the Prince of Peace is a testimony to authentic liberty, and invigorates the spirit of a nation whose motto boldly stands "in God we trust."

America will prevail, because it always has, because it must, and because it is right.

President Franklin Roosevelt asked, "how can we pause, even for a day, even for Christmas Day, in our urgent labor of arming a decent humanity against the enemies which beset it?" Today, Americans confront the same question. The answer is, of course, the same, and so the outcome will be.

The nation's first Christmas occurred amidst the Revolutionary War. With the Continental Army poised to turn the momentum of the war, General George Washington conceived a daring tactic which would unfold on the Eve of Christmas 1776. Under cover of darkness and well after the Hessian mercenaries had consumed their Holiday feast (and drink), Washington led his troops across the Delaware River to defeat the heavy, surprised, and more numerous Hessian mercenaries who held Trenton, NJ.

A few months prior to the famous attack, Washington wrote, "the time is now near at hand which must probably determine whether Americans are to be freemen or slaves; whether they are to have any property they can call their own; whether their houses and farms are to be pillaged and destroyed, and themselves consigned to a state of wretchedness from which no human efforts will deliver them. The fate of unborn millions will now depend, under God, on the courage of this army. Our cruel and unrelenting enemy leaves us only the choice of brave resistance, or the most abject submission. We have, therefore, to resolve to conquer or die."

In 1862, entering the second year of the Civil War, President Abraham Lincoln inspired his countrymen through the Christmas season. Before Congress, he delivered a stirring speech: "the dogmas of the quiet past are inadequate to the stormy present," Lincoln said. "The occasion is piled high with difficulty, and we must rise to the occasion. As our case is new, so we must think anew, and act anew. We must disenthrall ourselves, and then we shall save our country."

Roosevelt's address following the Japanese attack upon Pearl Harbor urged Americans to take inspiration from the sacred Holiday. "Our strongest weapon in this war is that conviction of the dignity and brotherhood of man which Christmas Day signifies—more than any other day or any other symbol. Against enemies who preach the principles of hate and practice them, we set our faith in human love and in God's care for us and all men everywhere," he said. "It is in that spirit, and with particular thoughtfulness of those our sons and brothers, who serve in our armed forces on land and sea, near and far—those who serve for us and endure for us—that we light our Christmas candles now across the continent from one coast to the other on this Christmas Eve."

From the Christmas Eve crossing of the Delaware, to the Christmases observed in Civil War camps, the trenches of World War I, and the forests of Belgium during WWII, Americans have always been willing to fight to secure their nation and restore peace.

American men and women presently deployed in Afghanistan, the Middle East, Bosnia, Korea, throughout the world and here at home, are emblematic of the sacrifice and dedication of the proud American soldiers who preceded them. The cause of freedom, liberty and valor serves to summon the courage of those who stand in harm's way, but even more does the spirit of Christmas confirm the hope and blessing that is God's gift to America. The way to victory was shown to the world by a child whose birthday is revered around the world. America's trust in God will lead us to victory again.

WILLIAM WINKENWERDER, ASSISTANT SECRETARY OF DEFENSE FOR HEALTH CARE

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. TAYLOR of North Carolina. Mr. Speaker, America's armed service members, their families and military retirees can rest easier today knowing that Dr. William Winkenwerder has been sworn in as Assistant Secretary of Defense for Health Care. A western North Carolina native, Dr. Winkenwerder brings fittingly broad experience and an impressive record of achievement to this important position. All Americans can be proud that Dr. Winkenwerder has agreed to serve his nation yet once again. The Asheville Citizen-Times' Tim Reid recently penned a profile of Dr. Winkenwerder, which I am glad to share with my colleagues.

WINKENWERDER TOP HEALTHCARE OFFICIAL FOR DEFENSE DEPARTMENT

(By Tim Reid)

ASHEVILLE.—Growing up in Asheville in a family well known for its successful hotels, William Winkenwerder seemed destined to enter the hospitality industry like his brother, John. But he liked science and helping people and figured medicine was a good way to combine those interests. Some time during his years of medical school, residency and private practice, Dr. Winkenwerder also discovered he was drawn to the public policy side of medicine, designing and administering systems to deliver quality health care as efficiently as possible.

"Even though I very much enjoyed taking care of patients, I developed an interest in how the system of health care worked, or didn't work in some cases," he said.

After years of high-level jobs related to providing health services, Winkenwerder is using all his experience and expertise to help protect the health of America's armed services, their families and military retirees. He was sworn in recently as assistant secretary of defense for health care—the Defense Department's top health-care official. It is a big job, and the numbers are staggering. Winkenwerder manages the nation's $25 billion defense health program, whose 110,000 staffers see to the health needs of more than 8 million people around the world.

"It's an incredible responsibility. I am honored to have the opportunity to serve in this kind of position," he said. "We have wonderful people in the military. They are extremely dedicated, hard working and bright."

Winkenwerder assumed the job at a critical time as the military prepares for a sustained effort against terrorism.

"We have to look at the whole range of biological agents that could pose a threat and develop a strategy for all of them," he said. "That could include not just anthrax but also smallpox, the plague and all the things we believe could be used."

Winkenwerder faces the same challenges posed to any health care executive—assuring quality care while keeping costs at an acceptable level. He is not responsible for the nation's VA hospitals but does oversee the Tricare program that functions like an insurance program, paying for care through the public or private sector.

THE EARLY YEARS

Winkenwerder said he has a soft spot in his heart for Asheville and visits family members here three or four times a year. They include his father, William Winkenwerder Sr. of Asheville, and his mother Martha Baker Loew, also of Asheville. His brother John Winkenwerder is managing partner of the Asheville area Hampton Inns.

"It was a great experience growing up there and working for my father," he said. "He gave me a real appreciation for work and for serving people."

But it was Winkenwerder's family physician, Dr. Roger James, who sparked his early interest in medicine.

"He was a wonderful man who died recently," Winkenwerder recalled. "He was my doctor and a leader in my church. I was just impressed with what he did for people."

He said another role model was orthopedic surgeon Dr. Wayne Montgomery. "He was mayor of Asheville at the time, and I liked that idea of combining medicine and public service."

Winkenwerder also worked summers as an orderly at St. Joseph's Hospital, where he got to know many physicians such as Dr. David Cappiello, another orthopedic surgeon. After graduation from Asheville High School, Winkenwerder went to Davidson College on a football scholarship, enrolling in its pre-med program. After Davidson came eight years of medical school and residency in internal medicine at the University of North Carolina at Chapel Hill, during which Winkenwerder's career interests began to change.

"I decided I really did want to delve into this whole area of health care policy and health care economics and public health," he said. "I decided business school was a good way to do that."

Winkenwerder attended the University of Pennsylvania's Wharton School and at the same time completed a fellowship in public health and research at the university's hospital. During the summer of 1986 he worked at the Department of Health and Human Resources and got a taste for government that has never really left him. The following year

Winkenwerder was asked to come back and work in the Health Care Financing Administration, which operates the Medicare and Medicaid programs.

"I worked there about two years, until the end of the Reagan administration" he said. "I got into that whole world of how the health care system should be structured."

Yearning to use his skills as a doctor, Winkenwerder joined a group practice in Atlanta. He worked there for five years, seeing firsthand how managed care was changing the practice of medicine. Winkenwerder then began a series of high-level jobs in diverse aspects of the health care system. They included stints as: regional vice president and chief medical officer for Prudential Health Care; regional quality assurance and associate medical director for Kaiser Permanente; and vice president for Emory Health Care at Emory University.

Then Winkenwerder moved to Boston to take the number two post as vice chairman of Blue Cross Blue Shield of Massachusetts. When his desire to advance to the top post did not materialize, he decided to return to government service. Winkenwerder talked to friends and colleagues in Washington and spent several months being interviewed and scrutinized for the job at the Department of Defense. He was nominated by President Bush after an extensive FBI background check. The Armed Services Committee approved Winkenwerder's nomination Oct. 16, and he was sworn into office Oct. 30.

"My goals are pretty simple," he said. "I want to protect the health of the people who are in the service, making sure especially that we are ready for chemical or biological attacks.

"I want to improve Tricare, managing costs and improving service and quality," he said. "And I want to improve our relationships with other entities like Congress, the VA system and the Department of Health and Human Services." Winkenwerder's wife, Pride and 10-year-old son, Will are staying in Boston until the end of the school year, when they will join him in Washington. In the meantime, he is working 12-hour days in his office at the Pentagon. Winkenwerder is excited to be in a job where he can use his years of experience and preparation to, perhaps, make a difference.

"I would just hope that in some way, by being an effective leader, I can help improve health care for an important group of people who serve our nation," he said.

RECOGNIZING THE SERVICE OF THOMAS KEAN

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today in recognition of an exceptional leader and role model for all New Jersey, our former governor, the Honorable Thomas H. Kean. Today, Governor Kean will be honored at the "Evening with the Governors" 2001 Good Scout Awards of the Northern New Jersey Council of Boy Scouts of America. Governor Kean has turned his ability to both serve and lead into a career of tremendous public service. As Governor of New Jersey, he worked hard for New Jersey, and New Jersey thanked him, re-electing him to a second term as he won by more than 700,000 votes. This evening, we will honor the Governor for his dedicated work.

Governor Kean is remembered for policy, not politics. Known for his immense knowledge of education issues and ability to connect with so many residents of New Jersey, Governor Kean was one of our most popular governors in state history. During his two-terms in office in the 1980s, Governor Kean was responsible for more than 30 education reforms, landmark environmental policies, and tax cuts that created 750,000 jobs in New Jersey. Governor Kean's work truly helped New Jersey residents and even today he is one of our most recognized leaders in New Jersey government.

His recognition extends well outside of our state. In 1988, Governor Kean delivered the keynote address at the Republican National Convention and has been recognized by three presidents as "The Education Governor." He holds numerous awards from environmental and educational organizations including more than 30 honorary degrees. Governor Kean serves on the Board of Trustees of his two alma maters—Princeton University and Columbia University Teachers College. He is also chairman of the Carnegie Corporation of New York and the National Campaign to Prevent Teen Pregnancy.

However it is education that continues to be of great importance to Governor Kean. Since leaving New Jersey political life in 1990, Governor Kean has served as President of Drew University in Madison, New Jersey, where he has led Drew to become one of the nation's premiere small universities with a focus on teaching, technology in the classroom, and international educational experience. Since beginning his tenure, undergraduate applications have increased astronomically, endowment has tripled in size, and the University has launched its first comprehensive fund-raising campaign. Yet Governor Kean's passion seems to still reside in the classroom, and he is often found there. As one who shares his education background, I understand his desire to not only work with education policies, but most importantly with the students. I commend him for this dedication.

I thank Governor Tom Kean for all that he has done for our state of New Jersey. He has accomplished great things and continues to do so. His heart truly focuses on policies and people, not politics and partisanship. In this way, he is a role model for all in this chamber.

TRIBUTE TO PHYLLIS SMOCK

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. EHRLICH. Mr. Speaker, I would like to take this opportunity to congratulate Ms. Phyllis Smock on her retirement from the University System of Maryland after more than 32 years of dedicated service.

A friend of the State of Maryland, Phyllis Smock, University of Maryland University College's director of alumni relations, will retire on December 1, 2001. Ms. Smock has played a significant role in the growth of University of Maryland University College.

University of Maryland University College, or UMUC, is one of 11 accredited degree-granting institutions in the University System. For 50 years, the University has fulfilled its principal mission: to serve adult, part-time students through high-quality educational opportunities. In 1949, of the U.S. colleges and universities invited to provide courses to the men and women in the military stationed overseas, only UMUC accepted.

Today, UMUC classroom sites can be found throughout Maryland, the Washington, DC metropolitan area, and over 100 overseas locations. Last year, over 71,000 students were enrolled in UMUC classes. About 47,000 were service members on active duty with the U.S. military, stationed stateside and abroad in over 29 countries. UMUC is proud of its long history of service to the military and is honored to count over 50 admirals and generals among its alumni. Moreover, UMUC is a pioneer in distance learning; students now can "attend class" from anywhere in the world via the Internet.

Ms. Smock has actively contributed to the growth and success of UMUC. She began working for the University System in 1966 and has served in the UMUC Overseas Programs Office where she worked as logistical coordinator for new faculty recruited to the European and Asian divisions. Further, she has been instrumental in the growth of the Alumni Association from its inception more than a decade ago. Today, the Association boasts of more than 35,000 alumni in Maryland and over 100,000 UMUC alumni worldwide.

During the past seven years, Ms. Smock has coordinated with many UMUC alumni-volunteers and helped establish a stronger relationship with the Maryland General Assembly. She has been a tireless advocate for UMUC, its alumni, and their support of their alma mater—a global University that will provide to any student, anywhere, the opportunity for life-long learning.

Ms. Smock deserves the thanks and praise of Marylanders and this grateful nation which she has faithfully served for so long. I ask the Members of the House to join me in wishing her and her husband, Ray, all the best in the years ahead.

IN HONOR OF P.O. JEANETTE MORALES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of P.O. Jeanette Morales and her record of service to Brooklyn as a member of the New York City Police Department.

Jeanette Morales was born and raised in East New York. She graduated in 1982 and started working as a bank teller. She moved to various positions within the bank and ultimately became Senior Customer Service Representative. She enjoyed working with and helping people so a friend recommended that she become an Auxiliary Police Officer.

Jeanette served as an Auxiliary Police Officer in the 75th Precinct for a year and then applied to become a full-fledged New York City Police Officer. She passed the exam and was sworn in on July 11, 1988. After she graduated from the Police Academy she was assigned to field training within the 88th, 84th, 77th and the 79th precincts. In September 1989, Jeanette was assigned to the 79th Precinct. She was assigned to rotating tours for the first few years and was assigned to various units within the 79th Precinct. She worked in the S.N.E.U. (Street narcotics enforcement unit) and the Anti-Crime unit. In October 1993, she was assigned to Community Affairs. She worked in this unit for 8 years along side her partner, Detective David Allen. They worked extremely will together until the day he passed away. After 13 years in the 79th Precinct, Jeanette was transferred to Brooklyn North Community Affairs.

Mr. Speaker, P.O. Jeanette Morales has served the people of Brooklyn and New York City as a dedicated member of the New York City Police Department. As such she is more than worthy of our praise. I urge my colleagues to join me in honoring this truly committed public servant.

WORLD AIDS DAY

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, World AIDS Day on December 1 provides an opportunity to refocus our attention on the HIV/AIDS crisis that has not gone away and will not go away until a concerted effort is made to address the pandemic and develop workable solutions.

In the wake of the tragic events of September 11, attention has been focused elsewhere in the world. While we must do everything we can to combat terrorism, we cannot ignore other crises. Forty million people worldwide are still living with HIV/AIDS; 28 million are in sub-Saharan Africa. There are still 12 million orphans in sub-Saharan Africa, and there are still 15,000 new HIV infections each day.

The statistics regarding HIV/AIDS are staggering, but we must not let these numbers deter our resolve to work together to bring this epidemic under control. The United States cannot ignore the fact that HIV/AIDS poses a serious risk to international stability and creates fertile breeding ground for social unrest. Our survival dictates that we cannot afford to lose this battle.

ACCESS AND OPENNESS TO SMALL BUSINESS LENDING ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Ms. SLAUGHTER. Mr. Speaker, I am pleased to join Representative McGOVERN in supporting the Access and Openness to Small Business Lending Act. This legislation would permit the collection of demographic information on small business loans.

Specifically, it would amend the Equal Credit Opportunity Act to require lending institutions to ask the gender and race of small business loan applicants. The applicant's response would be voluntary. I support the Access and Openness to Small Business Lending Act, since it would provide a powerful vehicle to monitor the lending market for discriminatory practices.

Today, there are more than 9 million women-owned businesses, up from 400,000 in 1972. Unfortunately, the main impediment to women entrepreneurs achieving success is obtaining the necessary financing to get their businesses off the ground.

According to Business and Professional Women/TJSA, companies owned by women account for 38 percent of businesses in the United States and are also the fastest growing segment of the business sector. However, women-owned businesses receive less than four percent of the $36 billion in venture capital invested each year.

A survey by the National Foundation of Women Business Owners and Wells Fargo & Co. indicates that most female entrepreneurs rely on loans and their personal savings to finance their firm's growth. One reason women are not securing funding from venture capital firms, like many others, is that women traditionally start retail stores. The retail industry is the one business sector in which venture capitalists rarely invest.

To ensure a transparent loan process and confirm that banks are being even-handed when making loan decisions for women and minorities, we need a bill like the Access and Openness to Small Business Lending Act. I urge my colleagues to also support this legislation.

RECOGNIZING THE SERVICE OF BRENDAN BYRNE

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today to recognize a dedicated public servant—an exemplary leader and a friend to the people of my State of New Jersey. Governor Brendan T. Byrne will be honored later today at the "Evening with the Governors" 2001 Good Scout Awards of the Northern New Jersey Council of the Boy Scouts of America.

This is a most special occasion for me since Governor Byrne and I both call West Orange home. But we share more than a common hometown. We share a love of New Jersey and a devotion to its people. Governor Byrne has turned this dedication to New Jersey into a career of tremendous public service. On Thursday, we will honor the Governor for his work.

His outstanding career first began with service to our great country in the United States Army Air Corps as the youngest squadron navigator in his bomb group. After returning to civilian life, Governor Byrne combined law and public service as Deputy Attorney General and Special Prosecutor in Passaic County. Later, he was appointed as Assistant Counsel to Governor Robert B. Meyner and subsequently named the Governor's Executive Secretary.

At the age of 34, Byrne was appointed by Governor Meyner as Essex County Prosecutor, becoming the youngest prosecutor in New Jersey's largest county. He was reappointed to a second term by Governor Richard J. Hughes. After serving as President of the New Jersey State Board of Utility Commissioners as well as serving on the Superior Court, Governor Byrne quickly rose to Assignment Judge for Morris, Warren and Sussex County.

With nearly 20 years of work for the state of New Jersey, Byrne took his service to the next level and was elected Governor of New Jersey in 1973 by the largest plurality in New Jersey history. To their discredit, his critics "One-term Byrne" was reelected to a second term in 1977.

Mr. Speaker, Governor Byrne worked hard to do what was best for our great state. His pride in his state and understanding of its residents were visible in all that he did. He has always understood that principle of public service—that what matters most is helping real people solve the real problems of real life.

Clearly, this is evidenced in Governor Byrne's career in New Jersey and his heartfelt commitment to its residents. I commend Governor Byrne for his service, which is sometimes difficult, but as we can all attest, always rewarding.

While some may disagree with Governor Byrne on his policies, no one can disagree that he has truly served the people of New Jersey.

I am honored to call this good man a friend.

RECOGNIZING THE UKRAINIAN FAMINE REMEMBRANCE DAY

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. WELDON of Pennsylvania. Mr. Speaker, sixty-eight years ago a horrific crime was inflicted, killing an estimated 3–5 million people and yet this genocide is seldom heard of. I am referring to the Great Famine of 1932–1933 in Ukraine conducted by Stalin's Soviet Union. We should not, we can not allow the elimination of a people go unnoticed or become forgotten. While some events in history are documented and memorialized to ensure that future generations will never have to be victim to them again, we have a duty to learn of and reveal those that have not yet been exposed.

The Ukrainian Government has designated the last Saturday in the month of November as Ukrainian Famine Remembrance Day. Today I join those in mourning and assist their cause in expanding the world's acknowledgment of what had happened.

The 1930's marked a time of "Collectivization" for the new Soviet Empire. Any symbolism or feelings of Ukrainian national consciousness or identity was hoped to be erased but to do so required an ethnic cleansing of the most brutal nature. The task took the form of a man-made famine whereas the quota for grain procurement from Ukraine was increased by 44 percent. The extraordinarily high quota resulted in a severe grain shortage, effectively starving the Ukrainian people.

After collection, grain elevators were guarded by military troops and secret police denying access to even those who had harvested the grain in the immediate area. Those hiding grain were killed and an internal passport system was implemented to restrict people from moving to where there was food. The result was a demoralized and depleted Ukrainian ethnic population. Stalin covered up this genocide so effectively that little is known to outsiders even today. Perhaps that will end now.

Today, there is a Ukrainian state, proud but mindful of its past. They will forever suffer the memory of being intentionally starved to death to end their struggle for freedom. Let us, a nation that symbolizes the very definition of freedom, learn of and remember the struggle the Ukrainians endured to obtain it. Mr. Speaker, in the spirit of standing up to all who threaten democracy and freedom, last Saturday, November 24, 2001, was the Ukrainian Famine Remembrance Day.

RECOGNITION OF NATIONAL AMERICAN INDIAN HERITAGE MONTH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of the designation of November 2001 as National American Indian Heritage Month. It is critical that we recognize the history of Native Americans and to learn more about their culture.

I thank President Bush for his promise to protect and honor tribal society and help to stimulate economic development in reservation communities. I join him in acknowledging the contributions made by Native Americans in both World Wars and the conflicts in Korea, Vietnam, and the Persian Gulf. Almost half of all Native American tribal leaders have served in the United States Armed Forces.

Only in recent decades have we made progress in dismantling the shameful stereotypes that were invented by white Americans in the early centuries of European immigration to this land. We owe it to the Native American people to learn about their actual history and culture, and to teach our children.

My fellow colleagues, it is of the utmost importance that we all take the time to remember American Indian heritage. We must do what we can to keep this beautiful culture alive, this culture of a people wronged by the greed and ignorance of our forefathers. I ask you to join me in making the following promise: Never again will our country attempt to decimate an entire culture.

TRIBUTE TO THE 100TH BIRTHDAY OF JOSE ANTONIO JARVIS

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. CHRISTENSEN. Mr. Speaker, I rise today on behalf of all the people of my district to pay tribute to the 100th Birthday of the late Jose Antonio Jarvis—educator, historian, author, philosopher, journalist, poet, playwright, editor, artist, musician and public servant. He was an intellectual giant whose life and work greatly influenced the educational process in the U.S. Virgin Islands. His classroom was the entire Virgin Islands and for more than forty years, he devoted his life to discovering new and innovative approaches to education.

Born in St. Thomas, U.S. Virgin Islands on November 22, 1901, to the Reverend Joseph W. and Mercedes Jarvis, J. Antonio Jarvis grew up under the guidance of his Godmother, Miss Mary Hughustein. He began his formal education at St. Anne's Roman Catholic School in St. Thomas, which he attended from age five to thirteen (1906–1914). Even during these early years, his teachers discerned in him an unusually high mental capacity, great ambition, and a keen interest in a wide range of activities. A life-long scholar, he continued his education by private tutors and through correspondence courses, and most importantly, by extensive,reading on his own initiative. In 1936, the Bachelor of Arts degree was conferred upon him by McKinley-Roosevelt University. He did additional work at the University of Puerto Rico, Columbia University, New York University, and the University of Chicago.

Jarvis' career as an educator began in 1923, when he became a tutor at the St. Thomas Academy. During the period 1924–1932, he taught at Abraham Lincoln Elementary School and was an instructor at the Charlotte Amalie High School from 1932 to 1942. At Charlotte Amalie High, in addition to his regular academic assignments, he served as advisor to many student organizations and initiated a number of them including a student council and the school newspaper, The Reflector. In 1942, he returned as principal to the former Abraham Lincoln School, where he remained until his retirement from public life on May 31, 1963.

Between 1930 and 1960, Jarvis published a number of works. These included "Virgin Islands Sketches", "Jubilee Hall", and other poems (1930), "Fruits in Passing" (1932), "Bamboula Dance" (1935), "Brief History of the Virgin Islands" (1938), "The Virgin Islands and their people" (1944), "Virgin Islands Picture Book" with co-author Rufus Martin (1948), "Bluebeard's Last Wife (1951), and "The King's Mandate" (1960). In 1930, with Ariel Melchior, Sr., he co-founded "The Daily News of the Virgin Islands", a daily news publication still in circulation today.

In addition to his work in the fields of education, scholarship and the fine arts, Jarvis was active in numerous civic activities such as the American Red Cross, Public Utilities Commission, Selective Service Board, St. Thomas Teachers Association and the Virgin Islands Cadets Corps, among others.

Many honors came to Jarvis over the years for his myriad of achievements. In 1927, 1929 and 1930 he won the Opportunity Award in Fine Arts. In 1939 and 1940, he earned the International Business Machines Corporation Award in Fine Arts. President Harry S. Truman personally presented him the United States Selective Service Medal in 1946. For services rendered he was given citations from the Library of Congress, the American Red Cross and the Professional League if Virgin Islands in New York City. In 1970, the Abraham Lincoln School was renamed the J. Antonio Jarvis Elementary School. Additionally, in 1978 the J. Antonio Jarvis Memorial Park was created in the heart of Charlotte Amalie. On May 18, 1980, the park was formally dedicated, and in it a statue of Mr. Jarvis, financed by Ariel Melchoir, Sr. Foundation, the St. Thomas Historical Trust, and donations from school children were unveiled. In 1983, Jarvis was inducted into the "Virgin Islands Education Review" Hall of Fame.

The first biography of Jarvis, "Man of Vision: A Biography of Jose Antonio Jarvis" was written in 1975 by Addelita Cancryn, herself an imminent Virgin Islands educator.

When an individual is gifted with so many talents and has served humanity as well as Jarvis did, it is most difficult to select the one area in which his contributions could be said to be greatest. Perhaps his most persuasive contribution was in the area of education in the broadest sense. Jarvis educated and enlightened, not only his classroom and schoolhouse performance but also through his books, poems, plays, editorials, and other writings, as well as his paintings. In the classroom and outside of it, Jarvis inspired many Virgin Islanders to attain high standards of achievement. He aided many financially and in other ways. The high success that many of these individuals achieved attests to his influence.

Jarvis' motto was "I try to make my sojourn here a useful interlude." That extremely useful sojourn ended on July 23, 1963 when the great man passed away deeply mourned.

Had Jarvis chosen to live in and make his contribution in a major metropolitan country he undoubtedly would gain international attention and renown. However, it was his choice to live in and make his contributions to the Virgin Islands, which he loved.

The Governor of the U.S. Virgin Islands, the Honorable Charles Wesley Turnbull, has proclaimed the week of November 18–24, 2001 as "Jose Antonio Jarvis Week" and Thursday, November 22, 2001, as "Jose Antonio Jarvis Day" in the Virgin Islands of the United States of America. I join Governor Charles Turnbull in calling upon everyone in my district, as well as those Virgin Islanders residing in the United States of America, to reflect upon the life and contributions of this great Virgin Islander—a true renaissance man.

EXPRESSING SENSE OF CONGRESS THAT AMERICANS SHOULD TAKE TIME DURING NATIVE AMERICAN HERITAGE MONTH TO RECOGNIZE THE ACCOMPLISHMENTS AND CONTRIBUTIONS MADE BY NATIVE PEOPLES

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 2001

Ms. McCOLLUM. Mr. Speaker, I join my colleagues today in supporting House Concurrent Resolution 270. This simple, yet important, statement supports the goals and ideals of Native American Heritage Month to highlight the important contributions Native Americans have made to our history and culture. This resolution also encourages the American people to honor and recognize the accomplishments and heritage of Native Americans, including their contributions in the areas of agriculture, medicine, art and language.

Long before the first Europeans arrived in the upper Midwest, the Dakota and Ojibwe nations called Minnesota home. You can still visit many of the areas where Native Americans created their communities and see examples of this rich history. Pipestone National Monument, a sacred quarry in Southwest Minnesota, is still being used to mine the soft red pipestone that was at one time used to create the ceremonial pipes that were used in dealings between tribes and to honor the spiritual world. The story of this stone and the pipes made from it spans four centuries of Plains Indian life and is inseparable from the traditions that structured their daily routine. Today, carvings are appreciated as much as art as well as for ceremonial use.

The heritage and customs of my state, Minnesota, have been greatly influenced by Native Americans. The name of Minnesota itself comes from a Dakota word meaning "waters that reflect the sky" and many more of Minnesota's cities and counties hold names that represent the Native American heritage that surrounds them.

I commend the authors of this resolution for helping raise awareness of Native American culture and heritage. As a member of the Native American Caucus, I look forward to working with them to make sure the noble goal of encouraging the American people to honor and recognize Native American accomplishments happens not only during Native American Heritage Month but also throughout the year.

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ST. VERONICA'S SCHOOL TO CELEBRATE ITS 75TH ANNIVERSARY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. KLECZKA. Mr. Speaker, this week one of my district's many fine parochial schools will reach an important milestone. St. Veronica Catholic School, first opened its doors on December 6, 1906. Two small rooms accommodated the 106 students who attended class on that day.

As the community once known as the Town of Lake expanded, so did St. Veronica's. After surviving the lean years of the Great Depression and World War II, a new 17-room school was dedicated by Rev. Gordon Johnson in 1952. Today, as the school prepares to celebrate its 75th anniversary, it boasts an enrollment of nearly 450.

The Sisters of St. Francis of Assisi, who taught at St. Veronica's from its inception until the late 1980s, instilled in their students the importance of education, God, family and community in their daily lives. Sister Marie Estelle Kuczynski and her faculty and staff the school's dedication to those ideals as they prepare the children of today to become the leaders of tomorrow.

St. Veronica's strives to afford its students the opportunity to acquire the skills necessary to excel in our changing world. New additions are planned for the library, learning center, and computer lab. However, the dedication to academic, spiritual, social and moral development remains unchanged.

And so, it is with great pleasure that I join with the faculty, staff, students, and alumni of St. Veronica School in celebrating 75 years of quality education, and wish them godspeed in all that lies ahead.

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TRIBUTE TO DR. LELAND HARTWELL

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. McDERMOTT. Mr. Speaker, It is an honor for all of us in Seattle to have Dr. Leland Hartwell among us. We are very fortunate to have him as the president of the renowned Fred Hutchinson Cancer Research Center. Additionally, Dr. Hartwell is a professor of genetics and medicine at the University of Washington.

I am very proud to extend my warmest congratulations to Dr. Hartwell on winning the Nobel Prize for Medicine. This prize is reflective of many years of hard work and achievement, and a lifetime commitment to saving lives. He won the most prestigious prize in medicine through pioneering research in the genetics of yeast cells, which are much easier to study than human cells.

When Dr. Hartwell first began studying baker's yeast cells over 30 years ago, he and other scientists were not all that confident that the research would apply to human cells, According to Hartwell, the most sophisticated technology they used was often a toothpick. But hard work and determination prevailed.

Dr. Hartwell used genetics to study how cells function, to determine which genes cause cells to divide. That understanding, in turn, is helping researchers understand how cells mutate and perhaps how to prevent or reverse cancerous cell changes. He discovered more than 100 genes involved in cell-cycle control, and documented the existence of cell-cycle "checkpoints." These points ensure that steps in the process have been completed properly before it proceeds. Interestingly, he discovered that cancer cells bypass the checkpoints.

Indeed, Dr. Hartwell's investigation into complex cellular mechanics paved the way for others to better understand how mistakes in the process result in cancerous cell growth, Advances in clinical therapies build upon the knowledge gained from his research.

Without the fundamental research, advances in science and medicine could never be achieved. I wish to thank Dr. Hartwell for his dedication to curing disease and improving human life.

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IN RECOGNITION OF THE LITTLE WHITE CHAPEL

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. SCHIFF. Mr. Speaker, I rise today to honor the Little White Chapel in Burbank, CA. The congregation will celebrate the 60th anniversary of the Little White Chapel on December 2, 2001.

Founded on Sunday, December 28, 1941, the Little White Chapel has been serving its congregation for 60 years now. In 1941, the Little White Chapel was built even before it had a single member and well before the congregation had been organized. The Greater Los Angeles Church Federation to the Christian Church, guided by the philosophy of, "Build it and they will come," held Little White Chapel Day in 1941 and with the proceeds, erected the current day church.

The first church services were held on Sunday, December 28, 1941, where Dr. Clifford A. Cole presented the church to the people of Burbank and opened its doors to all who would come. As the years went by, the church was able to add Sunday school rooms, a social hall, a kitchen, an annex for overflow crowds, and a Sanctuary.

Throughout the years, the congregation has taken an active role in volunteering and working in the surrounding community of Burbank. The church's congregation has initiated the Good Samaritan Fund to help members of the community in times of distress and need. The fund has given over 36 percent of its funds to causes beyond the local church, especially those dealing with interfaith approaches to alleviating the causes of racism, poverty, hunger, and homelessness.

So today, I ask all Members of Congress to join me in congratulating the Little White Chapel and its congregation on the celebration of their 60th anniversary and thank them for their outstanding participation and service to our community.

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DICK VAN NOSTRAND: AN ARTIST WITH A CAMERA

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. BARCIA. Mr. Speaker, I rise today to honor Dick Van Nostrand upon his retirement after nearly 35 years as a newspaper photographer with the Bay City Times in our shared hometown of Bay City, Michigan. I have known Dick for many years and I, along with it seems nearly everyone in the region, have been privileged at one time or another to be the subject of his photographic artistry.

Dick's interest in photography began when he first picked up his dad's 35-millimeter camera as a teen. He learned quickly. By his senior year at the former T.L. Handy High School, Dick was a published photographer and had won several awards for his work. After working for a newspaper in Indiana, Dick returned to his hometown in 1967 to join the Bay City Times as a full-time photographer. A month later, he married Jan and they embarked on a life together in Bay City.

Over the years, Dick's photographs have graced the pages of the Bay City Times and many other publications throughout the world. He has won the admiration of readers and colleagues alike, garnering many awards from his peers in journalism and in the arts. The images he shot of the tragic Wenona Hotel fire earned him a Pulitzer Prize for Spot News nomination in 1978 and his photos of the fire and his slides are still used today as a training tool for firefighters.

His wife, Jan, and children, David and Amy, also deserve credit for providing the love and support so necessary to his professional success and in fostering the talent that manifested itself in his work.

Finally, Mr. Speaker, I ask my colleagues to join me in commending Dick Van Nostrand for his years of journalistic excellence and his unparalleled passion for story-telling through the click of his camera. His vision and talent have served his profession and his community well, and he will be sorely missed by us all.

JOHN P. PERDUYN

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. SAWYER. Mr. Speaker, John P. Perduyn has served the Goodyear Tire & Rubber Company for 36 years, and the Akron community nearly as long. He began his career in 1965 as associate editor of "Go" and "Triangle," internal publications serving the company's marketing efforts.

Since then, John Perduyn has served the Research and Development, Shoe Products, and the Chemical Division of Goodyear. For a time, he worked in Goodyear's Midwest Region office in Chicago. Fortunately for us in Akron, he returned as director of public information.

Years of dedication and commitment to the principles of sound business and honest communication with employees and consumers won him the position of Senior Vice President of Global Communications in 1999.

John Perduyn's career with Goodyear has coincided with an era of unprecedented change, reorganization, and acquisitions in the tire and rubber industry—not just in the United States, but around the world. The globalization of markets in transnational industries has tested many companies—but none more than those in the worldwide tire industry. Few companies or executives in any field have met those challenges, in all their various forms, as well as Goodyear and John Perduyn.

Throughout his career, John Perduyn has served as a mentor for many associates within Goodyear and beyond. He is a member of the National Association of Manufacturers' Communication Council, the Public Relations Society of America, the Vice Presidents Forum, and the Arthur W. Page Society. John embodies the Page Society's credo to tell the truth and prove it with action.

Beyond the corporate world, John Perduyn has continued contributing his time and talents to our community. He is on the board of trustees of the Akron Roundtable and Ohio Ballet, offering sound communications advice and policy counsel to those non-profit organizations for many years.

John Perduyn's wise guidance and strong leadership will be missed at Goodyear. We in Akron can only hope that he will find even more time to devote his energies to the community he has served so long and so well.

PERSONAL EXPLANATION

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. EVERETT. Mr. Speaker, I was reviewing tornado damaged areas in my district on Tuesday and thus was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 449, H.R. 1259, Computer Security Enhancement Act—"yes," and rollcall No. 450, S. Con. Res. 44, resolution expressing the sense of the Congress regarding National Pearl Harbor Remembrance Day—"yes."

Additionally, due to flight delays on Wednesday, I missed the following morning rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 451, on Approving the Journal—"yes," rollcall No. 452, H. Con. Res. 77, Expressing the sense of the Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea—"yes," and rollcall No. 453, H.R. 2722, Clean Diamond Trade Act—"yes."

RAYMOND M. DOWNEY POST OFFICE BUILDING

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. ISRAEL. Mr. Speaker, I rise today to introduce a bill to designate the Deer Park Post Office as the "Raymond M. Downey Post Office Building." New York lost many heroes on September 11th, but the loss of Chief Downey is an especially difficult one.

During the thirty-nine years he was a New York City firefighter, Chief Downey rescued countless people from what befell so many at the World Trade Center. The most decorated member of the City's fire department, he led a FDNY rescue team to Oklahoma City and directed the recovery effort at the World Trade Center bombing in 1993. He will be sorely missed.

I ask my colleagues to support this bill and to join me in remembering Ray Downey.

HONORING THE CENTRAL TEXAS LABOR COUNCIL ON ITS 100TH ANNIVERSARY

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. EDWARDS. Mr. Speaker, it is fitting that we extend our congratulations to the Central Texas Labor Council on the occasion of its One-Hundredth Anniversary, celebrated in Waco, Texas on October 20, 2001.

Originally chartered as the McLennan County Labor Council on October 31, 1901, the member-unions included the Leather Workers and Horse Goods, Local 45, the Stationary Fireman's Union, the Tailors Union, Local 96 and the Federal Labor Union 8892. Another member, the Typographical Union, Local 188, was first chartered in 1881. In later years, the Musicians Union local represented organists who accompanied silent films in local movie houses.

In the 1920s, local unions held a forty-hour workweek strike, and helped establish that as a basis for all contracts of labor. Other early job actions were for air conditioning, worker respect and safer workplaces.

In 1901, only unions in McLennan County were affiliated with the Council. Over time, it expanded to include eight counties, and in 1992, the name was changed to the Central Texas Labor Council. The organization now includes forty unions representing 14,000 workers.

Mr. Speaker, the nature of collective bargaining and labor-management relations have changed dramatically since the Council was born a century ago. Today, in Central Texas and across the nation, the vital role of labor unions and labor councils have been widely recognized for their contribution to safer and more productive workplaces with highly-skilled workforces, leading to more competitive enterprises, and ultimately, to a stronger and more stable U.S. economy.

Much has changed in one hundred years. However, the Central Texas Labor Council continues to speak, and fight when necessary, for the rights, the interests and the dignity of working men and women.

THANK YOU, DR. STEVEN E. HYMAN

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today to thank Dr. Steven E. Hyman for his outstanding and dedicated, work in the field of mental health through research, advocacy, and education. Dr. Hyman, director of the National Institute of Mental Health (NIMH) of the National Institutes of Health (NIH), will be leaving to assume his new responsibilities as provost of Harvard University on December 10. A leading scholar at the intersection of molecular neurobiology and psychiatry, Dr. Hyman will be gravely missed.

I personally regret Dr. Hyman's departure, because he has been very helpful to me in my role as co-chair of the House Mental Health Working Group. He has shown strong and decisive leadership that has gone far to reduce the terrible stigma and discrimination that haunts those with mental disorders. As a leading scientist, Dr. Hyman very publicly and very often made the case that science has shown us that these disorders of the brain are real and they are treatable. As one who has focused on this issue for so long, I can tell you how necessary his strong and credible voice has been.

In 1996, Harold Varmus, then-director of the National Institutes of Health (NIH), named Dr. Hyman as director of the NIMH, the federal agency charged with generating the knowledge needed to understand, treat, and prevent mental illness. His tenure has been marked by intensified efforts to bring molecular biology, genetics, neuroscience, and behavioral science all to bear, in integrated ways, on the understanding of mental illness and mental health. Most recently, Dr. Hyman has been a prominent voice for the NIH on the psychological effects both of the September 11th attacks and bioterrorism.

Dr. Hyman has been a great help to us here in the House of Representatives as we sought to understand mental illnesses and their effect on society. However the impact of his service has reached our constituents well. I am gratified by every person who tells me that they are no longer ashamed or guilty because they or a family member suffers from a mental disorder. I have had a long-time interest in the issues surrounding mental illnesses and I have valued Dr. Hyman's leadership and commitment to encouraging and supporting the basic research that will enable us to develop effective new treatments—based on an understanding of the disease process itself.

Dr. Hyman has accomplished much during his tenure at the NIMH and for this I am grateful. His success in bringing research on mental disorders to the forefront of public consciousness has left an important and lasting legacy.

Mr. Speaker, I ask my colleagues to join me in gratitude for Dr. Steven Hyman's dedication. We wish him all the best for the future. Our nation looks forward to his continuing contributions to our health and well being as he honors the halls of Harvard University.

RECOGNIZING ACCOMPLISHMENT OF KNOX COUNTY COMMISSION CHAIRMAN, LEO COOPER

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. DUNCAN. Mr. Speaker, I am pleased to have the opportunity to officially recognize the recent accomplishment of my constituent and friend, Knox County Commission Chairman, Leo Cooper. Commissioner Cooper was recently reappointed as chairman of the Knox County Commission by a unanimous vote and is beginning his third term in this important role. Mr. Cooper's leadership and genuine desire to serve the public are reflected in the fact that he is now the longest-serving Chairman in the history of the Knox County Commission.

In Washington, we often overlook the critical role local governments play in the lives of the American people. By focusing on broad legislative initiatives, we can easily lose sight of the tremendous work that must be done at the county and city levels.

Commissioner Cooper's reappointment as chairman will not be covered by national news, but I believe it serves as an opportunity to highlight, not only his efforts, but also the efforts of all Americans who have committed themselves to serving in local elected office.

Since 1986, Commissioner Leo Cooper has served the men, women and families of the Seventh District of Knox County as a tireless advocate and friend. Prior to being elected to local government, Chairman Cooper's career was dedicated to education and improving the lives of Knox County's young adults. Whether as an elected official or a schoolteacher and principle, Mr. Cooper has continually committed himself to public service. The people of the seventh district recognize this, and I am pleased that the other dedicated members of the Knox County Commission do as well.

I add these remarks to the RECORD today so that every member of the House of Representatives can Join me in thanking Mr. Leo Cooper and every elected official in our respective districts who play such vital roles in the well-being of our communities.

PAYING TRIBUTE TO SUSAN MENCER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to congratulate Susan Mencer on her new appointment as Director of the Office of Preparedness and Security for the State of Colorado. Susan will now play a key role in the defense of the State of Colorado and this nation from the threat of terrorism. This will be a challenging role for Susan, but I am confident she will prove herself most capable of leading Colorado in this time of national tragedy.

Protecting our country from terrorism is not a new role for Susan. She began her service in 1978 as an agent for the Federal Bureau of Investigation. Her initial duties at the agency led her to the Office of Counterintelligence in New York. Serving as an agent, she was responsible for ensuring that foreign diplomats were not involved in spying or obtaining classified information concerning national security while posted in the United States. Susan's success propelled her to the FBI Headquarters in 1985, where she served in several high level roles as head of the budget unit for the Intelligence Division and Supervisor of Counterintelligence Operations.

In 1990, Susan came to the FBI Denver office and directed programs involving international and domestic terrorism, foreign counterintelligence. As a result of her dedication, Susan was named Director of the Joint Terrorism Task Force in Denver created in response to the Oklahoma City bombing in 1995. Enjoying retirement since 1998, Susan was again called to duty following the Columbine shooting incident and served on the investigation panel. Her commitment to the safety for schools and our children led to an appointment from Governor Bill Owens to head the Department of Public Safety.

Mr. Speaker, the State of Colorado is fortunate to have Susan Mercer lead our efforts to counter terrorism in the State of Colorado. Her impressive resume speaks volumes for Susan's dedication and commitment to keep this nation safe and free from terrorism. I am honored to have Susan in this position and extend my thanks for her service to Colorado and her commitment to this nation.

NEW YORK CITY CONGRESSIONAL SESSION GAINS MOMENTUM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. RANGEL. Mr. Speaker, I rise today to share with you an article that appeared in the Hill newspaper on Wednesday, November 28, 2001. This news story is concerning H. Con. Res. 249, a resolution that I recently introduced, which provides for a joint session of Congress to be held in New York City early next year. I am pleased to have this opportunity to share this story with my colleagues.

[From the Hill, Nov. 28, 2001]

NYC CONGRESSIONAL SESSION GAINS MOMENTUM

(By Kerry Kantin)

Despite the logistic hurdles that confront the notion of convening a session of Congress outside of Washington, D.C., momentum is building behind the movement to conduct a symbolic, one-day joint session in New York City.

A resolution introduced last month has already captured the bipartisan support of 165 House members. The House effort is spearheaded by New York State delegation Democratic chairman Rep. Charlie Rangel, who is from Manhattan.

Rangel, working with New York State GOP delegation dean. Rep. Ben Gilman, has been actively corralling support from both his Democratic and Republican colleagues.

"It would be historic. It would be a way of symbolizing the strike we took for the nation and their appreciation for it," said the

15-term Rangel in a phone interview last week. "Any city or any town or village know the Congress is with them, like they're with New York City."

Rangel acknowledged that there are several logistical obstacles, including where the session would be held and security issues, to iron out, but said that should not get in the way of members' support.

"No one's turning us down," Rangel added. "I know I can get my signatures next week."

Rangel and Gilman have written Dear Colleague letters, asking their support for the measure.

"We are equally impressed by our colleagues' support of a symbolic—but powerful—gesture to convene the Congress in New York for one day," write Rangel and Gilman in a Nov. 14 letter. "We believe that such a session in the city where Congress first convened would be a powerful and meaningful expression of support to New York."

The session would also provide an opportunity for all lawmakers to meet with New Yorkers, the letter adds.

The movement to bring Congress to the Big Apple was catalyzed on the editorial page of the Sept. 25 New York Daily News. The New York tabloid wrote an editorial urging a joint session of Congress in New York City, even if it is only for one day.

Rangel quickly picked up the cause and introduced a resolution on Oct. 12; New York Sens. Hillary Rodham Clinton (D) and Charles Schumer (D), followed suit, introducing a companion resolution Nov. 15.

"We're working actively to see that it happens," said Schumer, of his and Clinton's efforts. "It would be a shot in the arm for New York."

In the House, the resolution has captured the support of 53 Republicans and 112 Democrats, ranging from Empire State liberals like Rep. Jerrold Nadler to Midwestern conservatives like Paul Ryan (R–Wis.) and Don Manzullo (R–Ill.). The entire 31-member New York State delegation has signed on, as well as several other members from the Northeast.

With the exception of retiring House Minority Whip David Bonior (Mich), the entire Democratic leadership has pledged its support for the resolution, but no one from the House GOP leadership. It has, however, received the support of other influential Republicans, including Appropriations Committee Chairman Bill Young (Fla.) and Energy and Commerce Committee Chairman Billy Tauzin (La.).

"Everyone has been extremely receptive," Rangel said. "But when we get to the logistics, I hope they'll love me as much in the springtime as they do in the fall."

Other members are wary to sign on until finding out more details.

"I saw the note from Charlie [Rangel], but Gosh, it's an interesting concept, but I don't know if I'm for it or against it," said House Republican Conference Chairman Rep. J.C. Watts (R–Okla.).

"I do find it quite intriguing we would consider something like that," he added. "I'm sure we would look at the pros and cons and give it a fair hearing. It seems to be a massive undertaking to move the mechanics of Congress to another location."

While his primary focus is gaining as many signatures as he can, Rangel said he is looking into about six sites. He added that he is working with New York City Mayor-elect Michael Bloomberg (R) and other city leaders, like Bill Ruden, the chairman of the Association for a Better New York.

Ed Skyler, a spokesman for the Bloomberg Transition Team, said the mayor-elect "strongly supports" the resolution. He added that Bloomberg discussed the issue during his trip to Washington earlier this month.

Those in support of the resolution say the logistics can be hammered out at a later time.

"A lot of those things would need to be worked out," acknowledged Schumer, adding that lawmakers could not work out many of the fine details themselves and would need to leave issues, like security, up to other agencies, including the sergeants at arms.

"This is an act of showing congressional support for New York," said Kori Bernards, a spokeswoman for House Minority Leader Richard Gephardt (D–Mo.), who supports the resolution.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

SPEECH OF

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes:

Mr. JEFF MILLER of Florida. Mr. Chairman, I rise today in strong support of H.R. 3338, the Department of Defense Appropriations Act for Fiscal Year 2002. I wish to commend Chairman LEWIS, Ranking Member MURTHA, and their staff for again crafting a bill that is appropriate for those who risk their lives to protect our country, our freedoms, and our way of life.

We have learned in recent months that we live in an uncertain time and an unstable world. We in Congress must always remember that the first priority of the Federal Government is to provide for the national defense.

This bill delivers on that priority and demonstrates our commitment to our Nation's defense by providing $317.5 billion in discretionary spending, $19 billion over last year's bill. The bill ensures that our military remains the strongest, most prepared force in the world, and strengthens our efforts to deal with the new threats that our Nation faces by providing $11.7 billion under the Counter-Terrorism and Weapons of Mass Destruction Title. The bill also fulfills our obligation to house, clothe, feed, and provide for the health care of the members of our armed services and their families by providing a 4.6 percent pay raise and funding an increase in housing allowances.

Mr. Chairman, it is for these and many other reasons that I gladly support H.R. 3338 today and encourage my colleagues to do the same. At this very moment, men and women of our Armed Forces are overseas fighting a war on terrorism and evil. While we have all stood in this Chamber and commended them for their service, now is the time to support this vital legislation that will ensure our troops remain safe and successful, now and for years to come.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

SPEECH OF

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes:

Mrs. McCARTHY of New York. Mr. Chairman, the tragic events of September 11th have left a profound impact on this country. As a representative from New York, I have witnessed firsthand the destruction and grief endured by the survivors. I've watched our brave rescue personnel work tirelessly to recover lost loved ones. Cleanup crews continue to work around the clock in hope of rebuilding what was destroyed. There is no question that New Yorkers are united in their effort to overcome the challenges ahead of them.

As we know, in the aftermath of September 11th, Congress quickly passed the 2001 Emergency Supplemental Appropriations Act for Recovery and Response to Terrorist Attacks on the United States (P.L. 107–38). This supplemental appropriates $40 billion and allows the Bush Administration to spend the first $20 billion with minimal reporting requirements. The remaining $20 billion can be spent only after the Administration has specifically requested it and Congress has passed a bill reported by the Appropriations Committee. New Yorkers were promised $20 billion of these funds to help with relief efforts.

I supported this legislation because it stipulates that "not less than one-half of the $40,000,000,000 shall be for disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia, and Pennsylvania . . ." However, only $3.2 billion has been released and the Administration has only requested an additional $6.3 billion for a total of $9.5 billion. That's less than half of what was promised.

I am extremely concerned that New York is not receiving the full $20 billion in emergency funds promised by the President in this bill. New York can not afford to wait for future legislation allocating the remainder of the $20 billion in emergency funds it was promised. Overtime pay for cleanup workers must be paid. Unemployment Insurance funds are rapidly depleting. Continuation of COBRA must continue. These are real concerns that will require, at a minimum, the immediate allocation of the $20 billion in emergency funds.

Equally important, however, is the urgent need to equip our military personnel with the resources and tools they need to prevent future acts of terrorism. We are at war with an enemy that is not restricted to country borders or even continents. The 7-percent increase in funding addresses many of our military's needs and prepares this country for the long road of eradicating all terrorists.

I have little doubt that New York will eventually receive the full $20 billion promised by the President, but I would have preferred to receive these funds today. The President must not forget about New York, just as we have not forgotten about our brave men and women fighting overseas to prevent another attack similar to September 11th.

PAYING TRIBUTE TO DAVID KLAGER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to the life and memory of David Denison Klager who recently passed away in Creede, Colorado on November 1, 2001. David, known to others as Dave, will always be remembered as a dedicated contributor to the community. His passing is a great loss for a town that relied on Dave for his kind heart, knowledge, and friendship.

As a member of the Creede community, Dave was constantly volunteering his time and energy for beneficial projects in the area. He served on the Board of Directors and as Treasurer for the Homeowner's Association, President and Board of Directors for the Creede Repertory Theater, President of the Creede Historical Society, volunteer for the Creede Historical Museum, and member of the Arts Council. He also served as Senior Warden to St. Augustine's Episcopal Church.

Dave was a lover of the outdoors and enjoyed the many activities that Colorado can offer. He was an avid hiker, snowmobiler, cross-country skier and canoer. His hobby was woodworking and his work can be seen throughout the City of Creede in places such as St. Augustine's Church, the "Art Park", and Creede Repertory Theater.

Mr. Speaker, Dave will be missed by the many whose lives he has touched in the community. It has always been known that his greatest passion was his love and dedication to his family. His wife Courtney, daughters Kim, Karol, and Karen, as well as several grandchildren survive Dave. It is with a solemn heart that we say goodbye and pay our respects to a patriarch of the Creede community. David Denison Klager dedicated his final years to his neighbors in the City of Creede, Colorado, and he will be greatly missed.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

Ms. McCOLLUM. Mr. Chairman, I rise today in support of H.R. 3338, the Defense Appropriations bill for fiscal year 2002.

In this time of national awareness of the very real threat of terrorism, I believe it is our responsibility as lawmakers to ensure the readiness and quality of life of our military by providing these forces with the necessary resources, equipment and training to defend our nation's interests and to keep the American people secure. With our country at war, it is more important than ever to continue to support our armed forces and provide them with the necessary resources needed to wage this war and protect our nation and our world from terrorism.

Despite my support for this bill, I have strong reservations about the way this bill has placed an added emphasis on programs and provisions that do not address the most pressing needs of our nation.

For example, this measure provides $7.9 billion for an untested and unproven missile defense program, while providing only $613 million to improve federal, state, and local bioterrorism preparedness. By moving forward with a costly national missile defense system, we are investing billions of scarce federal dollars in an unproven and dangerous scheme while placing at risk the well-being of our nation in a time of national crisis.

In addition, this Defense Appropriations bill will cut critically needed funding from the Department of Labor's employment and training administration to provide additional funding relief to assist New York's efforts to recover from the September 11th terrorist attack. While there should be no doubting my commitment to the people of New York and their efforts to recover and rebuild after the terrorist attacks, I am concerned that the funding they need may come at the expense of other programs and initiatives deserved of funding.

Specifically, funding in this bill in the employment and training administration was to be used for the New National Emergency Grant program, which would allocate emergency funding to the states to provide health insurance, income support, and job search assistance and training for displaced workers following the September 11th attack. This includes a $24 million grant for the State of Minnesota to provide assistance to displaced airline employees who have lost their jobs when the government suspended domestic and international air travel. These layoffs have had a devastating impact on these individuals and their families and to Minnesota's economy as a whole. With the huge influx of current layoffs, the state cannot meet the needs of these laid off workers without this emergency grant.

While this is not a perfect bill, with our nation at war, it is a necessary bill. It is imperative that our nation continues to maintain a strong national defense, especially during this time of domestic and international crisis. However, in the weeks and months ahead we must also pledge our commitment to work as a unified Congress to provide increases in additional security, bioterrorism preparedness, and employee assistance measures. Furthermore, we must work to help New York recover and rebuild from the devastating attack of September 11th, as well as stimulating our economy and strengthening our nation's infrastructure and safety measures.

CONGRATULATING CLEARFIELD, PENNSYLVANIA EMS

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. SHUSTER. Mr. Speaker, I rise today to honor the outstanding achievements of the Clearfield, Pennsylvania Emergency Medical Service (EMS) Company. On August 10, 2001, the Pennsylvania Emergency Health Services Council chose Clearfield EMS from among 1,000 ambulance service companies statewide to receive the Rural Ambulance Service of the Year Award.

Clearfield EMS garnered such an award not only through exemplary ambulance service, but also through their involvement in the community. Free flu shots and participation at county fairs and festivals are just a couple of the many ways that Clearfield EMS has taken the lead in community education and involvement.

In light of the tragic events of September 11, 2001, the role of the EMS workers, firefighters, and police officers of Central Pennsylvania is greater than ever. Clearfield EMS and their EMS counterparts throughout the area are among the first to respond to emergencies, and for this important service to our communities, I am grateful. These individuals deserve all of our thanks for dedicating their lives to helping others.

Finally, I would like to recognize the following employees of Clearfield EMS by name:

Paramedics: Scott Briggs, Timothy Lumadue, Christopher Miller, Scott Minich, Robert Mitchell, Michael Mowrey, Lewis Huff, Patrick Cooley

Emergency Medical Technicians (EMT): Vicky DeHaven, George DeHaven, Traci Pentz, Melissa Miller, Lorie Bell, Stacy Huff, Frank Warholic, David McAllister, Brian Kellogg, Frank DeHaven, Carol DeSantis, Erin DeSantis

Administrative Staff: Terry Wigfield, Manager; Chad Abrams, Assistant Manager; Pamela Charles, Office Manager; Dr. James DeSantis, Medical Director

Board of Directors: Gary C. Wigfield, President; Gary L. Shugarts, Treasurer; Pamela Spencer, Secretary; Delford Wigfield, Mathew Franson, Thomas Glace

I congratulate Clearfield EMS on their exceptional accomplishments and their determination to improve their already stellar service. Clearfield EMS should serve as an example in excellence for other ambulance services nationwide.

A BILL TO PROVIDE TAX INCENTIVES TO BUSINESSES LOCATED IN LOWER MANHATTAN, THE LIBERTY ZONE AND HELP REBUILD THE ECONOMY AFTER THE SEPTEMBER 11, 2001 TERRORIST ATTACK

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. HOUGHTON. Mr. Speaker, I am honored to stand with several of my New York colleagues in introducing a bill, which will provide much-needed tax incentives for businesses to rebuild in lower Manhattan—this all after the massive destruction caused by the terrorist attack on September 11, 2001. None of us will forget the terrible losses of that day—loss of life and the most tragic being the heartache to so many families.

The World Trade Center towers were destroyed. Other buildings were damaged or collapsed. The price tag to rebuild is staggering. But rebuilding the infrastructure and economy must start. This package is only part of the solution, but it is an important first step.

As New York Governor George Pataki said today, "The $6.1 billion package will offer incentives for businesses to generate jobs, spur innovation and investment in the Liberty Zone, helping us renew, restore and rebuild lower Manhattan".

The bill includes five provisions which would: (1) authorize New York State to issue up to $15 billion in tax-exempt private activity bonds over the next 3 years to help renovate and rebuild commercial property, residential rental property and private utility infrastructure, (2) allow taxpayers to claim an additional 30 percent, first-year depreciation deduction for property located in the Liberty Zone, including buildings and building improvements, (3) provide a 5-year life for depreciating. certain leasehold improvements, (4) increase by $35,000 to $59,000 the amount that can be expensed by small businesses under section 179, and (5) increase the replacement period from 2 to 5 years for property that was involuntarily converted in lower Manhattan so that taxpayers would not have to recognize gain.

I want to thank Chairman THOMAS and my colleagues for their help in working through this package. I urge your support.

MARKING THE PASSING OF MARY KAY ASH

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to salute the life and legacy of Mary Kay Ash. For more than four decades, Ms. Kay has been one of Texas' most outstanding citizens and a business pioneer. Cosmetics sales were just a small part of the legacy she left for America. Her business made women feel better about themselves, regarding both their appearance and the possibility for success in business.

Ms. Kay changed the way women in business were perceived. She pioneered direct marketing in a way that has been emulated for years. She tapped talent that may have otherwise gone unused. All over America, women are more empowered because of the life of Mary Kay Ash.

Mary Kay Ash founded the cosmetic company that bears her name in 1963 with $5,000 in savings, using a hide tanner's cream as her principle product. Since then, the color pink has been synonymous with quality cosmetic products and aggressive salespersonship. She was a phenomenal entrepreneur and, more importantly, an incredible motivator. One hundred fifty one women, so far, have recorded more than $1 million in Mary Kay sales.

Last year, Mary Kay, Inc. had revenue of $1.3 billion. Today, there are about 800,000 women and men who make up the Mary Kay global sales force. It is an extraordinary legacy for a phenomenal lady who grew up in a poor Houston neighborhood.

Mr. Speaker, Mary Kay Ash was one of Dallas-Fort Worth's most dynamic icons. She died on November 22, 2001. I ask that the thoughts and prayers of the Thirtieth Congressional District, and the nation, be with her family and friends.

PAYING TRIBUTE TO DEBBIE TAMLIN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize an outstanding individual from Ft. Collins, Colorado. Over the years Debbie Tamlin has distinguished herself as a business executive, a community leader, and a vital participant in our political process. Debbie's achievements are impressive and it is my honor to recognize several of those accomplishments today.

Debbie was raised in Colorado and received a Bachelors of Arts in Communication Disorders from Colorado State University. In 1978, she received her Colorado Real Estate Sales License followed by her brokers license in 1980. Since then she has immersed herself in an outstanding real estate career and served in numerous capacities of support for her field. She has served as Director for the National Association of Realtors, President of the Women's Council of Realtors, founding member of the Northern Colorado Legislative Alliance, Director of Colorado Association of Realtors, and the Director of Fort Collins Association of Realtors.

To help serve her community and State, Debbie has given her time and energy to the political process by providing guidance and support to aspiring political candidates. She has been a driving force in the Colorado Republican Party and worked on campaigns in various capacities for county commissioners, Congressmen, Senators, and even President George W. Bush. Debbie has also given her time to noble efforts in the community such as founding the Convention and Visitor's Bureau and serving as a leader in groups such as Citizens for the Protection of Personal Property Rights, the Women's Development Council, and the Colorado Women's Leadership Coalition.

Mr. Speaker, Debbie Tamlin's list of achievements has not been overlooked during her career and her efforts have been repeatedly awarded over the years. It is now my honor to congratulate Debbie on her most recent and well-deserved award from her own community, the Realtor of the Year award. Debbie has been a model citizen for the community and I extend my thanks to her for her efforts. Keep up the good work Debbie and good luck in your future endeavors.

TRIBUTE TO ROGER F. HONBERGER

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. FILNER. Mr. Speaker, December 31, 2001, will mark the passing of an era, an era of accomplishment in the field of intergovernmental relations. On that day, a pioneer in Washington representation for California public policy and project development will retire from service.

Roger F. Honberger comes from a humble upbringing of enterprising parents from the 1930s. His mother is a Native American, born into the Pechanga Band of California Mission Indians at the turn of the century, and is presently the oldest living Tribal member. Roger was the first member of his family to graduate from college, the result of extensive sacrifice by his parents. After beginning his career in the field of Urban Planning, he returned to graduate school, where he distinguished himself and received degrees from both the University of London, England and Harvard University.

In his early career, he served as a professional planner with the County of Riverside, City of San Diego, National Capital Planning Commission, and the U.S. Department of Housing and Urban Development. His federal experience in writing legislation, budget preparation, and program management led him to the establishment of his own government relations consulting firm in 1970, Roger Honberger Associates, Inc. He pioneered a new industry of dedicated people working with the Congress and Federal Administrations on behalf of the intergovernmental needs of state and local governments. Today, this industry serves countless public agencies from all corners of the nation.

Thirty years ago, Roger was selected from a field of 200 applicants by the County of San Diego to be their first Washington representative. At that time, the San Diego County Congressional Delegation consisted of Lionel Van Deerlin, Bob Wilson, and Jimmy Utt. The only other state or local governments that had full time Washington offices when Roger began his work for San Diego County were the State of California, the County of Los Angeles, and the Cities of Los Angeles and San Diego. These were the only general-purpose governments from any other part of our great nation in those days that maintained a full time presence in Washington, D.C.

In his thirty years of representing San Diego County, Roger directly served 27 different elected members of the County's five person Board of Supervisors, and 8 different Chief Administrative Officers. The number of Congressional Districts in the County grew from 3 to 5 during the same period, and he worked closely with all 16 different Members of Congress elected from these districts since 1970. Five different Presidents recognized Roger for his work on public issues. He has also been recognized as Alumnus of the Year by the California State Polytechnic University, as well as by his High School Alumni Association from Perris, California. He is the only career County representative that the National Association of Counties has officially honored for professional accomplishments. He has had a truly remarkable career of public service.

A broad array of regional accomplishments in the County have benefited from Roger's efforts in Washington, D.C. These include: the establishment of the region's first alcohol detoxification center; development of the first solid waste recycling program; a countywide gasoline vapor recovery program; harbor cleanup; welfare reform; a multitude of flood control and highway projects; San Diego Trolley project construction; Sheriffs Department funding; lagoon preservation; drug addiction treatment; children's disease inoculation services; foster care program support; air quality program certification; and the prevention of off-shore oil drilling, just to name a few. The list is long and impressive.

Five years ago, Roger invited his longstanding associate, Thomas Walters, to become his partner, and the firm's name was changed to Honberger and Walters, Inc. For the past three years, Tom has been the firm's chief executive officer and owner. The firm continues to manage San Diego County's Washington office. Their other clients include the San Diego Metropolitan Transit Development Board, North County Transit, San Diego Unified Port District, the Sweetwater Authority, the Counties of Riverside and Ventura, the Monterey-Salinas Transit District, the Calleguas Municipal Water District, and the Pechanga Band of Luiseno Indians.

Roger has long been recognized as one of the leaders in his field and has lectured on intergovernmental relations and lobbying practice at San Diego State University, U.S. International University, University of Maryland, and the University of Arizona. He continues to be involved in a variety of American Indian issues and was one of the founders of the Harvard University Native American Alumni Association.

Many of us in the Congress have worked with Roger Honberger during his distinguished career. We will miss his friendly disposition and his dedicated hard work on behalf of his public clients. Above all, we will miss his candor and honesty. His word has always been his bond, something we have all appreciated and have grown to expect, regardless of the circumstances. We are happy to see that his high professional standards and style are being continue by Tom Walters without missing a beat. For this we are grateful, and we are grateful for Roger's sustained friendship and support over the years. We wish him the very best as he moves on to other endeavors.

THE ACCESS AND OPENNESS IN SMALL BUSINESS LENDING ACT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. MORELLA. Mr. Speaker, I am proud to Join my good friend and colleague JIM MCGOVERN in introducing this legislation that will help minority and women entrepreneurs in securing small business loans from private lending institutions. The Access and Openness in Small Business Lending Act will ensure that lending institutions are providing minorities and women opportunities to obtain small business loans.

This legislation is similar to the 1990 amendment to the Home Mortgage Disclosure Act (HMDA) that holds financial institutions publicly accountable for their lending practices to applicants. Like HMDA, the Access and Openness in Small Business Lending Act will allow applicants, for small business and non-mortgage loans, to voluntarily and anonymously provide their race and gender information to banks and other institutions. Lending institutions under this legislation will be required to disclose the collected data to the public. These institutions already maintain databases on the geographic and loan size of applicant requests. The additional information collected on lending practices will help identify small business owners that remain underserved and expose additional profitable lending opportunities for lending institutions.

Minorities and women contribute greatly to our nation's economy and communities. Over the past decade they have expanded their ownership of small businesses. However, minorities and women continue to have difficulty gaining access to the resources they need to succeed in business. If granted greater access to private funds more minority and women small business owners could help revitalize their neighborhoods and expand their commercial base.

Mr. Speaker, the Access and Openness in Small Business Lending Act would greatly increase access to private credit for minority and women-owned businesses. This legislation is a much needed step in the night direction that allows minorities and women an opportunity to succeed as small business entrepreneurs and contribute to their communities and the nation. Thank you.

RECOGNITION FOR ERNEST AND JULIO GALLO

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. CONDIT. Mr. Speaker, it is a distinct privilege to rise today to honor two giants in the world of business and agriculture—Ernest and Julio Gallo.

Ernest, and his late brother Julio, are being inducted into the Stanislaus County Agricultural Hall of Fame. That alone speaks volumes about these two men in a region of the country known as the agricultural leader of the world.

The sum of their contributions is nearly impossible to evaluate. They easily take their place in history with great men of vision such as Henry Ford and Sam Walton who through hard work and determination transformed their dreams into reality.

Starting with a small family vineyard and winery, they strove for perfection and set a path others would struggle to find. They are part of a disappearing breed of hands-on discoverers and entrepreneurs who blazed a trail, proving the value of hard work, dedication and ambition.

Rarely in history does a name or a single word draw such a connotation as Gallo. The name alone is synonymous with wine and wine making in the same way Ford is synonymous with quality automobiles.

Mr. Speaker, volumes could be written about the contribution these men have made and will continue to make to the Central Valley of California from research to Industry operation, production and viticulture. All of these things are intertwined in the history of the Gallo family enterprise.

Ernest and Julio Gallo have greatly impacted agriculture through their decades of leadership in the wine industry. Starting with a small family vineyard and winery, they strove for perfection, inventing the tools they needed when none existed, setting the path for others to follow. They built their business into the largest winery in the world. Their shared ambition to produce and market quality wines at affordable prices motivated them to continuously improve their operations, extending the family business to include grape growing, wine making, production of the bottles, warehousing, distributing, transporting and marketing wines throughout the country, and now throughout the world.

Ernest and Julio Gallo were instrumental in transforming the economy of grape growing, offering long-term contracts to independent farmers by encouraging growers to upgrade the varieties of grape planted to meet future consumer demand for quality. California grape growers were able to then transform the California wine industry into the international phenomenon it is today. Ernest and Julio invested heavily in agricultural research and shared their learning with local farmers.

Through this investment and sharing, the Gallos helped improve the quality of grapes available in the region through better farming practices such as plant nutrition, irrigation and harvesting regimes. The Gallos helped educate generations of vineyard managers and wine makers by their support of curricula throughout the University of California and California State University systems. They undertook extensive research in wine making techniques to help build and sustain the market by introducing new types of wines and methods of wine production. Today this global enterprise employs thousands of people worldwide, nearly 3,500 in and around Stanislaus County.

On a shoestring budget, Ernest and Julio created the "flagship" winery in the United

States and put California on the map for wine. Their dream has translated into a global force for wine and wine making.

Mr. Speaker, Ernest and Julio always gave "All their best." It is with great pride that I ask my colleagues to rise and join me in honoring two great men—Ernest and Julio Gallo—on the occasion of their being inducted into the Stanislaus County Agricultural Hall of Fame.

PAYING TRIBUTE TO WALTER WAYNE THOMPSON, JR.

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Walter Wayne Thompson Jr. and thank him for his service to this country. Walter began his service as a sailor in 1941, joining the Navy at the age of eighteen. By the end of his service, Walter had served on two ships involved in several famous and infamous battles in the Pacific theater.

Walter served on the U.S.S. *Hornet* as a stenographer to the ship's Captain. While serving on the ship, Wayne was present for the launching of the famous Doolittle Raid, America's first strike at the Japanese after Pearl Harbor. Following the raid, the *Hornet* engaged in the Battle of Midway, a battle considered a turning point in the war that stopped the Japanese fleet from controlling Hawaii.

Following Midway, the Japanese focused on the island of Guadalcanal. Here the *Hornet's* crew found itself tasked with the role of defending the island alone after Allied naval forces sustained heavy losses. After Guadalcanal, the crew fought in the Battle of Santa Cruz in an attempt to weaken Japanese defensive forces for an invasion of the island.

The Battle of Santa Cruz was to be the final engagement for the *Hornet*. The carrier was attacked and sunk by enemy forces and her crew rescued by the U.S.S. *Anderson*. After living through the travesty, Wayne finished his service aboard the U.S.S. *Lexington*, where he served until the end of the war. Following his discharge, he returned to his native state of Missouri and became a Baptist Minister. He served the ministry for over forty years before retiring in Montrose, Colorado.

Mr. Speaker, it is a great privilege to recognize Walter Wayne Thompson Jr. and thank him for his service during World War II. If not for dedicated citizens like Wayne, we would not enjoy the many freedoms we have today. Wayne Thompson served selflessly in a time of great need, bringing credit to himself and to this great nation.

WE MUST RELEASE AID TO HAITI

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. CONYERS. Mr. Speaker, the U.S. must change its current policy towards Haiti. We, as the standard bearers cannot allow Haiti to further sink into a financial and social mire. It has always been America's role to feed those who are hungry and clothe those who cannot clothe themselves.

As we loosen our belts from our Thanksgiving feast, compare the fate of millions of Haitians to ourselves: According to the United Nations, sixty percent of Haiti's 8.2 million people are undernourished. The average number of calories available to Haitians per day is 1977, nearly half of the 3754 calories a U.S. resident gets, according to the World Health Organization.

The Associated press recently published the following account of life in Haiti:

> I'll eat anything I can get," said Jean, 25, as he pulls an empty crab trap out of the polluted Port-Au-Prince Bay. On a good day, Jean can earn about $12 but often goes home empty handed. Pigs are raised on garbage and human waste, but their meat is too precious to be eaten by the impoverished residents. The pork is sold at the market for cheaper staples like cornmeal and rice that provides more days of nourishment.

The current policy of the U.S. is contributing to the continued attrition of the quality of life of Haiti's people, which if left unchanged, could lead to horrendous outcomes for the western hemisphere's poorest people. We must address the current state of economic devastation. We must remove our blockade of essentially all aid to Haiti.

The U.S. must stop using its veto power at the Inter-American Development Bank. This veto-prerogative is blocking development and humanitarian loans which covers a broad spectrum of critical social and economic priorities, such as health sector improvement, education reform, potable water enhancement and road rehabilitation.

Presently, the U.S. is precluding the issuance of the following loans from being dispersed by the Inter-American Development Bank: 21.5 million—Education, 22.5 million—Health, 55 million—Roads, and 60.9 million—Water.

The hold up of these loans is exasperating Haiti's current negative cash flow status with the Inter-American Development Bank. Although the Inter-American Development Bank is precluded from moving ahead with critical social and humanitarian loans, Haiti is still required to pay arrears payments and credit commissions on loans that it has not received. By the end of 2001, if nothing changes, Haiti will be in a negative cash flow position with the Inter-American Bank—paying more into the Bank than Haiti is receiving by approximately $10 million.

Humanitarian and social indicators continue to drop dramatically. As well as, quality of life indicators, such as health and infant mortality, which continues to erode, devastating the humanitarian crisis creating a potentially devastating humanitarian crisis.

The national rate of persons infected with HIV/AIDS is now 4 percent or 300,000 persons, creating 163,000 orphans; and 30,000 new cases per year. The infant mortality rate is 74 deaths out of every 1000 births; the doctor to patient ratio is 1.2 persons to 10,000 physicians; only 40 percent of the population has access to potable water; and 85 percent of adults are illiterate.

On November 8, 2001 the Congressional Black Caucus, in its entirety, sent a letter to the President requesting to speak with him regarding this vital issue. We have not yet heard any response. Mr. President, we need to hear from you. We need to end the suffering of millions of innocent individuals, we need to continue to be the standard bearer in foreign policy. We must not waiver in our ability to look beyond our political differences and move forthrightly to help those in need.

Mr. President, we must ask, "Is the U.S. comfortable withholding these much needed Inter-American Bank loans from the millions of suffering Haitians in order to punish the Government of Haiti, especially at a time when the U.S. continues to aid other countries who have shown themselves to be much more villainous than Haiti?"

I think not, at least, I hope not.

IN REMEMBRANCE OF CARMELITA ZAMORA

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. BACA. Mr. Speaker, I rise in the memory of my beloved Aunt, Carmelita Zamora and in commemoration of the close of an important history.

Hers was a quiet life, and yet she played the central role in the life of her family. Her story began in Punt de Agua, New Mexico, on June 23, 1916. Carmelita Zamora left a legacy of nine children, 24 grandchildren and 34 great-grandchildren when she died on November 26, 2001. A loving and joyful memory survives her.

They say a person is measured by the lives she touches. Through the grace of God, Carmelita touched the hearts and lives of many. She touched the lives of her loving children Jake, Abram, Philip, Eugene, Lawrence, Wilferd, Edwina, Alice and Maryanne Peggy. She touched the lives of 24 grandchildren Diana, Mary, Mario, Laura, Donna, Carol, JD, JJ, Mark, Sophia, Dominic, Adonis, Valerie, Ricky, Jennifer, Anthony, Christopher, Jessica, Candace, Angel, Eloisa, Penny, Ermogenes, Lisa Marie and of 34 great-grandchildren.

Carmelita touched their lives in her very special way. Born the oldest of five siblings, Carmelita had two brothers and two sisters. When she was not yet a teenager, Carmelita developed the instincts of protector, caregiver and mother. Her own mother became ill, so Carmelita was forced to discontinue her elementary school education to care for her young siblings.

Carmelita began a new chapter in her life on March 11, 1935, at 20 years old, when she met and married Ernesto Zamora. In 1951, Carmelita and Ernesto would move the family to Wyoming before moving back to the Southwest. In July of 1957, Carmelita and her family arrived in Barstow, California where she would live for the remainder of her life. Those remaining years would be spent filling the pages with memories.

Carmelita was talented and creative. Her children proudly remember her ability to sew clothes and never use patterns. They swear that had she been born at another time and under easier conditions she would have been a famous fashion designer. Many memories stem from this talent of hers. Carmelita's son Abram fondly remembers a pair of new overalls she made him for school. They were so fine that when Abram arrived at school, all the other children begged for a pair of their own. Her granddaughter Penny treasures memories of spending time with her grandmother, talking while they washed clothes or while Carmelita sewed blankets. Carmelita even spoke of life lessons in terms of clothing. "It doesn't make any difference if you are poor," they remember her saying. "It doesn't matter if your clothes have patches as long as your shoes were shined and your clothes clean. That's all that matters."

Her son Gene fondly recalls receiving such advice from his mother every Monday night during their weekly conversation. Those calls got him through his week. Whether they discussed her love for the sport of wrestling or she was providing advice for his day-to-day trials. She was the source of his strength all his life.

All Carmelita's legacies remember her as a very strong woman. Her daughter Edwina said, "She was there for me when my husband passed away at a very young age leaving me here with four young children. I couldn't have made it through without her love and strength."

She was there for all of her children in times of need. Forever a mother, she was responsible for getting many of them through very difficult times. She was a mentor and an unyielding resource. She never asked for anything but always wanted to give. She generously offered her advice and left it up to her children whether or not to take it.

Her grandchildren remember her not only as a source of strength but also a source of nourishment. Nourishment of the heart as well as the body. Granddaughter Lisa cherishes the time she spent with Carmelita watching soap operas or wrestling while eating cookies and drinking sodas. Eloisa similarly remembers her grandmother always wanting to feed them even if they were not hungry. "She liked to feed everyone."

This was because, as granddaughter Angel remembers, Grandma was the backbone of the family, she guided everything. She was a firm believer in God and always prayed to God to help the family in times of need. She also prayed to God for his blessings and in thanks for times of happiness.

Aunt Carmelita is irreplaceable and we will not live one day without remembering this kind and gentle woman. This tribute to her life, to her legacy and to her story will allow her memory to survive all of us.

And so Mr. Speaker, I submit this loving memorial to be included in the archives of the history of this great nation. For women like Carmelita are what make this nation great. Women like Carmelita leave a legacy of lives filled with love to all who knew her. She is the fabric from which our nation was created.

PAYING TRIBUTE TO KENNETH BAYLEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Kenneth Bayley of Eckert, Colorado and thank him for his contributions to this nation. Kenneth began his service in the military in 1939 as a member of the Army Air Corps, and in 1942, Kenneth was assigned duty to the 14th Bomb Squadron on the island of Mindanao in the Philippines.

It was on this island that Kenneth learned of the surrender of Corregidor by Allied forces, thus ending the Allied resistance to the Japanese invasion of the Philippines. Believing surrender was not an option, Kenneth, along with members of his squadron, escaped to the mountains and joined the resistance movement. For the next year the airmen and local resistance fighters of Filipino and Moro tribesman origin used guerilla warfare tactics to ambush and control Japanese troop movements throughout the island. Their resistance effectively contained 150,000 Japanese soldiers tasked with the defense of the island's airfield.

Kenneth then moved on to the island of Liangan and joined a resistance group commanded by Wendall Fertig, another American who refused to surrender to the Japanese. As a member of the group, Kenneth was tasked with the operation of one of Fertig's many radio stations throughout the area. These stations' function was to send encoded messages concerning enemy strength and troop movements to Allied forces. Kenneth left the Philippine islands in late 1943, escaping aboard an American submarine bound for Australia. He returned to the United States and served in the Air Force until 1962, eventually retiring with the rank of Captain.

Mr. Speaker, it is a great privilege to honor Kenneth Bayley for his service to this country. He served this country selflessly in a time of great need. By refusing to surrender and continuing the fight in the face of enormous opposition, Kenneth Bayley has brought great credit to himself and his nation, and deserves this body's recognition.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

SPEECH OF

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year anding September 30, 2002, and for other purposes:

Mr. STRICKLAND. Mr. Chairman, as our Nation feels the effects of our current recession, and Congress discusses economic stimulus package, we must insure we do all we can for the motor which drives our economy, the American Worker.

For much of the twentieth century, our great steel companies churned and poured out the material used to build our nation creating the skeletons of our battleships and skyscrapers. But since the 1990s, many of these once great companies have fallen victim to foreign competitors who dump cheap steel on the American market. This year domestic steel producers have been further affected by rising energy prices and a rising dollar exchange rate which favors foreign-based companies. More than two dozen U.S. steel producers have gone into bankruptcy, these include once giant companies such as Bethlehem, LTV, Republic and Wheeling Pittsburgh. Some mills have been forced to shut down entirely.

The Strickland, Stupak, LaTourette Amendment to the Defense Appropriations bill will help an American industry ailing from the effects of globalization. Steel is a vital part of the economy of my State of Ohio and our nation as a whole. It ensures that none of the funds made available in the Defense Appropriations bill can purchase equipment, products or systems which contain steel not manufactured in the United States. As a Congress we must make sure the dollars we spend to protest the security of America protect the job security and livelihood of the American Steel worker.

FIGHTING THE SCOURGE OF TRAFFICKING IN WOMEN AND CHILDREN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. SMITH of New Jersey. Mr. Speaker, tonight I want to highlight our nation's efforts to fight, and hopefully end, the scourge of trafficking in women and children. Earlier today, International Relations Committee held an important hearing on the implementation of anti-trafficking legislation I authored, and which was signed into law last Congress.

As the Prime Sponsor of the Trafficking Victims Protection Act, H.R. 3244, I was pleased that our legislation attracted unanimous bipartisan support in both Houses of Congress, and was signed into law just over one year ago. We succeeded not only because this legislation is pro-woman, pro-child, pro-human rights, pro-family values, and anti-crime, but also because it addresses a horrendous problem that cries out for a comprehensive solution.

Each year as many as two million innocent victims—of whom the overwhelming majority are women and children—are brought by force and/or fraud into the international commercial sex industry and other forms of modern-day slavery. The Act was necessary because previous efforts by the United States government, international organizations, and others to stop this brutal practice had proved unsuccessful. Indeed, all the evidence suggests that the most severe forms of trafficking in persons are far more widespread than they were just a few years ago.

My legislation was designed to give our government the tools we believed it needed to eliminate slavery, and particularly sex slavery. The central principle behind the Trafficking Victims Protection Act is that criminals who knowingly operate enterprises that profit from sex acts involving persons who have been brought across international boundaries for such purposes by force or fraud, or who force human beings into slavery, should receive punishment commensurate with the penalties for kidnapping and forcible rape. This would be not only a just punishment, but also a powerful deterrent. And the logical corollary of this principle is that we need to treat victims of these terrible crimes as victims, who desperately need our help, compassion, and protection.

As the implementation of this important legislation moves forward, success will depend, in large part, on the development of a large coalition of citizen organizations that are out there on the streets helping these victims day in and day out. The problem is simply too big for any one, or even several, governments to tackle alone.

That is why I am so pleased to learn that outside advocacy and relief organizations are continuing to join the fight against human trafficking. Father Stan DeBoe, with the Conference of Major Superiors of Men, CMSM, is one such civic leader who deserves special recognition of his efforts, and the efforts of the CMSM. the CMSM, for those who are unfamiliar with their work, serves as the leadership of the Catholic orders and congregation of the 20,000 vowed religious priests and brothers of the United States. The CMSM is the voice of these Catholic priests and brothers in the U.S., and also collaborates with the U.S. bishops and other Catholic organizations which serve the Church, and our society.

I have included, as part of the RECORD, a recent resolution jointly adopted by the CMSM and the Leadership Conference of Women Religious, LCWR, on August 26 during a conference in Baltimore, Maryland.

Like all laws, however, this law is only as good as its implementation. And, frankly, I have been deeply concerned at the slow pace of implenatinion of the Trafficking Victims Protection Act. A year after enactment of this legislation, the State Department office—which is designed to be the nerve center of our diplomatic efforts to engage foreign governments in the war against trafficking—has only recently begun to get up and running. No regulations have yet been issued which will allow victims to apply for the visas provided by the Act. And many other important tasks remain undone.

I do not say this to complain or criticize—I know that many things move too slowly in the first year of a new Administration, and that since September 11 our attention and resources have been diverted elsewhere—but to emphasize that from now on, we do not have a minute to spare.

I should also say that I am profoundly encouraged by the fact that the Administration has been able to recruit Dr. Laura Lederer to bring her expertise and commitment to the State Department's anti-trafficking effort. Dr. Lederer is generally regarded as the world's leading expert on the pathology of human trafficking, and the Protection Project which she headed has provided the factual and analytical basis for most of the work that has been done so far to combat human trafficking. Throughout the long process of consideration and enactment of the Trafficking Victims Protection Act, Laura was our mentor and our comrade-in-arms. I commend Under Secretary Dobriansky, for this important choice.

Finally, I want to emphasize the principles behind the Trafficking Victims Protection Act. I take second place to none in my commitment to workers' rights, but this is not a labor law and it is not an immigration law—it is a comprehensive attack on human slavery, and especially sex slavery. It emphatically rejects the principle that commercial sex should be regarded as legitimate form of "work."

I know that a number of officials in the previous Administration disagreed with the approach we took in this bill—and that many of these officials are career employees who still work in the government—but the Trafficking Victims Protection Act is the law of the land, and we now have a President who has made clear that he agrees with us on this fundamental question. So I hope and trust that in implementing the law—in making grants, in staffing offices and working groups, in seeking partners and advisors in this important effort—this Administration will rely on people who fully support the law they are implementing, rather than on those who never liked it and who may seek to evade or ignore some of its most important provisions.

What we need to make this law work are "true believers" who will spare no effort to mobilize the resources and the prestige of the United States government to implement this important Act and shut down this terrible industry, which routinely and grossly violates the most fundamental human rights of the world's most vulnerable people.

RESOLUTION OPPOSING TRAFFICKING IN WOMEN AND CHILDREN

STATEMENT OF RESOLUTION

LCWR and CMSM stand in support of human rights by opposing trafficking of women and children for purposes of sexual exploitation and forced labor, and will educate others regarding the magnitude, causes, and consequences of this abuse.

RATIONALE

1. At their May 2001 plenary session in Rome, the International Union of Superiors General, leaders of more than 780 congregations of women religious having a total membership of one million, endorsed a resolution opposing the abuse of women and children, with particular sensitivity to the trafficking and sexual exploitation of women. UISG resolved that this issue be addressed from a contemplative stance as an expression of a fully incarnated feminine spirituality in solidarity with women all over the world.

2. An LCWR goal is to work for a just world order by using our corporate voice and influence in solidarity with people who experience poverty, racism, powerlessness or any other form of violence or oppression. A CMSM goal is to provide a corporate influence in church and society.

3. The Platform for Action of the UN Fourth World Conference on Women held in Beijing, 1995, included the strategic objective to eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.

4. Each year between 700,000 and 2 million women and children are trafficked across international borders, with more than 50,000 women trafficked into the U.S. (UISG papers)

CALL FOR SPECIFIC ACTION

1. Deepen our understanding of the realities of trafficking and its integral relationship with poverty, male dominance, and the globalization of trade.

2. Join with UISG as they call for specific days of international prayer, contemplation, and fasting to unite religious in prayer throughout the world.

3. Encourage education about trafficking, prostitution, and workplace slavery in sponsored schools, colleges, and universities and in adult educational ministries.

4. If feasible, collaborate in applying for federal funds from the Department of Health and Human Services in implementation of HR 3244 to provide services to victims of trafficking.

The Conference of Major Superiors of Men (CMSM) serves the leadership of the Catholic orders and congregations of the 20,000 vowed religious priests and brothers of the United States, ten percent of whom are foreign missionaries. CMSM provides a voice for these communities in the U.S. church and society. CMSM also collaborates with the U.S. bishops and other key groups and organizations that serve church and society.

The Leadership Conference of Women Religious (LCWR) has approximately 1,000 members who are the elected leaders of their religious orders, representing 81,000 Catholic sisters in the United States. The Conference develops leadership, promotes collaboration within church and society, and serves as a voice for systemic change.

PAYING TRIBUTE TO JOHN HENDERSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to the life and memory of John Henderson who recently passed away in Grand Junction, Colorado on November 17, 2001. John will always be remembered as a dedicated volunteer to the community. His passing is a great loss for a town that has relied on John for his strength and good nature in times of hardship and prosperity.

John was a dedicated member of the Plateau Valley High School family. He began his service as Assistant Head Coach for the football team. He then served as Athletic Director for the school, coordinating sports programs, games and events. This year John was promoted to Head Coach and just completed his first season. John loved football, not just for the sport, but because of the individuals he coached and inspired. He pushed the players to excel, but always ensured the enjoyment of the game was paramount.

John will always be remembered as a kind, compassionate man who was willing to give people a chance in life. This resonated on the football field where John was always willing to give his players the opportunity to shine. He was a successful leader on the gridiron, and in the face of insurmountable odds encouraged his players to their best.

Mr. Speaker, John will be missed by many in this community. It has always been known that his greatest passion was his love and dedication to his family. It is with a solemn heart that we pay our respects to his family and friends, and to all those who were touched by John during his life. John Henderson dedicated many years to this community, and he will be greatly missed.

HAITI STATEMENT BY REP. MAXINE WATERS

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Ms. WATERS. Mr. Speaker, Haiti is the poorest country in the Western Hemisphere. Yet the U.S. government is blocking aid to Haiti in order to expand the influence of a single Haitian political party. This party, known as the Democratic Convergence, is supported by less than four percent of the Haitian electorate.

Meanwhile, Haiti's population is facing a serious humanitarian crisis. Haiti's per capita income is only $460 per year. Four percent of the population is infected with the AIDS virus, and 163,000 children have been orphaned by AIDS. Every year, there are 30,000 new AIDS cases. The infant mortality rate is over seven percent. For every 1000 infants born in Haiti, five women die in childbirth. Furthermore, there are only 1.2 doctors for every 10,000 people in this desperately poor country.

Not only has the United States suspended development assistance to Haiti, the United States is also blocking loans from international financial institutions such as the World Bank, the International Monetary Fund (IMF) and the Inter-American Development Bank. U.S. policy has effectively prevented Haiti from receiving $146 million in loans from the Inter-American Development Bank that were already approved by that institution's Board of Directors. These loans are desperately needed by the people of Haiti.

It is time for the United States to end this political impasse and restore bilateral and multilateral assistance to this impoverished democracy.

WTO NEGOTIATIONS AND TRADE PROMOTION AUTHORITY

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. CONDIT. Mr. Speaker, as Congress continues to debate the Farm Bill, U.S. trade negotiations at the WTO Ministerial in Doha agreed that future trade talks would seek to limit domestic farm programs, including phasing out of forms of export subsidies and substantial reductions in trade-distorting domestic support. The decisions in Doha line up U.S. trade negotiators to eliminate U.S. farm programs as a chit in exchange for better overseas market access for U.S. banks and other service providers.

The negotiating goal of significantly reducing "trade-distorting" farm programs presents a real problem for Congressionally mandated farm programs. While U.S. negotiators have agreed to work towards phasing out all forms of export subsidies and substantially reducing trade-distorting domestic support, the House of Representatives recently passed H.R. 2646, the Farm Security Act. H.R. 2646 provides $409.7 billion in market price support programs, loan deficiency programs and marketing loan assistance to struggling farmers for the next 10 year-farmers who are struggling in large part due to cheap, subsidized foreign imports and restrictive trade laws abroad.

If this hit on U.S. agriculture policy were not damaging enough, U.S. trade negotiators reopened our country's longstanding position against putting U.S. anti-dumping laws on the WTO negotiating table. These trade laws are farmers' last defense when countries dump below-cost commodities on the U.S. market. Yet, USTR agreed to immediate negotiations in this area, even though a long list of WTO countries including Brazil, Japan and Australia have stated clearly that their only purpose for seeking such talks is to weaken existing U.S. trade law.

While the Administration has opened the door for reducing domestic assistance to U.S. farmers and weakening anti-dumping laws, it is also pushing for Trade Promotion Authority from Congress. If TPA is granted, Congress loses its ability to influence the substance of agriculture negotiations. Under TPA, Congress cannot remove or amend offensive agricultural provisions, it can only reject the entire WTO negotiated pact. Under these conditions, American agriculture is at risk when negotiators are willing to compromise U.S. producers' interests in exchange for new market access for U.S. telecommunications firms, banks and other service providers in other nations.

While I fully appreciate the opportunities of a global marketplace for our farmers, it is irresponsible to oversell the benefits of free trade that is not fair. Agriculture remains in a precarious position for further WTO discussions. Congress must not relax its vigilance over trade deals that compromise American agriculture.

PAYING TRIBUTE TO GORDON HARBERT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize an outstanding individual from Grand Junction, Colorado. Over the years, Gordon Harbert has distinguished himself as a business, community, and industry leader for Grand Junction. Gordon's dedication is impressive and it is my honor to recognize several of his accomplishments and good deeds.

Gordon is a third generation owner of Harbert Lumber Company located in Grand Junction. The company has served the community since 1937 and continues to provide quality products and service to the entire Western Slope of Colorado, Utah, and Wyoming. As an industry leader, Gordon serves on the Board of Directors of the Western Colorado Business Development Corp, and has created a new philanthropy role for Harbert Lumber business. In this role, the company has donated building materials and equipment to organizations such as Camp Kiwanis and the Salvation Army for much needed improvements and renovations.

Gordon has also distinguished himself as a leader in the community by volunteering his time and efforts to several organizations in the area. He created and served as Chairman of the Western Slope Golf Tournament for over a decade, only recently stepping down to take on new responsibilities. He is a great supporter of the Young Life's Christian Outreach program, and served as Chairman of the local Kiwanis Club. Gordon has also been actively involved with Mesa Developmental Services by providing woodworking equipment to create products for the organization to promote and sell in his store and to the community.

Mr. Speaker, Gordon Harbert's dedication led to his recognition in 1996 as Citizen of the Year by the Chamber of Commerce acknowledging his dedication to his employees, his community, and friends. It is now my honor to congratulate Gordon on his most recent and well-deserved award from the industry community, Lumberman of the Year, presented by the Mountain States Lumber and Building Material Dealers Association. Gordon has been a model citizen to the community and I extend my thanks to him for his efforts. Keep up the hard work Gordon and good luck in your future endeavors.

SENATE—*Friday, November 30, 2001*

The Senate met at 9:30 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, in these challenging days, we remember Abraham Lincoln's words: "I have been driven many times upon my knees by the overwhelming conviction that I had nowhere else to go. My own wisdom, and that of all about me, seemed insufficient for the day."

Holy, righteous God, we sense that same longing to be in profound communion with You because we need vision, wisdom, and courage no one else can provide. We long for our prayers to be a consistent commitment to be on Your side rather than an appeal for You to join our partisan causes. Forgive us when we act like we have a corner on the truth and always are right. Then our prayers reach no further than the ceiling. In humility, we spread out our concerns before You and ask for Your inspiration. You have taught us to pray: *Your will be done on earth as it is in heaven.* Amen.

PLEDGE OF ALLEGIANCE

The Honorable HERB KOHL led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, November 30, 2001.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, this morning the Senate will be in a period for morning business, with Senators permitted to speak for up to 10 minutes each. There will be no rollcall votes today. The next rollcall vote, the majority leader has asked me to announce, will be at approximately 5 p.m. on Monday. We could have a series of three votes on Monday beginning at 5 p.m. Everyone is reminded that there have been three cloture motions filed with respect to H.R. 10. All first-degree amendments must be filed prior to 1 p.m. today.

I stress that because the majority leader has asked me to announce we are going to go out of session at 1:15 p.m., the reason being the remediation that is taking place in the Hart Building today. The Dirksen Building will be closed this afternoon, and we want to make sure we are out of session before the closure of the Dirksen Building begins. Everyone should cooperate. We are not going to make a unanimous consent request to recess at 1:15 p.m. Everyone should understand that it would be tremendously inconvenient for the staff and everyone else if we went past 1:15 p.m. today. Everyone has hours to speak this morning if they wish. They should rearrange their schedule to speak. We would recess earlier, but because of the previous order entered, we want to make sure that is maintained and people can file their amendments prior to 1 p.m. At 1:15 p.m., we are going to have to recess the Senate.

MEASURES PLACED ON CALENDAR—H.R. 2722 and H.R. 3189

Mr. REID. Mr. President, I understand there are some bills at the desk that have been read the first time. They are H.R. 2722 and H.R. 3189.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. Mr. President, I ask unanimous consent that it be in order en bloc for these two bills to receive a second reading, and I would then object to any further consideration of this legislation at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will read the title of the bills for the second time.

The legislative clerk read as follows:

> A bill (H.R. 2722) to implement effective measures to stop trade in conflict diamonds, and for other purposes.
>
> A bill (H.R. 3189) to extend the Export Administration Act until April 20, 2002.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bills will be placed on the calendar.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Chair recognizes the Senator from Rhode Island.

Mr. REED. Mr. President, I anticipate speaking a bit longer than 10 minutes. I ask unanimous consent to speak for so much time as I may consume.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GUN SHOW BACKGROUND CHECK ACT OF 2001, S. 767

Mr. REED. Mr. President, I rise today to inform Senators of my intention to bring before the Senate at the earliest possible time an important piece of legislation that I introduced last April along with 21 of my colleagues.

Our bipartisan bill, S. 767, the Gun Show Background Check Act of 2001, would apply the Brady law to all firearms sales at gun shows, thereby closing the loophole that allows criminals to buy firearms from private sellers at gun shows without a background check. This legislation is identical to the Lautenberg amendment passed by the Senate on a bipartisan vote in the 106th Congress.

As long as gun violence continues to take the lives of 10 of our young people every day, and about 30,000 Americans every year, we must do everything we can to prevent convicted felons, domestic abusers, and other prohibited purchasers from gaining access to firearms.

It has been my intention to bring this legislation to a vote since its introduction last spring. We were asked not to offer the bill as an amendment to the education bill because it was one of the President's top priorities. We were asked not to offer it to the bipartisan campaign finance reform bill because it was non-germane. We were asked not to offer it to the bipartisan Patients' Bill of Rights because it was

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

a fragile compromise. We were asked not to offer it to the Defense authorization bill because of the critical importance of moving that legislation. Finally, we are barred by Senate rules from offering the amendment to the fiscal year 2002 appropriations bills moving through the Senate.

By not enacting this legislation, we have, unfortunately, overlooked one of the most effective tools we can give to law enforcement to prevent violent acts against our people, and that is the ability to conduct background checks every time a gun is sold at more than 4,000 gun shows held in this country each and every year. The time has come for the Senate to consider this legislation. It was important before September 11, and it is even more important today.

Here are the facts: The Bureau of Alcohol, Tobacco and Firearms reported to Congress last year that gun shows are a major gun trafficking channel, responsible for more than 26,000 illegal firearms sales during a single 18-month period. Gun shows are the second leading source of illegal guns recovered in gun trafficking investigations. The FBI and ATF tell us again and again that convicted felons, fugitives from justice, and other prohibited purchasers are taking advantage of the gun show loophole to acquire firearms.

Now, more and more evidence is emerging that terrorists also know the weaknesses in our gun laws. The Chicago Tribune reported on November 18 that among the ruins of radical Islamic safehouses in Kabul were computer printouts of Jihad training manuals that emphasized how easy it is to obtain firearms, and firearms training, in the United States.

Under the heading "How Can I Train Myself for Jihad," the manual says, "in other countries, for example, some states of the United States or South Africa, it is perfectly legal for members of the public to own certain types of firearms. If you live in such a country, obtain an assault rifle legally, preferably AK–47 or variations, learn how to use it properly and go and practice in the areas allowed for such training." The manual goes on to advise those training for holy war to join American gun clubs to sharpen their shooting skills, saying,

> There are many firearms courses available to the public in the USA, ranging from 1 day to 2 weeks or more. These courses are good but expensive. Some of them are only meant for security personnel but generally they will teach anyone. It is also better to attend these courses in pairs or by yourself, no more. Do not make public announcements when going on such a course. Find one, book your place, go there, learn, come back home and keep it yourself. . . . Useful courses to learn are sniping, general shooting and other rifle courses. Handgun courses are useful but only after you have mastered rifles.

We also have new evidence of suspected terrorists using gun shows to obtain weapons. On September 10, a jury in Detroit convicted Ali Boumelhem, a member of the terrorist group Hezbollah, on charges of conspiring to smuggle guns and ammunition to Lebanon. Mixed in with auto parts in a container bound for Lebanon, law enforcement authorities found a variety of weapons and accessories purchased at gun shows, including two shotguns, 750 rounds of ammunition, flash suppressors for AK–47s, and upper receiver for an AR–15 (the civilian version of the M–16), and speed loaders for 5.56mm ammunition.

Ali Boumelhem and his brother, Mohamad, knew the law well, and they exploited it over the years. Because Ali is a convicted felon and therefore prohibited from purchasing firearms under the Brady law, the confiscated weapons were purchased from licensed dealers at gun shows by Mohamad, who is not a felon. Mohamad was later acquitted of charges related to this illegal "straw purchase." According to the court record, he also threatened a confidential informant during the investigation, saying "If we cannot get you here we will take care of you in Lebanon."

The investigation also revealed that prior to November 1998, when the National Instant Criminal Background Check System was implemented under the Brady law, Ali Boumelhem did purchase several shotguns from licensed dealers at gun shows by lying on the required form about his felony conviction. He knew that prior to the establishment of the NICS, background checks were not required on long guns in many States. We may never know what became of those guns, and, more importantly in terms of the legislation I am discussing today, we will never know whether Boumelhem or his brother purchased guns from private sellers at these gun shows because there is no record of sale or background check required for sales by unlicensed sellers at gun shows, then and now. What we do know is that this Hezbollah member found a large selection of weapons there and worked the system to his benefit over time before finally getting caught. We need to close the gun show loophole so that we prevent illegal weapons purchases by terrorists.

In another case, the New York Times reported on November 13 that Conor Claxton, a man accused of being a member of the Irish Republican Army, testified in Federal court in Fort Lauderdale that he and his associates had gone to south Florida gun shows to buy thousands of dollars worth of handguns, rifles, and high-powered ammunition to smuggle to Northern Ireland.

The Times also reported that on October 30 in Texas, Muhammad Navid Asrar, a Pakistani man, pleaded guilty to immigration violations and illegal possession of ammunition. Authorities said that in the last 7 years Mr. Asrar had bought several weapons at gun shows, including handguns and rifles. According to police in Alice, Texas, a Federal grand jury is investigating whether he may be linked to al Qaeda terrorists. The Times reported that he aroused the authorities' suspicion when he asked employees at his convenience store to take pictures of tall buildings and mail letters for him from Pennsylvania back to Texas.

I wrote to Attorney General John Ashcroft earlier this month to ask what steps the Department of Justice is taking to prevent terrorist attacks involving firearms, including firearms acquired at gun shows. I look forward to his reply. I also met with officials of the Department of Justice and ATF to discuss the role of firearms in their counterterrorism efforts. Let me say that although the Attorney General and I may not agree on many issues when it comes to the regulation of firearms, I believe we have a unique opportunity to work together to prevent violent acts by terrorists and others, without infringing upon the constitutional rights of law-abiding Americans. Not one single, solitary person who is not already prohibited from possessing firearms would be denied the right to purchase firearms by our gun show bill.

I know there are those who oppose any new gun laws. They have a right to that opinion, but what is their proposed alternative? Should we ignore the Jihad manuals and the cases of Ali Boumelhem, Conor Claxton, and Mohammad Asrar? Do any of us really know what the next terrorist attack will look like? I believe we have a clear responsibility to do everything we can to prevent terrorists from gaining access to firearms.

But even if we set aside the issue of terrorists' access to guns, this legislation is important to bring some sense to our gun laws and save American lives. The chilling reports this week of an alleged plot by students at New Bedford High School to kill large numbers of their fellow students and teachers reminded us that the threat of gun violence is still very real for our children and families.

Two years ago, after Eric Harris and Dylan Klebold killed 13 people and themselves at Columbine High School with weapons purchased from a private seller at a gun show, Democrats and Republican in the Senate joined together to pass the Lautenberg amendment to close the gun show loophole. The legislation I have introduced is identical to that Senate-passed amendment. Unlike other gun show bills, it would apply the successful Brady law to every gun sold at gun shows, without exception. As under current law, law enforcement would have up to three business days to conduct background checks on firearms sales. Our opponents will say that we're trying to shut down gun shows by imposing a "waiting period" on gun sales that usually take place on weekends. But that is not the case. There is no "waiting period." The Brady law gives law enforcement up to 3 business days to complete a background check on a prospective gun buyer. In fact, most gun purchases are processed very quickly by the NICS system. The FBI clears 72 percent of gun buyers within 30 seconds. Another 23 percent are cleared within 2 hours. That means background checks are completed within 2 hours for 95 percent of prospective gun buyers. Nineteen out of twenty have a decision rendered in just 2 hours.

But what about that last 5 percent that takes longer than 2 hours? According to a recent GAO report, those gun buyers are more than 20 times more likely to be prohibited from possessing a weapon under Federal law.

For gun buyers in that last 5 percent, potentially disqualifying information often requires the FBI to access court records—which are typically not available on a weekend; indeed, typically not available until at least Monday morning—to ensure that the person is not a convict felon or fugitive from justice; those records have to be checked.

Yet other gun show bills would make exceptions to the Brady law, reducing background checks for many gun show sales to 24 hours, to avoid inconveniencing the people in that 5-percent category. I believe that would be a serious mistake. We must reject the notion that it is better to allow a criminal to get gun than to ask a small group of potentially high-risk gun buyers to experience a minor inconvenience. If anything, law enforcement needs more time, not less, to conduct background checks. The FBI reported last year that over an 18-month period, more than 6,000 firearms were sold to convicted felons and other prohibited buyers because the three business days allowed under the Brady law expired before law enforcement could provide a definitive response. These illegal firearms must then be retrieved by State and Federal officer, as dangerous scenario which no one wants to see repeated or multiplied. We are not proposing to lengthen the time for background checks, but clearly it would be a mistake to shorten it even further. Instead, we should do the right thing for both law enforcement and gun buyers and simply apply current law to all gun show sales. No law-abiding citizen will be denied the right to purchase a firearm under my legislation. As under current law, if the 3 business days expire before law enforcement identifies a violation that would prohibit the gun sale, the sale can go forward.

We are not trying to end gun shows, and we are not trying to deny any law-abiding American the right to purchase a gun. What we are trying to end is the free pass we're now giving to convicted felons when they can walk into a guns how, find a private dealer, buy whatever weapons they want, and walk out without a background check.

In overwhelming numbers, the American people believe that background checks should be required for all gun show sales. The people of Colorado and Oregon confirmed this last fall when they approved ballot initiatives to close the guns show loophole. I want my colleagues to know that I will take every opportunity early next year to bring the Gun Show Background Check Act before the Senate for a vote. I urge my colleagues to support this legislation so that we can finally close the gun show loophole and make sure that convicted felons, domestic abusers, terrorists, and other prohibited persons do not use gun shows to purchase firearms without a Brady background check.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized.

OPEN THE HART BUILDING

Mr. MURKOWSKI. Mr. President, I rise this morning on behalf of the residents of the Hart Building who have been dispossessed as a consequence of the anthrax incident. I am going to refer to a memorandum of November 27 to all Senators relating to the cleanup of the Senate buildings. The statement goes into some detail relative to procedure. It is from the Senate Sergeant at Arms and it outlines the activity that the various agencies—the Centers for Disease Control, Environmental Protection Agency, Federal Emergency Management Agency, National Institute of Occupational Safety and Health, and the FBI—are involved in in this process. It indicates the Environmental Protection Agency is the lead agency on the remediation—the cleanup—of the building.

It further states that in addition to the extensive environmental sampling, the team has—

> . . . finished remediation of common areas in the Hart Building, including the atrium, walkways and the elevator in the Southwest quadrant.

That is the good news.

> Post-remediation sampling results for those common areas are expected later this week.

That would have already passed.

> Remediation of areas in the Hart Building which tested positive for trace amounts of anthrax is underway. EPA is in the process of detailing planning for the remediation of affected offices, including those of Senators Feingold, Baucus, Boxer, Corzine, Craig, Feinstein, Graham, Lieberman, Lugar, Mikulski and Specter. EPA, the Sergeant at Arms, and the Secretary of the Senate staff will be discussing these plans with senior staff for the affected offices this week.

My understanding is those offices are in one core and Senator DASCHLE's office is the office where most of the spores were found.

They indicate that:

> Senator Daschle's suite is being prepared for the application of chlorine dioxide gas.

I gather that may be going on sometime this weekend. But:

> According to the EPA's plan, the cleanup of the Daschle suite would take place this weekend. The Dirksen Building and the Hart-Dirksen garage will be closed. . . .

That is evidently underway today.

I also note in here that:

> Following the discovery of an anthrax letter addressed to Senator Leahy, environmental sampling of mail handling areas in both the Russell and Dirksen Senate Office Buildings was conducted on November 17th and 18th. The results of those tests were negative except for trace positive results in the mail handling areas of the offices of Senators Dodd and Kennedy. Those areas were cleaned up on November 24th and November 25th. . . .

So clearly they have satisfied themselves as to the adequacy of the cleanup of at least two offices, those of Senator DODD and Senator KENNEDY. They have indicated they will reopen for business November 26, which is the case.

> The Dirksen mailroom has been remediated, but is not yet open for business. . . . Sampling of the off-site mail facility is . . . complete—

And so forth.

There is Medical information.

Mail: It suggested mail deliveries will start this week and we will have 5 to 6 weeks of back mail.

The interesting thing is it doesn't say a thing about when we are likely to get back in the Hart Building. It is my understanding the stacks within the Hart Building are separated and the area of greatest concern is still Senator DASCHLE's office. In discussing this with some people involved at a level that clearly they have access, a suggestion has been made that, since Senator DASCHLE's office is the area of concern now, they simply seal that off.

Then the conversation went into, how do you seal it off if you have the air ducts and air vents? Those can be blocked as well.

It is very inconvenient for those of us who are in the far stack, furthest away from the area of the incident. We have been advised that our offices are clean, but we can't go in. Yet they say the common areas now are clean.

In a meeting with EPA, I asked them if this was really something under consideration for a Superfund site. They looked at me rather startled, as if they hadn't thought about that, but it may be.

We have to have someone speak with authority. Frankly, the leadership here is not as inconvenienced as those of us who are not in the leadership because they have offices here in the Capitol. But speaking for those of us who have been dispossessed for 5, going on 6 weeks, and every indication is another week or another 2 weeks, we do not seem to be able to get a conclusive decision on when we can get in, when they are going to be satisfied it is through—and somebody is going to have to sign off on this.

It seems to me they could simply seal off the office now that is demanding their attention, seal off that air-conditioning or cut that off mechanically—you can do it—and let us get into our offices so we can function. It is extraordinarily inconvenient. You can imagine walking out of your office and just having to leave everything there.

But the worst part of it is we had been in that building 3 full days, operating, after the envelope was opened in Senator DASCHLE's office.

So I urge those responsible to get together and, for Heavens' sakes, find a way to get us back into the rest of the building. If you have to seal Senator TOM DASCHLE's office, then go ahead and do it and get it completed.

I yield the floor to my good friend from Kansas. He and I are going to be with you for a while.

The PRESIDING OFFICER. Senator BROWNBACK from Kansas is recognized.

DAY OF RECONCILIATION

Mr. BROWNBACK. Mr. President, I appreciate the time to be able to address the body on a key issue we will be taking up for a vote on Monday. Before I do that, I would like to make an announcement of an activity in which the Presiding Officer and I have been directly involved. On December 4, Tuesday this next week, from 5 to 7, it is going to be a day of reconciliation, a time period in the Rotunda for Members of both the House and Senate sides. This is going to be a time for the leaders of the country to get together and pray for the Nation. It is going to be December 4, 5 to 7 p.m., just the leaders of the House, Senate, and administration. It will not be open to the public. I do hope Members can attend and be a part of that process and that ceremony. It is something the country used to do frequently and hasn't for a number of years. That will be December 4, 5 to 7 p.m., in the Rotunda.

ISSUES IN THE LOTT AMENDMENT

Mr. BROWNBACK. Mr. President, I would like to take a few minutes to speak in morning business on the issue of human cloning. On Monday, there will be a vote on the issue of the Lott amendment that contains the energy package that has been put forward by Senator MURKOWSKI, and the moratorium on human cloning, the 6-month moratorium on human cloning that I put forward. Several colleagues have sponsored both of these amendments. It has been put together. There will be a cloture vote on this on Monday.

I am asking our colleagues to support us being able to get this issue before the body for a final vote, to vote for cloture on the Lott amendment so we can get this issue in front of the body and get it decided.

These are two critical issues. The issue of energy and our dependence on foreign oil sources is becoming more and more obvious to people around the country and around the world. We are just too dependent on other places, places that are not reliable suppliers to the United States.

Oil from Iraq, as Senator MURKOWSKI has talked about frequently, is certainly not a reliable supply to the United States. Yet we are dependent on it. There are growing questions about Saudi Arabia, about the reliability of Saudi Arabia and the oil resources from there. Clearly, we should be having an energy policy and an energy strategy to remove ourselves from some of the dependency, particularly in the Persian Gulf region, for our oil and natural gas supplies. We need to do this energy policy, and do it now.

HUMAN CLONING

Mr. BROWNBACK. Mr. President, I wish to particularly address the issue of human cloning and the part of the bill that puts forth a 6-month moratorium on human cloning. I brought up before this body several times this week a U.S. News & World Report cover story of this week about the first human clone. Advanced Cell Technology out of Massachusetts is now saying they have cloned the first human being.

We have to address this issue now or we are going to have to expect more stories such as this about the further development of human cloning before this body has spoken. The House has spoken and said they don't want to have human clones. They put forth a complete ban, and passed it by a large bipartisan majority, a 100-vote margin. The President said: Let's ban human cloning. We don't want to create humans for destructive purposes or for reproductive purposes in this fashion. He has asked for banning that. This body has failed to act.

That is why we are putting forward at this time this request for a 6-month moratorium: Time out; hold up, so we don't have moratoriums such as this while this body takes time to deliberate, hold the committee hearings, and do the things it needs to do to consider this issue. We are asking for a timeout moratorium for 6 months.

I want to make several points and cite various groups that are supporting the moratorium or even the entire banning of human cloning. I want to read some important articles which they have put forward. I will make several points over the following days, weeks, and months.

One point is that research cloning being sponsored by Advanced Cell Technology requires eggs to be harvested from a woman. Harvesting eggs is an invasive and dangerous procedure. Harvesting eggs from women means the use of super-ovulatory drugs, the use of which has been linked to higher risks of ovarian cancer. The risk is one, a woman can take for a variety of reasons; one of them being to help have children. However, women are being asked to incur this risk to "donate" their eggs solely for money. Women who sell their eggs to firms like Advanced Cell Technology will likely disproportionately be of women who are already somewhat disenfranchised, or of lower income. In fact, it is now known that Advanced Cell Technology paid $4,000 to each woman who "donated" her eggs.

I would say that is probably more than a donation if you pay $4,000 for the egg. I suggest if this doesn't qualify as exploitation of the disenfranchised for profiteering motives, I am not sure what does.

This is not just a pro-life or pro-choice debate. It is not that at all.

In fact, pro-choice feminist Judy Norsigian and biologist Stuart Newman recently commented in a Boston Globe column,

> Because embryo cloning will compromise women's health, turn their eggs and wombs into commodities, compromise their reproductive autonomy and, with virtual certainty, lead to the production of "experimental" human beings, we are convinced that the line must be drawn here.

That is strong language. Experimental human beings, eggs and wombs turned into commodities, and compromising women's health.

Perhaps that is why this debate is not a debate, as someone suggested, on the issue of abortion. And perhaps that is why we have an interesting coalition forming of groups that are strongly opposed to abortion, groups that strongly support abortion, environmentalists, and others. The reason for the broad range of interest is that there is truly something about this issue which should concern all of us.

I would like to read a few of the articles appearing in recent months for the benefit of some of my colleagues. The first article is by Sophia Kolehmainen of the Council for Responsible Genetics, a pro-choice group chaired by Claire Nader. Claire is the sister of Ralph Nader, the Presidential candidate. She was actively involved in the Presidential campaign. This is what their group had to say about human cloning. This is the article they put forward. It is entitled "Human Cloning: Brave New Mistake."

It would be a mistake to develop and use cloning as a technique to replicate human beings. It is questionable whether and what benefits would be gained from the successful creation of a cloned human being, and whether they would justify the radical impact cloning would have on our society. Cloning is not just another reproductive technology that should be made available to those who choose to use it, but is an unnecessary and dangerous departure from evolutionary processes and social practices that have developed over millions of years. As with many other developments in biotechnology, some scientists and commentators are asking us to accept cloning of humans just because it is technically possible, but there are few good reasons to develop the technology, and many reasons not to develop it.

1. SAFETY CONCERNS

The most frequently stated argument against cloning is based on safety concerns. At this point in the process of experimenting with cloning, such concerns are important. The production of Dolly required at least 276 failed attempts. No one knows why most of these attempts failed and only one succeeded. From a technical viewpoint, cloning presents different obstacles in every species, since embryo implantation, development, and gestation differ among different species. Human cloning therefore could not become a reality without extensive human experimentation. Though 276 "failed" lambs may be acceptable losses, the ethical implications of any failed or only partially successful human experiments are unacceptable.

Some of their article I don't necessarily agree with, but I am reading through their arguments.

2. COMMODIFICATION

Cloning would encourage the commodification of humans. Though industrialized societies commodify human labor and human lives, the biological commodification involved in human cloning would be of a vastly different order. Cloning would turn procreation into a manufacturing process, where human characteristics become added options and children become objects of deliberate design. Such a process of commodification needs to be actively opposed. It produces no benefits and undermines the very basis of our established notions of human individuality and dignity.

3. DIVERSITY

Cloning would also disrespect human diversity in ethnicity and ability. Though it is, in fact, not possible to produce exact copies of animals or people, inherent in cloning is the desire to do so. The process of cloning would necessarily contribute to genetic uniformity by decreasing genetic variety. A society that supported cloning as an acceptable procreative technique would imply that human diversity is not important. Especially in a multicultural nation like the United States, where diversity and difference are at the root of our cultural existence, any procedure that would reduce our acceptance of differences would be dangerous. It is clear from the tensions that exist in our society that we should encourage processes that increase our appreciation for diversity among individuals, not working to remove differences.

Dr. Brent Blackwelder, president of Friends of the Earth, put forward a strong statement in opposition to human cloning. This is a pro-choice group which put forward a strong statement in opposition to cloning for many of the same reasons that I have put forward.

There are other groups that are putting forward clear and convincing reasons why we should not do cloning. For those reasons and many others, I ask this body to take up the bill numbered 2505 on Monday, and vote for cloture on the moratorium prohibiting human cloning for 6 months. There is ample reason for us to have a moratorium for 6 months.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia, Mr. CLELAND, is recognized.

THE RAILROAD RETIREMENT REFORM BILL, ENERGY LEGISLATION, AND ANWR

Mr. CLELAND. Mr. President, I rise today to address three issues on which we will be voting in the Senate on Monday: The railroad retirement reform bill, the comprehensive energy legislation, and the Arctic National Wildlife Refuge legislation.

First of all, I would like to express my support for the railroad retirement reform bill. As thousands of Georgians who have contacted my office in support of this legislation will state, action by the Senate on this legislation is long overdue. I was pleased to support the cloture vote that occurred yesterday to move to this legislation.

The House of Representatives passed this legislation more than once by overwhelming, bipartisan majorities, and the Senate version has 74 cosponsors, including my sponsorship. I think this bill should receive the same opportunity for a vote. Not only would current and former employees benefit from this legislation but also the widows and widowers of former employees.

This legislation is the result of a long effort by both industry and labor to reform the railroad retirement system. Not often does Congress have the opportunity to vote on a cooperative effort supported by virtually everybody affected in the industry. We have that opportunity now. We should take advantage of it. We would be remiss to ignore it and not support it.

We have heard from the small numbers of Senators who threaten this bill's ability to make it to the President's desk. These same colleagues joined me in support of a tax break package earlier this year which cost more than $1 trillion. At that time, we supported the tax legislation because of the potential economic stimulus it could provide. I say reforming the railroad retirement system will also provide such stimulus by freeing up funds that could be reinvested in the economy by the over 1 million active and retired rail workers and their families and the rail companies.

This country exploded as the railroads moved west. It was the physical incarnation of manifest destiny. Since the time these initial courageous workers linked this country, hundreds of thousands of workers have followed in their footsteps to maintain and expand their work. These workers and their families would benefit from this legislation.

I urge my colleagues to join me in support of this legislation and provide long overdue reform to the railroad retirement system.

However, this railroad retirement bill is not the appropriate vehicle to address comprehensive energy legislation. It is essential that we pass a comprehensive energy bill that, No. 1, provides consumers with affordable and reliable energy; No. 2, increases domestic energy supplies in a responsible manner; No. 3, invests in energy efficiency and renewable energy sources; and, No. 4, protects the environment and public health.

The inclusion of renewable energy sources is vital because I believe energy sources, such as wind, geothermal, solar, hydropower, and biomass, along with energy-efficient technologies, will help offset fuel imports, create numerous employment opportunities, and actually enhance export markets.

Finally, I would like to address my particular concerns about opening up the Arctic National Wildlife Refuge to oil drilling.

Earlier this year, my colleagues who supported ANWR drilling argued that U.S. gas prices were out of control and therefore ANWR needed to be drilled immediately. Since then, gas prices have fallen dramatically, despite the war in Afghanistan. In fact, over the Thanksgiving holiday, I returned to Georgia and I routinely saw gas prices in Georgia substantially below $1 a gallon. As a matter of fact, I did see some prices at 76 cents a gallon. Those prices have not been seen at the pumps in more than a year.

Since September 11, the price per barrel of oil has dropped $12 to the current price of $18 per barrel. ANWR does not need to be drilled but rather protected so generations from now can see its beauty as we see it today.

I will support efforts to protect ANWR from drilling, and I urge my colleagues to do the same.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut, Mr. LIEBERMAN, is recognized.

DRILLING IN ANWR

Mr. LIEBERMAN. Mr. President, I come to this Chamber—and I am pleased to do so after the excellent statement by my friend and colleague from Georgia—to speak about the addition of the House energy bill to the railroad retirement bill before us. This amendment is the wrong amendment offered at the wrong time.

The House energy bill, with all due respect, is, in my opinion, an unwise proposal that was written really for a different time, as Senator CLELAND's remarks not only suggest but illustrate quite specifically. The bill proposes to open the Arctic Refuge for drilling, which is bad environmental policy and bad energy policy.

We will soon have the opportunity to give our Nation's long-term energy strategy the thoughtful consideration that it deserves and that the American people deserve. I look forward to the introduction by the majority leader, soon, of his balanced, comprehensive energy bill, and I look forward to debating it when we return after the first of the year.

We should not be attempting to pass such significant legislation dealing with so fundamental and complicated a problem as America's energy needs and systems in such a summary fashion as an amendment to a bill of this kind. We should, and I am confident will, give it the thorough, thoughtful, balanced debate after the first of the year.

We owe it to the American people to determine whether the measure before us is a responsible and responsive solution to our energy needs or simply a distraction. To determine that, we do not need to hold up pictures of baby caribou or mother polar bears, although I find those pictures not only attractive but moving. We only need to ask a very businesslike question: What do we gain and what do we lose from drilling for oil in ANWR?

I think, when we work that question back dispassionately to an answer, we see the error of the proposal to drill in the Arctic Refuge that is before the Senate today and will be voted on on Monday, procedurally at least.

I can tell you what we gain in probably less than a minute. It would take days to catalog what we lose. I am prepared, if necessary, if the occasion arises, to take days to talk about and catalog what we will lose as a nation if we drill in the Arctic Refuge.

So let me start with what I believe, in fairness, we would gain.

Even if oil companies started drilling tomorrow in the refuge—which, of course, is never going to happen that quickly—even if we mistakenly adopted this legislation, it would take at least 10 years for any crude to be delivered to refineries. The U.S. Geological Survey estimates there is, at best, a 6-month supply of economically recoverable oil—a yield that would be spread over 50 years.

What are the costs?

The visible damage, of course, would be substantial: An environmental treasure permanently lost, hundreds of species threatened, international agreements jeopardized, oil spills further endangering the Alaskan landscape, and an increase in air pollution and greenhouse gas emissions, among other costs.

The unseen damage of drilling would be just as real: A nation lulled into believing it has taken a step toward energy independence—arguably, by its supporters, a large step—when, in fact, it has done no such thing; a nation believing it is extracting oil in an environmentally sensitive way, when, in fact, no methods have been discovered that can avoid damage to this beautiful, untouched wilderness area of America; all in all, the American people misled on a host of critical issues. Finally, this plan would threaten something even more precious than what I have mentioned: that is, some of our most treasured American values, including the fundamental American value of conserving, conservation, conserving what the Good Lord has given us in natural treasures in the 50 American States.

The first claim that my colleagues make is that drilling in the Arctic is a necessary part of a balanced, long-term energy strategy. But, respectfully, calling this part of a strategic energy plan is as if to call crude oil a beverage; it is literally and figuratively hard to swallow. This ill-considered plan will do nothing to wean us from our dependence on foreign oil.

Drilling in the Alaskan national wildlife refuge is, in fact, a pipeline dream, a decision that will produce just a slight uptick in our oil production 10 years down the road and at considerable cost to our environment, our values, and our policies. It will create far fewer jobs than dozens of smarter alternatives which depend on American technology and American innovation and American industry.

The much quoted study indicating that Arctic drilling would result in 750,000 jobs has since been widely discredited. Even its authors have acknowledged that its methodology was flawed. Now the agreed-upon job creation figure is much closer to 43,000, and all of those jobs are short term, as opposed to the permanent jobs that would be created through the development of other alternative, innovative forms of energy, including conservation.

This plan also does not move us one step closer to the very valuable, critical goal of energy independence. First, it will take at least a decade to bring to market any oil that might be discovered in the refuge, making it useless in the context of the current international crisis. Incidentally, there is a conservative estimate from the Department of the Interior during the administration of former President Bush that has since been reiterated by many people, including oil industry executives, and that is the 10-year lead-in time.

Secondly, we should realize that Alaskan crude oil is not shipped east of the Rocky Mountains, meaning that none of this oil is refined into home heating oil that is used in the entire Northeast and other parts of Middle America. Further, oil supplies are not needed for the production of electricity. Nationwide, only 2 percent of electricity is generated by oil.

Finally, let's realize that increasing our dependence on oil as a source of energy is no way to wean ourselves off foreign oil in the long run. The statistics repeated frequently make it clear that we cannot drill our way into energy independence. The United States uses about 25 percent of the world's oil but possesses only 2 percent of its reserves. So the way to energy independence is clearly through conservation, through using less than 25 percent of the world's oil and for the development of new technologies that will provide genuine energy independence.

The most important step, of course, we can take is reducing oil use in the transportation sector, which is responsible for over two-thirds of the oil consumed in the United States, and it is climbing. We can do that with technological methods that are in reach. Many of them are in our grasp already in our vehicles.

Arctic Refuge oil is simply not the most secure source of energy for the Nation. Of course, I am not suggesting that those who support drilling in the refuge are in any way neglecting our Nation's energy security. None of my colleagues would say that of those of us who oppose drilling in the Arctic Refuge. We all agree that we want to achieve energy independence and greater energy security. Our difference is about the methods and means for doing so.

At the same time, we have to realize the irony of the present situation. Just as we enter an age of heightened awareness regarding potential security risks at our nuclear plants and our other energy production centers, many Members of Congress are set on pursuing an alternative that, on top of its other liabilities, happens to be less secure than many other options. They are more difficult to secure than many other options. The fact is that the 25-year-old Trans-Alaskan Pipeline itself is vulnerable to disruption. More than half of it is elevated and indefensible. It has already been bombed twice years ago and shot at more recently. And the pipeline today is beset with accelerated corrosion, erosion, and stress.

There is, of course, one other critical reason we oppose this plan, and that is the damage it will do to the Arctic Refuge itself. We should not countenance such a blatant broadside on one of the jewels of America's environment. This threat, to me, is made even more frustrating by the claim that supporters of drilling have made that the refuge can be opened up to oil exploration in an environmentally sensitive manner. The

Coastal Plain of the Arctic Refuge is known as the American Serengeti. It is inhabited by 135 species of birds, 45 species of land mammals. The plain crosses all five different echo-regions of the Arctic.

It is a very beautiful picture—until you add oil exploration. I urge my colleagues to look very carefully at the suggestion that the result of oil drilling in the refuge would just be a small blemish on the grand landscape of the refuge—a little worm hole on a nice red apple. First, there will be a series of blemishes—dozens of holes that will be connected together by roads, pipelines, and other infrastructure; spidering out from these blemishes would be an elaborate additional infrastructure of roads, pipelines, air strips, and processing plants.

The web would almost certainly include permanent facilities, such as roads, airstrips, docks, staging areas, central processing facilities, gathering centers, compressor plants, seawater injection plants, gas processing plants, power stations, guard stations, housing and maintenance facilities, utility lines, garbage disposal sites, gravel pits, and more. In the end, it would make a terrible change in this refuge.

Mr. President, the House bill, as you know, limited development in the refuge to 2,000 acres. But it is critically important for my colleagues to understand that that figure expressly excludes roads and pipelines and fails to define the acreage as contiguous. So the illusion of minimal impact is just that; it is an imaginary landscape painted in oil.

Quite simply, we are forced to make a choice between this magnificent piece of America and its preservation for all the generations that will follow us as Americans and the development of this refuge for oil. I have made mine, and I believe the American people support it. Why? Because conserving our great open spaces is fundamentally an affirmation of our core values.

Conservation is not a Democratic or Republican value; it is a quintessential American value. The ethic of conservation tells us that it is not only sentimentally difficult to part with beautiful wilderness, it is practically unwise because in doing so we deny future generations a precious piece of our common culture.

Let's remember, in the aftermath of September 11, that most Americans have been stepping back and asking themselves what is important, what do we value. I believe that millions of our fellow Americans have, among other things, come to the conclusion, alongside family and faith, that they value America's great natural resources.

Let me recall, finally, the words of the great President Teddy Roosevelt, who, back in 1916, seemed to understand this issue very clearly. He wrote:

> The "greatest good for the greatest number" applies to the number within womb of time, compared to which those now alive form but an insignificant fraction. Our duty to the whole, including the unborn generations, bids us to restrain an unprincipled present-day minority from wasting the heritage of these unborn generations. The movement for the conservation of wildlife and the larger movement for the conservation of all our natural resources are essentially democratic in spirit, purpose, and method.

I could not say it more eloquently or more directly than the great TR.

I thank my colleagues. I hope they will vote this amendment down and we will return to a full and wholesome debate of our energy policies after the first of the year.

I thank the President and yield the floor.

Mr. MURKOWSKI. Mr. President, I wonder if I could enter into a colloquy with my friend from Connecticut.

The Senator from Alaska would inquire whether the Senator from Connecticut has ever been invited up to the area by the Native people of Alaska and the residents of Kaktovik who are in a position where they have 95,000 acres of their own land. They have the village of Kaktovik, and they don't even have the authority to drill for natural gas to heat their homes.

I noted in the presentation from the Senator there was no reference to the interest of the people who live in the area. And for his edification, we have pictures of those communities and those children and the hopes and aspirations of those individual Alaskans who are looking for a better way of life, looking for alternative jobs, better health standards, and better education, and it seems to me that we ought to have some concern for their livelihood.

They support opening this area. Yet all the emphasis seems to be on the environmental issues associated with ANWR. It appears in almost every presentation we have heard on the other side of this issue that the needs of the people are overlooked.

This is a picture of the town hall in Kaktovik. We have children on a snow machine and a bicycle. The point of these pictures is that there are real people living there. There is very little consideration given to their wishes or views.

These are the kids going to school. You notice that they are Eskimo children. They, too, have hopes and aspirations.

Now, if I can show you the next chart, perhaps my friend who has never been there can understand this area over here. This undeformed and deformed area consists of 1.5 million acres of ANWR. Now I know the Senator knows there are 19 million acres in ANWR. So this is the only area at risk. But as you see over here, this is the 95,000 acres that are owned by the Natives of Kaktovik, but they are precluded; they have no access.

Now, I would ask the Senator if that is a fair and equitable solution to keep any American citizen bound, if you will, by Federal restrictions that don't allow them to develop their own land.

Mr. LIEBERMAN. Mr. President, in responding to my friend and colleague from Alaska, it is my conclusion that the Native peoples of Alaska are of mixed opinion on this question of drilling for oil in the Arctic refuge. We have certainly heard testimony here in the Senate from differing points of view. I hear what the Senator said about this group of Native people. Obviously, we have heard very eloquent testimony from representatives of the Gwich'in people in the area who have made a different choice and want to preserve what they have described as part of not only the beauty of the environment but part of their spiritual heritage as a source of life in that area.

So I would say my judgment is that opinion is mixed, and my opinion is that, having made this choice, it would be a shame to have to do the damage that oil exploration would do to the refuge to find adequate and uplifting employment for the people to which the Senator from Alaska refers. There ought to be a better way.

Mr. MURKOWSKI. I would certainly agree there ought to be a better way. Perhaps the Senator is not aware of the public opinion on this issue and how it has changed rather dramatically.

This is a poll that was done by IPSOS-Reid firm, well-known, and the highlights of the poll indicate 95 percent of Americans say Federal action on energy is important, and 72 percent say passing an energy bill is a higher priority than any other action Congress might take. Seventy-three percent of Americans say Congress should make the energy bill part of President Bush's stimulus plan, and 67 percent of Americans say exploration of new energy sources in the United States, including Alaska's Arctic National Wildlife Refuge, is convincing reason to support passing an energy policy bill.

I would be happy to provide this to the Senator from Connecticut because I think it provides some reality of the interests of our State in reference to development possibilities. Connecticut is a developed State, in population and land patterns, and so forth. But if you had had an opportunity to visit Alaska you would get some idea that we are a pretty big hunk of real estate. We have 365 million acres in our State.

When you use the phrase "this huge area at risk," I think you are being a little incomplete in your reference to what Congress has already restricted in this area. The ANWR area is 19 million acres. That is the size of the State of South Carolina. If you look at the map, you will see where it is as far as its makeup in comparison with the entire State. But what we have done, what Congress has done I think is a pretty good job of conservation. Out of the 19 million acres, they have made 8½ million acres into a wilderness in perpetuity, and they left this other area untouched by Congress when they set aside the coastal plain specifically for determination back in 1980 because of the prospects for major oil and gas discoveries. Now the footprint here, as you indicate in your statement, under the current bill, H.R. 4, is 2,000 acres. That is not very much. But when you indicate "all this development", this is written obviously by some of the environmental groups, and they are very much opposed to this because we have an infrastructure already built, 800 miles of pipeline.

If the Senator from Connecticut had been here and debated the issue of whether or not to open up Prudhoe Bay, we would be dealing with exactly the same issues, only some that are more complex, because the concern was: What happens when you build an 800-mile pipeline across the breadth of Alaska? Are the animals going to cross under it, over it, or will there be a fence? Will it be a hot pipeline? In permafrost? Will it melt, and so forth?

This pipeline is owned by the three major oil companies in the country: Exxon, British Petroleum, and Phillips Petroleum. It is in their best interest to keep it up. So these allegations that somehow this is unsafe—they continually maintain it. As you know, in any industrial activity, there is a certain amount of wear and tear, and so forth. But it is one of the construction wonders of the world. It is already in. So this infrastructure you are generalizing is not going to occur.

You have the airport here in Kaktovik. You have the residents there, but the technology is different currently because we use ice roads. We don't use permanent roads. That is the technology that is developed. This picture shows the kind of ice road that we do in Alaska. We do it all in the wintertime. As consequence, there is no gravel. Most of the pipeline construction that will take place will be on the surface. But if you look at the compatibility of what happens with the pipeline, it is very friendly to some of the wildlife.

I think the Senator from Connecticut perhaps has seen this. This is a picture of Prudhoe Bay, and these are not stuffed animals. They are real. Here is another one relative to what the bears are doing to the pipeline. It beats walking in the snow.

So a lot of these generalizations are exaggerated. What is not exaggerated is there is no sensitivity to the residents of the area. To suggest somehow the Gwich'ins, who are a population based mostly in Canada, are opposed entirely to oil and gas exploration is a bit extreme. Three-quarters of the Gwich'ins live in Canada, and the Gwich'ins in Canada have developed a corporation and are now drilling on Gwich'in land in Canada, and the Gwich'ins in Alaska for the most part are funded by the Sierra Club in their efforts to terminate this. I have copies of the leases they signed. The Native village of Ekwok—which is adjacent to the route of the Porcupine caribou—they have sold their own leases for oil and gas exploration in Alaska. They are looking for jobs as well. There is more to this than meets the eye.

I wonder if the Senator is aware that the Gwich'ins have leased their land previously in Alaska, and they leased it specifically for oil development back in, I think it was 1984?

Mr. LIEBERMAN. Mr. President, I had not heard that, of course, but I am glad to pursue the question. What I have heard is the very fervent and, I found, compelling testimony of the Gwich'in people who have come to Congress to speak to us against drilling in the refuge.

I will say a few words in response, if I may, to what the Senator from Alaska said. Alaska is a big piece of real estate. I believe those were the words used. Connecticut is a small piece of real estate. It is more developed, although the last time I looked, more than two-thirds of our State of Connecticut and the great popular sentiment in the State was to limit development, to preserve those natural spaces. For the same reasons, there is a national movement of support for preserving the great, very unusual, natural spaces in Alaska.

I say also, from the experts I have talked to, the area involved is really unique. The coastal plain is the biological heart of the whole refuge. So it has to be given a special status.

I quote from the U.S. Fish and Wildlife Service, that the effects of disturbance and displacement of the Porcupine caribou herd are likely to occur more rapidly and at a much greater scale if oil development is allowed in the refuge. The accumulative effects of reduced access to the coastal plain habitat caused by industrial development would be a major adverse impact on the herd. Notwithstanding the pictures we have seen, that is the expert judgment given in a letter to our colleague from Illinois, Senator DURBIN.

Finally, most every poll I have seen still shows American public opinion opposed to drilling in the refuge, even at a time when concern about energy has risen. I suppose this gets to a point that sounds like the old line about economists, that if you lay them end to end across the world, they would not reach a conclusion.

I will present other polls. The most recent I have seen taken by the Mellman Group, based on a national survey of 1,000 U.S. voters that was conducted in early October, found that 57 percent of Americans did not believe drilling in the refuge would reduce our dependence on foreign oil. An independent poll taken by Gallup from October 8 to 11 showed a majority of Americans, 51 percent, opposed oil exploration in the Arctic National Wildlife Refuge.

Beyond the polling, as I said earlier, to me this is a matter of national principles, national values, national policies, what makes common sense in terms of achieving energy security and energy independence, energy efficiency, which my friend from Alaska and I, and I presume all Members of the Senate, have as common goals.

While public opinion is significant—and I am glad, according to the polls I cited, it is on our side in the debate—about whether to drill in the Arctic Refuge, ultimately I think we all have to make our judgment about what is best for our country. My judgment is that drilling in the Arctic Refuge for oil would not be best for our country.

I apologize to my friend from Alaska that I have a previous commitment and I have to leave. I have a feeling we will return to this debate again after the first of the year and probably at length. I have great respect for the Senator from Alaska, so I look forward to that debate. Hopefully the result will be more knowledge and perhaps even a bit of wisdom.

Mr. MURKOWSKI. I appreciate the comments. I can assure the Senator from Connecticut that the Senator from Alaska intends to bring this matter up to a vote, as does my Senate colleague, Senator STEVENS.

The frustrating thing is we are always put in a position of having to identify with detail and rationale the reasons we believe the 1002 Area could be opened safely. Of course, we come from the State and we know something about the State and the factual information. What we have attempted to do over the years is to encourage Members to come and see for themselves so they can make a fair evaluation, because the action taken by the mass will determine what happens in our State.

It seems to put us in a position where what is best for Alaska and what is best for our constituents based on what they tell us they want is somewhat overridden by the dictate of those outside the state. We happen to be the only State still under development. We came in with Hawaii, but obviously we are a State with huge resources. We have 56 million acres of wilderness in our State. I think somebody figured out how much oil there is in ANWR and the comparison of whether it is a viable supply. They did a calculation, and based on 10 billion barrels, it would amount to a supply for Connecticut for 126½ years.

I see my colleague has had to leave to take a phone call, but I am going to be answering throughout the day some of his generalizations because, frankly, they do not hold water, and they certainly do not hold oil. He indicated a willingness to proceed on a very studied and timely process he hopes will be reflected in the bill we understand is coming down, not from the chairman of the Energy and Natural Resources Committee but, rather, from the majority leader.

We have been working on this legislation in committee for several years. We have held extensive hearings. So it is not something that has not had a great deal of forethought, has not had a great deal of consideration. It was removed, through the dictates of the majority leader, from the committee of jurisdiction. It has been taken away from the committee, and whatever bill we will be seeing will not be representative of a bipartisan effort but strictly the result of Senator DASCHLE and I assume others on their side of the aisle. So we will be right back in the same position we were on the Finance Committee relative to the manner in which the stimulus package was submitted. It was submitted on one side, and the Republicans had no input into it.

The point is this Nation needs a policy, regardless of what poll we see, on the issue of national energy security.

There is virtually total support we should have an energy bill.

Now the merits of ANWR obviously get us into a discussion, but we believe that dramatically there has been a turnaround in public opinion. One of the reasons that turnaround has occurred is the realization of what happened off Iraq a few weeks ago where we were boarding a tanker. We had the U.S. Navy inspecting the tanker for the specific purpose of determining whether Saddam Hussein was exporting oil above and beyond that of the guidelines of the U.N. They boarded this ship. The ship sank. Two American sailors died. That might not have been necessary had our previous President not vetoed a bill in 1995 that would have allowed the opening of ANWR because that did pass this body in 1995.

These are what ifs, I know, but nevertheless, to suggest somehow we cannot do this safely is basically incorrect. That we would not get oil for 10 years is totally incorrect. We will have oil within 18 months to 2 years because we only have about 60 miles of pipeline. To say it is a 6-month supply is not accurate because that would presume no other domestic production anywhere in the U.S., and no imports of oil. Under what realistic circumstance would all other oil production be terminated in the United States as well as imports coming in? ANWR is estimated to hold between 5.6 and 16 billion barrels. If it is half that, it will be as large as Prudhoe Bay, which has supplied this Nation with 25 percent of its oil for the last 27 years. Many of the opponents who are going to speak against this have not been up there. They have not met with the Native people who are affected. Our people in Alaska, as American citizens, deserve that consideration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

THE ECONOMIC STIMULUS PACKAGE

Mr. NELSON of Florida. I thank the Senator from Alaska and I thank the Presiding Officer, the Senator from Hawaii, who is kind enough to stay a couple of moments extra before I take the chair so that I might make a couple of remarks.

I compliment and encourage the bipartisan efforts among the leadership in meeting with the President to discuss how to best proceed on an economic stimulus package.

The efforts of those negotiators, in the framework set out last night whereby the top elected leadership of both parties in this Chamber will approach their efforts with the leadership in the House of Representatives and come to an agreement with regard to a stimulus package and taxes, is clearly a step in the right direction. We do need a stimulus package. We need it as soon as possible. We need it operative by the end of this year.

A few days ago, the National Bureau of Economic Research declared the U.S. economy has been in a recession since March. Some have responded to that announcement by saying since 6 months have already transpired, and since our average recession is typically less than 11 months, there was not a need to pass an economic stimulus package. They would say our economy at this point would likely recover on its own.

I disagree with those conclusions. That is why I think we ought to move ahead with a stimulus package. That has all the more been brought to light by virtue of the announcement made by the administration yesterday that indeed the surpluses we were counting on projecting over the next several years are not going to be there. In fact, the sad news was that we were going to be in deficit financing; that is, spending more in any one year than we have had coming in tax revenue.

How quickly things have changed. Just a few months ago we were still talking about the beneficence of projected surpluses over the course of the next 10 years and how we were going to be able to take care of a lot of the spending needs, including—this was prior to September 11—the increased defense costs that clearly were a priority, and still be able to have substantial tax cuts and preserve the integrity of the Social Security trust fund surplus so it was untouched. Therefore, that surplus was going to pay off the national debt over the course of the next decade.

Now all of that has been knocked in a cocked hat because of the slowed economy, the lessened surplus projected over the next decade, and then because we enacted a huge tax cut, a tax cut that over 10 years was in excess of $2 trillion. The effect of that has led to the present economic malaise and economic projections so that now the administration is saying we will have deficit spending over the next 3 years.

It is with a heavy heart suddenly we have to face these new conditions. It is all the more important to have a stimulus package. Clearly, in my State, the State of Florida, we are feeling the effects big time. We are feeling the effects big time also because of September 11, the fear factor out there of people not wanting to get on an airplane. I have said many times from this desk—and I fly every weekend at least twice—I think it is safe to fly. However, there are still a lot of people who do not think it is safe to fly. As a result, they will fly for business reasons, but they will not fly for leisure and vacations.

There are parts of this country that are highly economically devastated. One such place is the capital city of the State of the Presiding Officer, Honolulu. Another is the largest tourist destination in the world, Orlando, FL.

Another is Miami, with its robust cruise tourism business. Another is Las Vegas. We can look at the list of cities that as part of their economy are inextricably entwined with travel and tourism. We can see the economic devastation. When the leisure travelers are not flying, they are not getting into the hotels; when they are not getting into the hotels, they are not going into the restaurants, they are not going into the gift shops, and they are not going to the tourist attractions. As a result, we see the economic devastation.

As wartime conditions continue, we should expect to see a continued loss of tax revenue due to the precipitous drop in travel and tourism and the overall economic activity. While every State has been affected to some degree, and travel and tourism is one of the top 3 industries in 30 of our 50 States, clearly States such as the State of the Presiding Officer and my State of Florida have been uniquely impacted due to the significant presence of the tourism and aviation industries in those States.

For example, since the end of September, the average daily unemployment claims for Florida have risen by 55 percent, translating into approximately 50,000 more Floridians applying for unemployment benefits. That is mind-boggling. That is staggering.

The unemployment rate in Florida is expected to peak at 6.1 percent next summer. The latest State forecast anticipates 120,000 lost jobs by the end of June, with an additional 115,000 jobs lost in the following fiscal year. And that is only in one State, my State of Florida.

So these statistics show that we still need help, a tremendous amount of it.

As we speak today, Florida's State Legislature is meeting in the capital city of Tallahassee once again, trying to rewrite the State budget to make up for more than $1.3 billion in lost revenue, while also trying to fund rising unemployment claims and skyrocketing assistance needs of those, the least fortunate among us.

So while it is entirely possible that we have already seen the worst of our economic drops—I certainly hope that is the case—the ramifications of these losses will be felt by Florida and many other States for many months and possibly for years to come.

There is no time to waste. We must pass a stimulus package as soon as possible. The substance of that package is clearly the very sticking point where we have substantive disagreement among lawmakers, not only in the Senate but at the other end of the hall in the House of Representatives. There is significant disagreement between that body and this body. Yet there are still many areas on which we can agree: increasing unemployment benefits, helping the unemployed maintain their health insurance, helping our States ride out a recession with fewer Federal spending cuts. At the same time, we must provide assistance to our smaller and medium-sized businesses, and to those sectors that have been hardest hit in these difficult times. Those are the things we can agree on, and we ought to come together in the stimulus package and make that happen.

Once again, I applaud the continued efforts of the majority leader and the minority leader, the chairman and ranking member of the Finance Committee, Senators BAUCUS and GRASSLEY, for sitting down again today to try to come up with an agreement. Once they come up with that agreement, then we can pass it. We can pass it before we adjourn. We can get it into law—the President has said he will sign it—and we can start to take care of our weakening economy.

MAJOR LEAGUE BASEBALL CONTRACTION

Mr. NELSON of Florida. Mr. President, we have another potential economic devastation in the State of Florida. Lo and behold, major league baseball has voted to eliminate two teams. The media reports suggest that four teams are on the short list of those that might be dissolved. Lo and behold, two of the four are from Florida—the Florida Marlins and the Tampa Bay Devil Rays—and the other two that are on the list of four are the Montreal Expos and the Minnesota Twins. If any of the four teams currently under consideration for elimination are dissolved—any of those four—the impact to Florida would be significant. Doing so, especially without input from the communities and the regions where the teams are based, would be a mistake.

Baseball made promises to communities in my State that were relied upon by individuals who then built businesses and other assets around the teams. Both Miami and Tampa Bay have invested millions of dollars and years of sweat equity in their teams. Hotels, restaurants, concession vendors, and other hospitality companies, already reeling from the September 11 tragedy, stand to take staggering losses if baseball fails to honor its obligations. Yet the league has completely shut them out of the process, keeping everyone in the dark. The owners got together and made these decisions. They didn't reach out to the communities and get their input.

Take, for example, eliminating the Minnesota Twins, which I suspect would have a great deal of interest to our Senators from the State of Minnesota, and the Montreal Expos, that would have considerable interest to the Senators who border that area. Let me tell you, that would be very troubling for Florida as well because both these teams have a significant minor league presence, and they have wonderful spring training facilities in the State of Florida. Their dissolution would have a direct negative impact on Lee County, which is Fort Myers and Palm Beach County, the city of West Palm Beach where the teams train and play. Many individuals and small businesses in these areas depend on the teams for their livelihood and would be irreparably harmed if the teams folded.

Florida's attorney general, my good friend, Bob Butterworth, explained the problem best when he said "the people of Florida are entitled to some straight answers about the future of major league baseball in this State." That is why I strongly support Attorney General Butterworth's decision to send investigative subpoenas to major league baseball. The people of Florida deserve to know what was said behind closed doors. I applaud the attorney general for taking action so we can get to the bottom of this problem and take whatever additional steps are necessary, including legal action to keep baseball in Florida for many years to come.

It is my understanding we are soon going to have a hearing in the Commerce Committee, on which I have the great privilege to sit as a member, on this particular subject. To be forewarned is to be forearmed. We want some answers in that committee hearing. The league has an obligation to live up to its promises to the people of Florida, and I intend to work ceaselessly to ensure they do.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, Senator CRAIG is here seeking recognition on the pending package that is before us. I yield whatever time he might need for that purpose.

The PRESIDING OFFICER. The Senator from Idaho.

ENERGY POLICY

Mr. CRAIG. Mr. President, I thank the ranking member of the Energy Committee, the Senator from Alaska, Mr. MURKOWSKI, for allowing me this time on the floor.

First, I do want to say for all of us, and for the record, a special thanks to Senator FRANK MURKOWSKI for the phenomenal leadership effort he has put into the issue of energy and the development of a national energy policy for our country. He truly has been relentless over the last good number of years, not just starting when the lights went out in California but long before that when he and I and others who serve on that important committee in the Senate began to recognize that if we did not start reinvesting in the energy infrastructure of our country, that our Nation would at some point be in trouble.

We have watched, over the last decade, our ramping up of a dependency on foreign oil sources. We began to see a rapid use of the surplus of electrical energy that was out there a decade ago, as our country, through the decade of the 1990s, continued to grow 3 and 4 and 5 percent. No one was really reinvesting in building new generating capacity on the electrical side.

As many know, starting in the mid-1990s we began to encourage the Clinton administration to come forward with a national energy policy, one that dealt with this broad range of issues. We called it the market basket of energy: the oil side, the hydrocarbon side, the coal side, the electrical-generation side, the new technology side. We began to invest in new technologies, in wind and in solar. We put money into fuel cells.

Clearly, over the last good number of years we have advanced many of those technologies, but they are not yet mainstream. They do not yet fill up the market basket of energy, and we are still dominantly reliant on electricity generated by coal, by nuclear, and by hydro. We are still dominantly dependent on hydrocarbons, gases, and, of course, the crude that comes from around the world. We know it is well over 50 percent. We are sometimes 60-percent dependent on someone somewhere else in the world being willing to put their product into the market for us to buy.

The lights began to go out in California about a year and a half ago. It was a major wake-up call to this country. California being our largest State and being the largest piece of the American economy, we knew that if California faltered and failed it could drag the rest of the economy down with it. I am from Idaho. Our State is part of a regional electrical grid that is dominated by the impact of California action. The State of Oregon, the State of Washington, the State of Montana, parts of Nevada, parts of New Mexico, and parts of Arizona were caught up in the California episode. I use the word "episode" as it relates to California.

As we watched California restructure its electrical system, there was not an economist out there nor a few reasonable observers who knew electricity who said California was doing the right thing. In fact, most said California was doing the wrong thing, and that at some time in the future California would find itself in trouble. That is exactly what happened.

My State of Idaho, being in that grid, began to get in trouble, too. We had the least cost power. We were hydro based. All of a sudden, our rates started going up.

As a little side note to the rates going up, because we are a hydro-based State and because over the last 2 years the Pacific Northwest has been in a drought, we were in even worse trouble. The energy issue in Idaho became a very strong issue as it grew across this country.

A new President was elected last November. While he talked about education and he talked about compassionate conservatism, in one of the first meetings I had with President George W. Bush, he stood aside those issues and said: The most important issue for our country at this moment in time is the development of a national energy policy and a reduction of the dependency of our country and its consumers and our economy on foreign sources of energy, and I am going to assemble a task force headed by Vice President CHENEY. We are going to make our proposals, and we are going to lead on this issue. We want you to work with us so we can develop a truly national, comprehensive policy.

That was the beginning of a strong effort on the part of the House, the Senate, and the administration to work on the issue of energy.

There are a lot of side stories and a good many side notes to this whole effort. But there is one thing that is very clear in the minds of the American people: That we are not masters of our own destiny when it comes to energy; that we are a phenomenally dependent economy when it comes to an adequate, abundant supply of energy at a reasonably low base price in that economy; when that fails or when those prices go radically up because the market price drives it, our economy is in trouble.

About a year ago, Alan Greenspan said the recession was beginning to appear as a slowing of the economy, and it was clearly evident that the spike in energy costs would take a full percentage point off the economy and would cost millions of jobs in the economy as business and industry offset their profitability or their costs based on an unbudgeted, rapid increase in the price of energy.

All of those scenarios played themselves out. All of them are extremely important to this country.

The Senate began to work its will. The House began to work its will. Lots of hearings were held. We were beginning to shape and write a bill in the Senate. FRANK MURKOWSKI, LARRY CRAIG, and a good many others had already introduced a bill earlier in the year. Chairman BINGAMAN introduced a bill earlier in the year. There were opposing points of view on energy—not dramatically different but different. That is OK. That is fair. That is the way the process works. But all of them were intended to come back to the Energy Committee in the Senate.

Out of the effort of the Murkowski-Craig bill and the Bingaman bill, we were going to produce a national energy policy bill for the Senate which we planned to do through the months of September and early October after coming back from the August recess. The House had already worked its will with H.R. 4.

The amendment we are offering today is the House product. But it was done before September, during the August recess. The House moved a little more quickly than we did and built a reasonably comprehensive bill to solve the problem I have just in a general way laid out for all of us.

We came back from the August recess. The Senate began its work in the Energy Committee. Of course, the House had already worked its will and sent a very loud message to us, to the President, and to the American people that we could produce a comprehensive bill which included some very controversial but extremely important issues in it, such as exploration in northern Alaska as it dealt with broadening and developing our oil reserves.

All of this is at hand when September 11 occurs—a dramatic and horrible time for our country. That incident and all of the preceding events have clearly reshaped the thinking of the American people about a lot of things. But very clearly it has reshaped the thinking of the American people in their attitude towards energy and energy supply.

Let me give you an example. If you polled on the issue of oil exploration in northern Alaska before the September recess, a slight majority of the American people would have said: I don't think so. I don't think we ought to do that. After September 11, a substantial majority—from 40-plus to 60-plus—said: Yes, do it. Do it environmentally safe, but do it because all of a sudden the American people were focused as never before on our weaknesses, our dependency, and our inability to stand alone and stand firm. We had been struck. We had been hit. Thousands of Americans had been killed.

Guess what. They came out of the Middle East. Guess where the largest supply of oil comes from on which we are dependent. It comes from the Middle East.

Americans said: Why should that be so? Can't we be more independent? Can't we stand alone more strongly? We shouldn't be at risk. We are at risk. We were just struck on our soil, and thousands of Americans died.

That was the thinking, and it was very clear.

Here is an example. This is a poll taken on November 14. Ninety-five percent of Americans say Federal action on energy is important; 72 percent of Americans say passing a bill is a higher priority compared to other actions Congress might take these days.

The American people have elevated the energy policy issue as high as they have elevated airport security, as high as they have elevated antiterrorism, as high as they have elevated anti-biological warfare and anti-chemical warfare. It has become a national priority.

Seventy-three percent of Americans say Congress should make energy a part of President Bush's stimulus package, and 67 percent of Americans say exploration for energy in the United States, including Alaska, should be part of a national energy policy.

Post-September 11, some pollsters said, was the most significant shift in the minds of the American people in the history of modern-day polling. I believe that is true because Americans not only were fearful of what had happened but they began to reassess their own personal security, their families' security, their communities' security, and their States' security, and said: We are not secure.

When I go to the gas pump and I fill my car, I am buying oil from Saddam Hussein. It is true—700,000 barrels of oil a day come out of Iraq, 12 million a day of your consumer dollars. Americans are paying $4 billion a year to an enemy so that he can further his weapons of mass destruction, so that he can fight a war against us and our friends in the Middle East. Yes, that is the reality of what we are doing. We did not do it consciously. We fell into it. We fell into it because this country has rapidly fallen into greater dependency on energy sources because we refuse to develop our own in a comprehensive, balanced, and environmentally sound way.

Somehow there was this prohibition attitude that said, no, do not go there, even if there is energy there. We will buy it somewhere else. The environment is so valuable you cannot go there, whether it is offshore or onshore across America. What it did for us was open our soft underbelly of dependency to foreign interests, and shame on us for doing so. The American people are now saying that, and they are saying: Congress, change your attitude.

Change your mind. We want to be stronger. We want to stand on our own two feet. We want to be able to supply a reasonable amount of energy for us, for our needs.

New technologies? Absolutely. Alternative sources? Absolutely. But we also know for the next 25 or 30 years we are going to be dominantly dependent on hydrocarbons—gas and oil—we are going to be increasingly dependent on nuclear—and we should be; it is clean, and we ought to be building more nuclear facilities; we can meet our clean air standards if we build nuclear—and we ought to be looking at clean coal technology, and we have lots of coal. All of those things need to get done. There need not be a rush to judgment. There simply needs to be a systematic, methodical approach for dealing with this crisis.

The speech I am giving today is in the backdrop of declining gas prices across America. I am sure there are a few of our critics out there saying: Oh, well, now look. They are rushing to judgment once again. There go those doomsdayers.

What they ought to be saying is, because our economy has fallen almost on its face, there is a lessening demand for energy. We are not using as much in the airlines. We are operating at 60 percent there. Americans are doing less. Industry is doing less. We all know those figures.

This week, for the first time, our agencies declared we were in recession. That is a large part of why we have seen declining usage. So if we have this moment of opportunity to bring more energy on line and lower the costs, it is, and it can be, one of the greatest stimuli to the economy of this country, if we do it and do it right.

That is the scenario. That is where we are at this moment. And throughout all of this, something strange has happened. About a month ago, the majority leader of the Senate, TOM DASCHLE, picked up the phone and called Chairman BINGAMAN and said: Shut your Energy Committee down. I don't want you to mark up a comprehensive energy bill in committee.

Why did he do that? I believe I know, but he has not told me personally. It was an unprecedented action.

In the backdrop of all of this new national attention on the need for a greater sense of strength and energy, the leader of the Senate reaches out to his committee and shuts it down—the very committee that would craft the energy bill. I will tell you why he did it. Times have changed. He was behind the curve. America said explore in Alaska as a part of a comprehensive policy, and he had an environmental political debt to pay, and he is going to pay it. The way to do that is not to allow that vote on the floor, not to allow that vote, when the American fervor of self-reliance is high and when the American fear of foreign dependency is higher. We hope that will settle out, I think he thought. And next year—next year—sometime we will do a national energy policy and maybe then we can win the vote on ANWR.

What he failed to recognize was that before the crisis in September, the House had already passed a bill with Alaska exploration in it. It has only increased, since September 11, the attitude toward that kind of exploration.

So because the majority leader of the Senate shut his committee down in an unprecedented act and denied them the right to mark up a bill in the appropriate bipartisan way, we are on the floor today, using a tactic that is procedural and appropriate but somewhat unprecedented when it comes to offering up a major national energy policy.

The bill we would have produced, the bill that Chairman BINGAMAN would have produced had he been allowed to, had he not been forced to shut down his committee, would have been a much stronger bill and a broader bill than the H.R. 4 bill that we have on the floor today, the amendment that we are going to try to attach to railroad retirement because we have been given no other alternative on this critically important issue.

I support railroad retirement. Railroad retirement will be strong if railroads can buy reasonably inexpensive diesel to fuel those big trains out there. But if diesel were to go to $3 or $4 a gallon, railroad retirement and the financial stability of the railroads would not be worth much. That is why it is appropriate to put an energy bill that will keep costs to the rails down and costs to the consumer down as it relates to their need for energy and attach it to this legislation.

But the reason we are doing it is because the majority leader of the Senate has denied us no other approach. In fact, he has denied the right of the Senate to work its will, to do what the American people want, what 95 percent of the American people say is now necessary, what 72 percent of the American people now say is a critical priority that ought to be included in President Bush's stimulus package to improve the state of the economy.

And where is our majority leader headed? In the other direction, away from what the American people are asking for, and what our President is pleading with us to get done before we leave town for Christmas.

The Senator from Texas has come to the Chamber and wants to speak. Let me mention just a few other things about a national energy policy.

One item in a comprehensive bill deals with exploration in Alaska—one item—and yet if you listen to the debate or you listen to the critics, you only hear one item: Alaska.

Let me talk about a few other things. H.R. 4, the amendment that we want to put on here, that we are going to be voting on on Monday, reauthorizes Federal energy conservation programs and directs the Federal Government to take leadership in energy conservation with new energy savings goals—produce more but use less. It means you can have a growth economy and an abundance of energy. It isn't all conservation, and we know it. It expands Federal Energy Savings Performance Contracting authority. It increases Low Income Home Energy Assistance Program—what we call LIHEAP—and Weatherization and State Energy Program authorization levels to meet needs of low-income families. Most of us want that and think it is appropriate. That is a part of it.

It expands the EPA/DOE Energy Star Program and directs the EPA and DOE to determine whether Energy Star labels should be extended to additional products. That is called causing and promoting industries out there to produce instruments and equipment and usages for consumers that consume less energy. That is called conservation.

It directs DOE to set standards for appliances that are on "standby mode" energy use. A lot of energy is being used today by the new high-tech economy. We are asking—and causing by promotion and credit in the marketplace—that industry, as it grows, that it should produce products that consume less energy.

That sounds like a pretty good idea. It reduces light truck fuel consumption by 5 billion gallons over the next 6 years, improves Federal fleet fuel economy, and expands use of hybrid vehicles. That is new technology. Those of our friends who are critics about exploration on the public and private grounds of Americans say: You can lead out of this with just the new technology. We are saying: Let's do both. Let's put the new technologies on line. While the old technologies are being replaced, let the marketplace work and the infrastructure that supplies these new technologies build over time. And it will, as they become viable.

About a year ago I went to Dearborn, MI. I drove a new Ford fuel cell electric car. It was a beautiful car. I had it out on the racetrack, roaring around the track with an engineer. He said: Feel the thrust. He didn't say: Step on the gas, he said: Step on the pedal. There was no gas in that car. It was a hydrogen fuel cell car. I kind of slipped on one corner because it was raining. He said: You better be careful; this car costs $6 million. I had never driven a $6 million car. His point was it was a prototype. It is very expensive. As it comes on line in the market and the market expands, the price will go down dramatically.

In order to build an assembly line to produce a hydrogen fuel cell car, it would compete in the market with other cars, but then where would you fuel it? You have to build fueling stations around the country. The gas station that we drive into today is a product of 70 years of building up an industry to supply an American need. Not overnight do we replace that with a new industry that could fuel a hydrogen fuel cell car.

That is my point about working to bring new technologies on line while building the resource of the current technology and the current energy.

I could go on through the long list of items that are in H.R. 4. The point is simple. While the public's attention will be directed toward a single item in a major comprehensive bill, called exploration in northern Alaska, what the rest of the world needs to hear is that there is a lot more to talk about and a lot more to get done.

Let me close by saying: TOM DASCHLE, 95 percent of the American people are asking you to help us produce a national energy policy. The President and the Republican Senate and 73 percent of the American people are saying: Mr. DASCHLE, allow it to be a part of the economic stimulus package. It is that important. Senator DASCHLE: Why don't you lead us and help us get there instead of blocking us and trying to stop us from getting there?

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, let me identify myself with the excellent remarks of our colleague who just spoke. We are going to have an opportunity on Monday to determine whether or not we want to debate energy policy in America and whether we want to deal with the problem of human cloning. That will come on the cloture vote. If cloture is invoked on the railroad retirement bill, those two issues will be sheared off and we won't get an opportunity to vote on them. If cloture is not invoked, we would get an opportunity to vote yes or no on them, and then they would go forward as part of the railroad retirement bill, if they were adopted. I identify myself with the excellent remarks that were given.

I must be getting 300 or 400 calls a day about railroad retirement. I am getting lots of letters—I am not getting the letters; they are coming, and I am going to get them some day when we get through with this anthrax business and I will be able to answer them. It frustrates me.

I would like to try, as briefly as I can today, to explain this issue on railroad retirement at least as I see it. I will try to present the facts. We are all entitled to our own opinion, but we are not all entitled to our own facts.

The first way, the best way to start this discussion is to explain how I became involved in the debate. About a year ago, I had representatives of the rail labor unions and the railroads come to see me to talk to me about a proposal they had to "reform railroad retirement."

I guess other things being the same, I am for reform. But when it became clear that they were talking about taking the sterile assets that are now sitting in a meaningless IOU in the Federal treasury and investing it in stocks and bonds and real wealth, out of which they were going to be able to pay benefits to railroad retirees, I think it is fair to say that even for an old jaded politician, I was excited about this bill. Into my office came all of these people, representing these major interests, very knowledgeable, very intelligent people who were there to lobby me on behalf of it.

I guess it took me about 5 minutes to figure out that something didn't add up. Let me offer a little information to set the predicate for that.

As everybody who has not been hiding under a rock somewhere for the last 25 years knows, Social Security is in trouble. We have gone from 42 workers per retiree, when we started paying Social Security benefits, to 3.3 workers today per retiree. We are in sheer panic—I am—about what we are going to do as baby boomers start to retire, and we move from 3.3 workers per retiree to 2 workers per retiree.

While I may be the strongest proponent on the planet of taking the Social Security surpluses we have and investing them in real wealth to bring in what Einstein called the most powerful force in the universe, the power of compound interest, I have never claimed, nor has anyone ever claimed, that for the next 25 years that even the best investment program imaginable by the mind of man could enable us to raise Social Security benefits now, to lower the retirement age for Social Security benefits now, or to cut Social Security taxes now.

I have not been here forever, but I didn't just come in on a turnip truck yesterday. I started with this knowledge that in Social Security, with 3.3 workers per retiree, we are looking at dramatic increases in taxes or dramatic reductions in benefits, and maybe both, and that an investment component could mean less in the way of reductions in benefits and less in the way of increases in taxes. But not by any imagination that I have could I have believed that we could with any kind of investment program in Social Security raise benefits today and cut taxes today knowing that in Social Security there is only 3.3 workers per retiree. And yet these people come to my office and tell me that we can have a railroad retirement investment program and that we can immediately slash taxes that are going to fund railroad retirement. We can immediately increase benefits. We can immediately change the retirement age.

We are in the process now of raising the retirement age for Social Security from 65 to 67. And in walk these people saying to me: Look, with this little investment program, we can today change the retirement age in railroad retirement from 62 to 60.

While I wouldn't have believed that for Social Security, let me give one more set of facts. Today in Social Security we have 3.3 workers per retiree. In the railroads, we have one worker per three retirees. The railroad retirement program is in nine times worse shape than the Social Security program. We have three workers per retiree in Social Security, they have one worker for three retirees in railroad retirement. And yet these people, highly paid, highly intelligent people came in to my office. They were lobbyists. I don't begin to act as if something is wrong with lobbying. The Constitution guaranteed them the right to come make this pitch to me. But with a straight face, they came in my office and said: If you will let us take $15 billion, we will invest it, we will raise benefits, we will lower the retirement age—and I am not talking about way off in the sweet by and by, I am talking about today—we will raise benefits, we will lower the retirement age to 60, we will cut taxes on the railroads that fund railroad retirement, and it will just be great.

Now, I am sorry to say, I don't know what their pitch was to the 74 Members of the Senate who signed on as cosponsors, but that was their pitch to me. I didn't believe it. And I was right. I will explain to you why I was right. I didn't believe it because it didn't make any sense. And now that we have the railroad retirement board to work out all the numbers, let me tell you what the plan is and then show it in terms of the numbers and talk about the danger it creates.

What must have happened is—and this is just theoretical, but it seems to me this is what happened—our railroads have had problems really since their formation because they got lots of assistance from the Government. They negotiated labor agreements that didn't make sense. They had massive featherbedding. When they started competing against trucks in the 1930s, they were forced to reduce their labor force. So they had this huge number of people, they have huge severance pay packages, and they have very high retirement benefits. So they got in financial troubles.

I am sure that sometime last year, or the year before, somebody with the railroad said: Look, we have over $15 billion of real assets in the railroad retirement program. You need to realize that railroad retirement has never been self-sufficient; the Federal taxpayer heavily subsidizes it, and there is no private retirement program that could run with the benefits it is paying out, with a trust fund as small as their trust fund. So it has never been self-sustaining; the Government has always been a very heavy contributor to it.

But what must have happened last year, or the year before, is somebody with the railroad said: Wouldn't it be great if we could get some of that money out of that trust fund? We would like to have it.

But they could not figure out, to save their lives, how they could raid the railroad retirement trust fund without the unions going absolutely crazy. So it looks to me as if some really smart lawyer, lobbyist, economist—somebody—came up with the idea that the railroads should go to the unions and say: Look, if you will let us take $7.5 billion out of this retirement fund, we will let you take $7.5 billion out of it, and we will leave the Federal Government on the hook for paying this benefit.

Now that is literally what happened. Today it is typical of the news coverage—and this is an article in the Roanoke Times. I don't know why my clipping service got it. They are talking about my opposition and Senator DOMENICI's and Senator NICKLES', and they say we argue that taxpayers would be left holding the bag because the railroads and the unions want to take the money out of Government funds and invest it.

It is not investing that I am against. It is pilferage that I am against. If they were investing the money, I would be saying hallelujah choruses right here before Christmas. I am for investing it. It is stealing it that I am against.

How can I say such a thing? Let me tell you how. It is true. It is just that simple. What I have done here is taken the data from the railroad retirement board—and I am not a member; this is not my data; these are the facts. According to this line right here on the chart, over the next 25 years the trust fund balance of railroad retirement would look like this under the current system. They are closing in on $25 billion now, and that would rise over the next 25 years from about $20 billion to about $35 billion—still a very modest trust fund for a retirement program the size of railroad retirement. But we rejoice in it.

Now if you listen to the proponents of this bill, they say: Look, all we want to do is take this money and invest it. They assume—and I grant them the assumption because I believe it is true that over the long term they can get 8-percent return on investment. Currently, they are not getting it on government bonds; it is an IOU from the Government itself. It is not really an investment. Investing it would be a good thing. I am for it. Wouldn't you believe that if you were getting no return now, and you had 8 percent after inflation, the value of the trust fund would go up? I mean, what investment can you imagine that—if you were getting an effective zero rate of return today and you started getting 8 percent, don't you think the investment would grow in value? Yes, it should be getting bigger. But what happens, if we adopt this bill, is the trust fund will start falling and will fall dramatically until the emergency provisions of the bill kick in and taxes are automatically raised on the railroads.

What literally happens—and I want people to listen to these figures—under this bill is that the $15 billion is not invested, it is pilfered. What happens under this bill is that over the next 17 years, despite the fact that we are getting a higher rate of return on the money, the balance actually falls by $15 billion.

How do you get a higher rate of return and end up with less money? You end up with less money because, before anything is invested, before one penny is invested, we are going to slash taxes on the railroads from 16.1 to 14.75 to 14.20 to 13.1 percent and we are going to lower the retirement age for beneficiaries, we are going to cut the time for vesting in pensions in half, and we are going to raise the value of many pensions.

So what we are literally doing is this, if you work out the numbers. If it doesn't smell like a political deal to you thus far, it will when I give you the numbers. How much of the $15 billion do you think goes to the railroads? How much do you think goes to the employees? You would think, if it were just accidentally distributed by some program, one might get a penny more than the other and it might be a little bit different. Incredibly, over the 17 years, $7.5 billion of this pension fund goes to the railroads and $7.5 billion goes to the union members.

Now what happens when suddenly you have a program where, despite the fact that you are getting interest, which you didn't before, over the next 17 years you have $15 billion less, because before you have invested a penny, you have cut taxes and you have raised benefits—what happens? The program starts having big-time problems. In fact, under their own numbers, what happens is, while the tax rate on the railroads gets down to 13.1 percent by 2004, by 2025, just to cover the portion for which they are liable under this bill, their tax rate would have to be up to 22.1 percent.

The reason this trust fund does not go right through the floor is there is a provision in the bill that says if the trust fund is, for some reason, used up, and the reason is pilferage, that while taxes are being cut on the railroads now and raising benefits now, in the future taxes on the railroads are going to have to be raised to make up the difference, and that tax is capped at 22.1 percent.

Imagine when we have been cutting taxes and increasing benefits and all of a sudden the railroad retirement program is in dire straits and the railroads have to raise the percentage of wages they put into the retirement program from 13.1 to 22.1 percent in 3 years, what is going to happen? They are going to run to Congress and say, we are going to go bankrupt. We are going to have to shut down every railroad in America. There is no way we can go from 13.1 percent of our wage bill going into this retirement program in 2019 to 22.1 percent going into it in 2025.

We have let the railroads come in and take $7.5 billion. We have given the employees $7.5 billion. The Federal Government is guaranteeing this retirement program now. We get out to 2022, the bottom is falling out of the program, and so the trust fund, which would have been up here, would have been almost $40 billion under the current system, but now it is down below $10 billion.

Remember, they invested the money. They are getting 8 percent, and the trust fund has gone from almost 40 to below 10? How could that happen? Because they are taking money out of the trust fund and giving it to the railroads and giving it to the retirees.

To fill up this gap, let me give a figure. The year is 2026, 25 years from now. Now we have passed a railroad retirement bill that is loved. The railroads are for it. The retirees are for it. The unions are for it. It is wonderful. It has this cloak that says we are going to let them invest this money, but when we look at the numbers they are not investing the money. They are spending the money.

So 2026 comes. We have a crisis in railroad retirement. The taxpayers are guaranteeing it. What kind of payroll tax would there have to be on January 1, 2026, to put the system back where it would have been had we never passed this bill that has 74 cosponsors? Listen to this. Hold your hat. We would have to have a payroll tax of 153 percent of wages on January 1, 2026, to put back the money that has been pilfered out of railroad retirement.

In other words, if a person is paid $1,500 a month—or say they are being paid $1,000 a month. I guess they do not hire anybody at $1,000 a month, but it makes the arithmetic simple. If somebody is being paid $1,000 a month, $1,530 would have to be put into railroad retirement from the first paycheck in January of 2026 to get the trust fund balance back to where it would have been before the $15 billion was stolen.

Does anybody believe that on January 1, 2026, the railroads are going to be able to pay a payroll tax of 153 percent? Nobody believes that. Nobody believes they are going to be able to pay the payroll tax of 22.1 percent, which the bill would require them to pay. Given the figures of the Railroad Retirement Board, if we pass this bill, the amount of money going into the pension fund from the railroads would go down from 16.1 to 14.75, 14.2, 13.1, and it would be at 13.1 in 2019. So we are right here. The bottom is falling out of the program.

The law starts requiring money to be put back. So within a 6-year period, this payroll tax to fund this program has jumped from 13 percent to 22 percent, and we still are nowhere near where we would be if we had never passed this bill. In fact, as I noted, we would have to have a 153-percent payroll tax to get us back to where we were if we had never done this.

That is not going to happen. Neither one of those payroll taxes are going to happen. What is going to happen is we are going to pass this bill and, boy, it is going to be loved. This is consensus. The railroads are for it. The retirees are for it. The workers are for it. It is true, if one looks at the numbers they are taking $15 billion right out of the trust fund. But it is a victimless crime, right?

In fact, as one of the railroad executives says in the paper today, "It is our money." It is their money. Well, what if we were taking money out of the Social Security trust fund and giving it away? After all, probably the guy who gets it, it would be their money.

The point is, however, the Federal Government is on the hook to pay these benefits. There is nowhere near enough in the trust fund today to pay the benefits. When we give this $15 billion away, we are putting the taxpayer on the hook and come 2019, when the bottom falls out, the railroads—I am not going to be here. I do not know how many people are going to be here when it happens, but it is going to happen if we pass this bill. When the bottom falls out, the railroads are going to run in and say, we cannot operate and pay these kinds of taxes.

Nobody is going to say, well, you should have thought about that when you participated in stealing $15 billion out of this trust fund. They do not say that.

They are going to say, well, look, we cannot let the railroads go broke. So what we are going to do is we are going to have the Federal Government pay an even larger share of the cost of this retirement program.

That is basically where we are. We have a proposal before us that claims it is reforming the program. It claims it is earning interest on the assets of the railroad retirement program. But if it is earning interest, why are the assets going down instead of going up? Because before one penny is invested, before one penny is earned, it slashes the amount of revenue going into the pension fund. It vastly increased the benefits being paid out.

The railroads are for it because they get $7.5 billion. Railway labor is for it because they get $7.5 billion. Who pays the $7.5 billion? The taxpayer.

Let me sum up by noting what we ought to do. I want to state a paradox. America loves consensus. I have to say when I go to my State, the people are sweeter to me now than they have been in a very long time. I think they are because they sense we are pulling together. We had this terrible thing happen on September 11, and I think for about 6 weeks we did have a pretty good consensus, and I was proud of it.

Bipartisanship and consensus are not always good things. Let me repeat it because it is a pretty startling statement. Bipartisanship and consensus are not always good things. In fact, the Founders understood checks and balances. When labor and business get together, it is not always in the public interest.

What we have in railroad retirement is literally a proposal to pillage $15 billion out of the railroad retirement trust fund over the next 17 years, give half of it to the railroads, half to the union, and the taxpayer ends up in a very deep hole in supporting railroad retirement.

They will claim when you hear the debate: But when it goes to hell, the taxes on the railroads are automatically raised. They are, but only up 22.1 percent. To get back in the year 2026 where we would be if we never let the money be taken out, there must be a payroll tax of 153 percent. Obviously, this is not going to happen.

What should we do? First of all, nobody wants to hear this stuff. When all the people came in to our offices, this sounded as if Christmas had come early, so 74 Members of the Senate signed onto it and gave it a big fat kiss. Now nobody wants to know the problem. Nobody wants to fix it. Here is how we can fix it and still dramatically improve the well-being of the railroad and the retirees. Take the $15 billion and invest it; don't pilfer it, invest it. Then out of the interest that we earn on the investment, once the money is earned, look at strengthening the trust fund, look at these very high taxes railroads have to pay, and look at benefits. But don't go out and spend the money first. Invest the money first, earn on the investment, and then look at using that to make the system safe and sound, first; and then to improve it, second.

I would change the program by requiring, before any taxes are cut, before any benefits are increased, we make the investment and we actually have the money in hand. I do believe there is a very real problem of what we are doing—even if you have the money, and it is clear you don't.

Here is another figure: To just fund the new benefits promised, even with the interest rate you could earn by investing the money, you would have to raise payroll taxes by 6.5 percent more. It would have to be 6.5 percent higher each year, for the next 25 years, just to pay for the lower retirement age, the quicker vesting and the more generous pensions. We are not raising payroll taxes when we increase the benefit; we are lowering them.

We need to fix this bill. We are going to have cloture on it. I hope we have a chance to debate energy, which is a crisis issue, and too human cloning, because I believe the Senate would vote overwhelmingly to at least have a 6-month pause to look at it. That would also give an opportunity to come up with a rational way to improve railroad retirement. This is almost too good to be true, because it is too good to be true. There is no investment scheme that has ever been derived that would let you do what is being done here. If you look at the trust fund, it is clear it is too good to be true because it is not true. I hope, even at this late date, even though people are signed on to this bill, that people will look at it and give us a chance to fix it.

I am going to offer a series of amendments. One of them will say don't cut taxes, don't raise benefits until you have made the investment and earned money to pay it from. Don't just draw down the trust fund, because right now we have a trust fund. Don't use it up now so we don't have it when retirees need it.

Another amendment I will offer would be to not let the money be taken out of the Social Security trust fund to pay for these new benefits. These are things that need to be addressed.

I have come today to basically explain how it is possible to be against this bill. It appears that everybody is for it, but it is a bad bill. It is a dangerous bill. It is a bill that puts the taxpayer in mortal danger. It is a bill that doesn't make any sense on its face. I don't know how anybody could have ever sold it. I am sure whoever came up with this whole deal of giving half of it to labor, half to management, and selling it to Congress as a reform based on investment—even though the trust fund goes down like a rock—I am sure whoever devised this stuff made millions. And they should have.

The problem is, this isn't some kind of game. This is real public policy. The idea that we would have a bill that will literally pillage the trust fund of railroad retirement funds is a startling thing. This may pass. It probably will pass. I would rather it not pass on my watch. I am going to vigorously oppose it. I hope my colleagues, even at this late date, will look at these things. If somebody wants to debate this, if somebody wants to come over and present their figures, if they will let me know, I will come over and debate them on this subject. However, I haven't seen anybody present the argument for the other side. I believe there is no argument for the other side.

What we are seeing is basically misinformation. The idea that we have railroads saying, "All we want to do is invest the trust fund," when billions of dollars are being taken out of the trust fund despite interest that is supposedly being earned, obviously something is very wrong.

I urge my colleagues, I urge people that follow these issues, to look at these facts, verify what I am saying and raise these issues.

People writing about this in the media, don't be confused. I am not concerned about investing $15 billion. That is God's work. I am for investing $15 billion. What is happening, when the trust fund is projected to look like this line, and it is turning out to look like this, that is not investment. That is pillaging. That is taking money out of the trust fund.

We need people to start asking: Why are we doing this when the taxpayer is liable: If they start asking, maybe we can fix it.

I appreciate the indulgence of the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. WYDEN). The Senator from Alaska.

ENERGY POLICY

Mr. MURKOWSKI. Mr. President, let me make sure we know where we are on the legislation before the Senate. The underlying bill is the railroad retirement bill. We have two amendments combined as one, one is the adoption of H.R. 4, the House energy bill; the other issue concerns a moratorium on cloning for 6 months. That is Senator BROWNBACK's legislation.

I will speak today on the energy issue because I think it is paramount. If we look at the polling information we have, it is obvious what American public opinion consists of. This survey was done in November by the IPSOS-Reid Corporation: 95 percent of Americans say any Federal action on energy is important; 72 percent of Americans say passing an energy bill is a higher priority than any other action Congress could take. Mr. President, 73 percent of Americans say Congress should make the energy bill part of President Bush's stimulus plan: Mr. President, 67 percent of Americans say expiration of new energy sources in the United States, specifically ANWR, is convincing reason to support passing an energy policy bill. That is 67 percent.

I am not particularly happy with the way the energy bill, H.R. 4, which we introduced, is here. It is the House bill, which did pass the House by a substantial margin. I am fearful the vote on Monday at 5 o'clock will be somewhat convoluted because you will be looking at several issues at the same time and Members can justify their positions on perhaps previously having voiced their support for the railroad retirement bill, or voiced their opposition against cloning, or been a proponent or opponent of the House bill.

In any event, the good news is we finally have a energy bill up for discussion because that has not been the case before, because of the majority leader's refusal to allow us time but, more significantly, the refusal to allow the committee process to work.

As we have seen ordinarily around here, the committees do their work and report out a bill and the bill comes before an entire Senate. In this particular case, the energy bill was taken away from the committee chairman and taken over basically by Senator TOM DASCHLE. In so doing, he really stripped, if you will, the responsibility of the committee of jurisdiction. But as the ranking member, all I can do is express my frustration. As a consequence, we still do not have the Democratic bill that we anticipate is coming.

I think it is fair to say there has been a deliberate attempt to discourage the taking up of the House bill before the Senate body, in the manner in which the majority leader has simply exerted his influence. So the members of the committee of jurisdiction will not have had any input in the development, at least from the Republican side, of whatever we are likely to see next week.

Some have said, what is the importance of this? Is there some reason we are rushing into this? I remind my colleagues, we are not rushing into it. This has been before us for a couple of years. We introduced the bill, Senator BREAUX and I, earlier this year. We have had hearings on it. On the other hand, we were precluded from reporting it out of committee for the simple reason that we didn't have the votes to report it out of committee.

This morning we had some discussion with the Senator from Connecticut, Mr. LIEBERMAN. He made several arguments against one portion of the bill and that is the opening of ANWR. I am going to be rebutting these over a period of time because that seems to be the only way we can focus in on the points and try to counter those points with facts rather than fiction.

What he failed to mention earlier today was the rights and interests of the Native people of Alaska who live in the 1002 area, the area of Kaktovik, and their rights to develop their own land in this area. As the chart behind me shows, you can see the ownership of the 95,000 acres of land that is private Native land. This is the 95,000 acres of Native land that is within the 1002 area. That is the area that would be leased.

In the manner in which this land was transferred over to them, while they have the land in fee simple, they have no authority to drill for gas for heating their own homes. These are American citizens entitled to the same rights as any other American citizen. They do live in the area. As a consequence, their rights are certainly thwarted opening up this area where they would have not only access to develop those lands; they would also have access for a route out if they should wish to initiate some exploration.

It is important to recognize there is a human element here. The human element is the residents, the kid who lives in Kaktovik. You have seen the picture before. Some people are under the impression that this is the Serengeti of the Arctic. We have views of the Serengeti, but that is Kaktovik, and it is a village of less than 400 people. The point is, people live there. The point is, it is a very harsh environment.

All through the debate there is no mention of the rights of these people. It is always the environmental community that says we should not support opening ANWR. They come up with no evidence, no suggestion we cannot do it safely. It is just generalities.

Throughout this debate what I am going to be doing is countering the comments that have already been made because they are the same tired arguments you have heard previously. One of the comments is it is only a 6-month supply. That is a ridiculous argument. How anybody could even repeat it here is beyond me because we all know that could only happen if there was no oil production in the United States, it all stopped, there would be no further importation coming into the United States in ships, and we would only depend on one source. That is a bogus argument. I am amazed that intelligent Members of this body would even stoop to suggesting that anyone would buy that kind of argument, a 6-month supply.

Clearly, what we are talking about is a significant discovery, somewhere between 5.6 and 16 billion barrels a day. What does that mean? That means more oil, more proven oil than in Texas. Texas is always considered to be one of the major oil producing States and it is. But from the Energy Information Administration Reports, Texas' proven reserves total 5.3 billion barrels. In 1998, the USGS estimated there was a 95-percent chance that more than 5.7 billion barrels would be found in ANWR. That is a 95-percent chance. That is more than the proven reserves in Texas today.

There is a 50-percent chance of more than 10 billion barrels, and a 5-percent chance of more than 16 billion barrels.

I am going to go into this a little bit more because it is something that constantly comes up, because it is something that was coined by the extreme environmental community that is opposed to this: a 6-month supply. Let's look at this on an average. The average would be Prudhoe Bay.

We have some pictures of Prudhoe Bay here. You can see the oilfield over there; it is the largest oilfield ever found in North America. It was supposed to produce 10 billion barrels and it is almost to its 13 billionth barrel now. That has been supplying the Nation with about 20 percent of its total crude oil for the last 27 years. So it is very significant.

Here is ANWR over here. There is Kaktovik, the village you have seen the pictures of. Then there is the makeup of just what is ANWR. I have told people time and time again, it is a big hunk of real estate. It is 19 million acres in its entirety. The entire State of Alaska is about 365 million acres.

What we have done is, we have done a little comparison for you to show you that ANWR and South Carolina are about the same size. The only difference in the ANWR 19 million acres, we set aside 8.5 million acres as a wilderness in perpetuity. Those are not going to be touched. Nor is the balance of the refuge in the darker yellow. Only the green area is proposed for lease sale. In the House bill before us, the footprint is limited to 2,000 acres. That is the little square you see up in red.

That is the proportion. You have the pipeline already in, the 800-mile pipeline. The same arguments that were used in the 1970s against the pipeline and the late 1960s are prevailing today. We built that pipeline. It is one of the construction wonders of the world. It has moved 20, 25 percent of the total crude oil produced in this country.

I know there are some who have, simply, a closed mind to this issue because they made a commitment to America's environmental community. It is our job to make a commitment to do what is right for America, and what is right for America is to reduce our dependence on imported oil: You do it one way. You do it by producing more domestically.

You can talk all you want about energy savings, the world moves on oil. You don't drive out of here on hot air. You don't fly out of here on hot air. Your ships and your trains don't move out on hot air. They move on oil. I wish we had another alternative, but we do not.

We can talk about coal. We can talk about natural gas. We can talk about nuclear and we can make our points, but the world moves on oil and we are going to continue moving on oil for some time in the future. That is why it is so important that we develop, here in the United States, an additional supply of significance.

Don't tell me about a 6-month supply because, if you do, you are doing a disservice, not only to your other colleagues but to yourself because you are kidding yourself.

If there is no oil there, believe me, it is not going to be developed. There is no consideration for the Native people's rights. I talked about that earlier this morning. That distresses me because they are my constituents. They have every right as American citizens to control their land and develop their land, and they can't even drill for gas to heat their homes.

Some say we are rushing through this too fast. We have had hearings. Here is the history. Between the 100th and 107th Congresses—this has been around for a long time—there have been over 50 bills regarding this topic, there have been 60 hearings, there have been 5 markups.

Legislation authorizing the opening of ANWR passed the Senate once already—in 1995. Legislation authorizing the opening of ANWR passed the House twice already. The conference report authorizing the opening of ANWR passed the Congress back in 1995. It passed the Senate. But, unfortunately, President Clinton vetoed it. If we had passed it in 1995, it could very well be producing oil.

Something that should lie in the minds of all Americans is that we are starting to lose lives over oil. We lost two U.S. Navy sailors because a ship sank while being inspected by the Navy. It was sailing out of Iraq filled with illegal oil that had gotten beyond the oversight of the U.N. inspectors. The sailors were on that vessel inspecting it, and the ship sank.

The point is this: Had this particular legislation not been vetoed by the President in 1995, I am sure we would have had a different situation relative to the situation we see currently in Iraq. I will talk about that a little later.

In any event, to suggest this thing be given further study, that is a cop-out. We have been at this. We have had hearings. I know the occupant of the chair has been on the committee. This has been under discussion. The obvious road block here is the refusal of the Democratic leadership to allow us to vote it out of committee and to have an up-or-down vote in the committee. They took way the authority of Chairman BINGAMAN and rested it with the majority leader. They do not have a bill yet. Maybe they will have a bill in a day or two, with little or no Republican input. This has become a very partisan issue.

It is similar to what happened on the Finance Committee with the stimulus bill. We had no input, and suddenly we went to markup and to voting the bill out and found it was so partisan that we had to start the process again.

I don't know what the majority leader's objective is in delaying. But we finally have this up before this body. Again, I am distressed with the manner in which we are forced to tie ourselves in on railroad retirement. That should be a separate bill. Nevertheless, we have to take what we can get around here. When you are a small State with a small population, you don't have a large House membership. As you know, we only have one House Member.

Some of the comments from my friend, Senator LIEBERMAN, this morning, about this being an insignificant amount of oil—let me tell you that the estimated 10 billion barrels of oil coming out of ANWR would support his State of Connecticut for 126½ years based on the current petroleum needs of about 216,000 barrels a day. From the standpoint of South Dakota, it would provide oil for South Dakota for 460 years.

We can all throw statistics around. Nevertheless, it is frustrating when there are suggestions that this is a meaningless, insignificant potential and not worth disturbing what they call the Serengeti of the Arctic.

Let me comment a little bit on some of the claims by the Senator from Connecticut that we are rushing through the ANWR process. As I indicated, nothing could be further from the truth.

A conference report authorizing the opening of ANWR passed the Congress in 1995. Reviewing the history shows that ANWR has not only been addressed by this body but it has also been addressed by various agencies of the Department of the Interior, the House of Representatives. The proposal has been before Congress for 14 years.

The time to act is long overdue. The issue has been dragged out long enough over the years. I think both sides know what is happening to us with the vulnerability associated with our increased dependence.

I have some charts that show the actual increase in consumption.

Here is the reality of U.S. petroleum consumption from January 1990 to September 1999. You can see that we are currently at a little over 20 million barrels a day in consumption. We can conserve more. If you want a high-mileage car, you can buy it. Any American can choose, through their own free will, cars that are more comfortable or cars that can handle more people.

We have some other charts I want to bring up.

This is where our imports come from—from the OPEC nations: Saudi Arabia, Iraq, Venezuela, and Nigeria. We are importing currently about 56 percent of our total crude oil. I think we have another chart that shows just where we have been. In 1997, we were importing 37 percent. We were importing 56 percent in 2001. The Department of Energy estimates that we will import 66 percent by the year 2010.

What does that do to our national security? I will get into that a little later. Clearly, it is an issue that should be addressed.

Another issue is that of jobs. I have always believed that if anybody in this body could identify a singular more important stimulus than opening up ANWR, I would certainly like to hear from them. That offer is still out there because I haven't heard from them.

To give us some idea specifically of what would be initiated by opening this Coastal Plain, the development scenario can only take place on 2,000 acres. That is what is in the bill. That is what is in H.R. 4.

Let's talk a little bit about the realization that we are likely to get somewhere between 5.6 and 16 billion barrels a day and what it is going to do for jobs. This is a jobs issue.

First of all, the area has to be leased. It is Federal land. There would be a lease proposal. The estimate of the bids that would come in by the major oil companies, such as Exxon, Mobil, Texaco, or Phillips Petroleum, and others would be somewhere in the area of $3 billion. The taxpayers would obviously see a generation of funds coming from the private sales and going into the general fund.

Let's talk about jobs.

There was a generalization made by Senator LIEBERMAN that the jobs issue is insignificant because more jobs could be created, if you will, by energy conservation. I wish that were true. I wish we could justify that with some statistical information to prove it, because we are talking about continued dependence on imported oil and how we can relieve that. We are not talking about energy as a whole.

There are various studies we have seen over the years. According to the Wharton Econometrics Forecasting Association, ANWR development should produce 735,000 jobs in all 50 States. Why? Because we do not make valves; we don't make insulation. These things are made in various States in the United States.

In a different study, the U.S. Department of Energy estimated ANWR will produce 250,000 full-time jobs in America. Interestingly enough, this study was contracted out to a Massachusetts firm. This is something of which the junior Senator from Massachusetts should take note. Let me repeat—he was here earlier; unfortunately, he is not in the Chamber now—a firm in his own State has estimated at least 250,000 jobs will be produced. I am not sure he is aware of that. And this contract was given to a Massachusetts firm.

Opponents of drilling in ANWR try to downplay these arguments and try to argue the lower numbers. But regardless of whether it is 250,000 or 735,000, either way, it would still be a step in the right direction as far as stimulus to the economy because where else can you find another issue that will employ somewhere between 250,000 and 735,000 jobs and does not cost the taxpayers one red cent. And it keeps the jobs here at home rather than sending our dollars overseas and importing the oil. Every single new job in this country is important, particularly at a time when we have a recession and a downturn.

As a consequence, I think it is important to note that those who know a lot about job creation wholeheartedly support drilling in ANWR. I am talking about the unions, such as the maritime unions, the Teamsters, the seafarers, and various others.

The North Slope oil fields have already significantly contributed more than $300 billion to the U.S. economy.

If we go through some recent announcements, let me tell you the significance of a couple hundred thousand jobs.

On November 29, it was announced 1,409 jobs may be lost. IBM announced 1,000 layoffs.

On November 28, it was announced 850 jobs may be lost. Ames Department Stores announced they will close a distribution center in Ohio, which jeopardized 450 jobs.

I could give you a list of the various announced job cuts.

Alcoa plans to lay off 6,500 employees and close plants.

Chevron announced 550 more job cuts.

Every day we have seen news clips to this effect. So we should be very concerned about stimulating the American economy and generating jobs in the private sector. And this is one of the best ways to do it.

My friend, the Senator from Oregon, is the Presiding Officer. I know the activity associated with Alaska's oilfields has traditionally been important to Oregon, particularly to the shipyards there.

It is estimated by the American Petroleum Institute that 19 new double-hull tankers will be needed if ANWR is opened. All U.S. ships will have to be built at U.S. shipyards and carry the American flag. The analysis predicts that the construction of these tankers will boost the economy of America by producing more jobs in the shipyards. They indicate that the new tankers will be needed solely because the old North Slope tankers are being phased out by 2015 because of the double-hull tanker requirements.

So more American jobs will be created because the Jones Act requires that the oil that is transported within the United States—namely, my State of Alaska down to either Washington or California; but in Portland there is a large shipyard that has accommodated these ships before—must be transported by tankers by U.S.-flagged vessels built in the United States. The analysis correctly assumes that if ANWR passes, it will include an oil export ban. So there will be a provision that this oil cannot be exported. It also assumes that the ANWR oil will be transported by tankers to refineries in Washington, California, and Hawaii. The Oregon area ordinarily does not have the refining capacity.

The American Petroleum Institute estimates this would pump $4 billion almost directly into the U.S. economy and would create 2,000 construction jobs in the U.S. shipbuilding industry and approximately 3,000 other jobs.

The API predicts this would compute to more than "90,000 job-years," by estimating that it will take almost 5,000 employees approximately 17 years to build the ships necessary to transport this oil.

They predict one ship must be built each year for 17 years in order to coincide with the schedule for retiring the existing tankers.

To me, this sounds like stimulus. It sounds like a stimulus for creating jobs in shipyards, many of which have been hurting for some time.

Another issue is the alleged opposition by Gwich'ins. Most of the Gwich'ins, we know, live in Canada. I am aware some of them live in the Arctic village areas, with a population of roughly 117 people. They fear that the caribou that they depend on for subsistence will be decimated. They fear the caribou might take a different migration drive, perhaps further from their village; that it would be harder for them to hunt the 300 to 350 they kill each year.

But, first, there is no evidence that the oil development—with the strict controls proposed to prevent disruption during the June–July calving season of the Arctic Porcupine herd, to reduce noise, and to control surface effects—will harm the herd.

I have a picture in the Chamber that shows some caribou activity in Prudhoe Bay. I will give you a comparison. Experience over the past 26 years in Prudhoe Bay, where the herd has more than tripled in size and where the caribou calves——

The PRESIDING OFFICER. The time of the Senator from Alaska in morning business has expired.

Mr. MURKOWSKI. I request as much time as I need.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Reserving the right to object, as I announced earlier today, we need to complete our business by 1:15 today because of the problem at the Dirksen Building. The majority leader wishes to give a presentation prior to that time. So if the Senator would maybe take another 10 minutes, would that be appropriate?

Mr. MURKOWSKI. We are in morning business, and the limitation of time in morning business is what?

The PRESIDING OFFICER. The limitation is 10 minutes for each Senator in morning business.

Mr. REID. I know you just barely exceeded that.

Mr. MURKOWSKI. We were talking about 15 minutes.

Mr. REID. Yes, we did 15, that is right.

I see Senator BAUCUS, who wishes to give a statement, is in the Chamber.

Mr. MURKOWSKI. I was under the impression we would have plenty of opportunity to discuss this today. Might I inquire when we are coming in Monday?

Mr. REID. We can come in as early as you would like. Two o'clock.

Mr. MURKOWSKI. How about 1 o'clock?

Mr. REID. Would you need more time on Monday than that?

Mr. MURKOWSKI. One o'clock would be agreeable because what you are telling me now is basically that I am out of time for today.

Mr. REID. Yes. Right. I would be happy to talk to the majority leader. I am sure we could work that out.

Mr. MURKOWSKI. I am a little disappointed because I think we are being kind of squeezed on time on this issue.

Mr. REID. I say to my friend from Alaska, if you want to come in earlier than 1 o'clock, I would be happy to talk to him. We are not trying to squeeze out anybody. They are closing the Dirksen Building.

Mr. MURKOWSKI. The Dirksen Building will be closed at 4 o'clock?

Mr. REID. Yes.

Mr. MURKOWSKI. Why don't we come in at noon?

Mr. REID. I will do my best. We will do our best. We have presiders, and all that. We will come in earlier than 2 o'clock, for sure.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I be allowed to speak for another 10 minutes.

Mr. BAUCUS. Reserving the right to object.

Mr. REID. I think that will be fine. I say to my friend from Alaska, we certainly are not trying to cut off anybody's right. I don't know how much time the Senator has had, but quite a bit. I understand how fervently he feels and how important this is to the State of Alaska, so we want to make sure that you have all the time you need prior to our voting at 5 o'clock on Monday.

The PRESIDING OFFICER. Is there objection to the request?

Mr. MURKOWSKI. My understanding is, they will do their best to try to see that we come in at noon. I thank the Chair and thank the majority whip.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. We have talked a little bit this morning about the "Serengeti." Let me tell you where the "Serengeti" of Alaska is. It is another area where all the lakes are, and it is hardly a "Serengeti" because the Coastal Plain is all the same.

But if you look over at the naval petroleum reserve, that is the area with all the lakes with the concentration of birds. It is not within the 1002 area. That is another misleading argument that is continually thrown out.

The other one is that it will take as long as 10 years before ANWR oil is flowing. What they forget is the realization that we already have a good deal of the infrastructure. We have the pipeline. We only need a 70-mile line from the coastal area into the pipeline. And it is suggested once the leases are put up for sale, they will have construction activity in about 18 months.

But more important is the national situation. I am going to close with a reference to that because I think it deserves more of a recognition because of the sensitivity of where we are internationally.

We are importing a little over a million barrels a day from Saddam Hussein. There is no question that there is a great deal of concern as a consequence of the relationship we have had with Saddam Hussein. We fought a war not so long ago. It is kind of interesting to reflect on some of the particulars associated with what happens when we become so dependent. We have heard Saddam Hussein in every speech saying "death to America." He also says "death to Israel," one of our greatest allies over there. Recognizing that he can generate a substantial cash flow by our continued dependence, one wonders why it is in the national interest of our country to allow ourselves to be become so dependent on that source.

I also wish to highlight an article excerpted from the Wall Street Journal of November 28, which kind of sets, unfortunately, the partisan setting this matter is in. I will read from it. It is entitled "President Daschle."

One of the more amusing Washington themes of late has been the alleged revival of the Imperial Presidency, with George W. Bush said to be wielding vast, unprecedented powers. Too bad no one seems to have let Senate Majority Leader Tom Daschle in on this secret.

Because from where we sit Mr. Daschle is the politician wielding by far the most Beltway clout, and in spectacularly partisan fashion. The South Dakotan's political strategy is obvious if cynical: He's wrapping his arms tight around a popular President on the war and foreign policy, but on the domestic front he's conducting his own guerrilla war against Mr. Bush, blocking the President's agenda at every turn. And so far he's getting away with it.

Mr. Bush has asked Congress to pass three main items before it adjourns for the year: Trade promotion authority, and energy and economic stimulus bills. Mr. Daschle has so far refused to negotiate on any of them, and on two he won't even allow votes. Instead he is moving ahead with a farm bill the White House opposes, and a railroad retirement bill that is vital to no one but the AFL–CIO.

Just yesterday Mr. Daschle announced that "I don't know that we'll have the opportunity" to call up an energy bill until next year. One might think that after September 11 U.S. energy production would be a war priority. In September alone the U.S. imported 1.2 million barrels of oil a day.

This is at a time when we were being terrorized in New York and at the Pentagon.

Furthermore, on the 1.2 million barrels of oil a day we are getting from Iraq, whom we soon may be fighting—imagine that, fighting Iraq and we are talking about not passing an energy bill—the 1.2 million barrels per month is the highest rate of imports since before Saddam Hussein invaded Kuwait.

Continuing from the article:

But Mr. Daschle is blocking a vote precisely because he knows Alaskan oil drilling has the votes to pass; earlier this autumn he pulled the bill from Senator Jeff Bingaman's Energy Committee when he saw it had the votes. So much for the new spirit of Beltway cooperation.

We're not so naive as to think that war will, or should, end partisan disagreement. But what's striking now is that Mr. Daschle is letting his liberal Old Bulls break even the agreements they've already made with the White House. Mr. Bush shook hands weeks ago on an Oval Office education deal with Teddy Kennedy, but now we hear that Mr. Kennedy wants even more spending before he'll sign on. Mr. Daschle is letting Ted have his way.

The same goes for the $686 billion annual spending limit that Democrats struck with Mr. Bush after September 11.

I will not refer to the rest of the article, but it simply says that what we are seeing here is a conscious effort by the majority not to allow us to have a clean up-or-down vote on the issue.

As we wind up today's debate, I encourage my colleagues to think a little bit about their obligation on these votes. Is it their obligation to respond to the extreme environmental community that has lobbied this so hard, that regards this as an issue to milk with all the authorities, somewhat like a cash cow, and are going to continue to use it? This bill covers reducing the demand, increasing the supply, and it enhances infrastructure and energy security.

I ask unanimous consent that the article in the Wall Street Journal of November 28 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESIDENT DASCHLE

One of the more amusing Washington themes of late has been the alleged revival of the Imperial Presidency, with George W. Bush said to be wielding vast, unprecedented powers. Too bad no one seems to have let Senate Majority Leader Tom Daschle in on this secret.

Because from where we sit Mr. Daschle is the politician wielding by far the most Beltway clout, and in spectacularly partisan fashion. The South Dakotan's political strategy is obvious if cynical: He's wrapping his arms tight around a popular President on the war and foreign policy, but on the domestic front he's conducting his own guerrilla war against Mr. Bush, blocking the President's agenda at every turn. And so far he's getting away with it.

Mr. Bush has asked Congress to pass three main items before it adjourns for the year: Trade promotion authority, and energy and economic stimulus bills. Mr. Daschle has so far refused to negotiate on any of them, and on two he won't even allow votes. Instead he is moving ahead with a farm bill (see below) the White House opposes, and a railroad retirement bill that is vital to no one but the AFL–CIO.

Just yesterday Mr. Daschle announced that "I don't know that we'll have the opportunity" to call up an energy bill until next year. One might think that after September 11 U.S. energy production would be a war priority. In September alone the U.S. imported

1.2 million barrels of oil a day from Iraq, which we soon may be fighting, the highest rate since just before Saddam Hussein invaded Kuwait in 1990.

But Mr. Daschle is blocking a vote precisely because he knows Alaskan oil drilling has the votes to pass; earlier this autumn he pulled the bill from Senator Jeff Bingaman's Energy Committee when he saw it had the votes. So much for the new spirit of Beltway cooperation.

We're not so naive as to think that war will, or should, end partisan disagreement. But what's striking now is that Mr. Daschle is letting his liberal Old Bulls break even the agreements they've already made with the White House. Mr. Bush shook hands weeks ago on an Oval Office education deal with Teddy Kennedy, but now we hear that Mr. Kennedy wants even more spending before he'll sign on. Mr. Daschle is letting Ted have his way.

The same goes for the $686 billion annual spending limit that Democrats struck with Mr. Bush after September 11. That's a 7% increase from a year earlier (since padded by a $40 billion bipartisan addition), and Democrats made a public fanfare that Mr. Bush had endorsed this for fear some Republicans might use it against them in next year's elections. But now Mr. Daschle is using the issue against Mr. Bush, refusing to even discuss an economic stimulus bill unless West Virginia Democrat Bob Byrd gets his demand for another $15 billion in domestic spending.

Mr. Byrd, a former majority leader who thinks of Mr. Daschle as his junior partner, may even attach his wish list to the Defense spending bill. That would force Mr. Bush to either veto and forfeit much needed money for defense, or sign it and swallow Mr. Byrd's megapork for Amtrak and Alaskan airport subsidies.

All of this adds to the suspicion that Mr. Daschle is only too happy to see no stimulus bill at all. He knows the party holding the White House usually gets most of the blame for a bad economy, so his Democrats can pad their Senate majority next year by blaming Republicans. This is the same strategy that former Democratic leader George Mitchell pursued in blocking a tax cut during the early 1990s and then blaming George H.W. Bush for the recession. Mr. Mitchell's consigliere at the time? Tom Daschle.

It is certainly true that Republicans have often helped Mr. Daschle's guerrilla campaign. Alaska's Ted Stevens is Bob Byrd's bosom spending buddy; he's pounded White House budget director Mitch Daniels for daring to speak the truth about his pork. And GOP leader Trent Lott contributed to the airline-security rout by letting his Members run for cover.

The issue now is whether Mr. Bush will continue to let himself get pushed around. Mr. Daschle is behaving badly because he's assumed the President won't challenge him for fear of losing bipartisan support on the war. But this makes no political sense: As long as Mr. Bush's war management is popular, Mr. Daschle isn't about to challenge him on foreign affairs.

The greater risk to Mr. Bush's popularity and success isn't from clashing with the Daschle Democrats over tax cuts or oil drilling. It's from giving the impression that on everything but the war, Tom Daschle might as well be President.

Mr. MURKOWSKI. I ask unanimous consent that a summary of the bill, which is H.R. 4, be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY—H.R. 4, THE SECURING AMERICA'S FUTURE ENERGY ACT OF 2001

H.R. 4 is the legislative portion of the president's comprehensive energy policy. It aims to secure America's energy future with a new national energy strategy that reduces energy demand, increases energy supply, and enhances our energy infrastructure and energy security.

REDUCED DEMAND

Reauthorizes federal energy conservation programs and directs the federal government to take leadership in energy conservation with new energy savings goals.

Expands Federal Energy Savings Performance Contracting authority.

Increases Low Income Home Energy Assistance Program (LIHEAP), Weatherization and State Energy Program authorization levels to meet needs of low-income Americans.

Expands the EPA/DOE Energy Star program and directs the EPA and DOE to determine whether Energy Star label should extend to additional products.

Directs DOE to set standards for appliance "standby mode" energy use.

Reduces light truck fuel consumption by 5 billion gallons over six years.

Improves Federal fleet fuel economy, expands use of hybrid vehicles.

Increases funding for DOE's energy conservation and energy efficiency R&D programs.

Expands HUD programs to promote energy efficient single and multi-family housing.

INCREASED SUPPLY

Provides for environmentally-sensitive oil and gas exploration on Arctic Coastal Plain.

Authorizes new oil and gas R&D for unconventional and ultra-deepwater production.

Royalty relief incentives for deepwater leases in the central and western gulf of Mexico.

Streamlines administration of oil and gas leases on Federal lands.

Authorizes DOE to develop accelerated Clean Coal Power Initiative.

Establishes alternative fuel vehicle and Green School Bus demonstration programs.

Reduces royalty rate for development of geothermal energy and expedites leasing.

Provides for regular assessment of renewable energy resources and impediments to use.

Streamlines licensing process for hydroelectric dams and encourages increased output.

Provides new authorization for fossil, nuclear, hydrogen, biomass, and renewable R&D.

ENHANCED INFRASTRUCTURE ENERGY SECURITY

Sets goals for reduction of U.S. dependence on foreign oil and Iraqi oil imports.

Initiates review of existing rights-of-ways and federal lands for energy potential.

Directs DOE to implement R&D and demonstrate use of distributed energy resources.

Invests in new transmission infrastructure R&D program to ensure reliable electricity.

Requires study of boutique fuel issues to minimize refinery bottlenecks, supply shortages.

Initiates study of potential for renewable transportation fuels to displace oil imports.

Offers scholarships to train the next generation of energy workers.

Prohibits pipelines from being placed on national register of historic places.

Mr. MURKOWSKI. Finally, I hope as Members reflect on their responsibility, they recognize that we are at war. This war may expand and extend itself. The continued exposure based on our dependence on imported oil and the likelihood that the flow of oil imports might be disrupted mandates that we have an energy policy and that we have it done in a timely manner. Let's recognize the obligation that we have in voting on this. Is it a vote to respond to the demands of America's environmental community, or is it a vote to do what is right for America?

We have already lost two sailors as a consequence of our dependence on oil from Iraq. I don't want to stand before this body and say I told you so, but if we don't pass an energy bill that will reduce our dependence on Iraqi oil, we are doing our country a grave injustice. It is contrary to the majority of public opinion in this country. Seventy-six percent of public say we should be taking up and passing an energy bill over any other bill. That includes the farm bill and the Railroad Retirement Act. If we ever get to the stimulus, I hope somebody would search their minds and memories to see if they can come up with a better stimulus than the proposal associated withholding up ANWR.

I am somewhat disappointed we were not able to have more time today. Hopefully, the leadership can work out coming in at noon on Monday.

I thank the Chair for its courtesy. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

GUN SHOW BACKGROUND CHECK ACT

Mr. BAUCUS. Mr. President, I rise to comment on the words spoken earlier this morning by my very good friend and colleague from Rhode Island, Senator REED. Earlier this morning, Senator REED announced his intention to bring S. 767, the Gun Show Background Check Act, to the Senate floor this year.

At the outset, I deeply respect the Senator from Rhode Island. I think he is a very fine public servant, one of the brightest and most dedicated with whom I have had the privilege to serve. I respect his concerns about guns generally and guns in America. I do not believe, as he stated, that instituting background checks at gun shows will correct the concerns he raised. The events of September 11 and the ensuing concerns about terrorist threats have led to a resurgence by some for stricter gun laws. But with all due respect, responding to terrorism by calling for background checks at gun shows is not an effective tool for making this country safer.

The hijackers of September 11 were not armed with guns. The tragic deaths of thousands in New York didn't involve a single bullet. The anthrax that arrived in the office of my next door neighbor, Majority Leader DASCHLE, had nothing to do with background checks. The acts of the terrorism on America to date have not been related to guns in any form.

I am not trying to deny the risks and dangers that we face from weapons in the hands of terrorists. But I do not believe that terrorist organizations are buying their weapons one pistol at a time from American gun shows, nor do I believe that closing the so-called gun show loophole will result in fewer guns in criminal hands.

I strongly support the actions our law officials have taken to make our country a more secure place since September 11. And I thank them for their dedication and hard work. They have worked so hard and in many cases overtime, extra hours, no vacation. It is amazing and inspiring. But while we tighten our borders and patrol our country, we must remember the balance between protecting our safety and protecting our civil rights.

Restricting our citizen's access to firearms chips away rights protected by the Constitution. Cloaked in the mantle of eliminating terrorism, bills such as "The Gun Show Background Check" restrict the second amendment and make it more difficult for law abiding citizens to purchase guns.

My State of Montana has a heritage based on hunting and enjoying the great outdoors. Gun shows are events typically held in town meeting halls on weekends. They are very well attended. They are big events. You would be astounded at all the people there going to and fro and talking and exchanging information. People come together and meet neighbors and possibly purchase a rifle to be used on a hunting trip. In addition, gun shows simply are not set up with the technology to make background checks feasible. They are temporary events, and they are not able to be connected to the NICS system for background checks. It is technically impossible.

I appreciate deeply my colleague's concerns, but I do not believe that gun show checks begin to address terrorism or gun violence. We have safeguards in place to keep guns from falling into the wrong hands and focusing on guns when talking about terrorism is missing the bigger picture.

Let's move on to getting an economic recovery bill passed to boost our economy and prove to the terrorists that their actions cannot stop America's progress. Let's get our aviation security bill implemented so our citizens can get back up in the air with complete confidence. Right now, it is the big picture on which we must focus. Gun shows aren't part of the problem, and background checks at the gun shows are not part of the solution.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORZINE). Without objection, it is so ordered.

WORLD AIDS DAY

Mr. DASCHLE. Mr. President, every December first since 1988, World AIDS Day has been a day dedicated to sending messages of compassion, hope, solidarity, and understanding.

Commemorating this day is a small but important gesture, and it is the least we can do in the face of the worst pandemic mankind has ever known. Yesterday, UNAIDS and the World Health Organization released a joint report that illustrates the enormity of the AIDS pandemic. The numbers are so staggering that they are almost incomprehensible. There are now 40 million people living with AIDS. Two point seven million of them are children. In the past year, there have been 5 million new HIV infections and 3 million AIDS deaths.

Many countries are seeing their future—embodied in their young people—ravaged by this disease. People under the age of 25 represent half of all new HIV infection cases, and there are now 10 million people between the ages of 15 and 24 living with HIV/AIDS. Every minute, five more young people are infected with HIV. As I have argued before, this is not just a humanitarian issue, it is also an economic and national security issue.

The International Labor Organization reports that by 2020, AIDS will reduce national workforces so much that countries with the highest rates of prevalence will see their GDPs drop by as much as 20 percent in the next 20 years. How can companies in these nations afford the increased costs for insurance, benefits, training, and illness in his environment?

The Food and Agriculture Organization reports that 7 million farm workers have died from AIDS-related causes since 1985, and 16 million more are expected to die in the next 20 years. How can these countries maintain—let alone increase—agricultural output under these circumstances?

The United Nations reports that in 1999, 860,000 students in sub-Saharan Africa lost their teachers to AIDS. How can countries educate their children with these losses? These numbers are a disturbing snapshot of the epidemic today. Tragically, they may only be the tip of the iceberg.

Experts tell us that the epidemic in many parts of the world is still in its early stages. Globally, most people infected are unaware they carry the virus. Many millions more know nothing about HIV and how to protect themselves against it. If we are ever to staunch the AIDS epidemic, we must continue—and increase—our efforts at prevention.

Since the 1980s, the United States has found prevention efforts such as school-based education, perinatal prevention programs, and screening the blood supply, to prove effective. As a member of the family of nations, we have to do a better job of promoting and supporting international prevention and education programs. We were able to take a positive step in the foreign operations appropriations bill, where the Senate added significant funds to invest in prevention programs around the globe.

I am hopeful the final bill will include those funds, but prevention and treatment must go hand in hand, because without treatment options, at-risk individuals have no incentive to submit to testing or to practice prevention. We have taken some positive steps in treating HIV/AIDS, but much more needs to be done. We have worked hard to invest $300 million for the U.N. Global Trust Fund on AIDS, TB, and Malaria. While it is not nearly enough for this challenge, it is a significant first step.

As that fund is developed, we have to make sure that its resources are dedicated to fighting this disease on all fronts—including treatment. While there is pressure to limit the focus of the fund to prevention alone, that would be a mistake—and it would limit our ability to develop a comprehensive agenda to confront this pandemic.

The theme designated for this year's World AIDS Day is simply: "I care. Do you?" While our words today are important, it is our action every day—on all fronts, in all nations—that are the true measure of our caring. On this day, let us recommit ourselves to fighting, and ultimately defeating, this scourge.

The PRESIDING OFFICER. The Senator from New Mexico.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 4 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I say to my two friends I have certainly no problem with the Senator from New Mexico speaking for 4 minutes, and I understand my friend from Oklahoma wants to speak for 10. When we came in this morning, we made an announcement we would try to wrap up by 1:15 p.m. today. We would have tried to do it sooner, but with the cloture petitions pending Senators had until 1 p.m. today to file their amendments. We wanted to really wrap this up. The Dirksen Building is going to be closed off. In fact, the process is beginning now. By 4 p.m., it will be wrapped up.

I have a few things to do when the two Senators complete their statements, and then we will close the Senate. We did not ask for a unanimous consent this morning, thinking something such as this might happen, but we appreciate the cooperation and look forward to the statements of the two Senators.

I ask unanimous consent that the Senator from New Mexico be recognized for 5 minutes, the Senator from Oklahoma for 12 minutes, and that I be recognized to close the Senate following those statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

STIMULATING THE ECONOMY

Mr. DOMENICI. Mr. President, first I say to the occupant of the chair, the junior Senator from New Jersey, when he came to the Senate he brought with him a rather distinguished career in investment banking, as I understand it, with a specialization in bonds. Whatever the case may be, he brought with him a tremendous expertise with reference to the American economy. Therefore, it makes me doubly proud that the idea many people suggested to me, that ends up being called a Social Security withholding tax holiday for 1 month, is supported by the occupant of the chair, because I give a lot of credit to somebody who comes to the Senate from the business world, talks with the business world, talks with labor union people and comes up with an analysis of what will, indeed, be the best economic stimulus of those that have been presented that could be adopted before Christmas and be effective, regardless of the arguments, during the next 4 to 5 months. It clearly could be in full effect.

First, those who have supported me from the standpoint of business are in pretty good company. So whatever we hear from some, that this cannot be implemented and that maybe it is not a good idea, let me introduce a letter which I received on November 30. It is a very current letter. It is from the Business Roundtable. Now, the Business Roundtable has a lot of American business members. This letter comes from the president, John Castellani—good Italian American name. We had not spoken in advance of my amendment, but this letter, so everybody will know, is an unequivocal enforcement of the holiday as being the best economic stimulus and the best news to provide confidence in the American people and that will move the economy ahead in terms of what it needs to give it a jump start in these very difficult times.

We all know we ought to do two big things. One, we ought to pay for all the military needs of our country in a very good appropriations bill. The President has told us what he needs. We need to do that. I understand it will be done next week. That is good.

The other thing we have to do is pass a stimulus package. We do not have to pass a package that has a "stimulus" label on it. We have to pass one that could be sent out to the business community, to the others who know what is happening in the American marketplace, and ask them, will this actually stimulate the economy? Then we could say "stimulus," and those who know say it will stimulate. It is not a bill to meet a commitment.

This letter ends up saying, because there are some who say it will take too long, I say to the occupant of the chair, to implement, that some express concern about the ability of companies as a practical matter to implement this on short notice. We have surveyed our companies to see how quickly the payroll reduction could be implemented. These companies, some of the Nation's largest employers, have said it would be implemented in a range of a couple of days to a maximum of 3 weeks if it is kept simple. We have some leeway as to how to implement that holiday.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE BUSINESS ROUNDTABLE,
Washington, DC, November 30, 2001.

Hon. PETE V. DOMENICI,
Ranking Member, Senate Budget Committee, U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: The Business Roundtable believes that an economic stimulus is needed, and needed now. Moreover, we believe the stimulus should focus on enhancing consumer confidence and spending; that broad-based and significant incentives are needed to spur business demand; and both should be of a size and duration to change spending behavior in the near term.

To that end, the members of The Business Roundtable believe two measures would work quickly and effectively to improve cash flow and stimulate demand and productivity. First, we recommend an immediate reduction in the payroll tax. This action, more than any other proposal, will put money into the hands of those who need it and will spend it. A payroll tax reduction diversifies the stimulus on both the demand and supply sides. It also focuses assistance on lower-income individuals. Reducing both the employee and employer portions will reduce pressure on labor costs, and give both employers and employees more cash as soon as the next payday, thus relieving financial pressures on both. Your proposal for a withholding tax "holiday" certainly meets these criteria.

We continue to believe that enhancing business demand is essential for achieving a quick recovery. Again, the business incentives should be broad-based and of such a magnitude that they change business behavior by accelerating spending that is now being deferred. We also believe that any business stimulus must deal with existing tax provisions, such as Alternative Minimum Tax, which would act to negate the impact of the stimulus.

We also understand there has been some concern expressed about the ability of companies, as a practical matter, to implement a payroll tax reduction on short notice. We have surveyed our companies to see how quickly a payroll tax reduction can be implemented. These companies, some of the nation's largest employers, have said it could be implemented in a range of a couple of days to a maximum of three weeks if it is kept simple, and we have some leeway how to implement the tax holiday.

If we can provide further information, please do not hesitate to contact me.

Sincerely,

JOHN J. CASTELLANI.

Mr. DOMENICI. I hope those talking will at least put this letter among the things they consider in terms of the reality of the impact on the American consumer, the American buyer and seller, the American worker, and the American employer. This says an awful lot about many employed people. I don't know how many million American employees are represented by this group, but it is an awful lot.

Having said that, I understand there is some concern about the Social Security recipients of our country. Nobody will disagree the best thing for the Social Security trust fund and the best thing for you, Social Security recipients of the future, is for this economy to get going sooner rather than later. If we had a little time, we could debate and show graphs about what will happen to Social Security if this American economy stays in the tank for another year or for 2 years and what will happen if it comes out in 6 months. If we can get it out quick and get it growing, every Social Security recipient of today and those planning on it in the future will know the best thing we can do is pass the stimulus package. That will start the economy. There is no harm to the Social Security trust fund.

We are already using it because we are in the red. All we are saying is, as soon as we take it out, we replenish it, day by day, hour by hour, and nothing can happen to the fund. If you want to talk about protecting it, that is all well and good, but the reality is the best way to protect it is to do it and pass this stimulus. That will help the Social Security recipients the most.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

RAILROAD RETIREMENT

Mr. NICKLES. Mr. President, I congratulate and compliment my friend and colleague, Senator DOMENICI, for his statement and also for his leadership and his innovation. He has come up with an idea to help stimulate the economy that is far superior than some of the proposals being discussed, one of which is to give $300 per individual or

$600 per family if they did not get a check last year.

Last year, we gave checks to people who paid taxes. Some people were saying, "Give money to people that did not pay taxes," notwithstanding the fact they were eligible for the earned-income tax credit, which, in many cases, was worth 3 or 4 times whatever payroll taxes they might have paid. The position of the Senator from New Mexico is far superior.

I happen to be one concerned about deficits and I am concerned about runaway spending. I contacted some individuals and said, we have agreed to 13.3 percent spending growth for next year, but many others say that is not near enough; we need to do more. So I will state a few facts.

Last year's spending—the spending we completed in September 2001, total discretionary spending, the spending we control by appropriations, that fluctuates, whatever we appropriate—was $640 billion, 9.6 percent more than the previous year, which was at $584 billion.

The President's budget for 2002, which we have just started for the fiscal year, was to grow at 6.1 percent. He agreed in a bipartisan agreement to throw in a few billion more for education, and there was an agreement with the appropriators to increase that figure to $686 billion. That calls for a growth rate of 7.1 percent. That was agreed to in October. Some of our colleagues almost insulted the President, saying they wanted it in writing. The President gave it in writing, in a letter in October, that all the appropriated accounts would be at $686 billion, a growth rate of 7.1 percent.

With the tragedy of September 11, the President agreed we had a bipartisan agreement to increase that level. Originally, it was $20 billion, and at the last day that was doubled, from $20 to $40 billion, due to requests in New York, New Jersey, and other places. There is, again, bipartisan agreement that was adopted unanimously in the Senate.

Adding the $40 billion on top of the $686 billion, it is $726 billion, an increase of 13.3 percent. That is where we are now. That is a lot. It is several times the rate of growth of inflation. But the $40 billion is extraordinary, so maybe we should not count that, but we have a lot of other things happening. We still need budgets. Senator DOMENICI, former chairman of the Budget Committee, used to hammer on fiscal discipline, and we are acting as if fiscal discipline does not matter.

A few other things have happened. We have passed an airline assistance or the airline bailout bill. The cost of that, most people believe, is $15 billion. It is not really. There was a $5 billion cash outlay and $10 billion in loan guarantees. Hopefully, the $10 billion in loan guarantees will not cost that much; it will be significant cost.

We have also passed a victim's compensation fund. I know the occupant of the care has to be familiar with this because he has constituents involved. There is a lot of liability dealing with the victim's compensation funds. We passed that as part of the airline bill. I opposed it because I didn't think we had enough time to consider how to compensate victims from the September 11 disaster. A lot of people were killed and a lot of people injured. How do we compensate them? We created a special master. The President appointed a special master. I compliment him. The special master has one of the toughest jobs anywhere. I compliment him. He is doing it pro bono. It is a big challenge. He will try to meet deadlines, in months, to come up with a fair and equitable compensation system for victims. It could cost the Government billions of dollars. No one has a clue how much that will cost. That is already the law of the land.

We don't know how much the insurance companies are going to pay. Hopefully, most of the money comes from insurance proceeds. Again, that is out there. It is a liability. And there are other items. Many that we are considering will be resolved in the next couple of weeks. One is the railroad retirement bill, with an outlay of $15 billion. We will write a check.

I am embarrassed for the House, saying this doesn't count, this check we will write does not count; we will not score it. I can't remember ever doing that, certainly not to the tune of billions of dollars. It is shameful and disgraceful, and it should not happen. I will work to see it does not happen. I predict I will be successful.

If it passes, we might as well throw away the budget. If we are going to put in language, "this doesn't count toward the budget; ignore it; don't count it or score it," then why have a budget? There is no sense whatever. The cost of that bill is $15 billion.

Also, when Senator DOMENICI was speaking, he came up with an idea for a payroll tax holiday. His idea was not written by lobbyists. The railroad retirement bill was not written by Congressmen or Senators. I cannot remember in my 21 years in the Senate ever having a bill totally written by special interest groups that cost billions of dollars that nobody even touched. Nobody had a hearing. There was no hearing in the House or in the Senate.

I have been working on pensions for a long time in my own company, and when I was in the State senate, I was on the retirement committee. My first trip to Washington, DC, was on ERISA, Employee Retirement and Income Security Act. I know a bit about pensions. Nobody is looking at it. I will look at it a lot more since we will be on that next week.

My point today is some are willing to commit another $15 billion. All of this adds to the deficit, all of this adds to the publicly held debt. Some people have suggested there is no cost involved. We are moving from government to government debt, or government IOU in a fund that does not cost us an outlay, real outlay. Now we are moving it to publicly held debt where the Federal Government will have to write a check, where taxpayers have to pay $1 billion in interest expense for the $10 billion.

That is not the only spending program we have going. We would have the stimulus package. Senator BAUCUS had a bill from the Finance Committee. There was over $2 in spending for every $1 of tax cuts. I will have this printed in the RECORD so people can see it.

There were tax cuts of $19.4 billion, but the rest of it is spending—maybe using, in some cases, the Tax Code, like supplemental rebate checks. We would give people checks even if they did not pay taxes. How can you call that a tax cut? That is a check. We are writing checks. It doesn't have anything to do with cutting taxes.

There is expansion of unemployment benefits, which I am sure we will probably agree to a significant expansion of unemployment benefits, probably a 50-percent expansion in time eligibility, going from 26 weeks to an additional 13 weeks. I expect that will be agreed upon.

Most of this is $66.8 billion, with the compensation of $19 billion; the rest of it is spending. There is over $2 in spending for every dollar in tax decrease. So I am adding that spending under the spending we have already had. If that were included, and hopefully most will not be, we have a lot of spending in that capacity.

We have the farm bill. If our colleagues have not looked at the farm bill—and I heard there may be a motion to move to the farm bill before too long—I hope they will look at it. I am from a farm State. I am embarrassed for the farm bill that came out of the Agriculture Committee. I am embarrassed for it. I was embarrassed when we had the stimulus package and I noticed there were several billion dollars for agriculture for subsidies for bison and cranberries and items that we never had in an agricultural program, and now we are looking at the farm bill and talking about subsidies in the billions of dollars. We are talking about raising the price of milk 26 cents a gallon for everybody in America.

This farm bill goes the wrong way and it spends a whole lot of money. I don't know if people are trying to harvest the Government or what, but the net result of that farm bill is people are going to make more money from the Government than they will ever make from agriculture. The sad point is 10 percent of the farmers are going to get over half the benefit. We are going to have to discuss that for a while. We are going to have to change it. The Senate is the place to change it. I don't care if we do it this year or do it next year—that is the majority leader's call—but we are going to spend a little time on that bill. It needs to be improved. It costs a lot of money and that is the essence of my comments today.

Who writes the budget? Where is the Budget Committee chairman? Where is the fiscal discipline? We are now in the red. Granted, we had bipartisan agreement to go to increases of spending to 7.1 percent. Then we all agreed, let's have another $40 billion to deal with the disaster. But there are lots of other proposals. I didn't mention Senator BYRD had another proposal for another $15 billion for homeland security. I think a lot of that can be financed out of the $20 billion. We have not even finished spending the second $20 billion of the $40 billion that is now added to the Department of Defense bill. We have not finished that. Yet some say we have to add $15 billion on top of it.

If I look at the spending package submitted by Senator BAUCUS, I am looking at spending that is close to $50 billion. Since they add Senator BYRD's package to it—or at one time it was over, it was $60 billion in spending and $19 billion in tax cuts.

Then we have the farm bill, and I see the farm bill will cost billions and billions of dollars. I think that is grossly irresponsible. I am looking at the farmers in my State. How much are they making? I have farmers in my State making millions of dollars a year from taxpayers. These are millionaires in the first place. I love them, but I don't think we should have to be writing them a check—just as I don't think we have to write major investment companies a $4,800 tax credit for every employee they employ in New York City. I want to help New York City, but what are we doing giving them almost a $5,000 tax credit? If they have 100 employees, we are going to give them a $500,000 tax credit? For what? Let's help people who need help.

I think it is running away. I think spending has gotten out of hand. I think we are going to have to draw the line. I think we are going to have to show some fiscal discipline. We have not been showing it lately.

President Bush has actually drawn the line and said: I am going to stay with this amount. He said: I will come back to Congress and work with Governor Ridge and make additional submissions when we really know exactly what we need and we will do that next year. He has the votes to support him in the Senate. I hope we do not say we will try to run over him and come up with a higher amount and defy him to veto it. He said he will veto it. We have the votes to sustain the veto so let's not waste our time. Let's act together, start acting as if we have a budget and not pass bills that say this $15 billion doesn't count. That would be the height of fiscal irresponsibility.

I urge my colleagues, let's start showing a little fiscal discipline. Let's start totaling up what we have done so far on the spending side and make sure we do not build ourselves into such a fiscal posture that the new base of spending is such we will never be able to climb back into a surplus.

I notice my friend and colleague from Nevada is here. Let me conclude with a couple of requests.

CONFIRMATIONS

I have had the pleasure of working with the Senator from Nevada for 20-some years. I think the world of him. He and I are both engaged in trying to help people get confirmed. I urge my colleague, in every way I possibly can, to help us confirm Gene Scalia. Gene Scalia, who happens to be the son of Justice Scalia, was nominated by President Bush in April to be Solicitor for the Department of Labor—Secretary Chao's Department of Labor. Secretary Chao talked to me. She needs Gene Scalia. She needs a Solicitor. That is one of the most important positions in any agency and certainly in the Department of Labor. She needs Gene Scalia. She asked me numerous times: Please, will you confirm Gene Scalia. I told her I would do everything I could.

There are two other nominees I urge my colleague to assist us with, two nominees for the court of appeals. One is Miguel Estrada, a Honduran native, Hispanic. When he came to the United States he couldn't even speak English and graduated in the top of his class at Harvard. He is an outstanding individual. We have letters of support on Miguel Estrada from everybody, prominent Democrats and others who say he will be an outstanding jurist.

One other individual is John Roberts, Jr., who is also nominated to the Circuit Court of the District of Columbia. He argued, I think, 30-some-odd cases before the Supreme Court. He is an outstanding individual. Both of these individuals were nominated by President Bush in May and they have not even had a hearing.

We have a lot of vacancies in the circuit court. The circuit courts are extremely important. These two individuals are extremely qualified. I do not know that you could find two more qualified individuals anywhere in the country than Miguel Estrada and John Roberts, Jr. So I urge my friend from Nevada and the majority leader, and Senator LEAHY, give us hearings on these two individuals. I can assure you if they have hearings they will have overwhelming votes in both the committee and the Senate. They will be confirmed overwhelmingly. I feel more than confident that will be the case.

I also urge my colleague to give us a vote. Gene Scalia is on the calendar. Give us a vote on Gene Scalia as Solicitor for the Department of Labor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, my feelings are just as strong. My affection for the Senator from Oklahoma is just as strong as he has expressed regarding me. I have not heard of John Roberts. I have heard of Miguel Estrada. From all I know about both of them, they are fine individuals. I see no reason they should not be sitting on the DC Court of Appeals. But that is the extent of my knowledge. I will do what I can to make sure there are hearings scheduled.

As I said to my friend on a number of occasions, people deserve hearings. We are going to do everything we can to live up to what Senator DASCHLE and I have said. Senator LEAHY reported nine out yesterday, including one circuit court judge. We expect to have votes on those shortly. He is going to have hearings again next week. It is my understanding—I do not know if there is going to be hearings but he said he would report out at least four or five more. So that is 13 or 14 judges we would have.

I was talked to yesterday about Sansonetti; the Judiciary Committee did report him out yesterday. There has been some controversy over that. I see no reason, now that he has been reported out, that we cannot move forward.

I don't know Mr. Scalia. I never met him. I am only speaking for myself, and certainly not Senator DASCHLE, nor the rest of the Senators. I think the situation with Mr. Scalia may be a little more difficult. A number of Members have spoken to me. No one questions his integrity or his credentials, that I know of, or that he is a competent lawyer. I think the question is whether this is the right place for him. If he were chosen to be the solicitor of any department other than the Department of Labor, I think his nomination would fly through. But because of very strong anti-labor comments he made, a number of Members on my side have come to me to express some real concerns.

Being as candid as I can with my friend, I think that may be a little more difficult but something on which we can work.

Mr. NICKLES. If the Senator will yield further, Gene Scalia was reported out of the Labor Committee on October 17. He has been on the calendar. I urge that we have a vote. There is not an anti-labor bone in his body. If anybody questions that, I urge them to talk to him. Some people are trying to hold up his nomination because he had some questions about ergonomics. The Senator from Nevada, I know, had serious questions about ergonomics. In their proposed regulations, the Clinton administration tried to almost legislate a

Federal workers compensation system without going through Congress.

Again, I think Gene Scalia is an outstanding nominee. I think the Secretary of Labor is entitled to a solicitor, and he is certainly entitled to a vote to find out where the votes are. I urge my colleagues to help us make that happen, to give him a vote and a day in the Senate, and not keep him in limbo indefinitely.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in May 1996 in Philadelphia, PA. Stephen Leo Jr., 19, and Kevin Zawojski, 17, yelled anti-gay slurs and beat a man they believed to be gay. Mr. Leo was sentenced to 18 to 36 months in jail and Mr. Zawojski was sentenced to 29 to 58 months in jail in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

RECOGNITION OF THE OUTSTANDING ACCOMPLISHMENT OF CUBA, MISSOURI

• Mr. BOND. Mr. President, I wish to make a few comments on the outstanding accomplishment of Cuba, Missouri on becoming the official Route 66 Mural City as declared by the Missouri State House of Representatives.

Cuba, Missouri is located along Interstate 44 and highway 19 near the Meramec River State Park and the Huzzah river in Crawford County. Also, located near by is the beautiful Mark Twain National Forrest offering a great deal of hunting, fishing and water recreation. Cuba is a beautiful city and has much to offer its citizens and those who visit.

Located along the historic Route 66 and established in 1857, Cuba has witnessed and been a part of many historical events. Through local artisans, Cuba, MO has taken the incitive to remind its citizens and those who visit of its storied past through three murals on local buildings. The three murals currently displayed on the buildings depict the early history of the town, and present us with a reminder of its beautiful apple orchards, the six residents who lost their lives defending this great nation during World War Two, and the original Peoples Bank building. These murals also are a reminder of the history that not only shaped Cuba, but our great state as well. Although the population of Cuba is only about 3,200 people, the city continues to grow and prosper. I commend them on taking the incitive to remember our history and educate those who visit this great city by this beautiful display of art work.

There are plans to finish ten murals along historic Route 66 by the year 2007. Cuba was the first community to take the initiative to paint these murals and now serves as the center for development for these murals, including obtaining a trademark on Route 66 Murals. Again, I congratulate them on such a wonderful project.•

GOD BLESS AMERICA

• Mr. FEINGOLD. Mr. President, the Wisconsin State Council of Vietnam Veterans of America, part of the congressionally chartered Vietnam Veterans of America, have been steadfast advocates for Wisconsin's veterans and their families. They have asked me to have printed in the RECORD the following editorial from The Badger Veteran, the newsmagazine that they produce.

The editorial follows.

MAY GOD BLESS AMERICA

The men and women of the Wisconsin State Council of Vietnam Veterans of America understand all too well the horrors of war. Until September 11th, our nation was blessed to have 136 years without a life being lost on America's mainland to war. Our sense—our collective illusion—of invulnerability was shattered forever by acts of terror in New York, Washington and Pennsylvania on the 11th of September.

Our national security must never again be treated as an afterthought. It must not be placed on hold in the name of inconvenience not compromised because it might have some limited impact on the bottom line of our country's economy.

A generation ago, we sent millions of Americans to fight a protracted war in Southeast Asia. The vast majority of Americans had the luxury of turning out that war simply by tuning off their TVs whenever they grew tired of it or found it too depressing. It is a luxury no American will ever have in our war against terrorism.

Today, America has once again been drawn into a war—one not of our making. It will be protracted. It will be very costly—in dollars and, tragically, as in any war, in more lives, including more American lives. As veterans, we understand there is nothing fair or good about any war. And we know Americans will no doubt find themselves debating the conduct of this war in the halls of Congress and in homes and byways throughout our nation. There is nothing wrong with free and open debate. It is the American way. But Americans are also an impatient people who like quick resolution of events that disrupt their lives. This war promises no quick fixes. It will take more time than we will have patience. But patience is something for which Americans must collectively and continually search our very beings as the frustrations of a protracted war begin to take their toll on our resolve. And patience will have to be found time and again if we are to prevail.

We urge the people of Wisconsin and the United States to stay the course until we cripple the world's terrorist networks. We urge President Bush and our national leaders to be mindful of the lessons of the Vietnam War, the Soviet-Afghanistan War and the Powell Doctrine with respect to committing U.S. ground troops to foreign battlefields. And we ask and expect that criticisms of this war and its policies will be directed at our government and our leadership who are responsible for the policies and never again at the men and women our government sends into harm's way on behalf of our nation.

This is also a time for remembering, for coming together. A time to heal while being vigilant. A time to remind our foes that when threatened or attacked, we will respond with a ferocity that they shall regret unleashing. As President Bush stated, we are a good, peace loving nation. Our enemies proceed at their peril whenever they infer from our nature that we will turn the other cheek when attacked.

This will also be a time for the vast majority of Americans—especially young Americans—to learn about the importance of some "old fashioned" values that have lost relevance to too many for too long. Values like duty, honor and country, with an increased appreciation for a simple, compelling fact: Despite all of America's flaws and shortcomings, we have the privilege of living in the greatest nation on earth.

On behalf of the members of Vietnam Veterans of America in Wisconsin and ourselves, we rededicate the Wisconsin State Council's commitment to our Founding Principle, "Never again will one generation of veterans abandon another." And we promise to continue our efforts to make VVA's motto, "In Service to America," an ongoing reality.

May God bless the United States of America. And may peace return to our shores and the world with dispatch.

JOHN MARGOWSKI,
President & Publisher.
MARVIN J. FREEDMAN,
Executive Director & Managing Editor.
JAMES CAREY,
Executive Editor.•

PAYING TRIBUTE TO DR. STEVEN HYMAN

• Mr. DOMENICI. Mr. President, it is with genuine regret that I learned about the planned departure of Dr. Steven Hyman as Director of the National Institute of Mental Health at the NIH. Steve is a Harvard-trained psychiatrist and neuroscientist who has impressed me with his deep understanding that mental illnesses are very real disturbances occurring in the brain, the most complex structure in the known universe. Steve used his expertise as a scientist, along with his remarkable ability to make science readily understandable to lay persons, to convey a simple but profound message to us and to the American public, that there is no scientific or medical justification for treating mental illnesses differently than any other illness.

Dr. Hyman has been at the helm of NIMH with a commitment to encouraging and supporting the basic research that will enable us to develop exciting new treatments, based on an understanding of the disease process itself. Although our current treatments get increasingly better, they are not perfect, they need to be more targeted and rational because as good as these treatments are, those with mental illness desperately need treatments that are more effective. We need to know how these medications are going to work in patients living in the real world, with real work problems because people suffering from severe mental illness often have very complex complicating factors that contribute to the mental illness.

I want to express my sincere appreciation for Steve Hyman's forceful voice of reason, explaining patiently and constantly that, while we don't understand mental illness completely, thanks to magnificent new technology and scientific knowledge, the brain is unlocking its secrets, and the future is bright. This, in turn, I believe has helped convince our colleagues, and the American public—that there must be parity for mental health now.

Steve will be missed, but he has accomplished much during his tenure at the National Institute of Mental Health; his success in bringing research on mental disorders to the forefront of public consciousness will be a strong foundation that his successor must build upon. Nancy and I wish Steve and his family great success and happiness as he begins his new duties as Provost at Harvard University.●

A TRANSITION FOR ONE OF OUR NATION'S FOREMOST MENTAL HEALTH LEADERS

● Mr. WELLSTONE. Mr. President, I rise today to recognize the extraordinary achievements of Dr. Steve Hyman as Director of the National Institute of Mental Health at the National Institutes of Health, and to acknowledge his departure as he moves forward to become Provost of his alma mater, Harvard University. As we strive to maintain the recent Senate victory passing mental health parity legislation, I am reminded again about how fortunate it was to have Steve's leadership during these critical years. His expertise and remarkable ability to convey complex scientific information to the public and to Congress have brought us so much further in the struggle to reduce stigma and to recognize as a society that mental illnesses are real and treatable. The basic scientific facts of mental illness are straightforward, but the difficulties encountered by those who want to eliminate the cruel and unjust stigma that surrounds diseases like schizophrenia, depression, bipolar disorder and others have been monumental. Mental illnesses represent a major portion of the disease burden in the United States and worldwide; depression is the leading cause of disability in the U.S. and throughout the developed world. And yet, our efforts to reduce stigma and provide fair treatment for people with mental illness are still needed. Parity for mental health treatment is a civil rights issue, and the fight for the rights of those with mental illness will not be stopped.

When Steve first came to NIMN, he immediately stated unequivocally that there is no scientific basis for treating mental disorders any differently than other illnesses with respect to insurance coverage. That was his objective and straightforward view as a distinguished neuroscientist. I have watched Steve for these last 5½ years at the helm of NIMH, and he has clearly taken the scientific study of mental illness very far. His leadership and his extraordinary talents as a scientist, communicator, and teacher have made him a major force in advancing the public's awareness of the brain and its dysfunctions. Although stigma still exists, these are very few who dare to challenge the scientific record that mental illnesses are very real disorders of the brain, often disrupting that which makes us most human, our behavior.

I am particularly pleased that Steve has been at the forefront of the efforts to include the voices of patients and families in the overall planning process at the NIMH. He has sponsored public, participatory meetings in various areas of the country, not only to bring information about the latest scientific breakthroughs, but also to seek input from people who live in diverse cultures. To his credit, Steve understood that this process was necessary so that we ensure that the NIMH addressed questions that are relevant and important to all Americans, and to include this information in planning the future of NIMH's research agenda. Steve also enthusiastically supported the effort to include public members as part of the scientific peer review panels that review grant applications. Steve believes, as I do, that the views of patients and family members are crucial because they offer a unique view of research. They ask, Steve often said, the "so what" questions that are critical to the real lives of people: Will this research help those who are suffering? Will it make a difference?

As he departs, I know that many of my colleagues join me in wishing him well and thanking him for all he has done to further scientific research and treatment of mental illness. I am confident that Steve has placed the NIMH on a course that promises to build on the remarkable achievements already achieved, one that will take full advantage of scientific opportunities and the extraordinarily challenging public health needs that we as a country are now facing. Dr. Steve Hyman will be sorely missed, but I know he will continue to be a major force for the improvement of mental health care worldwide.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:40 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3210. An act to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 717) to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and Emery-Dreifuss muscular dystrophies.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

ENROLLED BILLS SIGNED

At 10:53 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1459. An act to designate the Federal building and United States courthouse located at 550 West Fort Street in Boise, Idaho, as the "James A. McClure Federal Building and United States Courthouse."

S. 1573. An act to authorize the provision of educational and health care assistance to the women and children of Afghanistan.

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 2722. An act to implement effective measures to stop trade in conflict diamonds, and for other purposes.

H.R. 3189. An act to extend the Export Administration Act until April 20, 2002.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 3210. An act to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

S. 1748. A bill to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development including development in urban areas, through the provision of affordable insurance coverage against acts of terrorism, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 30, 2001, she had presented to the President of the United States the following enrolled bills:

S. 1459. An act to designate the Federal building and United States courthouse located at 550 West Ford Street in Boise, Idaho, as the "James A. McClure Federal Building and United States Courthouse."

S. 1573. An act to authorize the provision of educational and health care assistance to the women and children of Afghanistan.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as follows:

EC-4592. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Nutrient Criteria Technical Guidance Manual; Estuarine and Coastal Marine Waters"; to the Committee on Environment and Public Works.

EC-4718. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Estrom Helicopter Corp Model F28, F28A, and F28C, F28F, 280, 280F, and 280FX Helicopters" ((RIN2120-AA64)(2001-0552)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4719. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Time of Designation for Restricted Area R4403 Gainesville, MS" ((RIN2120-AA66)(2001-0172)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4720. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D Airspace; Titusville, FL" ((RIN2120-AA66)(2001-0173)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4721. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737 600, 700, and 800 Series Airplanes" ((RIN2120-AA64)(2001-0555)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4722. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Gulfstream Model G V Series Airplanes" ((RIN2120-AA64)(2001-0554)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4723. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Temporary Extension of Time Allowed for Certain Training and Testing; FAA-2001-10797" (RIN2120-AH51) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4724. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Aircraft Security Under General Operating and Flight Rules; FAA-2001-10738; SFAR 91" (RIN2120-AH49) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4725. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 135 and EMB 145 Series Airplanes" ((RIN2120-AA64)(2001-0524)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4726. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce Corporation Model AE 3007A and AE 3007C Turbofan Engines" ((RIN2120-AA64)(2001-0525)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4727. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce Corporation AE2100 Turboprop and AE 30017 Turboshaft Engines" ((RIN2120-AA64)(2001-0526)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4728. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D Airspace; White Plans, NY—docket No. 01-AEA-05FR" ((RIN2120-AA66)(2001-0159)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4729. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Augusta Model AB412 Helicopters" ((RIN2120-AA64)(2001-0528)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4730. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney JT9D Turbofan Engines" ((RIN2120-AA64)(2001-0527)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4731. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney Canada PT6A Series Turboprop Engines" ((RIN2120-AA64)(2001-0532)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4732. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS350B, B1, B2, B3, BA, D, D1, and AS355E, F, F1, F2, and N Helicopters" ((RIN2120-AA64)(2001-0531)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4733. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company T58 and CT 58 Series Turboshaft Engines" ((RIN2120-AA64)(2001-0530)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4734. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce plb Dart 525, 525F, 528, 528D, 529, 529D, 530, 532, 535, 542, and 552 Series Turboprop Engines" ((RIN2120-AA64)(2001-0529)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4735. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class Airspace; Farmington, NM" ((RIN2120-AA66)(2001-0160)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4736. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777-200 Series Airplanes" ((RIN2120-AA64)(2001-0523)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4737. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Coudersport, PA" ((RIN2120–AA66)(2001–0157)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4738. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes and Model A300 B4–600R, and F4–600R Series Airplanes" ((RIN2120–AA64)(2001–0533)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4739. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F28 Mark 1000, 2000, 3000, and 4000 Series Airplanes" ((RIN2120–AA64)(2001–0519)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4740. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767–300 Series Airplanes Modified by Supplemental Type Certificate SA7019NM–D" ((RIN2120–AA64)(2001–0521)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4741. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes" ((RIN2120–AA64) (2001–0520)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4742. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Change of Using Agency for Restricted Areas R 3008A, R–6B, R–3008C, and R–3008D; Grand Bay Weapons Range, GA" ((RIN2120–AA66) (2001–0158)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4743. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revocation of Class D Airspace, Fort Worth Carswell AFB, TX; confirmation of effective date" ((RIN2120–AA66) (2001–0162)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4744. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment and Revision of Restricted Areas, ID; . correction" ((RIN2120–AA66) (2001–0161)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4745. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A340–211 Series Airplanes Modified by Supplemental Type Certificate ST09092AC" ((RIN2120–AA64) (2001–0522)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4746. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Transport Airplane Fleet Fuel Tank Ignition Source Review; Flammability Reduction, and Maintenance and Inspection Requirements" (RIN2120–AG62) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4747. A communication from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Rule to List the MS Gopher Frog as Endangered" (RIN1018–AF90) received on November 27, 2001; to the Committee on Environment and Public Works.

EC–4748. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans: Pennsylvania; Post 1996 Rate-of-Progress Plan and One-Hour Ozone Attainment Demonstration for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area" (FRL7089–2) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4749. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Delaware; Post–1996 Rate-of-Progress Plans and One-Hour Ozone Attainment Demonstration for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area" (FRL7089–3) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4750. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; One-Hour Ozone Attainment Demonstration for the Baltimore Ozone Nonattainment Area" (FRL7088–9) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4751. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Reasonably Available Control Technology Requirement for Volatile Organic Compounds and Nitrogen Oxides in the Philadelphia-Wilmington-Trenton Area" (FRL7089–4) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4752. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans: Maryland; One-Hour Ozone Attainment Demonstration for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area" (FRL7089–1) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4753. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Incorporation by Reference of Approval State Hazardous Waste Management Program" (FRL7014–9) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4754. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Outer Continental Shelf Air Regulations Consistency Update for Alaska" (FRL7082–4) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4755. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality State Implementation Plans; (STP); Texas: Low Emission Diesel Fuel" (FRL7091–5) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4756. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plan; Oregon" (FRL7035–6) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4757. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities; Puerto Rico" (FRL7093–9) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4758. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Determination of Attainment for PM10 Nonattainment Areas; Montana and Colorado" (FRL7093–7) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4759. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of Partial Operating Permit Program; Allegheny County, Pennsylvania" (FRL7093–3) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4760. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Reclassification, San Joaquin Valley Nonattainment Area; Designation of East Kern County Nonattainment Area and Extension of Attainment Date; California; Ozone" (FRL7093–4) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4761. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Montana; State Implementation Plans; Correction" (FRL7093–6) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4762. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans: District of Columbia; Nitrogen Oxides Budget Trading Program" (FRL7094–7) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4763. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Final Full Approval of Operating Permit Program; Kentucky" (FRL7095–1) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4764. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ethylene Oxide Emissions Standards for Sterilization Facilities" (FRL7096–1) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4765. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards" (FRL7095–6) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4766. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use: Fuel Inlet Restrictor Exemption for Motorcycles" (FRL7095–8) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4767. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "State and Federal Operating Permits Programs: Amendments to the Compliance Certification Requirements" (FRL7096–4) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4768. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Requirement on Variability in the Composition of Additives Certified Under the Gasoline Deposit Control Program" (FRL7096–5) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4769. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Plans: Wisconsin: Ozone" (FRL7094–3) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4770. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Authorization of State Hazardous Waste Management Program" (FRL7097–1) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4771. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Plans: Indiana; Ozone" (FRL7088–5) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4772. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Illinois; Ozone" (FRL7088–8) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4773. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996 and Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or before September 20, 1994" (FRL7100–8) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4774. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restriction for Newly Identified Wastes; and CERCLA Hazardous Substances Designation and Reportable Quantities" (FRL7099–2) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4775. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Illinois; Oxides of Nitrogen Regulations" (FRL7077–8) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4776. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Indiana; Oxides of Nitrogen Regulations" (FRL7077–7) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4777. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; RACT for the Control of VOC Emissions from Iron and Steel Production Installations" (FRL7083–7) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4778. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality State Implementation Plans; (SIP); Alabama: Control of Gasoline Sulfur and Volatility" (FRL7098–6) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4779. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compound Emissions from Distilled Spirits Facilities, Aerospace Coating Operations and Kraft Pulp Mills" (FRL7085–1) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4780. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans: Alabama: Attainment Demonstration of the Birmingham One-Hour Ozone Nonattainment Area" (FRL7098–7) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4781. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Illinois NOx Regulations" (FRL7077–9) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4782. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Wisconsin" (FRL7064–4) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4783. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Reconsideration of the 610 Nonessential Products Ban" (FRL7101–1) received on November 16, 2001; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

H.R. 643: A bill to reauthorize the African Elephant Conservation Act. (Rept. No. 107–104).

H.R. 645: A bill to reauthorize the Rhinoceros and Tiger Conservation Act of 1994. (Rept. No. 107–105).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAMM (for himself, Mr. Enzi, Mr. Bennett, Mr. Bunning, and Mr. Allard):

S. 1748. A bill to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development including development in urban areas, through the provision of affordable insurance coverage against acts of terrorism, and for other purposes; read the first time.

By Mr. KENNEDY (for himself, Mr. Brownback, Mrs. Feinstein, Mr. Kyl, Mr. Leahy, Mr. Hatch, Mr. Edwards, Mr. Helms, Mr. Durbin, Mr. Thurmond, Mr. Conrad, Mr. Bond, Mrs.

CLINTON, Mr. SESSIONS, Mr. DEWINE, and Mrs. HUTCHISON):

S. 1749. A bill to enhance the border security of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. BREAUX, and Mr. SMITH of Oregon):

S. 1750. A bill to make technical corrections to the HAZMAT provisions of the USA PATRIOT Act; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAMM (for himself, Mr. ENZI, Mr. BENNETT, Mr. BUNNING, and Mr. ALLARD):

S. 1751. A bill to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development, including development in urban areas, through the provision of affordable insurance coverage against acts of terrorism, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORZINE (for himself, Ms. SNOWE, Ms. CANTWELL, Mr. DODD, Mr. LEAHY, and Mrs. MURRAY):

S. 1752. A bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other sexually transmitted diseases; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mr. CAMPBELL, and Ms. CANTWELL):

S. 1753. A bill to amend title XIX of the Social Security Act to include medical assistance furnished through an urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service under title V of the Indian Health Care Improvement Act in the 100 percent Federal medical assistance percentage applicable to the Indian Health Service; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. HATCH, Mr. REID, and Mr . BENNETT):

S. 1754. A bill to authorize appropriations for the United States Patent and Trademark Office for fiscal years 2002 through 2007, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALLEN (for himself, Mr. HELMS, Mr. CAMPBELL, Mr. WARNER, Mr. ALLARD, Mr. INOUYE, Mrs. FEINSTEIN, Mr. BIDEN, Mr. SMITH of Oregon, Mr. GRASSLEY, Mr. SESSIONS, Mr. FITZGERALD, and Mr. GRAMM):

S. Res. 185. A resolution recognizing the historical significance of the 100th anniversary of Korean immigration to the United States; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. Con. Res. 87. A concurrent resolution expressing the sense of Congress regarding the crash of American Airlines Flight 587; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 1552

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1552, a bill to provide for grants through the Small Business Administration for losses suffered by general aviation small business concerns as a result of the terrorist attacks of September 11, 2001.

S. 1566

At the request of Mr. REID, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1566, a bill to amend the Internal Revenue code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

S. 1707

At the request of Mr. JEFFORDS, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Minnesota (Mr. WELLSTONE), and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1745

At the request of Mrs. LINCOLN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S.J. RES. 13

At the request of Mr. WARNER, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S.J. Res. 13, a joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

S. RES. 109

At the request of Mr. REID, the names of the Senator from Tennessee (Mr. FRIST), the Senator from Nebraska (Mr. NELSON), and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. Res. 109, a resolution designating the second Sunday in the month of December as "National Children's Memorial Day" and the last Friday in the month of April as "Children's Memorial Flag Day."

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. BROWNBACK, Mrs. FEINSTEIN, Mr. KYL, Mr. LEAHY, Mr. HATCH, Mr. EDWARDS, Mr. HELMS, Mr. DURBIN, Mr. THURMOND, Mr. CONRAD, Mr. BOND, Mrs. CLINTON, Mr. SESSIONS, Mr. DEWINE, and Mrs. HUTCHISON):

S. 1749. A bill to enhance the border security of the United States, and for other purposes; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, I am honored to join Senators BROWNBACK, FEINSTEIN, KYL, LEAHY, HATCH, and other colleagues in introducing legislation to strengthen the security of our borders, improve our ability to screen foreign nationals, and enhance our ability to deter potential terrorists. Senator BROWNBACK and I have worked closely with Senator FEINSTEIN and Senator KYL over the last month to develop a broad and effective response to the national security challenges we face. The need is urgent to improve our intelligence and technology capabilities, strengthen training programs for border officials and foreign service officers, and improve the monitoring of foreign nationals already in the United States.

In strengthening security at our borders, we must also safeguard the unobstructed entry of the more than 31 million persons who enter the U.S. legally each year as visitors, students, and temporary workers. Many others cross our borders from Canada and Mexico to conduct daily business or visit close family members.

We also must live up to our history and heritage as a nation of immigrants. Continued immigration is part of our national well-being, our identity as a Nation, and our strength in today's world. In defending America, we are also defending the fundamental constitutional principles that have made America strong in the past and will make us even stronger in the future.

Our action must strike a careful balance between protecting civil liberties and providing the means for law enforcement to identify, apprehend and detain potential terrorists. It makes no sense to enact reforms that severely limit immigration into the United States. "Fortress America," even if it could be achieved, is an inadequate and ineffective response to the terrorist threat.

Enforcement personnel at our ports of entry are a key part of the battle against terrorism, and we must provide them with greater resources, training, and technology. These men and women have a significant role in the battle against terrorism. This legislation will ensure that they receive adequate pay, can hire necessary personnel, are well-trained to identify individuals who pose a security threat, have access to important intelligence information, and have the technologies they need to enhance border security and facilitate cross-border commerce.

The Immigration and Naturalization Service must be able to retain highly skilled immigration inspectors. Our legislation provides incentives to immigration inspectors by providing them with the same benefits as other law enforcement personnel.

Expanding the use of biometric technology is critical to securing our borders. This legislation authorizes the funding needed to bring our ports of entry into the biometric age and equip them with biometric data readers and scanners.

We must expand the use of biometric border crossing cards. The time frame previously allowed for individuals to obtain these cards was not sufficient. This legislation extends the deadline for individuals crossing the border to acquire the biometric cards.

The USA Patriot Act addressed the need for machine-readable passports, but it did not focus on the need for machine-readable visas issued by the United States. This legislation enables the Department of State to raise fees through the use of machine-readable visas and use the funds collected from these fees to improve technology at our ports of entry.

Our efforts to improve border security must also include enhanced coordination and information-sharing by the Department of State, the Immigration and Naturalization Service, and law enforcement and intelligence agencies. This legislation will require the President to submit and implement a plan to improve access to critical security information. It will create an electronic data system to give those responsible for screening visa applicants and persons entering the U.S. the tools they need to make informed decisions. It also provides for a temporary system until the President's plan is fully implemented.

We must also strengthen our ability to monitor foreign nationals in the United States. In 1996, Congress enacted legislation mandating the development of an automated entry/exit control system to record the entry of every non-citizen arriving in the U.S., and to match it with the record of departure. Although the technology is currently available for such a system, it has not been put in place because of the high costs involved. Our legislation builds on the anti-terrorism bill and provides greater direction to the INS for implementing the entry/exit system.

We must improve the ability of foreign service officers to detect and intercept potential terrorists before they arrive in the U.S. Most foreign nationals who travel here must apply for visas at American consulates overseas. Traditionally, consular officers have concentrated on interviewing applicants to determine whether they are likely to violate their visa status. Although this review is important, consular officers must also be trained specifically to screen for security threats.

Terrorist lookout committees will be established in every U.S. consular mission abroad in order to focus the attention of our consular officers on specific threats and provide essential critical national security information to those responsible for issuing visas and updating the lookout database.

This legislation will help restrict visas to foreign nationals from countries that the Department of State has determined are sponsors of terrorism. It prohibits issuing visas to individuals from countries that sponsor terrorism, unless the Secretary of State has determined that the person is not a security threat.

The current Visa Waiver Program, which allows individuals from participating countries to enter the U.S. for a limited period without visas, strengthens relations between the United States and those countries, and encourages economic growth around the world. Given it's importance, we must safeguard its continued use, while also ensuring that a country's designation as a participant in the program does not undermine U.S. law enforcement and security. This legislation will only allow a country to be designated as a visa waiver participant, or continue to be designated, if the Attorney General and Secretary of State determine that the country reports instances of passport theft to the U.S. government in a timely manner.

We must do more to improve our ability to screen individuals along our entire North American perimeter. This legislation directs the Department of State, the Department of Transportation, the Department of Justice and the INS to work with the Office of Homeland Security to screen individuals at the perimeter before they reach our continent, and to work with Canada and Mexico to coordinate these efforts.

We must require all airlines to electronically transmit passenger lists to destination airports in the United States, so that once planes have landed, law enforcement authorities can intercept passengers who are on federal lookout lists. United States airlines already do this, but some foreign airlines do not. Our legislation requires all airlines and all other vessels to transmit passenger manifest information prior to their arrival in the United States.

When planes land at our airports, inspectors are under significant time constraints to clear the planes and ensure the safety of all departing passengers. Our legislation removes the existing 45 minute deadline, and provides inspectors with adequate time to clear and secure aircraft.

In 1996, Congress established a program to collect information on non-immigrant foreign students and participants in exchange programs. Although a pilot phase of this program ended in 1999, a permanent system has not yet been implemented. Congress enacted provisions in the recent anti-terrorism bill for the quick and effective implementation of this system by 2003, but gaps still exist. This legislation will increase the data collected by the monitoring program to include the date of entry, the port of entry, the date of school enrollment, and the date the student leaves the school. It requires the Department of State and INS to monitor students who have been given visas, and to notify schools of their entry. It also requires a school to notify the INS if a student does not actually report to the school.

INS regulations provide for regular reviews of over 26,000 educational institutions authorized to enroll foreign students. However, inspections have been sporadic in recent years. This legislation will require INS to monitor institutions on a regular basis. If institutions fail to comply with these and other requirements, they can lose their ability to admit foreign students. In addition, this legislation provides for an interim system until the program established by the 1996 law is implemented.

As we work to achieve stronger tracking systems, we must also remember that the vast majority of foreign visitors, students, and workers who overstay their visas are not criminals or terrorists. It would be wrong and unfair, without additional information, to stigmatize them.

The USA Patriot Act was an important part of the effort to improve immigration security, but further action is needed. This legislation is a needed bipartisan effort to strengthen the security of our borders and enhance our ability to prevent future terrorist attacks, while also reaffirming our tradition as a Nation of immigrants. I urge my colleagues to support it.

Mr. BROWNBACK. Mr. President, the terrorist attacks of September 11 have unsettled the public's confidence in our Nation's security and have raised concerns about whether our institutions are up to the task of intercepting and thwarting would-be terrorists. Given that the persons responsible for the attacks on the World Trade Center and the Pentagon came from abroad, our citizens understandably ask how these people entered the United States and what can be done to prevent their kind from doing so again. Clearly, our immigration laws and policies are instrumental to the war on terrorism. While the battle may be waged on several fronts, for the man or woman on the street, immigration is in many ways the front line of our defense.

The immigration provisions in the anti-terrorist bill passed earlier this month, the USA PATRIOT Act of 2001, represent an excellent first step toward improving our border security, but we must not stop there. Our Nation receives millions of foreign nationals each year, persons who come to the United States to visit family, to do business, to tour our sites, to study and learn. Most of these people enter lawfully and mean us well. They are our relatives, our friends, and our business partners. They are good for our economy and, as witnesses to our democracy and our way of life, become our ambassadors of good will to their home countries.

However, the unfortunate reality is that a fraction of these people mean us harm, and we must take intelligent measures to keep these people out. For that reason, I am pleased to introduce today, along with my colleagues Senator KENNEDY, Senator KYL, Senator FEINSTEIN, Senator HATCH, Senator LEAHY, and others, legislation that looks specifically toward strengthening our borders and better equipping the agencies that protect them. The Enhanced Border Security and Visa Entry Reform Act of 2001 represents an earnest, thoughtful, and bipartisan effort to refine our immigration laws and institutions to better combat the evil that threatens our Nation.

This legislation recognizes that the war on terrorism is, in large part, a war of information. To be successful, we must improve our ability to collect, compile, and utilize information critical to our safety and national security. This bill requires that the agencies tasked with screening visa applicants and applicants for admission, namely the Department of State and the Immigration and Naturalization Service, be provided with the necessary law enforcement and intelligence information that will enable these agencies to identify alien terrorists. By directing better coordination and access, this legislation will bring together the agencies that have the information and those that need it. With input from the Office of Homeland Security, this bill will make prompt and effective information-sharing between these agencies a reality.

In complement to the USA PATRIOT Act, this legislation provides for necessary improvements in the technologies used by the State Department and the Service. It provides funding for the State Department to better interface with foreign intelligence information and to better staff its infrastructure. It also provides the Service with guidance on the implementation of the Integrated Entry and Exit Data System, pointing the Service to such tools as biometric identifiers in immigration documents, machine readable visas and passports, and arrival-departure and security databases.

To the degree that we can realistically do so, we should attempt to intercept terrorists before they reach our borders. Accordingly, we must consider security measures not only at domestic ports of entry but also at foreign ports of departure. To that end, this legislation directs the State Department and the Service, in consultation with Office of Homeland Security, to examine, expand, and enhance screening procedures to take place outside the United States, such as preinspection and preclearance. It also requires international air carriers to transmit passenger manifests for pre-arrival review by the Service. Further, it eliminates the 45-minute statutory limit on airport inspections, which many feel compromises the Service's ability to screen arriving flights properly. Finally, since we should ultimately look to expand our security perimeter to include Canada and Mexico, this bill requires these agencies to work with our neighbors to create a collaborative North American Security Perimeter.

While this legislation mandates certain technological improvements, it does not ignore the human element in the security equation. This bill requires that "terrorist lookout committees" be instituted at each consular post and that consular officers be given special training for identifying would-be terrorists. It also provides special training to border patrol agents, inspectors, and foreign service officers to better identify terrorists and security threats to the Unites States. Moreover, to help the Service retain its most experienced people on the borders, this bill provides the Service with increased flexibility in pay, certain benefit incentives, and the ability to hire necessary support staff.

Finally, this legislation considers certain classes of aliens that raise security concerns for our country: nationals from states that sponsor terrorism and foreign students. With respect to the former, this bill expressly prohibits the State Department, from issuing a nonimmigrant visa to any alien from a country that sponsors terrorism until it has been determined that the alien does not pose a threat to the safety or national security of the United States. With respect to the latter, this legislation would fill data and reporting gaps in our foreign student programs by requiring the Service to electronically monitor every stage in the student visa process. It would also require the school to report a foreign student's failure to enroll and the Service to monitor schools' compliance with this reporting requirement.

While we must be careful not to compromise our values or our economy, we must take intelligent, immediate steps to enhance the security of our borders. This legislation would implement many changes that are vital to our war on terrorism. I therefore urge my colleagues to support it.

Mrs. FEINSTEIN. Mr. President, I am pleased to join Senators KENNEDY, BROWNBACK, and KYL in introducing the Enhanced Border Security and Visa Entry Reform Act of 2001. We submit this legislation with 16 sponsors.

This legislation represents a consensus, drawing upon the strengths of both the Visa entry Reform Act of 2001, which I introduced with my colleague from Arizona, Senator KYL, and the Enhanced border Security Act of 2001, which Senators KENNEDY and BROWNBACK introduced.

I believe the legislation we are introducing today will garner widespread support from our colleagues on both sides of the aisle.

September 11 clearly pointed out the shortcomings of the immigration and visa system. For example: All 19 terrorist hijackers entered the U.S. legally with valid visas. Three of the hijackers had remained in the U.S. after their visas had expired. One entered on a foreign student visa. Another, Mohammed Atta had filed an application to change status to M–1, which was granted in July. However, Mr. Atta sought admission and was admitted to the United States based on his then current B–1 visitor visa.

Most people don't realize how many people come into our country; how little we know about them; and whether they leave when required.

Consider the following: The Visa Waiver Program: 23 million people from 29 different countries; no visas; little scrutiny; no knowledge where they go in the U.S. or whether they leave once their visas expire. The INS estimates that over 100,000 blank passports have been stolen from government offices in participating countries in recent years.

Abuse of the VISA Waiver Program poses threats to U.S. national security and increases illegal immigration. For example, one of the co-conspirators in the World Trade Center bombing of 1993 deliberately chose to use a fraudulent Swedish passport to attempt entry into the U.S. because of Sweden's participation in the Visa Waiver Program.

Foreign Student Visa Program: more than 500,000 foreign nationals entering each year; within the last 10 years, 16,000 came from such terrorist supporting states as Iran, Iraq, Sudan, Libya, and Syria.

The foreign student visa system is one of the most under-regulated systems we have today. We've seen bribes, bureaucracy, and other problems with this system that leave it wide open to abuse by terrorists and other criminals.

For example, in the early 1990s, five officials at four California colleges, were convicted of taking bribes, providing counterfeit education documents, and fraudulently applying for more than 100 foreign student visas.

It is unclear what steps the INS took to find and deport the foreign nationals involved in this scheme.

Each year, we have 300 million border crossings. For the most part, these individuals are legitimate visitors to our country. We currently have no way of tracking all of these visitors.

Mohamed Atta, the suspected ringleader of the attack, was admitted as a non-immigrant visitor in July 2001. He traveled freely to and from the U.S. during the past 2 years and was, according to the INS, in "legal status" the day of the attack. Other hijackers also traveled with ease throughout the country.

It has become all too clear that without an adequate tracking system, our country becomes a sieve, creating ample opportunities for terrorists to enter and establish their operations without detection.

I sit as the Chair of the Judiciary Committee's Subcommittee on Technology, Terrorism and Government Information. Last month, we held a hearing on the need for new technologies to assist our government agencies in keeping terrorists out of the United States.

The testimony at that hearing was very illuminating. We were given a picture of an immigration system in chaos, and a border control system rife with vulnerabilities. Agency officials don't communicate with each other. Computers are incompatible. And even in instances here technological leaps have been made, like the issuance of more than 4.5 million "smart" border crossing cards with biometric data, the technology is not even used.

Personally, I am astonished that a person can apply for a visa and granted a visa by the State Department, and that there is no mechanism by which the FBI or CIA can raise a red flag with regard to the individual if he or she is known to have links to terrorist groups or otherwise pose a threat to national security.

In the wake of September 11, it is unconscionable that a terrorist might be permitted to enter the U.S. simply because our government agencies don't share information.

Indeed, what we have discovered in the aftermath of the September 11 terrorist attacks was that the perpetrators of these attacks had a certain confidence that our immigration laws could be circumvented where necessary.

The terrorists did not have to steal into the country as stowaways on sea vessels, or a border-jumpers evading federal authorities. Most, if not all, appeared to have come in with temporary visas, which are routinely granted to tourists, students, and other short-term visitors to the U.S.

Let me talk about the legislation that I cosponsored with Senators KENNEDY, BROWNBACK, and KYL.

First, a key component of this solution is the creation of an interoperable data system that allows the Department of State, the INS, and other relevant Federal agencies to obtain critical information about foreign nationals who seek entry into or who have entered the United States.

Right now, our government agencies use different systems, with different information, in different formats. And they often refuse to share that information with other agencies within our own government. This is not acceptable.

When a terrorist presents himself at a consular office asking for a visa, or at a border crossing with a passport, we need to make sure that his name and identifying information is checked against an accurate, up-to-date, and comprehensive database. Period.

The Enhanced Border Security and Visa Entry Reform Act would require the creation of this interoperable data system, and will require the cooperation of all U.S. government agencies in providing accurate and compatible information to that system.

In addition, the interoperable data system would include sophisticated, linguistically-based, name-matching algorithms so that the computers can recognize that "Muhamad Usam Abdel Raqeeb" and "Haj Mohd Othman Abdul Rajeeb," are transliterations of the same name. In other words, this provision would require agencies to ensure that names can be matched even when they are stored in different sets of fields in different databases.

Incidentally, this legislation also contains strict privacy provisions, limiting access to this database to authorized Federal officials. And the bill contains severe penalties for wrongful access or misuse of information contained in the database.

Second, this legislation includes concrete steps to restore integrity to the immigration and visa process, including the following: The legislation would require all foreign nationals to be fingerprinted and, when appropriate, submit other biometric data, to the State Department when applying for visa. This provision should help eliminate fraud, as well as identify potential threats to the country before they gain access.

We include reforms of the visa waiver program, so that any country wishing to participate in that program must begin to provide its citizens with tamper-proof, machine-readable passports. The passports must contain biometric data by October 26, 2003, to help verify identity at U.S. ports of entry.

Prior to admitting a foreign visitor from a visa waiver country, the INS inspector must first determine that the individual does not appear in any "lookout" databases.

In addition, the INS would be required to enter stolen passport numbers in the interoperable data system within 72 hours after receiving notification of the loss or theft of a passport.

We would establish a robust biometric visa program. By October 26, 2003, newly issued visas must contain biometric data and other identifying information, like more than 4 million already do on the Southwest border, and, just as importantly, our own officials at the border and other ports of entry must have the equipment necessary to read the new biometric cards.

We worked closely with the university community in crafting new, strict requirements for the student visa program to crack down on fraud, make sure that students really are attending classes, and give the government the ability to track any foreign national who arrives on a student visa but fails to enroll in school.

The legislation prohibits the issuance of a student visa to any citizen of a country identified by the State Department as a terrorist-supporting nation. There is a waiver provision to this prohibition, however, allowing the State Department to allow students even from these countries in special cases.

We require that airlines and cruiseliners provide passenger and crew manifests to immigration officials before arrival, so that any potential terrorists or other wrongdoers can be singled out before they arrive in this country and disappear among the general populace.

The bill contains a number of other related provisions as well, but the gist of the legislation is this: Where we can provide law enforcement more information about potentially dangerous foreign nationals, we do so. Where we can reform our border-crossing system to weed out or deter terrorists or others who would do us harm, we do so. And where we can update technology to meet the demands of the modern war against terror, we do that as well.

As we prepare to modify our immigration system, we must be sure to enact changes that are realistic and feasible. We must also provide the necessary tools to implement them.

Our Nation will be no more secure tomorrow if we create new top-of-the line databases and do not see to it that government agencies use them to share and receive critical information.

We will be no safer tomorrow if we do not create a workable entry-exit tracking system to ensure that terrorists do not enter the U.S. and blend into our communities without detection.

And we will be no safer if we simply authorize new programs and information sharing, but do not provide the resources necessary to put the new technology at the border, train agents appropriately, and require our various government agencies to cooperate in this effort.

We have a lot to do but I am confident that we will move swiftly to address these important issues. The legislation Senators KENNEDY, BROWNBACK, KYL, and I introduce today is an important, and strong, first step. But this is only the beginning of a long, difficult process.

In closing, I would like to respond to concerns that this bill is "anti-immigrant." We are a nation of immigrants. Indeed, the overwhelming percentage of the people who come to live in this country do so to enjoy the blessings of liberty, equality, and opportunity. The overwhelming percentage of the people who visa this country mean us no harm.

But there are several thousand innocent people, including foreign nationals, who were killed on September 11 in part because a network of fanatics determined to wreak death, destruction, and terror exploited weaknesses in our immigration system to come here, to stay here, to study here, and to kill here.

We learned at Oklahoma City that not all terrorists are foreign nationals. But the world is a dangerous place, and there are peopled and regimes that would destroy us if they had the chance.

We are all casualties of September 11. Our society has necessarily changed as our perception of the threats we face has changed. The scales have fallen from our eyes.

It is unfortunate that we need to address the vulnerabilities in our immigration system that September 11 painfully revealed. The changes we need to make in that system will inconvenience people. We can "thank" the terrorists for that.

Once implemented, however, those changes will make it easier for law-abiding foreign to visit or study here, and for law-abiding immigrants who want to live here. More important, once they are here, their safety, and ours, will be greatly enhanced.

We must do everything we can to deter the terrorists, here and abroad, who would do us harm from Oklahoma City to downtown Manhattan, we have learned just how high the stakes are. It would dishonor the innocent victims of September 11 and the brave men and women of our armed forces who are defending our liberty at this very instant, if we flag or fail in this effort.

I urge my colleagues to support us on this legislation.

Mr. KYL. Mr. President, today, Senators KENNEDY, BROWNBACK, FEINSTEIN and I join together to introduce the Enhanced Border Security and Visa Entry Reform Act of 2001. This bill represents the merging of counter-terrorism legislation recently introduced by Senator FEINSTEIN and I and separately by Senators KENNEDY and BROWNBACK. This bipartisan, streamlined product, cosponsored by both the chairman and ranking Republican of the Senate Judiciary Committee, will significantly enhance our ability to keep terrorists out of the United States and find terrorists who are here. I also want to reiterate my appreciation to Senators KENNEDY, FEINSTEIN, and BROWNBACK, and especially to their staffmembers, for their hard work and cooperation in developing this bill. I am hopeful that we can work together toward the bill's passage, and signature into law, before the 107th Congress adjourns for the year.

Last month the President signed into law anti-terrorism legislation that will provide many of the tools necessary to keep terrorists out of the United States, and to detain those terrorists who have entered our country. These tools, while all important, will be significantly enhanced by the bill we introduce today.

Under the Border Security and Visa Entry Reform Act of 2001, the Homeland Defense director will be responsible for the coordination of Federal law enforcement and intelligence communities, the Departments of Transportation, State, Treasury, and all other relevant agencies to develop and implement a comprehensive, interoperable electronic data system for these governmental agencies to find and keep out terrorists. That system will be up and running by October 26, 2003, 2 years after the signing into law of the USA Patriot Act.

Under our bill, terrorists will be deprived of the ability to present fake or altered international documents in order to gain entrance, or stay here. Foreign nationals will be provided with new travel documents, using new technology that will include a person's fingerprint(s) or other form of "biometric" identification. These cards will be used by visitors upon exit and entry into the United States, and will alert authorities immediately if a visa has expired or a red flag is raised by a federal agency. Under our bill, any foreign passport or other travel document issued after October 26, 2003 will have to contain a biometric component. The deadline for providing for a way to compare biometric information presented at the border is also October 26, 2003.

Another provision of the bill will further strengthen the ability of the U.S. Government to prevent terrorists from using our "Visa Waiver Program" to enter the country. Under our bill, the 29 participating Visa Waiver nations will, in addition to the USA Patriot Act Visa Waiver reforms, be required to report stolen passport numbers to the State Department; otherwise, a nation is prohibited from participating in the program. In addition, our bill clarifies that the Attorney General must enter stolen passport numbers into the interoperable data system within 72 hours of notification of loss or theft. Until that system is established, the Attorney General must enter that information into any existing data system.

Another section of our bill will make a significant difference in our efforts to stop terrorists from ever entering our country. Passenger manifests on all flights scheduled to come to the United States must be forwarded in real-time, and then cleared, by the Immigration and Naturalization Service prior to the flight's arrival. All cruise and cargo lines and cross-border bus lines will also have to submit such lists to the INS. Our bill also removes a current U.S. requirement that all passengers on flights to the United States be cleared by the INS within 45 minutes of arrival. Clearly, in some circumstances, the INS will need more time to clear all prospective entrants to the United States. These simple steps will give appropriate officials advance notice of foreigners coming into the country, particularly visitors or immigrants who pose security threats to the United States.

The Border Security and Visa Entry Reform Act will also provide much needed reforms and requirements in our U.S. foreign student visa program, which has allowed numerous foreigners to enter the country without ever attending classes and, for those who do attend class, with lax or no oversight of such students by the Federal Government. Our bill will change that, and will require that the State Department within 4 months, with the concurrence of the Department, maintain a computer database with all relevant infromation about foreign students.

In the past decade, more than 16,000 people have entered the United States on student visas from states included on the Government's list of terrorist sponsors. Notwithstanding that Syria is one of the countries on the list, the State Department recently issued visas to 14 Syrian nationals so that they could attend flight schools in Fort Worth, TX. United States educational institutions will be required to immediately notify the INS when a foreign student violates the term of the visa by failing to show up for class or leaving school early. Our legislation will prevent most persons from obtaining student visas if they come from terrorist-supporting states such as Iran, Iraq, Sudan, Libya, and Syria, unless the Secretary of State and Attorney General determine that such applicants do not pose a threat to the safety or national security of the United States.

For the first time since the War of 1812, the United States has faced a massive attack from foreigners on our own soil. Every one of the terrorists who committed the September 11 atrocities were foreign nationals who had entered the United States legally through our visa system. None of them should have been allowed entry due to their ties to terrorist organizations, and yet even those whose visas had expired were not expelled.

Mohamed Atta, for example, the suspected ringleader of the attacks, was allowed into the United States on a tourist visa, even though he made clear his intentions to go to flight school while in the United States. Clearly, at the very least, he should have been queried about why he was using his tourist visa to attend flight school.

Another hijacker, Hani Hanjour, was here on a student visa that had expired as of September 11. Hani Hanjour never attended class. In addition, at least two other visitor visa-holders overstayed their visa. In testimony before the Terrorism subcommittee of which I am the ranking member, U.S. officials have told us that they possess little information about foreigners who come into this country, how many there are, and even whether they leave when required by their visas.

America is a nation that welcomes international visitors, and should remain so. But terrorists have taken advantage of our system and its openness. Now that we face new threats to our homeland, it is time we restore some balance to our consular and immigration policies.

As former chairman and now ranking Republican of the Judiciary Committee's Terrorism Subcommittee, I have long suggested, and strongly supported, many of the anti-terrorism and immigration initiatives now being advocated by Republicans and Democrats alike. In my sadness about the overwhelming and tragic events that took thousands of precious lives, I am resolved to push forward on all fronts to fight against terrorism. That means delivering justice to those who are responsible for the lives lost on September 11, and reorganizing the institutions of government so that the law-abiding can continue to live their lives in freedom. It is extremely important that we pass the Border Security and Visa Entry Reform Act before we adjourn for the year. To all of the Senators who worked on this bill, including Senators KENNEDY, FEINSTEIN, BROWNBACK, and HATCH, SNOWE, CANTWELL, BOND, SESSIONS, THURMOND and others I again want to express my appreciation. This bill will make a difference.

By Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. BREAUX, and Mr. SMITH of Oregon):

S. 1750. A bill to make technical corrections to the hazmat provisions of the USA PATRIOT Act; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLING. Mr. President, today I join with my colleagues Senators MCCAIN, BREAUX, and SMITH in introducing the Hazmat Endorsements Requirement Act. We introduce this legislation today to improve the implementation and effectiveness of Section 1012 of H.R. 3162, The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism, (USA PATRIOT), Act of 2001, [Public Law 107-56], enacted on October 26, 2001.

The legislation we are introducing today primarily addresses technical corrections to Section 1012 of the USA PATRIOT Act. Due to procedural agreements, the Senate consideration of H.R. 3162 did not provide for any amendments. I did however, engage in a colloquy with Chairman LEAHY to state my concerns with section 1012 and my desire to address my concerns over substance, scope and procedure in subsequent legislation. The changes in legislation assume continuation of the basic framework of section 1012 requiring that one, States request security checks from the Attorney General for driver license applicants who would transport certain hazardous materials; second, the Attorney General conduct checks of relevant information systems and then provide the results to the Department of Transportation; and third, the Department of Transportation notify requesting States whether applicants pose a security threat.

Our bill does the following: clarifies the definition of hazardous materials and gives the Secretary the ability to expand the list as national security issues require; defines disqualifying offenses that would result in the denial of a hazardous materials endorsement; provides for an appeals process in the event an individual is denied a hazardous materials endorsement based on the results of a background check; extends the requirement for background checks to Canadian and Mexican drivers who drive commercial vehicles carrying hazardous materials in the United States; establishes penalties for fraudulently issued or obtained licenses; and requires the Department of transportation to report back to the Congress on security improvements that can be made in the transport of hazardous materials.

Approximately 10 million drivers have commercial drivers licenses and almost 2.5 million of those drivers have hazardous materials endorsements. The law has not required criminal background checks for applicants seeking CDLs. However, section 1012 of the USA PATRIOT Act now requires any driver of a commercial motor vehicle who transports hazardous materials to have a criminal background check prior to being issued a commercial drivers license (CDL). That requirement became effective upon the enactment of that law in October.

Since the passage of the USA PATRIOT Act, we have worked to address the concerns raised by all interested parties involved in this issue, including the administration, the States, public safety officials, commercial motor vehicle drivers, and motor carriers. While everyone has supported the concept of performing background checks, it has not yet been implemented because the infrastructure for conducting background checks does not exist. We believe the provisions contained in this legislation will aid the administration, the State licensing agencies, and all interested parties by providing a clear understanding of the requirements associated with granting a license permitting a driver to transport hazardous cargo.

Senator BREAUX chaired a hearing on October 10, 2001, on bus and truck security and hazardous materials licensing for commercial drivers. Of particular concern were reports that terrorists may have been seeking licenses to drive trucks with hazardous materials. On October 4, 2001, a Federal grand jury in Pittsburgh indicted 16 people on charges of fraudulently obtaining commercial driver's licenses, including licenses to haul hazardous materials. Other incidents include a report that in September the Federal Bureau of Investigation, FBI, arrested a man, Nabil Al-Marabh, linked to an associate of Osama bin Laden, who had a hazardous materials drivers license. Al-Marabh had a commercial driver's license issued by the State of Michigan.. That license, issued on September 11, 2000, allowed Al-Marabh to operate vehicles weighing 100,000 pounds or more. Additionally, Al-Marabh obtained what is called an "endorsement" the same day that allowed him to transport hazardous materials. He took a test and paid the fee to obtain that endorsement.

During that hearing, many options for increasing the security of hazardous materials shipments were discussed, including requiring background checks for drivers of commercial vehicles carrying hazardous materials. As chairman, I am committed to working with Senators MCCAIN, BREAUX, and SMITH to introduce a more comprehensive legislative proposal next year which will reauthorize the Hazardous Materials Transportation Act, HMTA. Reauthorization of the HMTA addresses training, emergency response, safety and security concerns for all movements of hazardous materials.

Annually, more than four billion tons of hazardous materials, an estimated 800,000 hazardous materials shipments daily, are transported by land, sea, and air in the United States. While hazardous materials transportation involves all transportation modes, truck transport typically accounts for the majority of all hazardous materials shipments, although the tonnage transported is more equally divided between truck and rail.

There are 3.12 million tractor-trailer drivers in the United States. The entire trucking industry employs more than 9 million people. Trucks annually transport 6 billion tons of freight, representing 63 percent of the total domestic tonnage shipped. There are 540,000 trucking companies in the U.S., and 80 percent of those have 20 or fewer trucks. The types of vehicles carrying hazardous materials on the Nation's highways range from cargo tank trucks to conventional tractor-trailers and flatbeds that carry large portable tank containers.

In 2000, there were 17,347 hazardous materials incidents related to transportation in the United States, 14,861 via highway transportation. These incidents are mostly minor releases of chemicals; only 244 incidents caused injuries, and there were 13 deaths.

Since the events of September 11, 2001, a number of legislative proposals have been introduced to address terrorism and the prevention of terrorist acts within the United States. I am pleased to report that the Commerce Committee has addressed security concerns in a bipartisan manner in all modes of transportation. On November 19, 2001, the President signed into law S. 1447, the Aviation Security Act, Public Law 107–71. On August 2, 2001, the Commerce Committee favorably reported S. 1214, the Port and Maritime Security Act, and on October 17, 2001, the Commerce Committee unanimously approved S. 1550, the Rail Security Act. Both of these measures are awaiting consideration by the Senate.

This legislation which addresses the important issue of the safety of hazardous materials transportation on our Nation's highways. This legislation should be considered as soon as possible. We must ensure the hazardous materials transported over our Nation's roads are carried by qualified drivers. Our legislation accomplishes this in a manner that provides clear and consistent requirements for licensing with minimum bureaucratic red tape and delay in the issuance of licenses to eligible drivers.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hazmat Endorsement Requirements Act".

SEC. 2. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.

(a) IN GENERAL.—Chapter 313 of title 49, United States Code, is amended by adding at the end the following:

"§31318. Issuance, renewal, upgrade, transfer, and periodic check of hazmat licenses

"(a) IN GENERAL.—A State may not issue, renew, upgrade, or transfer a hazardous materials endorsement for a commercial driver's license to any individual authorizing that individual to operate a commercial motor vehicle transporting a hazardous material in commerce unless the Secretary of Transportation has determined that the individual does not pose a security risk warranting denial of the endorsement or license. Each State shall implement a program under which a background records check is requested—

"(1) whenever a commercial driver's license with a hazardous materials endorsement is to be issued, renewed, upgraded, or transferred; and

"(2) periodically (as prescribed by the Secretary by regulations) for all other individuals holding a commercial driver's license with a hazardous materials endorsement.

"(b) DETERMINATION OF SECURITY RISK.—

"(1) IN GENERAL.—An individual may not be denied a hazardous materials endorsement for a commercial driver's license under subsection (a) unless the Secretary determines that individual—

"(A) in the 10-year period ending on the date of the background investigation, was convicted (or found not guilty by reason of insanity) of an offense described in section 44936(b)(1)(B) of this title (disregarding the matter in clause (xiv)(IX) after '1 year,');

"(B) is described in section 175b(b)(2) of title 18, United States Code; or

"(C) may be denied admission to the United States or removed from the United States under subclause (IV), (VI), or (VII) of section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)).

"(2) MITIGATING CIRCUMSTANCES.—In making a determination under paragraph (1), the Secretary shall give consideration to the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other factors from which it may be concluded that the individual does not pose a security risk warranting denial of the license or endorsement.

"(3) APPEALS PROCESS.—The Secretary shall establish an appeals process under this section for individuals found to be ineligible for a hazardous materials endorsement for a commercial driver's license that includes notice and an opportunity for a hearing.

"(c) BACKGROUND RECORDS CHECK.—

"(1) IN GENERAL.—Upon the request of a State regarding issuance of a hazardous materials endorsement for a commercial driver's license to an individual, the Attorney General shall—

"(A) conduct a background records check regarding the individual;

"(B) take appropriate criminal enforcement action required by information developed or obtained in the course of the background check; and

"(C) upon completing the background records check, notify the Secretary of Transportation of the completion and results of the background records check.

"(2) SCOPE.—A background records check regarding an individual under this subsection shall consist of the following:

"(A) A check of the relevant criminal history data bases.

"(B) In the case of an alien, a check of the relevant data bases to determine the status of the alien under the immigration laws of the United States.

"(C) As appropriate, a check of the relevant international data bases through Interpol-U.S. National Central Bureau or other appropriate means.

"(D) Review of any other national security-related information or data base identified by the Attorney General for purposes of such a background records check.

"(3) SECRETARY TO NOTIFY STATE.—After making the determination required by subsection (b)(1), the Secretary of Transportation shall promptly notify the State of the determination.

"(d) REPORTING REQUIREMENT.—Each State shall submit to the Secretary of Transportation, at such time and in such manner as the Secretary may prescribe, such information as the Secretary may require, concerning each individual to whom the State issues a hazardous materials endorsement for a commercial driver's license.

"(e) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—

"(1) FOIA NOT TO APPLY.—Information obtained by the Attorney General or the Secretary of Transportation under this section may not be made available to the public under section 552 of title 5, United States Code.

"(2) CONFIDENTIALITY.—Any information other than criminal acts or offenses constituting grounds for disqualification under subsection (b)(1) shall be maintained confidentially by the Secretary and may be used only for making determinations under this section.

"(f) RENEWAL WAIVER FOR BACKGROUND CHECK DELAYS.—The Secretary shall provide a waiver for State compliance with the requirements of subsection (a) for renewals to the extent necessary to avoid the interruption of service by a license holder while a background check is being completed.

"(g) DEFINITIONS.—In this section:

"(1) HAZARDOUS MATERIALS.—The term 'hazardous material' means—

"(A) a substance or material designated by the Secretary under section 5103(a) of this title for which the Secretary requires placarding of a commercial motor vehicle transporting it in commerce; and

"(B) a substance or material, including a substance or material on the Centers for Disease Control's list of select agents, designated as a hazardous material by the Secretary under procedures to be established by the Secretary.

"(2) ALIEN.—The term 'alien' has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).".

(b) ENFORCEMENT.—Section 31311(a) of title 49, United States Code, is amended by adding at the end the following:

"(21) The State shall comply with the requirements of section 31318.".

(c) CONFORMING AMENDMENTS.—

(1) Section 31305(a)(5)(C) of title 49, United States Code, is amended by striking "section 5103a" and inserting "section 31318".

(2) The chapter analysis for chapter 313 is amended by adding at the end the following:

"31318. Limitation on issuance of hazmat licenses".

(3) Chapter 51 of title 49, United States Code, is amended—

(A) by striking section 5103a; and

(B) by striking the item in the chapter analysis relating to section 5103a.

(4) Section 1012(c) of the USA PATRIOT Act of 2001 is amended by striking "section 5103a" and inserting "section 31318".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 26, 2001.

(2) LIMIT ON RETROACTIVITY.—Notwithstanding paragraph (1), no enforcement action shall be taken against a State under section 31311 (a) (21) of title 49, United States Code, for any act committed, or failure to act that occurred, in violation of that section before the effective date of the interim final rule prescribed by the Secretary of Transportation under section 31318 of title 49, United States Code.

(3) INTERIM FINAL RULE AUTHORITY.—The Secretary of Transportation shall issue an interim final rule as a temporary regulation under section 31318 of title 49, United States Code, as soon as practicable after the date of enactment of this Act without regard to the provisions of chapter 5 of title 5, United States Code. The Secretary shall initiate a rulemaking in accordance with such provisions as soon as practicable after the date of

enactment of this Act. The final rule issued pursuant to that rulemaking shall supersede the interim final rule promulgated under this paragraph.

SEC. 3. PROHIBITION ON OPERATING WITHOUT PROPER HAZMAT ENDORSEMENT OR LICENSE.

(a) In General.—Chapter 313 of title 49, United States Code, is further amended by adding at the end the following:

"§ 31319. Prohibition on unauthorized transportation of hazardous materials

"(a) In General.—Notwithstanding any provision of law, treaty, or international agreement to the contrary, after the effective date of the interim final rule promulgated by the Secretary of Transportation under section 2(d)(3) of the Hazmat Endorsement Requirements Act, no individual may operate a commercial motor vehicle transporting a hazardous material in commerce in the United States without a hazardous materials endorsement or a license authorizing that individual to operate a commercial motor vehicle transporting a hazardous material in commerce—

"(1) issued by a State in accordance with the requirements of section 31318 of this title; or

"(2) issued by the government of Canada or Mexico, or a political subdivision thereof, after a background check that is the same as, of substantially similar to, the background check required by section 31318.

"(b) Penalty.—The Secretary shall by regulation prescribe the penalty for violation of subsection (a).".

(b) Conforming Amendment.—The chapter analysis for chapter 313 is amended by adding at the end the following:

"31319. Prohibition on unauthorized transportation of hazardous materials".

SEC. 4. PENALTY FOR FRAUDULENT ISSUANCE OR RENEWAL OF COMMERCIAL DRIVER'S LICENSE.

(a) In General.—Chapter 313 of title 49, United States Code, is further amended by adding at the end the following:

"§ 31320. Penalty for fraudulent issuance, renewal, upgrade, or transfer of commercial driver's license.

"Any person who knowingly issues, obtains, or knowingly facilitates the issuance, renewal, upgrade, transfer, or obtaining of, a commercial driver's license or an endorsement for a commercial driver's license knowing the license or endorsement to have been wrongfully issued or obtained, or issued, renewed, upgraded, transferred, or obtained through the submission of false information or the intentional withholding of required information is guilty of a Class E felony punishable by a fine, imprisonment, or both as provided in title 18, United States Code.".

(b) Conforming Amendment.—The chapter analysis for chapter 313 is amended by adding at the end the following:

"31320. Penalty for fraudulent issuance of renewal of commercial driver's license".

SEC. 5. MOTOR CARRIER SECURITY REPORT.

(a) In General.—

(1) In general.—The Secretary of Transportation shall assess the security risks associated with motor carrier transportation and develop prioritized recommendations for—

(A) improving the security of hazardous materials shipments by motor carriers, including shipper responsibilities;

(B) using biometrics or other identification systems to improve the security of motor carrier transportation;

(C) technological advancements in the area of information access and transfer for the purpose of identifying the location of hazmat shipments and facilitating the availability of safety and security information; and

(D) reducing other significant security related risks to public safety and interstate commerce, taking into account the impact that any proposed security measure might have on the provision of motor carrier transportation.

(2) Existing private and public sector efforts.—The assessment shall include a review of any actions already taken to address identified security issues by both public and private entities.

(b) Consultation; Use of Existing Resources.—In carrying out the assessment required by subsection (a), the Secretary shall—

(1) consult with operators, drivers, safety advocates, and public safety officials (including officials responsible for responding to emergencies); and

(2) utilize, to the maximum extent feasible, the resources and assistance of the Transportation Research Board of the National Academy of Sciences.

(c) Report.—

(1) Contents.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report, without compromising national security, containing—

(A) the assessment and prioritized recommendations required by subsection (a);

(B) any proposals the Secretary deems appropriate for providing Federal financial, technological, or research and development to assist carriers and shippers in reducing the likelihood, severity, and consequences of deliberate acts of crime or terrorism toward motor carrier employees, shipments, or property; and

(C) data on the number of shipments and type of hazardous materials for which placarding is required for transport by motor carriers in the United States, including the transport of hazardous materials shipments by Canadian or Mexican motor carriers with authority to enter into the United States.

(2) Format.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

SEC. 6. STUDY.

The Secretary of Transportation shall conduct research and operational testing to determine the feasibility, costs, and benefits of requiring motor carriers transporting certain high-risk hazardous materials, as determined by the Secretary, to install ignition or engine locking devices, silent alarms, satellite technology, or other mechanisms to increase the security associated with the transportation of such shipments by motor carriers. The Secretary may conduct a pilot program to assess such devices.

Mr. McCAIN. Mr. President, I am pleased to join with Senators HOLLINGS, BREAUX, and SMITH in introducing the Hazmat Endorsements Requirement Act. The legislation we are introducing today is in large part a technical correction proposal to address Section 1012 of the USA PATRIOT Act, enacted October 26, 2001. Today's bill is designed to fill in a few of the gaps of the new law with respect to commercial drivers licenses and hazardous materials endorsements and to provide guidance to the Department of Transportation and the States on how to implement the new requirements.

The safe transport of hazardous materials is of critical importance to both our nation's economy and public safety. The events of September 11 have led to an even greater awareness of the necessity of ensuring hazardous cargo is transported in a manner that provides the highest level of safety and security possible. This bill would help improve the safety and security of hazardous materials transported on our roads and highways by ensuring the driver of such loads is not a risk to national security.

Annually, more than four billion tons of hazardous materials, an estimated 800,000 hazardous materials shipments daily, are transported by land, sea, and air in the United States. While hazardous materials transportation involves all transportation modes, truck transport typically accounts for the majority of all hazardous materials shipments, although the tonnage transported is more equally divided between truck and rail. The types of vehicles carrying hazardous materials on the nation's highways range from cargo tank trucks to conventional tractor-trailers and flatbeds that carry large portable tank containers. The shipped materials are used in thousands of commercial manufactured products and they include: chlorine for water treatment; ammonia for fertilizers; plastics; home siding materials; battery casings; leather finishes; fireproofing agents for textiles; and, motor vehicle gasoline.

The hazardous materials industry has a notable safety record, in large part due to the safety efforts of the individuals and companies involved in transporting hazardous materials. On average, only 10 to 15 fatalities are attributed annually to releases of hazardous materials in transportation.

The Commercial Motor Vehicle Safety Act of 1986 was enacted in an effort to ensure that drivers of large trucks and buses are qualified to operate such vehicles and to remove unsafe and unqualified drivers from the highways. The 1986 Act, which created the Commercial Driver's License Program, retained the state's right to issue a driver's license, but established minimum national standards which states must meet when licensing commercial motor vehicle, CMV, drivers.

The CDL program places requirements on the CMV driver, the employing motor carrier and the States. Drivers who operate special types of vehicles or who transport passengers or hazardous materials need to pass additional tests to obtain specific endorsements to permit such transport on their CDL.

Since 1986, over 10.5 million drivers have obtained a CDL, and almost 2.5

million of those drivers have received hazardous materials endorsements. The law has not required criminal background checks for applicants seeking CDLs. However, section 1012 of the USA PATRIOT Act now requires any driver of a commercial motor vehicle who transports hazardous materials to have a criminal background check prior to being issued a commercial drivers license, CDL. That requirement became effective upon the enactment of that law in October.

Both Senator HOLLINGS and I strongly support the intent of the background check requirement. Unfortunately, the Senate Commerce, Science, and Transportation Committee, with jurisdiction over the CDL program and hazardous materials transportation, did not have an opportunity to offer our recommendations to the provision in the USA PATRIOT Act due to procedural agreements at the time that legislation was approved by the Senate. Therefore, the measure we are introducing today provides technical modifications to section 1012 and would ensure the Department of Transportation, the States, and the drivers of commercial motor vehicles have a very clear direction with respect to the requirements associated with a hazardous materials endorsement.

Through Senator HOLLINGS leadership, we have sought input on this issue from all interested parties, including the administration, the states, public safety officials, commercial motor vehicle drivers, and motor carriers. We believe the provisions contained in this legislation will aid the administration and all interested parties by providing a clear understanding of the requirements associated with granting a license permitting a driver to transport hazardous cargo.

I urge my colleagues' timely consideration of this important legislation. We should take expeditious action to ensure the hazardous materials transported over our nation's roads is provided by qualified drivers. This must be accomplished in a manner that provides clear and consistent requirements for licensing with minimum bureaucratic red tape and delay in the issuance of licenses to eligible drivers.

By Mr. GRAMM (for himself, Mr. ENZI, Mr. BENNETT, Mr. BUNNING, and Mr. ALLARD):

S. 1751. A bill to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development, including development in urban areas, through the provision of affordable insurance coverage against acts of terrorism, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. GRAMM. Mr. President, today I am joined by Senators ENZI, BENNETT, BUNNING, and ALLARD, in introducing the Terrorism Risk Insurance Act of 2001. This legislation will effectively, and in a straightforward way, address a crisis before us.

The crisis of which I speak is, like a tidal wave, currently away from the shore. Its movement is little noticed until it reaches the shore, when its consequences will be disastrous. That is, the consequences will be disastrous unless we prepare for them now. This legislation will do that.

Tidal waves are started by major seismic, earth shaking events. The earth shaking event that set this tidal wave in motion took place on September 11. Our Nation has responded admirably to the very visible problems caused by that day. We need to act just as admirably and effectively to address this hidden wave.

This hidden wave nearing our shores is the unavailability to terrorism risk insurance, an unavailability that will strike a little more than one month from now. Already we are receiving signs from all across the country that terrorism risk insurance is becoming increasing hard to get, in many cases it is not available at all even today. That is because insurance companies have to be able to estimate and measure risk in order to be able to provide for it, in order to be able to spread the risk, and to do that so that the insurance is affordable. Right now, in the short term, they cannot do that. If they cannot do that, they cannot offer the coverage without jeopardizing the solvency of their companies and the value of all their other insurance policies.

I want to make it clear that the problem before us is not one of the weakness of our insurance industry. It is a strong and vibrant industry. The industry needs no help, no bail out, no government assistance. And our bill would not give them any assistance, not one penny. Our bill addresses the needs of the insurance customers, the customers who, without this short term program, will not be able to find affordable insurance coverage against terrorism risks.

What does that mean for the economy? It means that without insurance, banks will not make loans where there is an uncovered risk, a risk that what they are lending the money for might be destroyed or harmed by a terrorist. It means that simple, ordinary, everyday business transactions that rely upon the security of underlying insurance coverage will not take place. That means that, without this legislation, come January 1 and the weeks leading up to it a brand new weight will be placed upon our economic recovery just as it starts to get going.

Will the insurance industry be able to figure out how to price this coverage? Yes. But history tells us that they will not figure it out right away. It will take a few months, maybe a couple of years.

The legislation we are introducing today is a program that will work to solve this problem in the mean time. It has been put together in close consultation with industry, with the consumers of insurance products and with the insurance companies. It has been put together in close consultation with the White House and the Treasury Department, and it enjoys their support.

This bill will not create any new, forever government program. It is short term in structure and intent. It is limited in its extent. It is designed to force the insurance industry to develop its own capacity to handle this new risk in a shortened period of time. From our discussions with the industry, with the state regulators, with insurance consumers, we believe that the industry will be up to the task.

Central to our proposal is that this legislation would not provide one penny of federal assistance to the insurance industry. No insurance company will get a penny out of this program. All of the benefits of this program would go to victims of terrorist activities.

The structure of our program is, for a two-year period that may be extended by the Secretary of the Treasury for only one additional year, to divide the terrorism risk with industry. We say to industry, here, you take the first risk. It is all yours. But we will define what that initial risk is so that you can price it. We will put limits on it. We will, for the period of this program, take over the currently unknown risk, the cataclysmic risk, while you develop the means for dealing with that new risk as well, as the industry always has.

Under our program, in the first two years, the industry has sole responsibility for the first $10 billion of risk from terrorist events. The industry then has ten percent of the risk above that to encourage them to manage and become familiar with managing the catastrophic risk, while the Federal Government will carry ninety percent of that catastrophic risk. If a third year is added, then the industry will have the sole responsibility for the first $20 billion of risk.

I believe that this is the most effective way not only to deal with this tidal wave approaching our shores but in fact to ward it off. The program is simple and understandable. The program does not have the victims of terrorism paying any extra premiums to the government for the coverage provided by the government. We don't make the suffering pay yet again. But we also do not expose the taxpayer to liability for frivolous lawsuits that might follow a terrorist event.

With the Federal Government providing this insurance benefit, we do not also want to open the Treasury doors to frivolous or predatory litigation. But these limitations are narrow, and they are limited to the life of the program. They end when the Federal program ends. The limitations are similar to the limitations in place today against lawsuits brought against the Federal Government. We cannot expose the taxpayer to punitive damages at the same time that he is providing generous assistance to the victims of terrorism.

There are a few things that we need to do before adjournment of the Congress this year. I believe that this legislation, that addresses this very serious problem, should be on that sort list of things that we need to do.

I ask unanimous consent the text of the bill and a summary of its highlights be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Terrorism Risk Insurance Act of 2001".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) property and casualty insurance firms are important financial institutions, the products of which allow mutualization of risk and the efficient use of financial resources and enhance the ability of the economy to maintain stability, while responding to a variety of economic, political, environmental, and other risks with a minimum of disruption;

(2) the ability of businesses and individuals to obtain property and casualty insurance at reasonable and predictable prices, in order to spread the risk of both routine and catastrophic loss, is critical to economic growth, urban development, and the construction and maintenance of public and private housing, as well as to the promotion of United States exports and foreign trade in an increasingly interconnected world;

(3) the ability of the insurance industry to cover the unprecedented financial risks presented by potential acts of terrorism in the United States can be a major factor in the recovery from terrorist attacks, while maintaining the stability of the economy;

(4) widespread financial market uncertainties have arisen following the terrorist attacks of September 11, 2001, including the absence of information from which financial institutions can make statistically valid estimates of the probability and cost of future terrorist events, and therefore the size, funding, and allocation of the risk of loss caused by such acts of terrorism;

(5) a decision by property and casualty insurers to deal with such uncertainties, either by terminating property and casualty coverage for losses arising from terrorist events, or by radically escalating premium coverage to compensate for risks of loss that are not readily predictable, could seriously hamper ongoing and planned construction, property acquisition, and other business projects, generate a dramatic increase in rents, and otherwise suppress economic activity; and

(6) the United States Government should provide temporary financial compensation to insured parties, contributing to the stabilization of the United States economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance.

(b) PURPOSE.—The purpose of this Act is to establish a temporary Federal program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism in order to—

(1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk; and

(2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) CERTIFICATION.—The term "act of terrorism" means any act that is certified by the Secretary, in concurrence with the Secretary of State, and the Attorney General of the United States—

(i) to be a violent act or an act that is dangerous to—

(I) human life;

(II) property; or

(III) infrastructure;

(ii) to have resulted in damage within the United States, or outside of the United States in the case of an air carrier described in paragraph (3)(A)(ii); and

(iii) to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

(B) LIMITATION.—No act or event shall be certified by the Secretary as an act of terrorism if—

(i) the act or event is committed in the course of a war declared by the Congress; or

(ii) losses resulting from the act or event, in the aggregate, do not exceed $5,000,000.

(C) DETERMINATIONS FINAL.—Any certification of, or determination not to certify, an act or event as an act of terrorism under this paragraph shall be final, and shall not be subject to judicial review.

(2) BUSINESS INTERRUPTION COVERAGE.—The term "business interruption coverage"—

(A) means coverage of losses for temporary relocation expenses and ongoing expenses, including ordinary wages, where—

(i) there is physical damage to the business premises of such magnitude that the business cannot open for business;

(ii) there is physical damage to other property that totally prevents customers or employees from gaining access to the business premises; or

(iii) the Federal, State, or local government shuts down an area due to physical or environmental damage, thereby preventing customers or employees from gaining access to the business premises; and

(B) does not include lost profits, other than in the case of a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632) and applicable regulations hereunder) in any case described in clause (i), (ii), or (iii) of subparagraph (A).

(3) INSURED LOSS.—The term "insured loss"—

(A) means any loss resulting from an act of terrorism that is covered by any type of commercial or personal property and casualty insurance policy or endorsement, including business interruption coverage, issued by a participating insurance company if such loss—

(i) occurs within the United States; or

(ii) occurs to an air carrier (as defined in section 40102 of title 49, United States Code), regardless of where the loss occurs; and

(B) does not include any loss covered by any type of life or health insurance policy.

(4) PARTICIPATING INSURANCE COMPANY.—The term "participating insurance company" means any insurance company, including any subsidiary or affiliate thereof

(A) that—

(i) is licensed or admitted to engage in the business of providing primary insurance in any State; or

(ii) is not so licensed or admitted, if it is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the National Association of Insurance Commissioners, or any successor thereto;

(B) that offers in all of its property and casualty insurance policies, coverage for insured losses;

(C) that offers property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism; and

(D) that meets any other criteria that the Secretary may reasonably prescribe.

(5) PERSON.—The term "person" means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

(6) PROGRAM.—The term "Program" means the Terrorism Insured Loss Shared Compensation Program established by this Act.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(8) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and each of the United States Virgin Islands.

(9) UNITED STATES.—The term "United States" means all States of the United States.

SEC. 4. TERRORISM INSURED LOSS SHARED COMPENSATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—There is established in the Department of the Treasury the Terrorism Insured Loss Shared Compensation Program.

(2) AUTHORITY OF THE SECRETARY.—Notwithstanding any other provision of State or Federal law, the Secretary shall administer the Program, and shall pay the Federal share of compensation for insured losses in accordance with subsection (c).

(b) CONDITIONS FOR FEDERAL PAYMENTS.—No payment may be made by the Secretary under subsection (c), unless—

(1) a policyholder that suffers an insured loss, or a person acting on behalf of that policyholder, files a claim with a participating insurance company;

(2) at the time of offer, purchase, and renewal of each policy covering an insured loss, the participating insurance company provides, as soon as practicable following the date of enactment of this Act, clear and conspicuous disclosure in the policy to the policyholder of the premium charged for insured

losses covered by the Program and the Federal share of compensation for insured losses under the Program;

(3) the participating insurance company processes the claim for the insured loss in accordance with its standard business practices, and any reasonable procedures that the Secretary may prescribe; and

(4) the participating insurance company submits to the Secretary, in accordance with such reasonable procedures as the Secretary may establish—

(A) a claim for payment of the Federal share of compensation for insured losses under the Program;

(B) written verification and certification—

(i) of the underlying claim; and

(ii) of all payments made to policyholders for insured losses; and

(C) certification of its compliance with the provisions of this subsection.

(c) SHARED INSURANCE LOSS COVERAGE.—

(1) FEDERAL SHARE.—Subject to the limitations in paragraph (2), the Federal share of compensation under the Program, to be paid by the Secretary, shall be—

(A) for insured losses resulting from an act of terrorism occurring during the period beginning on the date of enactment of this Act and ending on December 31, 2002, 90 percent of the aggregate amount of all such losses in excess of $10,000,000,000;

(B) for insured losses resulting from an act of terrorism occurring during the period beginning on January 1, 2003 and ending on December 31, 2003, 90 percent of the aggregate amount of all such losses in excess of $10,000,000,000; and

(C) if the Program is extended in accordance with section 6, for insured losses resulting from an act of terrorism occurring during the period beginning on January 1, 2004 and ending on December 31, 2004, 90 percent of the aggregate amount of all such losses in excess of $20,000,000,000.

(2) CAP ON ANNUAL LIABILITY.—Notwithstanding paragraph (1), or any other provision of Federal or State law, if the aggregate insured losses exceed $100,000,000,000 during any period referred to in subparagraphs (A) and (B) of paragraph (1) (or the period referred to in subparagraph (C) of paragraph (1) if the Program is extended in accordance with section 6)—

(A) the Secretary shall not make any payment under this Act for any portion of the amount of such losses that exceeds $100,000,000,000; and

(B) participating insurance companies shall not be liable for the payment of any portion of the amount that exceeds $100,000,000,000.

(3) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if estimated or actual aggregate insured losses exceed $100,000,000,000 in any period described in paragraph (1), and the Congress shall determine the procedures for and the source of any such excess payments.

(4) FINAL NETTING.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(5) DETERMINATIONS FINAL.—Any determination of the Secretary under this subsection shall be final, and shall not be subject to judicial review.

(d) FUNDING.—

(1) PAYMENT AUTHORITY.—This Act constitutes payment authority in advance of appropriation Acts and represents the obligation of the Federal Government to provide for the Federal share of compensation for insured losses under the Program.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to pay the administrative expenses of the Program.

SEC. 5. GENERAL AUTHORITY AND ADMINISTRATION OF CLAIMS.

(a) GENERAL AUTHORITY.—The Secretary shall have the powers and authorities necessary to carry out the Program, including authority—

(1) to investigate and audit all claims under the Program; and

(2) to prescribe regulations and procedures to implement the Program.

(b) INTERIM RULES AND PROCEDURES.—The Secretary shall issue interim final rules or procedures specifying the manner in which—

(1) participating insurance companies may file, verify, and certify claims under the Program;

(2) the Secretary shall publish or otherwise publicly announce the applicable percentage of insured losses to be paid by participating insurance companies and the Federal share of compensation for insured losses under the Program;

(3) the Federal share of compensation for insured losses will be paid under the Program, including payments based on estimates of or actual aggregate insured losses;

(4) the Secretary may, at any time, seek repayment from or reimburse any participating insurance company, based on estimates of insured losses under the Program, to effectuate the insured loss sharing schedule and limitations contained in section 4;

(5) participating insurance companies that incur insured losses shall pay their pro rata share of insured losses in accordance with the schedule and limitations contained in section 4; and

(6) the Secretary will determine any final netting of payments for actual insured losses under the Program, including payments owed to the Federal Government from any participating insurance company and any Federal share of compensation for insured losses owed to any participating insurance company, to effectuate the insured loss sharing schedule and limitations contained in section 4.

(c) SUBROGATION RIGHTS.—The United States shall have the right of subrogation with respect to any payment made by the United States under the Program.

(d) CONTRACTS FOR SERVICES.—The Secretary may employ persons or contract for services as may be necessary to implement the Program.

(e) CIVIL PENALTIES.—The Secretary may assess civil money penalties for violations of this Act or any rule, regulation, or order issued by the Secretary under this Act relating to the submission of false or misleading information for purposes of the Program, or any failure to repay any amount required to be reimbursed under regulations or procedures described in section 5(b). The authority granted under this subsection shall continue during any period in which the Secretary's authority under section 6(d) is in effect.

SEC. 6. TERMINATION OF PROGRAM; DISCRETIONARY EXTENSION.

(a) TERMINATION OF PROGRAM.—

(1) IN GENERAL.—The Program shall terminate, on December 31, 2003, unless the Secretary—

(A) determines, after considering the report and finding required by this section, that the Program should be extended for one additional year, until December 31, 2004; and

(B) promptly notifies the Congress of such determination and the reasons therefore.

(2) DETERMINATION FINAL.—The determination of the Secretary under paragraph (1) shall be final, and shall not be subject to judicial review.

(3) TERMINATION AFTER EXTENSION.—If the Program is extended under paragraph (1), this Act is repealed, and the Program shall terminate, on December 31, 2004.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report to Congress—

(1) regarding—

(A) the availability of insurance coverage for acts of terrorism;

(B) the affordability of such coverage, including the effect of such coverage on premiums; and

(C) the capacity of the insurance industry to absorb future losses resulting from acts of terrorism, taking into account the profitability of the insurance industry; and

(2) that considers—

(A) the impact of the Program on each of the factors described in paragraph (1); and

(B) the probable impact on such factors and on the United States economy if the Program terminates on December 31, 2003.

(c) FINDING REQUIRED.—A determination under subsection (a) to extend the Program shall be based on a finding by the Secretary that—

(1) widespread market uncertainties continue to disrupt the ability of insurance companies to price insurance coverage for losses resulting from acts of terrorism, thereby resulting in the continuing unavailability of affordable insurance for consumers; and

(2) extending the Program for an additional year would likely encourage economic stabilization and facilitate a transition to a viable market for private terrorism risk insurance.

(d) CONTINUING AUTHORITY TO PAY OR ADJUST COMPENSATION.—Following the termination of the Program under subsection (a), the Secretary may take such actions as may be necessary to ensure payment, reimbursement, or adjustment of compensation for insured losses arising out of any act of terrorism occurring during the period in which the Program was in effect under this Act and as to which a determination has been made in accordance with the provisions of section 4 and regulations promulgated thereunder.

(e) STUDY AND REPORT ON SCOPE OF THE PROGRAM.—

(1) STUDY.—The Secretary, after consultation with the National Association of Insurance Commissioners, representatives of the insurance industry, and other experts in the insurance field, shall conduct a study of the potential effects of acts of terrorism on the availability of life insurance and other lines of insurance coverage.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

SEC. 7 PRESERVATION OF STATE LAW.

Nothing in this Act shall affect the jurisdiction or regulatory authority of the insurance commissioner (or any agency or office performing like functions) of any State over any participating insurance company or other person—

(1) except as specifically provided in this Act; and

(2) except that—

(A) the definition of the term "act of terrorism" in section 3 shall be the exclusive definition for purposes of compensation for insured losses under this Act, and shall preempt any provision of State law that is inconsistent with that definition, to the extent that such provision of law would otherwise apply to any insurance policy relating to terrorism risk in the United States;

(B) during the period beginning on the date of enactment of this Act and ending on December 31, 2002, rates for terrorism risk insurance covered by this Act and filed with any State shall not be subject to prior approval or a waiting period, under any law of a State that would otherwise be applicable, except that nothing in this Act affects the ability of any State to invalidate a rate as excessive, inadequate, or unfairly discriminatory; and

(C) during the period beginning on the date of enactment of this Act and for so long as the Program is in effect as provided in Section 6 (including any period during which the Secretary's authority under Section 6(d) is in effect), books and records of any participating insurance company shall be provided, or caused to be provided, to the Secretary or his designee upon request by the Secretary or his designee notwithstanding any provision of the laws of any State prohibiting or limiting such access.

SEC. 8. SENSE OF THE CONGRESS.

It is the sense of the Congress that the insurance industry should build capacity and aggregate risk to provide affordable property and casualty coverage for terrorism risk.

SEC. 9. PROCEDURES FOR CIVIL ACTIONS.

(a) Federal Cause of Action.—There shall exist a Federal cause of action for property damage, personal injury, or death arising out of or resulting from an act of terrorism, which shall be the exclusive cause of action and remedy for claims for property damage, personal injury, or death arising out of or resulting from an act of terrorism. All State causes of action of any kind for property damage, personal injury, or death otherwise available arising out of or resulting from an act of terrorism, are hereby preempted, except as provided in subsection (f).

(b) Governing Law.—The substantive law for decision in an action for property damage, personal injury, or death arising out of or resulting from an act of terrorism under this section shall be derived from the law, including applicable choice of law principles, of the State, or States determined to be required by the district court assigned under subsection (c), unless such law is inconsistent with or otherwise preempted by Federal law.

(c) Federal Jurisdiction.—

(1) In general.—Notwithstanding any other provision of law, not later than 90 days after the occurrence of an act of terrorism, the Judicial Panel on Multidistrict Litigation shall assign a single Federal district court to conduct pretrial and trial proceedings in all pending and future civil actions for property damage, personal injury, or death arising out of or resulting from that act of terrorism.

(2) Selection criteria.—The Judicial Panel on Multidistrict Litigation shall select and assign the district court under paragraph (1) based on the convenience of the parties and the just and efficient conduct of the proceedings.

(3) Jurisdiction.—The district court assigned by the Judicial Panel on Multidistrict Litigation shall have original and exclusive jurisdiction over all actions under paragraph (1). For purposes of personal jurisdiction, the district court assigned by the Judicial Panel on Multidistrict Litigation shall be deemed to sit in all judicial districts in the United States.

(4) Transfer of cases filed in other Federal courts.—Any civil action for property damage, personal injury, or death arising out of or resulting from an act of terrorism that is filed in a Federal district court other than the Federal district court assigned by the Judicial Panel on Multidistrict Litigation under paragraph (1) shall be transferred to the Federal district court so assigned.

(5) Removal of cases filed in State courts.—Any civil action for property damage, personal injury, or death arising out of or resulting from an act of terrorism that is filed in a State court shall be removable to the Federal district court assigned by the Judicial Panel on Multidistrict Litigation under paragraph (1).

(d) Approval of Settlements.—Any settlement between the parties of a civil action described in this section for property damage, personal injury, or death arising out of or resulting from an act of terrorism shall be subject to prior approval by the Secretary after consultation with the Attorney General.

(e) Limitation on Damages.—Punitive or exemplary damages shall not be available in any civil action subject to this section.

(f) Claims Against Terrorists.—Nothing in this section shall in any way limit the ability of any plaintiff to seek any form of recovery from any person, government or other entity that was a participant in, or aider and abettor of, any act of terrorism.

(g) Offset—In determining the amount of money damages available under this section, the court shall offset any compensation or benefits received or entitled to be received by the plaintiff or plaintiffs from any collateral source, including the United States or any Federal agency thereof, in response to or as a result of the act of terrorism.

(h) Effective Period.—This section shall apply only to actions for property damage, personal injury, or death arising out of or resulting from acts of terrorism that occur during the effective period of the Program, including, if applicable, any extension period under section 6.

SEC. 10. REPEAL OF THE ACT.

This Act shall be repealed at the close of business on the termination date of the Program under section 6(a), but the provisions of this section shall not be construed as preventing the Secretary from taking, or causing to be taken, such actions under sections 4(c)(4), (5), sections 5(a)(1), (c), (e), section 6(d), and section 9(d) of this Act and applicable regulations promulgated thereunder. Further, the provisions of this section shall not be construed as preventing the availability of funding under section 4(d) during any period in which the Secretary's authority under section 6(d) is in effect.

Key Provisions of the Terrorism Risk Insurance Act of 2001

All property and casualty policyholders are covered, including those insured under workers compensation policies and those with business interruption coverage.

Federal tax dollars will be paid as compensation to insured victims of terrorist attacks, not to insurance companies.

The insurance industry would fully cover losses arising from certified acts of terrorism, up to $10 billion in each year. The government will provide compensation for 90 percent of losses exceeding $10 billion, with the insurance industry continuing to pay for 10 percent of the losses.

The program is temporary, expiring after two years. The Treasury Secretary has the option to extend the program for one additional year.

The Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General, will determine whether an event qualifies as a terrorist attack.

In order for property and casualty insurers to participate in the program, insurers are required to offer terrorism coverage to all of their policyholders under terms that are consistent with their other property and casualty policies.

Insurance companies are required to disclose to customers which portion of their premiums they are paying for terrorism risk coverage, apart from other property and casualty coverages.

Careful, narrow restrictions on lawsuit liability are included to protect taxpayer funds from being exposed to opportunistic, predatory assaults on the U.S. Treasury.

The State system of insurance regulation is preserved with very few exceptions. First, the definition of an "act of terrorism" under the bill will become the definition in every state. Also, the small number of states that require pre-approval of rate will be restrained from doing so far terrorism risk coverage during the first year. This does not, however, preempt a state insurance regulatory's ability to review and revise the rates once they are in effect. Finally, the Secretary of the Treasury would have access to the books and records of participating insurers in all States.

Mr. ENZI. Mr. President, today I join with Senators Gramm, Bunning, and Bennett in introducing legislation that provides a temporary public-private partnership for terrorism insurance in the wake of the September 11 attacks. This bill provides a joint partnership between insurance companies and the Federal Government for the next 3 years in cases of terrorist attacks.

September 11 has proven to be the most expensive disaster to ever take place on American soil. With cost estimates ranging from $40 to $60 billion, the attacks have drained the capital reserves of some of the largest insurance companies in the world. In addition, as we know all too well, the risk for future attacks is very high. In the absence of this legislation, the insurance industry would be unable to pay the potentially extraordinary costs, and the Federal Government would likely be responsible for the entire costs. This is preemptive legislation.

I believe this legislation strikes the right balance between what the responsibilities should be between the insurance industry and the Federal Government. In each of the first 2 years, the insurance industry is responsible for the first $10 billion of any attack. By placing a $10 billion initial retention for the insurance industry, we ensure that the Federal Government does not get involved unless it is absolutely necessary.

After that, we agree the Federal Government should pay 90 percent of the remaining costs up to a $100 billion threshold. After the first 2 years, the Secretary of the Treasury will decide whether the industry is prepared to once again begin offering this type of coverage. If he believes they are not prepared, he may extend the program for 1 additional year.

This legislation also includes special provisions for small businesses which might be affected by terrorist attacks. A small business that is located in a building that is destroyed requires different treatment than a global corporation. Whereas a large, multinational corporation has offices all over the world with different lines of revenue, a small business could be eliminated by a single incident that would likely destroy all their equipment, possibly kill personnel, and virtually make it impossible for the business to continue. This bill allows for small businesses to recover lost profits and receive funding for business interruptions due to an attack.

I am sure that many of my colleagues have heard from their State insurance regulators the same as I have. My State insurance commissioner informs me that few, if any, of the new policies being submitted for next year's coverage offer terrorism insurance. With insurance being primarily regulated by the States, this has caused a backlog of filings from being approved and paperwork is quickly accumulating at the State level. We must act quickly to alleviate this backlog that will lead to uncertainty in the marketplace.

The legislation also includes very targeted liability provisions. These provisions are extremely narrow and directed only at this specific program. Without these limitations, we would open the Federal Government's checkbook to every trial lawyer in America, and the American taxpayers would have unlimited liability. The trial lawyers were committed to not pursuing frivolous claims that resulted from September 11, and I certainly hope that they would continue their commitment if America is attacked again.

In closing, I would only like to add that I believe the insurance industry should be commended for the way in which they've handled the September 11 crisis. Despite losing many employees in the bombing, they were one of the first groups at the front of the line offering their assistance and support for the victims. To my knowledge, not a single company has attempted to withhold payment from this disaster. They have been most cooperative in working through the myriad proposals that have been circulated and their support has expedited this process.

I look forward to working with my colleagues to move this legislation before we adjourn.

By Mr. CORZINE (for himself, Ms. SNOWE, Ms. CANTWELL, Mr. DODD, Mr. LEAHY, and Mrs. MURRAY):

S. 1752. A bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other sexually transmitted diseases; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Microbicides Development Act of 2001. I am very pleased to be introducing this bipartisan bill along with my colleagues, Senators SNOWE, CANTWELL, DODD, LEAHY, and MURRAY. I extend my gratitude to Senator CANTWELL, in particular, for her support and assistance in the development of this legislation. Additionally, I applaud the efforts of my colleague in the House of Representatives, Republican Congresswoman CONNIE MORELLA of Maryland, for her leadership on this important issue. We all believe this initiative is vital to the pursuit of combating the global HIV/AIDS crisis.

As you know, tomorrow, December 1, is World AIDS Day. Twenty years ago, the Centers for Disease Control became aware of a virus that was claiming the lives of thousands of gay men in the United States. Throughout most of the 1980s, we thought of AIDS purely as a gay men's disease. Twenty years later, we find that we couldn't have been more wrong, as we have seen this disease spread globally to women, children, and heterosexual men, infecting and killing millions.

Today, women and children are being impacted by this epidemic at alarming rates. Every day, 6,300 women worldwide become infected with HIV. In fact, women now represent the fastest growing group of new HIV infections in the United States. AIDS is the fourth leading cause of death among women aged 25 to 44 in this country. Unfortunately, I have seen the devastation that this disease is having on women, as New Jersey has the Nation's fourth highest HIV/AIDS infection rate among women, and the second highest infection rate among all adults.

Despite this growing trend, however, there exists absolutely no HIV or STD prevention method that is within a woman's personal control. Condom use must be negotiated with a partner. We are all aware that for too many women, particularly low-income women in the developing world who reply upon a male partner for economic support, there is no power of negotiation. We know these women are at risk, yet, we expect them to protect themselves without any tools.

Today we have the opportunity to invest in groundbreaking research that can produce these tools, and ultimately, empower women. Microbicides are self-administered products that women could use to prevent transmission of STDs, including HIV/AIDS. I say "could," because due to insufficient research investments, no microbicides have been brought to market. This legislation would encourage federal investments for microbicide research through the establishment of programs at the National Institutes for Health, NIH, and the Centers for Disease Control and Prevention, CDC.

In addition to investing new resources in microbicide research, the Microbicides Development Act will expedite the implementation of the NIH's 5-year strategic plan for microbicide research, as well as expand coordination among Federal agencies already involved in this research, including NIH, CDC, and the United States Agency on International Development, USAID. The bill also establishes Microbicide Research and Development Teams at the NIH. These teams will bring together public and private scientists and resources to research and development microbicides for the prevention of HIV and STD infection.

The Microbicides Development Act of 2001 has the potential not only to save millions of lives, but also to save billions in health care costs. Every year, 15 million new HIV and other STD infections occur among Americans aged 15 and older. The direct cost to the U.S. economy of STDs and HIV infection is approximately $8.4 billion. When the indirect costs, such as lost productivity, are included, that figure rises to an estimated $20 billion.

While new therapies are being developed to prolong the lives of individuals infected with HIV/AIDS—and we must continue developing new therapies—only prevention can truly ensure the safety and health of those vulnerable to infection. If we do not pay a small price now to invest in new prevention methods, we will pay a much higher price later.

Federal support for microbicide research is crucial. Numerous small biotechnology companies and university researchers are actively engaged in microbicide research, but they are almost totally dependent on public-sector grants to continue their work and to test their products. Existing public sector grants for microbicides, however, are too small and too short-term to move product leads forward. According to the Alliance for Microbicide Development and other health advocates, in order to bring a microbicide to market within the next 5 years, current Federal investments in microbicide research should be increased to $75 million this year. The NIH currently invests only $25 million a year, or 1 percent of its total HIV/AIDS budget, in such important research.

This legislation will make microbicide research the priority it should be, a priority the Federal Government must have if it expects to save the lives of women and their children worldwide, who, 20 years after the first AIDS death, will otherwise become victims of a preventable disease.

In closing, I would like to request that an opinion piece written by United Nations' Secretary General Kofi

Annan that appeared in the Washington Post yesterday be included in the RECORD. In his comments recognizing World AIDS Day, Secretary Annan reiterates the importance of investing in new prevention methods as we continue to fight against AIDS.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NO LETTING UP ON AIDS

(By Kofi Annan)

Every day more than 8,000 people die of AIDS. Every hour almost 600 people become infected. Every minute a child dies of the virus. Just as life—and death—goes on after Sept. 11, so must we continue our fight against the HIV/AIDS epidemic. Before the terrorist attacks two months ago, tremendous momentum had been achieved in the fight. To lose it now would be to compound one tragedy with another.

New figures, released in advance of World AIDS Day, Dec. 1, show that more than 40 million people are now living with the virus. The vast majority of them are in sub-Saharan Africa, where the devastation is so acute that it has become one of the main obstacles to development. But parts of the Caribbean and Asia are not far behind, and the pandemic is spreading at an alarming rate in Eastern Europe.

For too long, global progress in facing up to AIDS was painfully slow, and nowhere near commensurate with the challenge. But in the past year, for much of the international community the magnitude of the crisis has finally begun to sink in. Never, in the two long decades that the world has faced this growing catastrophe, has there been such a sense of common resolve and collective possibility.

Public opinion has been mobilized by the media, nongovernmental organizations and activists, by doctors and economists and by people living with the disease. Pharmaceutical companies have made their AIDS drugs more affordable in poor countries, and a growing number of corporations have created programs to provide both prevention and treatment for employees and the wider community. Foundations are making increasingly imaginative and generous contributions, both financial and intellectual—in prevention, in reducing mother-to-child transmission, in the search for a vaccine.

In a growing number of countries, effective prevention campaigns have been launched. There has been an increasing recognition, among both donors and the most affected countries, of the link between prevention and treatment. There has also been a new understanding of the particular toll AIDS is taking on women—and of the key role they have in fighting the disease.

The entire United Nations family is fully engaged in this fight, working to a common strategic plan and supporting country, regional and global efforts through our joint program, UNAIDS. Perhaps most important, a new awareness and commitment have taken hold among governments—most notably in Africa.

Last June the membership of the United Nations met in a special session of the General Assembly to devise a comprehensive and coordinated global response to the AIDS crisis.

They adopted a powerful declaration of commitments, calling for a fundamental shift in our response to HIV/AIDS as a global economic, social and development challenge of the highest priority. They reaffirmed the pledge, made by world leaders in their Millennium Declaration, to halt and begin to reverse the spread of AIDS by 2015. And they set out a number of further ambitious but realistic time-bound targets and goals. Among them were commitments to reach, by 2005, an overall target of annual expenditure on AIDS of $7 billion to $10 billion per year in low- and middle-income countries; to ensure, by 2005, that a wide range of prevention programs are available in all countries; and to support the establishment of a fund to help finance an urgent and expanded response to the epidemic.

Only seven months after I proposed this new international facility to support the global fight against AIDS and other infectious diseases, pledges to the fund stand at more than $1.5 billion. The fund cannot be the only channel of resources for a full-scale global response to AIDS. But what is most heartening is the range of pledges that have been made: from the world's wealthiest nations—starting with the founding contribution from the United States last May—but also from some of its poorest, as well as from foundations, corporations and private individuals.

It is clear that we have the road map, the tools and the knowledge to fight AIDS. What we must sustain now is the political will. Life after Sept. 11 has made us all think more deeply about the kind of world we want for our children. It is the same world we wanted on Sept. 10—a world in which a child does not die of AIDS every minute.

Ms. CANTWELL. Mr. President, I rise today with my colleagues Senators CORZINE and SNOWE to introduce the Microbicides Development Act of 2001, and to recognize tomorrow, December 1, as World AIDS Day. As we reflect on the last 20 years of battling this disease, we need to remember the thousands of people here in the United States and the millions worldwide afflicted by HIV and AIDS.

It is hard to believe that it has been 20 years since we first learned of the disease that would come to be known as Acquired Immune Deficiency Syndrome or AIDS. In those 20 years medical and pharmaceutical advancements have made HIV/AIDS more manageable for some, but a cure is yet to be found. And in those 20 years since we first learned of AIDS we have begun to see a changing face of AIDS across the country, as well as in my home State of Washington.

Consider these facts.

Twenty years ago, HIV infections attributed to sex between gay men accounted for nearly all HIV/AIDS cases in the country. Today, more than half— 54 percent—of HIV infections are in different population groups: straight or bisexual women, or straight men. In fact, between the beginning of the AIDS epidemic and today, the proportion of women newly infected with HIV more than tripled— from 7 percent to 23 percent.

Twenty years ago, HIV infections were primarily appearing in Caucasians. Today, HIV/AIDS is disproportionately affecting communities of color. Approximately two-thirds of all women and over 40 percent of all men reported with AIDS were black. Although Hispanics represent 13 percent of the population, they accounted for 19 percent of new HIV infections in 1999.

And one in four Washingtonians infected with HIV is under aged 22. Half are under 25. These are people that have grown up with the disease—they should be educated on prevention and they should know how to take care of themselves. But somehow complacency—whether from the new drugs and medical treatment—or from disease ennui—has replaced the message we want to be sending.

We have long known that the only way to stop the advance of this terrible disease is through a coordinated and comprehensive approach to education, prevention and treatment. As a community we need to refocus our efforts and not allow complacency—especially among populations not traditionally associated with HIV/AIDS —to dictate the future. There must be a continued commitment to he eradication of this terrible disease.

Before the end of today, several hundred people will become infected with AIDS. In these days of fear of Anthrax and discussions of bioterrorism we should not loose sight of the worst natural pandemic in human history. Twenty years after the U.S. Centers for Disease Control and Prevention first identified AIDS, I am afraid that this vast tragedy has become a little too familiar, and we may have become a little too complacent.

The HIV/AIDS epidemic rages on, from Asia and Eastern Europe to the Caribbean and most tragically Africa. As AIDS has become an international crisis, its face has become that of humanity itself. I fear that AIDS may become the single greatest obstacle to global development humanity has ever faced.

And while it is easy to become discouraged in the face of such a huge, heartbreaking calamity—the truth is we know how to stop the spread of AIDS. Through a coordinated and comprehensive program of education, prevention and treatment, we know that the epidemic can be greatly reduced in scope.

To that end, I'm proud to join Senator CORZINE in sponsoring the Microbicides Development Act of 2001. This bill increases authorization of funding for microbicide research at the National Institutes of Health and the CDC.

Microbicides represent a novel and virtually unexplored area in STD/HIV research. Microbicides can kill or inactivate the bacteria and viruses that cause STDs and AIDS. Despite their huge potential, microbicide research is underrepresented in the federal HIV research portfolio. Currently, Microbicide development represents only one percent of federal research in HIV/AIDS.

Microbicides are unique in that they are under development as topical products—a cream or gel. This gives them a high degree of versatility and user control. This is especially important for women who are unable to or cannot ask their partner to use a condom to prevent spreading HIV. Development of a dependable, affordable and easy to use microbicide would represent a major breakthrough in AIDS prevention—allowing populations like commercial sex workers to have more control over their own bodies. It is extremely important to prevent HIV transmission and serve women, a population increasingly at risk for HIV infection.

Microbicide development is a fertile but unexplored anti-HIV research area. Pharmaceutical companies have generally concentrated on high return disease treatments and government-sponsored vaccine programs. While there are potential microbicides in the research and development pipeline, this bill encourages the pursuit of these promising compounds by increasing authorization for the current federal investment in microbial research in the next fiscal year.

Through this bill, we will emphasize the work at the National Institutes of Health and the Centers for Disease Control and Prevention to develop products to prevent the transmission of AIDS for women. I can think of no new direction in AIDS prevention that has a larger potential—we know that the best preventatives must be easy to use and controlled by the user. I expect that microbicides will fill a new role in preventing the spread of HIV and AIDS. I thank Senator CORZINE for his leadership on this issue and I urge my colleagues to support this bill.

By Mr. BINGAMAN (for himself, Mr. CAMPBELL, and Ms. CANTWELL):

S. 1753. A bill to amend title XIX of the Social Security Act to include medical assistance furnished through an urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service under title V of the Indian Health Care improvement Act in the 100 percent Federal medical assistance percentage applicable to the Indian Health Service; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today with Senators CAMPBELL and CANTWELL entitled the "Urban Indian Health Medicaid Amendments Act of 2001" would raise the Medicaid matching rate to 100 percent for Medicaid-covered services provided to Medicaid-eligible American Indians and Alaska Natives at urban Indian health programs.

The legislation eliminates the discrepancy in current law that provides for a higher matching rate to states for care delivered in an non-urban outpatient facility operated by the Indian Health Service, or IHS, or by a tribe or a tribal organization under contract with IHS compared to the lower matching rate to an urban Indian program funded by the IHS to deliver services to Medicaid-eligible Native Americans residing in urban areas.

The bill would not alter current policy toward facilities operated by the IHS or by tribes or tribal organizations. As under current law, the Federal Government would continue to pay 100 percent of the cost of treating Medicaid-eligible American Indian or Alaska Natives at an IHS hospital or tribal clinic. Similarly, the bill would not alter the amounts paid to IHS hospitals or tribal clinics for treating Medicaid patients.

Instead, the bill simply extends the 100 percent federal matching rate to the costs of treatment of Medicaid-eligible Native Americans in urban Indian health programs and corrects the inconsistency in treatment under current Medicaid law.

The urban Indian health program was first authorized in 1976 in Title V of the "Indian Health Care Improvement Act." According to a report entitled "Urban Indian Health" by the Kaiser Family Foundation that was released this month, "The purpose of the Title V program is to make outpatient health services accessible to urban Indians, either directly or by referral. These services are provided through non-profit organizations, controlled by urban Indians, that receive funds under contract with the IHS."

In fact, the Federal Government, through the IHS, currently funds 36 urban Indian health programs in 20 states: Arizona, 3; California, 8; Colorado, 1; Illinois, 1; Kansas, 1; Massachusetts, 1; Michigan, 1; Minnesota, 1; Montana, 5; Nebraska, 1; Nevada, 1; New Mexico, 1; New York, 1; Oklahoma, 2; Oregon, 1; South Dakota, 1; Texas, 1; Utah, 1; Washington, 2; and Wisconsin, 2.

These programs are nonprofit organizations that provide outpatient primary care services, and in some cases, just referral services, to urban Indians, many of whom are eligible for Medicaid. In FY 2001, Congress appropriated $29.9 million, or just 1 percent of the Indian Health Service budget, in discretionary funding to these programs. These programs are expected to supplement this direct funding with revenues from third party payers, such as private insurance and Medicaid.

Urban Indian health programs may participate as providers in their state's Medicaid program and receive payment for services covered by Medicaid that are furnished to Medicaid-eligible urban Indians. Whatever amount the state pays the urban Indian program for a Medicaid patient visit, the Federal Government will match the State's expenditure at the State's regular Federal Medicaid matching rate, or FMAP.

In contrast, if an American Indian or Alaska Native who is eligible for Medicaid receives primary care services covered by Medicaid at an outpatient facility operated by the IHS or by a tribe or a tribal organization under contract with the IHS, the Federal Government will pay 100 percent of the cost of the service.

The policy rationale for this enhanced matching rate is that because Indian health is a Federal responsibility, states should not have to share in the costs of providing Medicaid services to Native American beneficiaries receiving care through facilities operated directly by the Federal Government's IHS or by tribes or tribal organizations on behalf of the IHS. This same rationale applies to Medicaid-covered services provided by urban Indian programs funded by the IHS to deliver services to Medicaid-eligible Native Americans residing in urban areas. Unfortunately, the Medicaid statute does not reflect this policy. This legislation would address this inequity.

Moreover, as a report by the Kaiser Family Foundation entitled "Urban Indian Health" released this month adds, "Extension of this 100 percent matching rate to services provided by Title V providers to Medicaid-eligible urban Indians may give State Medicaid programs an incentive to treat these 'safety net' clinics more favorably in both a fee-for-service and managed care context."

The proposal would simply amend the third sentence in section 1905(b) of the Social Security Act to read as follows (new language in italic):

> Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facility *or program* whether operated by the Indian Health Service or by an Indian tribe or tribal organization *or by an urban Indian health program* (as defined in section 4 of the Indian Health Care Improvement Act).

The amendment would be effective for Medicaid services furnished on or after October 1, 2001. Under this language, the enhanced 100 percent matching rate would apply only to services furnished directly "through" an urban Indian health program, not by referral. Note that the amendment would not determine the particular amount the state Medicaid program pays an urban Indian health program for a particular service, such as a patient visit. The language only affects the Federal Government's share of that payment amount.

Despite the fact that recent Census figures indicate that 57 percent of the 2.5 million people that identify themselves solely as American Indian and

Alaska Native live in metropolitan areas, including 17,444 in Albuquerque, New Mexico, the IHS budget only provides 1 percent of its funding to urban Indian health programs. We should and must begin to take steps to eliminate such dramatic discrepancies.

As a result, within the Medicaid program, just as the Federal Government reimburses States 100 percent for the costs of services delivered to Native American beneficiaries receiving care through facilities operated directly by the Federal Government's IHS or by tribes or tribal organizations on behalf of the IHS, the same should apply to urban Indian health programs. This simple, yet important bill will eliminate the disparity and I urge its swift passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Urban Indian Health Medicaid Amendments Act of 2001".

SEC. 2. INCLUSION OF MEDICAL ASSISTANCE FURNISHED THROUGH AN URBAN INDIAN HEALTH PROGRAM IN 100 PERCENT FMAP.

(a) IN GENERAL.—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by inserting "or program" after "facility";

(2) by striking "or by" and inserting ", by"; and

(3) by inserting ", or by an urban Indian organization pursuant to a grant or contract with the Indian Health Service under title V of the Indian Health Care Improvement Act" before the period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2002.

By Mr. LEAHY (for himself, Mr. HATCH, Mr. REID, and Mr. BENNETT):

S. 1754. A bill to authorize appropriations for the United States Patent and Trademark Office for fiscal years 2002 through 2007, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to join with Senators HATCH, REID, and BENNETT in the introduction of the Patent and Trademark Office Authorization Act of 2002. Senator HATCH and I, as leaders of the Judiciary Committee, have had great success in working together to protect America's innovators and to protect our patent and trademark system.

This bill is another example of our bipartisan effort to strengthen America's future. By joining with Senators REID and BENNETT, this bill will send a strong message to America's innovators and inventors that the Congress intends to protect and enhance our patent system. The PTO serves a critical role in the promotion and development of commercial activity in the United States by granting patents and trademark registrations to our nation's innovators and businesses.

The costs of running the PTO are entirely paid for by fees collected by the PTO form users, individuals and companies that seek to benefit from patent and trademark protections. However, since 1992 Congress has diverted over $800 million of those fees for other government programs unrelated to the PTO.

This bill sends a strong message that Congress should appropriate to the PTO a funding level equal to these fees. The reason for this is simple: the creation of intellectual property by Americans, individuals and businesses, is a massive positive driving force for our economy and is a huge plus for our trade balance with the rest of the world. In recent years, the number of patient applications has risen dramatically, and that trend is expected to continue. Our patent examiners are very overworked, and emerging areas such as biotechnology and business method patents may overwhelm the system.

If fully implemented as intended, this bill can greatly assist the PTO in issuing quality patents more quickly which means more investment, more jobs and greater productivity for American businesses. Similarly, early federal registration of the name, logo, or symbol of a company or product is necessary to protect rights and avoid expensive litigation. Section 2 of the bill thus authorizes Congress to appropriate to the PTO, in fiscal years 2002 through 2007, an amount equal to the fees estimated by the Secretary of Commerce to be collected in each of the next five fiscal years. The Secretary shall make this report to the Congress by February 15 of each such fiscal year.

Section 3 of the bill directs the PTO to develop, in the next three years, an electronic system for the filing and processing of all patent and trademark applications that is user friendly and that will allow the Office to process and maintain electronically the contents and history of all applications. Of the amount appropriated under section 2, section 3 authorizes Congress to appropriate not more than $50 million in fiscal years 2002 and 2003 for the electronic filing system.

Third, the bill requires the PTO to develop a strategic plan to set forth for the methods by which the PTO will enhance patent and trademark quality, reduce pendency, and develop an effective electronic system for the benefit of filers, examiners, and the general public regarding patents and trademarks.

I am pleased that my colleagues in the other body, Congressmen COBLE and BERMAN, have introduced similar legislation. I am very concerned that the Bush Administration budget for FY 2002 planned to divert $207 million in PTO fees to programs outside the PTO. This diversion takes fees paid by inventors and businesses to secure patents or trademarks and uses them to promote unrelated programs. It does this at a time when the number of patent and trademark applications has increased by 50 percent since 1996, and while the "waiting period," or pendency period, has increased 20 percent 1996. Even worse, the PTO estimates that the patent pendency period could increase to 38 months by 2006.

The bill also contains two sections which will clarify two provisions of current law and thus provide certainty and guidance to the PTO and for inventors and businesses.

Section 5 expands the scope of matters that may be raised during the reexamination process to a level which had been the case for many years. Let me explain the background. Congress established the patent reexamination system in 1980 for three purposes: to attempt to settle patent validity questions quickly and less expensively than litigation; to allow courts to rely on PTO expertise; and, third, to reinforce investor confidence in the certainty of patent rights by affording an opportunity to review patents of doubtful validity.

This system of encouraging third parties to pursue reexamination as an efficient method of settling patent disputes is still a good idea. However, by clarifying current law this bill increases the discretion of the PTO and enhances the effectiveness of the reexamination process. It does this by permitting the use of relevant evidence that was considered by the PTO, but not necessarily cited. Thus, adding this sentence to current law, which only allows for reexaminations when "substantial new questions of patentability exist", will help prevent the misuse of defective patents, especially those concerning business method patents.

It permits a reexamination based on prior art cited by an applicant that the examiner failed to adequately consider. Thus, this change allows the PTO to correct some examiner errors that it would not otherwise be able to correct.

Section 6 of the bill modestly improves the usefulness of inter partes reexamination procedures by enhancing the ability of third-party requesters to participate in that process by allowing such a third party to appeal an adverse reexamine decision in Federal court or to participate in the appeal brought by the patentee. This may make inter partes reexamination a somewhat more attractive option for challenging a patent in that a third party should feel more comfortable that the courts can be accessed to rectify a mistaken reexamination decision. This section should increase the use of the reexamine system and thus decrease the number of patent matters adjudicated in federal court.

I again want to express my appreciation to the co-sponsors of this bill, Senators Hatch, Reid, and Bennett and look forward to working with other Senators on these matters.

Mr. HATCH. Mr. President, I am pleased to join with Senators Leahy, Reid, and Bennett in the introduction of the Patent and Trademark Office Authorization Act of 2002. As Senator Leahy mentioned, he and I, as leaders of the Judiciary Committee, have enjoyed a productive relationship working together to protect America's innovators, and to strengthen our intellectual property laws as well as the agencies that administer and enforce them.

One of the issues we have long worked on is strengthening the ability of the United States Patent Office, "USPTO", to do its important work in reviewing and granting intellectual property rights to inventors seeking the patents that drive our high-tech economy or those businesses that seek to protect the trademarks that consumers rely on to find the goods and services they want. For those inventors and businesses to succeed in using those patent or trademark rights, the USPTO needs to do a quality and timely job in reviewing and granting those rights.

However, over the past few years, the USPTO has been under mounting pressure on three fronts, increased filings, increased complexity in the filings, and increased difficulty retaining valuable and experienced examiners in the face of more lucrative offers in the private sector. These pressures, if unaddressed, can lead to delays for applicants of months or years, or to reduced quality and reliability of the determinations that issue from the USPTO. Indeed, the USPTO estimates that the patent pendency period could rise to 38 months by 2006. I hate to think that innovative products could sit on the shelf for more than three years awaiting government review. This is especially troubling when we realize that in many high-tech sectors the shelf life of a product is often less than half that time. Such increased waiting periods and lower quality decision-making means slower innovation, less competitiveness, higher costs, and greater risk for those seeking patents or trademarks. And, consequently, the rest of us and our economy could see slower recovery and weaker growth. Addressing these challenges will require leadership, of course, which I believe can be provided by the President's nominee to head the USPTO, former Congressman Jim Rogan. But, to be realistic, we must admit that surely it will also require resources.

As many in this body know, the costs of running the USPTO are entirely paid for by fees collected from applicants, individuals and companies that seek to benefit from patent and trademark protection. However, since 1992 Congress has diverted an amount estimated at over $800 million from those fees for other government programs unrelated to the USPTO.

At a time when our economy needs support, it seems doubly wrong to levy what amounts to a tax on innovation, a tax imposed by taking a portion of the fees America's innovators and businesses pay to secure protection for their economy-generating products and services and spending it on unrelated government programs. I believe that fees paid to secure patent and trademark rights should be used to process those applications faster with better reliability precisely because getting the products of American ingenuity to market faster helps grow our economy faster.

That is why I am glad to join my colleagues in introducing this bill which takes the position that Congress should appropriate to the USPTO a funding level equal to the fees applicants pay. I agree with my colleagues that if fully implemented as intended, this bill can greatly assist the USPTO in issuing quality patents more quickly, which in turn can lead to more investment, job creation, and productivity for American businesses.

In addition to establishing the principle that user fees collected by the USPTO should be used to serve those who pay them, the bill makes additional improvements to the way the USPTO does business, further enhancing its ability to serve American companies and inventors. Among these improvements are the requirement that the USPTO develop a user-friendly electronic system for the filing and processing of all patent and trademark applications, and that the PTO to develop a strategic plan to enhance patent and trademark quality, reduce pendency, and otherwise improve their systems and services for the benefit of applicants, examiners, and the general public. The bill also contains two sections which will clarify two provisions of current law regarding reexamination of patents to provide greater guidance to the USPTO and its customers about the scope and availability of the reexamination process. Both of these changes should help streamline and reduce the costs of post-grant patent decisions.

I again want to express my appreciation to Senator Leahy, the chairman of the Judiciary Committee, for this leadership, and to the other co-sponsors of this bill, Senators Reid and Bennett. I look forward to working with them and my other colleagues on this important legislation.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 185—RECOGNIZING THE HISTORICAL SIGNIFICANCE OF THE 100TH ANNIVERSARY OF KOREAN IMMIGRATION TO THE UNITED STATES

Mr. ALLEN (for himself, Mr. Helms, Mr. Campbell, Mr. Warner, Mr. Allard, Mr. Inouye, Mrs. Feinstein, Mr. Biden, Mr. Smith of Oregon, Mr. Grassley, Mr. Sessions, Mr. Fitzgerald, and Mr. Gramm) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. Res. 185

Whereas missionaries from the United States played a central role in nurturing the political and religious evolution of modern Korea, and directly influenced the early Korean immigration to the United States;

Whereas in December 1902, 56 men, 21 women, and 25 children left Korea and traveled across the Pacific Ocean on the S.S. Gaelic and landed in Honolulu, Hawaii on January 13, 1903;

Whereas the early Korean-American community was united around the common goal of attaining freedom and independence for their colonized mother country;

Whereas members of the early Korean-American community served with distinction in the Armed Forces of the United States during World War I, World War II, and the Korean Conflict;

Whereas on June 25, 1950, Communist North Korea invaded South Korea with approximately 135,000 troops, thereby initiating the involvement of approximately 5,720,000 personnel of the United States Armed Forces who served during the Korean Conflict to defeat the spread of communism in Korea and throughout the world;

Whereas casualties in the United States Armed Forces during the Korean Conflict included 54,260 dead (of whom 33,665 were battle deaths), 92,134 wounded, and 8,176 listed as missing in action or prisoners of war;

Whereas in the early 1950s, thousands of Koreans, fleeing from war, poverty, and desolation, came to the United States seeking opportunities;

Whereas Korean-Americans, like waves of immigrants to the United States before them, have taken root and thrived in the United States through strong family ties, robust community support, and countless hours of hard work;

Whereas Korean immigration to the United States has invigorated business, church, and academic communities in the United States;

Whereas according to the 2000 United States Census, Korean-Americans own and operate 135,571 businesses across the United States that have gross sales and receipts of $46,000,000,000 and employ 333,649 individuals with an annual payroll of $5,800,000,000;

Whereas the contributions of Korean-Americans to the United States include, the invention of the first beating heart operation for coronary artery heart disease, the development of the nectarine, a 4-time Olympic gold medalist, and achievements in engineering, architecture, medicine, acting, singing, sculpture, and writing;

Whereas Korean-Americans play a crucial role in maintaining the strength and vitality of the United States-Korean partnership;

Whereas the United States-Korean partnership helps undergird peace and stability in the Asia-Pacific region and provides economic benefits to the people of the United States and Korea and to the rest of the world; and

Whereas beginning in 2003, more than 100 communities throughout the United States will celebrate the 100th anniversary of Korean immigration to the United States: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the achievements and contributions of Korean-Americans to the United States over the past 100 years; and

(2) requests that the President issue a proclamation calling on the people of the United States and interested organizations to observe the anniversary with appropriate programs, ceremonies, and activities.

Mr. ALLEN. Mr. President, I am pleased to submit today, along with the Chairman of the Foreign Relations Committee, Senator BIDEN, the Vice Chairman of the Armed Services Committee, Mr. WARNER, and the Vice Chairman of the Indian Affairs Committee, Mr. CAMPBELL, and many of our colleagues, a Senate resolution recognizing the historical significance of the 100th anniversary of Korean-Americans' immigration to the United States in 2003.

In December of 1902, 56 men, 21 women and 25 children traveled from Korea across the Pacific Ocean on the *S.S. Gaelic* and landed in Honolulu, HI, on January 13, 1903, marking the first entry of Korean immigrants to the U.S. territories. The year 2003 will be the 100th Anniversary of that immigration. With that anniversary looming, interest in this historic centennial celebration is growing in Korean communities in the United States and worldwide, including events within the vibrant Korean-American communities in the Commonwealth of Virginia.

A century is more than a convenient marker for Korean-Americans: It celebrates Koreans' prominent place in the broad narrative of America. Judging by their achievements over these past 100 years, theirs is an American story that confirms the opportunity for individual initiative, creativity, hard work and success in these free United States.

Both individually and as a community, Korean-Americans have much to celebrate in 2003. In such diverse areas as commerce and finance, technology, medicine, education, and the arts, Korean-American contributions are being widely acknowledged and recognized. Even the Korean culture, uniquely shaped, inspired, and nurtured by life in America, is becoming part of the vernacular. From Hawaii to California to New York, and in Annandale in Fairfax County, VA, Korean-American communities are vibrant and vital leaders throughout the United States.

It is worth noting that apart from the many achievements by Korean-Americans, unique among all immigrant communities in the United States, the early Korean-American community was united around the common goal of attaining freedom and independence for their colonized mother country. Like many immigrant groups, Korean-Americans embraced the basic principles of democracy in our Constitution. It is a goal that continues to this day, when one considers that one out of four Korean-Americans still has relatives and other loved ones trapped in North Korea.

Starting in the early 1950s, thousands of immigrants, fleeing from war, poverty and desolation came to the United States seeking opportunities. Without knowing the language and without great wealth, but with strong family ties, caring community support and many hours of hard work, Korean-Americans, like waves of immigrants before them, have taken root and thrived in our free American soil.

Crucial to Korean-Americans' success was their ability to organize themselves for mutual support and assistance through associations, churches and other organizations. This success has translated itself, according to the 2000 U.S. Census, into 135,571 businesses owned and operated by Korean-Americans across the country with gross sales and receipts of $46 billion. These businesses employ 333,649 men and women with an annual payroll of $5.8 billion.

The contributions to this country by early Korean-Americans include the invention of the first beating heart operation for coronary heart disease, the development of the nectarine and a four-time Olympic gold medallist. In the modern era, there have been notable achievements by engineers, architects, doctors, actors, singers, sculptors and novelists, among others. With more than 100 communities throughout the United States preparing to celebrate the 100th anniversary of Korean-American immigration to the United States, it is appropriate and deserving to recognize the historical significance of this milestone.

It is my hope that this resolution will encourage appreciation, pride, and self-awareness among Korean Americans, and I encourage schools, organizations, and Federal, State, and local governments to plan activities and programs together with the many Korean-American organizations that are currently preparing for this wonderful anniversary of the living American Dream.

I respectfully ask for the support of my colleagues on both sides of the aisle for this resolution, and urge the Senate to pass this historic resolution.

SENATE CONCURRENT RESOLUTION 87—EXPRESSING THE SENSE OF CONGRESS REGARDING THE CRASH OF AMERICAN AIRLINES FLIGHT 587

Mr. SCHUMER (for himself and Mrs. CLINTON) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 87

Whereas American Airlines Flight 587 en route from John F. Kennedy Airport in Queens County, New York to Santo Domingo, Dominican Republic crashed on the Rockaway Peninsula in Queens County, New York on November 12, 2001;

Whereas the crash resulted in the tragic loss of life by an estimated at 266 persons, including passengers, crew members, and people on the ground;

Whereas New York City has strong cultural, familial, and historic ties to the Dominican Republic;

Whereas many of the passengers were of Dominican origin residing in the Washington Heights community, a vibrant neighborhood that is an integral part of our national cultural mosaic;

Whereas the Rockaway community has already suffered greatly as a result of the terrorist attacks on the World Trade Center in New York City on September 11, 2001, as the Rockaway community has long been home to one of the highest concentrations of the firefighters of New York City, many of whom lost their lives responding to those attacks on the World Trade Center;

Whereas many Rockaway residents, ignoring the risks of being harmed by fire or other hazards at the site of the plane crash, rushed to the site in an effort to help;

Whereas the people of Rockaway have served as an inspiration through their resilience in the face of adversity and their faith in and practice of community; and

Whereas the professional emergency personnel of New York on the ground at the crash site performed emergency services valiantly, thereby limiting the devastation of this tragedy: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SENSE OF CONGRESS.

The Congress—

(1) sends its heartfelt condolences to the families, friends, and loved ones of the victims of the crash of American Airlines Flight 587 on November 12, 2001;

(2) sends its sympathies to the people of the Dominican Republic and to the Dominican community in the City of New York who have been so tragically affected by the loss of loved ones aboard that flight;

(3) sends its sympathies to the people of the Rockaway community who have suffered immense personal loss as a combined result of the crash on November 12, 2001, and the terrorist attacks on the World Trade Center on September 11, 2001; and

(4) commends the heroic actions of the rescue workers, volunteers, and State and local officials of New York who responded to these tragic events with courage, determination, and skill.

SEC. 2. TRANSMISSION OF THE ENROLLED RESOLUTION.

The Clerk of the Senate shall transmit an enrolled copy of this resolution to the President of the Dominican Republic and to the Mayor of New York City.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2175. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table.

SA 2176. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2177. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2178. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2179. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2180. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2181. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2182. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2183. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2184. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2185. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2186. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2187. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2188. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2189. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2190. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2191. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2192. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2193. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2194. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2195. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2196. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2197. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2198. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2199. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2200. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2201. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2202. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2203. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2204. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2205. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2206. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2207. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2208. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2209. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2210. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2211. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2212. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2213. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 10, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2175. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, line 1, strike "10 most" and insert "5 most".

SA 2176. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, after line 16, insert the following:

SEC. 205. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS WHICH REMAIN IN GENERAL FUND.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) (relating to tax on diesel fuel in certain cases) is amended—

(A) by striking "or a diesel-powered train" in clauses (i) and (ii), and

(B) by striking "or train" in clause (i).

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1) is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows "section 6421(e)(2)" and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.".

(D) Subsection (f) of section 4082 is amended by striking "section 4041(a)(1)" and inserting "subsections (d)(3) and (a)(1) of section 4041, respectively".

(E) Paragraph (3) of section 4083(a) is amended by striking "or a diesel-powered train".

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

"(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.".

(G) Paragraph (3) of section 6427(f) is amended to read as follows:

"(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SA 2177. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 105(c).

SA 2178. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 107(c)(1).

SA 2179. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 8, strike "transfer" and insert "transfer, but only if there was an on-budget surplus in the most recent fiscal year ending prior to such transfer".

SA 2180. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 107, add the following:

(h) NO GENERAL REVENUE SPENDING TO PAY BENEFITS.—Beginning on the date that amounts are transferred to the National Railroad Retirement Investment Trust pursuant to the amendments made by this section—

(1) no transfers from the general fund in the treasury may be used to pay benefits under the Railroad Retirement Act of 1974; and

(2) such benefits shall only be payable to the extent that sufficient funds exist in the appropriate accounts under such Act or the National Railroad Retirement Investment Trust to make such payments.

SA 2181. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—REPLACEMENT PENSION PLAN

SEC. 301. REPLACEMENT PENSION PLAN.

(a) IN GENERAL.—Notwithstanding any other provision of law, any employer (as defined in section 1(a)(1) of the Railroad Retirement Act of 1974), including the National Railroad Passenger Corporation, may enter into negotiations with employee representatives with respect to a new pension plan for its employees for the purpose of terminating coverage under such Act.

(b) CERTIFICATION OF PLAN.—If the plan described in subsection (a) is certified by the Secretary of Labor and the Secretary of the Treasury as a bona fide plan that meets the criteria of the Employee Retirement Income Security Act of 1974 for pension funds, then, notwithstanding any other provision of law, the individuals described in subsection (a) shall not longer be entitled to benefits under the Railroad Retirement Act of 1974.

(c) TECHNICAL AND CONFORMING CHANGES.—The Commissioner of Social Security, the Railroad Retirement Board, and the Secretary of the Treasury, as soon as practicable but in any event not later than 180 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Social Security Act, the Railroad Retirement Act of 1974, and the Internal Revenue Code of 1986 which are necessary to reflect throughout such Acts and Code the purposes of this section.

SA 2182. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, between lines 24 and 25, insert the following:

"(3) TREATMENT AS A MULTIEMPLOYER PENSION FUND.—For purposes of the Employee Retirement Income Security Act of 1974, the Trust shall be treated as a multiemployer plan (as defined in section 3(37) of such Act).

SA 2183. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 102.

SA 2184. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—REPEAL OF GENERAL FUND SUBSIDY TO RAILROAD RETIREMENT ACCOUNT

SEC. 301. REPEAL OF GENERAL FUND SUBSIDY TO RAILROAD RETIREMENT ACCOUNT.

(a) REPEAL.—Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (45 U.S.C. 231n note) is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall take effect on the date that amounts are transferred to the National Railroad Retirement Investment Trust pursuant to the amendments made by section 107.

SA 2185. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Retirement and Survivors' Improvement Act of 2001".

SEC. 2. EXPANSION OF WIDOW'S AND WIDOWER'S BENEFITS.

(a) IN GENERAL.—Section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) is amended by adding at the end the following new subdivision:

"(10)(i) If for any month the unreduced annuity provided under this section for a widow or widower is less than the widow's or widower's initial minimum amount computed pursuant to paragraph (ii) of this subdivision, the unreduced annuity shall be increased to that initial minimum amount. For the purposes of this subdivision, the unreduced annuity is the annuity without regard to any deduction on account of work, without regard to any reduction for entitlement to an annuity under section 2(a)(1) of this Act, without regard to any reduction for entitlement to a benefit under title II of the Social Security Act, and without regard to any reduction for entitlement to a public service pension pursuant to section 202(e)(7), 202(f)(2), or 202(g)(4) of the Social Security Act.

"(ii) For the purposes of this subdivision, the widow or widower's initial minimum amount is the amount of the unreduced annuity computed at the time an annuity is awarded to that widow or widower, except that—

"(A) in subsection (g)(1)(i) '100 per centum' shall be substituted for '50 per centum'; and

"(B) in subsection (g)(2)(ii) '130 per centum' shall be substituted for '80 per centum' both places it appears.

"(iii) If a widow or widower who was previously entitled to a widow's or widower's annuity under section 2(d)(1)(ii) of this Act becomes entitled to a widow's or widower's annuity under section 2(d)(1)(i) of this Act, a new initial minimum amount shall be computed at the time of award of the widow's or widower's annuity under section 2(d)(1)(i) of this Act.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on the first day of the first month that begins more than 30 days after enactment, and shall apply to annuity amounts accruing for months after the effective date in the case of annuities awarded—

(A) on or after that date; and

(B) before that date, but only if the annuity amount under section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) was computed under such section, as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 95 Stat. 357).

(2) SPECIAL RULE FOR ANNUITIES AWARDED BEFORE THE EFFECTIVE DATE.—In applying the amendment made by this section to annuities awarded before the effective date, the calculation of the initial minimum amount under new section 4(g)(10)(ii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)(10)(ii)), as added by subsection (a), shall be made as of the date of the award of the widow's or widower's annuity.

SEC. 3. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS WHICH REMAIN IN GENERAL FUND.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) of the Internal Revenue Code of 1986 (relating to tax on diesel fuel in certain cases) is amended—

(A) by striking “or a diesel-powered train” in clauses (i) and (ii), and

(B) by striking “or train” in clause (i).

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1) of such Code is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) of such Code is amended by striking all that follows “section 6421(e)(2)” and inserting a period.

(C) Subsection (d) of section 4041 of such Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

“(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

“(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.”.

(D) Subsection (f) of section 4082 of such Code is amended by striking “section 4041(a)(1)” and inserting “subsections (d)(3) and (a)(1) of section 4041, respectively”.

(E) Paragraph (3) of section 4083(a) of such Code is amended by striking “or a diesel-powered train”.

(F) Paragraph (3) of section 6421(f) of such Code is amended to read as follows:

“(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.”.

(G) Paragraph (3) of section 6427(f) of such Code is amended to read as follows:

“(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SA 2186. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.   . FAIR AND EQUITABLE RESOLUTION OF LABOR INTEGRATION ISSUES.

(a) PURPOSE.—The purpose of this section is to require procedures that ensure the fair and equitable resolution of labor integration issues, in order to prevent further disruption to transactions for the combination of air carriers, which would potentially aggravate the disruption caused by the attack on the United States on September 11, 2001.

(b) DEFINITIONS.—In this Act:

(1) AIR CARRIER.—The term “air carrier” means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

(2) COVERED AIR CARRIER.—The term “covered air carrier” means an air carrier that is involved in a covered transaction.

(3) COVERED EMPLOYEE.—The term “covered employee” means an employee who—

(A) is not a temporary employee; and

(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

(4) COVERED TRANSACTION.—The term “covered transaction” means a transaction that—

(A) is a transaction for the combination of multiple air carriers into a single air carrier;

(B) involves the transfer of ownership or control of—

(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

(ii) 50 percent or more (by value) of the assets of the air carrier;

(C) became a pending transaction, or was completed, not earlier than January 1, 2001; and

(D) did not result in the creation of a single air carrier by September 11, 2001.

(c) SENIORITY INTEGRATION.—In any covered transaction involving a covered air carrier that leads to the combination of crafts or classes that are subject to the Railway Labor Act—

(1) sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 CAB 45) shall apply to the covered employees of the covered air carrier; and

(2) subject to paragraph (1), in a case in which a collective bargaining agreement provides for the application of sections 3 and 13 of the labor protective provisions in the process of seniority integration for the covered employees, the terms of the collective bargaining agreement shall apply to the covered employees and shall not be abrogated.

(d) ENFORCEMENT.—Any aggrieved person (including any labor organization that represents the person) may bring an action to enforce this section, or the terms of any award or agreement resulting from arbitration or a settlement relating to the requirements of this section. The person may bring the action in an appropriate Federal district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy.

SA 2187. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.   . FAIR AND EQUITABLE RESOLUTION OF LABOR INTEGRATION ISSUES.

(a) PURPOSE.—The purpose of this section is to require procedures that ensure the fair and equitable resolution of labor integration issues, in order to prevent further disruption to transactions for the combination of air carriers, which would potentially aggravate the disruption caused by the attack on the United States on September 11, 2001.

(b) DEFINITIONS.—In this Act:

(1) AIR CARRIER.—The term “air carrier” means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

(2) COVERED AIR CARRIER.—The term “covered air carrier” means an air carrier that is involved in a covered transaction.

(3) COVERED EMPLOYEE.—The term “covered employee” means an employee who—

(A) is not a temporary employee; and

(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

(4) COVERED TRANSACTION.—The term “covered transaction” means a transaction that—

(A) is a transaction for the combination of multiple air carriers into a single air carrier;

(B) involves the transfer of ownership or control of—

(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

(ii) 50 percent or more (by value) of the assets of the air carrier;

(C) became a pending transaction, or was completed, not earlier than January 1, 2001; and

(D) did not result in the creation of a single air carrier by September 11, 2001.

(c) SENIORITY INTEGRATION.—In any covered transaction involving a covered air carrier that leads to the combination of crafts or classes that are subject to the Railway Labor Act—

(1) sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 CAB 45) shall apply to the covered employees of the covered air carrier; and

(2) subject to paragraph (1), in a case in which a collective bargaining agreement provides for the application of sections 3 and 13 of the labor protective provisions in the process of seniority integration for the covered employees, the terms of the collective bargaining agreement shall apply to the covered employees and shall not be abrogated.

(d) ENFORCEMENT.—Any aggrieved person (including any labor organization that represents the person) may bring an action to enforce this section, or the terms of any award or agreement resulting from arbitration or a settlement relating to the requirements of this section. The person may bring the action in an appropriate Federal district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy.

SA. 2188. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . FAIR AND EQUITABLE RESOLUTION OF LABOR INTEGRATION ISSUES.

(a) PURPOSE.—The purpose of this section is to require procedures that ensure the fair and equitable resolution of labor integration issues, in order to prevent further disruption to transactions for the combination of air carriers, which would potentially aggravate the disruption caused by the attack on the United States on September 11, 2001.

(b) DEFINITIONS.—In this Act:

(1) AIR CARRIER.—The term "air carrier" means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

(2) COVERED AIR CARRIER.—The term "covered air carrier" means an air carrier that is involved in a covered transaction.

(3) COVERED EMPLOYEE.—The term "covered employee" means an employee who—

(A) is not a temporary employee; and

(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

(4) COVERED TRANSACTION.—The term "covered transaction" means a transaction that—

(A) is a transaction for the combination of multiple air carriers into a single air carrier;

(B) involves the transfer of ownership or control of—

(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

(ii) 50 percent or more (by value) of the assets of the air carrier;

(C) became a pending transaction, or was completed, not earlier than January 1, 2001; and

(D) did not result in the creation of a single air carrier by September 11, 2001.

(c) SENIORITY INTEGRATION.—In any covered transaction involving a covered air carrier that leads to the combination of crafts or classes that are subject to the Railway Labor Act—

(1) sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 CAB 45) shall apply to the covered employees of the covered air carrier; and

(2) subject to paragraph (1), in a case in which a collective bargaining agreement provides for the application of sections 3 and 13 of the labor protective provisions in the process of seniority integration for the covered employees, the terms of the collective bargaining agreement shall apply to the covered employees and shall not be abrogated.

(d) ENFORCEMENT.—Any aggrieved person (including any labor organization that represents the person) may bring an action to enforce this section, or the terms of any award or agreement resulting from arbitration or a settlement relating to the requirements of this section. The person may bring the action in an appropriate Federal district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy.

SA 2189. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

"SEC. 2. Notwithstanding any other provision of this Act, the $15,000,000,000 transfer authorized under section 107(a) shall not take effect unless the Secretary of the Treasury finds that no portion of the transferred funds are attributable to the surplus in Social Security.".

SA 2190. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 204(d) and insert the following:

(d) DETERMINATION OF RATE.—Chapter 22 is amended by adding at the end the following new subchapter:

"Subchapter E—Tier 2 Tax Rate Determination

"Sec. 3241. Determination of tier 2 tax rate based on account benefits ratio.

"SEC. 3241. DETERMINATION OF TIER 2 TAX RATE BASED ON ACCOUNT BENEFITS RATIO.

"(a) IN GENERAL.—For purposes of sections 3201(b), 3211(b), and 3221(b), the applicable percentage for any calendar year is the percentage determined in accordance with the table in subsection (b).

"(b) TAX RATE SCHEDULE.—

"Account benefits ratio		Applicable percentage for sections 3211(b) and 3221(b)	Applicable percentage for section 3201(b)
At least	But less than		
	2.5	22.1	4.9
2.5	3.0	18.1	4.9
3.0	3.5	15.1	4.9
3.5	4.0	14.1	4.9
4.0	6.1	13.1	4.9
6.1	6.5	12.6	4.4
6.5	7.0	12.1	3.9
7.0	7.5	11.6	3.4
7.5	8.0	11.1	2.9
8.0	8.5	10.1	1.9
8.5	9.0	9.1	0.9
9.0		8.2	0

"(c) ACCOUNT BENEFITS RATIO.—For purposes of this section, the term 'account benefits ratio' means, with respect to any calendar year, the amount determined by the Railroad Retirement Board by dividing the fair market value of the assets in the Railroad Retirement Account and of the National Railroad Retirement Investment Trust (and for years before 2002, the Social Security Equivalent Benefits Account) as of the close of the most recent fiscal year ending before such calendar year by the total benefits and administrative expenses paid from the Railroad Retirement Account and the National Railroad Retirement Investment Trust during such fiscal year.

"(d) NOTICE.—No later than December 1 of each calendar year, the Secretary shall publish a notice in the Federal Register of the rates of tax determined under this section which are applicable for the following calendar year.".

SA 2191. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

"SEC. 2. Notwithstanding any other provision of Act, the reduction in the retirement age authorized by section 102 shall not take effect until the Secretary of the Treasury finds that there has been a comparable reduction in the Social Security retirement age.".

SA 2192. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

"SEC. 2. Notwithstanding any other provision of this Act, the $15,000,000,000 transfer authorized under section 107(a) shall not take effect unless the Secretary of the Treasury finds that no portion of the transferred funds are attributable to the surplus in Social Security or in Medicare.".

SA 2193. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

"SEC. 2. Notwithstanding any other provision of Act, the Board of Trustees created under section 105 shall invest the funds of the Trust only in a manner that maximizes return on investment, consistent with prudent risk management. Any railroad employee, retiree, survivor, or company may bring a civil action to enforce this section.".

SA 2194. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

In the table on page 39, line 9, strike 22.1 and insert "such percentage as the Secretary determines is necessary to restore the average account benefit ratio to 2.5.".

SA 2195. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike Sec. 107(c).

SA 2196. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

"SEC. 2. Notwithstanding any other provision of this Act, any reduction in tax or increase in benefits shall take effect only to the degree that the Secretary of the Treasury finds that the actual earnings of the Railroad Retirement Investment Trust Fund are sufficient to fund them.".

SA 2197. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike Section 105(c).

SA 2198. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

"SEC. 2. Notwithstanding any other provision of Act, any reduction in tax under section 204 shall be null and void in any year that the combined balances of the Railroad Retirement trust funds have been depleted by more than 10 percent as compared to the combined balances of the Railroad Retirement trust funds projected by the Railroad Retirement Board under employment assumption II as of the day before the date of enactment of this Act.".

SA 2199. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

"SEC. 2. Notwithstanding any other provision of Act, any reduction in tax under section 204 shall be null and void in any year that the combined balances of the Railroad Retirement trust funds have been depleted by more than 20 percent as compared to the combined balances of the Railroad Retirement trust funds projected by the Railroad Retirement Board under employment assumption II as of the day before the date of enactment of this Act.".

SA 2200. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

"SEC. 2. Notwithstanding any other provision of Act, any reduction in tax under section 204 shall be null and void in any year that the combined balances of the Railroad Retirement trust funds have been depleted by more than 40 percent as compared to the combined balances of the Railroad Retirement trust funds projected by the Railroad Retirement Board under employment assumption II as of the day before the date of enactment of this Act.".

SA 2201. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

"SEC. 2. Notwithstanding any other provision of Act, any reduction in tax under section 204 shall be null and void in any year that the combined balances of the Railroad Retirement trust funds have been depleted by more than 75 percent ads compared to the combined balance of the Railroad Retirement trust funds projected by the Railroad Retirement Board under employment assumption II as of the day before the date of enacting of this Act.".

SA 2202. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 105(c).

SA 2203. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE REQUIRES BALANCED BUDGET.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect on the first day of the first fiscal year with respect to a budget that follows the year when an actual on-budget surplus that exceeds amounts in the Medicare trust funds has been achieved..

SA 2204. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE REQUIRES BALANCED BUDGET.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect on the first day of the first fiscal year with respect to which the President submits a budget pursuant to section 1105 of title 31, United States Code, that provides an on-budget surplus that exceeds amounts in the Medicare trust funds.

SA 2205. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE REQUIRES BALANCED BUDGET.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect on the first day of the first fiscal year with respect to which the President submits a budget pursuant to section 1105 of title 31, United States Code, that provides an on-budget surplus.

SA 2206. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE REQUIRES BALANCED BUDGET.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect on the first day of the first fiscal year with respect to which the President submits a budget pursuant to section 1105 of title 31, United States Code, that provide a unified budget surplus.

SA 2207. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following.

SEC. . SENSE OF THE SENATE REGARDING ACCELERATION OF RAIL TO WASHINGTON DULLES INTERNATIONAL AIRPORT.

(a.) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should—

(1) Act expeditiously to facilitate the extension of rail service to Washington Dulles International Airport.

(2) Encourage the Administrator of the Federal Transit Administration to work with the Commonwealth of Virginia, Northern Virginia municipalities, and the Metropolitan Washington Area Transit Authority to develop and implement a financing plan for the Dulles Corridor raid transit project.

SA 2208. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes;

which was ordered to lie on the table; as follows:

At the appropriate place insert the following.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Terrorist Response Tax Exemption Act".

SEC. 2 EXCLUSION OF CERTAIN TERRORIST ATTACK ZONE COMPENSATION OF CIVILIAN UNIFORMED PERSONNEL.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to * * *

"(A) were dangerous to human life and a violation of the criminal laws of the United States or of any State, and

"(B) would appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation, or affect the conduct of a government by assassination or kidnapping.

"(3) COMPENSATION.—The term 'compensation' does not include pensions and retirement pay.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3401(a)(1) of the Internal Revenue Code of 1986 is amended by inserting "or section 112A (relating to certain terrorist attack zone compensation of civilian uniformed personnel)" after "United States)".

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 112 the following new item:

"Sec. 112A. Certain terrorist attack zone compensation of civilian uniformed personnel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SA 2209. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following.

SEC. . SENSE OF THE SENATE REGARDING ACCELERATION OF RAIL TO WASHINGTON DULLES INTERNATIONAL AIRPORT.

(a.) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should—

(1) Act expeditiously to facilitate the extension of rail service to Washington Dulles International Airport.

(2) Encourage the Administrator of the Federal Transit Administration to work with the Commonwealth of Virginia, Northern Virginia municipalities, and the Metropolitan Washington Area Transit Authority to develop and implement a financing plan for the Dulles Corridor rapid transit project.

SA 2210. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. NATIONAL EMERGENCY GRANTS.

In section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)(4)), add after (3):

(4) to provide assistance to the Governor to provide personal income compensation to a unemployed worker, if—

(A) the worker is unable to work due to direct Federal Government intervention, as a result of a direct response to the terrorist attacks which occurred on September 11th, 2001, leading to—

(i) closure of the facility at which the worker was employed, prior to the intervention; or

(ii) a restriction on how business may be conducted at the facility; and

(B) the facility is located within an area, which not later than October 1, 2001, was declared a major disaster area or an emergency by the President, pursuant to section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Relief Act (42 U.S.C. 5170 and 5191), due to a terrorist attack on the United States on September 11, 2001.

(5) to provide assistance to the Governor to provide business income compensation to an independently owned business or proprietorship if—

(A) the business or proprietorship is unable to earn revenue due to direct Federal intervention, as a result of a direct response to the terrorist attacks which occurred on September 11th, 2001, leading to—

(i) closure of the facility at which the business or prorietorship was located, prior to the intervention; or

(ii) a restriction on how customers may access the facility; and

(B) the facility is located within an area, which not later than October 1, 2001, was declared a major disaster area or an emergency by the President, pursuant to section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Relief Act (42 U.S.C. 5170 and 5191), due to a terrorist attack on the United States on September 11, 2001.

SA 2211. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension, reform, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following.

SECTION . SHORT TITLE.

This Act may be cited as the "Terrorist Response Tax Exemption Act".

SEC. . EXCLUSION OF CERTAIN TERRORIST ATTACK ZONE COMPENSATION OF CIVILIAN UNIFORMED PERSONNEL.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 112 the following new section:

"SEC. 112A. CERTAIN TERRORIST ATTACK ZONE COMPENSATION OF .CIVILIAN UNIFORMED PERSONNEL.

"(a) IN GENERAL.—Gross income does not include compensation received by a civilian uniformed employee for any month during any part of which such employee provides security, safety, fire management, or medical services in a terrorist attack zone.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CIVILIAN UNIFORMED EMPLOYEE.—The term 'civilian uniformed employee' means any nonmilitary individual employed by a Federal, State, or local government (or any agency or instrumentality thereof) for the purpose of maintaining public order, establishing and maintaining public safety, or responding to medical emergencies.

"(2) TERRORIST ATTACK ZONE.—The term 'terrorist attack zone' means any area designated by the President or any applicable State or local authority (as determined by the Secretary) to be an area in which occurred a violent act or acts which—

"(A) were dangerous to human life and a violation of the criminal laws of the United States or of any State, and

"(B) would appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation, or affect the conduct of a government by assassination or kidnapping.

"(3) COMPENSATION.—The term 'compensation' does not include pensions and retirement pay.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3401(a)(1) of the Internal Revenue Code of 1986 is amended by inserting "or section 112A (relating to certain terrorist attack zone compensation of civilian uniformed personnel)" after "United States)".

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 112 the following new item:

"Sec. 112A. Certain terrorist attack zone compensation of civilian uniformed personnel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SA 2212. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . NATIONAL EMERGENCY GRANTS

In section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)(4)), add after (3):

(4) to provide assistance to the Governor to provide personal income compensation to a unemployed worker, if—

(A) the worker is unable to work due to direct Federal Government intervention, as a result of a direct response to the terrorist attacks which occurred on September 11, 2001, leading to—

(i) closure of the facility at which the worker was employed, prior to the intervention; or

(ii) a restriction on how business may be conducted at the facility; and

(B) the facility is located within an area, which not later than October 1, 2001, was declared a major disaster area or an emergency by the President, pursuant to section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Relief Act (42 U.S.C. 5170 and 5191), due to a terrorist attack on the United States on September 11, 2001.

(5) to provide assistance to the Governor to provide business income compensation to an independently owned business or proprietorship if—

(A) the business or proprietorship is unable to earn revenue due to direct Federal intervention, as a result of a direct response to the terrorist attacks which occurred on September 11, 2001, leading to—

(i) closure of the facility at which the business or proprietorship was located, prior to the intervention; or

(ii) a restriction on how customers may access the facility; and

(B) the facility is located within an area, which not later than October 1, 2001, was declared a major disaster area or an emergency by the President, pursuant to section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Relief Act (42 U.S.C. 5170 and 5191), due to a terrorist attack on the United States on September 11, 2001.

SA 2213. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —HUMAN CLONING PROHIBITION

SEC. 01. SHORT TITLE.

This title may be cited as the "Human Cloning Prohibition Act of 2001".

SEC. 02. FINDINGS.

Congress finds that—

(1) the National Bioethics Advisory Commission (referred to in this title as the "NBAC") has reviewed the scientific and ethical implications of human cloning and has determined that the cloning of human beings is morally unacceptable;

(2) the NBAC recommended that Federal legislation be enacted to prohibit anyone from conducting or attempting human cloning, whether using Federal or non-Federal funds;

(3) the NBAC also recommended that the United States cooperate with other countries to enforce mutually supported prohibitions on human cloning;

(4) the NBAC found that somatic cell nuclear transfer (also known as nuclear transplantation) may have many important applications in medical research;

(5) the Institute of Medicine has found that nuclear transplantation may enable stem cells to be developed in a manner that will permit such cells to be transplanted into a patient without being rejected;

(6) the NBAC concluded that any regulatory or legislative actions undertaken to prohibit human cloning should be carefully written so as not to interfere with other important areas of research, such as stem cell research; and

(7)(A) biomedical research and clinical facilities engage in and affect interstate commerce;

(B) the services provided by clinical facilities move in interstate commerce;

(C) patients travel regularly across State lines in order to access clinical facilities; and

(D) biomedical research and clinical facilities engage scientists, doctors, and other staff in an interstate market, and contract for research and purchase medical and other supplies in an interstate market.

SEC. 03. PURPOSES.

It is the purpose of this title to prohibit any attempt to clone a human being while protecting important areas of medical research, including stem cell research.

SEC. 04. PROHIBITION ON HUMAN CLONING.

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

"CHAPTER 16—PROHIBITION ON HUMAN CLONING

"Sec.
"301. Prohibition on human cloning.

"§ 301. Prohibition on human cloning

"(a) Definitions.—In this section:

"(1) Human cloning.—The term 'human cloning' means asexual reproduction by implanting or attempting to implant the product of nuclear transplantation into a uterus.

"(2) Human somatic cell.—The term 'human somatic cell' means a mature, diploid cell that is obtained or derived from a living or deceased human being at any stage of development.

"(3) Nuclear transplantation.—The term 'nuclear transplantation' means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus or all chromosomes have been or will be removed or rendered inert.

"(4) Nucleus.—The term 'nucleus' means the cell structure that houses the chromosomes, and thus the genes.

"(5) Oocyte.—The term 'oocyte' means the female germ cell, the egg.

"(b) Prohibitions on Human Cloning.—It shall be unlawful for any person or other legal entity, public or private—

"(1) to conduct or attempt to conduct human cloning;

"(2) to ship the product of nuclear transplantation in interstate or foreign commerce for the purpose of human cloning in the United States or elsewhere; or

"(3) to use funds made available under any provision of Federal law for an activity prohibited under paragraph (1) or (2).

"(c) Protection of Medical Research.—Nothing in this section shall be construed to restrict areas of biomedical and agricultural research or practices not expressly prohibited in this section, including research or practices that involve the use of—

"(1) nuclear transplantation to produce human stem cells;

"(2) techniques to create exact duplicates of molecules, DNA, cells, and tissues;

"(3) mitochondrial, cytoplasmic or gene therapy; or

"(4) nuclear transplantation techniques to create nonhuman animals.

"(d) Penalties.—

"(1) In general.—Whoever intentionally violates any provision of subsection (b) shall be fined under this title and imprisoned not more than 10 years.

"(2) Civil penalties.—Whoever intentionally violates paragraph (1), (2), or (3) of subsection (b) shall be subject to a civil penalty of $1,000,000 or three times the gross pecuniary gain resulting from the violation, whichever is greater.

"(3) Civil actions.—If a person is violating or about to violate the provisions of subsection (b), the Attorney General may commence a civil action in an appropriate Federal district court to enjoin such violation.

"(4) Forfeiture.—Any property, real or personal, derived from or used to commit a violation or attempted violation of the provisions of subsection (b), or any property traceable to such property, shall be subject to forfeiture to the United States in accordance with the procedures set forth in chapter 46 of title 18, United States Code.

"(5) Advisory opinions.—The Attorney General shall, upon request, render binding advisory opinions regarding the scope, applicability, interpretation, and enforcement of this section with regard to specific research projects or practices.

"(e) Cooperation With Foreign Countries.—It is the sense of Congress that the President should cooperate with foreign countries to enforce mutually supported restrictions on the activities prohibited under subsection (b).

"(f) Right of Action.—Nothing in this section shall be construed to give any individual or person a private right of action.

"(g) Preemption of State Law.—The provisions of this section shall preempt any State or local law that prohibits or restricts research regarding, or practices constituting, nuclear transplantation, mitochondrial or cytoplasmic therapy, or the cloning of molecules, DNA, cells, tissues, organs, plants, animals, or humans.".

(b) Ethical Requirements for Nuclear Transplantation Research.—Part H of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by adding at the end the following:

"SEC. 498C. ETHICAL REQUIREMENTS FOR NUCLEAR TRANSPLANTATION RESEARCH.

"(a) Definitions.—In this section:

"(1) Human somatic cell.—The term 'human somatic cell' means a mature, diploid cell that is obtained or derived from a living or deceased human being at any stage of development.

"(2) Nuclear transplantation.—The term 'nuclear transplantation' means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus or all chromosomes have been or will be removed or rendered inert.

"(3) Nucleus.—The term 'nucleus' means the cell structure that houses the chromosomes, and thus the genes.

"(4) Oocyte.—The term 'oocyte' means the female germ cell, the egg.

"(b) Applicability of Federal Ethical Standards to Nuclear Transplantation Research.—Research involving nuclear transplantation shall be conducted in accordance with the applicable provisions of part 46 of title 45, Code of Federal Regulations (as in effect on the date of enactment of the Human Cloning Prohibition Act of 2001).

"(c) Civil Penalties.—Whoever intentionally violates subsection (b) shall be subject to a civil penalty of not more than $250,000.

"(d) Enforcement.—The Secretary of Health and Human Services shall have the exclusive authority to enforce this section.".

AGRICULTURAL, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Motion To Proceed

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 237, S. 1731, the farm bill.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to Calendar No. 237, S. 1731, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 237, S. 1731, the farm bill:

Tom Harkin, Tim Johnson, Bill Nelson, Harry Reid, Byron Dorgan, Fritz Hollings, Richard J. Durbin, Paul Wellstone, Kent Conrad, Tom Daschle, Debbie Stabenow, Tom Carper, Barbara Mikulski, Evan Bayh, Ron Wyden, Ben Nelson, Jean Carnahan, Patty Murray.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Nos. 593 through 605; the nominations on the Secretary's Desk; that the nominations be confirmed, the motion to reconsider be laid upon the table, that any statements be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

Edward Hachiro Kubo, Jr., of Hawaii, to be United States Attorney for the District of Hawaii for the term of four years.

Sheldon J. Sperling, of Oklahoma, to be United States Attorney for the Eastern District of Oklahoma for the term of four years.

David R. Dugas, of Louisiana, to be United States Attorney for the Middle District of Louisiana for the term of four years.

David E. O'Meilia, of Oklahoma, to be United States Attorney for the Northern District of Oklahoma for the term of four years.

James A. McDevitt, of Washington, to be United States Attorney for the Eastern District of Washington, for the term of four years.

Johnny Keane Sutton, of Texas, to be United States Attorney for the Western District of Texas, for the term of four years.

Richard S. Thompson, of Georgia, to be United States Attorney for the Southern District of Georgia, for the term of four years.

Thomas L. Sansonetti, of Wyoming, to be an Assistant Attorney General.

DEPARTMENT OF COMMERCE

James Edward Rogan, of California, to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

Arden Bement, Jr., of Indiana, to be Director of the National Institute of Standards and Technology.

Conrad Lautenbacher, Jr., of Virginia, to be Under Secretary of Commerce for Oceans and Atmosphere.

DEPARTMENT OF TRANSPORTATION

William Schubert, of Texas, to be Administrator of the Maritime Administration.

FEDERAL EMERGENCY MANAGEMENT AGENCY

R. David Paulison, of Florida, to be Administrator of the United States Fire Administration, Federal Emergency Management Agency.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

COAST GUARD

PN1171 Coast Guard nominations (119) beginning Anita K. Abbott, and ending Steven G. Wood, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 30, 2001.

PN1172 Coast Guard nominations (203) beginning Albert R. Agnich, and ending Jose M. Zuniga, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 30, 2001.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, as if in executive session, I ask unanimous consent that when the Senate considers the nomination of John Walters to be Director of National Drug Control Policy, it be considered under the following time limitation: 30 minutes for Senator LEAHY; 30 minutes for Senator HATCH; 10 minutes for Senator KENNEDY; and 10 minutes for Senator LOTT, or his designee; that when the debate time has been used or yielded, the Senate vote on the confirmation of the nomination, the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar items en bloc: Calendar No. 231, H.R. 1766; Calendar No. 232, H.R. 2261; and Calendar No. 233, H.R. 2454.

The PRESIDING OFFICER. The clerk will read the bills by title.

The legislative clerk read as follows:

A bill (H.R. 1766) to designate the facility of the United States Postal Service located at 4270 John Marr Drive in Annandale, VA, as the "Stan Parris Post Office Building."

A bill (H.R. 2261) to designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, GA as the "Earl T. Shinhoster Post Office."

A bill (H.R. 2454) to redesignate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, CA as the "Congressman Julian C. Dixon Post Office."

There being no objection, the Senate proceeded to consider the bills.

Mr. REID. Mr. President, I ask unanimous consent that the bills be read three times and passed, the motions to reconsider be laid upon the table en bloc, the consideration of these items appear separately in the RECORD, and that any statements be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bills (H.R. 1766, H.R. 2261, and H.R. 2454) were read the third time and passed.

MEASURES INDEFINITELY POSTPONED—S. 1184 and S. 1381

Mr. REID. Mr. President, I ask unanimous consent that Calendar Nos. 229 and 230 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2299

Mr. REID. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may turn to the conference report to accompany H.R. 2299, the Transportation Appropriations Act, and that it be considered under the following limitations: there be a time limitation of 95 minutes for debate with the time controlled as follows: 30 minutes equally divided between the chair and ranking member of the subcommittee; 20 minutes equally divided between the chairman and ranking member of the full committee; and 15 minutes each under the control of Senators DORGAN, MCCAIN, and GRAMM of Texas; that upon the use or yielding back of time, with no further intervening action or debate, the Senate proceed to vote on adoption of the conference report.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE CRASH OF AMERICAN AIRLINES FLIGHT 587

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 272, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 272) expressing the sense of Congress regarding the crash of American Airlines Flight 587.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 272) was agreed to.

The preamble was agreed to.

EXPRESSING THE SENSE OF THE SENATE IN AWARDING THE PRESIDENTIAL MEDAL OF FREEDOM

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 217, S. Res. 23.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 23) expressing the sense of the Senate that the President should award the Presidential Medal of Freedom posthumously to Dr. Benjamin Elijah Mays in honor of his distinguished career as an educator, civil and human rights leader, and public theologian.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 23) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 23

Whereas Dr. Benjamin Elijah Mays, throughout his distinguished career of more than half a century as an educator, civil and human rights leader, and public theologian, has inspired people of all races throughout the world by his persistent commitment to excellence;

Whereas Benjamin Mays persevered, despite the frustrations inherent in segregation, to begin an illustrious career in education;

Whereas as dean of the School of Religion of Howard University and later as President of Morehouse College in Atlanta, Georgia, for 27 years, Benjamin Mays overcame seemingly insurmountable obstacles to offer quality education to all Americans, especially African Americans;

Whereas at the commencement of World War II, when most colleges suffered from a lack of available students and the demise of Morehouse College appeared imminent, Benjamin Mays prevented the college from permanently closing its doors by vigorously recruiting potential students and thereby aiding in the development of future generations of African American leaders;

Whereas Benjamin Mays was instrumental in the elimination of segregated public facilities in Atlanta, Georgia, and promoted the cause of nonviolence through peaceful student protests during a time in this Nation that was often marred by racial violence;

Whereas Benjamin Mays received numerous accolades throughout his career, including 56 honorary degrees from universities across the United States and abroad and the naming of 7 schools and academic buildings and a street in his honor; and

Whereas the Presidential Medal of Freedom, the highest civilian honor in the Nation, was established in 1945 to appropriately recognize Americans who have made an especially meritorious contribution to the security or national interests of the United States, world peace, or cultural or other significant public or private endeavors: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should award the Presidential Medal of Freedom posthumously to Dr. Benjamin Elijah Mays in honor of his distinguished career as an educator, civil and human rights leader, and public theologian and his many contributions to the improvement of American society and the world.

ACTION VITIATED—H. CON. RES. 272

Mr. REID. Mr. President, I ask unanimous consent that the action previously taken by the Senate regarding H. Con. Res. 272 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATRIOT DAY

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.J. Res. 71 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 71) amending title 36, United States Code, designating September 11 as Patriot Day.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. HATCH. Mr. President, I rise today to urge adoption of H.J. Res. 71, which designates September 11 as "Patriot Day." This resolution also calls on all Americans to observe a moment of silence to remember all those who lost their lives in the terrorist attack of September 11, 2001. I am the Senate sponsor of this bill along with Senators SCHUMER and SPECTER.

The events of September 11 have forever changed the lives of all Americans. We have all experienced a renewed sense of community and a sense of patriotic vigor that are the best of America. So many lives were touched by the terrorist attack—not only the thousands of heroes who lost their lives but also those they left behind. I am certain that few Americans will remain untouched by the devastation of our citizens that we saw in downtown New York, in the Pennsylvania countryside, and at our Pentagon.

These terrorists killed innocent Americans from every part of the country. We were so saddened to learn that Mary Alice Wahlstrom and her daughter, Carolyn Beug, of Kaysville, Utah, were struck down by this senseless violence. Mary Alice's husband of 52 years, Norman, described Mary Alice as the "happiest lady you'll meet." As one of the "kids," she joined with her only daughter to help her twin 18-year old granddaughters settle in at art school on the East Coast. In this time of grief, we join Norman, her four sons, and 18 grandchildren in hoping that our love and faith will continue to sustain each of us during this tragedy.

The grief all Americans feel today is barely speakable. I, for one, cannot express in words the sorrow I feel for the thousands of families profoundly shattered by the acts of war perpetrated against us on September 11th. I commend my colleagues who have spoken so eloquently at such a great moment of national tragedy.

As many of my colleagues have noted, our grief is leavened by the countless stories of sacrifice and heroism. Heroes such as the policemen, firemen and emergency personnel who rushed to the buildings and entered them in a race against collapse, a race that they unfortunately lost. I hope that every American who sees a fireman or a policeman today thinks of the sacrifices that these everyday individuals are prepared to make for the good of our society, for the good of ourselves, every day.

There is no calamity America will withstand that will not be met with and overwhelmed by the decency, courage and selflessness of Americans coming to the aid of their own. It will be years before we can collect all of these stories and it will be impossible to measure the courage and bravery of these countless everyday heroes. As John says in the Bible, "Greater love hath no man than this; that a man lay down his life for his friends."

I also commend my colleagues for their unanimous support for the Administration of President George W. Bush. Americans are not partisan when we are to face a common foe, nor are their representatives.

We will face this foe together, and together we will prevail.

We must never forget the attack on America and the mighty resolve of the American spirit that has never shown brighter than after September 11. This resolution before us today will ensure that we will never forget the events of September 11, 2001.

I commend my colleagues in the House for adopting this resolution and urge my Senate colleagues to adopt this important measure tonight. Elaine and I offer our prayers for the victims and their families, as well as the thousands of brave rescue workers, including Utah's Urban Search and Rescue team. The team consists of fire department personnel from Salt Lake City and County. Our prayers go to the member of our armed forces, the greatest defenders of freedom a nation has ever known. And our prayers go to President Bush and his Administration, who are dedicated to peace and must now respond to war.

May God Bless America.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 71) was agreed to.

The preamble was agreed to.

MEASURES READ THE FIRST TIME—H.R. 3210 AND S. 1748

Mr. REID. Mr. President, I understand that H.R. 3210, which was just received from the House, is at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

Mr. REID. Mr. President, I ask for the second reading of this legislation and object to my own request on behalf of a number of my colleagues.

The PRESIDING OFFICER. Objection having been heard, the bill will be read a second time on the next legislative day.

Mr. REID. Mr. President, it is my understanding that S. 1748, introduced by Senator GRAMM of Texas earlier today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 1748) to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development, including development in urban areas through the provision of affordable insurance coverage against acts of terrorism, and for other purposes.

Mr. REID. Mr. President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be read a second time on the next legislative day.

ORDERS FOR MONDAY, DECEMBER 3, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 1 p.m. on Monday, December 3; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 4:45 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided between the two leaders, or their designees; further, at 4:45 p.m., the Senate resume consideration of H.R. 10, with 30 minutes for debate only, equally divided between the two leaders, or their designees, prior to a 5:15 p.m. cloture vote on the Lott amendment to H.R. 10, with the time from 5:05 to 5:10 p.m. under the control of Senator LOTT, or his designee, and the time from 5:10 to 5:15 p.m. under the control of Senator DASCHLE, or his designee; further, that the mandatory quorum be waived.

Mr. President, before entering this order, I have spoken to Senator MURKOWSKI and explained to him the difficulty of presiders. He indicated that 1 o'clock would be satisfactory with him. We appreciate his cooperation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, as I indicated this morning, there were three cloture motions filed in relation to H.R. 10. Therefore, all second-degree amendments must be filed prior to 4:15 p.m. on Monday.

ADJOURNMENT UNTIL 1 P.M. MONDAY, DECEMBER 3, 2001

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 1:54 p.m., adjourned until Monday, December 3, 2001, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate November 30, 2001:

OVERSEAS PRIVATE INVESTMENT CORPORATION

DIANE M. RUEBLING, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2001, VICE MELVIN E. CLARK, JR., TERM EXPIRED.

C. WILLIAM SWANK, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2002, VICE ROBERT MAYS LYFORD.

DEPARTMENT OF JUSTICE

SCOTT A. ABDALLAH, OF SOUTH DAKOTA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF SOUTH DAKOTA FOR THE TERM OF FOUR YEARS, VICE KAREN ELIZABETH SCHREIER, RESIGNED.

THOMAS P. COLANTUONO, OF NEW HAMPSHIRE, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEW HAMPSHIRE FOR THE TERM OF FOUR YEARS, VICE PAUL MICHAEL GAGNON, RESIGNED.

HARRY E. CUMMINS, III, OF ARKANSAS, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS, VICE PAULA JEAN CASEY, RESIGNED.

MICHAEL TAYLOR SHELBY, OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS, VICE MERVYN M. MOSBACKER, JR., RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 30, 2001:

DEPARTMENT OF COMMERCE

ARDEN BEMENT, JR., OF INDIANA, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

CONRAD LAUTENBACHER, JR., OF VIRGINIA, TO BE UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.

DEPARTMENT OF TRANSPORTATION

WILLIAM SCHUBERT, OF TEXAS, TO BE ADMINISTRATOR OF THE MARITIME ADMINISTRATION.

FEDERAL EMERGENCY MANAGEMENT AGENCY

R. DAVID PAULISON, OF FLORIDA, TO BE ADMINISTRATOR OF THE UNITED STATES FIRE ADMINISTRATION, FEDERAL EMERGENCY MANAGEMENT AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

EDWARD HACHIRO KUBO, JR., OF HAWAII, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF HAWAII FOR THE TERM OF FOUR YEARS.

SHELDON J. SPERLING, OF OKLAHOMA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF OKLAHOMA FOR THE TERM OF FOUR YEARS.

DAVID R. DUGAS, OF LOUISIANA, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF FOUR YEARS.

DAVID E. O'MEILIA, OF OKLAHOMA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF OKLAHOMA FOR THE TERM OF FOUR YEARS.

JAMES A. MCDEVITT, OF WASHINGTON, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF WASHINGTON, FOR THE TERM OF FOUR YEARS.

JOHNNY KEANE SUTTON, OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF TEXAS, FOR THE TERM OF FOUR YEARS.

RICHARD S. THOMPSON, OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF GEORGIA, FOR THE TERM OF FOUR YEARS.

THOMAS L. SANSONETTI, OF WYOMING, TO BE AN ASSISTANT ATTORNEY GENERAL.

DEPARTMENT OF COMMERCE

JAMES EDWARD ROGAN, OF CALIFORNIA, TO BE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

COAST GUARD NOMINATIONS BEGINNING ANITA K ABBOTT AND ENDING STEVEN G WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.

COAST GUARD NOMINATIONS BEGINNING ALBERT R AGNICH AND ENDING JOSE M ZUNIGA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.

HOUSE OF REPRESENTATIVES—*Friday, November 30, 2001*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. THORNBERRY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 30, 2001.

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Eternal God, always the refuge for the homeless, the refugee and immigrant, be with us as we pray today.

The sound of Abraham's call to leave his home and live by faith echoes through the halls of this Nation's history. Since the founding of these United States of America, people have come to this land as if out of the desert into a place of promise and hope. The experience of immigrants has built up this Nation as a response to Your invitation, Lord. "Go . . . I will show you a place."

We bless You and praise You for all those of this Nation who continue to build upon the past, and by their prayers and their noble deeds still grace this Nation and its future.

Even in this time, sometimes called "the age of worldwide refugees," You still call people to faith and freedom.

Bless the Members of Congress and grant them wisdom as they secure homeland borders and enact lawful immigration. The world will be shown a land where Your promise will be realized, faith can be expressed, and all will be free.

We still answer Your call, Lord, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York (Mr. McNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. McNULTY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute requests at the end of the day.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 299 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 299

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of the resolution, all time is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 299 is a standard rule providing for consideration of the conference report to accompany H.R. 2299, the Department of Transportation and Related Agencies Appropriations Act, 2002.

The rule waives all points of order against the conference report and against its consideration.

Additionally, the rule provides that the conference report shall be considered as read.

Mr. Speaker, the Committee on Appropriations has once again produced bipartisan legislation that meets the Nation's transportation priorities. Ensuring the safety and efficiency of our transportation networks is one of the Federal Government's highest responsibilities.

This conference report represents a sound commitment to our Nation's transportation infrastructure by devoting funds to critical programs such as air traffic control modernization, airport improvement grants, motor carrier safety, and increasing the investments in highway safety research.

The bill enhances the safety and capacity of the aviation system and the highway and rail networks.

The bill provides a total of nearly $59.6 billion, a 2.5 percent increase, in total budgetary resources for our Nation's infrastructure and transportation safety, including the Federal Aviation Administration, transit program spending, the United States Coast Guard, and the National Highway Traffic Safety Administration.

The Federal Aviation Administration will receive a 4.5 percent increase in funds, $292 million of which is for aviation security, including bomb detection systems and compliance test activities. It makes available $3.3 billion for the airport improvement program, an increase of $100 million over the current fiscal year. This money includes $20 million to support the expansion of service at smaller airports.

This bill, much like last year's, continues to improve and enhance motor carrier safety and operations by providing $335 million. Of this total, about $140 million is devoted to facilities and operations necessary to open the U.S.-Mexican border for commercial motor vehicle traffic. Not only will this allow for the free flow of trade between the United States and Mexico, but it instills a modest system of safety checks to maintain the integrity of our American borders.

Another significant piece of the transportation appropriations funding is for the drug interdiction activities carried out by the United States Coast Guard. The bill includes $636 million for the Coast Guard's capital needs and $320 million that is available to initiate the Deepwater program, which will fight the scourge of illicit drugs, provide support for offshore research and rescue, and work to protect Americans and American shores.

Moreover, the bill meets the funding obligation limitations in the transportation legislation known as TEA-21, the Transportation Equity Act for the

21st century. These programs are critical to improvements and modernization of our roadways and our airways, providing desperately-needed funds across the Nation.

In addition, the bill provides $521 million for Amtrak's capital needs. This funding will cover capital expenses and preventative maintenance. The bill sustains the Federal commitment to continue its partnership with Amtrak to help it reach its goal of self-sufficiency by December of 2002.

Mr. Speaker, this is a responsible conference report that tackles our Nation's most pressing transportation needs. In the midst of the holiday travel season and in light of the recent attacks on our Nation, this Congress can take pride in the fact that the underlying legislation represents an increase in the safety measures and resources in every area of our transportation system.

With airline security stabilization legislation already signed into law, this conference report expands on the new measures and provides the necessary resources to carry out much-needed safety initiatives.

Now more than ever, safety should remain the Federal Government's highest responsibility in the transportation area. Clearly, whether by land, by sea or by air, this bill addresses those needs and concerns, while maintaining the fiscal discipline that has been the hallmark of this Congress.

Mr. Speaker, as I conclude I would like to commend the chairman of the Committee on Appropriations, the gentleman from Florida (Mr. YOUNG), and the ranking member, the gentleman from Wisconsin (Mr. OBEY), for their tenacious work on this measure.

I would also like to extend praise to the gentleman from Kentucky (Mr. ROGERS), the chairman of the Subcommittee on Transportation of the Committee on Appropriations, and the ranking member, the gentleman from Minnesota (Mr. SABO).

I also urge my colleagues to support this straightforward, noncontroversial rule, as well as the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule allows for the consideration of the conference report on H.R. 2299. This is a bill that funds the Department of Transportation, the National Transportation Safety Board, and related agencies. The rule waives all points of order against the conference report.

Since the terrorist attacks against the United States on September 11, our Nation's transportation systems have been under great scrutiny. In particular, Federal oversight of aviation has been in the spotlight. However, the transportation agencies which monitor our railroads, highways, and waterways have also been challenged to find solutions to the terrorist threat.

The bill funds the newly created Transportation Security Administration, which will be responsible for security operations involving all modes of transportation. This is the Federal agency that will oversee the hiring and training and supervising of the airport passenger and baggage screeners.

The bill also funds aviation security in the Federal Aviation Administration, which includes bomb detection systems. The conference report contains compromise language intended to ensure the safety of Mexican trucks traveling on U.S. highways.

I am also pleased that the conference report provides $1 million towards the construction of the Interstate 70–75 interchange in Montgomery County, Ohio. This will help cover unforeseen increased costs of the project, which is an important priority for the community and the State.

This will be the ninth of the regular appropriation bills to complete the conference process. We are now 2 months into the fiscal year and we still have 4 more to go.

I would urge my colleagues to approve the rule and the underlying bill and let us get this bill to the President to sign.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROGERS of Kentucky. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report accompanying H.R. 2299 and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONFERENCE REPORT ON H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. ROGERS of Kentucky. Pursuant to House Resolution 299, Mr. Speaker, I call up the conference report on the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 299, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of Thursday, November 29, 2001.)

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) each will control 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are very pleased to present to the body an excellent conference agreement on H.R. 2299, the Department of Transportation and related agencies appropriations bill for fiscal year 2002.

First, let me say that we worked long, hard hours to hammer out the agreements contained in the bill.

□ 0915

I want to especially thank this morning the staff of the subcommittee, both on the majority and minority side, for staying up now two consecutive nights all night long, last night reading out the bill, and the previous night trying to put the bill together for consideration by this body. And they are not in a stupor, Mr. Speaker, but they are very tired. And I think we owe them an especially big debt of gratitude, Rich Efford and the other on the staff of the subcommittee. On both sides of the aisle, we want to say a special thank you to the staff for a tremendous job under extreme conditions because of the hurry up of this process.

We had some daunting challenges, Mr. Speaker. We started the process on this bill with veto threats hanging over both the House bill and the other body's bill because of a controversy over the best way to ensure the safety of trucking, the trucking industry, that we enjoy today without violating the NAFTA treaty.

Also, because of a Type 302–B conference allocation, we had to cut many of the funding items in the conference far below the Senate level. However, with the continued fine cooperation of my colleague and friends from across the aisle, the gentleman from Minnesota (Mr. SABO), the help especially of Senators MURRAY and SHELBY, and the willingness of senior administration officials to meet us half way on the trucking issue, we have, I believe, solved these problems in a fair manner that we can all be proud of.

This bill forges a consensus that, frankly, some thought was impossible a few months ago. And I had to be one of those who thought we could not find a middle ground on the Mexican trucking issue. But through a long process we have. This bill puts in place a much stronger truck safety and enforcement regime at the Mexican border, requiring on-site inspections and compliance reviews of Mexican trucking firms, weigh-in-motion scales at some of the busier border crossings, and a comprehensive Inspector General audit of the whole system.

After the I.G. audit is completed, the Secretary then will have to certify that opening the border can be accomplished without causing unacceptable safety problems on our Nation's highways. Only then will Mexican trucks be able to drive beyond the border zone further into the U.S.

I should also point out that we owe the gentleman from Minnesota (Mr. SABO) a big debt of gratitude for his hard work in making sure that the bill includes tough new provisions regulating hazardous materials coming over the border. Specifically, due to his work, the bill requires that a new agreement be placed between the U.S. and the Mexican Governments tightening up hazardous materials transportation and ensuring the safety of our roads before Mexican trucking firms are permitted to bring hazardous materials beyond the border zones. That is a great addition to this bill, and I think we all owe the gentleman from Minnesota (Mr. SABO) a big debt for that particular provision.

At the same time, in all of this we were responsive to the President's firm commitment to honor the NAFTA treaty and open the border in 2002. The provisions of this bill will, I believe, allow the President to open the border sometime in fiscal year 2002 and will not violate the NAFTA treaty. The administration also believes that. It is critical that we honor our international commitments, and this bill does that. The administration has indicated their full support for the compromise worked out on the Mexican trucking issue.

In its funding aspects, let me first point out that the bill is within our allocation for budget authority and outlays. Although our allocation was extremely tight, we were able to fund all of the major DOT operating agencies at or near the President's budget request, while honoring the funding guarantees in TEA–21 and AIR–21. This was not easy to accomplish because it required us to cut out many worthy items, especially in the transit area.

In general, the bill before you provides increases for major infrastructure programs around the country. Let me provide just a couple of examples. The bill includes $320 million to kick off the Coast Guard's new deepwater program, the largest acquisition ever attempted by the Department of Transportation. That is about $280 million above last year's level. It includes funding for Federal-aid highways, $100 million above the level guaranteed in the authorization bill. And it fully funds the authorization for much-needed airport funding. These resources will go a long way to help jump-start the transportation construction sector of our economy.

Finally, Mr. Speaker, the Members should know that this bill responds to the September 11 terrorist attacks. The bill includes an appropriation of $1.25 billion for screening activities at the Nation's airports. I know some have questioned the aggressive timetable for aviation security improvements we just recently established in this body. Well, we are saying in this bill that funding will not be a problem. This bill provides the necessary funds to take whatever steps are necessary in the near term to accelerate this transition as much as possible. The bill also provides $100 million for the procurement and installation of additional bomb detection systems at the Nation's airports, so that installation of these vital systems at our Nation's airports can be accelerated, Mr. Speaker.

So without further elaboration, I believe that this is a great bill. It deserves Members' support. I recommend it to every single Member.

I want to say again the appreciation we have for the hard work of our colleagues on the subcommittee from both sides of the aisle. We have a wonderful group of Members of this body accumulated in this subcommittee. All of them participate. All of them have contributed to this bill and all have contributed their dedication to the success of the transportation bills of the country. And I want to thank each member of the subcommittee for the great contributions they have made, and especially, again, the staff who have devoted themselves beyond the call of duty to this particular bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me compliment and congratulate the distinguished gentleman from Kentucky (Chairman ROGERS) for his outstanding work for bringing to the House a conference report on the fiscal year 2002 transportation appropriations bill that we should all be proud of and that we should pass. But I would like in particular to compliment the gentleman from Kentucky (Chairman ROGERS) for the role he played in making sure that we reached an agreement on the Mexican truck issue that I think satisfied the concerns of all of us who raised the issue and still found a solution that the President would sign.

He played an absolutely key and essential role in making that happen. It has been a long journey, and we wondered how it would end at times.

When the House acted because of procedural limitations, we adopted an amendment that we knew would have to later be modified. I thought the Senate did some outstanding work in making modifications and expanding on what should be done as it relates to motor carrier safety as we begin to have Mexican trucks come beyond the 20 mile commercial zone. The discussions that went on for an extended period of time finally resulted in a solution that will be signed by the President. At the same time it represents a giant leap forward in assuring the American public that those trucks and those drivers will be safely on our roads. We know we can have no absolute guarantee for any of us when it comes to our highways, but there is a process in place that, properly administered, should assure that the quality of vehicles and the quality of drivers on our highways are the same for those trucks and those drivers as those that exist in our country.

So I think that was a major step forward, and the gentleman from Kentucky (Chairman ROGERS) played an essential role in making that happen.

The bill itself makes necessary investments in our Nation's infrastructure and the safety of all of our modes of transportation. It is a good bill, and let me join the chairman in thanking the staff that has worked so hard and all the Members of the committee that worked so hard to bring this bill to us. But let me in particular thank Bev Feeto of our majority staff, Marge Duske of my personal staff, Rich Efford, Stephanie Gupta, Cheryl Tucker, Linda Muir, and Theresa Kohler of the majority staff. All of them do excellent work. This is a good bill and it deserves a big vote.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), the chairman of the full committee who has been such a big help in the construction of this bill and helping to shepherd us through the maze we have had to go through. I want to thank the chairman as I yield him time.

Mr. YOUNG of Florida. Mr. Speaker, I thank the chairman for yielding me time, and I am not going to take a lot of time on the bill because it has been very well explained and the subcommittee has done such a good job.

The bill does not really need a lot of speeches in its behalf. But I rise to thank the gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO) for having done a really good job in an extremely difficult situation. They have done yeoman's service. The gentleman from Minnesota (Mr. ROGERS) mentioned the staff, and I want to adjust a little bit more time to his comments about the staff.

The conferees finished, we finished our work on this conference last evening considerably later than after the House had left for the day. We finally got the paperwork done by midnight and then the staff, after having completed the paperwork, and we are very meticulous in making sure that our bills are exactly the way we intend them to be; we seldom ever have to come in and ask for a correction because of good staff work. But they were finally able to start reading the bill, that is a term we use, read the bill, at about 12:40 a.m. this morning. And by 5:00 this morning they had completed reading the bill. And we went to the Committee on Rules and the gentleman from Kentucky (Mr. ROGERS) came in and filed the bill then, and we went to the Committee on Rules and got the rule which has already passed.

They have done a really good job, and I wanted to take another minute and explain why this has been such a difficult task for them and what a good product they have produced.

The House of Representatives passed this bill on June 26. That seems like it was almost last year. The Senate passed it on August 1, considerably later. But we did not get the paperwork and a request to go to conferences for 85 days after the Senate passed the bill. For 85 days this stayed out there, and it festered a little bit here and there. The issues were brought up that had to be settled. But this subcommittee worked through all of those issues. And so finally on October 29 we received the papers and we went to conference on the 31. And so today we have produced a bill that I think would enjoy tremendous support in the House. But I took this time to not only compliment the leadership of the subcommittee, but to say that as chairman of the full committee, it makes my job a lot easier, and the gentleman from Wisconsin (Mr. OBEY) and I, as the chairman and ranking member, it makes our jobs easier when we have a subcommittee that produces as good a product as this. It makes our job a lot easier so we appreciate that.

Let me take a few more seconds to say that next week we intend to have the District of Columbia appropriations conference ready for the House to consider and, additionally, we are planning to do the foreign operations appropriations subcommittee also for next week. There are several issues that are a little bit above our pay grid that still have to be resolved, but we think we can do that and have those two on the floor.

□ 0930

The only two appropriations bills remaining are the Labor, Health and Human Services and the Defense. The slowdown on the Defense, I will not take the time to explain that, but September 11 was part of the slowdown because we were in this building ready to markup the Defense bill on September 11 when everybody was evacuated after the terrorist attacks.

The subcommittee has done a good job. And I compliment them as strongly as I can and the staff and hope that we will get a very nice vote for this good conference report today.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. PASTOR), a distinguished member of our subcommittee.

Mr. PASTOR. Mr. Speaker, I thank the gentleman from Minnesota (Mr. SABO) for yielding me the time.

I rise in support of this conference bill and ask my colleagues to support it. I also rise to congratulate the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) for the excellent job they have done on this conference bill.

I represent the border communities of Arizona, and we tried to balance the safety issues as well as the commerce issues, and this compromise that has been achieved in this bill allows us to protect the safety of our American citizens, especially those that live on the border. At the same time, we allow the implementation of the NAFTA agreement and will allow that commerce to continue and probably increase.

I also want to thank both gentlemen for recognizing the needs of Arizona in terms of transportation infrastructure and public transportation needs. I have to tell you that they recognized and they funded important projects, and I want to thank them both for doing that.

In Phoenix, which is the United States fifth largest community, they are assisting us in continuing the development of a light transit system, as well as a public transportation system. They funded the infrastructure for our growing and enlarging airports and helped other community transportation systems.

Commerce is very important to Arizona, and one of the issues is the bridge over Hoover Dam, and that would allow the CANAMEX transportation corridor to be developed, and they recognize that, and they also fund it.

I also want to thank the staff for working on this bill and bringing forth to us an excellent bill, and I ask for its support.

Mr. SABO. Mr. Speaker, I yield 3 minutes to the gentlewoman from Michigan (Ms. KILPATRICK), another distinguished member of our subcommittee.

Ms. KILPATRICK. Mr. Speaker, I, too, was a member of the subcommittee and want to thank our chairman, the gentleman from Kentucky (Mr. ROGERS), for his excellent leadership, coming in as a new subcommittee chair for this bill, being fair, thorough. I also want to thank the gentleman from Minnesota (Mr. SABO), our ranking member, who has always been effective in his quiet intelligence for allowing all of us to participate and to represent the constituents who send us here.

I represent Michigan, the border city of Detroit, one of the busiest border crossings in our country in northern America, and it is very important that we do what we need to do to secure those borders, and I want to thank both the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) for the work that they have put in this bill to begin that process.

Since September 11 I have had an opportunity to meet on two occasions with our Coast Guard, our INS, our Customs and our Border Patrol to talk about the needs that they must have over the next several months and years to actually secure those borders, and I know that I have the support of the gentleman from Florida (Mr. YOUNG), as well as our chairman of our subcommittee and our ranking member to see that that is done.

Quite a bit of commerce comes across that Canadian border, as well as other things, both negative and positive. This bill begins to address much of it, and I want to thank the leadership of this committee for allowing that.

We still have work to do on those borders. The Coast Guard, INS, Customs and Border Patrol are still short of people. The supplemental that is going through will help some of that, too. The world has changed since September 11, and this transportation bill begins to address that.

I thank the committee very much for all that it has done for the State of Michigan and for this country to address those needs in this bill, and, as we move forward in our next appropriation and beyond, consider those agencies who risks their lives every day to secure our borders and bring more attention to our northern borders here in our country.

I would urge all my colleagues to support this bill. It is wonderful, it is fair, it is good transportation policy.

I rise in support of the conference report, and I appreciate the efforts of our Chairman, the gentleman from Kentucky, Mr. ROGERS, and the gentleman from Minnesota, Mr. SABO for putting together a bill that we can pretty much all agree on.

This bill makes some significant funding advances for providing additional inspectors at airports and for improving airport security. I think this must be viewed as a first step toward ensuring the safety and security of our commercial transportation infrastructure, and I am very pleased with our efforts in this area.

Another area of concern to all of us is funding for a key agency in the protection of our homeland security, the Coast Guard. The Coast Guard personnel resources assigned to protecting our nation's ports were stretched before September 11th and are stretched even thinner now. This bill will give the resources necessary to bring some relief to the demands being made of our Coast Guard personnel.

I am also pleased that we have reached a compromise on the NAFTA trucking issue. The compromise reached will go along way to ensuring highway safety and still comply with the NAFTA accord this Congress supported almost a decade ago. Let me say to my colleagues that this year's bill focused much attention on the southern border. Next year, I look forward to working with my colleagues in strengthening the security of our transportation infrastructure along the northern border.

I urge my colleagues to support this bill. It is one that we can be proud of and I thank the Speaker for granting me this time.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. BORSKI), one of the distinguished members of the authorizing committee and a good friend.

Mr. BORSKI. Mr. Speaker, let me first commend the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) for the exceptional job they did on this bill. I also want to commend Senators Murray and Shelby and particularly on the issue of Mexican trucks. This was an extremely contentious issue and one that has been worked out to my personal great satisfaction. It was a job well done.

Mr. Speaker, earlier this year the gentleman from Wisconsin (Mr. PETRI) and myself and the gentleman from California (Mr. FILNER) and the gentleman from Pennsylvania (Mr. HOLDEN) traveled to the Mexican border to see what was happening firsthand with the Mexican truck issue.

At Otay Mesa, California, we saw a system that I think worked very well. We saw a system where trucks were given inspection stickers that were good for 90 days. Any vehicle that tried to get through without that inspection was not allowed and was inspected. We then went to Texas where we saw a much lesser successful situation, if you will.

At Otay Mesa, the experience was similar to ours in the United States of America where about 24 percent of the trucks were taken out of service that were inspected, a rate both much too high here and there, at least consistent with our experience in the United States.

In Texas, we were met by Coy Clanton, who was the director of public safety in Texas, and he told us that a truck that is not inspected will be neglected, and what we saw in Texas were trucks that were not inspected and were neglected, where the cars or trucks were taken out of service, were somewhere in the neighborhood of 60 percent totally unacceptable.

This is a good agreement in the conference report. Every truck that wants to enter the United States of America must be inspected. If it does not have a valid inspection sticker it will be pulled off, have a complete level one inspection. If it does not pass, it will not get into this country. This is a great victory for public safety, and, again, I commend all the conferees.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WOLF), immediate past chairman of this subcommittee and now the chairman of the Subcommittee on Commerce, Justice, State and Judiciary, my old subcommittee. I have gained even more respect for this gentleman after having seen what he had to go through on this bill for the last 6 years.

Mr. WOLF. Mr. Speaker, I want to congratulate the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) and the staff for a really, really great job. This is a very difficult bill, a lot of contentious issues, that really tie a lot of people up. They really have done an amazing job. I have been watching and I just want to congratulate the gentleman for it.

On the issue of truck safety, speaking of the Mexican trucks, I appreciate that they literally by their actions here have saved a lot of lives. There will be a lot of people that will never get the telephone call saying that a loved one was killed because of a truck coming out of Mexico because of the actions that they have done. They will not know that they did not get that telephone call because of the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO), but I want to kind of put it in the record that, because of their efforts, they will not get that call.

I think it is now incumbent upon the administration to take the good work that they have done and enforce it appropriately, and I know they will hold their feet to the fire.

Again, to the gentleman from Kentucky (Mr. ROGERS), congratulations and to the gentleman from Minnesota (Mr. SABO), congratulations. Also, they have an outstanding staff, having worked with them for a number of years. So I want to also congratulate the staff, and there really ought not be any negative votes against this bill. I cannot see why a Member of Congress would vote against the bill and hope everyone votes for it.

Mr. SABO. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. OBERSTAR), my distinguished colleague.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Minnesota (Mr. SABO) for yielding me the time and compliment my colleague and dear friend for his leadership on all of the issues in this appropriation bill on transportation and to the gentleman from Kentucky (Mr. ROGERS) for whom I have worked with for many years on Appalachia and economic development matters and the chairman of the full committee, the gentleman from Florida (Mr. YOUNG), for the excellent product that they have brought back to the House.

I do want to observe, though, that the manager's report contains a listing of over 100 airport projects that managers want to see funded out of FAA discretionary funds. In the past, there have been listings of projects for specific airports but without specific dollar amounts and with less prescriptive language than is included in this manager's report.

The law governing aviation discretionary funds requires the FAA to establish a priority system under which decisions are made about those projects that will receive these very limited dollars. Highest priority goes to projects that will bring airports into compliance with safety and with security standards, and next are projects that are subject to letters of intent. Others are for phased projects and for preservation of existing infrastructure.

Many of the projects listed here may be of fine quality in and of themselves to qualify for funding under FAA established standards. But the aviation system is not like highways. An improvement to a highway project in Boston does not necessarily or in any direct way benefit highway travel in California, but improvement to an airport in Boston makes a great difference to the entire U.S. aviation system.

I want to make it clear that the language in a conference report cannot override a priority system established under existing governing law. A decision of the Comptroller General found that Congress cannot require the Navy to select a particular aircraft the language in the committee report wanted the Navy to require.

When I chaired the Subcommittee on Aviation over numerous years there were innumerable requests for Members to include designation of their particular airport projects, and I steadfastly refused to do that in our authorization. We should not impose the will of the Congress in specific ways in the aviation system, and as ranking member of the full committee, I continued to resist such designation in the last two FAA authorization bills.

Again, I regret that this language has been included.

Mr. SABO. Mr. Speaker, I yield 2½ minutes to the gentleman from Massachusetts (Mr. OLVER), a distinguished member of our subcommittee.

Mr. OLVER. Mr. Speaker, I thank the gentleman from Minnesota (Mr. SABO) for yielding me the time.

I rise today in support of the bill and to congratulate our chairman, the gentleman from Kentucky (Mr. ROGERS), and our ranking member, the gentleman from Minnesota (Mr. SABO), for the leadership they have shown in addressing the Nation's critical transportation needs.

I particularly want to express thanks to the staff for this subcommittee which has worked so very hard and put in so many long hours over the last couple of weeks but culminating in a fierce collection of hours over the last 48, and that would be the majority staff: Richard Efford, Stephanie Gupta and Cheryl Tucker and, also, of course, our clearly overworked and undoubtedly underpaid staff member on the minority side, Bey Pheto. They have put an enormous amount of effort into this, and I appreciate it very much, as I know all the members of the subcommittee do.

Despite our constrained allocation, the bill successfully makes critical investments in highway transit, aviation and the Coast Guard.

☐ 0945

And I want to commend the chairman and the ranking member for the excellent provisions related to Mexican trucks. This will ensure the safety of our highways, or help to ensure the safety at least of our highways, as was so very important.

I am also pleased we were able to delete an anti-environmental rider on global warming that was included in the original House bill. There is now overwhelming, peer-reviewed, sound, scientific evidence that global warming is occurring and substantially due to human influence. The National Academy of Science has very recently reaffirmed that fact. But one does not have to look at anecdotal evidence, just look at the exceedingly unusual weather here in November.

I would like to thank the chairman and the ranking member for their work in removing this rider. It is a good bill, Mr. Speaker, and I urge all Members to support it.

Mr. Petri. Mr. Speaker, a major hallmark of the Transportation Equity Act for the 21st Century (TEA 21), which was passed by the Congress in 1998 by overwhelming margins, was that for the first time receipts into the Highway Trust Fund were guaranteed to be spent for transportation purposes. This is accomplished through the annual calculation of Revenue Aligned Budget Authority (RABA), which makes adjustments in obligations to compensate for actual receipts into the Trust Fund versus the estimated authorization included in TEA 21 for the fiscal year.

While I am pleased that the Appropriations Committee has for the most part upheld the firewalls in this Conference Report, I find the redistribution of RABA funds to be outrageous. Under TEA 21, RABA funds are to be distributed proportionately to the states through formula apportionments and also to allocated programs. This Conference Report is a radical departure from that and is a cause for great concern. It is something I cannot support.

The Conference Report was available for only a couple hours before the House voted on it. However, a quick review indicates that nearly $1 billion of the $4.5 billion of 2002 RABA funds has been redistributed contrary to TEA 21. Specific TEA 21 programs, which normally are discretionary programs, have been increased well beyond what their proportionate share of RABA funds would have been if TEA 21 had been followed in this conference report. Of course, all these funds have been earmarked by the appropriators.

According to the Federal Highway Administration, to pay for these earmarks, about $500 million will be lost for allocated programs and $500 million will be lost from state apportionments. That means states lose more than 11 percent of RABA funds from the regular formula program.

Every Member who worked to get a high priority project in TEA 21 should take note. Under TEA 21, high priority projects under section 1602 should be included in RABA distributions. But, the appropriators have chosen to zero out RABA funding for TEA 21 high priority projects. This means that every Member with a TEA 21 project will experience a 13% cut in funds. If RABA funds had been distributed according to TEA 21, Members' high priority projects would have been increased by $236.7 million in FY 2002. Instead, they will receive no RABA funds.

A look at what the committee has done to particular programs illustrates dramatically what has happened. The Transportation and Community and System Preservation Pilot Program, which is authorized at $25 million for FY 2002 in TEA 21, should have received $3.3 million in RABA Funds. But, incredibly, the appropriators have given it an amazing $250.8 million in RABA funds. Could it be because this program does not require a State or local match and can be used for practically anything? A perfect pot of money to earmark. Again, a $25 million program has been increased to $275.8 million for FY2002.

Under TEA 21, the Borders and Corridors program is authorized at $140 million for the fiscal year. It should have received $18.6 million in RABA funds, but instead it will receive more than $352 million in RABA funds.

Under TEA 21, the Interstate Maintenance Discretionary program is authorized at $100 million for FY2002 and should have received $13.3 million in RABA. But under the conference report, the program will receive $76 million in RABA funds. The Bridge Discretionary program, authorized at $100 million per year, should receive $13.3 million in RABA funds. But, it will receive more than $62 million in RABA funds. Of course, at this point the term "discretionary program" is a complete misnomer as the Secretary has absolutely no discretion since all the funds (both the base amount and RABA) are earmarked.

Again, all of these funds, which should be distributed to the states and allocated programs, have been earmarked for winners and losers.

I have included two charts prepared by the Federal Highway Administration at the U.S. Department of Transportation which illustrate the impact of this misuse of RABA funds. One chart indicates the amount of RABA funds each allocated program would have received in FY 2002 under TEA 21 and what they will actually receive under this conference report. The other indicates what the impact will be on individual states and the amount of formula funds lost.

Mr. Speaker, this is just wrong. RABA was not created to be a slush fund for the appropriators. For the committee to take nearly $1 billion of these funds to earmark for projects they deem desirable—on top of the fact that they had already earmarked all pre-RABA discretionary funds—should not happen. This should not be a precedent for future years. And we will continue to review the Conference Report for other offensive provisions.

With conference reports, our options admittedly are limited. However, I cannot stand by and let these egregious acts go by without at least commenting and acknowledging just what has gone on in this report.

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION—RABA DISTRIBUTION

Federal-aid Highway Programs	TEA–21	Conference	Difference
Apportioned Programs	3,968,764,800	3,519,429,770	(449,335,030)
Allocated Programs:			
Federal Lands Highways Program:			
Indian Reservation Roads	36,050,486	35,565,651	(484,835)
Public Lands Highways	32,249,049	31,815,091	(433,958)
Park Roads and Parkways	21,631,440	21,339,391	(292,049)
Refuge Roads	2,624,255	2,586,593	(37,662)
National Corridor Planning & Devel. & Coord. Border Infrastructure Pgm	18,633,932	352,556,000	333,922,068
Construction of Ferry Boats and Ferry Terminal Facilities	5,059,012	25,579,000	20,519,988
National Scenic Byways Program	3,393,730	0	(3,393,730)
Value Pricing Pilot Program	1,464,300	0	(1,464,300)
High Priority Projects Program	236,671,037	0	(236,671,037)
Highway Use Tax Evasion Projects	666,113	0	(666,113)
Commonwealth of Puerto Rico Highway Program	14,642,998	0	(14,642,998)
Woodrow Wilson Memorial Bridge	29,946,366	29,542,304	(404,062)
Miscellaneous Studies, Reports, & Projects	2,503,665	0	(2,503,665)
Magnetic Levitation Transp. Tech. Deployment Program	0	0	(0)
Transportation and Community and System Preservation Pilot Program	3,324,822	250,792,600	247,467,778
Safety Incentive Grants for Use of Seat Belts	14,907,146	0	(14,907,146)
Transportation Infrastructure Finance and Innovation	15,969,481	0	(15,969,481)
Surface Transportation Research	13,442,846	0	(13,442,846)
Technology Deployment Program	5,989,273	0	(5,989,273)
Training and Education	2,526,635	0	(2,526,635)
Bureau of Transportation Statistics	4,128,751	0	(4,128,751)

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION—RABA DISTRIBUTION—Continued

Federal-aid Highway Programs	TEA-21	Conference	Difference
ITS Standards, Research, Operational Tests, and Development	13,976,885	0	(13,976,885)
ITS Deployment	15,969,481	0	(15,969,481)
University Transportation Research	3,525,804	0	(3,525,804)
Emergency Relief Program	13,310,772	0	(13,310,772)
Interstate Maintenance Discretionary	13,310,772	76,025,000	62,714,228
Territorial Highways	4,846,545	0	(4,846,545)
Alaska Highway	2,503,665	0	(2,503,665)
Operation Lifesaver	68,908	0	(68,908)
High Speed Rail	700,567	0	(700,567)
DBE & Supportive Services	2,664,451	0	(2,664,451)
Bridge Discretionary	13,310,772	62,450,000	49,139,228
Study of CMAQ Program Effectiveness	0	0	0
Long-term Pavement	0	10,000,000	10,000,000
New Freedom Initiative	0	0	0
State Border Infrastructure	0	56,300,000	56,300,000
Motor Carrier Safety Grants	24,221,241	23,896,000	(325,241)
Public Lands Discretionary	0	45,122,600	45,122,600
Subtotal, Allocated Programs	574,235,200	1,023,570,230	449,335,030
Total	4,543,000,000	4,543,000,000	0

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION—DISTRIBUTION OF REVENUE ALIGNED BUDGET AUTHORITY

States	TEA-21	Conference	Difference
Alabama	78,660,918	69,755,098	(8,905,820)
Alaska	47,506,115	42,127,574	(5,378,541)
Arizona	71,794,955	63,666,485	(8,128,470)
Arkansas	50,998,628	45,224,673	(5,773,955)
California	357,228,521	316,748,679	(40,479,842)
Colorado	51,633,630	45,787,781	(5,845,849)
Connecticut	59,372,721	52,650,669	(6,722,052)
Delaware	18,097,567	16,048,600	(2,048,967)
Dist. of Col.	15,517,870	13,760,970	(1,756,900)
Florida	187,841,638	166,574,611	(21,267,027)
Georgia	141,803,966	125,749,226	(16,054,740)
Hawaii	20,042,262	17,773,120	(2,269,142)
Idaho	28,813,232	25,551,060	(3,262,172)
Illinois	129,699,234	115,014,965	(14,684,269)
Indiana	91,837,217	81,439,605	(10,397,612)
Iowa	46,752,049	41,458,883	(5,293,166)
Kansas	45,442,357	40,297,471	(5,144,886)
Kentucky	68,342,130	60,604,581	(7,737,549)
Louisiana	61,436,479	54,480,773	(6,955,706)
Maine	20,796,328	18,441,812	(2,354,516)
Maryland	64,532,116	57,225,928	(7,306,188)
Massachusetts	71,715,580	63,596,096	(8,119,484)
Michigan	126,563,909	112,234,615	(14,329,294)
Minnesota	57,110,525	50,644,594	(6,465,931)
Mississippi	50,720,814	44,978,312	(5,742,502)
Missouri	90,924,402	80,630,136	(10,294,266)
Montana	40,640,152	36,038,961	(4,601,191)
Nebraska	31,472,305	27,944,272	(3,528,033)
Nevada	28,932,295	25,656,643	(3,275,652)
New Hampshire	19,605,698	17,385,983	(2,219,715)
New Jersey	100,687,563	89,287,933	(11,399,630)
New Mexico	38,735,144	34,349,635	(4,385,509)
New York	197,128,548	174,810,077	(22,318,471)
North Carolina	111,046,039	98,473,642	(12,572,394)
North Dakota	26,630,412	23,615,374	(3,015,038)
Ohio	136,327,071	120,892,413	(15,434,658)
Oklahoma	60,722,101	53,847,275	(6,874,826)
Oregon	46,434,548	41,177,328	(5,257,220)
Pennsylvania	186,849,447	165,694,754	(21,154,693)
Rhode Island	24,050,715	21,327,744	(2,722,971)
South Carolina	67,429,314	59,795,112	(7,634,202)
South Dakota	27,979,792	24,811,980	(3,167,812)
Tennessee	89,614,709	79,468,724	(10,145,985)
Texas	310,674,910	275,500,962	(35,173,948)
Utah	30,202,300	26,782,861	(3,419,439)
Vermont	18,375,381	16,294,960	(2,080,421)
Virginia	103,703,824	91,962,700	(11,741,124)
Washington	68,461,193	60,710,164	(7,751,029)
West Virginia	41,711,718	36,989,207	(4,722,511)
Wisconsin	77,986,228	69,156,795	(8,829,433)
Wyoming	28,178,230	24,987,951	(3,190,279)
Subtotal	3,968,764,800	3,519,429,770	[1] (449,335,030)
Allocated Programs	574,235,200	1,023,570,230	449,335,030
Total	4,543,000,000	4,543,000,000	0

[1] Represent − 11.38 percent.

Mr. OBERSTAR. Mr. Speaker, I greatly appreciate the work of the Appropriations Committee in ensuring the safety of our highways, particularly the Conference Report's provisions to ensure that we have adequate safety standards with regard to Mexican carriers operating in the United States beyond the border commercial zones.

The requirements are quite simple—we require that Mexican carriers operating in the United States, including both their drivers and trucks, meet U.S. safety standards before they are given authority to operate throughout the country.

All carriers and vehicles are inspected and, until a carrier has been operating in the U.S. for three consecutive years, we require the California system of mandated CVSA inspections every 90 days. We ensure that the Mexican carrier has proof of insurance. We confirm that the drivers have valid Commercial Driver's Licenses.

We ensure that Federal and State inspectors are actually in place at the border crossings to inspect trucks. We ensure that the border facilities have the capacity to actually inspect trucks and have scales to actually weigh vehicles and enforce U.S. truck size and weight laws.

We require the Department of Transportation Inspector General to do a comprehensive review of each of these requirements and that the Secretary of Transportation certify, in a manner addressing the IG's findings, that the opening of the border does not pose an unacceptable safety risk to the American public.

Although all of this would seem common sense, it has been extremely difficult to achieve. The Administration proposed asking the Mexican carriers to fill out a paper application, letting the trucks in, and possibly inspecting them later. Congress, with the leadership of members of both the Transportation and Infrastructure Committee and the Appropriations Committees, particularly Ranking Member SABO and Chairman ROGERS, and Senators MURRAY and SHELBY, have stood firm in the face of constant assaults from the highest levels in this Administration that these common sense requirements were "anti-Hispanic" and "discriminatory".

Today, the Administration embraces and welcomes the Conference Report with its very strong provisions requiring substantially improved safety for Mexican trucks operating in the United States. In what I would modestly call an abrupt reversal of the Administration's ad hominem attacks of our colleagues, the Administration has abandoned its unfounded and misguided position on this important truck safety issue. The Conference Report adopts the necessary public policy to ensure that safety is the highest priority for Mexican trucks operating on American roadways.

Given that highway fatalities are the leading cause of death for persons in the United States of every age from 6 to 33 years old, the American people thank the Gentleman from Minnesota, Mr. SABO, the Gentleman from Kentucky, Mr. ROGERS, and other House and Senate colleagues who stood firm in conference to save more of the Nation's children from unneeded deaths on our highways.

Mr. KOLBE. Mr. Speaker, I rise in support of this conference report and would like to congratulate the Chairman on resolving some difficult issues. One issue in particular is extremely important to me and the nation—the matter of allowing Mexican trucks into the United States as required by law.

Again, this year, there was an attempt to prohibit Mexican trucks from operating beyond the border commercial zone. I have said all along that this is really an issue about certain protectionist interests trying to block Mexican trucks from the United States highways under the guise of truck safety.

We all want to ensure that trucks traveling within the United States are safe. I believe, however, the most important aspect of truck safety is the observation of the driver and the inspection of the truck at the border and along the highway. This can be done while ensuring the security of our border and without establishing unattainable requirements with the sole purpose of denying the entry of Mexican trucks.

Mexican trucks that can operate in the United States, in compliance with U.S. laws and safety regulations, should be allowed in—just like Canadian trucks. We must treat our neighbors to the south, Mexico, the same as we treat our neighbors to the north, Canada.

Whether you agree with NAFTA or not, it is the law of the land and it is an international agreement that we must uphold. For too long the protectionist interests have thwarted efforts to implement the law of the land and to comply with our international agreements. How can we be a global leader by reneging on our agreements? We can't and we won't.

The intent of the opponents of Mexican trucks entering the U.S. has been very clear all along. Let's face it, there are interest groups in the United States that do not want those trucks here. They are joined by interest groups in Mexico.

It is time to build bridges to Mexico—bridges that allow trucks from the U.S. and Mexico to pass each other, not barriers that block the movement of ideas and goods.

Although I do not think that this final compromise is perfect, I am a realist and am pleased that this conference report will allow Mexican trucks to enter all areas in the United

States. We have made a step forward today toward treating our Mexican friends with the respect they deserve.

Mr. SABO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROGERS of Kentucky. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. THORNBERRY). The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 371, nays 11, not voting 51, as follows:

[Roll No. 465]

YEAS—371

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldacci
Baldwin
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
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Bonilla
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Brady (PA)
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Brown (FL)
Brown (OH)
Brown (SC)
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Buyer
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Cardin
Carson (OK)
Castle
Chabot
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Costello
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Cramer
Crane
Crenshaw
Crowley
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dingell
Doggett
Doolittle
Doyle
Duncan
Dunn
Edwards
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Engel
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Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Fletcher
Foley
Forbes
Fossella
Frank
Frelinghuysen
Gekas
Gibbons
Gilchrest
Gillmor
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Gonzalez
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Gordon
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Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
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Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
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Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McIntyre
McKeon
McKinney
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Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Miller, Jeff
Mink
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Osborne
Ose
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Pallone
Pascrell
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Payne
Pelosi
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Peterson (MN)
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Phelps
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Pitts
Platts
Pombo
Pomeroy
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanders
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Sawyer
Saxton
Schakowsky
Schiff
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Simmons
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Slaughter
Smith (MI)
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Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
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Thornberry
Thune
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Tierney
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Turner
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Upton
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Visclosky
Walden
Walsh
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Watkins (OK)
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Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—11

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Filner
Flake
Hefley
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Paul
Petri
Royce
Schaffer
Sensenbrenner
Tancredo

NOT VOTING—51

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Becerra
Berman
Blumenauer
Bonior
Boucher
Boyd
Calvert
Carson (IN)
Conyers
Cooksey
Cubin
Cummings
DeFazio
Diaz-Balart
Dicks
Dooley
Dreier
Fattah
Ford
Frost
Gallegly
Ganske
Gephardt
Holden
Jones (NC)
LaFalce
LaHood
Largent
LaTourette
Lipinski
Lowey
McDermott
Meehan
Miller, Gary
Myrick
Neal
Owens
Portman
Quinn
Rangel
Ros-Lehtinen
Rothman
Sanchez
Smith (TX)
Sununu
Taylor (NC)
Vitter
Waters
Waxman
Wilson

□ 1016

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. MCDERMOTT. Mr. Speaker, on rollcall No. 460, had I been present, I would have voted "yea."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 2291. An act to extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Anti-drug Coalition Institute, and for other purposes.

The message also announced that the Senate has passed a joint resolution of the following title in which the concurrence of the House is requested:

S.J. Res. 26. Joint resolution providing for the appointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution.

LEGISLATIVE PROGRAM

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, I yield to the gentleman from Texas to inquire about next week's schedule.

Mr. ARMEY. I thank the gentlewoman for yielding.

If I might observe, Mr. Speaker, what a pleasant surprise and congratulations to the gentlewoman from California.

Ms. PELOSI. I thank the distinguished gentleman.

Mr. ARMEY. Mr. Speaker, I am pleased to announce that the House has completed its legislative business for the week.

The House will next meet for legislative business on Tuesday, December 4, at 12:30 p.m. for morning hour and at 2 p.m. for legislative business. The House will consider a number of measures under suspension of the rules, a list of which will be distributed to Members' offices later today. On Tuesday, no recorded votes are expected before 7 p.m. due to the National Day of Reconciliation ceremony that will be held between 5 and 7 p.m. in the Rotunda. Mr. Speaker, if I may repeat that: on Tuesday, there will be no recorded votes before 7 p.m.

On Wednesday, Mr. Speaker, I expect to be able to schedule appropriations conference reports that are available. Chairman YOUNG reports that the District of Columbia and Foreign Operations conference reports will hopefully be ready to be considered by Wednesday.

As previously announced, on Thursday, December 6, I have scheduled H.R. 3005, the Bipartisan Trade Promotion Authority Act of 2001.

Throughout the balance of the week, the House will consider any additional conference reports as they become available.

Ms. PELOSI. I thank the gentleman.

Mr. Speaker, are we to understand from what the gentleman has said that Fast Track legislation is definitely going to be on the schedule on Thursday?

Mr. ARMEY. Yes. Again, I want to be very clear on that. We will vote on Thursday, the 6th, on the trade promotion legislation. That is it. It will be there.

Ms. PELOSI. If I may question the distinguished leader further. What are the chances of having votes on next Friday?

Mr. ARMEY. Mr. Speaker, obviously we want to hold the floor available for votes, but that would be pending conference reports that would be made available. At this time we have to be prepared for votes on Friday. But, if I may just give my sort of candid personal advice, I would also entertain other Friday options as well.

Ms. PELOSI. Is it possible we could work Friday through the weekend and end for the year next weekend?

Mr. ARMEY. I would have to say, Mr. Speaker, that I would not anticipate working through the weekend. I would not anticipate us completing our year's work by the end of next week.

Ms. PELOSI. If the distinguished leader would answer one more question, can we expect election reform legislation on the floor next week?

Mr. ARMEY. If the gentlewoman will yield further, Mr. Speaker, we have no plans at this moment to put that on the floor for next week. This is, of course, a subject with respect to which a great many Members feel a good sense of urgency. Should things develop in the process of working this through the committee process, I will obviously inform the minority as immediately as possible. But I have no plans at this time.

Ms. PELOSI. I thank the distinguished leader.

ADJOURNMENT TO TUESDAY, DECEMBER 4, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Tuesday, December 4, 2001, for morning hour debates.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HUMAN CLONING

(Mrs. JO ANN DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today to join my colleagues in calling upon the other body to take up and pass the Weldon-Stupak Human Cloning Prohibition Act which was approved by this House with 265 votes. This is a necessary and important bill to protect in law the uniqueness of human life and to acknowledge that everything that science and scientists are capable of accomplishing cannot necessarily be labeled as "progress." Human life should be nurtured in families by a father and mother, not created in a laboratory to ensure certain predetermined genetic traits.

From experiments with animals, we know that 95 to 99 percent of cloned embryos die. Those that survive are often stillborn or die shortly after birth. Those that survive beyond birth face unpredictable and terrible health problems. The prospect of similar results in the cloning of human beings is chilling, and the other body needs to move quickly and decisively to prevent scientists from proceeding with such unethical and shameless experimentations.

Now is the time to act. We urge the other body to take a stand on this issue.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded not to urge action or inaction by the other body in their comments.

INTRODUCTION OF LEGISLATION CONVEYING PROPERTY TO GAITHERSBURG TO CREATE A CITY PARK

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise to explain legislation that I introduced, H.R. 3355. It is going to transfer Federal property to the city of Gaithersburg. This property is controlled by the National Institute of Standards and Technology. The transfer will help strengthen their existing partnership and enable the city of Gaithersburg to use the property as a city park and provide the community a safe area for children to play and enjoy nature.

It would allow the Department of Commerce to transfer 13.71 acres of Federal property to the city of Gaithersburg to make this planned park a reality. Officials at NIST, such as the acting director, Dr. Karen Brown, and director of administration and CFO, Jorge Urrutia, have expressed their support of the property transfer as have the Mayor of Gaithersburg, Sidney Katz, and the city council of Gaithersburg.

The plans for creating the city park are already under way. The goal of city officials is to build a park that will complement the neighborhood that is adjacent to the land. It is my hope that we can grant this transfer and enable the city of Gaithersburg to provide a safe location for people of all ages.

Mr. Speaker, this is an example of the Federal Government reaching out to a community that is home to many of its employees.

THE QUIET BEATLE IS GONE

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, I rise to honor the humanitarian workers in Afghanistan like the Mercy Corps group who when the Afghani people said, "I need you," they did not respond, "Don't bother me."

I want to tell you, it is a long, long, long and hard road that they are walking.

And their efforts are their own, not paid for by the taxman.

Their work is really something.

And because of their work, someday the Afghani people will be able to say, "Here comes the sun," and I say, "It's all right."

BRINGING TECHNOLOGY TO THE CLASSROOM

(Mr. FERGUSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FERGUSON. Mr. Speaker, preparing and educating our students for the global economy of the 21st century must be one of America's top priorities.

As a father and a former teacher, I am increasingly concerned about the shortage of technology in our Nation's schools. While there are some 8.2 million instructional computers in our elementary and secondary schools, the additional resources that are needed are startling. At least 5 million new computers are needed at this time, and the number will be higher tomorrow and next month and next year.

There is widespread concern about the academic performance of students in the United States relative to their counterparts in other nations. It is time that we have a clear and focused vision to bring educational technology to the classroom for the sake of our most precious resource, our children.

This week I introduced legislation, House Resolution 295, calling for a commission on technology and education that is comprised of educators, parents and tech industry leaders to help bring technology into the classroom. If we can do this effectively, students will learn the skills they need to prepare for a successful future in our high-tech world.

Let us pass this resolution and give our kids another chance for a brighter future tomorrow in our increasingly competitive world.

URGING ACTION ON ECONOMIC STIMULUS PACKAGE

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, another Friday has passed, another week is finished in Congress, and we still have no economic stimulus package. We need to urge the other Chamber to work with us to try and get something that will stimulate this economy.

Unemployment numbers are rising. GDP numbers released this morning were weak. We continue to see problems in the economy. Shopping and holiday shopping has dropped dramatically. Tourism in Florida is off 16 percent.

How much more information do you need in the other Chamber? I urge all parties, Democrats, Republicans and independents, on both sides of this Capitol to work together over this weekend and have an economic stimulus bill that will actually cause the economy to move forward. We hope on our side that at least includes tax relief for hardworking families so they will have more money in their pockets to spend in their community. But there is no excuse for failing to act. I urge this body to move the legislation to the President's desk so we can get the next quarter of the economy moving in a positive direction.

□ 1030

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. THORNBERRY). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

AMERICA'S RECESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, on September 11 our Nation was mercilessly attacked in New York and in the Pentagon, and we may well have been made subject to biological attacks through the mail since, even some of which arrived at my own congressional office.

The impact of these attacks on our country is incalculable. It has been emotional. It has resulted in spiritual renewal in our country. It has resulted in military activity overseas and activity by the Justice Department in criminal investigations of a historic scope here in America. And, yes, the consequences of September 11 have been economic as well.

The reality is that what we found out this week, Mr. Speaker, is that beginning in March of this year and manifested in newspapers around America on Tuesday, we are in fact in a recession. All people around America know is recession is defined as when there are two consecutive quarters of net negative growth in the GDP, and that sad news arrived on the door steps of Americans this week.

Well, the reality is that the events of September 11, Mr. Speaker, contributed to a weak economy spiraling even further into recession, the recession in which we find ourselves today. Now, these facts may seem obvious. They may not even seem worthy of taking the time of this august Chamber today; but they are not apparently obvious to our colleagues on the other side of the aisle, who we are told in newspapers around America today including the front page of USA Today that political attack ads will be launched beginning this weekend in markets all across America deriding the George Bush recession.

Let me say again, labeling the economic downturn as the George Bush recession, a key Democrat announced plans Thursday for her party's first political ad campaign since the attacks on America on September 11.

So I rise today to simply ask the question, Mr. Speaker, whose recession is this? Is it in fact the George Bush recession? Well, let us begin with the facts. As I mentioned earlier a recession is two consecutive quarters of net negative growth in the GDP. That means that the recession in which we find ourselves began on March 1.

I seem to remember that the Presidential campaign was quite divisive. That in fact George W. Bush was not able to form his government until into January and, therefore, he had been President of the United States for approximately 5 weeks, Mr. Speaker, when this recession arrived. Now that to me is an extraordinary judo throw for any human being or any administration. In 5 weeks we are to believe that George W. Bush was such a repellent on the American economy that he drove us into a recession. That is obviously absurd.

But some might be quick on my side of the aisle to say this is not a George Bush recession we are in. It is a Bill Clinton recession we are in and there is certainly evidence to suggest that.

Manufacturers in the automotive industry and the diesel industry in the east central Indiana district that I serve have said that their orders were off beginning in the fourth quarter of the year 2000. The National Association of Manufacturers estimated that without an energy policy in America, fuel prices soared in 1999 and 2000, costing the economy more than $115 billion, dragging down manufacturers and sending us into a recession.

But I am not here today, Mr. Speaker, to exploit national tragedy for political gain. So I do not stand in this Chamber even to say this is a Bill Clinton recession.

So whose recession is it, Mr. Speaker? Is it George W. Bush's? Is it Bill Clinton's? Is it the terrorists' who attacked our country on September 11? The truth of the matter is, Mr. Speaker, it is none of the above. It is simply America's recession.

The people of the United States of America learned a powerful lesson on September 11, and that is we are all in this together, that united we stand. The American people have rightly had much less patience for small-minded partisan bickering and finger pointing since September 11, and I suspect that my colleagues on the other side of the aisle who would seize this moment for political advantage, to lay this multiyear recession driven even farther down by the terrorist attacks may well pay a penalty at the ballot box for their exploitation.

Let us work together to pass an economic stimulus package in a bipartisan way. Let us get this economy moving together.

WORLD AIDS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, since 1988 December 1 has been known as World AIDS Day. World AIDS Day emerged from the call by the World Summit of the Ministers of Health on Programmes for AIDS prevention in January of 1988 to open channels of communication, strengthen the exchange of information and experience, and forge a spirit of social tolerance. Since then World AIDS Day has received the support of the World Health Assembly, the United Nations system and governments, communities and individuals around the world. Each year, it is the only international day of coordinated action against AIDS.

Today in the Washington Post I have read Kofi Annan, who is the Secretary General of the United Nations, entered this editorial comment: "Every day more than 8,000 people die of AIDS. Every hour almost 600 people become infected. Every minute a child dies of the virus. Just as life and death goes on after September 11, so must we continue our fight against the HIV and AIDS epidemic. Before the terrorist attack two months ago, tremendous momentum had been achieved in that fight. To lose it now would be to compound one tragedy with another.

"New figures released in advance of World AIDS Day, December 1, show that more than 40 million people are now living with the virus. The vast majority of them are in sub-Saharan Africa, where the devastation is so acute that it has become one of the major obstacles to development. But parts of the Caribbean and Asia are not far behind and the pandemic is spreading at an alarming rate in Eastern Europe. For too long global progress and facing up to AIDS was painfully slow, and nowhere near commensurate with the challenge. But in the past year for much of the international community, the magnitude of this crisis has finally begun to sink in. Never in the 2 long decades that the world has faced this growing catastrophe have there been such a sense of common resolve and collective possibility.

"Public opinion has been mobilized by the media and nongovernmental organizations and activists, by doctors and economists and by people living with the disease. Pharmaceutical companies have made their AIDS drugs more affordable in poor countries, and a growing number of corporations have created programs to provide both prevention and treatment for employees in the wider community. Foundations are making increasingly imaginative and generous contributions, both financial and intellectual in prevention, in reducing mother-to-child transmission and the search for the vaccine.

"In a growing number of countries, an effective prevention campaign has been launched. There has been an increased recognition about donors in the most affected countries of the link between prevention and treatment."

This is General Kofi Annan's statement today in the Washington Post. Let me underscore how tragic it is: 7,000 people in sub-Saharan Africa die each day. Seven thousand people, almost double those killed in the World Trade Center. Seven thousand a day in sub-Saharan Africa.

It is an international issue that we must grapple with. I am proud to say President Bush has committed $200 million to the global fund to fight HIV and AIDS. The global fund has right now pledges totalling $1.5 billion and I am proud to see our President, George Bush, committed to this goal and providing financial response and support.

I am asking Congress for an additional $1 billion for the fund, and I hope we are able to do that.

Today we should reflect on those lost and use their memories to fuel our efforts to eradicate this pandemic. This is one of the most serious health challenges we have faced and will face in my lifetime. I pledge as a Member of this body to continue to work with our leaders, the Speaker of the House and others, in order to effectuate a solid policy that helps care for those suffering from this dreaded disease. We can find a way to not only, we pray, create a vaccine, but eradicate this scourge among mankind. But we must particularly set our sights on sub-Saharan Africa and other places because of the poverty and because of the lack of knowledge and because a lack of medical care and treatment is ravaging and destroying the humanity that lives there.

I pledge my support and I know Congress joins us today as we salute World AIDS Day tomorrow morning in our global fight against this disease.

FOR THE LONG HAUL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, in the pre-dawn hours of April 12, 1861, Confederate General P.G.T. Beauregard gave the order to fire on Fort Sumter. After 34 hours of bombardment, a white flag ended the first battle of the Civil War.

The only casualty was a Confederate horse. Later a Northern Congressman predicted that we could, "wipe up with one handkerchief the blood that would be spilled in putting down the rebellion." He was wrong.

As the Northern Alliance supported by our bombers and Special Forces roll across Afghanistan, I fear the same overconfidence taking root here in Congress.

In the words of the poet, "We have miles to go before we sleep." So it is with the war on terrorism.

Many ask me what will come next. The answer is embedded in the question. We all know that there will be a next. It is important that those who advance terrorism not know when.

It is important that we understand that the coming phase probably will not be as painless in defeating the Taliban. Other countries do not offer ready-made freedom fighters like the Northern Alliance. We must also brace ourselves for potential news blackouts. I pray that any future deployments of our Special Forces into other countries will not be announced on CNBC. SEAL teams do their best work away from the glare of Klieg lights.

Our commander in chief has made it clear from the very beginning, this will be a long war involving many countries that harbor terrorism.

It began at a time of their choosing. It will end at a time and under the terms that we decide. We must not become overconfident. It will take many handkerchiefs. There will be casualties, both American and innocent civilians. But I have no doubt that we will prevail. And in the end, we will leave to future generations a much safer planet. To victory.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Mr. GEPHARDT) for today on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. UDALL of New Mexico) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

(The following Members (at the request of Mr. FOLEY) to revise and extend their remarks and include extraneous material:)

Mr. PENCE, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today.

SENATE BILL REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 26. Joint resolution providing for the appointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1459. An act to designate the Federal building and United States courthouse located at 550 West Fort Street in Boise, Idaho, as the "James A. McClure Federal Building and United States Courthouse".

S. 1573. An act to authorize the provision of educational and health care assistance to the women and children of Afghanistan.

ADJOURNMENT

Mr. GUTKNECHT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 45 minutes a.m.), under its previous order, the House adjourned until Tuesday, December 4, 2001, at 12:30 p.m., for morning hour debates.

OATH OF OFFICE

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 107th Congress, pursuant to the provisions of 2 U.S.C. 25:

Honorable JOHN BOOZMAN 3rd Arkansas.

OATH FOR ACCESS TO CLASSIFIED INFORMATION

Under clause 13 of rule XXIII, the following Members executed the oath for access to classified information:

Neil Abercrombie, Aníbal Acevedo-Vilá, Gary L. Ackerman, Robert B. Aderholt, W. Todd Akin, Thomas H. Allen, Robert E. Andrews, Richard K. Armey, Joe Baca, Spencer Bachus, Brian Baird, Richard H. Baker, John Elias E. Baldacci, Tammy Baldwin, Cass Ballenger, James A. Barcia, Bob Barr, Thomas M. Barrett, Roscoe G. Bartlett, Joe Barton, Charles F. Bass, Xavier Becerra, Ken Bentsen, Doug Bereuter, Shelley Berkley, Howard L. Berman, Marion Berry, Judy Biggert, Michael Bilirakis, Sanford D. Bishop, Jr., Rod R. Blagojevich, Earl Blumenauer, Roy Blunt, Sherwood L. Boehlert, John A. Boehner, Henry Bonilla, David E. Bonior, Mary Bono, John Boozman, Robert A. Borski, Leonard L. Boswell, Rick Boucher, Allen Boyd, Kevin Brady, Robert A. Brady, Corrine Brown, Sherrod Brown, Henry E. Brown, Jr., Ed Bryant, Richard Burr, Dan Burton, Steve Buyer, Sonny Callahan, Ken Calvert, Dave Camp, Chris Cannon, Eric Cantor, Shelley More Capito, Lois Capps, Michael E. Capuano, Benjamin L. Cardin, Brad Carson, Julia Carson, Michael N. Castle, Steve Chabot, Saxby Chambliss, Donna M. Christensen, Wm. Lacy Clay, Eva M. Clayton, Bob Clement, James E. Clyburn, Howard Coble, Mac Collins, Larry Combest, Gary A. Condit, John Cooksey, Jerry F. Costello, Christopher Cox, William J. Coyne, Robert E. (Bud) Cramer, Jr., Philip P. Crane, Ander Crenshaw, Joseph Crowley, Barbara Cubin, John Abney Culberson, Elijah E. Cummings, Randy "Duke" Cunningham, Danny K. Davis, Jim Davis, Jo Ann Davis, Susan A. Davis, Thomas M. Davis, Nathan Deal, Peter A. DeFazio, Diana DeGette, William D. Delahunt, Rosa L. DeLauro, Tom DeLay, Jim DeMint, Peter Deutsch, Lincoln Diaz-Balart, Norman D. Dicks, John D. Dingell, Lloyd Doggett, Calvin M. Dooley, John T. Doolittle, Michael F. Doyle, David Dreier, John J. Duncan, Jr., Jennifer Dunn, Chet Edwards, Vernon J. Ehlers, Robert L. Ehrlich, Jr., Jo Ann Emerson, Eliot L. Engel, Phil English, Anna G. Eshoo, Bob Etheridge, Lane Evans, Terry Everett, Eni F. H. Faleomavaega, Sam Farr, Chaka Fattah, Mike Ferguson, Bob Filner, Jeff Flake, Ernie Fletcher, Mark Foley, J. Randy Forbes, Harold E. Ford, Jr., Vito Fossella, Barney Frank, Rodney P. Frelinghuysen, Martin Frost, Elton Gallegly, Greg Ganske, George W. Gekas, Richard A. Gephardt, Jim Gibbons, Wayne T. Gilchrest, Paul E. Gillmor, Benjamin A. Gilman, Charles A. Gonzalez, Virgil H. Goode, Jr., Bob Goodlatte, Bart Gordon, Porter J. Gross, Lindsey O. Graham, Kay Granger, Sam Graves, Gene Green, Mark Green, James C. Greenwood, Felix J. Grucci, Jr., Luis Gutierrez, Gil Gutknecht, Ralph M. Hall, Tony P. Hall, James V. Hansen, Jane Harman, Melissa A. Hart, J. Dennis Hastert, Alcee L. Hastings, Doc Hastings, Robert Hayes, J. D. Hayworth, Joel Hefley, Wally Herger, Baron P. Hill, Van Hilleary, Earl F. Hilliard, Maurice D. Hinchey, Rubén Hinojosa, David L. Hobson, Joseph M. Hoeffel, Peter Hoekstra, Tim Holden, Rush D. Holt, Michael M. Honda, Darlene Hooley, Stephen Horn, John N. Hostettler, Amo Houghton, Steny H. Hoyer, Kenny C. Holshof, Duncan Hunter, Henry J. Hyde, Jay Inslee, Johnny Isakson, Steve Israel, Darrell E. Issa, Ernest J. Istook, Jr., Jesse L. Jackson, Jr., Sheila Jackson-Lee, William J. Jefferson, William L. Jenkins, Christopher John, Eddie Bernice Johnson, Nancy L. Johnson, Sam Houston, Timothy V. Johnson, Stephanie Tubbs Jones, Walter B. Jones, Paul E. Kanjorski, Marcy Kaptur, Ric Keller, Sue W. Kelly, Mark R. Kennedy, Patrick J. Kennedy, Brian D. Kerns, Dale E. Kildee, Carolyn C. Kilpatrick, Ron Kind, Peter T. King, Jack Kingston, Mark Steven Kirk, Gerald D. Kleczka, Joe Knollenberg, Jim Kolbe, Dennis J. Kucinich, John J. LaFalce, Ray LaHood, Nick Lampson, James R. Langevin, Tom Lantos, Steve Largent, Rick Larsen, John B. Larson, Tom Latham, Steven C. LaTourette, James A. Leach, Barbara Lee, Sander M. Levin, Jerry Lewis, John Lewis, Ron Lewis, John Linder, William O. Lipinski, Frank A. LoBiondo, Zoe Lofgren, Nita M. Lowey, Frank D. Lucas, Ken Lucas, Bill Luther, Stephen F. Lynch, Carolyn B. Maloney, James H. Maloney, Donald A. Manzullo, Edward J. Markey, Frank Mascara, Jim Matheson, Robert T. Matsui, Carolyn McCarthy, Karen McCarthy, Betty McCollum, Jim McCrery, James P. McGovern, John McHugh, Scott McInnis, Mike McIntyre, Howard P. McKeon, Cynthia A. McKinney, Michael R. McNulty, Martin T. Meehan, Carrie P. Meek, Gregory W. Meeks, Robert Menendez, John L. Mica, Juanita Millender-McDonald, Dan Miller, Gary G. Miller, George Miller, Jeff Miller, Pasty T. Mink, Alan B. Mollohan, Dennis Moore, James P. Moran, Jerry Moran, Constance A. Morella, John P. Murtha, Sue Wilkins Myrick, Jerrold Nadler, Grace F. Napolitano, Richard E. Neal, George R. Nethercutt, Jr., Robert W. Ney, Anne M. Northup, Eleanor Holmes Norton, Charlie Norwood, Jim Nussle, James L. Oberstar, David R. Obey, John W. Olver, Solomon P. Ortiz, Tom Osborne, Doug Ose, C. L. Otter, Major R. Owens, Michael G. Oxley, Frank Pallone, Jr., Bill Pascrell, Jr., Ed Pastor, Ron Paul, Donald M. Payne, Nancy Pelosi, Mike Pence, Collin C. Peterson, John E. Peterson, Thomas E. Petri, David D. Phelps, Charles W. Pickering, Joseph R. Pitts, Todd Russell Platts, Richard W. Pombo, Earl Pomeroy, Rob Portman, David E. Price, Deborah Pryce, Adam H. Putnam, Jack Quinn, George Radanovich, Nick J. Rahall, II, Jim Ramstad, Charles B. Rangel, Ralph Regula, Dennis R. Rehberg, Silvestre Reyes, Thomas M. Reynolds, Bob Riley, Lynn N. Rivers, Ciro D. Rodriguez, Tim Roemer, Harold Rogers, Mike Rogers, Dana Rohrabacher, Ileana Ros-Lehtinen, Mike Ross, Steven R. Rothman, Marge Roukema, Lucille Roybal-Allard, Edward R. Royce, Bobby L. Rush, Paul Ryan, Jim Ryun, Martin Olav Sabo, Loretta Sanchez, Bernard Sanders, Max Sandlin, Tom Sawyer, Jim Saxton, Bob Schaffer, Janice D. Schakowsky, Adam B. Schiff, Edward L. Schrock, Robert C. Scott, F. James Sensenbrenner, Jr., José E. Serrano, Pete Sessions, John B. Shadegg, E. Clay Shaw, Jr., Christopher Shays, Brad Sherman, Don Sherwood, John Shimkus, Ronnie Shows, Bill Shuster, Rob Simmons, Michael K. Simpson, Joe Skeen, Ike Skelton, Louise McIntosh Slaughter, Adam Smith, Christopher H. Smith, Lamar S. Smith, Nick Smith, Vic Snyder, Hilda L. Solis, Mark E. Souder, Floyd Spence, John N. Spratt, Jr., Fortney Pete Stark, Cliff Stearns, Charles W. Stenholm, Ted Strickland, Bob Stump, Bart Stupak, John E. Sununu, John E. Sweeney, Thomas G. Tancredo, John S. Tanner, Ellen O. Tauscher, W.J. (Billy) Tauzin, Charles H. Taylor, Gene Taylor, Lee Terry, William M. Thomas, Bennie G. Thompson, Mike Thompson, Mac Thornberry, John R. Thune, Karen L. Thurman, Todd Tiahrt, Patrick J. Tiberi, John F. Tierney, Patrick J. Toomey, Edolphus Towns, James A. Traficant, Jr., Jim Turner, Mark Udall, Tom Udall, Robert A. Underwood, Fred Upton, Nydia M. Velázquez, Peter J. Visclosky, David Vitter, Greg Walden, James T. Walsh, Zach Wamp, Maxine Waters, Wes Watkins, Diane E. Watson, Melvin L. Watt, J.C. Watts, Jr., Henry A. Waxman, Anthony D. Weiner, Curt Weldon, Dave Weldon, Jerry Weller, Robert Wexler, Ed Whitfield, Roger F. Wicker, Heather Wilson, Frank R. Wolf, Lynn C. Woolsey, David Wu, Albert Russell Wynn, C.W. Bill Young, Don Young.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4670. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to France (Transmittal No. DTC 134-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4671. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to the United Kingdom (Transmittal No. DTC 133-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4672. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to India (Transmittal No. DTC 160-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4673. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC 131-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4674. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Japan [Transmittal No. DTC 130-01], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

4675. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with the United Kingdom [Transmittal No. DTC 139-01], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

4676. A letter from the Assistant Attorney General, Department of Justice, transmitting a report entitled, "Review of the Restrictions on Persons of Italian Ancestry During World War II," in accordance with Section 3 of the Wartime Violation of Italian American Civil Liberties Act, Public Law 106-451; to the Committee on the Judiciary.

4677. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Lake Erie, Monroe, Michigan [CGD09-01-135] (RIN: 2115-AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4678. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Lake Erie, Toledo, Ohio [CGD09-01-136] (RIN: 2115-AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4679. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; San Francisco Bay, San Francisco, CA [COTP San Francisco Bay 01-008] (RIN: 2115- AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4680. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone [CGD01-01-170] (RIN: 2115-AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4681. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone; Lake St. Clair, Grosse Pointe Yacht Club, Grosse Point Shores, MI [CGD09-01-132] (RIN: 2115-AA97) November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4682. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety and Security Zones; Newport Naval Station, Newport, RI [CGD01-01-148] (RIN: 2115-AA97) November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4683. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety and Security Zones; Port of New York/New Jersey [CGD01-01-102] (RIN: 2115-AA97) November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4684. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Dorchester Bay, MA [CGD01-01-142] (RIN: 2115-AE47) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4685. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Harlem River, NY [CGD01-01-157] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4686. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Harlem River, Newtown Creek, NY [CGD01-01-180] (RIN: 2115-AE47) received November 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4687. A letter from the Director, Office of Regulations Management, Department of Veterans' Affairs, transmitting the Department's "Major" final rule—Copayments for Medications (RIN: 2900-AK85) received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4688. A letter from the Regulations Officer, Social Security Administration, transmitting the Administration's "Major" final rule—Revised Medical Criteria for Determination of Disability, Musculoskeletal System and Related Criteria [Regulations Nos. 4 and 16] (RIN: 0960-AB01) received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3030. A bill to extend the "Basic Pilot" employment verification system, and for other purposes; with amendments (Rept. 107-310 Pt. 1).

Mr. BOEHLERT: Committee on Science. H.R. 64. A bill to provide for the establishment of the position of Deputy Administrator for Science and Technology of the Environmental Protection Agency, and for other purposes; with an amendment (Rept. 107-311). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Education and the Workforce discharged from further consideration. H.R. 3030 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

DISCHARGE FROM UNION CALENDAR

Under clause 5 of rule X, the following action was taken by the Speaker:

H.R. 2481. The Committee of the Whole House on the State of the Union discharged, and referred to the Committee on Armed Services for a period ending not later than February 15, 2002, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of the Committee on Armed Services pursuant to clause 1(c), rule X.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 3030. Referral to the Committee on Education and the Workforce extended for a period ending not later than November 30, 2001.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TERRY:

H.R. 3387. A bill to amend the Fair Credit Reporting Act to extend the limitation on actions, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself and Mr. DEUTSCH):

H.R. 3388. A bill to amend title XVIII of the Social Security Act to adjust the fee for collecting specimens for clinical diagnostic laboratory tests under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILCHREST:

H.R. 3389. A bill to reauthorize the National Sea Grant College Program Act, and for other purposes; to the Committee on Resources.

By Mr. SHOWS (for himself and Mr. THOMPSON of Mississippi):

H.R. 3390. A bill to provide consistent treatment of overtime, night, and holiday inspection and quarantine services performed by employees of the Department of Agriculture; to the Committee on Government Reform, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Ms. CARSON of Indiana.

H.R. 280: Mr. ISTOOK.

H.R. 303: Mr. TOOMEY.

H.R. 488: Mr. STARK and Mr. GREENWOOD.

H.R. 656: Mr. WATKINS.

H.R. 1220: Mr. RUSH.

H.R. 1331: Mr. FLAKE.

H.R. 1405: Mrs. LOWEY.

H.R. 1543: Mr. FORD.

H.R. 1779: Mr. WAMP.

H.R. 1782: Mr. PLATTS.

H.R. 2623: Mr. UDALL of Colorado.

H.R. 2723: Mr. CLEMENT and Mrs. BONO.

H.R. 2935: Mr. GUTIERREZ and Mr. MCCOLLUM.

H.R. 2949: Mr. THOMPSON of California, Mr. PRICE of North Carolina, Mr. MCGOVERN, Mr. MATSUI, Ms. LEE, Mr. FALEOMAVAEGA, and Mr. FROST.

H.R. 3006 Mr. SOUDER.

H.R. 3046 Mr. HONDA.

H.R. 3054 Mr. HINCHEY and Mr. KINGSTON.

H.R. 3101 Mr. HOYER.

H.R. 3143 Mr. KING, Ms. BROWN of Florida, Mr. CANTOR, Mr. BOEHLERT, Mr. BOUCHER, Mr. MCGOVERN, Ms. MCKINNEY, and Mr. RANGEL.

H.R. 3185 Mr. KING, Mr. BROWN of Ohio, Mr. SHIMKUS, and Mr. LAHOOD.

H.R. 3223 Mr. CAMP, Mr. MCINNIS, and Mr. EHRLICH.

H.R. 3230 Mr. REYNOLDS.

H.R. 3278 Mr. PAYNE.

H.R. 3352 Mr. MOLLOHAN.

H.J. Res. 6: Mr. TIERNEY.

H. Con. Res. 250: Mr. STUPAK, Mr. KILDEE, Mr. HOYER, and Mr. PLATTS.

H. Con. Res. 279: Mr. ORTIZ, Mr. BARTLETT of Maryland, Mr. WHITFIELD, MR. CAPUANO, Ms. MCKINNEY, Mr. LANGEVIN, Mr. MORAN of Virginia, Mr. KIRK, Mr. BURTON of Indiana, Mr. ISAKSON, and Mr. BAKER.

H. Res. 298: Mr. PLATTS AND MRS. ROUKEMA.

H. Res. 300: Mr. ALLEN, Mr. GRUCCI, Mr. MASCARA, Mrs. MINK of Hawaii, Mr. TIERNEY, and Mr. MARKEY.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 4, by Mr. CUNNINGHAM on House Resolution 271: Carolyn McCarthy, Charlie Norwood, Gene Green, and Patrick J. Kennedy.

EXTENSIONS OF REMARKS

HONORING THE DEDICATED SERVICE OF LOUIS FINKEL

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. GORDON. Mr. Speaker, I rise today to bid farewell to Louis Finkel, my legislative director. Louis has been an invaluable member of my staff for almost six years. Replacing him will be a daunting task.

Louis has mastered every task and legislative priority I have assigned to him over the years. His hard work, loyalty and dedication have been instrumental in my work as a Congressman. I, along with every other member of my staff, will miss his contribution.

Louis' insight and analysis were key ingredients in every major legislative initiative with which I have been involved over the past six years. He has helped my efforts to finance a world class system of greenways and river trails in Middle Tennessee, expand and renovate the Stones River National Battlefield, restore environmentally sensitive wetlands, and begin a critically needed commuter rail system linking Nashville, Tennessee, with the surrounding suburban and rural populations.

Louis, like many bright and talented congressional staff members, is moving on to a career in public affairs. I'm confident his career there will be as successful as his career as a congressional aide. He undoubtedly will serve his clients as well as he has served me and my constituents in Middle Tennessee. I wish him well.

* * *

HONORING J&L VINEYARDS AS AG BUSINESS OF THE YEAR

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize J&L Vineyards as Baker, Peterson & Franklin, Certified Public Accountants' Ag Business of the Year. J&L Vineyards is honored for its contributions to the ag industry and the Central San Joaquin Valley.

J&L Vineyards was selected by a committee of representatives of the AgFresno Advisory Board, National Ag Marketing Association, and the BP&F Ag Department. The family business is owned and operated by Don Laub and his daughter Debbie Jacobsen. Don's wife, Clara; son, David, daughter Diane Tavares; and Debbie's husband, Ray are also involved with the company. What began in the late 1930's as a 20-acre raisin farm has expanded to ten varieties of table, raisin, and wine grapes on 1,050 acres. J&L Vineyards has also grown beyond the Laub family to include ten full-time employees.

It is J&L Vineyards' efficiency and innovation that has earned it this recognition. These commitments can be seen by the business' integrated pest management, trellis design for table grapes, and higher yield with fewer inputs. Beyond agriculture and business, J&L Vineyards has exemplified a commitment to the community in which it has thrived. Family members have served on many boards including the Allied Grape Growers, California Foundation for Ag in the Classroom, California Women in Agriculture, and Greater Fresno Area Chamber of Commerce.

Mr. Speaker, I rise to acknowledge J&L Vineyards as the recipient of the 2001 Ag Business of the Year. I urge my colleagues to join me in honoring this company and wishing it many more years of continued success.

* * *

HONORING THE COBB COUNTY, GEORGIA, CHAPTER OF KEEP AMERICA BEAUTIFUL

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. BARR of Georgia. Mr. Speaker, since 1953 one organization in particular has been striving to bring communities together, by developing proactive projects that encourage responsibility for environment enhancement and encompass the values of community pride. Keep America Beautiful has become an international organization that seeks to empower our citizens, by implementing programs ranging from litter prevention to improving entire cities through training, education, and action.

Keep America Beautiful has almost 500 local, state, and international affiliates in 40 states, and is continuing to grow every day.

I stand today, to recognize Keep America Beautiful's chapter in Cobb County, Georgia, as the winner of this year's affiliate award in the category for population of more than 500,001.

Cobb County has excelled with programs such as on-line litter reporting service, the Litter Line, where residents can report illegal dumps, excessive trash, or graffiti. This initiates a faster clean-up response time, and provides a useful tracking device for area officials. Keep Cobb Beautiful also stood out with its Cobb Trees program in which over 90 trees were planted at five different sites, incorporating over 150 volunteers.

I ask my fellow Members of the House to join me in congratulating, Keep Cobb Beautiful's progress and hard work. May the example they have set for the state of Georgia and the country as a whole continue to spread.

RICK BLANKENSHIP

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Ms. BROWN of Florida. Mr. Speaker, as a Floridian and a Member of Congress, I am thrilled to see that Mr. Blankenship is going to be the next Ambassador to the Commonwealth of the Bahamas. A community activist and advocate for children and local schools, I am certain he will serve our country honorably.

Mr. Blankenship's qualifications, which include over 20 years of experience in the private sector and years of work with Caribbean nations, make him a perfect fit for this position. His leadership in the area of international trade should benefit both countries, and his experience with air and port security will be a great asset at this critical time.

You know, the Bahamas is only 45 miles from the coast of Florida. My state has a special relationship with the island, as well as the Caribbean in general. And not only does the United States have close economic ties to the island, we also share ethnic and cultural ties, especially in education. And although many people outside the U.S. view, us as "the ugly Americans" or "imperialists," I think that Mr. Blankenship could do a lot to improve our already friendly relations with the island. His concern for improving education and for children proves that he is a man that is concerned about people, and kids in particular. I know he will serve well as a link between our two countries.

I would like to close by once again congratulating Mr. Blankenship and wish him the best in his new position!

* * *

HONORING SOUTH SALT LAKE MAYOR RANDY G. FITTS

HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. MATHESON. Mr. Speaker, I rise today to honor Mayor Randy G. Fitts for his tireless efforts in representing the City of South Salt Lake.

Mayor Fitts served on the City Council of South Salt Lake from January 1978 to December 1989, and has been Mayor since 1992. He will retire on January 7, 2002, and his leadership and diligent work have been greatly appreciated.

Throughout his tenure as a public servant, Mayor Fitts focused on issues that would increase the quality of life for the residents of South Salt Lake.

Some of the projects he worked on include completion of the Jordan River Parkway, and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the renovation of the historic Columbus School, by transforming it into a senior citizens center, community center, recreation center, and library.

Mayor Fitts proved to be a fiscal conservative, as well, with South Salt Lake receiving high bond ratings and awards from the Government Finance Officer's Association. He also succeeded in preventing the implementation of property tax increases.

Always active in regional efforts, he has served on many public boards and councils along the Wasatch Front, dealing with important policy issues such as transportation and public safety.

He is currently Vice-Chair of the Wasatch Front Regional Council, and a member of the Criminal Justice Advisory Committee.

He has also been President of the Salt Lake Valley Conference of Mayors and President of the Salt Lake County Council of Governments.

Mayor Fitts showed great courage and leadership in providing early public support at a critical time for light rail. Fortunately, Mayor Fitts had the vision to realize the importance of bringing mass transit to the Salt Lake Valley.

This vision continued after the North-South line from Salt Lake City to Sandy was completed. Three light-rail stops are located in South Salt Lake, and Mayor Fitts has sought to integrate the lightrail system into the community in a way that is both socially and economically beneficial.

The 3300 South Transit-Oriented Redevelopment Project is a key component of this integration. This project seeks to utilize high-density housing, commercial offices, as well as retail and community services around the light-rail station.

This project will stimulate economic growth while at the same time encourage further use of mass transit, thereby helping to prevent further sprawl in the Salt Lake Valley.

This project received the 2001 Best Achievement in Planning for Transit Oriented Development from the Utah Quality Growth Commission, as part of South Salt Lake's Light Rail Corridor Master Plan.

In addition to his professional accomplishments, Mayor Fitts is well known for his sense of humor and wit. While he took his job seriously, he did not take himself too seriously. Which has always been the mark of an effective leader and public servant.

Therefore, I am proud to join with his many admirers in extending my highest praise and congratulations to Mayor Randy Fitts for his dedicated public service to the City of South Salt Lake. I extend my most heartfelt good wishes for all his future endeavors.

INTRODUCTION OF THE MEDICARE LABORATORY SERVICES ACCESS ACT OF 2001

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. ENGLISH. Mr. Speaker, today I will introduce the Medicare Laboratory Services Access Act of 2001. I am pleased to be joined in introducing this important legislation by my colleague from Florida, Representative PETER DEUTSCH. Laboratory testing is an essential component of the health services we provide to our seniors. The health care needs of Medicare beneficiaries require them to have assured access to the full range of diagnostic laboratory tests. This measure would help ensure that the community laboratories that serve our nation's seniors have the resources necessary to continue to provide life-saving laboratory services. This legislation also seeks to remedy a financial burden imposed by new regulations requiring safe needles and related practices.

Laboratory tests facilitate early detection and accurate diagnoses which in turn result in more effective and less costly treatment. As a majority of the currently available tests to diagnose and treat diseases in the Medicare population involve taking and analyzing a specimen—or sample—from the beneficiary for laboratory analysis, health care providers rely on the accurate and timely collection of specimens to ensure adequate diagnosis and treatment. In fact, laboratory tests only account for 1.6% of the total Medicare budget but are used in 70% of medical decision-making. Yet, underpayment for specimen collection currently threatens the ability of community laboratories to continue to provide this much-needed service.

In 1984, Congress established a policy to provide for a "nominal fee" that was to cover the costs associated with collecting the sample on which a clinical diagnostic laboratory test was performed and paid for under the Medicare program. That fee was established 17 years ago at a rate of $3.00 and has not been increased, even for inflationary factors since that time.

Our nation has seen amazing medical breakthroughs in technology while simultaneously the environments in which health care providers work has become more and more regulated. Further exacerbating the pressures on laboratories is that the available population of phlebotomists—the folks trained to draw blood—continues to shrink.

The combination of increasing costs, eroding reimbursement levels, fewer available health care workers with a growing population of Medicare beneficiaries threatens the Medicare program's ongoing ability to provide essential laboratory services, especially in rural areas and remote sites such as nursing homes. In January 2001, the Occupational Safety and Health Administration (OSHA) implemented new blood borne pathogen rules designed to improve worker safety. Yet, no additional funds have been provided to implement these requirements.

While I fully support new requirements for hospitals and other health-care facilities to identify and provide safer sharps systems as these policies help protect public health, we need to assist laboratories with these additional costs. This legislation would provide a modest increase in the specimen collection fee—an increase that would help offset the costs of these important new regulations and recognize inflationary increases over the past 17 years.

The Medicare Laboratory Services Access Act of 2001 increases the Medicare specimen collection payment for FY 2002 to $5.25—the amount the payment would be today had it been indexed annually to the CPI–U. For subsequent years, the bill allows for an annual adjustment based on the CPI–U.

I urge my colleagues to join us in the effort to bolster our community-based system of care for Medicare beneficiaries. I am pleased that my bill is supported by a number of national organizations, including the leading providers of clinical laboratory services. Groups endorsing this legislation include: American Association of Bioanalysts, the American Association for Clinical Chemists, the American Association of Occupational Health Nurses, the American Clinical Laboratory Association, the American Medical Technologists, the American Society for Clinical Laboratory Science, the American Society of Clinical Pathologists, the American Society for Microbiology, Becton Dickinson, and Quest Diagnostics. This important measure will help ensure Medicare beneficiaries access to the quality laboratory services they need and deserve.

HONORING THE GOOD DEED OF JUSTIN BRAMEL

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. GORDON. Mr. Speaker, I rise today to recognize the good deed of Justin Bramel, a Murfreesboro, Tennessee, eighth-grade student who helped his school bus driver in her time of need.

Justin's bus driver, Sally Brown, became sick one recent afternoon after finishing her route. Fortunately for Mrs. Brown, Justin spotted the bus parked on the side of a road. He realized something was wrong and investigated the situation. He found Mrs. Brown to be very ill.

Justin calmly used the bus transceiver to advise school officials about the situation and direct emergency personnel to the location. Thanks to Justin's concern and levelheaded actions, Mrs. Brown is now recovering and should be back to work soon.

I want to salute Justin for his quick actions and his concern for his fellow human being. People like Justin epitomize the spirit of this nation and make it a better place to live.

COMMEMORATING 2001 DINNER OF CHAMPIONS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to celebrate the 2001 Dinner of Champions being put on by the Central California Branch of the Mountain Valley California Chapter of the National Multiple Sclerosis Society. The first of these annual events will honor racing legends Blackie Gejeian, Joe Boghosian, and the late Fred Gerhardt.

The Dinner of Champions made its national debut in 1972 and honors local public leaders and personalities for their efforts to champion the fight against multiple sclerosis. The National MS Society strives to reach out to those affected by the crippling disease and raise awareness for MS.

Mr. Gejeian's involvement in racing began in 1949 and he won championships all over the Central Valley. Blackie was presented the Most Popular Driver award four years in a row. After his retirement in 1958, Blackie continues contributing to racing by promoting auto races including the Autorama for the past 40 years.

Mr. Boghosian was first exposed to racing in 1949. He earned many honors including the Northern California Championship. In 1965 he moved from California to Indianapolis. Joe actually built the engine that put Mario Andretti in the Indy 500 winner's circle in 1969. He is still building engines and anything else that needs reliable power today.

Mr. Gerhardt was involved in auto racing from the 1930's until his passing. He and his good friend, the late Bill Vukovich, raced hot rods and midget cars in the 1930's and 40's. Fred built his first Indy car in 1956 and continued fielding Indy cars through 1976.

Mr. Speaker, I am privileged to acknowledge and honor the efforts of the National Multiple Sclerosis Society and these honorees. I invite my colleagues to join me in congratulating and thanking this organization and these racing legends.

BUNNY LOVE FOUNDATION

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. SESSIONS. Mr. Speaker, today I would like to recognize the Bunny Love Foundation. An event will be held on December 5th in Dallas, to raise the level of awareness of efforts to eliminate domestic violence against children. Awareness will be accomplished through fundraising efforts, affiliations with prevention programs, and events designed to educate the public about the extent of the crisis.

The Bunny Love Foundation is a Dallas-based non-profit organization founded in 1997 by Anne Davidson with a mission of helping children in need. The Foundation's model for giving is extremely effective and can be used as a model for other charities because it addresses the needs of those affected not only on a local level, but nationally and globally as well. Ninety percent of the funds raised will go to children in Dallas through the Dallas Children's Advocacy Center, and 10% will be given to UNICEF specifically for the humanitarian effort for children in Afghanistan.

I hope that my colleagues will join me in recognizing the dedication and efforts of the Bunny Love Foundation and their partnership with the Dallas Children's Advocacy Center. The mission of this organization serves as a model for others to follow in the fight to eliminate domestic abuse.

BIOLUMINESCENCE

HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. FOLEY. Mr. Speaker, I would like to express my appreciation to the chairman for his recommendation of funding for bioluminescence measurement and signature detection in the Navy RDT&E account in this bill.

This is an evolving area of knowledge which has very important military applications.

Many of my colleagues know that plankton in the world's oceans give off light flashes when stimulated by movement in the water by objects such as ships, submarines and swimmers. This ever-present phenomenon represents a powerful detection tool for anti-submarine and mine warfare.

We can utilize this phenomenon for detection of opposing forces—but we must also be aware of it to protect our own operations. For example—it is my understanding that—a Navy SEAL team in Operation Desert Storm was forced to alter its landing site because of concern that bioluminescence in the intended landing area would reveal the team's presence.

At present—bioluminescence is detected and measured by a device developed at the Harbor Branch Oceanographic Institution in my district.

Because of the cost and size of this first-generation measuring equipment—only three have been produced. The funding I have requested and the Committee has approved would fund a program involving Harbor Branch scientists which would develop measuring equipment small enough to be launched from a rubber raft and inexpensive enough to be utilized in large numbers. Only such an expendable version offers the hope of accurately measuring bioluminescence in all the militarily-important regions of the world.

This is an important initiative which will take advantage of the expertise at Harbor Branch for the benefit of our military.

I again thank the chairman for recommending this funding and express my hope that this item will be preserved in conference.

THE CONSUMER AND RETAIL SALES STIMULUS ACT OF 2001

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. ISRAEL. Mr. Speaker, New York's economy is in deep trouble. We lead dozens of States in economic decline. Jobs are being lost. Small businesses are going under. Municipal governments are going back into debt. Fire and police budgets are strained.

How do we stimulate an economy that was sputtering before and staggered after the September 11 attacks? Some believe the answer to recession in handing $25 billion in retroactive Federal corporate tax benefits to 13 Fortune 500 companies. Of course, there is no guarantee that largesse will work its way from corporate headquarters to working families on Long Island.

Others believe that the answer to recession is spending old fashioned Keynesian economics. But some spending proposals clearly overreach, and there is no guarantee that the spending will be targeted specifically to jumpstart the economy now, when we most need it.

The best way to stimulate the economy is to give immediate, tangible tax relief to American consumers: suspend sales taxes, and use federal resources to reimburse state and local governments. To insure that this tax reduction strategy does not lead to huge new deficits, such revenue loss from the Federal budget should be capped so as not to exceed the $25 billion, the corporate alternative minimum tax rebate, passed by the House of Representatives earlier this fall.

Rather than enriching only the richest, a sales tax suspension is the quickest and broadest way to boost local economies for everyone, across the board. It will encourage consumer spending in our downtown villages and towns as well as our regional malls. And because it will be temporary, it will create an incentive to buy now. A reduction in the sales tax may not mean much for the CEO of a multi national company. But it would be a huge boost to working families. It might help them with their holiday purchases, or school supplies for their kids or even make the difference in buying a new home appliance.

This House has just approved a $25 billion retroactive repeal of the alternative minimum tax for the richest corporations of America. If we can find the money for Enron and we can find the money for IBM, we should be able to find the money for people who have lost their jobs and their health insurance and their unemployment insurance and the small businesses who are being forced out of business in New York today.

The working families and small businesses on Long Island are hurting. They can not afford indefinite or problematic relief that might not kick in for years. Their need is immediate "The Consumer and Retail Sales Stimulus Act of 2001" addresses that need, it addresses it now.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

SPEECH OF

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes:

Mr. COSTELLO. Mr. Chairman, I rise today in support of the amendment offered by my good friend Congressman VISCLOSKY.

Mr. Speaker, our Nation's steel industry is in a crisis situation. Since 1997, 26 companies have filed for bankruptcy. Since January first of this year, 13 companies have filed for bankruptcy, and 11 have ceased operations, including Laclede Steel, which is located in the congressional district I represent.

Steel is the basic component used in the construction of every military vehicle, ship, weaponry system, and small firearm used by the U.S. military. Steel is used to build our bridges and our railroad tracks. Both the electric power and oil and gas industries are dependent on steel. America needs a strong steel industry.

Earlier this year, I testified before the International Trade Commission and asked them to find that the domestic steel industry has been severely injured by the surge of foreign imports into American markets. Under section 201 of the trade laws, the International Trade Commission found that steel industry had been damaged by foreign imports. The section 201 process will give our steel companies time to restructure and reorganize in response to the effects of the recent import surge.

Currently, there are nearly 2 million Americans who are directly or indirectly employed by the steel industry, or receive pensions and healthcare from current and former steel companies. Because of the current crisis situation in the industry, the $1 billion that the steel companies spend annually on retiree health care is a significant impediment to the mergers and acquisitions that will need to occur for the steel industry to right itself.

This amendment would create a Steel Industry Legacy Relief Program to provide assistance to steel producers in meeting retiree health care costs. The program would be established in and administered by the Department of Labor.

The establishment of the Steel Industry Legacy Relief Program will go a long way in supporting our domestic steel industry in a time that we need it most. The steel industry is vital to our national defense, and especially now, we cannot afford to become dependent on foreign steel. I strongly support the establishment of this program in order to save the steel industry in this great Nation. I urge my colleagues to join me in supporting this amendment.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

SPEECH OF

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes:

Mr. WYNN. Mr. Chairman, I rise today in opposition to the rule to H.R. 3338, the Defense Appropriations bill. The rule precludes the House from considering the Obey amendment, which would provide needed increased funding for homeland security. While the underlying bill does increase funding for homeland security, it simply does not go far enough. It is homeland security on the cheap.

The rule precludes the Obey amendment, which, among other things, would provide $150 million in grants for local firefighting units. In addition, the bill does not provide adequate funding to help local governments meet their increased police and emergency personnel needs since September 11th. This rule does not allow for increased funding for local law enforcement that is critical for the protection of Americans across the country.

Since September 11th, local governments have been carrying most of the burden of responding to the increased security and emergency needs of our citizens that include: periodic lengthened shifts, additional patrols at sensitive facilities and structures, and responding to the growing number of false alarms and hoaxes. This results in a higher rate of overtime for governments in order to pay for security and emergency personnel. These important responsibilities fall on local governments who had tight budgets prior to September 11th. Now they are even tighter. The federal government must provide aid to local governments to insure that our first responders remain one of our strongest links.

Moreover, the bill does not provide any additional funds to increase port security. The Obey amendment would have provided an additional $200 million in grants for port security upgrades. We must provide security measures at seaports to prevent the shipment of bombs and weapons of mass destruction through our seaports.

The bill does not provide increased funding to secure our vitally important Strategic Petroleum Reserves. The Obey Amendment would have provided $5 million to secure our petroleum reserves. Several weeks ago, with the Administration's support, Congress passed a resolution urging the Secretary of Energy to fill the Strategic Petroleum Reserve to its full capacity. It defies logic for us to spend the money filling this vital reserve without securing the facilities that store the petroleum.

As we address threats on our homefront, we should also be fully prepared to fight an asymmetric war abroad. We must, therefore, take all steps necessary to reduce U.S. casualties, which requires minimizing incidents of friendly fire. The Automatic Acoustic Target Recognition programs, not fully funded in the bill, involves the identification of aircraft and vehicles by the background acoustic signature obtained from intercepted radio transmissions or proximate ground sensors. The program contributes to the detection of troop and vehicle movements, the proper identification of aircraft and vehicles to prioritize fire control and to prevent friendly fire casualties. When this bill goes to conference, I urge the conferees to do everything they can to save the lives of U.S. military troops and fully fund this program.

I urge my colleagues to reject the rule. We must not fund the war against terrorism on the cheap. We must recognize our needs at home and abroad and that means adequately assisting local first responders, securing our vital resources, securing our ports, and minimizing the loss of U.S. military personnel.

MAKING SURE PAINFUL STORIES ARE TOLD JUST ONCE

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. SAM JOHNSON of Texas. Mr. Speaker, it is important for me to bring this informative article to the attention of the U.S. Congress.

[From the New York Times, Nov. 12, 2001]

MAKING SURE PAINFUL STORIES ARE TOLD JUST ONCE

(By Donna Wilkinson)

Name: Collin County Children's Advocacy Center.

Founded: 1992, in Plano, Tex.

Mission: To help children cope with the trauma of abuse through a team approach—an alliance of law enforcement agencies, child protection services, legal and medical professionals—to investigate, treat and prosecute abuse cases.

Constituency: Children under 18. Collin County, including several suburban and rural communities outside Dallas, has a population of about 500,000. Last year, the center received 2,488 referrals of child abuse; since it opened, it has served 8,000 children.

Financing: Most of the $1.4 million annual budget comes from charities, foundations and corporations: the United Way, Meadows Foundation, Jenesis Foundation, B. B. Owen Trust, Texas Instruments and State Farm Insurance. The rest is from the Guardian Angels Society, a local group of individuals and religious and civic organizations who pledge $1,000 a year for five years.

The center was inspired by the ideas of Representative Bud Cramer, Democrat of Alabama, who, as a district attorney in Huntsville in the 1980's, found that children were being revictimized by a system that was intended to protect them. Often bounced from one agency to another, youngsters had to repeat painful experiences to police, doctors, social workers and others, compromising evidence and traumatizing them again. Representative Cramer had proposed creating 'one central place where children could tell their stories.

Besides filling that role, the center, which is located in a colorful 32,000-square-foot former supermarket, provides the children with immediate access to child protection services, law enforcement officials, district attorneys, sexual assault nurse examiners, therapists and community resource representatives who all work together under one roof.

Attending to young victims requires special considerations. "Almost 70 percent of the children we see are under the age of 7," said Jane Donovan, the center's community educator. "When you ask a child that age a story over and over, the story changes." To protect the integrity of testimony for evidence, each child is interviewed by a forensic specialist and videotaped.

What distinguishes the center is the partnerships among various services. "Traditionally, there has been some contentiousness between child protective agencies and law enforcement," Ms. Donovan said. "At our center, that just flat out doesn't exist."

The center is not a residential facility, but placement is arranged when a child's safety at home is in question.

"We talk to our kids about 'stranger danger,' but the reality is, 96 percent of the children we see know their abuser," Ms. Donovan said. "Our goal is to help children deal with the trauma of abuse by empowering them to become survivors rather than remain victims."

IN MEMORY OF JANE MAYER

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. FARR of California. Mr. Speaker, today I rise with great sorrow to pay tribute to a wonderful woman, a community activist and wife of internationally known writer, journalist and lecturer, the late Milton Mayer. His wife Jane died recently in Carmel, California where I live.

Jane Mayer was like a second mother to me and my sisters Francesca and Nancy. She was born in Joplin, MO, and grew up in Seattle, Washington before moving to Carmel where she lived for the past 50 years.

A dedicated activist she studied at the University of Washington before beginning a 10-year career in fashion where she became a lecturer and consultant. Appearing at Universities and Colleges across the country and numerous radio programs.

She married Robert Scully in 1940 and later in 1947 married Milton Mayer known to local kids as Uncle Milty. Together they produced the Voices of Europe radio broadcasts, which included commentary of the events of the time by people throughout Europe. For many years they co-led Great Books Discussion Seminars in both America and Europe.

Jane and Milton were life long civil libertarians and pacifists, fighting intolerance, bigotry, racism and overzealous nationalism. Jane was an activist for peace and disarmament during the Cold War, representing the American Friends Service Committee to the World Council of Churches and at many international peace conferences.

Jane Mayer adopted Carmel-By-The-Sea as the city to protect from commercial exploitation. She was a tireless advocate for the conservation of Carmel's unique character, becoming founding member of the Carmel Residents Association and member of the Carmel General Plan Committee, the Historic Preservation Committee and board member of the Cherry Foundation.

I grew up with her two sons Rock and Dicken Scully and knew her two step daughters Julie Mayer Vogman of Berkeley and Amanda Mayer Stinchecum of Brooklyn, N.Y.

Her son Rock Scully became the first manager of the Grateful Dead band and son Dicken a popular and respected psychologist. Both sons now live in Carmel, her husband Milton died in 1986.

Jane lived her life as a teacher of good—and in doing so empowered others to fight against the ignorance of intolerance and unjust laws. She taught by example and by introducing American youth to cross-cultural experiences. My one summer in Europe in 1958 along with her sons Rock and Dicken, Frank Wallace, Adrian Benett and Ann McConnel led us all, five years later to apply for the Peace Corps. That experience led me into public service and now a Member of this House. So it is with great sadness that I submit this tribute to Jane S. Mayer, truly a women who made a difference in people's lives.

IN HONOR OF MICHAEL J. DOOLEY

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. BORSKI. Mr. Speaker, I rise today in honor of Michael J. Dooley, a life-long friend to myself and Philadelphia, upon his retirement.

Mr. Dooley will retire after 22 years as Business Manager of the Local 454 Piledrivers Union. He served on the Metropolitan Regional Council of Carpenters in Philadelphia. Mike born and raised in Philadelphia, Pennsylvania, received his schooling from distinguished Philadelphia establishments and used his education and experience to accomplish remarkable feats for fellow union workers.

Mike attended Saint Joseph's Preparatory School and graduated from Drexel University with a degree in Construction Management. He continued his education receiving a Master's Degree from Temple University in Vocational Education. Immediately after his studies, he began work in his Local Union as an Apprentice, climbing to Journeyman status, then Apprentice Teacher, then finally elected Business Manager of the Piledrivers Union in 1979.

During these past 22 years, Mike has been the Delegate representing his Union in Building Trade Councils. He has also been a Labor Trustee for the Carpenters Health and Welfare Fund and the Carpenters Joint Apprenticeship Committee.

Mike sculpted his fellow union members into a focused, united, and vigorous body. This man negotiated the first ever Seven-Year Agreement for a Building Trades contract in the industry. Mike would be most proud of creating the Scholarship Program awarding $335,400 to union members' sons and daughters.

With all of his accomplishments, Mike still maintains the greatest modesty. With his natural ability and education, obviously Mike could have gathered a sizeable purse over the years in a different career, but he chose to improve the lives of union members. There are show horses and work horses, and Mike has been the man to always pull more than his weight in work and accomplishes his tasks without asking for a thank you. He has only taken 4 weeks vacation in his 22 years of service.

The number of people he has assisted—myself included—quietly throughout the years may never be known, but is surely massive in number. Mike will head into retirement in the next month, accompanied by Lynn, his wife of 28 years.

Mr. Speaker, I would like to mention that Mike Dooley served his community and neighbors honestly and fully throughout his life. I salute him and thank him for his friendship.

ECO-TERRORISM

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. McINNIS. Mr. Speaker, I would like to read into the RECORD a response I received yesterday to a letter my colleagues and I sent to national environmental groups, asking them to join us in publicly condemning eco-terrorism. A few days ago I read into the Record a letter from the Natural Resources Defense Council stating that "violence has no place in policy debate."

I would like to share with you statements from the Sierra Club. The following is their response:

> DEAR CHAIRMAN HANSEN, I am surprised you have not seen the Sierra Club's denunciations of terrorist acts given our frequently and clearly stated position. The Sierra Club condemns all violent acts, including those in the name of the environment. As the enclosure documents, even the Earth Liberation Front that you mention in your letter has chronicled Sierra Club denouncements of their violent acts that appeared in various national and local news publications.
>
> While nonviolent civil disobedience has a distinguished place in American history, the Sierra Club uses only lawful means to protect the environment. We can respect the decision of those who, by undertaking acts of nonviolent civil disobedience, put themselves at risk, but peaceful disobedience and violence are vastly different acts. No matter what the motivation, the Sierra Club does not condone any acts of violence.
>
> Sincerely,
>
> JENNIFER FERENSTEIN,
> *President.*

HONORING NAT GEIER

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. DEUTSCH. Mr. Speaker, I rise today to honor Nat Geier, a distinguished citizen of Sunrise, Florida who has devoted himself to improving the South Florida community over the last three decades. Through numerous citizen campaigns, Mr. Geier was the engine of improvement in strengthening the Broward County community. It brings me great sadness to report that Nat Geier passed away on Saturday, November 24, 2001, at the age of 91.

Born in Poland in 1911, Nat immigrated to America at the age of nine. He left the New York City School system at age 13 to find employment in the garment business cutting material. The young man learned quickly, worked hard and rose up in the ranks. After a successful career in New York, Nat followed his dream to relocate to South Florida.

An early resident of the now well-developed area of South Florida, he always understood that homeownership is the anchor of all communities; it gives residents long-term investment in the quality of their surroundings. For this reason, Nat set out two decades ago to educate Broward residents of the importance of the "Homestead Exemption" rules, which encourage homeownership and community enhancement while functioning within the Florida tax codes. Nat's efforts brought the benefits of these rules to thousands of Florida homeowners and helped to build the strong and lasting communities thriving in Broward County today.

Upon retirement from the garment industry, Nat reinvented himself as a social and community activist. Understanding the importance of a earning a good, solid education Mr. Geier consistently supported Broward County Schools in their efforts to provide young residents with a quality education and opportunities for success. A shining example, Nat collected more than $750,000 in grocery receipts in 1990 to help purchase a local high school's first computer. The same year, Nat was inducted into the Broward Senior Hall of Fame.

Throughout his thirty years in South Florida, Nat remained active in a number of citizen organizations including the Citizens Community Information Council, the Sunrise Consumer Affairs Committee, the Sunrise Code Enforcement Board and the Community Blood Center.

Mr. Speaker, Nat Geier was both well-loved and widely respected by all those blessed to have known him. He is survived by his son and daughter, Joel Geier and Caryle Perlman of Chicago; stepsons Leon Silverstein of New York and Jay Silverstein of Los Angeles; stepdaughter Ilene Silverstein of New York; six grandchildren; and five great-grandchildren. Nat selflessly served his community and his family was a source of admiration and great pride. Today we celebrate Nat's life, which serves as a wonderful example to all who follow in his footsteps.

SENATE—*Monday, December 3, 2001*

The House was not in session today. Its next meeting will be held on Tuesday, December 4, 2001, at 12:30 p.m.

The Senate met at 1 p.m. and was called to order by the Honorable JEFF BINGAMAN, a Senator from the State of New Mexico.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we do not need to ask to come into Your presence for You have been ever-present through our nights and days. We never need shout across the spaces to You as an absent God. You are nearer than our own souls, closer than our most secret thoughts. We need not inform You of our requests, for You are omniscient. We do not need to brief You on the alternative possibilities for this week's decisions, for You already know what is in keeping with Your best for us and will reveal that if we ask You. What we do need is to linger in Your presence until we are assured of Your love, regain true security, and are refortified by Your strength. Thank You for using this time of prayer with You to show us Your faithfulness and to receive Your guidance.

In Scripture, You call us to pray for the peace of Jerusalem. We do that this afternoon with the vivid pictures of the mall terrorist attack: jarring explosions, heart-breaking deaths and injuries, and the wail of sirens. Grant us Your strength in the battle with the evil of terrorism. Bless the President and Congress as they seek Your power both to complete the war in Afghanistan and to strategize with negotiations in the Middle East as a whole. Help us, dear God; we need You. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEFF BINGAMAN led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 3, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF BINGAMAN, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BINGAMAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 4:45 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided between the two leaders or their designees.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. DASCHLE. Mr. President, the Senate will be in a period for morning business until 4:45 p.m., with the time equally divided between the two leaders or their designees. At 4:45 p.m., the Senate will resume consideration of the Railroad Retirement Act. There will be 30 minutes of debate prior to a 5:15 p.m. cloture vote on the Lott amendment. If cloture is not invoked on the Lott amendment, a second cloture vote will occur on the Daschle substitute amendment. As a reminder, all second-degree amendments must be filed prior to 4:15 p.m.

MEASURES PLACED ON THE CALENDAR—H.R. 3210 AND S. 1748

Mr. DASCHLE. Mr. President, I understand that the following bills are at the desk, having been read the first time: H.R. 3210 and S. 1748.

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. DASCHLE. Mr. President, I ask unanimous consent that it be in order en bloc for these two bills to receive a second reading. I would then object to any further consideration.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bills for a second time.

The legislative clerk read as follows:

> A bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.
>
> A bill (S. 1748) to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development, including development in urban areas, through the provision of affordable insurance coverage against acts of terrorism, and for other purposes.

The ACTING PRESIDENT pro tempore. Objection having been heard, both bills will be placed on the calendar.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ISSUES BEFORE THE SENATE

Mr. REID. Mr. President, the order before the Senate is that until quarter to 5 today, we are going to spend time talking about matters before the Senate. The two issues about which we are going to vote deal not with the railroad retirement, but rather with a moratorium on cloning and, in addition to that, legislation dealing with energy.

The Presiding Officer, of course, has spent a good part of his life, especially the last several months, coming up with legislation on energy for this country.

I have worked with the Presiding Officer in his capacity as chairman of the Energy Committee on a number of occasions. Of course, I, as most everyone else in the Senate, am impressed with his ability to understand issues.

Rather than moving forward on legislation in the normal fashion, we are now going to deal with this issue in a piecemeal fashion.

The majority leader has said we should have a full and complete debate on this issue. He has stated we could take this matter up before the month of February of next year, but prior to the President's Day recess. We would have a debate, have the legislation before the Senate, have the Republicans' proposal and the Democrats' proposal,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

and move forward on this legislation in the normal manner.

It appears they cannot take yes for an answer. They have said they want a definite time. The majority leader said they have that definite time. It is clear this is not an effort to get an energy bill, but rather to slow down what we are trying to do; namely, the railroad retirement bill.

I think everyone in the country acknowledges we should have an energy policy and that is why we should have a time set aside to do an energy bill, but I am sorry to say this appears to be an effort to kill something that is extremely important to lots of people in America today; that is, management and labor on the railroad retirement bill.

In an effort to save face for the 74 people who have cosponsored this, a number of people are saying: We like the railroad retirement bill, but not now; we will do it some other time.

Remember, it has passed the House. I believe the vote in the House was 380 in favor and a few against. In the Senate, we have 74 cosponsors. This should be a lesson on how to move legislation, but it is a lesson on how not to move legislation. So I certainly hope we can move forward on the railroad retirement bill, get rid of this extraneous material at the earliest possible date.

I oppose the Lott amendment for a variety of reasons. I will focus for a moment on the issue of jobs. We have heard some Senators speak about the job implications of drilling for oil in the Arctic National Wildlife Refuge. I understand, without any question, Senator MURKOWSKI and how important he believes this is for his State. It is important for his State because there is no question that drilling in ANWR would create jobs. That is important for Alaska, which really needs jobs. The other oil they have is winding down, and they want not only the ongoing jobs with the oil they have, with any field that has been demonstrated, but also the exploration and development would mean thousands of jobs.

I appreciate Senator MURKOWSKI feeling about this the way he does, but in spite of his strong feelings, it is still wrong. As I have indicated, the railroad employees and the unions and management oppose the Lott amendment. I will list a few examples of those unions. We could have other organizations also who oppose the Lott amendment. For example, we have lots and lots of environmental groups. I do not think there is an environmental group in America that supports what Senator LOTT and Senator MURKOWSKI are trying to do.

My friend from Alaska, the distinguished junior Senator, has given the impression organized labor wants this in the worst way, but these are the unions that oppose the Lott amendment: The Association of American Railroads opposes the Lott amendment; American Shortline and Regional Railroad Association; Family Railroad Organization; National Association of Retired Veteran Railway Employees; American Train Dispatchers; Boilermakers and Blacksmiths; International Brotherhood of Locomotive Engineers; Brotherhood of Railroad Signalmen; Firemen and Oilers; Service Employees International Union, known as the SEIU; Hotel Employees; Restaurants Employees; International Association of Machinists; International Brotherhood of Electrical Workers; Ironworkers Union; Seafarers International Union; Sheetmetal Workers International; Transportation Communications International Union; Transport Workers Union; United Transportation Union. Each of these unions is urging the Senate to vote against the Lott cloture motion on amendment No. 2171 which adds energy and cloning legislation to the railroad retirement bill. They know if this is attached, the bill is dead.

Some argue opening up ANWR to oil development would be a great economic stimulus. As we know, the job numbers thrown around have been grossly exaggerated. CRS estimates job creation from ANWR might be about 60,000, but could go higher than that. Again, this assumes jobs are not shifted from the Gulf of Mexico or the Rocky Mountain region.

I agree, however, that creating jobs is very important given that our country has been in recession since March. As I noted last week, there are better ways to create jobs than by exploring, and some say exploiting, the National Wildlife Refuge.

For example, construction of an arctic natural gas pipeline would create between 350,000 to 400,000 jobs in steel production, pipe manufacturing, trucking and shipping, and construction jobs for 3 to 4 years assembling the pipe. This pipeline would be a mammoth project, requiring four times as much steel as used for all the cars produced globally in 1999.

The potential natural gas resources could supply the American market for 50 to 60 years as compared to the oil from ANWR which might yield 6 months' worth of America's petroleum supply.

There are other reasons, all of which are good, to oppose the energy provisions in the Lott amendment—and we are going to vote on this matter very shortly—but there is no reason to sacrifice the financial security of these retirees who have an interest in the railroad retirement bill—not only the retirees but the widows who would benefit.

Sadly, those who are pushing the Lott amendment are working against the hard-working Americans who have retired from the railroads around our country and, of course, the widows of those hard-working railroad workers. So I hope we will defeat soundly the Lott amendment.

Also, I have mentioned the provision dealing with the Arctic National Wildlife Refuge. I was in Las Vegas over the weekend, and somebody I had not seen in several decades, somebody I used to go to high school with, came up to me. We had not seen each other but, I, of course, recognized him in a second: Claude, how are you? He said: I am fine.

I know his family. It is a very conservative family. He said: I want you to know you have to do everything you can to make sure we can go forward with therapeutic cloning. Those were his words. Stem cell research.

Why did he care? Because he has two diabetic children, and it is genetic; he believes there is hope. He is someone who has worked with his hands all his life and does not have a scientific mind. His hope comes from his heart, but hope is coming from the minds of people who are scientists. They believe therapeutic cloning could be the breakthrough for diabetes, Parkinson's, Alzheimer's, and many of these other dread diseases.

If we could find a cure for the three diseases I mentioned, not only would it be the right thing to do for the families and the individuals with these diseases, but it would also be an economic boon to this country that would be unsurpassed. That people are in institutions because of Alzheimer's is really a drag on the economy of this country.

So I hope there will be a resounding vote to make sure we do not go forward on this legislation attached regarding ANWR and cloning. I am in favor of therapeutic cloning.

Maybe the word is wrong, "cloning." We had scientists who came and talked to us last Thursday. Maybe it is the wrong use of words, but that is what has developed in the vernacular we are using. Scientists believe they need to go forward so they can do the stem cell research unfettered. Frankly, if we do not do it, it is going to happen someplace else anyway. Other countries are going to do it. So we who lead the world in scientific endeavors should make sure we also lead the endeavors regarding therapeutic cloning.

The ACTING PRESIDENT pro tempore. The Senator has used 10 minutes.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENERGY BILL

Mr. REID. Mr. President, we focused on the energy bill the Republicans put forth and on ANWR, but there are other problems with the bill. Time is short and we cannot spend too much time on it. For example, one of the things that bill does not have included is vehicle fuel efficiency. It failed to provide an increase in fuel efficiency standards for light trucks, sport utility vehicles, and minivans. I think it should provide additional standards for passenger automobiles in general.

Dealing with just light trucks, sport utility vehicles, and minivans, the provisions would reduce overall national gasoline usage by 1 percent. Closing the SUV loophole would substantially reduce air pollution, greenhouse gas emissions, and save consumers billions at the gas pump each year. The current standard established in 1989 is 27.5 miles for passenger automobiles, sports utility vehicles, SUVs, and minivans. A much larger increase in fuel efficiency would be paid for. I have no doubt that is the case in future fuel savings. That is something not addressed in the bill.

Also in the bill they provide $33.5 billion over 10 years in tax breaks for electric utilities and oil and natural gas exploration. No offset was provided for the additional tax breaks, and only 17 percent is for energy efficiency and 83 percent for fossil fuels and nuclear power. While from a strict policy standpoint this is not good, from the sense that we need not give them any more tax breaks than they have, even if you disagree with that statement, you should be concerned about the fact there is no offset for the tax breaks. Further, over 10 years, this is adding $33.5 billion in deficit spending for our country.

We have to be very careful. There are many problems with this legislation. It is more than the arctic wilderness. We have focused on that. They are weakening environmental protections and drilling in national forests. There are a number of things we cannot lose sight of that include more than just the national arctic wilderness.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. I ask during this quorum call that the time be charged equally against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE WORK

Mr. BURNS. Mr. President, we continue to hear in the Senate a powerful argument put forth by the assistant majority leader. Yet I am struck by the idea the Railroad Retirement Act under consideration now is a given. There are 70 cosponsors on that piece of legislation; I am one of the cosponsors. Yet we are also denied the ability to move an energy policy act that the Nation is demanding, as well as a stimulus package which, again, the Nation favors.

I challenge my colleagues and Americans by asking why just a few can deny a State such as Alaska its ability to develop and market its own natural resources, not only for the good of the economy of Alaska but also at a time when this Nation's economy is struggling and it would contribute to the rebuilding of that economy. I find that disheartening. This is important.

The season of Christmas is fast approaching. We should be finishing up our work. There are two things that have to be done: Finish the appropriations process to run this Government, and also develop an appropriation for our military in a time we are at war. By the way, this is a war that will not be won at Camp Pendleton, Fort Bragg, or any other military installation, but will be won in every community around this country. Yet the military now is carrying the load to destroy the core of terrorism.

Why deny those resources, when just across the border, in the tundra—and one must remember, this is not a pristine wilderness when we talk about ANWR, as one might envision wilderness in my State of Montana where we already have 3.5 million acres. This is tundra. It runs for miles and miles and miles. It can be developed to the advantage of this country and to its economy without disturbing hardly anything that far north.

At a time when the national economy is struggling, if you can provide any kind of a job, anything that would contribute to the rebuilding of that economy and the infrastructure of it, that should not be denied.

What do we hear? We hear how much we need an energy policy, but we see no action in the Senate. We hear the speeches about a stimulus package, yet no action is forthcoming. We talk about conservation. It has been a foregone conclusion of the task force that was put together under the chairmanship of the Vice President, when they look at our energy situation and assess it, that they will conclude we should then take the proper actions so we can rely on our own ability to provide the energy for our country. The conclusion was drawn that we cannot conserve our way out of this one.

This past weekend, I looked at the area with probably the greatest utilization of wind power that we have in this country. Yet it only contributes less than 1 percent to the Nation's need for electricity. That will not work.

I can tell you what spurs conservation faster and more efficiently than any rule, law, or regulation that the Government could impose: High prices. All you have to do is ask those who live in California. That is what spurs conservation. That is what spurs the imagination and the inventiveness of this society. When the cost goes high from the lack of a supply of energy, that spurs us to deal with it.

So I say, yes, maybe the unions oppose the Lott amendment. They would not oppose the Lott amendment if it was a stand-alone, though. It just happens to be on a railroad retirement act. That act has the support of over 70 Senators in this body.

So I challenge my colleagues and I challenge Americans, when Canada develops their energy supply and a way to deliver it to their people, keeping their energy costs so low that they are a very strong competitor in the global market, are we denied that? We have to look at ourselves and say, why? Based on science? I do not think so. Based on technology? I know that is not true. So we have to conclude the reasons lie in other areas.

As we hear this debate about going forward, I want Americans to understand and realize this about the development of our energy resources. Conservation as we defined it and as it has always been defined is the wise use of a natural resource. Why can't this move forward? It would but for a few who are opposed because of other reasons, other than science and technology.

So I hope the Lott amendment can be approved and we can move forward on this issue, finish our work on appropriations, finish our work on the stimulus, and go home for the holidays. I know there are those who want to go home a little bit earlier. I am not one of those who say we should leave with our work undone because the last time I looked, I think I get a check for the month of December. So we might as well work if that be the choice of this body.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

RAILROAD RETIREMENT REFORM

Mr. HATCH. Mr. President, I rise today in strong support of the Railroad Retirement and Survivors' Improvement Act. This is good, common sense legislation that will lower the program's costs and provide greatly improved benefits to thousands of Utahns and hundreds of thousands of Americans who are spending or have spent their working careers in the railroad industry.

With an impressive 73 Members joining Senator BAUCUS and me as cosponsors of this bill, and a vote on passage of 384-to-33 in the House earlier this year, this legislation enjoys tremendous support of our colleagues in both Chambers and on both sides of the aisle.

Other supporters of this bill have already spoken at length about the features of the bill, so I would like to focus my remarks today on responding to some of the criticisms made last week by a few of our colleagues who oppose this legislation.

Specifically, during last week's debate on this bill, my colleague and friend, the senior Senator from Texas, spoke at length about what he refers to as the "pilfering" of the Railroad Retirement Account that he alleged would take place under this bill. While I agree wholeheartedly with the Senator on some of his statements, I could not disagree more with his suggestion that this legislation is some kind of underhanded attempt at wrongdoing by the retirees, workers, and employers in this industry.

Let me first make clear that I agree with the Senator in his conviction that vast improvements would be made by changing the rules for the investment of Railroad Retirement assets. Because of the long-standing requirement that those assets can only be invested in Government securities, the railroad industry's retirement plan has been far less efficient than those in other industries.

As a result, the rail industry's contributions to its pension plan are far higher than in other industries. This legislation would eliminate that limitation and allow the investment of assets in the stock market, as well as in Government securities. Senator GRAMM has stated that this would be a good change, and I am of the same mind. I agree with him on that.

I am also in full agreement with the Senator when he said that the assets of the Railroad Retirement system are the pension contributions of rail workers, retirees, and employers, as well as the earnings on those contributions. However, I am perplexed when Senator GRAMM alleges that, under this bill, these contributors would be "pilfering" their own contributions.

I also take exception to the suggestion that the use of the increased investment returns projected under this bill is inappropriate. Because Railroad Retirement account balances will be less under this legislation than they would under current law, even with greater investment returns, Senator GRAMM concludes that there must be "pilfering" going on. This analysis is highly misleading.

It assumes that the all balances projected under current law are necessary for the fiscal health of the system, and that anything less will subject the system to great peril. The reality is that, while account balances will decrease for a time under the new legislation, the Railroad Retirement Account is projected by the Railroad Retirement actuary to remain solvent for the next 75 years.

Last Friday, Senator GRAMM used a chart that helped tell the story that he wanted to tell. It was a very nice chart, but the chart was somewhat truncated and failed to give the full picture. Let's look at why reducing the long term build up is neither "pilfering" or bad business economics.

As you can see, this is the trust balance that will remain strong under the Railroad Retirement program.

Under current law, the Railroad Retirement Board actuary projects that the fund balance by 2074—this red line on the top—will grow to $702.8 billion as of 2074 under Employment Assumption II. Benefit obligations for that year would be approximately $15 billion. This is a ratio of trust fund reserves to benefits of almost 47 years of benefits. No wonder the industry wants to develop a more rational funding approach.

Let me point you to chart No. 2.

Under Employment Assumption I, the more optimistic of the two assumptions most typically used to measure the system, the point gets even more dramatic. In this case, the actuary projects that the fund balance by 2074 will grow to $1.5 trillion. That is trillion with a "T."

Benefit obligations under this more optimistic employment assumption would increase, of course—more workers equals more retirees. The benefit obligation grows to approximately $21 billion. Under this employment assumption, the ratio of reserves to benefits expands to more than 71 times. Again, it is no surprise why the industry is working to develop a more rationale funding approach.

As you can see by the blue line, if we pass this legislation, this would be the balance under the current legislation—the balance that we would be getting under this compared to current law, which means the retirees would not be getting nearly the benefit, nor will the industry be getting nearly the benefit than they could with a more rational, meaningful approach towards a pension.

Now, why would these balances be adequate but lower than now projected, if we passed this bill? Is it because of "pilfering?" No, it is because the bill provides for modest, judicious tax cuts and overdue improvements in retiree benefits.

Under current law, the rail industry contributes three times more to Railroad Retirement than employers in other industries contribute to retirement programs. Under current law, widows of retirees have their benefits reduced by two-thirds upon the death of their spouses. Under current law, rail employees must wait 10 years to vest rather than the usual 5 or even 3 years common in other industries.

This legislation would simply reduce payroll taxes on rail employers to bring its contributions more in line with other industries—although at more than 13 percent it would still be much higher than the funding levels of other industries—and make improvements in vesting, early retirement and widows' benefits.

Under this bill, unnecessary, enormous surpluses that would occur under current law, indicated by the red line, would be avoided, while maintaining more than adequate reserves in the system, which would be what this bill will do while taking care of widows, among others. The industry has long been recognized as the most capital intensive component of the industrial segment of the U.S. economy, according to studies done by sources ranging from Fortune Magazine to the Department of Commerce. Under this legislation, the industry would be better able to deploy its scarce investment capital.

Senator GRAMM and others have repeatedly asserted that the Railroad Retirement system will run out of money if this bill is adopted and the Government will have to make up the shortfall. As I mentioned a moment ago, the Railroad Retirement actuary has reviewed this bill and found that under it, as under current law, the system is solvent over the next 75 years under both Assumption I and Assumption II. The assumptions behind this projection were accepted by the CBO which used them for its analysis.

Moreover, the bill provides, for the first time, an automatic tax schedule that will raise taxes on rail employers if pension fund reserves drop below 4 years of benefits. This will require no action by Congress.

Senator GRAMM and his staff must have had a lot of fun calculating what tax rates might be at some point in the future to get the fund balances back to current-law levels under the bill. The reality is, however, we should not be trying to build up reserves that are between 47 and 71 times annual benefit obligation outlays. That makes no sense.

But Senator GRAMM declares that the industry will try to avoid higher tax rates that may even be triggered by the formula and, as a result, the Government will have to step in. In this regard, I think past history is instructive. In the past, when financial problems have arisen, Congress has chosen to raise taxes and reduce benefits, rather than to provide bailouts for this industry.

Thus, even if Senator GRAMM's doomsday scenario comes true, it is the plan participants who are likely to pay, not the Federal Government. The industry knows this as well. This is why the railroads want the opportunity to manage this system, along with taking on more responsibility.

I also want to respond to one other misunderstanding that has arisen in this debate—that by lowering the retirement age for Railroad Retirement to age 60, the bill gives railroad workers a benefit no one else has, and that this benefit conflicts with the increase in the Social Security eligibility age.

First, the earlier retirement age applies only to workers who have 30 years of service in the rail industry. Second, the normal retirement age for Tier 1, the Social Security counterpart of Railroad Retirement, is not affected by this bill. It will rise to age 67 just as the Social Security retirement age will. Third, paying the cost of Social Security for early retirees until they reach normal Social Security retirement age is a feature found in private sector pension plans.

These are known as "bridge" plans. Like these plans, the private portion of Railroad Retirement—Tier 2—pays the entire cost of this early retirement option, just as it currently does for workers with 30 years of service at age 62.

Keep in mind this is a dangerous industry in which to work. It is not uncommon for employees in the railroad industry who are working on the line to never be able to get their full 30 years in because of the dangers and the accidents that occur as a result of this industry. It is a tough industry. I used to represent railroad workers in some of these cases. What happened to some of them was horrendous. Many of them died trying to do their job. Others were mutilated. Legs were cut off, and arms were lost. Families were devastated.

These things do happen. It is not comparable to most other pension-backed industries.

In conclusion, you may call this an opportunity for the rail industry to invest capital in infrastructure rather than excessive account surpluses. You may call it an opportunity to improve benefits for widows and for retirees who work 30 years in work that is often arduous and dangerous. You may call it an opportunity to bring Railroad Retirement investment practices into the modern era. But don't call it "pilfering."

I know a lot about this industry. I know what a difficult industry it is. I know there are things that are wrong with the industry. I know there are things such as feather-bedding in this industry that have existed for a long time. But there are also a lot of loyal, decent, honorable people working in these dangerous jobs to keep America's goods and services moving across this country.

I can't imagine why we would not want to help these widows who have such a drastic automatic reduction in their benefits once their husbands pass on. I think in most cases the husband is going to predecease the wife.

That is part of what we are trying to do here. Like everything else, nothing is perfect around here. And this bill is not perfect. But it is a rational and reasonable attempt to allow this industry to invest in capital infrastructure so that it can keep going and so that widows and pensioners can be taken care of.

This is an industry that we have to keep going. An awful lot of bulk transfers occur on our railroads in this country. We know there is going to have to be more investment as we upgrade high-speed lines and other effective approaches to transport materials, manufactured products, and other things throughout our country.

This is a great industry. It is an important industry. The people who work in it deserve the best we can give them. I do not see the Government paying for the liability that could arise under the most drastic pessimistic scenarios, as have been painted by some in this Chamber: Not paying for it themselves. And I believe Congress will see that that occurs. It is up to the industry to make sure they never have to do more than what is reasonable and rational under the circumstances by making sure that this pension program is viable, that it works, and that it takes care of these people who need to be taken care of. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Mr. President, are we in morning business?

The ACTING PRESIDENT pro tempore. We are in morning business.

ECONOMIC STIMULUS, A COMPREHENSIVE ENERGY POLICY, AND FAST TRACT TRADE AUTHORITY

Mr. DORGAN. Mr. President, first of all, I listened to the remarks of my colleague from Utah and thought they were interesting remarks, on point, and I appreciate them.

I have heard some comments from colleagues this morning who are repeating things we have heard previously in this Senate Chamber. I want to comment about a couple of them and then talk about a vote that is occurring in the other body late this week and on which we expect to vote in the Senate at some point. It is a vote on something called fast-track trade authority.

We had some discussion earlier today in the Senate about, the stimulus package referring, of course, to the package of legislation that would try to provide some lift to this country's economy. The question was asked: Where is the stimulus bill?

The answer is very simple. The piece of legislation designed to try to stimulate this economy was brought to the floor of the Senate, and then the Republicans decided to make a point of order against it, which they did, and they took it from Senate consideration.

A point of order exists against the bill that Senator DASCHLE brought to the floor of the Senate. It would exist against the Republican bill. A point of order would also exist against the bill written by the House of Representatives. A point of order exists against all of the bills designed to try to stimulate this country's economy. But the point of order was made against the bill that was brought to the floor by Senator DASCHLE.

So those who now ask, Where is the stimulus bill? if they voted to sustain the point of order, need not ask that very loudly. The stimulus bill is where they put it. We were debating it on the floor. It was under active consideration. And now it is not. Why? Because a substantial number of Members in the other party decided to take it from the floor of the Senate.

We need a stimulus bill. Our economy is in significant trouble, in my judgment. We ought to pass a piece of legislation providing lift to this economy.

The President, and others, have asked the question, What is the Senate doing? The Senate is trying to pass a bill that provides temporary and immediate help to this economy.

The House of Representatives, on the other side of this building, decided they were going to do something quite different with respect to stimulus. They decided to pull out a bunch of old, leftover tax policies, package them up, and call it a stimulus plan.

For example, one of their proposals to help this country's economy was to give tax rebates, for taxes paid since 1988, for corporations under the alternative minimum corporate tax. What does that mean? It means a rebate check for $1.4 billion will go to IBM, a rebate check for $1 billion will go to Ford Motor Company.

The fact is, virtually all economists tell us we have substantial overcapacity in our economy. Providing tax rebates for the biggest companies in the country is going to do nothing to help this economy. It is just one more scheme to provide tax rebates, tax checks to the biggest interests in the country, and it has nothing much to do with improving this country's economy.

We do need a tax plan and a spending plan that stimulates this country's economy. Senator DASCHLE brought one to the floor of the Senate. But it is not here any longer because the minority party in the Senate decided they wanted to make a point of order and take it from the floor. So I find it interesting that we have people coming to the floor, again and again and again, saying: The stimulus package is important. Where is it?

I recall a story about raccoons once, that raccoons have a fastidious way of washing everything they eat. When they find something to eat, they apparently go find water, and then they use their little hands to fastidiously wash what they intend to eat. It is just a habit raccoons have. But sometimes raccoons cannot find water, so they pretend there is water. They go through the same motions, acting as if they are washing their food, despite the fact there is no water.

We have some of that pantomime activity in the Senate. It is an interesting thing to watch. Saying, Where is the stimulus package? is almost exactly like that. It is sort of a pantomime piece of information: Where is the stimulus package? Those who ask the question know exactly where the stimulus package is. They are the ones who took it from our consideration in the Senate. It is on the calendar but not on the floor because a point of order was made against the stimulus package.

Another point made this afternoon was about the energy policy. We do need to develop a new energy policy in this country. Last week, Senator DASCHLE came to the floor of the Senate and made a commitment. He said in the first work session after we come back next month, we are going to be considering the energy package: a comprehensive energy package, not just one piece, but a comprehensive energy package that deals with supply and conservation, efficiency, renewables, as well as energy security. That bill is going to come from a number of different committees in the Senate. It makes sense, to me, to do it that way.

Energy policy is not just—any longer—about supply and demand. It is also about security. Especially since September 11, we now understand the issue of energy security must be discussed and debated when we construct a new energy policy. The security of nuclear energy production plants, the security of transmission lines, the security of the thousands of miles of pipelines: All of that is important in the context of energy policy as well.

So we will have an energy bill on the floor of the Senate. Senator DASCHLE is committed to that. But he wants to do it the right way. The right way is to consider all of the elements of good energy policy. Part of it is production, part of it is conservation, dealing with supply and demand.

It is important to point out, with respect to that piece of an energy policy, that some in this Senate and some in Congress would counsel that our energy policy for the future should be yesterday forever, just do what we did yesterday and keep doing it tomorrow—dig and drill—and somehow that will represent a comprehensive energy policy for this country.

I happen to believe we need additional production of energy. There is no question about that. We can, should, and will, in my judgment, produce more oil, natural gas, and coal, and do so in an environmentally acceptable way, to extend our country's energy supply. But if that is all we do, we have miserably failed the American people. It is, as I said, a policy that says yesterday forever.

We need to do much more than just expand our supply through digging and drilling. We need, it seems to me, to pay great attention to conservation. Conserving a barrel of oil is the same as producing a barrel of oil. We can achieve substantial savings through thoughtful conservation, the right kind of conservation. We can and should adopt that as a policy as well.

For example, we should look at the efficiency of appliances. We can also make great progress with respect to the efficiency of those appliances we use in our everyday lives. And then there are renewable and limitless sources of energy: Fuel cells, ethanol, biomass—a whole series of technologies that represent policies for the future that can really promote new and exciting forms of energy, many of them renewable and some of them limitless.

That is what a comprehensive energy policy can and should be. It has to be much more than just a policy that says let's just provide some tax breaks to those who are going to dig for coal and drill for oil.

That doesn't make any sense. That is not a substitute or an excuse for a policy. That is one part of a series of things we ought to consider as we consider a new energy policy.

One of the interesting things to me about energy policy is that we don't have a long-term strategy precisely because of the thinking of some who have expressed on the floor that we have to have something now that opens up ANWR. That is exactly the attitude that has put us in the position of not having a long-term strategy.

If Members come to the Chamber to talk about Social Security, everyone talks about what the expectations are 30 and 50 years from now. Everyone says what is the situation 25, 30, and 50 years from now with respect to the Social Security system. I asked the Energy Department, when they testified, what kind of expectations we have 25 and 50 years from now with respect to energy. What will energy use be? What kind of energy will we use? What are we promoting? What kind of policies do we have with respect to energy usage that would allow us to become more independent? The answer was: We don't have a plan.

There is no one who can say: Our aspiration, as a nation, is to have a certain mix of energy production, of renewables and other forms of energy that will extend our energy supply. There is no such plan. Nobody thinks out 25 or 50 years.

As I indicated the other day with respect to my own circumstances, my first car was one I restored. As a young boy, I bought an old Model T Ford and restored it. Interestingly enough, a 1924 car is gassed up the same way you do a 2001 car. You pull up to the pump, you take the cap off and stick a hose in it, and you pump gas. Nothing has changed in 75 years. Everything else in our life has changed. But you still gas up a Model T Ford the way you gas up the newest car on the road today.

You would think perhaps something could change or would change or will change if we embrace and adopt thoughtful energy policies, and that is what Senator DASCHLE wants to do. He wants to bring to the floor a broad, comprehensive package of energy policies that will really advance this country's long-term energy and economic interests. That is what we will do in the first work session after the first of the year. That makes good sense.

So those who come here day after day asking where is the stimulus package, it is where you put it. You knocked it off the floor of the Senate. We want to bring it back with a package that is really temporary, immediate, and gives real help to the American economy. When they ask the question, where is the energy policy, it is coming to the floor in the first work session after we get back in January, and it is going to be much more than the limited notion of digging and drilling forever. It is going to be a comprehensive energy policy that does advance this country's energy and economic interests.

The subject of fast-track trade authority is one I have spoken about without great effect on the Senate floor for many years.

Apparently, on Thursday of this week, the House of Representatives is determined to bring to the floor of the House something called trade promotion authority, which is a fancy way of saying "fast-track trade authority," by which an administration can go off and negotiate a trade agreement, bring it back to the Congress, and the Congress is prevented from offering any amendments. We are then required then in both the House and the Senate, to vote up or down on these trade agreements.

The House may well have the votes to provide fast-track trade authority to this President. I do not know. I don't know what the votes are in the Senate. I do know that if the House of Representatives passes fast-track trade authority, it will be slowed dramatically when it gets to the Senate.

I did not support giving fast-track trade authority to President Clinton. I do not support giving fast-track trade authority to President Bush.

Why? Let me show with a chart what has happened with this country's international trade. Some say this is going well for America. It is hard for me to see how that is the case when we have a ballooning trade deficit reaching alarming proportions—a $452 billion merchandise trade deficit last year alone. That is nearly $1.5 billion a day that we take in more in imports than we are able to export.

It weakens this economy to run up these kinds of trade deficits year after year. We can talk about the different trade rounds. We could talk about the Tokyo round and GATT and this round and that round. Every time we have another trade agreement, we seem to have a larger trade deficit. Some say it is because the dollar is too strong; or we have too big of a Federal budget deficit. It doesn't matter what the excuse is. Economists will give an excuse of the moment. None of them really washes. Every time we have a new trade agreement, we tend to see larger trade deficits.

What is the circumstance of international trade? Fast track says we give an administration the ability to go negotiate an agreement, bring it to Congress, and Congress must vote yes or no without any amendments.

The Constitution says, article I, section 8, Congress shall have the power to regulate commerce with foreign nations and among the several States and with the Indian tribes. So the responsibility is really with the U.S. Congress. Fast track abridges that responsibility.

I could talk for an hour on the subject of international trade and what has happened to us. I understand that we need to expand trade. We want to expand trade. We want to broaden our opportunities in trading with other countries. I agree fully with that. But I insist that part of this country's effort with respect to trade policy ought to be to demand fair trade rules with our trading partners.

In the first 25 years after the Second World War, we could trade with anybody in the world with one hand tied behind our back, and it didn't matter because we were bigger, better, stronger, and more capable of trading than anybody else in the world. We could do that. And most of our trade at that point was foreign policy. It was not economic policy; it was foreign policy. We created trade agreements that represented our foreign policy initiatives with those for whom we wanted to provide some help.

In the second 25 years after the Second World War, when others became smarter, better, tougher, with stronger economies, it wasn't quite as easy for us to compete. So now we have a circumstance where we have a growing number of trading partners that are very shrewd and very strong. Over many years Japan, European countries, Canada, and others have become, in many cases, formidable trading partners and with whom we have experienced very large trade deficits. China is another example.

What has happened with these countries with whom we have these trade relations? With respect to Japan, we have had an $50 to $60 billion trade deficit every year, every year forever. It has recently grown to $80 billion. Should that be the case? I don't think so. They ship us all of their goods. We say: Good for them; our market is open to all of their goods.

But did you know that 12 years after we reached a beef agreement with Japan, every pound of American beef going to Japan has a 38.5-percent tariff on it? Twelve years after our beef agreement, every pound has a 38.5-percent tariff on it. Send a T-bone steak to Tokyo, it has 38.5 percent tariff. Is that fair, 12 years after our agreement, with a country with whom we have a huge trade deficit? I don't think so.

See how much luck you have sending pork chops to Peking, or how about potato flakes to Korea. Try shipping durum wheat to Canada. You could spend a long time talking about the abysmal trade circumstances we have as a result of improperly negotiated agreements.

Let me give you one more example. This happens to be Korea. Last year, we shipped into this country 570,000 cars from Korea. Korea bought 1,700 from us. Let me say that again. It is important to understand the one-way relationship we have: 570,000 automobiles were shipped into the United States from Korea. Korea purchased 1,700 from us.

A mid-priced car, a pretty decent car, costs twice as much in Korea. They don't want American cars in Korea. They don't buy them. The result is a one-way trade relationship with respect to automobiles in Korea. But I can describe the circumstances with fructose corn syrup with Mexico, potato flakes with Korea, beef in Japan. The list is endless. The question for this country is: When will our trade negotiators begin showing some understanding that they are negotiating on behalf of the United States of America and that they are trying to protect our country's interests? When will we send trade negotiators who will say to the Canadians that they can't ship all their durum wheat to the United States and not allow one little load of ours into Canada? That is not fair to durum producers in the United States.

The point is this: Fast-track trade authority is a moniker for "do you support American business?" The business that wants fast track is international business. They want to buy from themselves and sell to themselves. In fact, what I want for this country is fair trade—expanded, yes, but fair trade. I want negotiators who will negotiate fair trade agreements with other countries that will begin reducing this ballooning trade deficit that injures our economy. My hope is if the House of Representatives decides to pass the fast-track trade authority this week, the Senate will slow that down. I and others in the Senate—at least a dozen and more—will certainly want to have our way to be sure that we are not going to pass very quickly trade promotion authority for this President.

As I said, I didn't support fast-track authority for President Clinton. I don't support it for President Bush. What I support is for this country to be hard-nosed, to have a backbone, some nerve, some will, and to insist with China, Japan, Europe, Canada, Mexico, and others that we want trade agreements that are fair to American producers and to American workers. If the trade agreements are not fair, then they ought not be made. I know my colleague from New Mexico is waiting. Let me make a final comment to describe the circumstances. If I might ask if my time has expired.

The PRESIDING OFFICER (Mr. KERRY). The Senator's time has expired.

Mr. DORGAN. I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, let me describe the last big trade debate before the vote on GATT: it was NAFTA, the North American Free Trade Agreement. Is there anybody left in this Chamber who thinks that made any sense? We were promised 350,000 new jobs in a study that all of the business interests held up to say look at how great this is going to be. We passed the NAFTA trade agreement, and we turned a trade surplus with Mexico into a huge growing deficit very quickly. We turned a deficit with Canada that was not so awfully large into one that was very large.

So NAFTA—the U.S. trade agreement with Canada and Mexico—turned both of these trade relationships into huge deficits. How can that be in this country's interest? We were told, well, the situation with Mexico will be simple. We will be the beneficiaries of the products of low-wage, low-skilled labor from Mexico. Guess what the three largest imports from Mexico are to the United States? Automobiles, automobile parts, and electronics. All are the products of high-skilled labor—all of them.

In fact, those who sold us on NAFTA were dead wrong. I am hoping if we ever have a debate on trade promotion authority—which I hope we can defeat—that we can hear from some of the same folks who extolled the virtues of a trade agreement that was so bad for this country and American producers and workers. My point is, I don't want a harmful trade agreement to happen again. We have done the United States-Canada free trade agreement, NAFTA, and GATT, all of which led to bigger and bigger trade deficits year by year. The trade deficit has grown to $452 billion. Every day, over $1.5 billion more in goods are coming into this country than we are able to export. No country will long remain a strong economic enterprise if it sees its manufacturing base dissipating. That is exactly what is happening as a result of these trade deficits.

My point is that the House can have another celebration at the end of this week if they pass trade promotion authority, but they should not think it is going to happen quickly in this Congress. I and others will steadfastly oppose trade promotion authority in the Senate.

What I want is negotiators who might decide to put on a uniform. We send people to the Olympics with uniforms. They actually wear a jersey that says "USA." It would be nice to have a trade negotiator put on a jersey so they understand who they are representing when they get behind closed doors in a negotiating room, and it would be nice if the next agreement is fair to this country, fair to our producers, and fair to our workers. It has been a long time. I hope we might see that in the future.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

RAILROAD RETIREMENT

Mr. BINGAMAN. Mr. President, I want to speak for a few minutes on the main legislation that is pending before the Senate, the Railroad Retirement and Survivors Act of 2001. The procedures that we follow in the Senate sometimes obfuscate or make it impossible to determine exactly what it is we are debating. We have so many different issues that we are debating all at the same time. I wanted to bring the focus of the Senate back for a minute to the main issue that we should be debating, and that is the pending railroad retirement legislation.

There is an amendment that has been offered to the railroad retirement legislation by Senator LOTT, and it involves an effort to pass the House-passed energy bill, H.R. 4, and also an effort to have the Senate on record on the issue of so-called therapeutic cloning. Someone might ask, How do therapeutic cloning and an energy bill relate to each other, and how do those two items happen to be related to railroad retirement?

Well, there is no relationship. Essentially, what we are going to decide shortly after 5 o'clock is, Are we in fact going to pursue passage of this railroad retirement bill and keep these extraneous matters to the side so they can be dealt with under different circumstances, with full debate, later in this Congress, or are we going to get sidetracked and essentially get off track on dealing with railroad retirement?

It is very important, in my view, that we deal with railroad retirement. This is the opportunity, this is the chance we have. There are 74 cosponsors. I know that has been mentioned several times on the floor. I am one of those cosponsors. This legislation did pass the House of Representatives by 384 votes in favor, 33 against. While clearly I respect the rights of colleagues to express the concerns and interests of other Senators in bringing other matters forward, I think it is high time we went ahead and passed this bill and sent it to the President. A great deal has changed since we began providing benefits to railroad employees back in the 1930s. We have tried to update this retirement system to reflect some of the changes in the cost of living and lifespans of former employees and their spouses.

Several years ago, Congress told the railroad companies and the unions to sit down and work out their differences on this legislation so that we could get a set of proposals that Congress could consider.

This bill—the railroad retirement bill before us today—is the product of those negotiations. It deserves our attention and our support. The country owes a great deal of the growth and dominance we have had in the industrial and agricultural sectors to the railroad industry and to the employees of that industry. We need to be sure that these men and women receive retirement and disability benefits to reflect what they have accomplished, what they have done for this country.

This legislation tries to allow those employees with 30 years of employment in the industry to retire at age 60 without a reduction of their benefits. It would also provide the surviving spouse of a railroad worker with a benefit that appreciates the cost of maintaining a household and is not cut in half when the first spouse dies. Under current law, a widow or widower receives half of their tier 2 annuity, which, in most cases, will not be enough to pay for the basic necessities of life.

This legislation also allows current railroad employees to have their retirement benefits vested after 5 years rather than after 10 years, which is the current law.

Finally, the legislation repeals the maximum benefit ceiling that is currently in place and allows the amount of benefit to be based solely on the existing formula of the highest 2 years of income over the past 10 years.

These are reasonable changes, they are fair changes. I believe very strongly we should in these final days of this first session of the 107th Congress pass this bill. We should send it to the President for his signature, and we should resist the efforts we are seeing in this Chamber today to bog this down by attaching other very controversial legislation by the amendment process.

I hope cloture will be invoked on the amendment that Senator LOTT has offered and that it can be withdrawn. We can then proceed to vote on the railroad retirement bill and pass it and have that one piece of very constructive legislation sent to the President before the week is out.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DAYTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPLORATION FOR OIL AND GAS IN THE ARCTIC NATIONAL WILDLIFE REFUGE

Mr. DAYTON. Mr. President, I rise today to express my strong opposition to exploration and drilling for oil and gas in the Arctic National Wildlife Refuge, or ANWR, region of Alaska. On two occasions, I have visited this remote and rugged wilderness region. In the summer of 1996, my then-16-year-old son Eric and I joined my good friend, Will Steger, an internationally renowned Arctic explorer, and two other men, on a two-week expedition in the Brooks Mountain Range of ANWR.

On the evening of June 30, we pitched our tents on the icy tongue of an enormous glacier. The next morning, we awoke to find ourselves in a snowstorm. We trekked through fresh snow above our knees through near-white out conditions to the top of the Continental Divide. Then we slid down the other side, frequently using our backpacks as toboggans and our boot heels as runners. It was an adventure I will always remember.

The northern slope of this mountain range initially resembled a lunar landscape. Giant boulders and other, smaller rocks covered the surface, which was otherwise devoid of plants and wildlife. As we continued, however, we reached the beginning of the grassy plains, which are the homes of millions of wildlife.

What impressed me most is how vast and untouched the ANWR region is. From the time we were dropped off by one bush pilot until the time we were picked up 2 weeks later by another, we encountered only one other group of human beings. For the rest of our time, our companions were one bear, a few caribou, who had not moved on to the coastal plains, and several quadrillion mosquitoes. This region is totally untouched by human beings and by their industrial and technological intrusions. It is there for anyone and everyone who wish to encounter it on its terms, rather than on their own.

My second visit to the ANWR region occurred last March, at the invitation of my distinguished colleague, Senator FRANK MURKOWSKI of Alaska, who was then the chairman of the Energy and Natural Resources Committee. Senator JEFF BINGAMAN, then the ranking member and now the chairman of the same committee, and I joined Senator MURKOWSKI, along with Secretary of the Interior Gale Norton; Ms. Mary Matalin, special assistant to the Vice President; and several committee staff.

We flew first to Anchorage, where we were greeted by Alaska's Governor, Tony Knowles, a college classmate of mine, and other Alaskan government and business leaders who outlined to us the enormous economic importance of oil production to Alaska. We then flew to Valdez, the southern end of the trans-Alaskan oil pipeline, where I gazed in awe at magnificent snow-covered mountains, which arose from sea level to encircle us, and viewed enormous oil tankers being carefully escorted into and out of their ports.

From there, we flew up to the Prudhoe Bay region on Alaska's northern coast, where about one and one-half million barrels of oil a day flow into the trans-Alaskan pipeline. After viewing some of the first drilling sites, we traveled to the nearby Alpine field, which is the newest and most technologically advanced of the Alaskan drilling operations. The Alpine field, which was only discovered in 1996, is located to the west of Prudhoe Bay, right on the coast of the Beaufort Sea. At 365 million barrels of recoverable reserves, it is one of the largest discoveries in the United States in recent years. We toured this very modern and technologically advanced facility, and I could not help but be impressed by the extensive efforts made to assure its safety of operation and its ecological compatibility. It was obviously built to be much more compact than the earlier operations, so as to leave a smaller "footprint" on the terrain. In fact, one of the Alaskan government officials, knowing that I come from Minnesota, had thoughtfully taken the time to investigate and discovered that the size of the Alpine complex was almost exactly the same as our famous shopping mall, the Mall of America. Alpine encompassed 97 acres, 1 acre smaller than Minnesota's mega-mall.

Our trip concluded with our final night in Barrow, AK, which is the northernmost town in our United States of America. We awoke Sunday morning, April 1, to an outdoor temperature of −35 degrees, which dropped to a −65 degrees, with the wind chill. I felt like an April Fool, as I walked the outdoor airport tarmac to our plane for our return flight.

This trip gave me an invaluable opportunity to see firsthand the region about which there has been so much debate in this Senate in recent months. I thank Senator MURKOWSKI for inviting me, while knowing that I was an announced opponent of oil exploration and drilling in ANWR. Yet he and our other Alaskan hosts were most respectful, as well as most persuasive, as they presented their case.

The debate over whether to open ANWR to oil and gas exploration and drilling pits two enormously important national interests against each other. One is our need to find and develop domestic energy resources. Much more is unknown than is known about the full extent of ANWR's oil reserves. The U.S. Geological Survey has produced a range of estimates of the amount of oil which is technically recoverable. Their mean estimate is 7.7 billion barrels.

As we were informed on our trip last March, the oil industry's proposal to drill for and extract these reserves involves the construction of up to 20 drilling complexes, each one approximately the size of Alpine, along the coastal plain of ANWR. Thus, the legislation which passed the House last summer permits 2,000 acres of ANWR's coastal plain to be open for oil drilling. However, as I understand the House version, these 2,000 acres are not limited to one area. Rather, the legislation permits what the oil industry described to us last March: a chain of up to 20 Alpine complexes connected by oil pipelines extending along the coastal plain for as far as discovered and recoverable oil reserves are found.

In my visualization, this enormous and vast industrial project would resemble 20 Mall of America-sized structures being built at various junctures along the coastline of this wilderness area. That, remember, is the size of one of these drilling facilities.

Now, for those who have not yet visited our Mall of America—and I certainly encourage you to do so—it is the largest shopping mall in North America and, perhaps, the world. Tourists fly into Minnesota from all over our country and from cities throughout the world to shop there. Each of its four quadrangular concourses extends for slightly more than a mile, and its four shopping levels rise to the height of a typical seven-to-eight-story building. Like Alpine, it is a relatively compact structure; however, it is by no means a small "footprint" on the landscape.

So, I ask myself, how would the construction of up to 20 of these Mall of America-sized drilling complexes, each one encompassing almost 100 acres, connected to one another by a large oil pipeline, which also must be built and maintained along this corridor—how would this affect a wildlife refuge, with its hundreds of thousands of migrating caribou, and all the other wildlife that has existed here in ecological balance for thousands of years without the intrusion and interference of all the rest of us?

I must conclude that, however well-designed and constructed, however carefully and safely operated, and however environmentally well-intended, this project could be, it will have an enormous and irrevocable impact upon the essential purpose for which ANWR was designated and for which it must be protected: as a National Wildlife Refuge. In fact, by its very definition, a national wildlife refuge area is antithetical to the 20 large and interconnected industrial complexes, which this oil drilling would entail. As such, a vote to permit oil drilling in ANWR is a vote for the destruction of ANWR.

I returned from my trip last March wondering if there was any way to reconcile these two choices: To develop domestic oil reserves and to protect this valuable national preserve. Upon reviewing the maps provided on our trip, I was surprised to notice for the first time a large region located to the west of Prudhoe Bay and Alpine, called the National Petroleum Reserve-Alaska. This area was scarcely mentioned during our visit to ANWR, and we visited none of it. Upon further research, however, I discovered that this National Petroleum Reserve, encompassing 23 million acres, was established by Congress for oil and gas development. Why, I wondered, given all the controversy over oil drilling in ANWR, haven't the oil reserves in the National Petroleum Reserve been first explored and extracted? Wouldn't it be a far better energy policy to first extract the oil from a 23-million-acre area which has been established for that purpose?

Furthermore, oil production from the National Petroleum Reserve could begin several years before anything from ANWR. Under President Clinton's direction, in 1997, the Bureau of Land Management within the Department of the Interior conducted a study of a 4.6-million-acre section in the northeast portion of the National Petroleum Reserve, which is the area immediately to the west of Alpine and Prudhoe Bay. The Bureau prepared an environmental impact statement leading up to lease sales in May 1999, which drew 174 bids from six different companies on 3.9 million acres. More than 130 bids were accepted, at a total revenue to the Government of $104.6 million. This spring, Phillips Alaska, Inc., and Anadarko Petroleum Corporation reported discoveries of oil or gas, and Phillips indicated that these discoveries might be commercial. By early October of this year, Anadarko was in the process of securing permits to drill two additional prospect sites. The Interior and Related Appropriations Act for fiscal year 2002 provides $2 million in funding for planning and preparation of another EIS, in anticipation of holding a lease sale in 2004 for tracts in the northwestern area of the National Petroleum Reserve.

The U.S. Geological Survey has estimated that the National Petroleum Reserve could hold technically recoverable resources of 820 million to 5.4 billion barrels of oil. However, these are only rough estimates. While these estimates are not as large as the current estimates of ANWR's potential, they are the equivalent of between 2 and 12 of the Alpine field. Thus, the choice which some would force upon us, whether to protect the Arctic National Wildlife Refuge or to continue the act of exploration for and development of our Nation's oil reserve is a false one. We can do both. We can, and we should, continue the environmental assessments and appropriate leasing of those sections of the 23-million-acre National Petroleum Reserve until those discovered and recoverable oil supplies have been mostly extracted. Then, and only then, would we possibly have either the need or the possible justification to turn our attention to possible sites in ANWR. However, it will take many years, probably a couple of decades, before we have completed the oil production out of the National Petroleum Reserve. Until then, we have no reason to permit oil drilling in ANWR.

The PRESIDING OFFICER. The Senator from Connecticut.

SENATE VOTES

Mr. LIEBERMAN. Mr. President, I come to the floor to speak about two important votes we will have in a few hours, one on the Railroad Retirement Act and the other on the amendment introduced by the Senate Republican leader, which is an energy plan that includes authorization to drill in the Arctic National Wildlife Refuge.

I thank and congratulate my friend and colleague from Minnesota for the outstanding statement he made on this issue. I believe the debate thus far on the question of drilling in the Arctic Refuge has revealed a record that is not quite what the proponents of drilling have argued and portrayed. That, at least, shows we should not be pressured to pass such significant legislation in a hurried or cursory fashion. It is not wise for the Senate to rush into a decision that will have a permanent impact and, in fact, do permanent damage to our environment, our national energy strategy, and our national values while at the same time being of little value to the American people.

I will discuss some of the contentions made by proponents of drilling our refuge and offer some comments.

Proponents of drilling have argued that the Inupiat Eskimos in the town of Kaktovik are being deprived of their right to drill on refuge land that they own in fee simple. I was struck by that argument when it was made Friday when I was in the Chamber.

I have done a little research over the weekend. I find that the Inupiat Eskimos have rights to the surface of lands adjacent to the town of Kaktovik. The Eskimos also were granted subsurface rights by Secretary of the Interior Watt to over 90,000 acres that are adjacent to their town. But those rights were speculative—only granting the right to drill if Congress authorized oil and gas drilling under the surface of the Arctic Refuge.

A 1989 GAO report investigating the transfer of these subsurface rights found that the transfer actually resulted in a profit for Kaktovik even without any oil and gas development.

The point I am making is that no promises have been broken to the Inupiat people. In fact, they were never granted the right to drill in the refuge. That has been clear from the beginning.

I will work with all of my colleagues, as I know the occupant of the chair does, to do everything I can to ensure that the Inupiat people are able to continue to sustain and improve their quality of life. But we have to do so in a manner that is in our national interest and does not sacrifice one of our great national treasures. We must also realize that other Native Americans in Alaska strongly oppose any drilling.

Last Friday I mentioned the plight of the Gwich'in of Arctic Village who depend on the Porcupine caribou herd to sustain their lives and their culture. Today I will read from a letter by the city of Nuiqsut, sitting in the shadow of the Alpine oil field on the North Slope. I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CITY OF NUIQSUT,
Nuiqsut, AK, April 11, 2001.

Letter from City Council to Cumulative Effects Committee Members.

Patricial Cochran,
Representative/Member, National Research Council, National Academy of Sciences.

DEAR SIR OR MADAM: Thank you for coming to Nuiqsut and seeking our input on the cumulative effects of oil and gas development on our community and the North Slope. Your tight schedule did not allow us to fully share all of our comments with you, so we write today to summarize our thoughts and supplement our comments. This summary is not meant in any way to be a substitute for the heart felt comments you heard at the meeting or the written testimony that was carefully prepared for you and submitted to you at the meeting. It is only a supplement to those thoughts and comments and a request for further consideration of our views in the report that you prepare.

The impact of oil and gas development on our village has been far reaching. As you now know first hand from your visit, we are literally surrounded by the infrastructure to produce oil and gas. This has affected our day-to-day lives in several ways. Our ability to hunt and gather traditional foods has been severely impacted by development, as you heard from everyone who spoke at the meeting. You were provided many examples of how various species have been affected, and how we have had to react and adjust to those changes. You were also told how the land that we consider ours and from which we subsist has in some cases been lost because we did not fill out the right paperwork and/or look at the right maps.

Additionally, oil and gas development has brought many more people to our village that is not permanent residents, but instead come and goes for work. Very few of these individuals have integrated well into our community. There are widespread feelings of distrust and frustration amongst villagers and the workers who come from outside the community, despite efforts to develop trust with one another. We do not fully understand each other's cultures and we resent each other still, despite our mutual efforts to get to know one another and to get along.

Development has increased the smog and haze in our air and sky, affecting our health as well as the beauty of our land, sea, and air. Drugs and alcohol traffic have increased as development has grown; the ice road that reduces our freight costs also increases the flow of illegal substances into our community. The stress of integrating a new way of life with generations of traditional teachings has led some to alcohol and drug abuse, a phenomenon unknown before white people came to Alaska and greatly exacerbated by the recent spate of growth associated with North Slope oil and gas development and for us in Nuiqsut, even more exacerbated by growth associated with Alpine.

However, like all Alaskans, we have also benefited from oil and gas development. The State and Borough have more money to spend on community facilities, schools, modern water and sewer system, and similar projects. The City has also received funds to mitigate some of the impacts of development. At the individual level, we each receive a permanent fund dividend every year that is funded by excellent investment of state money, some of which came originally from oil and gas royalties and taxes. We hope to have low cost natural gas heating our homes and running our electric plant in the near future because of a unique arrangement between Phillips, Kuukpik—our local village corporation, the City, and other community interests.

But money and modern amenities are not in and of themselves significant enough trade offs. We urge the Committee to appreciate the reality that, in the eyes of most of us, to date, the negative effects of oil and gas development have equaled or outweighed the positives. We encourage you to include with your findings information that will encourage policy makers to work harder to shift the balance of much more to the positive side. As was stated at the meeting, we do not reject the cash economy and know that the clock of time cannot be turned back. We wish instead to become fuller participants in the cash economy and in the decisions that are made about future development, while maintaining our cultural ties to the past through our subsistence lifestyle. This is the essence of self-determination.

With that in mind, we urge you to include as a finding in your report that one cumulative effect of development has been that subsistence resources of local residents have been displaced and altered, based on the information provided to you at our meeting as well as testimony you have received from state and federal agencies and other sources.

Another cumulative effect that should be included in your report is that we have not been provided with enough well paying, highly skilled North Slope oil and gas jobs. Although some steps have been taken to increase local hire, a lot more needs to be done. Very few villagers are employed at Alpine or even on the entire Slope. A long-term commitment needs to be made to train villagers to get the skills to get and—importantly—to keep those jobs. Villagers and industry representatives need to work together to develop a jobs program in which villagers commit to working regular hours on a long-term basis and industry commits to allow villagers to take time off for subsistence activities without losing their jobs.

Further, we urge you to include as a finding in your report that villagers have not been fully integrated into decision making regarding where development has occurred and what facilities will be used to extract the oil and gas from the ground. We need to be consulted more often and more fully on decisions that are made regarding permitting, the impacts of development on the land, sea, air and animals, and choices for placement of pads, roads, mines, pits, pipelines, and other aspects of infrastructure development. If we are consulted and listened to, we will work to get future pipelines underground and/or well above the antlers of the tallest caribou, to end use of fish bearing lake water for ice roads, to prohibit seismic scaring of the tundra, to prohibit offshore and other outer continental shelf development, and to take other measures in response to the cumulative effects that have already occurred to the land, sea, air, and people of the North Slope.

In conclusion, we again thank you for your interest in the issues we face, and look forward to your findings. We respectfully reiterate that we practice subsistence as a lifestyle, not as a sport. We wish to continue to do so for generations into the future. Only with careful consideration of our input into future oil and gas development will that be possible. We sincerely hope that a longer-term cumulative effect of oil and gas development on the Slope is not the total destruction of our subsistence way of life.

Sincerely,
City of Nuiqsut Council Members:
Eli Nukapigak,
Mayor.
Rosemary Ahtuangaruak,
Vice Mayor.
Ruth Nukapigak,
Member.
Mae Masuleak,
Member.
Hazel Panigeo,
Member.
Rhoda Bennett,
Member.
Frank Long,
Member.

Mr. LIEBERMAN. According to the Native Americans, the impact of oil drilling has been "far reaching." They provide some specific statements:

> Our ability to hunt and gather traditional foods has been severely impacted. Development has increased the smog and haze in our sky, affecting our health as well as the beauty of our land sea and air.

Obviously, the people of Nuiqsut do not believe they have benefited from oil exploration, and they hope we will learn a lesson from their experience.

We have also been asked to conclude that the wildlife in the reserve will interact happily with oil pipelines if they are built there. A picture was shown the other day of bears. I was advised that the bears in the pictures were not stuffed animals. Indeed, they were not. Unlike stuffed animals, they need real wilderness habitat to survive.

I received a letter over the weekend from Mr. Ken Whitten, a retired Alaska State fish and game biologist who worked 24 years on the North Slope. Mr. Whitten felt compelled to respond to the proponents of drilling and specifically to the picture of a mother bear and cubs shown last week. I quote from the letter: Most bear cubs that have grown up in the oil fields have eventually been shot as problem bears, either in the oil field support area or at isolated villages and camps outside the oil field.

Thus, the story of the three bears in the photo does not have a fairy tale ending. Three different bear groups, each consisting of a sow and two cubs, have been seen walking pipelines in the oil field recently. All three bears in one group and two cubs in another had to be shot last summer after they became habituated to human food and repeatedly broke into buildings and parked vehicles.

I ask unanimous consent Mr. Whitten's comments be printed in the Record in full.

There being no objection, the material was ordered to be printed in the Record, as follows:

Comments of Kenneth R. Whitten on Remarks by Senator Murkowski

As a retired state fish and game biologist who worked 24 years on Alaska's North Slope, I am once again disappointed that Senator Murkowski has misinformed his fellow senators regarding the effects of oil development on the wildlife and wilderness environment of the Arctic National Wildlife Refuge. In this regard, I'd like to comment on the Senator's statements about bears and caribou and also on his continued misuse of a photograph I took myself.

On the floor of the Senate last Thursday, Senator Murkowski showed a photo of three grizzly bears walking on top of an elevated pipeline at Prudhoe Bay. What the Senator failed to point out is that most bear cubs that have grown up in the oilfields have eventually been shot as problem bears, either in the oilfield support area or at isolated villages and camps outside the oilfield. Thus the story of the three bears in the Senator's photo doesn't have a fairy tale ending. Three different bear groups, each consisting of a sow and two cubs, have been seen walking pipelines in the oilfield recently. All three bears in one group and two cubs in another had to be shot last summer after they became habituated to human food and repeatedly broke into buildings and parked vehicles. The bears in the third family are all currently alive, but unfortunately it is highly probable that the remaining cubs, at least, will get into trouble next summer and have to be killed. The major oil companies may do a good job of keeping garbage away from bears and thus avoiding conflicts, but bear problems are rampant in the industrial support area where workers and visitors are not as well regulated.

Caribou are not attracted to the oilfields, despite Senator Murkowski's assertion that caribou flock to Prudhoe Bay and thrive there because they are protected from hunting. Caribou generally avoid the oilfields during their calving period. Later in the summer, larger groups occasionally enter the fields, but have trouble moving through the maze of pipes, roads, and industrial activity. Hunting is legally restricted in the Prudhoe Bay oilfield only, and not in other North Slope fields, although oil company policies discourage hunting. Hunting occurs on state and federal lands around the oilfields, but is conservatively regulated so as not to harm the caribou populations. The caribou herd around Prudhoe Bay has increased because of generally favorable environmental conditions over the past 25 years, as have other caribou herds on the North Slope. During a brief period of bad weather in the late 1980s, caribou near the oilfields had poor calf production compared to caribou in areas away from the oilfields. The population declined at that time.

Also on the Senate floor last Thursday, Senator Murkowski showed a photograph over which he said he had previously gotten into an argument with Senator Boxer. I took that photograph. At various times Senator Murkowski has stated that the photo is a fake or that it was not taken on the ANWR coastal plain. In fact, that was the gist of his argument last year with Senator Boxer. The photo was taken from a rooftop at an abandoned DEWline station at Beaufort Lagoon on the ANWR coastal plain. It looks across the lagoon to the coastal plain filled with caribou and with snowcapped peaks in the distance. After the dispute with Senator Boxer, Murkowski had to admit that the photo was indeed from the coastal plain, but he told reporters that the fact it was taken from an old military site proves that the coastal plain is not pristine wilderness (he was apparently unaware that the site had been removed and no longer existed when he made those remarks). Murkowski now claims he has confirmation from the photographer that the photo was taken from a window in Kaktovik village. The Senator just can't seem to get it right. He now emphasizes that the mountains are not on the coastal plain. The point he keeps trying to make is that the ANWR coastal plain is a barren hostile place, with no beautiful mountains or pretty scenery, and we should therefore just go ahead and drill it. He can't seem to deal with the fact that the plain is rimmed on the south by the highest peaks of the Brooks Range, that many people find it beautiful, and that during summer the coastal plain teams with abundant wildlife.

Senator Murkowski seems willing to go to any length to convince us that we can improve national security and protect wildlife by drilling the coastal plain, but there is overwhelming evidence to the contrary. We *can* reduce our dependence on foreign oil and protect wildlife through energy conservation. The evidence for that is irrefutable.

Mr. LIEBERMAN. I also contest a characterization of support for this proposal. Contrary to what has been said, it is clear that the American labor movement is not universally enthusiastic about this bill. In fact, the well of union support is drying up. Many unions, including the largest union in America, SEIU, and the United Steelworkers of America, see more jobs in investing in the technologies of the future.

Why are the union members lining up in opposition to the drilling plan? The fact is a broad range of union members and leaders understand that a strategic long-term energy strategy is a much more effective way to help spur the production not only of energy but of permanent jobs in a wide range of economic sectors. Drilling in the Arctic Refuge represents a distraction from the real needs of our economy and the real needs of the working people of America.

The other alternatives I cite: investments in efficiency, conservation, and alternative energy sources, are realistic, strategic, and ready to go. It is disappointing to me that in this era of dramatic technological progress in so many areas of human activity, we readily celebrate the advances, including in the fields of oil exploration, but fail to see the promise of this next age of alternative efficient energy technologies.

According to a recent study by the Tellis Institute, investments in new energy technologies could result in a net annual increase in jobs in America of over 700,000 by 2010, rising to approximately 1.3 million jobs in 2020. Those are the technologies of the future, providing high-paying, permanent jobs to America's workers.

There is also another proposal for the North Slope of Alaska that will bring more jobs and more economic stimulus than drilling for oil in the refuge. That is the building of a natural gas pipeline to bring that energy source to the lower 48 States. According to estimates from the oil industry and from the State of Alaska, this project would bring hundreds of thousands of jobs to American workers and is far preferable to the proposed oil drilling in the refuge. In one sense, this is perhaps the first plan I have seen that is myopic and hyperopic. It may need bifocals. It fails to take the long-term interests of our economy and environment into consideration and simultaneously fails to deliver any immediate benefit to the American people. In fact, it is a short-term distraction in what should be our real energy program strategy and a long-term danger.

Finally, I ask unanimous consent to have printed in the RECORD a letter from the Secretaries of the Interior under Presidents Kennedy, Johnson, Carter, and Clinton.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 30, 2001.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

[SENATOR AKAKA]: In this time of national crisis, we urge the Senate to focus on the most important issues to the country. Railroad retirement legislation and economic stimulus packages are the wrong forum to be debating complex energy legislation or deciding the fate of one of our country's greatest wilderness and wildlife treasures—the coastal plain of the Arctic National Wildlife Refuge. Majority Leader Tom Daschle has pledged to bring energy legislation to the floor in the near future.

We hope you will oppose efforts to attach energy provisions to economic or national security legislation, and we strongly urge you to vote against drilling in the Arctic Refuge regardless of the legislative vehicle.

Each of us, as former Secretaries of the Interior, made decisions balancing the goal of developing the energy resources of our public lands with that of conserving and protecting the wildlife and wilderness resources of those same public lands for future generations. In the case of the Arctic National Wildlife Refuge, we continue to believe that the value of its unique wildlife and wilderness resources far outweighs the potential benefits of development.

It is worth noting that protection of this unique resource was first proposed by our colleague Fred Seaton, who headed Interior under President Eisenhower. Secretary Seaton stressed the unique wilderness values of this 'biologically irreplaceable land,' which was ultimately set aside under President Eisenhower's order 'for the purpose of preserving unique wildlife, wilderness, and recreational values.'

In the forty years since the establishment of what was then known as the Arctic Wildlife Range, the case for protecting its wildlife and wilderness resources has only become stronger. We have opened major portions of the Arctic slope to oil development, which now dominates the landscape from the Canning River all the way to the Colville. Most recently, leasing in the National Petroleum Reserve has resulted in a number of successful exploration wells west of the Colville. Although industry practices and oil field technology have both improved over the years, anyone who has been to the Prudhoe Bay complex will tell you that oil development there has permanently changed the character of the land. In this context, protecting the biologically richest and most pristine part of the coastal plain is the right thing to do. Nowhere else on the American continent can be found such a wealth of wildlife in an undisturbed environment. The annual migration of the Porcupine River Caribou Herd, on which the Gw'ichin communities of Alaska and Canada depend for subsistence, remains one of the last great wildlife spectacles on earth.

Our park, refuge, and wilderness systems are a living legacy for all Americans, present and future, and are widely envied and emulated around the world. The Arctic National Wildlife Refuge is one of the greatest of these treasures and is clearly the most precious of the crown jewels of Alaska. It must be protected.

Sincerely,

BRUCE BABBITT.
CECIL D. ANDRUS.
STEWART L. UDALL.

Mr. LIEBERMAN. The Secretaries point out the value of the land in question here, the Arctic Refuge. They quote the Secretary of the Interior under President Eisenhower. It was Eisenhower who originally created this refuge.

That letter states that the area was:

> biologically irreplaceable land that should be put aside for the purpose of preserving the unique wildlife wilderness and recreational values.

As the signatories' letter points out, the 40 years since Secretary Seaton's comments have only strengthened the case that this is a unique wildlife and recreational area of our country and deserves to be preserved. I ask my colleagues to please vote against cloture on the amendment, the Lott amendment to the railroad retirement bill.

In summary, drilling in the refuge pales in comparison to more environmentally sound and strategic energy alternatives. Drilling in the refuge will do nothing to provide energy independence, providing a mere 6-month supply of oil that will not come on line for a decade. Drilling will do almost nothing to stimulate our economy, providing some short-term jobs when we can provide a much greater, longer term stimulus for our economy by undertaking projects such as the natural gas pipeline from Prudhoe Bay and increasing our investment in new and emerging technologies.

Finally, our values teach us that not every available natural resource should be exploited. Our values encourage us to respect the Earth, the treasures that the Good Lord gave us here in America, and to approach them with some humility, not to try to squeeze every last ounce of energy or anything else out of every square foot of Earth, regardless of the cost or the loss that is engendered thereby.

Nature reminds us of our humanity. It inspires us. It helps to comfort us when we are hurt. It gives us opportunities for recreation.

This is a time not to ignore but to recall the great American spirit of conservation which seeks, in every generation, to preserve the great natural places in America so those generations that follow us will enjoy them, have the right and opportunity to enjoy them as much as we have.

I believe this expresses the interests and the values of the American people. I hope my colleagues will stand with those interests and values in voting against cloture on the Lott amendment when it comes up later this afternoon.

I thank the Chair.

Mr. MURKOWSKI. I wonder if my friend will yield for a question.

Mr. LIEBERMAN. I believe my time is up, but I will certainly yield for a question.

Mr. MURKOWSKI. Does the Senator from Connecticut have any idea how long this issue has been before the Senate, how many hearings we held on this matter over the years?

I think it is important because I believe the statement was made we should not be rushing into anything.

The PRESIDING OFFICER. Let me clarify that the time of the Senator from Connecticut has expired. This will be charged to the time of the Senator from Alaska, who is recognized.

Mr. MURKOWSKI. Factually, if the Senator doesn't know, I would like to advise him.

Mr. LIEBERMAN. I can tell the Senator respectfully, I have been here 13 years and I know it has been an issue all that time, and I know it was debated for some time before that. My point was, though, that I think some of the contentions made on the floor in the back and forth of the debate in the last several days at least leave uncertainty. In that spirit of uncertainty, we do better to come back and debate this proposal in full, as I guess we will, after the first of next year.

Mr. MURKOWSKI. For the edification of my friend from Connecticut, there have been 50 bills introduced on this topic. There have been over 60 hearings. We have had 5 markups of committee jurisdiction, in the Committee on Energy and Natural Resources. Legislation authorizing the opening of ANWR has passed the House twice. A conference report authorizing the opening of ANWR passed the Senate in 1995. It was vetoed by President Clinton.

If you review the history, I think it is a little misleading to imply that suddenly we are rushing into this matter without a good deal of debate and thought. It is the same exact argument that was used in the 1970s, prior to the authorization of opening up Prudhoe Bay and building the pipeline. It was fostered by America's extreme environmental community which is again fostering the debate. There has been no sound science to suggest that opening Prudhoe Bay has resulted in an economic disaster or resulted in the decimation of the caribou herd, the central Arctic herd. These are alarmist tactics we have heard time and time again and it is evident Members are soliciting the support based on America's environmental community.

Years ago, we had a full EIS on the opening. Still, at a time when we are looking at calamities in the Mideast—the situation in Israel, the danger associated with our national security—I find it extraordinary that Members would look for excuses rather than sound science in addressing the merits of this legislation.

Had President Clinton not vetoed that legislation in 1995, ANWR would be on line now. When the Senator continues to use the "6-month supply of oil," he is really misleading the American public. He knows that definition is only applicable if there is no other oil coming into the United States, imported or produced in the United States. I think we should keep the debate on a factual level as opposed to a misleading level.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I ask the Chair, it is my understanding we each have 10 minutes, is that correct, in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. WELLSTONE. Mr. President, I certainly understand the proponents——

Mr. MURKOWSKI. Excuse me, Mr. President, may I interrupt. I think we have time remaining on either side; is that correct?

The PRESIDING OFFICER. I beg your pardon?

Mr. MURKOWSKI. I believe there is time remaining on either side?

The PRESIDING OFFICER. Yes. The Senate will be in morning business until the hour of 4:45, at which time there will be 30 minutes equally divided on either side to debate the Lott amendment. Until then, Senators may proceed for 10 minutes each, time to be designated between the sides.

Mr. MURKOWSKI. May I ask the Chair how much time is remaining on this side?

The PRESIDING OFFICER. In total? One hour sixteen seconds remain.

Mr. MURKOWSKI. I am sorry?

The PRESIDING OFFICER. I repeat, 1 hour 16 whole seconds—16 minutes, I am advised.

Mr. MURKOWSKI. I am sorry. I did not hear. On the other side?

The PRESIDING OFFICER. There are 30 minutes remaining on the other side.

Mr. MURKOWSKI. I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I will start again. I know the proponents—and certainly the Senator from Alaska stands out in this matter of drilling in the Arctic Wildlife Refuge—feel strongly about their position. But there are those of us who feel just as strongly the National Wildlife Refuge should remain, as it has always been, our Nation's last protected Arctic wilderness.

The Senator from Alaska was asking the Senator from Connecticut about how long this has been going on. I have been here 11 years. I remember the first filibuster I was involved in was against this. We were successful. I think we will be successful again.

In the last 11 years, I have heard a lot of arguments about why we should drill, but none of them hold up to scrutiny.

In 1991, we had the debate on the energy bill, and we were told that the Trans-Alaska pipeline would run dry by the turn of the century without drilling the refuge. Today, even the oil companies acknowledge having enough oil to keep the Trans-Alaska pipeline flowing for at least another 30 years and perhaps another 40 years.

In 1995, we were told drilling the refuge was necessary to balance the Federal budget. But we managed to balance the budget without these speculative revenues, and by the way, it would have stayed that way without the irresponsible tax cut passed earlier this year. Instead, what do my Republican colleagues do? It is not part of this amendment—on the House side, $30 billion of tax credits for oil companies that made about $40 billion last year in profits.

What other arguments have we heard? Earlier this year, we were told that we should drill the refuge to deal with California's electricity crisis. Never mind the fact the State gets less than 1 percent of its electricity from oil.

Then we were told to drill to bring the prices down at the pump. Never mind the fact the prices are set on the global market and that as the Governor of Alaska has even acknowledged, there is a zero sum relationship between Alaskan oil and prices paid by working families for gasoline or home heating oil.

I find it ironic that the same Senators who call for drilling in the Arctic Refuge have nothing at all to say about the wave of oil company mergers. I say to my colleagues, if you were so concerned about consumers and about the prices that working families pay at the pump, where were you when Exxon and Mobil merged? When BP took over Amoco? When BP took over Arco? And now when Phillips and Conoco are seeking Government approval?

So what is today's flavor? What's today's argument? The Senator from Alaska says we need to drill the refuge as part of our campaign to combat terror—as a way to reduce our dependence on imported oil. Let us look at the facts:

According to the oil industry's own testimony before the Senate Energy Committee, it would take at least a decade to tap even a drop of oil from the refuge. Furthermore, the U.S. Geological Survey estimated, with oil prices at $20 per barrel, there is only 3.2 billion barrels of commercially recoverable oil in the refuge—not in one field, but spread out in potentially dozens of small pockets all across the Delaware-sized Coastal Plain.

I know the Senator from Alaska argues there's alot more than that. But here is what the USGS said in its report: "We conclude that there are no Prudhoe Bay-sized accumulations in the 1002 area. . . ."

The bottom line is this: Drilling the Arctic Refuge, even under the optimistic estimates, would be unlikely to ever meet more than 1–2 percent of our oil needs, even at peak production. In fact, we could drill every national park and wildlife refuge in America and we'd still be importing the majority of our oil.

The answer, clearly, is to look to the future. What can we do instead? By increasing the fuel efficiency of our cars and trucks by just 3 miles per gallon, we can save more than 1 million barrels of oil a day or five times the amount of oil the refuge might produce. This would do far more to clean the air, reduce prices for consumers, and make us less dependent on imported oil.

The fact is a focus on renewable energy and saved energy is our future: Households that generate electricity from rooftop solar arrays, farmers who harvest an additional "crop" by the winds that blow over their fields, or the biomass waste that is generated, and city streets inhabited by quiet and pollution-free electric vehicles.

Do we want real energy security? Former CIA Director James Woolsey recently testified that the Trans-Alaska Pipeline is one of the more vulnerable parts of our energy infrastructure; that, even if you had no environmental objection, it would not make a whole lot of sense to become more dependent on the pipeline.

I don't know whether he is right or wrong. But I do think we need to become much less dependent on oil as a resource and that doing so will enhance our security, help consumers, and provide for a healthier environment.

Renewable energy, alternative fuels, and increased efficiency are the keys to the future. They are, as Woolsey testified, less vulnerable to terrorism. They also make America less vulnerable to the wild price swings caused by the OPEC cartel. I certainly look forward to this kind of energy policy for our country.

In conclusion, let me say this: the Arctic National Wildlife Refuge is a national treasure worth far more as a lasting legacy for future generations than plundered for a short-term speculative supply of oil that will not enhance our security or help consumers. I urge my colleagues to vote no on cloture and help us move onto the Railroad Retirement bill and other important matters at hand.

There is a marriage we can make, and it has to do with this nexus between how we produce and consume energy and the environment. We can—no pun intended—barrel, not down the oil path, we can barrel down the path of renewable energy: wind, solar, biomass, electricity, biodiesel—clean alternative fuels, safe energy, efficient energy use, small business, clean technology, keep capital in our community, stop acid rain in lakes, stop polluting the environment: the air, the water, and the land.

This is a marriage made in heaven, and it should be made right here in our own country.

I know the oil companies do not like this. I know that is not their future. But it is the future for consumers in our country. Coming from Minnesota, a cold-weather State at the other end of the pipeline, it is a no-brainer. When we import barrels of oil and natural gas, we export billions of dollars from our State—probably about $12 billion a year. That is not our future.

We have an answer. A lot of it comes from rural Minnesota, it comes from farm country. It is a far better path. Put the emphasis on renewable energy policy and safe energy. Put the emphasis on small business, on technology, keeping capital in our community, and on the environment. As the Catholic bishop said 15 years ago, we are all but strangers and guests on this land. That is the direction in which we should be going.

That is why I am strongly opposed to this amendment introduced by the Senator from Alaska.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I am continually amused and continually astounded by the general statements by my colleagues on the other side who have never taken the time, despite the invitations that have been extended, to visit this area themselves and to talk to the Native people and see indeed that they, too, have hopes and aspirations for a lifetime opportunity of jobs, of health care, and education.

The Senator from Connecticut made a comment about the letter he received. What he didn't tell you is that every child in that village has an opportunity to go to college. Believe me, that child would not have that opportunity without the oil activity associated with Alpine.

This whole debate is a smokescreen. It is a smokescreen promulgated by America's environmental community, which uses this as a tool for membership and dollars. These are the same arguments that were used 27 years ago against opening up Prudhoe Bay: You can't build an 800-mile pipeline across the length of Alaska because you are putting a fence across Alaska; the moose and the caribou won't be able to move from side to side; it is a hot pipeline; it is in permafrost; it is going to melt; it is going to break.

Where would we be today without that particular project and Prudhoe Bay that has supplied the Nation with 20 to 25 percent of its total crude oil for these 23 years? We would be importing more oil. We would be importing it to the west coast and to the east coast in foreign ships, not U.S. flag vessels.

I am just amazed at the general condemnation that somehow it is a 6-month supply of oil. That is the falsehood. Everybody in this body knows it. They can figure it out. The estimate by USGS on the oil that is anticipated to be in ANWR is somewhere between 5.6 billion and 16 billion barrels. Why don't they know? They do not know because only Congress can authorize exploration in the area.

If there is no oil, which sometimes does occur, nothing is going to happen. But to say it is a 6-month supply is terribly misleading because it is totally inaccurate.

If you cut off all the oil imports and if you didn't produce a drop in any other State, then it might last 6 months. But remember that Prudhoe Bay was 10 billion barrels of oil. It has produced over 10 billion barrels of oil. ANWR is 5.6 billion to 16 billion. It is one-half the median of 10 billion barrels; it would be as big as Prudhoe Bay.

I am getting kind of tired of hearing these slanted stories relative to facts. They say it is going to be 10 years. That is absolutely ridiculous. We have the pipeline built. We need about 70 miles of pipeline over to ANWR. It is a matter of putting up the leases and doing the updating on the permits.

Incidentally, that whole area has had a full environmental impact statement by the Interior Department.

This is more effort to simply throw cold water on reality.

I am sorry my friend from Minnesota is not here because he and I don't go out of this Chamber or leave Washington, DC, on hot air. Somebody has to put the fuel in that airplane or that train or that car. That is absolutely all there is to it. I wish we had other means of energy to move us around, but coal, gas, nuclear, and wind do not do it. We have to have oil. The whole world operates on oil. This is important, particularly at a time when we are seeing such grave circumstances associated with activities that affect the entire world occurring in Israel and the Mideast.

So what are the arguments? One, I guess, is that it is a 6-month supply. I think we have addressed that adequately for the time being. The 10-years is out of the question. The Porcupine caribou herd is another. Clearly, most of the Gwich'ins who follow the Porcupine caribou herd are in Canada. There are about 800 in Alaska. Canadians are leasing their lands. They are developing their own corporation because they are looking for jobs.

When we talk about caribou, since we are on the subject of these migratory animals, let's look at the experience we have had in Prudhoe Bay. That particular herd was 3,000 to 4,000 animals 15 years ago. It is 26,000 animals today.

Every single issue on the other side can be countered, but that does not stop the opponents. The opponents simply want to kill this for the time being until it can come up again. But eventually it will pass because it is the right thing to do.

I think it is fair to say that some do not want to see our President prevail on a few issues. Trade promotion is one. Energy is another. We are talking about stimulus in this country. You name a better stimulus than ANWR, creating 250,000 jobs, creating, if you will, revenue for the Federal Government of about $2.5 to $3 billion from lease sales, not costing the taxpayer one cent.

What about other jobs? Nineteen double-hull tankers will have to be built.

Some will be built on the east coast, the west coast, and the gulf, because under the law the old tankers have to be retired. These are double-bottom tankers. It is estimated it would pump about $4 billion into the U.S. economy. It would take 17 years to build those ships. That is what we are talking about when we talk about jobs.

What about our national security? The more we become indebted to the Mideast oil-producing nations, the more leverage they have on us. It seems to me it is quite clear that there are a few people on this issue who clearly fail to recognize what is best for America.

Our President has asked, time and time again, for an energy bill. The veterans: The American Legion, the Veterans of Foreign Wars, AMVETS, the Vietnam Vets, the Catholic War Veterans; organized labor: The Seafarers International, the International Brotherhood of Teamsters; the maritime labor unions; the operating engineers, the plumbers and pipefitters, the carpenters and joiners; the Hispanic community: The Latin American Management Association, the Latino Coalition, the United States-Mexico Chamber of Commerce; the 60-plus Seniors Coalition, the United Seniors Association; Jewish organizations, including the Conference of Presidents of Major Jewish Organizations, and the Zionist Organization of America—I think we have a couple more that came in today that represent the opinions of America's Jewish lobby also there is the National Black Chamber of Commerce, the U.S. Chamber of Commerce, the National Association of Manufacturers, the Alliance for Energy and Economic Growth.

There are a few people whose voices ought to be heard who have expressed their opinion that it is in the national interest, the national security interest, to open up this area. I further refer to Americans for a Safe Israel. This is a letter dated November 13:

> Americans for a Safe Israel is strongly in support of your amendment which would permit drilling for oil in the ANWR area of Alaska. . . .
>
> We at Americans for a Safe Israel would be pleased if you would include our organization among American Jewish organizations in support of your amendment regarding oil exploration in the ANWR.

Mr. President, I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICANS FOR A SAFE ISRAEL,
New York, NY, November 30, 2001.

Hon. FRANK H. MURKOWSKI,
U.S. Senate Hart Building,
Washington, DC.

DEAR SENATOR MURKOWSKI: Americans for a Safe Israel is a national organization with chapters throughout the country and a growing membership including members living in other countries. AFSI was founded in 1971, dedicated to the premise that a strong Israel is essential to Western interests in the Middle East.

We have many Middle East experts on our committees, who have authored texts on Israel and the Arab states and have appeared in television interviews, forums, and on newspaper op-ed pages. U.S. senators and representatives have been guest speakers at AFSI annual conferences.

Americans for a Safe Israel is strongly in support of your amendment which would permit drilling for oil in the ANWR area of Alaska. Your eloquence in addressing the Senate yesterday and this morning should have convinced the undecided that the arguments offered by senators in the opposition, or by environmental activists, are not based on the facts or realities in the ANWR and of our need for energy independence.

We at Americans for a Safe Israel would be pleased if you would include our organization among American Jewish organizations in support of your amendment regarding oil exploration in the ANWR.

Sincerely,

HERBERT ZWEIBON,
Chairman.

Mr. MURKOWSKI. Mr. President, you have the Teamsters. I will read you a press release put out by the Teamsters today.

> (Washington, D.C.) The International Brotherhood of Teamsters today renewed their call for a fair vote on a comprehensive energy plan before the U.S. Senate. The action came as the Senate was preparing to consider a series of procedural votes related to petroleum exploration in the Arctic National Wildlife Refuge. Minority Leader Trent Lott has proposed an amendment to railroad retirement legislation that would allow for ANWR exploration while also banning human cloning for six months. . . .
>
> "Teamster members in the railroad industry have worked hard for a secure retirement," said James P. Hoffa, Teamsters General President. "It is unfortunate that Senator Daschle is jeopardizing [Senator DASCHLE is jeopardizing] this important legislation by denying the ANWR exploration a separate floor vote. These two pieces of legislation deserve to be passed on their own merits."

I certainly agree with him.

He further states:

> "Exploring in the ANWR is clearly the right thing to do," Hoffa said. "It will reduce our reliance on foreign oil while creating thousands of jobs for working families. A vote on the energy package must not be delayed any longer.". . .
>
> Unfortunately, the Democratic Senate leadership has attempted to thwart the will of the majority by refusing to allow an energy vote to come to the Senate floor.

That is the factual reality. The Democratic leadership has precluded us from having an up-or-down vote on an energy bill. So here we are today on a Monday afternoon arguing the merits of a very complex procedural situation involving railroad retirement as the underlying bill with amendments for cloning and amendments for H.R. 4, the House energy bill.

For reasons unknown to me, the majority leader has indicated he is willing to take up a bill when we come back after the recess, but he will not tell us that he is willing to conclude it. If he were willing to, say, take it up when we come back, with the assurance that we would have an up-or-down vote, and preclude any situation where they would simply pull the bill down and not bring it up again, I would find that acceptable. If he would give us a time certain, such as when we come back to take up the bill, and then perhaps have a final vote on it prior to the February recess—we have suggested that to him, but so far he has declined.

I encourage, again, the majority leader to consider the merits associated with getting up an energy bill because the more time that goes by the more difficult it is to simply ignore the issue.

We have seen the national farmer support groups—and I just read here: The National Energy Security Act low-income fuel programs and a provision for oil exploration and production of a tiny portion of the Coastal Plain in the Arctic Wildlife—the Senate needs to pass this act this year.

There is more and more heat coming on this issue as the general public recognizes the reality associated with developing this particular area where there is a likelihood of a major oil discovery.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. MURKOWSKI. I see the senior Senator from Alaska is in the Chamber. He may wish to be recognized at this time.

The PRESIDING OFFICER. The senior Senator from Alaska.

Mr. STEVENS. Mr. President, I understand the distinguished Senator from Connecticut was in this Chamber addressing the Senate concerning the days that President Eisenhower and his administration considered lands in Alaska. That is of particular importance to me because I was there. I was the assistant to Secretary of the Interior Fred Seaton. I was in the meetings with President Eisenhower. And I am happy to tell the Senate what the President did and what the Secretary of the Interior did. Unfortunately, Senator LIEBERMAN has been misinformed.

The Eisenhower administration withdrew 9 million acres of the northwest corner of Alaska as the Arctic Wildlife Range. It was the Arctic wildlife range, not a refuge.

At that time the order specifically provided that oil and gas exploration and development would be permitted under stipulations to protect the flora, fauna, fish, and wildlife of that portion of Alaska. Subsequent administrations did not issue such stipulations so no oil and gas exploration took place. However, as time went by and I then became a Member of the Senate, we dealt with the settlement of the Alaska Native land claims. Those claims were settled by an act of Congress in 1971. In that basic law, which we called the

Alaska Native Claims Settlement Act, there was a provision in section 17(d)(2) that required the study of national interest lands in Alaska.

That was one of the requirements that was demanded of us, that we agree to the study of which lands should be set aside in the national interest because the statehood act of Alaska gave the right to the State of Alaska to select 103.5 million acres of public land, vacant, unreserved and unappropriated land. And the 1971 Alaska Native Claims Settlement Act gave the Native people of Alaska the right to take 40 million acres of Alaska land, plus some additional lands that would add up to about 45 million acres.

The Congress, at the time the Native Claims Settlement Act was passed, was worried that such selections might impede the national interest. And there was a review undertaken of what lands should be set aside in the national interest.

We worked for several years to try and get the Alaska National Interest Lands Conservation Act passed. In the Congress ending in 1978, we did achieve the passage in both the House and Senate of a bill to satisfy the requirements for the 1971 Act, that section 17(d)(2), as I mentioned.

Unfortunately, at the last minute of that Congress, just prior to adjournment, my former colleague Senator Gravel objected to the approval of the conference committee on that bill and required the reading of the legislation which was an extremely long bill. We had already agreed to an adjournment resolution and, in effect, that killed the bill for that period of time.

In 1979, when we returned, we started working again on the Alaska National Interest Lands Conservation Act. And by the time we finished it, the bill had been changed substantially from what it was in 1978. One thing did remain the same: The Arctic National Wildlife Range was changed from a range to a national wildlife refuge, and it was more than doubled in size. Of the original 9 million acres, that land was to be part of the Arctic National Wildlife Refuge. But a section authored by Senators Henry Jackson of Washington and Paul Tsongas of Massachusetts provided a compromise to meet the Alaska objection about the denial of the right to continue to explore the Arctic Plain.

That is what we call section 1002 of the 1980 act. It provided for the right to proceed to explore that 1.5 million acres to determine if it had the potential for oil and gas and to have an environmental impact statement presented to the Congress and approved by the President and by the Secretary of Interior.

That has happened. As a matter of fact, there has been more than one environmental impact statement. Presidents Reagan and Bush asked for the right to proceed for the exploration. That was denied by the Congress at that time.

When President Clinton was in office, the Congress approved proceeding with the leasing of oil and gas on the 1.5 million acres, and President Clinton twice vetoed the bill. So where we are today is we are still trying to fulfill a commitment that was made to Alaska by two Democratic Senators in 1980 that we would have the opportunity to continue to explore for and develop the vast potential of the Arctic Plain. We have been trying since that time, of course, to obtain approval of it.

The area we have now, the 19 million acre Arctic National Wildlife Refuge, originally contained just 9 million up here in the corner. As I said, that was opened to oil and gas leasing. It included the coastal plain. It was part of the original Arctic wildlife range. What we are trying to do now is to once again fulfill the commitment made to us in section 1002 of the 1980 act that the analysis and exploratory activities may proceed.

Unfortunately, this has become the icon of the radical environmental movement in the United States. People insist on coming to the floor and trying to tell the American people that this area was never intended to be explored. The commitment was made to us, and it was made to me personally, specifically, by Senator Paul Tsongas and Senator Henry Jackson that it would remain open. That was one of the reasons we did not object to the passage of the bill in 1980. The two of us who were here in 1978 were still here in 1980 when this bill passed. Senator Gravel and I agreed, because of the representations made to us by the two managers of the bill, that this land would remain open and could be explored. And if oil and gas was discovered, it could be produced from that area.

It is probably the largest source of oil area in the United States. It is a sedimentary basin. It is the largest, probably, that we will ever see in the North American continent. Yet it goes unproduced because of the opposition of radical environmentalists who try to tell the American public something that is not true. This land has not been closed. It has never been closed to oil and gas exploration. But in order to proceed with the development in terms of production activity, it takes approval of an act of Congress signed by the President.

We have been after that now for 21 years—even more if you go back to 1971. It is 30 years we have been telling the American public: This is probably the greatest place on the North American continent to produce oil to meet our needs.

I, for one, hope we will have an opportunity to debate it and vote on the merits of this bill during this Congress. I congratulate my friend and colleague Senator MURKOWSKI for all he is doing to bring it to the attention of the American people.

When the time comes later on this afternoon, I will talk about some of the opportunities we have to meet our needs. Too many people consider oil solely as gasoline. Less than half of a barrel of oil becomes gasoline. As a matter of fact, the barrel of oil goes into everyday products. Fifty-six percent of a barrel of oil that comes out of the ground becomes other products besides gasoline: home fuel, jet fuel, petrochemicals, asphalt, kerosene, lubricants, maritime fuel, and other products. Everything from Frisbees to panty hose comes from oil. Yet people talk about how to have alternative supplies of energy.

Where do you get the 56 plus percent of the barrel of oil that goes into products other than gasoline? You just can't get it. Look at this, items made from oil: toothpaste, footballs, ink, lifejackets, soft contacts, fertilizer, compact discs. As a matter of fact, there is no question that one of the most versatile products known to man is petroleum. A barrel of oil is a barrel of gold for our economy. We need to talk more about what it means to open up the Arctic wildlife area, the 1002 area, which was guaranteed to be made available to us for oil and gas development.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. STEVENS. I thank the Chair.

The PRESIDING OFFICER. If nobody yields time, time will be charged equally to both sides.

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, how much time is remaining for the opponents of the Lott amendment?

The PRESIDING OFFICER. The majority has 21 minutes.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to proceed for such time as I may use.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I will speak to some of the comments we just heard. I must say, I am a little bit disturbed that the quality the debate is already, to some degree, seeming to move into sort of a personal characterization about who is representing whom. I heard one Senator from Alaska suggest that all this is is an effort to smokescreen, that it is a membership drive for environmentalists. My very good friend, the senior Senator from Alaska, suggested that radical environmentalists are driving this issue. Well, I don't know who he is talking about. I haven't talked to any radical environmentalists. In fact, the fundamentals of my decision on this issue are not based on environmental choices; they are based on energy choices, based on economics, and they are based on the realities of the choices we face in this country about oil.

I completely agree with the Senator from Alaska that some wonderful products that all of us use every day are oil-based. Indeed, we are going to continue to make those products. There is nobody here who is talking about eliminating one of those products—not one of them. Those products don't spit out emissions from the exhaust on the back of a vehicle that is contributing to the problem of global warming. Those products are used and manufactured—many of them—in very different ways. No one that I have heard in this debate is talking about not drilling for oil or not using oil. This country faces—I don't know—a 40- to 50-year transition in order to begin to be able to really shift away from our dependency on oil.

It happens that that 50-year curve also coincides very precisely with the problems we face on global warming. Ask any of the leading scientists in the United States—not Senators, not people who go out and do fundraising and represent interests in the U.S. Senate—what they can tell you about what we face in terms of potential catastrophic—and I underscore that they use the word "catastrophic"—climatic shifts about 50 years from now. That is precisely the amount of time we face with respect to the potential for weaning ourselves from the dependency on oil.

Now, I hope we can stay away from these characterizations. I don't represent any group. I represent the State of Massachusetts. I represent my oath of office as a Senator to uphold the Constitution and look out for the welfare of our country. I believe the welfare of our country is better served when we begin to create a true, independent energy policy—a policy that brings us to independence from reliance on oil. That is going to take a long time. I have no illusions about that.

There is no windmill that is going to substitute for that tomorrow. There is no renewable or biomass that is going to substitute tomorrow. It will take a period of transition and work. It is important that we deal with the realities of this debate. The Senator from Alaska is absolutely correct when he says that a 6-month supply is not the appropriate way to talk about this issue because that represents if the United States were cut off from all fuel. He is absolutely correct. A 6-month supply—if you indeed have the amounts of oil some people suggest might be there—is only a viable number if there were no other suppliers from other places in the rest of the world. None of us are presuming, given our relationship with Great Britain, Venezuela, Mexico, and other countries in the world, including our increasingly renewed relationship with Russia, and our own production—nobody is really looking at that as the potential.

This is a phony debate. The reason I say that is that I heard my colleagues trying to scare Americans into believing that they ought to somehow start digging in the Arctic because we are at war in Afghanistan, we have a threat in the Middle East, national security is at stake, and the military is at stake.

We have heard veterans groups recited here. I am a cofounder of the Vietnam Veterans of America. I am a proud veteran. I am proud of my service. I know enough about the military and the military needs, the 300,000 or so barrels a day the military might consume under these circumstances, to recognize that the 8 million barrels we produce in the United States is going to satisfy the needs in an emergency of the military.

Moreover, Mr. President, let me suggest to you why this is such an artificial debate. There are more than 7,000 leases for oil and gas development in the Gulf of Mexico open for exploration and for development today. As I stand here on the floor of the Senate tonight, 7,000 leases are open for exploration, more than 80 percent covering 32 million acres, and are not producing oil. They are not drilling for oil. They could be. Anybody who comes to the Senate floor and says that today you have to drill in the Arctic Wildlife Refuge because the United States is threatened is not telling the truth to the American people because the fact is that there are countless millions—32 million, precisely, not countless. It is not just because they don't have oil that they are not drilling. They are not drilling because they are being mapped for future production or they are simply sitting idle by choice because the economics drive that choice.

Individual companies that own leases have decided, for business reasons and most likely because of the oil price or infrastructure limitations, they are not going to develop those leases now. They are waiting for the price of oil to maximize profits. In fact, some companies—Exxon, to be precise—are letting their leases in the United States sit idle while they invest in Saudi Arabia and other countries.

So don't let any Member of the U.S. Senate be cowed or stampeded into believing that this has anything to do with the current national security issue of Afghanistan or the Middle East. We have oil we could be drilling today.

Moreover, 95 percent of the Alaska oil shelf is open for drilling—95 percent of it.

Here is an article from The Energy Report, July 30, 2001:

> Responding to increased industry interests in North Slope gas, the State of Alaska plans to open up new acreage in the North Slope foothills. . . .
>
> Governor Tony Knowles recently announced that beginning next May the State would include additional acreage in the 7 million acre Foothills region in area-wide oil and gas lease sales in its 2002–2006 leasing schedule. . . .

Moreover:

> The Bureau of Land Management expects to hold a second oil and gas lease sale in the northeast corner of the National Petroleum Reserve-Alaska in June 2002. The agency will reoffer approximately 3 million acres made available, but not leased in the prior NPR-A sale in May 1999.

There it is. So there is no rush here. In effect, what we have in the ground in the Alaska Wildlife Refuge, should the United States ever be pushed to a corner and our back is up against the wall, we are at war or there is some circumstance where our allies have forsaken us, and we haven't been smart enough as a government to make the choices that we have today to move to alternatives and renewables and other forms of power, then we will have the most God-given ready natural Petroleum Strategic Reserve. Rather than buying it and putting it in the ground, it is in the ground, and we leave it there for that moment when the United States might need it.

I believe the reason I am here opposing this—not at the behest of any group—is because I have for 30 years been watching the United States procrastinate. I remember as a young law student sitting in line at gas stations studying my torts and contracts while I was waiting an hour and a half to get gas. That was 1973. We were told: We have to be energy independent; we have to work at this.

Then we imported 30 percent of our oil from other countries. Today we are over 50 percent. The fact is, there is one simple reality that our friends from Alaska avoid: 25 percent of the oil reserves of the world are in other countries. We use 25 percent. The United States of America uses 25 percent of the oil reserves, but we only have 3 percent. Any schoolkid can figure out that if you only have 3 percent of something and you are using 25 percent, you either stop using it or you are going to have to get it from those other people. That is exactly what we are stuck in today.

No matter what figure we give the Senator from Alaska—if I take the top figure of the Department of the Interior—and say it is $16 billion and you amortize that out, 1 million barrels a day, 365 days a year, so it is 1 billion barrels every 3 years or so——

Mr. MURKOWSKI. Will the Senator from Massachusetts yield for a question?

Mr. KERRY. I want to finish what I am saying. We have very little time. We are going to have weeks to debate this when we come back in January, and I look forward to that debate to a great extent because that is when we are going to help America view the possibility of alternatives.

For instance, in Europe, they have diesel engines. Their cars get 60 miles to the gallon with a diesel engine. It is exactly as powerful as many of our cars. The cars can go as fast. If you want to break the speed limit with your 60-miles-per-gallon diesel, you can break the speed limit, but you get 60 miles doing it.

We are going backwards. We used to get 27 miles per gallon. Now we are down to 22. We are doing worse than we were doing in 1973 when we said we would have to be energy independent.

Mr. President, there is a long litany, all the way through the years, that world consumption of oil is about 70 million barrels a day. We produce 8 million barrels. The amount that we produce, even if we included additional oil from Alaska, will never be sufficient to impact the price of oil in the world market. So when my colleagues come to the Chamber and suggest we are going to somehow change the price or increase the supply on a long-term basis, that is not true, and I will document it.

From 1972 to 1975, America produced more than 70 percent of our oil domestically. Oil prices climbed more than 400 percent when we produced it domestically. From 1979 through 1981, America produced more than 50 percent of its oil, and oil prices more than doubled. That spike was set off by a number of events: OPEC, the Iranian revolution, the Iranian hostage crisis, Middle Eastern production cuts, and the onset of the Iran-Iraq war.

Through all of 1991, we produced 50 percent of our oil domestically. Oil prices doubled. In 1999, we produced slightly less than 50 percent of our oil. Oil prices tripled from the historic flows.

The reverse has also been true. We have had low oil prices, and we have had high imports. When oil reached a near record low in the late 1990s, guess what. Imports climbed over 50 percent.

The fact is that U.S. production will not lower and stabilize the global price. Look at Great Britain. Great Britain is surplus in oil. Great Britain produces enough oil to export. They do not affect the global price as a consequence of even being independent. There is no British market for oil. Prices rise and fall in Britain with the world price, and we all know that for reasons of history, allegiance, economics, and national security, they are enmeshed in global affairs as we are.

I will quote Lee Raymond, chairman and chief executive of ExxonMobile:

> The idea that this country can ever again be energy independent is outmoded and probably was even in the era of Richard Nixon. The point is that no industry in the world is more globalized than our industry.

The conservative Cato Institute has said:

> Even if all the oil we consumed in this country came from Texas and Alaska, every drop of it, assume we didn't import any oil from the Persian Gulf, prices would be just as high today, and the main reason is that domestic prices will rise to the world prices.

That is the Cato Institute. Do not tell us in this Chamber this is going to affect independence. It is not. We cannot produce enough oil. Do not tell us it is going to affect world price because there is not an economist who suggests it will. Then the question is: So why are we doing this?

There is a better way than this alternative. We need to wean ourselves from oil, and we need to engage in a program—H.R. 4 is an extraordinary giveaway program that does not do any of the things we need to do in energy policy to create a truly independent nation.

I suggest this debate is going to be long, it is going to be interesting, and we are going to provide this country with a set of alternatives. I am all for helping the folks in Alaska. I admire the way both Senators are fighting for the people of their State, but we can find a better way to help the people in Alaska. There is an awful lot of oil. We should be building the natural gas pipeline tomorrow. If we want to help the people of Alaska, that is the best way we can create jobs.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am glad to have been here when the Senator from Massachusetts was speaking. He is a friend. We have visited one another and have shared the privilege of having wives who are great friends.

I say to my friend from Massachusetts, I hope if I ever stand on the floor of the Senate and make a pledge on behalf of the people of Alaska to do something for Massachusetts that my successors will honor that. I stood here and debated with the predecessor of the Senator from Massachusetts for a long period of time in 1977, 1978, and 1979. We finally ended up in Senator Jackson's hideaway for 3 days around the clock, and I mean around the clock.

We reached a conclusion, and that conclusion was an offer from the Senator from Massachusetts to me. It was: We will set aside 1.5 million acres up there so you can go ahead with that oil and gas development, but let us create this system of withdrawals in this State. Almost 100 million acres in Alaska were set aside at that time.

For 9 years in this Chamber we debated what was a national interest of Alaska's land. Nine years, Mr. President, and the Senator from Massachusetts, God rest his soul, Paul Tsongas, said in Senator Jackson's office: We can work this out. If you are willing to be reasonable, we will be reasonable. We will guarantee you that 1.5 million acres will be explored. Look at his record. In fact, when the time comes to get down to debating whether or not this bill will pass, I hope it will be considered by the Senate as the Alaska pipeline was, as that 1980 act was: without filibuster. The pipeline was made available to people in the United States by one vote. Vice President Agnew broke the tie and gave us the Alaska pipeline, which has brought 13 billion barrels of oil to the United States.

I hear the estimates that we have nothing more than a 6-month supply in ANWR. That is ridiculous. At the time we were debating the Alaska pipeline, they told us there would be approximately 1 billion barrels of oil, if you are successful. We have already produced 13 billion barrels of oil, and we have a 15- to 20-year supply at the current rate, but that is not keeping the pipeline full.

People say: Why do you want to go ahead with ANWR now? During the Persian Gulf war, there were 2.1 million barrels a day of oil sent to the south 48 from the Alaska pipeline. Today, it is 1.2. The pipeline is no longer full. The cost of Alaskan oil is going up because it is not full. We know there is oil to be produced.

This 6-month supply theory is a very interesting thing. I will stand on the other side of my chart so my friend can see it perhaps. This is a chart that shows what happens with increased production. If we have no new production in Alaska, this is the flow of oil out to 2050. If we produce in the Central part of Alaska, this is the flow of additional oil. If we go through the National Petroleum Reserve of Alaska—which is another area set aside, by the way, by President Harding after the Teapot Dome. It has never really been produced. Again, my friend does not like to be called a radical environmentalist. I think that is better than extreme environmentalist. In any event, this oil is not available to us because we cannot get in there to drill, either.

The important thing is, this is ANWR. If ANWR comes in, this is the increase in oil over this period between now and 2050 to the United States. Look at it. It is more than what is there now. We believe there is more oil in the Arctic National Wildlife Refuge area which is 1.5 million acres that was set aside for oil and gas production than we have in all of Alaska's remaining lands now.

This area is the most important area for our energy sufficiency. I am not talking about energy independence. It may be we could not get to be energy independent, but think about this: This area is basically not available to us. Access to the major pieces of the Outer Continental Shelf is not available to us. The entire NPRA is not available to us, and ANWR is not available to us. Look what would happen in the next 20 years if we did have it available to us. We would get up to the point where we are producing a great deal more, more than twice as much oil as we have available today from domestic production. Now that is energy sufficiency and it is energy independence in the sense of being able to exist through a period of crisis with our own production.

My friend wants to ask a question. I am glad to answer any question he has.

Mr. KERRY. Mr. President, I ask the Senator, that very large increase of blue is based on the best assumption of what might be findable, am I correct?

Mr. STEVENS. No, that is not correct. That is the medium assumption.

Mr. KERRY. How many billions of barrels does that assume would be present?

Mr. STEVENS. That is 10.3 billion barrels.

Again, I point out to my friend from Massachusetts, the estimate for the existing area of Prudhoe Bay was 1 billion barrels. We have produced 13 billion so far.

The mean estimate is 10.3. We believe it is a lot bigger than that. If oil is there, it is big. It is the biggest sedimentary basin on the North American continent if it contains oil. We do not know yet, but we will not know until we drill.

The real point is, though, we can have a decided improvement in our ability to rely upon our own sources in the event of a crisis if we really go in and open up this area and it is producible. Remember, it takes an act of Congress to open up. It is the only place in the United States where the Mineral Leasing Act was qualified by a provision of Congress, and I agreed to that. That was a Tsongas provision. It will take an act of Congress, passed by both Houses and signed by the President, to do this oil and gas exploration.

The area remains subject to oil and gas exploration until it has been explored. This will not become part of the Arctic National Wildlife Refuge until it is explored. It is reserved for oil and gas exploration, in effect, until we get permission to go in to see if it is there or not.

Mr. INOUYE. Will my good friend yield for a question?

Mr. STEVENS. Yes.

Mr. INOUYE. When we speak of ANWR, what are we talking about?

Mr. STEVENS. We are talking about the Arctic National Wildlife Refuge.

Mr. INOUYE. How large is that acreage?

Mr. STEVENS. It is 19 million acres. It was 9 million acres before 1980 as the Arctic Wildlife Range.

Mr. INOUYE. Of that, how much is proposed to be set aside?

Mr. STEVENS. This entire 19 million acre area is the size of South Carolina. Of that, 1.5 million acres was set aside as the Coastal Plain for oil and gas exploration. Of that 1.5 million acres area, we need just 2,000 acres to reach the vast amounts of oil and gas.

Mr. INOUYE. It is a small part of it?

Mr. STEVENS. The Senator from Hawaii asked a very good question. At the time that Prudhoe Bay was developed, we did not have today's advanced technologies, such as horizontal drilling. We can access the oil and gas from the entire 1.5 million acre area of this sedimentary basin from just 2,000 acres.

Mr. INOUYE. I recall during the pipeline debate many of my colleagues and friends were suggesting the pipeline would decimate the caribou flock. I gather now that it has increased tenfold.

Mr. STEVENS. In parts of the State, it has increased nearly tenfold. In the area of the pipeline, this 800-mile pipeline, without question every one of the herds has increased by at least a magnitude of 4, some as much as 9 times. In fact, two of the herds now stay nearer to production areas because the food and the improvement of their habitat has been so great.

By the way, because of acts of the oil industry, they went to our university and developed new strains of grasses and new approaches to vegetation, and those caribou herds do not migrate at all. The one that comes to the plain of the Arctic area into this 1002 area each year, it comes in from Canada. It migrates up. It spends 6 weeks up in the summertime. The Senator's question is very pertinent.

Mr. INOUYE. The pipeline has not decimated the caribou flock?

Mr. STEVENS. It has not, and this will not either because we do not do oil and gas exploration in the summertime when they are there. We have committed to be certain there would be no interference with the caribou migration.

Mr. INOUYE. I thank the Senator very much.

Mr. STEVENS. I thank the Senator for his questions.

What I think is important to do is to make sure the people understand that because of the decline in the throughput of that pipeline, the Trans-Alaskan oil pipeline, we now are sending less than half of the amount it was designed to carry on an average day to the Lower 48. It was filled because of the discovery of the great Prudhoe Bay oilfield, and there was a second field discovered at Kuparuk. This area has produced, as I said, 13 billion barrels of oil so far. One of the sadnesses I have, as I have already indicated, is that we had a commitment. That 1980 act would not have become law if the Senators from Alaska had opposed it. The whole Congress knew that. It had almost become law in 1978 and my colleague objected, and we went back through the process. The process came to fruition at the end of 1980. The act passed before the election. President Carter did not sign this bill before the election. After the election but before leaving office, after President Reagan had been elected in the fall of 1980, President Carter signed it. In fact, he invited me to come to the White House at the time. President Carter signed that bill, and he and others now raise objection to the provisions of the law he signed into law.

It is the feeling that one Congress cannot bind another, but the statement of a Senator representing a State and a party ought to be binding upon the Senate. We had exchange after exchange over the 1980 Alaska National Interest Conservation Lands Act, and I thought those commitments were worth believing. I believed it when the Senator from Massachusetts, Senator Tsongas, said he would stand by this concept of a promise that this area would be explored and developed if it proved to have oil and gas. I trusted my late and dear friend Senator Henry Scoop Jackson of Washington when he called us up to his office and said we have to listen to Senator Tsongas because he is making an offer that is real; it was real.

Twenty years later, I am still in the Senate arguing for the Senate to observe the commitments that were made to our State and to the people of the United States.

While I have this chart, I hope everyone will understand—the Senator from Hawaii asked about it—this is the State of Alaska, obviously. Alaska is one-fifth the land mass of the United States, 20 percent. It extends from one end of the Lower 48 to the other. It is almost as wide as the United States, and from Barrow down to Ketchikan it is like going from Duluth to New Orleans. This is an enormous area.

People ask: Why don't they go out here to NPRA and develop leases? Because there is no transportation system. It takes a monstrous development of oil to support an 800-mile pipeline and run it a full 365 days a year. Currently, we are running half full.

The wilderness area is the area colored in brown, the 1002 area on the Coastal Plain is in green. It was guaranteed to Alaska to be available for oil and gas exploration. With new technology, we propose to use just 2,000 acres. It is impossible to believe there is such a battle over that. I point out, in this we call the Arctic National Wildlife Refuge Coastal Plain, set aside for oil and gas exploration, is a native village, the village of Kaktovik. Adjacent is the Sourdough Oil Field. And 100 miles west are the two largest deposits of oil and gas on the North American Continent today and they are both producing.

Why do we do this? What is the national interest now? If ANWR is open, 735,000 jobs will be created throughout the United States to get parts, people, produce—everything that is necessary to develop an area and support its development that far away from what we call the contiguous 48 States.

This is a forecast made and relied upon by the great labor unions of this country that I am proud to say are supporting our position that this area ought to be opened to oil and gas development. The Senator from Massachusetts said we should build a gas pipeline. Yes, we should. However, a gas pipeline is more affected by price than the oil pipeline. Gas in our country fluctuates in great variation. Just 18 months ago we saw rolling blackouts in California and record high natural gas prices. Now that is not going on because of a different price structure and infrastructure for delivering the resource and varying market conditions.

What we do not have is another enormous areas in the United States to explore and develop with the same potential of the Arctic Plain.

Despite everything I have said, I will oppose the cloture vote for this amendment. I believe the underlying bill, the Railroad Retirement Act, is essential to a great portion of the families of our working people who have retired. I deplore the fact we have to have a cloture vote to get this bill acted upon. Having our own bill up there will mean, because of the passage of time, now we have to the end of this Congress. When we first started this we thought we had time to get H.R. 4 considered and the Railroad Retirement Act passed, too. I don't see that happening now. I intend to vote against cloture, although our provision is in it, even though the ANWR provision is in H.R. 4. We ought to get down to the business that is very meaningful to a great number of families. There are some families in Alaska affected by railroad retirement issues, but only a few.

The families of former railroad workers should be assured we are considerate of their needs and understand their position. I hope that bill will pass, go to conference, and be approved after a conference. I understand there are a couple of provisions to which the administration has objected. I hope they can be resolved. I don't think they affect the basic provision of the retirement system.

I yield the floor.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I comment relative to the statement by the senior Senator from the State of Alaska. Our President has asked specifically that the Democratic leadership pass three bills: Trade promotion, energy, and the economic stimulus bill. It seems to me the leadership has been reluctant to do so. The justification for that is beyond me other than, clearly, it is fair to say the objections, to a large degree, are centered around the energy bill.

I will continue my dialog relative to what we are doing. It is Monday afternoon and we have an underlying railroad retirement bill with two amendments: One is cloning and the other is H.R. 4, the energy bill. To make sure anyone that perhaps has misunderstood the statements on the other side relative to the tax portion, in our bill there is no provision for tax increases. That $33 billion in the House bill is not in this version of H.R. 4. The inconsistency is because the Democratic leader has refused to negotiate on the requests of our President: Trade promotion, energy, and the economic stimulus. Instead, he is moving ahead, now with the railroad retirement and the farm bill next.

Is it not rather interesting that we cannot at this time get an energy bill up when, clearly, we have a crisis in the Middle East? It is interesting to reflect on the comments associated with the leadership in the Senate. It is clear that the Senator is blocking a vote precisely for one reason. He knows Alaskans have the votes to pass out an energy bill in this body if given an opportunity. Has he given this opportunity to us? Clearly, he has not. He has indicated in several statements: My comment is we will raise the issue, debate it, and have a good opportunity to consider energy legislation prior to the Founders Day break in mid-February.

If the leader would conclude by suggesting we would resolve it by then, in other words, by Founders' Day, or at some specific time, then I think we could have a fair vote. All we are asking is for a fair vote on the issue.

He indicated further: There will be votes on ANWR, but I'm not at this point ready to commit to an up-or-down vote.

He is saying we will have to overcome a cloture vote. We cannot have a simple majority vote. The inconsistency goes further. Senator STEVENS references several items; I go back to a personal item, the attitude of the people living in the North Slope of Alaska. Those who have gone up there and taken advantage of the invitation have come back with the sincere appreciation and understanding that these people are Americans, they have a right to life, they have a right to look towards a future based on reasonable economic development prospects, health benefits, and so forth.

I ask unanimous consent to have printed in the RECORD upon completion of my statement a letter from the president of the Arctic Slope Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit No. 1.)

Mr. MURKOWSKI. He indicates:

> DEAR REPRESENTATIVE: The decision to allow oil and gas development in the Coastal Plain of the Arctic National Wildlife has significant impacts on our effort to make a success of the very directive of Congress in ANCSA. Our self determination is at stake. It is fundamentally unfair, dishonest, and potentially unlawful to deny us the right to see our land and the small area of the Coastal Plain opened to exploration of development. Congress made a deal with our people and we have tried hard to play by the rules.

Now it is denying us that progress.

Here is a picture of a building in Kaktovik, including the community hall. There are two people, the boy on the bicycle and the older man on the snow machine, which represents the significance of the picture. We have some other pictures here showing some of the kids. I do this so we can get a feel for the real, warm, personal association of what this means to the people of Kaktovik.

The letter further states:

> By locking up ANWR, the Inupiat people are asked to become museum pieces, not a dynamic and living culture. We are asked to suffer the burdens of locking up our lands forever as if we were in a zoo or on display for the rich tourists that can afford to travel to our remote part of Alaska. This is not acceptable.

I think that is an appropriate comment.

Further:

> The Inupiat of the North Slope have lived and subsisted across the Arctic for thousands of years. Learning not only to survive, but to develop a rich culture, in the harsh environment of the Arctic has instilled a deep respect and appreciation in the Inupiat Eskimo people for that environment and the animals that inhabit our area. We don't need outside "environmentalists" telling what to do with our homelands. Our own development standards and the controls imposed by our locally controlled borough government will ensure that these lands are protected. It is our people that live in ANWR, particularly the Coastal Plain of ANWR. . . .

He concludes this letter by saying:

> I beseech you to search in your heart to do what is right for my people. Do not let the misguided intent of a few do harm to the Inupiat Eskimo. Do not defeat the very Act you passed a generation ago. Support the passage of legislation to open the Coastal Plain of ANWR to oil and gas development. I and my people—the real people—thank you for consideration of our request.

That is the reference in the reflection from the people who are affected by this action.

We have little notes here, many of them supporting opening the ANWR development because it gives them opportunities. These are opportunities that your children and my children perhaps take for granted. What are they supposed to do? Are they supposed to be isolated? They have a landmass of about 95,000 acres I can show you on this chart. There it is, right in the middle of the 1002 area, right in the middle of the 1.9 million acres of land we are talking about. But 95,000 is private land, owned by these Native people. Until Congress gives them the right to initiate exploration, they cannot even drill for natural gas on their own lands to heat their own homes. That is an absolute injustice. None of the speakers talks about the people of the area. They ignore the people. They do not want to acknowledge that there is any existence of a footprint of man up there. That is a rather blatant and I think inappropriate way to simply dismiss this matter.

The assumption is this area has never been touched. It has been touched. There is the village of Kaktovik, the people who live there, their homes, their generators. They have a dependence on a way of life. By putting a fence around them and not allowing the appropriate opening, we clearly are disenfranchising them as some other class of American citizens. I find that terribly offensive.

I think each Member should reflect a little bit on the realities. I have to acknowledge my expertise based on having visited the area, having met with the people, and having an understanding. But my opponents can just generalize and brush it off, that the concerns of the people of the area do not amount to anything.

Furthermore, as we look at some of the statements that have been made about the coastal area—I am going to put up a chart. The statement has been made that 95 percent of the coastal area is open for leasing. That is absolutely wrong. That is absolutely wrong. Mr. President, 14 percent of Alaska's arctic coastal lands are open for oil and gas exploration. There it is. It covers the entire breadth from the Canadian boundary, past Point Barrow, around to Point Wales.

The fact is, only 14 percent of Alaska's arctic coastal lands are open to oil and gas exploration. These are the lands that are owned by the State of Alaska between the Colville and Canning Rivers. If the ANWR Coastal Plain were open to exploration, the total would only rise to 25 percent.

The breakdown on that is that the ANWR Coastal Plain is 11 percent, ANWR is about 5, the National Petroleum Reserve is 52 percent. That area is not open. If you look at the area, you can see numerous lakes. There is legitimate environmental concern associated with activity in those areas, and that is why leases have not been granted by the Department of the Interior.

As we look through the general discussion on this issue, all we want is an up-or-down vote on the issue of an energy bill. That energy bill should contain ANWR.

The position we have been put in is rather extraordinary. As a Senator, I resent it. The authority has been taken away from the committee of jurisdiction, the Energy and Natural Resources Committee. It has been taken over by the Democratic leadership; they say they will introduce a bill very soon, perhaps this week. But that bill has not had a hearing, it has not gone through the Energy Committee.

We have had 14 years or more of ANWR in the Energy and Natural Resources Committee. We have had over 50 witnesses. We have had over 14 hearings. We are ready to go with a bill that has already passed the House of Representatives. That is H.R. 4. That is what is before us now.

As a consequence, what the Democratic leadership has decided to do is simply take away the authorization from the committee process and direct it simply from the office of the majority leader to the floor of the Senate.

I do not know whether that is the kind of debate he is talking about at a later date, but I am not going to sit by and lose opportunities to object to unanimous consent request until we get some kind of agreement from the Democratic leadership that we can have an up-or-down vote on an energy bill in a time sequence that reflects the ability to complete it.

The idea of coming in when we come back in January and starting a debate on the issue, and then pulling it down, is just not good enough.

I think the support associated with this issue has gained a broad enough base that we could simply demand it, and the political downside to it, from those who are in opposition to it, I think is significant. What you are going to have to do is vote on what is right for America. If we do not develop this area in Alaska, we are going to bring in oil to California, Washington, Oregon—the west coast of the United States. Do you know how it is going to come in? It is going to come in foreign vessels, not come down in U.S. flagged vessels, as Alaska oil must come down under the Jones Act. It is not going to result in 19 new double-hulled tankers being built to bring Alaska's oil down to the west coast. It is going to come down in foreign tankers with foreign crews. So we are looking at a stimulus package. We are looking at jobs.

To suggest it is a 6-month supply, Senator KERRY already acknowledged that was not a fair association. To suggest it is a 10-year process is totally unrealistic. We could have oil flowing within 18 to 24 months because we only have to put in a lateral pipeline. To suggest the Porcupine caribou herd is going to be impoverished is absolutely without foundation, based on our experience with the central arctic herd that has grown from 3,000 to 26,000.

Take them down the line. The emotional arguments used are based on environmental groups that use this issue for membership and dollars, and it has been great for them. The American public is starting to wake up now and say: Hey, wait a minute, why can't we open there? Don't we need the jobs? Don't we have a recession in jobs? This is going to create 240,000 jobs. We need to have jobs in this country. We need to build ships in our shipyards.

I grant we are not going to eliminate our dependence on imported oil, but we can reduce it. Isn't that good for America? Isn't that good for the balance of payments? These are positive. That is why the unions are for it. The environmentalists are saying, no, you can't do it, but they give different reasons, none of which holds water or oil. They simply are a flash in the pan.

When you start looking at the groups that support this, it is a broad group. It is the veterans. It is the unions. It is the senior citizens. It goes right down the line, on and on. These people are saying: Let's wake up to a reality. The reality is we need this action in the United States, and we need it now, and we should have it.

As we look at the general list of those who support it, it is growing all the time. We have all the major Jewish organizations.

Let's reflect on their individual interests. The Jewish organizations look at the future of Israel, as they should: They look at it very meaningfully because of what has happened in that part of the world. They know what funds terrorism. It is oil. The wealth of OPEC and the wealth in areas associated with that part of the world is accumulated primarily by one thing. That is the accumulation of oil. What funds bin Laden? Where did his association with Saudi Arabia and his background with those things come from? Those things came, very frankly, from the association with oil.

As we look at the current situation with Saddam Hussein, how ironic. How inconsistent can we be? I have said this in this Chamber time and time again. I know the Chair recalls it. We are buying a million barrels of oil from Saddam Hussein. We are using his oil to go back and take out his targets. He uses our cash for an obvious purpose: To take care of his Republican Guard, and perhaps develop missile capability and aim it at Israel.

What has happened? This should bear on the conscience of every Member. Within the last 2 weeks, we have lost two American sailors. They were doing their job. They were boarding a ship coming out of one of the ports in Iraq that was smuggling illegal oil. It was apprehended by the U.S. Navy. The ship sank, and two of our sailors drowned.

Talk about connections and interactions. I will not make a direct link. But the pathetic part of this is that should never have happened. We should not be buying oil from Saddam Hussein. The U.N. in their oversight of that particular process should not be allowing blatantly illegal exports of oil out of Iraq. It is happening every day. It has cost us two lives.

When we get down to voting on these measures, we have to look at what is right for the environment, right down the line: Can we open it safely? What is the footprint? It is 2,000 acres out of 19 million acres. It was said the other day Robert Redford has an 11,000-acre farm in Utah, as a matter of comparison. Can we protect the caribou? Yes. Do we need the oil? Yes. Do we need the jobs? Yes. Does it affect the economy of this country? Yes. Does it affect our balance of payments? It is a plus-plus-plus. Almost everybody can figure it out, except some people who are wedded to the dictate of America's environmental community.

The most pathetic part of it is, with one exception, the speakers today have never chosen to visit the area. They have never chosen to talk to the people who live in the area. They have never thought to consider the personal relationship of these people and their own hopes and aspirations.

As we look at the coming situation, I can honestly say I fear for the west coast of the United States because if they don't get their oil from Alaska, California, Oregon, Washington, and Utah are going to get their oil directly from overseas in foreign flagged vessels built in foreign yards with foreign crews. It seems to me the most secure source you can get it from is a little north of the west coast. That happens to be in my State of Alaska.

Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Sixteen and one-half minutes.

Mr. MURKOWSKI. I thank the Chair.

I think it is important for Members to recognize just what my position is in this rather awkward situation with railroad retirement and the energy bill.

I regret that the majority leader has placed us in the situation we are now in, but we are here. I want to explain why I will oppose cloture on both the Lott amendment and the substitute amendment the majority leader offered. As a consequence, I will be voting against cloture.

I will oppose cloture on the Lott amendment for two reasons.

First, I have always said our national energy security demands a full, open, and honest debate. We have been precluded from having a full debate on this issue. The time may come when cloture needs to be invoked on the legislature on a particular amendment, but not at the outset. Cloture on the Lott amendment would limit that full, open, and honest debate. I don't believe it should be limited.

Second, the authorization text of H.R. 4 was filed—the House-passed energy measure. This is not the text that I believe the Senate should enact without change.

There are a variety of amendments that I believe the Senate should consider. One is an extension of Price-Anderson. That will be foreclosed as nongermane if cloture is invoked.

As you may know, I am more than a little frustrated that we have been sitting around here when we could have been debating an energy bill from the Energy Committee. But that opportunity was taken away by the Democratic leader.

I am going to vote against cloture on the Daschle substitute because he has offered no other alternative apparently for the remainder of this year. If cloture is invoked, the Lott amendment falls as nongermane.

Once again, the majority leader has frustrated the Senate and the American people in dealing with the energy policy. When I say "frustrated," I mean not allowing it to come up—taking it away from the authority of the Energy Committee, which has jurisdiction.

Until we get this matter resolved, there is the only way that the Senate can debate energy policy—by defeating both cloture motions. If both cloture motions are defeated, where will we be? H.R. 10, the House pension reform bill, will be before the Senate, and the Daschle substitute on railroad retirement will remain intact. Pending will be the Lott amendment that adds energy legislation to the Daschle substitute, and that amendment will be open to a second-degree amendment.

I fully support dealing with railroad retirement. In fact, I am going to vote for it.

If the majority leader would stop this charade with our national security and provide an opportunity for the Senate to work its will on energy and proceed to conference with the House on H.R. 4, I would be happy to take my charts out of the back office. As it is, the closest we seem to get to the consideration of an energy bill is perhaps a lump of coal in the majority leader's stocking.

The only way for the Senate at this time to have a full, open, and honest debate on energy policy is to defeat both cloture motions and begin that debate, which we are ready to do.

I apologize again for the manner in which this has come up, but the majority leader has given us no alternative. Apparently he intends to proceed that way. We will have to use whatever parliamentary precedents are available to get this bill up, or get a commitment from the majority letter that he will allow an energy bill to be taken up at a certain time and conclude it by a certain time. I will not agree to simply take it up and not giving us some kind of inclusive date on it.

I yield the floor.

EXHIBIT NO. 1

ARCTIC SLOPE REGIONAL CORP.,
Anchorage, AK, July 30, 2001.

DEAR REPRESENTATIVE: I am writing this letter on behalf of my people—the indigenous residents of the North Slope of Alaska. Thirty years ago the U.S. Congress put us on a path to modern corporate development with the passage of the Alaska Native Claims Settlement Act (ANCSA) and establishment of our regional corporation—the Arctic Slope Regional Corporation. Congress essentially told us (we rally had no choice) to take some cash and land, in exchange for our aboriginal land claims, and "have a go at" making those assets into an economic enterprise. Despite the fact that most of the potentially valuable lands for resource development were off limits to our initial selection of lands, we made the best of it and put together a land portfolio with resource and habitat values. We now find ourselves with our fate once again in the hands of Congress.

The decision to allow oil and gas development in the Coastal Plain of the Arctic National Wildlife has significant impacts on our effort to make a success of the very directive of Congress in ANCSA. Our self determination is at stake. It is fundamentally unfair, dishonest and potentially unlawful to deny us the right to see our land and the small area of the Coastal Plain opened to exploration and development. Congress made a deal with my people and we have tried to play by the rules—now it is denying us that promise. The corporate model imposed by ANCSA was an intentional decision by Congress to avoid the path pursued with Native American tribes in the lower 48 states and their history of broken treaties. Now, however, we find ourselves in a situation of having the commitments made in the potential benefits of ANCSA for the Inupiat people being "broken".

We have tried to keep our side of the bargain, even if we did not have a choice and gave up many, many times the value of what was received in return. The Inupiat people have taken the values of the western culture and corporate America and the traditional values of our people to blend them into a culture that will survive far into the future. Our subsistence lifestyles and ties to the land and sea continue while we also participate in a cash economy. We have made strides in educating our people and providing basic services that simply did not exist in any form in our communities when ANCSA was passed. ANCSA was a great social experiment that has had many successes. But it now appears that Congress does not want to keep its side of the deal; it wants to defeat the very experiment it mandated must be followed. By locking up ANWR, the Inupiat people are asked to become museum pieces, not a dynamic and living culture. We are asked to suffer the burdens of locking up our lands forever as if we were in a zoo or on display for the rich tourists that can afford to travel to our remote part of Alaska. This is not acceptable. But, maybe we shouldn't be surprised.

The Inupiat people that live in ANWR, the residents of the village of Kaktovik, are no stranger to the heavy hand of the federal government. It was not that many years ago that the U.S. military came to the village of Kaktovik and bulldozed homes of people without the smallest amount of human dignity or respect for the people living there. There was no explanation, no compensation and no apology to the families that were literally thrown out of their homes—and it happened more than once. Anecdotal comments after the fact indicated that the officials involved considered the Eskimo people's homes "just shacks" anyway and the people themselves hardly due treatment as human beings. These are well documented but seldom told stories. This history hardly gives the Inupiat people faith that they can expect fair treatment at the hands of the federal government. To have the purposes of ANCSA so boldly frustrated only makes this worse.

The Inupiat of the North Slope have lived and subsisted across the Arctic for thousands of years. Learning not only to survive, but to develop a rich culture, in the harsh environment of the Arctic has instilled a deep respect and appreciation in the Inupiat Eskimo people for that environment and the animals that inhabit our area. We don't need outside "environmentalists" telling what to do with our homelands. Our own development standards and the controls imposed by our locally controlled borough government will ensure that these lands are protected. It is our people that live in ANWR, particularly the Coastal Plain of ANWR, because we are traditionally a marine coastal and nomadic people. We are fully capable of balancing development and environmental protection for the long term value of the entire nation. For us it's a matter of life or death; we do not eat without the animals. Our life and our culture are tied to the land, the sea and the animals. Even with the changes brought about by ANCSA and a developing cash economy, our people maintain these ties. But, do not ask us to give up all chances for realizing the promises of ANCSA and bear the burden of supposedly preserving an area for the entire nation. That is patently unfair and misguided because it is not threatened by the small amount of development that would actually occur for oil and gas activities. Furthermore, none of this development would take place in the areas of ANWR that are classified already as wilderness where so many of the scenic vistas are located that have been used to cloud the issue about development on the more northern Coastal Plain.

Much has been said about who are the "real" people of ANWR that are at risk by potential oil and gas development. It is the residents of Kaktovik that live there. While the Gwichin to the south also use the caribou that migrate through the ANWR area, they are not Inupiat which is literally translated as the "real people." Years ago we might have feared development, but we have learned that development and subsistence can coexist. The Gwichin chose to opt out of the provisions of ANCSA, that was their choice. Their position, which we still feel is fundamentally flawed, should not be allowed to frustrate the commitments of ANCSA that we did choose to accept.

I beseech you to search in your heart to do what is right for my people. Do not let the misguided intent of a few do harm to the Inupiat Eskimo. Do not defeat the very Act you passed a generation ago. Support the passage of legislation to open the Coastal Plain of ANWR to oil and gas development. I and my people—the real people—thank you for consideration of our request. Quanukpuk.

Sincerely,

JACOB ADAMS,
President,
Arctic Slope Regional Corporation.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, today's vote on the Lott amendment will be the beginning of the debate on two very important issues. One of them has to do with an energy bill, which, as we all know, our majority leader has scheduled for debate in less than 60 days.

This particular version contains drilling in the Arctic National Wildlife Refuge, as my colleague has discussed for many days now.

My view is that if there are other ways to have an energy policy that leaves the wildlife refuge intact, I am for it. I will point out ways to avoid drilling in such a refuge.

The second issue that is combined with it deals with stem cell research.

In our vote, we will answer the question: Should we in this single vote not only say yes to drilling in ANWR but also say yes to derailing stem cell research by stopping it dead in its tracks, really, without looking at it?

I don't see any problem in banning human cloning. I think we would get 100 to 0 on that one. It is a very easy thing that we can do. But why would we want to derail stem cell research?

I am certainly willing to vote no on the Lott amendment that contains both of these issues: Drilling in the Alaska wildlife refuge and stopping stem cell research.

The Senator from Alaska is quite open on the point of drilling and makes the case very well.

He brings up a number of issues. First of all, he criticizes people who are for retaining the wildlife refuge if they have not actually gone to see it. Let me say that many of us have and some of us have tried. I sent one of my top environmental aides there and got a full report on it.

The bottom line is, the Senator from Alaska and others have not seen every single national park, have not been into the Sierras in my State, into every little town. Yet they weigh in on logging debates. So that is a bogus issue.

The issue is, How do we have better energy independence? I think I speak with some authority—a little bit, in any event—because in our State of California, we were hit with a horrific shortage of electricity, and it was even predicted we would have brownouts and blackouts and there would be rioting in the streets. The bottom line is, because the people in my State understood this, they began to be energy efficient, making very small changes in their daily lives that never even impacted on their comfort, really. We have saved about 11 percent in our energy use. We avoided all of these problems.

My friend talks about the creation of jobs. This is an important issue. I know some of the unions are backing drilling because of that. Let me say to my friend, the fact is, if you produce energy-efficient appliances, you create many jobs. If you produce energy-efficient automobiles—hybrid vehicles; so many other ideas: electric cars—you will produce jobs. Alternative energy in itself produces jobs, whether it is solar power, wind power, whether it is biomass—all of these create jobs, and not only good jobs, but the whole green technology is a technology that we can export around the world as the whole world looks for ways not to choke on gasoline fumes. We can do it. We can do it and meet our energy needs and become independent of imported oil.

I find it so interesting when my friends from Alaska talk because they fought me when I wanted to make sure there was a ban on exporting Alaskan oil. We used to have that in place because I made the point, as many of my colleagues did at the time, that we needed that oil to stay home in America because we wanted energy independence. But both my friends fought to allow us to export Alaskan oil. I find it very interesting.

So we have so many ways we can win this energy battle. One way is to raise the fuel economy standards of automobiles. Just take SUVs. If the SUVs met the same standard as a regular sedan, in 7 years we would save as much oil as there is in ANWR.

Mr. President, I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Thank you, Mr. President.

Let me repeat that. If we simply did one thing, and that is, got the SUVs to have the same fuel economy as a sedan—and, by the way, that is quite doable—we would, in 7 years, have "produced" enough oil to equal that of ANWR by saving it. By the way, that happens exponentially. In the next 7 years, there is another ANWR. Every 7 years you save another ANWR.

So to stand in this Chamber and say the only way to become energy independent is by drilling in a refuge I just do not think stands the light of scrutiny.

I am looking forward so much to having the debate on the energy bill, as Senator DASCHLE has promised. He is very interested in having that debate, as well, but he does not want to have that debate up against the December timeframe when we have so much to do relative to economic stimulus, when we are looking at bioterrorism. We must get the vaccines in place for smallpox. There is so much we need to deal with, including the appropriations conference reports. So I think Senator DASCHLE has done the right thing by setting aside a time, within 60 days, when we can have this debate.

The President, using his Executive powers, overturned a rule that President Clinton put in place that said that air-conditioners should become more efficient. That particular rule was even supported by many of the people in the industry itself. By canceling that, we are again being beholden to Middle East oil. So there are so many things I want to talk about when that energy bill comes before us.

In California, I drive a hybrid vehicle. If people look at you and say that sounds very strange, well, you fill it up with gas, just the same way you do any other car, and the computer within the car knows when it is more efficient to be running on gas or running on electricity. When you step on the brake, it charges the battery. So we are getting about 50 miles to the gallon.

As someone who has been sharply critical of the increase in oil prices, finally they have come down. I am convinced regulatory agencies will not do a thing about high prices. We had them cold on what I believe was very close to price fixing. We had them cold on harassing independent station owners who wanted to lower prices. We had them cold on that. But we could not move the regulatory agencies.

One way you fight back is you drive a car that gets 50 miles to the gallon. You can do it. You can buy it pretty cheaply. I encourage people to do that. So I do look forward to taking up the energy bill.

On the issue, again, of stem cell research, this is one that is so important. I have seen a list of the groups that oppose Senator BROWNBACK's 6-month moratorium. I think it is very important because sometimes you learn a lot from supporters and opponents.

Let me read to you the list of opponents to the 6-month moratorium on stem cell research: Alliance for Aging Research, Alpha One Foundation, American Academy of Optometry, American Association of Cancer Research, American College of Medical Genetics, American Infertility Association, American Liver Foundation, American Physiological Society, American Society for Reproductive Medicine, American Society for Cell Biology, American Society of Hematology, Association of American Medical Colleges. All of these, and more, oppose, very strongly, a 6-month moratorium on stem cell research.

Here are some others: Association of Professors of Medicine, Biotechnology Industry Organization, Coalition of National Cancer Cooperative Groups, Cure for Lymphoma, Genetic Alliance, Harvard University, Hope for ALS, the International Foundation for Anticancer Drug Discovery—and it goes on—the Juvenile Diabetes Research Foundation International—those folks came to visit many of us in our offices—the Kidney Cancer Foundation, Medical College of Wisconsin, Mount Sinai School of Medicine, National AIDS Treatment Advocacy Project, National Patient Advocate Foundation, Research America, Resolve, Society for Women's Health Research, and it goes on.

So the bottom line is, we have a chance today, by voting against the Lott amendment, to send two very important messages: Yes, we want an energy policy, but we want it to be well thought out. There can be differences on whether the Alaska Wildlife Refuge is pristine, whether it is worth saving. I am willing to get into that debate. That is a fair debate. But wouldn't it be an interesting debate to find out what our other options are and then to decide if it is truly worth the gamble? People I know and respect say it isn't worth the gamble. And on stem cell research, clearly, it is time to continue this research while we ban human cloning. The Brownback amendment does not do that.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I am aware that the other side has until 4:45. I ask unanimous consent to speak as though we had reached 4:45, which starts the time running for our side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

REMEMBER NEW YORK

Mrs. CLINTON. Mr. President, I rise today, as I did several times last week and before, to remind all of us, and especially my colleagues, of the destruction and devastation that took place on September 11, and persists today, nearly 12 weeks after.

Tomorrow will be the 12th week since we were attacked on September 11. The New York City Partnership and Comptroller estimate that the economic impact of the attack will near $100 billion in damage for New York's economy. Today, 83 days after the attacks on our Nation, thousands of the businesses and residents who were physically displaced by the destruction, by the loss of power and telephone access, by the debris removal efforts, by the poor air quality, by the crime scene designation, are still awaiting some help, any help from the Federal Government.

Our Constitution guarantees to protect every State against invasion. The President said in his joint address to Congress just 10 days after the attacks:

> We will rebuild New York City.

That same day earlier, my colleague, Senator LOTT said, while visiting New York:

> We are here to commit to the people of New York City . . . that we will stand with you.

Congressman GEPHARDT, the House minority leader, said in his weekly radio address:

> We will work to make the broken places right again. We will rebuild New York.

Eighty-three days since the terrorists chose to attack America by attacking New York and having lost thousands and thousands of innocent lives, we are still taking stock of the damage that we, as a city, a State, and a country have suffered. We know we can't get those innocent lives back, and every day I and my staff work with the families who lost their loved ones trying to make sure that they do get the help they need.

In addition to the lives that were so brutally taken, those attacks also took many livelihoods. We can do something about that. Yes, we did lose 15 to 20 million square feet of office space; nearly one-third of all space in Lower Manhattan, either completely destroyed or seriously damaged. Yes, we did have extensive damage to our transportation system, and it has been devastating for thousands of people trying to get to work not to have those subway lines, not to have that PATH train coming in right under the river, underneath the World Trade Center. We know the kind of damage that our small business owners have been suffering has been devastating.

What has happened is the attacks, because of the loss of transportation and because of the crime scene designation, have displaced over half a million commuters who travel to Lower Manhattan. We have 10 subway stations that usually handle about 40 percent of the downtown commuters that have been closed throughout most of October. That is why we recognize we can't possibly do this without the help of America.

Estimates to rebuild the 1,700 feet of collapsed tunnel on the 1 and 9 subway lines directly beneath the World Trade Center are in the billions of dollars. The same is true of the estimates to rebuild the PATH train station that brings commuters from New Jersey into Lower Manhattan. We also have been told it will take up to $250 million to repair the damaged streets around the World Trade Center. And still, as we speak, almost one-third of Lower Manhattan permits only restricted vehicular access because of the crime scene designation.

These are cost estimates only of direct impact and damage, not future losses, not lost revenues. These are the costs for hazardous material removal, for site remediation, for capital costs for rebuilding.

New York City, it is estimated, is likely to lose 125,000 jobs in this fourth quarter. We already lost 79,000 jobs in October alone.

These are staggering numbers, but they only tell half the story because I could literally fill this Chamber with people who have seen their businesses devastated, who have lost their jobs. The quotes we see from so many of our leaders have been comforting and very supportive, but we know that we need more than comfort. We need more than rhetoric. We need tangible support. It is imperative that we get as much of that support as possible.

I personally think it is very similar to the other devastating crises that have hit our country. Most of them were natural disasters, but we also can't forget Oklahoma City. We can't forget the New Mexico fires. If you look at past disasters, the Federal Government, through our Congress, responded appropriately and swiftly. The Congress came together in a time of need, whether it was Hurricane Hugo or the Northridge earthquakes or Oklahoma City.

This chart illustrates the level of Federal response after just a few of a sample of major disasters. In each case, the Federal response was nearly 40 percent of the estimated economic loss. In New York City, a comparable amount would be 40 percent of the approximate $100 billion of economic damage. Yet we haven't received, in as timely a manner, the percentage share that others have.

The appropriated assistance that came within 3 to 4 months after the Midwest floods was more than 40 percent. After the Northridge earthquake, 26 days after, more than 30 percent of the total loss had already been appropriated; after the Oklahoma City bombing, within 99 days, more than 40 percent.

What do we have? We have a few billion dollars that have been sent to FEMA to help pay for the costs that have been incurred, and that is it. We don't have a special appropriation that has been passed. We don't have an emergency supplemental. We are counting on getting that in the next few days because we want to be sure that New York gets the money appropriated that we need to have to count on to get about the business of rebuilding and restoring. And 79 days later, when this chart was made—now we are at 83 days—we were below 5 percent, far below the pace of what was done for other major disasters in our country.

If you look at the headlines from other major disasters, "One Month After Hurricane Andrew"—which I visited in 1992, the site of that devastation, "Bush," the first President Bush, "approves $11.1 billion in Hurricane Aid." It didn't take long at all to get that money flowing. Compare where we are with the damage done to New York.

After the 1993 Midwest floods, 7 months after, "Families Pour Out Praise For Flood Agencies." They not only got the money appropriated, they got the money delivered. And people were satisfied their needs were being met.

The Northridge earthquake, 24 days after that devastating earthquake, "$8.6 billion Quake Aid Ok'd by Senate." We are nowhere near that pace. We are at 83 days, and although we did—and I am grateful for it—appropriate dollars in the immediate aftermath, we haven't gone back to appropriate them to actually get them out and be spent to take care of the problems we have.

The Cerro Grande fire, which was a fire set by the Federal Government, a fire that was meant to stop other fires—of course, we know the results were disastrous—44 days after that fire, "Los Alamos Welcomes Federal Aid."

I was pleased, both as a citizen and as an onlooker with a great deal of interest over 8 years, to see how well our country came together to deal with our emergencies. Compare those headlines with where we are right now in New York: "New York Needs Help Now to Rise from the Ashes," November 19; "New York Financial Core Wobbles from Attacks' Economic Hit," November 26; since September 11, "Vacant Offices and Lost Vigor," November 21; "Terror Attacks Have Left Chinatown's Economy Battered," November 25; "A Nation Challenged: Small Shops Feel Lost in Aid Effort."

The PRESIDING OFFICER (Mr. CARPER). The time controlled by the majority has expired.

Mrs. CLINTON. Thank you, Mr. President. Again, I hope that we will respond with equal vigor and expeditious treatment to deal with the problems in New York, as our country always has in previous disasters.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I inquire as to the time agreement. It is my understanding there are 30 minutes on each side remaining; is that correct?

The PRESIDING OFFICER. At this point in time, until 5:10, it is controlled by the minority.

Mr. MURKOWSKI. Until 5:10?

The PRESIDING OFFICER. Yes. The majority leader, then, has 5 minutes with which to close.

Mr. MURKOWSKI. Let's run through that one more time. At 5:10, the minority time expires. Then the vote is set for 5:45?

The PRESIDING OFFICER. 5:15.

ENERGY POLICY

Mr. MURKOWSKI. Mr. President, let me again reflect on where I think we are. We have chosen to try to get an energy bill before this body all year. We introduced an energy bill late in January in the Energy and Natural Resources Committee. Hearings were held. We had a little change of leadership that resulted in a situation where we could not get the bill brought up in committee. In the meantime, of course, the House of Representatives did its work. It passed H.R. 4, which was an energy bill. It was a good energy bill. It had virtually everything that we felt should be addressed in the body of the bill because it addressed, if you will, not only renewables but alternatives, as well as new sources of energy.

H.R. 4 is the bill that is before us right now, but it is coupled with a cloning bill, and it is on a railroad retirement bill. But I think we should focus on the reality here, which is that the President has asked for an energy bill. The House has done its job. The Senate has yet to do its job.

The ultimate disposition of this vote today is not going to be very meaningful because different Members are going to be able to respond in different ways. Those who are particularly attuned to the cloning issue, obviously—and I share the position of Senator BROWNBACK that we should not be rushing into this. There should be some evaluation on its ethical and moral aspects. On the other hand, the fact that it is on the railroad retirement bill, which I happen to support, means there is going to be different interpretations—whether the vote is contrary to support for railroad retirement, support for energy, or support for cloning.

I want to focus on the void that will be left after we are through. We are not going to be able to have resolved getting an energy bill up before the Senate. So we are going to have to search for other means, whether it be the Agriculture bill or stimulus bill or holding up a unanimous consent agreement, which I am prepared to do. We have talked about Christmas Eve, about the stockings, and odds and ends; but we have no assurance that the Democratic leadership which controls this body is going to give us a time certain to take up an energy bill and vote up or down on it. That is within the broad support of America's special interest groups—whether it be the labor unions that we have heard from relative to the value of it as a stimulus, or others.

Mr. President, when we look at stimulus bills, where are you going to find a better stimulus? It would create 250,000 jobs, generating $3 billion in revenues from lease sales, and would not cost the taxpayer a dime. What about the national security interests and America's veterans who fought overseas? I am reminded of my good friend from Oregon who indicated that he would rather vote for an ANWR bill any day than send our men and women overseas to fight a war over oil. That was Senator Mark Hatfield.

So the President has called for an energy bill. We are disregarding our popular President's wish in not addressing it. We have heard from the Secretary of Energy, the Secretary of Veterans Affairs, and the Secretary of Labor, who all recognize the importance of this. The Democratic leadership says, no; we are not going to take it up. We are going to take it up later. When? Will he give us a time certain to conclude it and allow amendments and an up-or-down vote? That is all we want.

What is happening here is they are talking on, if you will, the prevailing attitude of America's veterans, organized labor, Teamsters, senior organizations, Jewish organizations, who all understand what national security is all about in relation to the Mideast. We have a bill—H.R. 4—that reduces demand, increases supply, and enhances infrastructure and energy security. So we are very positive. Yet we are going to go out of here today with another situation where we have not reached a resolve. We have talked about energy, and if there is any plus to this, it is that we got the energy bill up for discussion but in such a convoluted way that it is very difficult to address it on the merits for on an up-or-down, clean vote, which it deserves.

The Democratic leadership has chosen to ignore, if you will, the responsibility that this body has to address a request of the President. We are going to go off now and simply look for another day. Well, I am going to look for another day. I don't want to disrupt the body, but I am telling you that we have to have assurances that we are going to get an energy bill up, under some time agreement of some consequence that would be meaningful to dispose of the issue once and for all. Any Member can justify his vote today, not on the issue of an up-or-down vote on energy but on cloning or his particular position on the issue of railroad retirement.

We need to have the Members stand up and be counted on whether or not it is in our national security interest to have an energy bill and have an up-or-down vote and have amendments and include, if you will, the ANWR issue.

This isn't a vote on an energy bill today. It is not a vote on ANWR. This is a vote to address a procedural process that is very gray in the interpretation because nobody is going to be able to clearly define just what they are for and what they are against.

I see my friend from Kansas who wants to speak on the cloning. We have little time remaining. I will reserve 5 minutes of my remaining time and allow Senator BROWNBACK to have the difference.

I inquire of the time remaining on our side?

The PRESIDING OFFICER. The Senator from Alaska has 11½ minutes remaining.

Mr. MURKOWSKI. Mr. President, I yield 6 minutes to the Senator from Kansas.

MORATORIUM ON CLONING

Mr. BROWNBACK. Mr. President, I am caught in a position similar to that of the Senator from Alaska. I support what he put forward on the energy bill. It is of utmost urgency. We are so dependent upon unreliable sources of energy that we will look back and say we wish we had done something when we had a chance to do it. We are not doing it.

I have put forward the moratorium on cloning. To clarify, where some have said this is about stem cells, it is not about stem cells. It is about cloning—taking a human individual and creating them by cloning technology, similar to what was used with Dolly the sheep. That is not stem cells. That is about cloning. It is a moratorium on cloning—a 6-month timeout. Let's wait a little bit and think about what we are actually getting into as the world contemplates this matter. Yet technology is diving into it in the United States, as we saw announced a week ago the first human clone ever in the world by a Massachusetts company.

Let's think about this. That is why we brought up this issue on this procedural vehicle, saying lets get a clear vote on a 6-month moratorium. It is not an outright ban on everything for all time. It is 6 months where we hold hearings, do a thoughtful process. The House already has voted on the issue by over a 100-vote margin. They voted to ban cloning altogether. The President is pleading for a bill on banning cloning altogether. We weren't even going that far. We are saying a 6-month moratorium while we think about it, instead of letting private companies basically decide a huge issue for humanity.

Right now we are letting private companies decide if they think it is OK to clone humans or not by their own privately hired ethics board. Do they think it is fine we clone humans or not. They are making the decision when this is something that should be in the public purview and public domain after thoughtful conversation.

We are pleading for the time to do that. That is why I put the amendment together with the energy bill. We are getting toward the end of the session, and we need some discussion and clarity on this issue. Where the House has acted and the President is seeking a bill, we are in difficulty getting the bill done.

We are going to look for other vehicles and other ways and means to get this moratorium so we can have that pause, that thoughtful bit of time when we can contemplate this issue of human cloning. It seems to me far superior to say right now: Let's wait for a little bit, rather than wait until there are more clones out there and then say: OK, I guess it is too late; the decision has already been made for us. That is not the way a responsible, deliberative body should act.

I point out to my colleagues as well that this is a broad-based issue. In the House, the vote was broad based. Republicans and Democrats voted for the bill. We have sponsors from the left and the right of various groups—environmental groups, technology groups—that are questioning where some of the technology is taking us. We have sponsors forming conservative groups. There is a broad-based group supporting a moratorium or even an outright ban on human cloning.

I know a number of my colleagues have questions and difficulties about the issue of genetically modified organisms. I count 12 of my colleagues who are opposed to GMOs, genetically modified organisms. That is where one takes two different species and crosses them to get a hybrid of sorts. They are taking a bit of genetic material from one and inserting it into the other. Some of my colleagues have real questions about where this is going.

If some of my colleagues have questions about genetically modified organisms in plants and animals, what do they think about a genetically modified human? Is that something we want to let drift out there?

We put a huge number of regulations on agricultural biotech companies that are developing genetically modified organisms. Yet if someone wants to do that to the human species, fine, go ahead, there is no regulation on it. Is that a thoughtful way for a deliberative body to work?

We put limits on what one can do to eggs in other species. One cannot destroy a bald eagle egg. There is a Federal penalty for doing that. In this legislation, we are talking about creating and destroying. We are saying: Fine, go ahead.

Do we give less weight to the human species than we do an eagle? Is that a way for a thoughtful, deliberative body to work? When we have this technology rushing, should we not be saying let's really consider what this technology is doing and what it means to us and what it means to the future of our country and our species?

This 6-month moratorium seems to me to be a very modest step. I pleaded with the Democratic leadership: Let us bring this up on a separate stand-alone vote. They have not been willing to do so. This body now stands in the way of speaking on this as a country, when many other countries, 28 other countries have put forward laws and rules on human cloning.

That is what we are talking about. Others may call it stem cells, but this is about human cloning. The issue of stem cells has been dealt with by the administration and they have put forward rules and regulations. This is about human cloning.

That is why I sought to put this issue of human cloning on this particular amendment because we will not have any other vehicle to bring this forward. I am a sponsor of the railroad retirement bill. I have signed on to that bill. I am a cosponsor of the bill. I have heard from a number of my colleagues and constituents about it. I support the bill, but I also think we are at a unique point in human history where we need to consider what we are doing about cloning. For that reason, I put forward this particular amendment, and I ask my colleagues to consider it. I still want to find the time for us to consider this issue.

I yield the floor and reserve the remainder of the time.

Mr. FRIST. Mr. President, I rise in support of the 6 month moratorium on human cloning which the Senate is now debating.

In recent years, science has progressed rapidly. In 1997, Ian Wilmut and a team of researchers successfully created an adult cloned sheep, Dolly. With the specter of human cloning on the near horizon, the Senate nonetheless rejected legislation to ban this act based largely on 2 arguments, that anti-cloning legislation would stop stem cell research, and that the science was not advanced enough to clone human beings.

Three years later, history and science have proven these arguments false. Not only are a few scientists moving forward to clone humans, but we also now know conclusively that a human cloning ban will not halt research that could lead to cures for chronic and debilitating illnesses, including promising embryonic stem cell research which I support.

The President has called for a ban on human cloning, and the House of Representatives has passed legislation by an overwhelming bipartisan margin. Now, it is up to the Senate.

The case against human cloning is compelling and comprehensive. But I understand the concerns some of my colleagues have expressed about moving too hastily in this manner, and I therefore believe that the responsible course of action stands before us today: A temporary moratorium on human cloning that will give the Senate the time it needs to diligently consider this issue while ensuring that events do not overtake us.

Let us act now to assure that next year's debate occurs in an environment where science has not moved ahead of the public interest. Let us give ourselves 6 months to deal carefully and responsibly with a matter of profound importance.

The risks of not acting to halt cloning far outweigh any concerns about impeding scientific progress. Cloning—and all its dangers—are upon us. Any possible medical advantage through cloning is far off at best. In fact, such advantages are theoretical only.

Last week, a Massachusetts company claimed to have cloned a human embryo. Moreover, Dr. Severino Antinori has in recent weeks reiterated his plan to produce cloned embryos by the end of the year, with the intent of impregnating up to 200 women.

The problem is simple. Failure to prohibit human cloning now speeds the day that a human being will be cloned. If that idea troubles you, I submit that you must support the moratorium.

Why must we prohibit all human cloning? We need to ban it to prevent the cloning and birth of a human. We need to prohibit it to safeguard the health of the women who will be directly exploited as a side effect of the procedure. And we need to prevent it for the sake of research ethics.

I know these issues can be confusing. Cloning issues intersect with stem cell research issues. It is complicated. One of my colleagues asked me: If I support embryonic stem cell research, can I be opposed to cloning? The short answer is "yes."

Human cloning is the use of somatic cell nuclear transfer to create a human embryo genetically identical to a living or dead individual. The terms that are often thrown about, "reproductive or therapeutic," refer only to whether this is intended to create a new person or for research. The act of cloning, however, is the same in both cases.

There is near universal abhorrence to human reproductive cloning. Scientifically, consensus exists that it is unsafe. More significantly, the ethical and moral implications of cloning for "replacing" a lost loved one; re-creating persons with special attributes; developing a source of transplantable organs are highly troubling to all of us. Unfortunately, there are scientists working actively to achieve those ends.

Ultimately, if one wishes to prohibit human "reproductive cloning," it is necessary to prohibit all human cloning. Once cloned embryos exist, despite the best intentions to the contrary, there will be no way to prevent a cloned embryo from being implanted in a woman. Once that starts, there is no way to stop it.

We would not know when a cloned embryo is growing in a woman's uterus. Even if we know about such a pregnancy, we would not be able to stop it. We would not know until reproductive cloning experiments lead to spontaneous miscarriages, still births, or severely deformed babies. If this sounds alarmist, consider the fact that Scottish scientists had more than 270 failed pregnancies before they produced the cloned sheep, Dolly.

Some maintain that even placing a short hold on human cloning will halt research necessary to help sick, diseased, and injured persons. These claims are not supported by the facts.

They also say that therapeutic cloning is necessary to develop medical treatments through embryonic stem cell research that will not be rejected by the body's auto-immune response system. But this is by no means certain.

I strongly support embryonic stem cell research. As both a supporter and a scientist, I can tell you that this field remains in its earliest stages of basic research. At a hearing on stem cell research this fall, Secretary Thompson noted that clinical applications are years away. It is simply not the case that a ban on human cloning, particularly the temporary moratorium we are discussing today, would in any way harm the progress of stem cell research.

Perhaps someday a credible case will be made on the need for "cloned" tissue. But that day, if it ever comes, will be far in the future.

The justifications to ban human cloning are strong. I have only touched on one of the reasons today, and we will have ample time in the coming months to further develop and explore these arguments, just as we will have ample time to see the clear difference between cloning and stem cell research and understand that promising stem cell research can, and will, go forward without human cloning.

But today's vote is even more simple than all of that. It is a vote to say "slow down," and let us as a Senate have time to adequately investigate and debate this issue. It is a vote to ensure that the science does not race ahead without the input of the public interest. I urge my colleagues to support the moratorium on human cloning. The moratorium will give us breathing space to study a complex and profoundly important matter. Additional time gives us the best chance of doing the right thing. In the meantime, we must take all possible steps to do no harm.

Mr. BAUCUS. Mr. President, I rise today to discuss the Lott amendment to the railroad retirement bill. In addition to other provisions, this amendment would enact a moratorium on a scientific process which holds the potential to save millions of human lives. I cannot support such a provision.

The final chapter of the Lott amendment deals with an issue that cuts to the core of our moral and ethical beliefs: human cloning.

I share the deep concerns that my colleagues and millions of Americans have with the prospect of cloning human beings. These concerns were born in 1997, when scientists in Great Britain announced that they had successfully cloned a sheep. They were stoked again last week, when a biotechnology company in Massachusetts announced that it had taken the first steps towards producing human embryos through cloning.

Let me be perfectly clear on this issue. I am adamantly opposed to any scientific project aimed at creating a clone of a human being. The implications of human reproductive cloning are morally repugnant. I do not know of a single respected scientist, ethicist, or religious leader who disagrees with me on this point.

The Lott amendment would impose a 6-month moratorium on this type of reproductive cloning, and I am fully supportive of this effort.

Unfortunately, the Lott amendment would also place a moratorium on a scientific procedure called somatic cell nuclear transfer. This process is closely related to the subject of stem cell research, which we heard so much about this summer. As you know, stem calls have the unique potential to grow into any tissue or organ in the body. Because of this property, stem cells may finally offer scientists the tools they need to cure diseases that have plagued humankind for centuries.

I strongly support scientific research into stem cells. I was heartened this summer, when President Bush and a bipartisan group of senators joined me in this support.

But while stem cell research offers promising possibilities, it faces many obstacles. One of these obstacles is the problem of rejection. If the stem cells used to treat diseases contain genetic material that is different from the genetic material of the patient, they may be rejected by the patient's body—in much the same manner as organs that are transplanted from one human being to another are often rejected.

Somatic cell nuclear transfer is a technique that may allow scientists to bypass this obstacle. In this process, stem cells are created using genetic material from a patient's own body. Because these new stem cells are genetically identical to a patient's own body, they would not be rejected.

This technique promises to speed up research into the treatment of crippling diseases like juvenile diabetes, cancer, Alzheimer's and Parkinson's. I would venture to guess that all Americans have had friends or family who have struggled with these devastating diseases; and millions of Americans would benefit by medical research that might one day eradicate them.

But the Lott amendment would stop this research in its tracks. It would bring a halt to research aimed at promoting life and relieving unspeakable suffering. For this reason, I cannot support this legislation—no matter how well-intentioned it is.

A reasonable alternative to the Lott amendment would be to make the reproductive cloning of a human being a criminal offense, subject to severe penalties. Such a solution would prevent the cloning of human beings without standing in the way of promising research aimed at promoting human life.

ENERGY SECURITY

Mr. FEINGOLD. Mr. President, it is with extreme disappointment that I rise to oppose the amendment offered by the Republican leader on behalf of the junior Senator from Alaska Mr. MURKOWSKI, and the senior Senator from Kansas, Mr. BROWNBACK. I urge my colleagues to oppose this amendment.

I am particularly troubled that this amendment was filed as work continues to have a bill drafted by the majority leader and brought to the floor. Those who have said we need urgency in this matter have succeeded. We are working on a bill. But that is not fast enough for some, apparently, and this amendment seek to shortcut the process even further.

Energy security is an important issue for America, and one which my Wisconsin constituents take very seriously. A national debate is unfolding about the role of domestic production of energy resources versus foreign imports, about the tradeoffs between the need for energy and the need to protect the quality of our environment, and about the need for additional domestic efforts to support improvements in our energy efficiency and the wisest use of our energy resources. The President joined that debate with the release of his National Energy Strategy earlier this Congress. The questions raised are serious, and differences in policy and approach are legitimate.

I join with the other Senators today that are raising concerns about this amendment. As other Senators have highlighted, the amendment of the Senator from Alaska's, Mr. MURKOWSKI, is not comprehensive energy legislation. It opens the refuge to oil drilling, subsidizes oil companies, and does little to address serious energy issues that have been raised in the last few weeks.

Though the Senator from Alaska will say that his amendment would only open up drilling on 2,000 acres of the refuge. That is simply not the case. The entire 1½ million acres of the coastal plain of the refuge will be open for oil and gas leasing and exploration. Exploration and production wells can be drilled anywhere on the coastal plain under this language.

The first lease sale, and, I stress for my colleagues that this refers only to the first sale, has to be at least 200,000 acres.

I am assuming that when the Senator means that only 2,000 acres will be drilled he is referring to the language in H.R. 4 which states, and I am paraphrasing,

> the Secretary shall . . . ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the coastal plain.

That limitation is not a clear cap on overall development, Mr. President. It does not cover seismic or other exploration activities, which have had significant impacts on the Arctic environment to the west of the coastal plain. Seismic activities are conducted with convoys of bulldozers and "thumper trucks" over extensive areas of the tundra. Exploratory oil drilling involves large rigs and aircraft.

The language does not cover the many miles of pipelines snaking above the tundra, just the locations where the vertical posts that support the pipelines literally touch the ground. In addition, this "limitation" does not require that the 2,000 acres of production and support facilities be in one contiguous area. As with the oil fields to the west of the Arctic Refuge, development could and would be spread out over a very large area.

Indeed, according to the United States Geological survey, oil under the coastal plain is not concentrated in one large reservoir but is spread in numerous small deposits. To produce oil from this vast area, supporting infrastructure would stretch across the coastal plain. And even if this cap were a real development cap, Mr. President, what would this mean? Two thousand acres, is a sizable development area. The development would be even more troubling if they were located in areas that are adjacent to the 8 million acres of wilderness that Congress has already designated in the Arctic Refuge which share a boundary with the coastal plain.

This amendment is controversial. Make no mistake, it will generate lengthy debate. I oppose it because it cuts short both the legitimate debate about drilling for oil in the Arctic Refuge that this country needs and the legitimate energy debate this country needs. Should this amendment be adopted, it would force the national energy legislation to be decided in the conference on pension bill—not in debate on an actual energy bill.

I have also heard concerns from the constituents in my State who have paid dearly for large and significant jumps in gasoline prices. Drilling in the refuge does nothing to address the immediate need of the Federal Government to respond to fluctuations in gas prices and help expand refining capacity. My constituents experienced prices of between $3 to as high as $8 per gallon between September 11 and 12, 2001. The Department of Energy immediately assured me that energy supplies were adequate following the terrorist attacks. These increases are now being investigated as possible price gouging by the Department of Energy and the State of Wisconsin. With adequate energy resources, constituents need assurances that these unjustified jumped can be monitored and controlled.

And I, along with many other Senators, have constituents who are concerned about the environmental impacts of this amendment, and what it says about our stewardship of lands of wilderness quality.

I also oppose this amendment for what it lacks. In light of the tragic events of September 11, 2001, a key element of any new energy security policy should be to actually seek to secure our existing energy system—from production to distribution—from the threat of future terrorist attack. Americans deserve to know that the Senate has protected the existing North Slope oil rigs and pipelines from attack. Americans deserve to know that the Senate has considered measures to reduce the vulnerability of above ground electric transmission and distribution by providing needed investments in siting of below ground direct current cables, in researching better transmission technologies, and in protecting transformers and switching stations. Americans want us to review thoroughly the security of our Nation's domestic nuclear power plant safety regimes to ensure that they continue to operate well. Finally, Americans living downstream from hydroelectric dams want to know that they are safe from terrorist initiated dam breaching. Until we can assure them that this existing infrastructure is secure, it seems hasty to add additional structures that we may not be able to protect.

The people of my State, and the people of this country, heard the President's address to Congress and they are willing to help when asked. We also need to have a comprehensive bill to be sure that our national energy conservation plans contemplate such contingencies as a future domestic need to reduce consumption of energy to help support our Armed Forces, if necessary.

These were issues that the House did not address on August 2, 2001, when it passed its bill, because the terrorist attacks of September 11, 2001, were unthinkable at that time. These are issues that the amendment of the Senator from Alaska doesn't address. But we are a changed country in response to these tragedies, and these are very real issues today, issues that must be addressed.

In addition, there have been other significant technological changes in the last few months which energy legislation should consider. On September 19, 2001, a model year 2002 General Motors Yukon which is able to run on either a blend of 85 percent ethanol and 15 percent conventional gasoline or conventional gasoline alone rolled off of the line in Janesville, WI. The 2002 model year Tahoes, Suburbans, and Denalis with 5.3 liter engines will be able to run on either fuel. But while my constituents could buy a vehicle which can run on a higher percentage of ethanol fuel, there isn't a place open today to buy that fuel in Wisconsin. We could go a long way to reducing dependence upon foreign oil by using domestic energy crops and biomass more wisely, and we should develop a bill to reflect our new technological capabilities.

According to the Congressional Research Service, today the only way to isolate the U.S. economy from supply disruptions abroad would be to forbid the exportation of domestic oil to foreign markets and to prohibit domestic oil companies from raising prices. Since net oil imports have accounted for about 50 percent of U.S. consumption in recent years, such a policy, were it to be implemented, would lead to shortages unless domestic oil prices were allowed to rise much higher than at present. This is because oil extraction in the United States on a large enough scale to meet our energy needs is much too costly to compete with foreign producers. For this reason, energy independence in the long run would likely result in a price that may be less volatile, but certainly a price that is even higher than prices at their recent peak.

Even if the United States could implement such a drastic policy, manipulations of oil prices by other oil producing nations could still affect the U.S. economy.

Finally, I oppose this amendment because there is a lingering veil of concern that special corporate interests would benefit over our citizens by this amendment, and I am prepared to speak on that issue at length. I find it particularly troubling that at a time when we face the need to provide financial assistance to workers and to sectors of our economy severely impacted by September 11 events, we would even consider subsidizing the big oil companies. This amendment allows oil companies access to federal resources within a federal wildlife refuge. My constituents paid the high gasoline costs on September 11 and 12, and oil companies profited. Before they get more help from the federal government, I think we should be mindful of the help these industries are already getting.

If the Senate chooses to adopt this amendment behind the veil of tragedy, it will be an act that increases division in the country when we most need unity. The Murkowski amendment should be opposed.

Mr. BIDEN. Mr. President, I rise today in opposition to the pending amendment and pledge my continued support for the protection of the Arctic National Wildlife Refuge from oil drilling. As most of my fellow Senators will attest, preserving the Alaska wilderness was one of the highest priorities of my friend and former colleague from Delaware, Bill Roth, and I was proud to join him in this fight.

Alaska's coastal plain is one of our Nation's last areas of unspoiled wilderness and it must be protected from oil development and all the activity that comes with it. This practically untouched region is home to a wide variety of wildlife, such as polar bears, caribou, and hundreds of species of birds, and there is great concern that development of the area will threaten this fragile habitat. I urge my colleagues to understand the consequences of permanently altering such pristine landscape when at this point in time, the amount of oil that would be economically developed is speculative at best. I do not believe that we should risk potentially irreversible impact on this rich environment for the sake of uncertain oil recovery.

The most recent petroleum assessment report, conducted by the United States Geological Survey in 1998, estimated that there was between 3 billion and 16 billion barrels of oil in the area. But while the numbers alone are promising, the issue is how much oil is economically recoverable. At a market price of $24 per barrel, the United States Geological Survey estimates a 95-percent chance that 2.0 billion barrels or more would be economically recoverable and a 5-percent chance that 9.4 billion barrels or more would be economically recoverable.

In addition, the best estimates are that if we authorized drilling today, oil from ANWR will not be available for at least 7 to 12 years. Leasing agreements, geologic characteristics and transportation constraints will most certainly affect development rates and production levels. Assuming the best case scenario—peak production of oil at an increased development rate—the most promising production rate is 750,000 barrels per day. To put this in perspective, the United States consumes about 19 million barrels of oil and refined petroleum products a day. In the first 9 months of 2001, the United States imported 1.77 million barrels of oil per day from Canada, 1.73 million barrels of oil per day from Saudi Arabia, 1.58 million barrels of oil per day from Venezuela and 1.37 million barrels a day from Mexico.

Despite the fact that I stand here today in opposition to drilling in ANWR, I do recognize the importance of our country moving forward with a thorough review of our energy policy and I look forward to our discussions in the early part of next year. Our energy policy should be comprehensive and balanced. In addition to examining our options for increasing production of fossil fuels and stabilizing our supplies, we need to explore viable conservation initiatives, make important investments into the research and development of renewable and alternative energy sources, and consider adapting our regulatory and tax structures to help achieve these goals. I know that we can modify our energy polices without undermining our longtime environmental objectives.

Ms. CANTWELL. Mr. President, I rise today to join my colleagues in opposition to the Murkowski-Lott-Brownback amendment, which would open up the Arctic National Wildlife Refuge—America's last untouched wildlife refuge—to oil development. It is both untimely to try to include such a controversial issue in an unrelated Railroad Retirement bill, and unwise to exploit this time of economic downturn and national security challenges to open up ANWR for the sake of narrow and divisive interests.

I believe there is no way to justify drilling in ANWR in the name of national security. Oil extracted from the refuge would not reach refineries for seven to ten years and would never satisfy more than two percent of our nation's oil demands at any one time. Therefore, it would have no discernible short- or long-term impact on the price of fuel or our increasing dependence on OPEC imports. Put another way, the amount of economically recoverable oil would increase our domestic reserves by only one third of one percent, which would not even make a significant dent on our imports, much less influence world prices set by OPEC.

Drilling in the Arctic National Wildlife Refuge would also set a terrible precedent. In the past 35 years, ever since Congress passed the National Wildlife Refuge System Administration Act, the government has not approved a single oil or gas exploration lease on public refuge lands. My concern is that opening up ANWR in the name of a misleading and irresponsible national security argument will not only degrade one of America's national treasures, but will also expose other priceless public lands to new drilling.

Mr. President, rather than drilling in ANWR, we must focus on crafting a deliberative, comprehensive policy that will permanently strengthen our national security. We need a bill that endows America with a strong and independent 21st century energy system by recognizing fuel diversity, energy efficiency, distributed generation, and environmentally sound domestic production as the permanent solutions to our nation's enduring energy needs. The energy provisions included in the Murkowski-Lott amendment fail to meet these goals and would instead prolong our antiquated over-reliance on traditional fossil fuels.

The Energy and Natural Resources Committee on which I serve held a series of hearings earlier this year that highlighted particularly promising ways we can accomplish these crucial goals. For example, these hearings revealed a broad consensus on the need to streamline regulatory approval of a privately funded natural gas pipeline from Alaska's North Slope to the lower 48 states. There are at least 32 trillion cubic feet of natural gas in existing Alaskan fields and building a pipeline to the continental U.S. would create thousands of jobs, provide a huge opportunity for the steel industry, and help prevent our nation from becoming dependent on foreign natural gas, from many of the same Middle Eastern countries from which we import oil.

Adopting energy efficient technologies is another way to significantly advance our national and economic security. For example, are my colleagues aware that automakers commonly use low-friction tires on new cars to help them comply with fuel economy standards? Because there are no standards or efficiency labels for replacement tires, however, most consumers unwittingly purchase less efficient tires when their originals wear out, even though low-friction tires would only cost a few dollars more per tire and would save the average American driver $100 worth of fuel over the 40,000-mile life of the tires. Fully phased in, better replacement tires would cut gasoline consumption of all U.S. vehicles by about three percent, saving our nation over five billion barrels of oil over the next 50 years. That's the same amount the United States Geological Survey says could be economically recovered from ANWR.

I believe that the only way to permanently ensure our nation's security is to look beyond policies that continue our country's century-old reliance on the extraction and combustion of fossil fuels. Now is the time to launch the transition to a new, 21st century system of distributed generation based on renewable energy sources and environmentally responsible fuel cells.

Imagine if today a significant portion of American homes and businesses produced their own electricity from solar panels on their roofs, and powered their cars with home-grown biofuels. Our country would no longer be at the mercy of OPEC, energy bills would be dramatically lower, our air would be cleaner, and our energy system could not be devastated by terrorist attacks on centralized power plants or transmission lines.

Mr. President, the American people know this is the direction our country must take. Just last month a Gallup Poll showed that 91 percent of Americans believe we should invest in new sources of energy such as solar, wind, and fuel cells. Ninety-one percent. How often do we see such universal support in our politically diverse country?

Mr. President, only these policies—which will be well represented in the energy bill Senators DASCHLE and BINGAMAN will bring to the floor early next year—will make our energy system truly secure and independent. I recognize, along with probably all of my colleagues, that inexpensive, reliable energy sources are the lifeblood of our economy and higher standard of living. Because our national, economic, and environmental security depend on the United States becoming less dependent on imported fossil fuels, we must act to develop more diverse and environmentally responsible supplies of domestic energy. Neither drilling in ANWR nor the rest of Murkowski-Lott energy provisions go far enough to accomplish these goals, and I encourage my colleagues to vote against invoking cloture on this amendment.

RAILROAD RETIREMENT

Mr. KERRY. Mr. President, I am proud to come to the floor today as a cosponsor of S. 697, the Railroad Retirement and Survivors Improvement Act. Senator BAUCUS and Senator HATCH have worked hard on this bill with railroad management and labor and have created a final product of which they should be proud. This bill will fundamentally improve the economic situation for more than 400,000 American railroad employees and their survivors, while reducing the tax burden on rail employees and railroads. After three long years of hard work, rail labor and management have come together to create a new system to provide for rail retirees and their survivors. The Senate should ratify this proposal by adopting the amendment today.

Let me recap quickly what this amendment does: Most importantly, we allow survivors of railroaders to receive 100 percent of the benefits earned by their spouse, or, in some cases, parent. In most cases, that means an immediate doubling of income for employees' survivors. We also reduce the time needed for a worker to become vested in the Railroad Retirement system from 10 years to five years. That's consistent with 401(k) plans and similar retirement packages in other industries. Finally, we lower the tax burden on railroads and employees, while increasing the return on funds invested in the system. That's good for workers, and it's good for business. When income tax is factored in, some of these railroad companies have a combined tax burden of 50 percent. That's unforgivably high for any company, especially for smaller railroads, such as short lines, which are already struggling with huge capital needs.

Unfortunately, some will allege that this legislation is only needed because the Railroad Retirement System needed an economic "bailout," but that is a false claim. Tier One benefits are funded by the same mechanism that we use to fund Social Security, employers and employees each pay a 15.3 percent payroll tax into a trust fund which is used to pay current benefits. Since 1950, assets in the Tier One fund and Social Security Trust Fund have been moved to ensure that railroaders were not disadvantaged by changes in Social Security benefits and also to unify benefits for workers eligible for both Social Security and Railroad Retirement benefits. Unfortunately, between 1950 and 1974, more than $3.5 billion flowed out of the Railroad Retirement Trust fund and into the Social Security Trust Fund. That money was finally repaid last year, and I think it's important that everyone understands that this bill does not in any way change Tier One benefits, which Railroad Retirement's equivalent of Social Security.

When this bill is enacted, more than 400,000 former employees, spouses and children will see an increase in benefits. More than 500 companies will see their overwhelming payroll tax burden decrease. That is a good deal for everyone, and there's no reason not to move forward on this legislation today. I urge my colleagues to support cloture.

The PRESIDING OFFICER. The next 5 minutes is reserved for the Republican leader or his designee.

Mr. BROWNBACK. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, parliamentary inquiry: I believe there are 5 minutes reserved for the Republican leadership and then there are 5 minutes reserved for Senator DASCHLE and the Democratic leadership, and then we will be ready for a vote; is that correct?

The PRESIDING OFFICER. The Republican leader was to have from 5:05 p.m. to 5:10 p.m. Roughly half of that has been used. Without objection——

Mr. LOTT. I am not asking for additional time. I am trying to clarify how much time I have and the approximate time we will have a vote. I presume we will try to vote by 5:15 p.m.; is that correct?

The PRESIDING OFFICER. That is correct. The Senator has 2 minutes 10 seconds.

Mr. LOTT. I will use a portion of the time I have reserved.

Mr. President, it is unfortunate we are on the underlying bill at this point, the railroad retirement bill. While obviously there can be some arguments made for it and with some amendments it probably could pass by an overwhelming vote because the concept does have a large number of supporters on both sides of the aisle, I wish the Finance Committee had been able to bring this up in regular order, have hearings, have a markup, and report a bill. I believe the problems with the bill could have been addressed. There have been other issues, obviously, that have distracted our attention this year, but I still regret it has come up in this particular way.

ENERGY POLICY

As to the pending issues, I believe there are fewer issues more important facing our Nation today than the fact we do not have a national energy policy. We need to do it now, not later this month, not next month, and not February or March. It needs to be done as soon as possible, and it needs to be broad based.

It needs to provide for additional production. It needs to provide for alternative fuels and conservation. We need incentives for more production. We need to look at the transmission systems. We need to look at nuclear power.

All of it should be done. For that reason, I offered this amendment to the substitute that would allow us to have a full debate and hopefully a direct vote on this issue of a national energy policy.

CLONING

In addition, of course, we have coupled with this amendment the 6-month moratorium on the issue of cloning. We have heard from Senator MURKOWSKI and Senator BROWNBACK about the importance of both of these issues. Whether one thinks we should have some sort of research in this area of cloning, there is no question there is a lot of uncertainty about what this really means and how it would affect this whole question of human cloning. So Senator BROWNBACK—responsibly, I believe, in view of recent developments—has proposed a 6-month moratorium to give us time to sort this out, to talk among ourselves, and to hear from experts, and in the meantime not to have this steady march toward this question of human cloning. That is why these two issues are before us.

I recommend and urge my colleagues to vote against cloture on the energy bill and the cloning issue because we should not cut off debate. We should have full debate. We should have amendments to these issues. I believe with proper debate and with some amendments being offered, we could come up with an energy bill that would pass this Senate overwhelmingly, probably nearly unanimously. Would it be exactly the way I would write it or any Senator on either side of the aisle would write it? Probably not. Would it be a major step forward? Yes, it would. Should we get a direct vote on the cloning issue? We should, in my opinion.

So I urge my colleagues to vote no on cloture, continue this debate, and then vote no on the substitute, because if my colleagues vote yes on the substitute, invoke cloture, then they wipe this issue off the table and they will not have an opportunity to have a full debate and direct votes on the amendments.

Regardless of what happens, at some point we are going to get to the underlying substance. The energy and cloning language does not replace the railroad bill. It is on top of that. We are going to get to the substance, and there are going to be substantial amendments that will be offered to correct some of the concerns or at least address some of the concerns in this legislation. With some participation on both sides, I believe we could reach an agreement to pass this bill, with the energy and cloning parts added, by the middle or the latter part of this week.

The other side of it is, these issues are not going to go away. These are very important issues. In the case of energy, national security is involved. The economy of our country is involved. Supply is involved for the energy needs and for the economy of our country. In the case of the cloning issue, this is certainly a very important, very emotional issue. Both issues need to be addressed, and they will be addressed repeatedly on other bills when the opportunity presents itself if we do not do it. Let us do it on this bill. I believe we could facilitate getting an early completion of these issues and complete our work for the year.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

STATE OF PLAY

Mr. DASCHLE. Mr. President, I have great respect for the Republican leader and appreciate very much his efforts at asserting his ability to bring his caucus's agenda to the Senate. When we were in the minority, we tried to do that on many occasions, and I certainly do not deny him the right to do it.

Let me make sure everybody understands the state of play. The current bill pending is the Railroad Retirement Act. Our Republican colleagues have filed an amendment that actually combines the comprehensive energy bill with the question about whether or not we ought to drill in ANWR with the question on whether or not we ought to allow cloning in this country.

I must say, in all my years, I do not recall a more unusual marriage of issues involving public policy than this one. What the Republicans are saying is not only should they have the right to offer this amendment but they want to extend debate on their own amendment.

They actually are now advocating we not vote for cloture, which is the Democratic position. We had expressed some concern about an amendment of this kind on this bill, and we will have an opportunity to vote on cloture on the bill as soon as we dispose of the cloture motion on this particular amendment. We may have a unanimous vote on this amendment on cloture, which is an extraordinary situation given the complexity of these issues and the unusual juxtaposition of the two issues together.

I am confident there will be those who are going to be confused with our colleagues' strategy, but certainly that is their choice.

Let me simply say three things: First, these are very important questions. Energy policy alone should dictate a debate in the Senate that would require days, if not longer, to ensure we carefully consider all of the ramifications of energy policy, additional production, additional efforts at conservation, additional ways in which to research alternative energy sources, our infrastructure, the environmental questions associated with where we draw our additional production. All of those questions will be addressed. Ought they be addressed as an amendment to the railroad retirement bill? Is this the best forum within which to address something as complex, controversial, and as far-reaching? I think even our Republican colleagues would have to say it is not.

The question of cloning may also fall into that category. As complex, as difficult, as extraordinarily sophisticated as this whole question of public policy is, is this the right place, an amendment to the Railroad Retirement Act, to take up the issue of cloning? I think not.

It is for that reason I have said this Senate will take up, consider carefully, and dedicate whatever time is required to both issues early next year. We are trying to address railroad retirement now. We have to address the farm bill soon. We have the Defense appropriations bill upcoming. We also have the economic stimulus plan in addition to terrorist insurance—all of those issues in what amounts to a few days remaining in this session of Congress.

Our colleagues have been demanding we take up energy, with all of its complexity, and cloning, with the controversies associated with that issue as well. That is virtually an impossibility unless we are in session between Christmas and New Year's, and I do not think anyone is serious about a schedule of that kind.

So I urge my colleagues to vote against cloture on this amendment, vote for cloture on the bill, so we can bring our debate on railroad retirement to closure. That is the way we can address these issues in a careful, constructive, and meaningful way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I want to engage the two leaders in a brief colloquy.

I have requested an opportunity to bring the two leaders into a short colloquy relative to the urgency of trying to work out a schedule that is compatible with the business at hand of the Senate, and the interests, of course, of our President relative to some of the items he has decided are priorities, including energy and trade promotion, and recognizing the vote we have before us, which is a convoluted vote because we are basically taking up three issues: Cloning, as well as energy and, of course, railroad retirement.

What we had hoped to be able to negotiate was an up-or-down vote on an energy bill. As the leader knows, we had a good deal of debate within the committee prior to the change of majority. The House of Representatives passed H.R. 4. That is what is before us. The Senator from Alaska is now in the position of wanting to work with the majority leader in ensuring we can expedite the business of the Senate, and I do not initiate undue delays by objecting to unanimous consent agreements.

I ask the majority leader, while on the one hand he assures us he is willing to take up an energy bill as a priority sometime when we get back, to give us an indication that we will finish that bill, that we will not be in a situation where he will pull it down because of objection one way or another and we never get to an energy bill.

The rights I have as a Senator are obviously limited. It is not my intent to delay, but I must do whatever parliamentary opportunities I have to encourage this.

As the majority leader knows, in July we entered into a unanimous consent agreement. That was not granted for a time certain—when I say "time certain," I mean a day certain—on the issue of Iraq and whether to terminate under the sanctions our sale of oil from Iraq. I understand the majority leader will respond to me soon. In view of the fact we have lost two American lives over there, with illegal smuggling of oil, this is a bit of a priority.

Can the two leaders perhaps get together and give some assurance we could take up an energy bill when we come back after the first of the year, and take it up in such a way to offer an opportunity for amendments, an up-or-down vote, and resolve it and move on to the other matters the majority leader believes are appropriate and necessary? From the view of broad interest, this matter should be resolved once and for all. Obviously, the House has done their job; the Senate has yet to do its job.

As the majority leader knows, the fact the authority has been taken away from the authorizing committee and left in the hands of the majority leader leaves us in a bit of a bind as far as having any input on whatever energy bill might come up. All I ask is the assurance to take up an energy bill and dispose of it in a reasonable timeframe.

Mr. DASCHLE. Mr. President, if I could respond, I know some of our colleagues are trying to catch airplanes. We need to get on with this vote.

I am very sympathetic to the Senator from Alaska. I have been in exactly his position three times now in the last month. I was in his position when we tried to address the unemployment compensation bill on the airline security legislation. I was in it when we tried to address the firefighters legislation as an amendment. I was in it for the last week as we have attempted to bring closure on an up-or-down vote on this bill, the Railroad Retirement Act. In all three cases, of course, the Senate has worked its will and Senators have used their prerogatives under Senate rules to extend debate. We have not had an up-or-down vote on my three priorities.

We all face these circumstances where as much as we would like to bring a particular bill or amendment to closure with an up-or-down vote, as I have attempted in the last month on those three issues, Senators have used their prerogatives as Senators under the rules to continue the debate. We will have to see how the energy debate plays itself out, especially with regard to ANWR.

I have already stated very emphatically my desire to bring up the energy bill prior to the Founders' Day recess, to have a good debate, to talk about all of the issues, including those which are controversial. It is my expectation we will do just that. We will have a good debate and have many votes on many of the issues that the Senator has so passionately addressed in the Senate Chamber.

I ask for regular order.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—Resumed

The PRESIDING OFFICER. Under the previous order, the clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10) to provide for pension reform, and for other purposes.

Pending:

Daschle (for Hatch/Baucus) amendment No. 2170, in the nature of a substitute.

Lott/Murkowski/Brownback amendment No. 2171 (to amendment No. 2170), to enhance energy conservation, research and development, and to provide for security and diversity in the energy supply for the American people.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Lott amendment:

Trent Lott, Frank H. Murkowski, R.F. Bennett, Phil Gramm, Sam Brownback, Don Nickles, Pat Roberts, Mike Crapo, Larry E. Craig, Jon Kyl, Chuck Grassley, Pete Domenici, Mitch McConnell, Judd Gregg, Conrad Burns, Craig Thomas.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Lott amendment shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), and the Senator from New Jersey (Mr. TORRICELLI) would each vote "no."

Mr. NICKLES. I announce that the Senator from Ohio (Mr. VOINOVICH) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 1, nays 94, as follows:

[Rollcall Vote No. 344 Leg.]

YEAS—1

Allen

NAYS—94

Akaka
Allard
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kerry
Kohl
Kyl
Landrieu
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NOT VOTING—5

Harkin
Kennedy
Leahy
Torricelli
Voinovich

The PRESIDING OFFICER. On this vote, the yeas are 1, the nays are 94. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Daschle for Hatch and Baucus substitute amendment No. 2170 for Calendar No. 69, H.R. 10, an act to provide for pension reform and for other purposes:

Paul Wellstone, Richard Durbin, Byron Dorgan, Harry Reid, Jon Corzine, Hillary Clinton, Blanche Lincoln, Jack Reed, Jean Carnahan, Mark Dayton, Carl Levin, Tim Johnson, Bill Nelson of Florida, Charles Schumer, Ron Wyden, Debbie Stabenow, Barbara Mikulski, Tom Daschle.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the Daschle for Hatch and Baucus substitute amendment No. 2170 to Calendar No. 69, H.R. 10, an act to provide for pension reform and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), and the Senator from New Jersey (Mr. TORRICELLI) would each vote "aye."

The PRESIDING OFFICER (Mr. CORZINE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 81, nays 15, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—81

Akaka
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Breaux
Brownback
Bunning
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Graham
Grassley
Hagel
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kerry
Kohl
Landrieu
Levin
Lieberman
Lincoln
Lugar
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Voinovich
Warner
Wellstone
Wyden

NAYS—15

Allard
Bond
Burns
Frist
Gramm
Gregg
Helms
Kyl
Lott
Murkowski
Nickles
Smith (NH)
Thomas
Thompson
Thurmond

NOT VOTING—4

Harkin
Kennedy
Leahy
Torricelli

The PRESIDING OFFICER. On this vote, the yeas are 81, the nays are 15. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, in keeping with our understanding of our current parliamentary circumstances, I make a point of order that amendment No. 2171 is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

Mr. DASCHLE. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators allowed to speak therein for a period not to extend 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the time I have just consumed calling off the quorum call and proceeding to morning business be charged against the 30 hours postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. REED. Mr. President, I would like to be recognized to speak in morning business.

The PRESIDING OFFICER. The Senator may proceed for 10 minutes.

ELEMENTARY AND SECONDARY EDUCATION ACT

Mr. REED. Mr. President, I rise to discuss the current conference on the reauthorization of the Elementary and Secondary Education Act, known as the ESEA. In particular, I bring to the attention of my colleagues the fact that last Friday the conference rejected the Senate's unanimous support for full funding of the Individuals with Disabilities Education Act, IDEA. I am deeply disappointed the conference would reject this very important legislation that has received unanimous support in the Senate.

IDEA has been an extraordinarily important legislative vehicle for students with disabilities throughout this country. Only 15 percent of students with disabilities were receiving any serious education prior to the enactment of IDEA in the mid-seventies. Today a free, excellent public education is the rule of law for all children in America, including those with disabilities.

Today, IDEA serves approximately 6 million children, the majority of whom are taught in regular classrooms in their neighborhoods. They are with their classmates, and they are learning. They are making impressive progress. High school graduation rates for special needs students have also increased dramatically.

In an interesting study between those students who are beneficiaries of IDEA and older adults who did not have this opportunity although they did have disabilities, those younger students with IDEA are in the workforce at a much higher rate. This is not simply a good thing to do in an altruistic sense, it is an important thing to do for our economy, for our workforce.

We have made progress with IDEA. We have increased the number of students who are covered. We have made it a standard that all students, particularly those with disabilities, would have access to classrooms, but we have not lived up to the real promise we made back in the mid-seventies, and that is that we would, in fact, pay 40 percent of the cost of this education for children with disabilities.

Sadly, the Federal share is about 15 percent, leaving it up to the States to make up the difference. As we all know, this has been a constant source of contention between the States and the Federal Government. It is something we have the opportunity to correct in this conference, an opportunity we have not as yet seen, but it is an opportunity I hope in the days ahead we will be able to realize as we return to the conference and, once again, press for full funding of IDEA.

We have been in this body and the other body over the last several years constantly talking about the importance of IDEA, strongly suggesting our unwavering support for IDEA. But those were easy votes because they were simply about the concept.

The hard vote took place last Friday in the conference where we were actually going to put dollars to our words, to match our rhetoric with real resources. Unfortunately, on that real vote, the conference failed.

We have an opportunity to build on what we did in the Senate several months ago. Senator HAGEL and Senator HARKIN offered an amendment that would fully fund IDEA and make it mandatory spending. The amendment would increase in yearly increments of $2.5 billion until the full 40 percent Federal share is realized by the year 2007.

In the process of making IDEA funding mandatory, it would free up anywhere between $28 billion and $52 billion in funds for discretionary educational programs that the Federal Government supports.

This would be a win-win situation, clearly signaling to the States that they can depend upon a robust stream of IDEA funding and at the same time give us the opportunity to support other worthy Federal educational programs such as title I, such as professional development—all those programs that are so important.

The President has rightly made education an important priority in his administration, and he has taken a very aggressive view toward tough accountability standards for testing, but the reality is, without resources, we cannot fully realize the potential of American students. We can test and test and test, but we do not have the resources for professional development, for smaller class size, for better libraries, for a host of programs.

The testing will show us what we know already: There are students who, because of social circumstances, because of income circumstances, because of lack of resources in the schools, are falling behind. We know we can simply divide districts based upon their income, the affluent versus the poorest, and we will see a startling difference in performance of those children. We want to do better. We want to have tough accountability, but without resources we are not going to get the results.

That, again, is why I am so disappointed we did not follow up with the wisdom of the Harkin-Hagel amendment and in the conference adopt the Senate position: full funding of IDEA, mandatory funding of IDEA. That could be the most fundamental education reform we could ever accomplish this year. Again, we missed the opportunity last Friday, but I hope before this conference concludes we will have another chance to revisit this issue and to seize this opportunity and fully fund IDEA.

Just ask every Governor, every legislative leader, superintendents, principals; they will all say the same thing: The biggest thing we can do to help them provide good education for all students is to fully fund IDEA. That is what I hear when I go back to Rhode Island. I do not hear about more testing. I hear something about libraries and professional development, but what I hear consistently and constantly is: Please, fully fund the IDEA program; please. We are rejecting the pleas of those people who are in the front ranks of education, those people who have the most significant responsibility for education.

Again, I think it is a mistake and a missed opportunity. This issue becomes very real in the lives of the children and the families who deal with issues of disability, and the parents who have to deal with this issue. It is not an academic one. It is not a budgetary issue. It is not an issue that is hypothetical we could debate. It is personal because every parent wants the best for their child. Some parents have to fight constantly to get what is owed their child through the special education program.

In Rhode Island, I constantly meet parents and they contact me. One family, the Gulianos from East Greenwich, RI, wrote to me and told me about their struggle, which is typical of families across this country. From their letter:

> Time and time again, we have heard from very well meaning people that there is just not enough personnel or hours available to provide these kinds of services. We are told that they just don't have the funding. Funding that should have come from the legislation that entitles Jamie to receive appropriate educational services in the first place—IDEA.

This school system, one of the best school systems in my State, is not a school system that would do badly on examinations. This is not a school system that lacks professional development or adequate class size or good facilities, but when it comes to IDEA even this district, this affluent community, lacks the resources to fully serve all the children it needs to serve, and this district is a home to families who are themselves typically college educated and very well off, and they can advocate for their child. But go into a center city where families under more economic stress and sometimes families are with one adult and several children. For these families it is virtually impossible to advocate successfully for the programs as they do in some of the more affluent suburbs. There the crisis is even more severe, the stress of funding more severe. We can alleviate some of those problems and that stress if we go ahead and make IDEA mandatory and free up not only funds for IDEA but also for other educational programs.

I hear the same thing from school principals who say if they get more IDEA funding, they can have additional teachers, enhanced technology, all those things that we say are important to the educational process. Throughout my State, superintendents and principals have consistently and constantly come forward to say, give us more resources for IDEA.

I believe strongly and emphatically this is something we have to do. It is not an option. We cannot put it off until next year or the following year. If we truly want to make an impact on education in the United States today, fund IDEA, provide strict accountability, provide resources for other programs such as professional development and libraries, and we will have educational progress. If we do not do that, then I think all the testing and all the accountability and all the evaluation will simply tell us what we know already: Some students are failing; other students are doing exceptionally well.

The other problem we face is the reality that our brave words about IDEA, and our brave words and authorization about what we want to do with respect to funding education, will shortly collide with reality. Last week, OMB Director Daniels announced we have locked ourselves into several years of deficits, and in those deficits I do not think we are going to see the commitment in dollars to education we are hearing today in rhetoric. That is another very important reason why today we should make IDEA funding mandatory, and I hope we do.

In my State of Rhode Island, our board of regents for elementary and secondary education has asked for a 4.4-percent increase. Frankly, the Governor is resisting because he has ordered every other department in the State to cut spending 6 percent. That is the reality of the States. If we want educational reform, if we want to assist and support every educational organization in the States, then we have to put real resources into the mix of educational reform.

I argue again that our task in the next several days as we conclude this conference should be to, once again, bring to the conference the issue of IDEA, bring forth the Harkin-Hagel amendment, mandatory funding, a full Federal share by 2007. If we do that, we will have educational reform that works, that is robust, that is well funded, and that will make a huge difference in the lives of every student in America, particularly in the lives of those students with disabilities.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CONFERENCE REPORT TO H.R. 2299, THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 2002

Mr. CONRAD. Mr. President, I rise to offer for the RECORD the Budget Committee's official scoring for the conference report to H.R. 2299, the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 2002.

The conference report provides $15.3 billion in discretionary budget authority, including $440 million for defense spending. That budget authority, when coupled with the report's new limitations on obligational authorities, will result in new outlays in 2002 of $20.076 billion. When outlays from prior-year budget authority and obligation limitations are taken into account, discretionary outlays for the conference report total $52.744 billion in 2002. Of that total, $28.489 billion in outlays counts against the allocation for highway spending and $5.275 billion counts against the allocation for mass transit spending. The remaining $18.980 billion in outlays, including those for defense spending, counts against the allocation for general purpose spending.

By comparison, the Senate-passed version of the bill provided $15.575 billion in discretionary budget authority, which, when combined with the bill's obligation limitations, would have resulted in $52.925 billion in total outlays, or $181 million more than the conference report. H.R. 2299 is within the subcommittee's Section 302(b) allocations for budget authority and outlays for general purpose, defense, highways, and mass transit spending. It does not include any emergency designations.

I would like to commend Chairwoman MURRAY and Senator SHELBY for their bipartisan efforts in completing this important legislation. I ask unanimous consent that a table displaying the budget committee scoring of the conference report to H.R. 2299 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 2299, CONFERENCE REPORT TO THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002, SPENDING COMPARISONS—CONFERENCE REPORT

[(In millions of dollars]

	General purpose	Defense [1]	Highway	Mass Transit [2]	Mandatory	Total
Conference report:						
Budget Authority	14,860	440	0	0	−915	14,385
Outlays	18,568	412	28,489	5,275	801	53,545
Senate 302(b) allocation: [3]						
Budget Authority	14,884	695	0	0	−915	14,664
Outlays	19,164	0	28,489	5,275	801	53,729
President's request:						
Budget Authority	14,552	340	0	0	−915	13,977
Outlays	18,543	332	28,489	5,275	801	53,440
House passed:						
Budget authority	14,552	340	0	0	−915	13,977
Outlays	18,500	332	28,489	5,275	801	53,397
Senate-passed:						
Budget Authority	14,880	695	0	0	−915	14,660
Outlays	18,545	616	28,489	5,275	801	53,726
CONFERENCE REPORT COMPARED TO:						
Senate 302(b) allocation: [3]						
Budget Authority	−24	−255	0	0	0	−279
Outlays	−184	0	0	0	0	−184
President's request:						
Budget Authority	308	100	0	0	0	408
Outlays	25	80	0	0	0	105
House-passed:						
Budget Authority	308	100	0	0	0	408
Outlays	68	80	0	0	0	148
Senate-passed:						
Budget Authority	−20	−255	0	0	0	−275
Outlays	23	−204	0	0	0	−181

[1] The 2002 budget resolution includes a contingent "firewall" in the Senate between defense and nondefense spending. Because the contingent firewall is for budget authority only, the appropriations committee did not provide a separate allocation for defense outlays. This table combines defense and nondefense outlays together as "general purpose" for purposes of comparing the conference report outlays with the Senate subcommittee's allocation.

[2] Mass transit budget authority is not counted against the appropriations committee's allocation and is therefore excluded from the above numbers.

[3] For enforcement purposes, the budget committee compares the conference report to the Senate 302(b) allocation.

Notes.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

NORTH KOREA AND EGYPT

Mr. McCONNELL. Mr. President, let me begin my remarks on North Korea and Egypt with an expression of sympathy and solidarity with the people of Israel following the weekend's brutal violence that killed and injured scores of innocent civilians. My thoughts and prayers are with the victims and their families.

The fanatical suicide bombings by Palestinian extremists must end today. PLO Chairman Yasser Arafat must immediately and unequivocally prove that he embraces peace with Israel, and he can do this by taking concrete action against those responsible for organizing and committing these heinous attacks. Israel has already appropriately responded to the Palestinian terrorism, and I do not doubt that further retaliation is possible.

North Korea today is a failed state. Its centrally planned economy is in shambles, and the people of North Korea are, at best, oppressed and, at worst, starving and dying. Borrowing a page from Mao Zedong and Pol Pot, North Korean leader Kim Jong-Il recently launched a new revolutionary movement to build "a people's paradise on this land at an early date." I would remind my colleagues that in the jargon of dictators, "paradise" is synonymous with "purgatory."

While the North Korean leadership poses a clear and present danger to the welfare of its own people, state sponsorship of international terrorism and news reports of North Korean missile sales to Egypt present wider challenges to democracies around the world, from Japan to Israel.

I have stood on the Senate floor several times this year to express my concern with reports of Egyptian insistence on buying North Korean missiles and weapons technology. Last week, this issue surfaced once again at the State Department's daily press briefing. When asked whether the Department has concluded that a missile deal between Pyongyang and Cairo has not occurred, Spokesman Richard Boucher stated "No, I wouldn't go that far."

This should give pause to all of us who follow events in the Middle East closely. According to a November 16 article in the Washington Post, Egyptian President Hosni Mubarak publicly warned of an arms race between Israel and its Arab neighbors. The danger posed by North Korean weapons sales to the region is double-edged: hostile arsenals are bolstered while Pyongyang receives much-needed infusions of cash. Deny both, and stability is strengthened in Asia and the Middle East.

Egypt must immediately and honestly answer whether the purchase of Nodong missiles, that have a range of 1,000 kilometers, is the beginning of that arms race. If this is the case, America has no choice but to review new foreign military sales to Egypt. I know some of my colleagues will disagree with me on this issue, but, to paraphrase that old car repair commercial, we can pay for our inaction now, or we can really pay for it later.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred January 9, 1993 in Laguna Beach, CA. A gay Vietnamese man was assaulted behind a string of beachside gay bars. Jeff Michael Raines, 18, and Christopher Michael Cribbins, 22, both of San Clemente, and a 16-year-old from San Juan Capistrano were arrested in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

THE GREATEST GENERATION

Mrs. HUTCHISON. Mr. President, I rise today to honor members of "the greatest generation"—those men and women who were at Pearl Harbor on the infamous day of December 7, 1941. Those who followed coined this nickname we all widely recognize, for the men and women who fought in the Second World War did not think they were committing acts of heroism, they only believed they were doing what was right by serving our Nation.

The generation of men and women, who survived the Second World War, epitomize the characteristics we all, as Americans, hold in such high esteem. As children of the Depression, these men and women grew up knowing the meaning of sacrifice. And during the war, they readily went without luxuries, ready to give up whatever it took to help in the war effort. These men and women are also some of the bravest that our Nation has ever seen. For they gave more than just material goods to the war effort: they offered their husbands, their sons, their brothers, their fathers, and themselves. Without hesitation they enlisted to help our Nation fight the good fight, to rid the world from cruel and aggressive tyrants, and to secure the freedom and liberty on which our Nation was founded.

It was 60 years ago that these men and women unselfishly risked their lives to begin the defense of our country and to fight for freedom in the world. The terrorist attacks of September 11, 2001 gave Americans a glimpse into the tragedy that the men and women of Pearl Harbor survived. Now, more than ever, our entire country appreciates the heroism and leadership embodied by the men and women who served in the Pacific. The courage they displayed is now a more tangible concept for us all, as we can now more fully realize the rarity of their instinct to charge forward and fight in the face of danger. We can only believe that the actions displayed by these members of "the greatest generation" laid the foundation for the heroism and leadership we are seeing in the aftermath of the September 11 attacks.

An important part of honoring the men and women of Pearl Harbor is preserving the stories of their experiences. We must record the experiences of those who survived the attack as well as preserve the stories of those 2,403 men and women who did not live to tell of their encounters on December 7, 1941. I commend the National Museum of the Pacific War in Fredericksburg, TX, for its continuing devotion to educating current and future generations of Americans on the grim realities of war. It is the only museum in the world dedicated to telling the entire story of the conflict in the Pacific during World War II. Not only does this museum tell the complete story, it also provides a thorough understanding of the causes, sacrifices, and resolutions of World War II in the Pacific. The men and women of this museum continue to keep the story of the attack on Pearl Harbor alive. It is truly a National treasure with an outstanding collection of artifacts from the Pacific War.

While there are many ceremonies and events to commemorate this 60th anniversary of the attack on Pearl Harbor, this one, in Fredericksburg, TX, stands out for several reasons. To begin, this commemoration ceremony is one of only two National events being staged by the Pearl Harbor Survivors Association. And of the two, it is the only one open to the public to join in the observance of this milestone anniversary. This ceremony is particularly special because of the guests in attendance. The museum will host more than 300 survivors of the Pearl Harbor attack, and their families, who have traveled from their homes throughout the United States to be here today. The location of this ceremony is also of important note: Fredericksburg, TX, is the birthplace of Admiral Chester W. Nimitz, who was Commander-in-Chief Pacific during World War II. The location of the National Museum of the Pacific War, previously known as the Admiral Nimitz Museum, was chosen to pay tribute to this great man.

Texas is honored to have as the keynote speaker former President George Bush. As the youngest pilot to fly in the Navy during World War II, Lieutenant Junior Grade George Bush flew TBM Avengers in combat off the aircraft carrier U.S.S. *San Jacinto*.

Sunday, December 7, 1941 will forever live as an infamous day in our Nation's history. But the response of the men and women we will honor on December 7, 2001 to the surprise attack will also forever be ingrained in the memory of America. Their bravery and heroism in the face of mortal danger, and their continuous determination to fight for the existence of freedom in the world shaped our Nation and, indeed, the world. To the men and women of Pearl Harbor we can only say thank you. Thank you for preserving the tenants on which this country was founded, thank you for risking your lives so that those who lived after you could enjoy the same freedom and democracy that you knew, and thank you for being at this commemorative ceremony so that we may show you our appreciation and admiration.

ADDITIONAL STATEMENTS

WHITE KNOLL STUDENTS BUY NEW YORK CITY A NEW FIRE TRUCK

• Mr. HOLLINGS. Mr. President, I rise today to recognize White Knoll Middle School in Lexington, South Carolina for their wonderful donation of a fire truck for the New York City Fire Department.

You might ask why, Mr. President, would Lexington, South Carolina be interested in purchasing a fire truck for New York City. In 1867, after fire from the Civil War devastated our state capital of Columbia located just across the county line from Lexington, a group of New York City firefighters raised money to buy Columbia a new fire truck, known then as a hose reel wagon. Because the hose reel wagon was so much more effective in putting out fires than the bucket brigade, Columbia officials pledged to return the favor some day.

With the devastation in New York City and the loss of dozens of rescue vehicles in the September 11th attacks, the students of White Knoll learned of the all but forgotten pledge and decided to take matters into their own hands. They started raising money by selling patriotic buttons, T-shirts, and baked goods. They also solicited help from area businesses. The students' goal of $354,000 was the minimum needed to purchase a new fire truck without any additional equipment.

Four students were selected to take the two day trip to New York City to award Mayor Rudolph Giuliani with an oversized check with the amount of $354,411. Thomas Dunn, Maurice Hallman, Staci Smith, and Leigh Tyson also rode in the Macy's Thanksgiving Day Parade with Mayor Giuliani and Yankees manager Joe Torre.

South Carolina and New York have been reunited by generosity in the midst of tragedy. I commend all the students at White Knoll Middle School for their inspiring community service and hard work.•

HONORING WILMINGTON ROTARY FOR PEACE CENTER INITIATIVE

• Mr. BIDEN. Mr. President, it is with tremendous pride that I rise today to salute the Rotary Club of Wilmington, DE, for its leadership in the worldwide initiative of Rotary International to establish eight Centers for International Studies in Peace and Conflict Resolution.

Recently, the Chairman of the International Rotary Foundation, Luis Giay, visited Delaware and presented an award to the Wilmington Rotary Club for being among the very first Rotary Clubs in the world to raise, sua sponte, $50,000 for the International Studies in Peace and Conflict Resolution project. The funds will be used to pay the two-year tuition costs for a graduate student to attend one of the newly-formed Rotary Peace Centers.

In this time of war and strife, my colleagues might find it interesting to learn more about these new Centers. The goals of the Rotary Peace Centers are: Mediation, Conflict Resolution, and Peace where there is war; understanding where there is disharmony; food security where there is hunger; health Care where there is disease; education where there is illiteracy; conservation where there is environmental degradation; sustainable Economic Development where there is poverty.

As Rotary's major educational priority in the 21st Century, the Rotary Centers for International Studies will provide opportunities for our next generation of leaders and scholars to focus on dealing effectively with obstacles to international cooperation and peace.

Educating such promising future leaders will help Rotary fulfill its longstanding mission to promote global peace and understanding.

The Rotary Centers have partnered with some of the leading universities in the world. The eight Rotary Peace Centers are located at: Duke University and the University of North Carolina, Chapel Hill in North Carolina; the University of California-Berkeley in California; Sciences Po in Paris, France; the University of Bradford in West Yorkshire, England; the University of Queensland in Brisbane, Queensland, Australia; the International Christian University in Tokyo, Japan; and, Universidad del Salvador in Buenos Aires, Argentina.

Like most big ideas, the fundraising initiative grew from a seed, in this case a seed planted by a small group of Wilmington Rotarians. Past Presidents Joe Melloy and Bruce Beardwood knew that with the Wilmington Rotary Club's 86-year history of service that its members would want to be pioneers in the Rotary Peace Center project. Wilmington Rotarians then set out to meet the $50,000 goal. They held a very successful silent auction to raise nearly half of the money. Generous, individual contributions put them over the top.

Even more impressive, the Wilmington Rotary Club then challenged the other 43 Clubs and 2,000 Rotarians in the Rotary District that encompasses Delaware and the Eastern Shore of Maryland to raise money for the Rotary Centers for International Studies. I am proud to say, challenge issued, challenge met.

I think it is appropriate and important to publicly recognize the efforts of the Rotary Club of Wilmington to do its part to help make our world a better, safer place to live. Not only is the Wilmington Rotary Delaware's oldest and largest Rotary Club with about 250 members, it continues to be among the leading Rotary Clubs in the United States. Its leadership as a pioneer Club for the Rotary Centers for Peace and International Studies is a great example of the Rotary tradition of service and of the part each one of us can play in advancing the goal of world peace.

To the members of the Rotary Club of Wilmington, congratulations and thank you.•

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar.

H.R. 3210. An act to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

S. 1748. A bill to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development including development in urban areas, through the provision of affordable insurance coverage against acts of terrorism, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4784. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Changes to Definition of Major Source" (FRL7107–4) received on November 20, 2001; to the Committee on Environment and Public Works.

EC–4785. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Pollutant Discharge Elimination System—Regulations Addressing Cooling Water Intake Structures for New Facilities" (FRL7105–4) received on November 20, 2001; to the Committee on Environment and Public Works.

EC–4786. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "New York: Final Authorization of State Hazardous Waste Management Program Revision" (FRL7101–9) received on November 20, 2001; to the Committee on Environment and Public Works.

EC–4787. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Montana Transportation Conformity: Correction" (FRL7102A–5) received on November 20, 2001; to the Committee on Environment and Public Works.

EC–4788. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Utah: Final Authorization of State-Initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program" (FRL7092–1) received on November 20, 2001; to the Committee on Environment and Public Works.

EC-4789. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Designate Critical Habitat for the Oahu Elepaio" (RIN1018-AG99) received on November 27, 2001; to the Committee on Environment and Public Works.

EC-4790. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Rule to List the Vermillion Darter as Endangered" (RIN1018-AE51) received on November 26, 2001; to the Committee on Environment and Public Works.

EC-4791. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Issuance of Revised Model Administrative Order on Consent for Removal Action" received on November 27, 2001; to the Committee on Environment and Public Works.

EC-4792. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Special Accounts: Guidance on Key Decision Points in Using Special Account Funds" received on November 27, 2001; to the Committee on Environment and Public Works.

EC-4793. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Clean Air Act Full Approval of Operating Permit Program; District of Columbia; Withdrawal of Direct Final Rule" (FRL7107-2) received on November 27, 2001; to the Committee on Environment and Public Works.

EC-4794. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Emergency Rule to List the Carson Wandering Skipper as Endangered" (RIN1018-AI18) received on November 27, 2001; to the Committee on Environment and Public Works.

EC-4795. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Emergency Rule and Proposed Rule to List the Columbia Basin Pygmy Rabbit as Endangered" (RIN1080-AG17) received on November 27, 2001; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself and Mrs. LINCOLN):

S. 1755. A bill to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service, and other employees, in determining the exclusion of gain from the sale of a principle residence; to the Committee on Finance.

By Mr. JEFFORDS:

S. 1756. A bill to amend title XVIII to establish a comprehensive centers for medical excellence demonstration program; to the Committee on Finance.

By Mr. CRAIG:

S. 1757. A bill to authorize an additional permanent judgeship in the district of Idaho, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. KENNEDY, Mrs. BOXER, Mr. MILLER, Mr. CORZINE, Mr. DURBIN, and Mrs. CLINTON):

S. 1758. A bill to prohibit human cloning while preserving important areas of medical research, including stem cell research; to the Committee on the Judiciary.

By Mr. KERRY:

S. 1759. A bill to provide a short-term enhanced safety net for Americans losing their jobs and to provide our Nation's economy with a necessary boost; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. AKAKA, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 267, a bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 612

At the request of Mr. FEINGOLD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 612, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to develop and implement an annual plan for outreach regarding veterans benefits, and for other purposes.

S. 673

At the request of Mr. HAGEL, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 673, a bill to establish within the executive branch of the Government an interagency committee to review and coordinate United States nonproliferation efforts in the independent states of the former Soviet Union.

S. 804

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 804, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks; to required fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight; to raise the fuel economy of the Federal fleet of vehicles, and for other purposes.

S. 839

At the request of Mrs. HUTCHISON, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 926

At the request of Mr. HARKIN, the names of the Senator from New Hampshire (Mr. SMITH), the Senator from Virginia (Mr. ALLEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 926, a bill to prohibit the importation of any article that is produced, manufactured, or grown in Burma.

S. 1140

At the request of Mr. HATCH, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1209

At the request of Mr. BINGAMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1209, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. 1258

At the request of Mr. DEWINE, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1258, a bill to improve academic and social outcomes for teenage youth.

S. 1482

At the request of Mr. HARKIN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1482, a bill to consolidate and revise the authority of the Secretary of Agriculture relating to protection of animal health.

S. 1499

At the request of Mr. KERRY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1499, a bill to provide assistance to small business concerns adversely impacted by the terrorist attacks perpetrated against the United States on September 11, 2001, and for other purposes.

S. 1500

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of S. 1500, a bill to amend the Internal Revenue Code of 1986 to provide tax and other incentives to maintain a vibrant travel and tourism industry, to keep working people working, and to stimulate economic growth, and for other purposes.

S. 1572

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 1572, a bill to endorse the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and for other purposes.

S. 1578

At the request of Mr. DORGAN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 1578, a bill to preserve the continued viability of the United States travel industry.

S. 1617

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 1617, a bill to amend the Workforce Investment Act of 1998 to increase the hiring of firefighters, and for other purposes.

S. 1655

At the request of Mr. BIDEN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1655, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1680

At the request of Mr. WELLSTONE, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 1680, a bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to provide that duty of the National Guard mobilized by a State in support of Operation Enduring Freedom or otherwise at the request of the President shall qualify as military service under that Act.

S. 1707

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

At the request of Mr. JEFFORDS, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Ohio (Mr. VOINOVICH), and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1707, supra.

S. 1717

At the request of Mr. DOMENICI, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 1717, a bill to provide for a payroll tax holiday.

S. 1745

At the request of Mrs. LINCOLN, the names of the Senator from Minnesota (Mr. WELLSTONE) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S. RES. 109

At the request of Mr. REID, the names of the Senator from Virginia (Mr. ALLEN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Oklahoma (Mr. INHOFE), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S .Res. 109, a resolution designating the second Sunday in the month of December as "National Children's Memorial Day" and the last Friday in the month of April as "Children's Memorial Flag Day."

S. RES. 185

At the request of Mr. ALLEN, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. Res. 185, a resolution recognizing the historical significance of the 100th anniversary of Korean immigration to the United States.

AMENDMENT NO. 2157

At the request of Mr. MCCAIN, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 2157 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself and Mrs. LINCOLN):

S. 1755. A bill to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service, and other employees, in determining the exclusion of gain from the sale of a principal residence; to the Committee on Finance.

Mr. GRAHAM. Mr. President, I along with Senator LINCOLN am proud to sponsor this bill to allow members of the military service, Foreign Service, and employees serving on assignment abroad to qualify for the same tax relief on the profit generated when they sell their main residence as other Americans. This bill does not create a new tax benefit, it merely modifies current law to exclude the time living abroad when calculating the number of years the homeowner has lived in their primary residence. This bill will treat members of the military, foreign service officers and civilians living abroad fairly, by treating them like all other Americans.

The Taxpayer Relief Act of 1997 gives taxpayers who sell their principal residence a much-needed tax break. Prior to the 1997 act, taxpayers received a one-time exclusion on the profit they made when they sold their principal residence, but the taxpayer had to be at least 55 years old and live in the residence for two of the five years preceding the sale. This provision primarily benefited older Americans, while not providing any relief to younger taxpayers and their families.

The 1997 act corrected this flaw. Now, a taxpayer who sells his or her principal residence is not taxed on the first $250,000 of profit from the sale. Joint files are not taxed on the first $500,000 of profit they make from selling their principal residence. The taxpayer must meet two requirements to qualify for this tax relief: One, they must own the home for at least two of the five years preceding the sale; and two, they must live in the home as their main home for at least two of the last five years.

Unfortunately, the second part of this eligibility text unintentionally and unfairly prohibits men and women in the Armed Forces, Foreign Service, and U.S. employees working abroad from qualifying for this beneficial tax relief. This was not the intent of the 1997 Taxpayer Relief Act of 1997.

This bill remedies the inequality in the 1997 law. The bill amends the Internal Revenue Code so that military members, Foreign Service members, and U.S. employees working abroad are not penalized by suspending the five-year determination period. The member is still required to own and live in the home for at least two years. This change was previously passed by Congress as part of the 1999 Taxpayer Relief and Refund Act, which was vetoed by President Clinton for unrelated reasons.

The 1997 home sale provision unintentionally discourages home ownership for U.S. members serving abroad which is bad fiscal policy. Home ownership has numerous benefits for communities and individual homeowners. Owning a home provides Americans with a sense of community and adds stability to our nation's neighborhoods. Home ownership also generated valuable property taxes for our nation's communities.

We cannot afford to discourage U.S. citizens from working and living abroad by penalizing them with higher taxes merely because they are doing their job. Enacting this remedy will grant equal and fair tax relief to those U.S. citizens working abroad.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE, AND OTHER EMPLOYEES, IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (d) of section 121 of the Internal Revenue Code of 1986 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraphs:

"(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

"(A) IN GENERAL.—The running of the 5-year period described in subsection (a) shall be suspended with respect to an individual during any time that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service.

"(B) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified official extended duty' means any period of extended duty as a member of the uniformed services or a member of the Foreign Service during which the member serves at a duty station which is at least 50 miles from such property or is under Government orders to reside in Government quarters.

"(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

"(iii) FOREIGN SERVICE OF THE UNITED STATES.—The term 'member of the Foreign Service' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

"(iv) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

"(10) OTHER EMPLOYEES.—

"(A) IN GENERAL.—The running of the 5-year period described in subsection (a) shall be suspended with respect to an individual during any time that such individual or such individual's spouse is serving as an employee for a period in excess of 90 days in an assignment by such employee's employer outside the United States.

"(B) LIMITATIONS AND SPECIAL RULES.—

"(i) MAXIMUM PERIOD OF SUSPENSION.—The suspension under subparagraph (A) with respect to a principal residence shall not exceed (in the aggregate) 5 years.

"(ii) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—Subparagraph (A) shall not apply to an individual to whom paragraph (9) applies.

"(iii) SELF-EMPLOYED INDIVIDUAL NOT CONSIDERED AN EMPLOYEE.—For purposes of this paragraph, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

By Mr. CRAIG:

S. 1757. A bill to authorize an additional permanent judgeship in the district of Idaho, and for other purposes; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, I rise to introduce legislation, on behalf of myself and my fellow Idaho Senator, MIKE CRAPO, creating a new Federal judgeship for the State of Idaho. This is a matter of great urgency to the citizens of Idaho, and our bill is aimed at heading off a looming crisis for the Federal bench in our State.

Idaho has two Federal district judgeships, created in 1890 and 1954. It is one of only three States in the Union with two Federal District judgeships. Because of he State's sheer size, its extraordinary increase in population, and tremendous growth in caseload over nearly five decades, the current situation is becoming increasingly unworkable.

For that reason, Senator CRAPO and I are seeking an additional judgeship to ensure that there are adequate resources for the administration if justice in our State. I am gratified to note that we have the strong support of Idaho's sitting Federal judges in this effort.

Let me take a moment to explain my State's problem in greater detail. Idaho has three distinct and widely distant geographical areas: the Southeast, the Southwest, and the North. A district judge must travel up to 450 miles between division offices. This distance is greater than that traveled in other rural district courts, including those Montana, Wyoming, North Dakota, South Dakota, or eastern Washington. In fact, only a district judge in Alaska has a greater distance to travel, when comparing these rural district courts.

The sheer size of Idaho, the geographical barriers, and the distribution of population make it a time-consuming, expensive and physically draining process for two judges to serve the entire State. As our current Chief District Judge B. Lynn Winmill has pointed out, if there is a trial in southwest Idaho and a trial in southeast Idaho, "there is no district judge to serve the needs of northern Idaho." In addition, as Judge Winmill has stated, the "mountainous terrain and two-land highway system in northern Idaho make [that] area particularly difficult to serve."

Some Federal districts have the advantage of being able to call upon senior judges to help out by taking half-caseloads. Idaho has no senior judges and therefore does not have the flexibility that other districts have in relation to managing cases. Consequently, for example, when district Judge Edward J. Lodge was involved in a 6-month trial on a complex matter, Idaho was forced to request that the Ninth Circuit Judicial Council authorize the use of judges from the Eastern District of Washington. These judges assisted our district by handling close to 50 cases in the last year. While this action may have eased Idaho's crisis temporarily, it cannot reasonably be considered an acceptable permanent solution to borrow judges from another state and district.

The population of Idaho has increased 28.5 percent in the past decade, giving Idaho the third fastest-growing population in the country. In the past year alone, Idaho was the fifth fastest-growing State in the Nation. Population growth is traditionally a controlling factor in increasing a district's judgeships, and yet Idaho has not gained a judge in nearly half a century.

The District of Idaho's caseload continues to grow. During the 12-month period ending September 30, 2000, the District of Idaho's civil filings increased 26.9 percent, ranking second in the country in the percentage increase. Our district also ranks 25th in the Nation in the number of trials completed. The gap between the number of new civil filings and the number completed is spreading ever wider, and is already a broad chasm into which too many cases are already dropping.

There are currently 23 assistant U.S. attorneys in Idaho, which is more than Montana, Wyoming, Alaska, North Dakota, South Dakota, and eastern Washington. With filings for the period ending September 30, 2000 weighted at 447 cases per judge, this number exceeds the 430 which the Judicial Conference uses to indicate the need for additional judgeships. Combining this excess number of cases with the travel distances in Idaho makes the caseload even more burdensome for Idaho's two judges.

Additionally, according to Idaho's new U.S. Attorney Tom Moss, there has been an increase in criminal cases initiated, and he is expecting the "caseloads to increase significantly," especially in Idaho's five Indian reservations.

Although this bill is being introduced late in the year, the effort to secure an additional judgeship has been underway for many months. We have had member-to-member and staff-to-staff discussions with the Senate Judiciary Committee about including an additional judgeship for Idaho in any legislation that the committee considers, creating new judgeships. Indeed, Idaho's chief district judge even traveled to Washington, DC, to visit personally with members of the committee and make the case for a new Idaho district judgeship.

I greatly appreciate the advice that we have received in this effort from Chairman LEAHY, Senator HATCH, and their staff, as well as other Judiciary Committee members, and it is because they suggested it that we are taking the step of filing this very simple bill, to put the issue formally before the Judiciary Committee and the Senate.

There should not be a waiting list for people to obtain justice in our courts, but there is in Idaho. This will continue to be the case until relief arrives in the form of a third judge. I hope the Senate will support this measure and protect the interests of justice in the State of Idaho.

By Mrs. FEINSTEIN (for herself, Mr. KENNEDY, Mrs. BOXER, Mr. MILLER, Mr. CORZINE, Mr. DURBIN, and Mrs. CLINTON):

S. 1758. A bill to prohibit human cloning while preserving important areas of medical research, including stem cell research; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today Senators KENNEDY, BOXER, MILLER, CORZINE, DURBIN, CLINTON, and I are introducing legislation to make the cloning of a human being a crime. Unlike other bills, our bill would not criminalize cloning that could provide treatments for diseases, known as therapeutic cloning.

On November 25, scientists at Advanced Cell Technology, a Massachusetts biotechnology firm, announced that they had created the first human embryos ever produced by cloning. I believe that this announcement raises serious concerns and we are proposing a bill to address this development.

The bill we introduce today would: 1. permanently ban human reproductive cloning, the cloning of a human being; and 2. allow therapeutic cloning, that is, allow the use of somatic cell nuclear transfer or other cloning technologies to create stem cells for treating diseases.

I support a ban on the cloning of human beings because I believe it is scientifically unsafe, morally unacceptable, and ethically flawed.

Our bill would allow cloning for therapeutic or treatment purposes. It would not allow cloning for reproductive purposes, for creating a human being. Specifically, it prohibits the implantation of the product of nuclear transplantation into a uterus. Nuclear transplantation is also known as somatic cell nuclear transfer.

There is broad agreement in the public, in the Congress, in the scientific community, in the medical community, and in the religious community that the cloning of a human being should be prohibited. This bill does just that.

The view that we should not clone human beings is held by many groups and authorities, including the National Bioethics Advisory Commission, NBAC, which concluded that it is unacceptable for anyone in the public or private sector to create a child using somatic cell nuclear transfer technology. The Commission said,

> At this time, it is morally unacceptable for anyone in the public or private sector, whether in a research or clinical setting, to attempt to create a child using somatic cell nuclear transfer cloning.

The difference between our bill and several others including H.R. 2505, the bill passed by the House of Representatives is whether the bills protect valuable medical research that some day could provide cures for many dreaded diseases, diseases like cancer, diabetes, cystic fibrosis, and heart disease; and conditions like spinal cord injury, liver damage, arthritis, and burns. This research may some day develop replacement cells and tissues to restore bodily function and treat diseases. Therapeutic cloning is particularly promising because the rejection of implanted tissues is less likely since the tissues would exactly match those of the person who donated the somatic cell nucleus.

To criminally prohibit this kind of research would be a big setback for science. Here's what some of the experts say about the promise of therapeutic cloning: The Association of American Medical Colleges:

> Therapeutic cloning technology could provide an invaluable approach to studying how cells become specialized, which in turn could provide new understanding of the mechanisms that lead to the development of the abnormal cells responsible for cancers and certain birth defects. Improved understanding of cell specialization may also provide answers to how cells age or are regulated—leading to new insights into the treatment of cure of Alzheimer's and Parkinson's diseases, or other incapacitating degenerative diseases of the brain and spinal cord. The technology might also help us understand how to activate certain genes to permit the creation of customized cells for transplantation or grafting. Such cells would be genetically identical to the cells of the donor and could therefore be transplanted into that donor without fear of immune rejection, the major biological barrier to organ and tissue transplantation at this time.

The Society for Women's Health Research wrote me on November 28:

> Barring all therapeutic cloning would more likely drive research underground and guarantee that only the most unscrupulous would advance these technologies.

The National Health Council said:

> Making reproductive human cloning unlawful must be done in a way that does not deprive those suffering from debilitating chronic diseases, potential relief and possible cures.

The Alliance for Aging Research wrote on November 28,

> Scientists who utilized therapeutic cloning techniques in the conduct of important scientific research would be labeled as criminals. The consequence would be that important research, research intended to save lives and reduce suffering of tens of millions Americans, would be stopped in its tracks.

The American College of Obstetricians and Gynecologists wrote on November 1, 2001:

> Therapeutic cloning may hold the key for repairing or creating new tissues or organs that could alleviate myriad medical conditions: diabetes, heart disease, spinal cord injury and Parkinson's, to name just a few. This technology is key to the ability to create "customized tissues" using a patient's own DNA to avoid rejection problems, and at this time, appears promising.

Other bills would make it a crime to clone cells that are used for therapeutic purposes that some day will save lives and suffering. I cannot support that approach, to criminalize legitimate medical research that could some day treat diseases and save human lives. That would be very shortsighted.

In summary, I believe that the cloning of human beings is wrong and should be outlawed. I believe that therapeutic cloning holds great medical promise and should not be prohibited. This bill will make it a crime to create human beings, but protect important scientific research that can save human lives and relieve human suffering.

I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered printed in the RECORD.

SUMMARY OF THE HUMAN CLONING PROHIBITION ACT OF 2001

Findings: Cites findings by the National Bioethics Advisory Commission and other respected bodies, which have recommended that Congress enact legislation prohibiting anyone from conducting or attempting human cloning but not unduly interfering with important areas of research, such as somatic cell nuclear transfer or nuclear transplantation.

Prohibitions: Makes it unlawful for any person: To conduct or attempt to conduct human cloning; to ship the product of nuclear transplantation in interstate or foreign commerce for the purpose of human cloning; or to use federal funds for these activities.

Definitions: "Human cloning" is asexual reproduction by implanting or attempting to implant the product of nuclear transplantation into a uterus.

"Nuclear transplantation" is transferring the nucleus of a human somatic (body) cell into an oocyte (egg) from which the nucleus or all chromosomes have been or will be removed or rendered inert.

Penalties: Makes violators liable for a criminal fine and/or up to 10 years in prison as well as a civil penalty of $1,000,000 or three times the gross profits resulting from the violation, whichever is greater.

Protection of Medical Research: Clarifies that the bill does not restrict therapeutic cloning, stem cell research or other forms of biomedical research such as gene therapy.

Ethics Requirements: Applies to nuclear transplantation research the ethics requirements currently used by the National Institutes of Health. These include informed consent, an ethics board review, and protections for the safety and privacy of research participants. Imposes a $250,000 civil penalty for violation of the ethics requirements.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2214. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table.

SA 2215. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2216. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2217. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2218. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2219. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2220. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2221. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2222. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2223. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2224. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2225. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2226. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2227. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2228. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2229. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2230. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2231. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2232. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2233. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2234. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2235. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2236. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2237. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2238. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2239. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2214. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —ELECTRIC POWER INDUSTRY TAX MODERNIZATION

SEC. 01. TAX-EXEMPT BOND FINANCING OF CERTAIN ELECTRIC FACILITIES.

(a) RULES APPLICABLE TO ELECTRIC OUTPUT FACILITIES.—Subpart A of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to tax exemption requirements for State and local bonds) is amended by adding after section 141 the following new section:

"SEC. 141A. ELECTRIC OUTPUT FACILITIES.

"(a) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING FOR CERTAIN ELECTRIC OUTPUT FACILITIES.—

"(1) IN GENERAL.—A governmental unit may make an irrevocable election under this paragraph to terminate the issuance of certain obligations described in section 103(a) for electric output facilities. If the governmental unit makes such election, then—

"(A) except as provided in paragraph (2), on or after the date of such election the governmental unit may not issue with respect to any electric output facility any bond the interest on which is excluded from gross income under section 103, and

"(B) notwithstanding paragraph (1) or (2) of section 141(a) or paragraph (4) or (5) of section 141(b), no bond—

"(i) which was issued by such unit with respect to an electric output facility before the date of enactment of this subsection, the interest on which was exempt from tax on such date,

"(ii) which is an eligible refunding bond that directly or indirectly refunds a bond issued prior to the date of enactment of this section, or

"(iii) which is described in paragraph (2)(D), (E), or (F),

shall be treated as a private activity bond.

"(2) EXCEPTIONS.—If an election is made under paragraph (1), paragraph (1)(A) does not apply to any of the following bonds:

"(A) Any qualified bond (as defined in section 141(e)).

"(B) Any eligible refunding bond (as defined in subsection (d)(6)).

"(C) Any bond issued to finance a qualifying transmission facility or a qualifying distribution facility owned by the governmental unit.

"(D) Any bond issued to finance equipment or facilities necessary to meet Federal or State environmental requirements applicable to an existing generation facility owned by the governmental unit.

"(E) Any bond issued to finance repair of any existing generation facility owned by the governmental unit. Repairs of facilities may not increase the generation capacity of the facility by more than 3 percent above the greater of its nameplate or rated capacity as of the date of enactment of this section.

"(F) Any bond issued to acquire or construct—

"(i) a qualified facility (as defined in section 45(c)(3)) if such facility is owned by the governmental unit and is placed in service during a period in which a qualified facility may be placed in service under such section, or

"(ii) any energy property (as defined in section 48(a)(3)) that is owned by the governmental unit.

This subparagraph shall not apply to any facility or property that is constructed, acquired or financed for the principal purpose of providing the facility (or the output thereof) to nongovernmental persons.

"(3) FORM AND EFFECT OF ELECTION.—

"(A) IN GENERAL.—An election under paragraph (1) shall be made in such a manner as the Secretary prescribes and shall be binding on any successor in interest to, or any related party with respect to, the electing governmental unit. For purposes of this paragraph, a governmental unit shall be treated as related to another governmental unit if it is a member of the same controlled group.

"(B) TREATMENT OF ELECTING GOVERNMENTAL UNIT.—A governmental unit which makes an election under paragraph (1) shall be treated for purposes of section 141 as a person which is not a governmental unit and which is engaged in a trade or business, with respect to its purchase of electricity generated by an electric output facility placed in service after such election, if such purchase is under a contract executed after such election.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) EXISTING GENERATION FACILITY.—The term 'existing generation facility' means an electric generation facility owned by the governmental unit on the date of enactment of this subsection and either in service on such date or the construction of which commenced prior to June 1, 2000.

"(B) QUALIFYING DISTRIBUTION FACILITY.—The term 'qualifying distribution facility' means a distribution facility over which open access distribution services described in subsection (b)(2)(C) are available.

"(C) QUALIFYING TRANSMISSION FACILITY.—The term 'qualifying transmission facility' means a local transmission facility (as described in subsection (c)(3)(A)) over which open access transmission services described in subparagraph (A) or (B) of subsection (b)(2) are available.

"(b) PERMITTED OPEN ACCESS ACTIVITIES AND SALES TRANSACTIONS NOT A PRIVATE BUSINESS USE FOR BONDS THAT REMAIN SUBJECT TO PRIVATE USE RULES.—

"(1) GENERAL RULE.—For purposes of this section and section 141, the term 'private business use' shall not include a permitted open access activity or a permitted sales transaction.

"(2) PERMITTED OPEN ACCESS ACTIVITIES.—For purposes of this section, the term 'permitted open access activity' means any of the following transactions or activities with respect to an electric output facility owned by a governmental unit:

"(A) Providing nondiscriminatory open access transmission service and ancillary services—

"(i) pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff but, in the case of a voluntarily filed tariff, only if the governmental unit voluntarily files a report with the FERC within 90 days of the date of enactment of this section relating to whether or not the issuer will join a regional transmission organization,

"(ii) under an independent system operator or regional transmission organization agreement approved by FERC, or

"(iii) in the case of an ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))), pursuant to a tariff approved by the Public Utility Commission of Texas.

"(B) Participation in—

"(i) an independent system operator agreement, or

"(ii) a regional transmission organization agreement,

which has been approved by FERC, or by the Public Utility Commission of Texas in the case of an ERCOT utility (as so defined). Such participation may include transfer of control of transmission facilities to an organization described in clause (i) or (ii).

"(C) Delivery on a nondiscriminatory open access basis of electric energy sold to end-users served by distribution facilities owned by such governmental unit.

"(D) Delivery on a nondiscriminatory open access basis of electric energy generated by generation facilities connected to distribution facilities owned by such governmental unit.

"(3) PERMITTED SALES TRANSACTION.—For purposes of this subsection, the term 'permitted sales transaction' means any of the following sales of electric energy from existing generation facilities (as defined in subsection (a)(4)(A)):

"(A) The sale of electricity to an on-system purchaser, if the seller makes available open access distribution service under paragraph (2)(C) and, in the case of a seller that owns or operates transmission facilities, if such seller makes available open access transmission under subparagraph (A) or (B) of paragraph (2).

"(B) The sale of electricity to a wholesale native load purchaser or in a wholesale stranded cost mitigation sale—

"(i) if the seller makes available open access transmission service described in subparagraph (A) or (B) of paragraph (2), or

"(ii) if the seller owns or operates no transmission facilities and transmission providers to the seller's wholesale native load purchasers make available open access transmission service described in subparagraph (A) or (B) of paragraph (2).

"(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection:

"(A) ON-SYSTEM PURCHASER.—The term 'on-system purchaser' means a person whose electric facilities or equipment are directly connected with transmission or distribution facilities which are owned by such governmental unit, and such person—

"(i) purchases electric energy from such governmental unit at retail and either was within such unit's distribution area in the base year or is a person as to whom the governmental unit has a service obligation, or

"(ii) is a wholesale native load purchaser from such governmental unit.

"(B) WHOLESALE NATIVE LOAD PURCHASER.—The term 'wholesale native load purchaser' means a wholesale purchaser as to whom the governmental unit had—

"(i) a service obligation at wholesale in the base year, or

"(ii) an obligation in the base year under a requirements contract, or under a firm sales contract that has been in effect for (or has an initial term of) at least 10 years,

but only to the extent that in either case such purchaser resells the electricity (I) directly at retail to persons within the purchaser's distribution area or (II) indirectly through one or more intermediate wholesale purchasers (each of whom as of June 30, 2000, was a party to a requirements contract or a firm power contract described in clause (ii)) to retail purchasers in the ultimate wholesale purchaser's distribution area.

"(C) WHOLESALE STRANDED COST MITIGATION SALE.—The term 'wholesale stranded cost mitigation sale' means one or more wholesale sales made in accordance with the following requirements:

"(i) A governmental unit's allowable sales under this subparagraph during the recovery period may not exceed the sum of its annual load losses for each year of the recovery period.

"(ii) The governmental unit's annual load loss for each year of the recovery period is the amount (if any) by which—

"(I) sales in the base year to wholesale native load purchasers which do not constitute a private business use, exceed

"(II) sales during that year of the recovery period to wholesale native load purchasers which do not constitute a private business use.

"(iii) If actual sales under this subparagraph during the recovery period are less than allowable sales under clause (i), the amount not sold (but not more than 10 percent of the aggregate allowable sales under clause (i)) may be carried over and sold as wholesale stranded cost mitigation sales in the calendar year following the recovery period.

"(D) RECOVERY PERIOD.—The recovery period is the 7-year period beginning with the start-up year.

"(E) START-UP YEAR.—The start-up year is whichever of the following calendar years the governmental unit elects:

"(i) The year the governmental unit first offers open transmission access.

"(ii) The first year in which at least 10 percent of the governmental unit's wholesale customers' aggregate retail native load is open to retail competition.

"(iii) The calendar year which includes the date of the enactment of this section, if later than the year described in clause (i) or (ii).

"(F) PERMITTED SALES TRANSACTIONS UNDER EXISTING CONTRACTS.—A sale to a wholesale native load purchaser (other than a person to whom the governmental unit had a service obligation) under a contract which resulted in private business use in the base year shall be treated as a permitted sales transaction only to the extent that sales under the contract exceed the lesser of—

"(i) in any year the private business use that resulted from the contract during the base year, or

"(ii) the maximum amount of private business use which could occur (absent the enactment of this section) without causing the bonds to be private activity bonds.

This subparagraph shall only apply to the extent that the sale is allocable to bonds issued prior to the date of enactment of this section (or bonds issued to refund such bonds).

"(G) TIME OF SALE RULE.—For purposes of paragraphs (C)(ii) and (F), private business use shall be determined under the law in effect in the year of the sale.

"(H) JOINT ACTION AGENCIES.—A joint action agency, or a member of (or a wholesale native load purchaser from) a joint action agency, which is entitled to make a sale described in subparagraph (A) or (B) in a year, may transfer the entitlement to make that sale to the member (or purchaser), or the joint action agency, respectively.

"(c) CERTAIN BONDS FOR TRANSMISSION AND DISTRIBUTION FACILITIES NOT TAX EXEMPT.—

"(1) GENERAL RULE.—For purposes of this title, no bond the interest on which is exempt from taxation under section 103 may be issued on or after the date of enactment of this subsection if any of the proceeds of such issue are used to finance—

"(A) any transmission facility which is not a local transmission facility, or

"(B) a start-up utility distribution facility.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any qualified bond (as defined in section 141(e)),

"(B) any eligible refunding bond (as defined in subsection (d)(6)), or

"(C) any bond issued to finance—

"(i) any repair of a transmission facility in service on the date of the enactment of this section, so long as the repair does not increase the voltage level over its level in the base year or increase the thermal load limit of the transmission facility by more than 3 percent over such limit in the base year,

"(ii) any qualifying upgrade of a transmission facility in service on the date of the enactment of this section, or

"(iii) a transmission facility necessary to comply with an obligation under a shared or reciprocal transmission agreement in effect on the date of enactment of this section.

"(3) LOCAL TRANSMISSION FACILITY DEFINITIONS.—For purposes of this subsection—

"(A) LOCAL TRANSMISSION FACILITY.—The term 'local transmission facility' means a transmission facility which is located within the governmental unit's distribution area or which is, or will be, necessary to supply electricity to serve retail native load or wholesale native load of 1 or more governmental units. For purposes of this subparagraph, the distribution area of a public power authority which was created in 1931 by a State statute and which, as of January 1, 1999, owned at least one-third of the transmission circuit miles rated at 230 kV or higher in the State, shall be determined under regulations of the Secretary.

"(B) RETAIL NATIVE LOAD.—The term 'retail native load' with respect to a governmental unit (or an entity other than a governmental unit that operates an electric utility) is the electric load of end-users in the distribution area of the governmental unit or entity.

"(C) WHOLESALE NATIVE LOAD.—The term 'wholesale native load' is—

"(i) the retail native load of such unit's wholesale native load purchasers (or of an ultimate wholesale purchaser described in subsection (b)(4)(B)(ii)), and

"(ii) the electric load of purchasers (not described in clause (i)) under wholesale requirements contracts which—

"(I) do not constitute private business use under the rules in effect absent this subsection, and

"(II) were in effect in the base year.

"(D) NECESSARY TO SERVE LOAD.—For purposes of determining whether a transmission or distribution facility is, or will be, necessary to supply electricity to retail native load or wholesale native load—

"(i) the governmental unit's available transmission rights shall be taken into account,

"(ii) electric reliability standards or requirements of national or regional reliability organizations, regional transmission organizations and the Electric Reliability Council of Texas shall be taken into account, and

"(iii) transmission, siting and construction decisions of regional transmission organizations or independent system operators and State and Federal regulatory and siting agencies, after a proceeding that provides for public input, shall be presumptive evidence regarding whether transmission facilities are necessary to serve native load.

"(E) QUALIFYING UPGRADE.—The term 'qualifying upgrade' means an improvement or addition to transmission facilities of the governmental unit in service on the date of enactment of this section which is ordered or approved by a regional transmission organization, by an independent system operator, or by a State regulatory or siting agency, after a proceeding that provides for public input.

"(4) START-UP UTILITY DISTRIBUTION FACILITY DEFINED.—For purposes of this subsection, the term 'start-up utility distribution facility' means any distribution facility to provide electric service to the public that is placed in service—

"(A) by a governmental unit that did not operate an electric utility on the date of the enactment of this section, and

"(B) during the first ten years after the date such governmental unit begins operating an electric utility.

A governmental unit is treated as having operated an electric utility on the date of the enactment of this section if it operates electric output facilities which were operated by another governmental unit to provide electric service to the public on such date.

"(d) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) BASE YEAR.—The term 'base year' means the calendar year which includes the date of the enactment of this section or, at the election of the governmental unit, either of the 2 immediately preceding calendar years.

"(2) DISTRIBUTION AREA.—The term 'distribution area' means the area in which a governmental unit (or an entity other than a governmental unit that operates an electric utility) owns distribution facilities.

"(3) ELECTRIC OUTPUT FACILITY.—The term 'electric output facility' means an output facility that is an electric generation, transmission, or distribution facility.

"(4) DISTRIBUTION FACILITY.—The term 'distribution facility' means an electric output facility that is not a generation or transmission facility.

"(5) TRANSMISSION FACILITY.—The term 'transmission facility' means an electric output facility (other than a generation facility) that operates at an electric voltage of 69 kV or greater, except that the owner of the facility may elect to treat any output facility that the FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act as a transmission facility for purposes of this section.

"(6) ELIGIBLE REFUNDING BOND.—The term 'eligible refunding bond' means any State or local bond issued after an election described in subsection (a) that directly or indirectly refunds any bond described in section 103(a) (other than a qualified bond) issued before such election, if the weighted average maturity of the issue of which the refunding bond is a part does not exceed the remaining weighted average maturity of the bonds issued before the election. In applying such term for purposes of subsection (c)(2)(B), the date of election shall be deemed to be the date of the enactment of this section.

"(7) FERC.—The term 'FERC' means the Federal Energy Regulatory Commission.

"(8) GOVERNMENT-OWNED FACILITY.—An electric output facility shall be treated as 'owned by a governmental unit' if it is an electric output facility that either is—

"(A) owned or leased by such governmental unit, or

"(B) a transmission facility in which the governmental unit acquired before the base year long-term firm capacity for the purposes of serving customers to which the unit had at that time either—

"(i) a service obligation, or

"(ii) an obligation under a requirements contract.

"(9) REPAIR.—The term 'repair' shall include replacement of components of an electric output facility, but shall not include replacement of the facility either at one time or incrementally.

"(10) SERVICE OBLIGATION.—The term 'service obligation' means an obligation under State or Federal law (exclusive of an obligation arising solely under a contract entered into with a person) to provide electric distribution services or electric sales service, as provided in such law.

"(11) CONTRACT MODIFICATIONS.—A contract is treated as a new contract if it is substantially modified.

"(e) SAVINGS CLAUSE.—Subsection (b) does not affect the applicability of section 141 to (or the Secretary's authority to prescribe, amend or rescind regulations respecting) (1) any transaction that is not a permitted open access transaction or permitted sales transaction, or (2) any facilities other than electric output facilities.".

(b) REPEAL OF EXCEPTION FOR CERTAIN NONGOVERNMENTAL ELECTRIC OUTPUT FACILITIES.—Section 141(d)(5) of the Internal Revenue Code of 1986 is amended by inserting "(except in the case of an electric output facility that is a distribution facility)," after "this subsection".

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 141 the following new item:

"Sec. 141A. Electric output facilities."

(d) EFFECTIVE DATE; APPLICABILITY.—

(1) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act, except that a governmental unit may elect to apply paragraphs (1) and (2) of section 141A(b), as added by subsection (a), with respect to permitted open access activities entered into on or after April 14, 1996.

(2) CERTAIN EXISTING AGREEMENTS.—The amendment made by subsection (b) (relating to repeal of the exception for certain nongovernmental output facilities) does not apply to any acquisition of facilities made pursuant to an agreement that was entered into before the date of the enactment of this Act.

(3) APPLICABILITY.—References in this Act to sections of the Internal Revenue Code of 1986, shall be deemed to include references to comparable sections of the Internal Revenue Code of 1954.

SEC. 02. INDEPENDENT TRANSMISSION COMPANIES.

(a) SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

(1) IN GENERAL.—Section 1033 of the Internal Revenue Code of 1986 (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l), and by inserting after subsection (j) the following new subsection:

"(k) SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

"(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction and the proceeds received from such transaction are invested in exempt utility property, such transaction shall be treated as an involuntary conversion to which this section applies. The part of the gain, if any, on a sale or exchange to which section 1033 is not applied by reason of section 1245 shall nevertheless not be recognized, if the taxpayer so elects, to the extent that it is applied to reduce the basis for determining gain or loss on sale or exchange of property, of a character subject to the allowance for depreciation under section 167, remaining in the hands of the taxpayer immediately after the sale or exchange, or acquired in the same taxable year. The manner and amount of such reduction shall be determined under regulations prescribed by the Secretary. Any election made by the taxpayer under this section shall be made by a statement to that effect in his return for the taxable year in which the sale or exchange takes place, and such election shall be binding for the taxable year and all subsequent taxable years.

"(2) EXTENSION OF REPLACEMENT PERIOD.—In the case of any involuntary conversion described in paragraph (1), subsection (a)(2)(B) shall be applied by substituting '4 years' for '2 years' in clause (i) thereof.

"(3) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition of property used in the trade or business of electric transmission, or an ownership interest in a person whose primary trade or business consists of providing electric transmission services, to another person that is an independent transmission company.

"(4) Independent transmission company.—For purposes of this subsection, the term 'independent transmission company' means—

"(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

"(B) a person—

"(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 823b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

"(ii) whose transmission facilities to which the election under this subsection applies are placed under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization within the period specified in such order, but not later than the close of the replacement period, or

"(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

"(5) Exempt utility property.—For purposes of this subsection, the term 'exempt utility property' means—

"(A) property used in the trade or business of generating, transmitting, distributing, or selling electricity or producing, transmitting, distributing, or selling natural gas, or

"(B) stock acquired in the acquisition of control of a corporation whose primary trade or business consists of generating, transmitting, distributing, or selling electricity or producing, transmitting, distributing, or selling natural gas.

"(6) Special rules for consolidated groups.—

"(A) Investment by qualifying group members.—

"(i) In general.—This subsection shall apply to a qualifying electric transmission transaction engaged in by a taxpayer if the proceeds are invested in exempt utility property by a qualifying group member.

"(ii) Qualifying group member.—For purposes of this subparagraph, the term 'qualifying group member' means any member of a consolidated group within the meaning of section 1502 and the regulations promulgated thereunder of which the taxpayer is also a member.

"(B) Coordination with consolidated return provisions.—A sale or other disposition of electric transmission property or an ownership interest in a qualifying electric transmission transaction, where an election is made under this subsection, shall not result in the recognition of income or gain under the consolidated return provisions of subchapter A of chapter 6. The Secretary shall prescribe such regulations as may be necessary to provide for the treatment of any exempt utility property received in a qualifying electric transmission transaction as successor assets subject to the application of such consolidated return provisions.

"(7) Election.—Any election made by a taxpayer under this subsection shall be made by a statement to that effect in the return for the taxable year in which the qualifying electric transmission transaction takes place in such form and manner as the Secretary shall prescribe, and such election shall be binding for that taxable year and all subsequent taxable years."

(2) Savings clause.—Nothing in section 1033(k) of the Internal Revenue Code of 1986, as added by subsection (a), shall affect Federal or State regulatory policy respecting the extent to which any acquisition premium paid in connection with the purchase of an asset in a qualifying electric transmission transaction can be recovered in rates.

(3) Effective date.—The amendments made by this subsection shall apply to transactions occurring after the date of the enactment of this Act.

(b) Distributions of Stock To Implement Federal Energy Regulatory Commission or State Electric Restructuring Policy.—

(1) In general.—Section 355(e)(4) of the Internal Revenue Code of 1986 is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) Distributions of stock to implement federal energy regulatory commission or state electric restructuring policy.—

"(i) In general.—Paragraph (1) shall not apply to any distribution that is a qualifying electric transmission transaction. For purposes of this subparagraph, a 'qualifying electric transmission transaction' means any distribution of stock in a corporation whose primary trade or business consists of providing electric transmission services, where such stock is later acquired (or where the assets of such corporation are later acquired) by another person that is an independent transmission company.

"(ii) Independent transmission company.—For purposes of this subsection, the term 'independent transmission company' means—

"(I) a regional transmission organization approved by the Federal Energy Regulatory Commission,

"(II) a person who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and whose transmission facilities transferred as a part of such qualifying electric transmission transaction are placed under the operational control of a Federal Energy Regulatory. Commission-approved regional transmission organization within the period specified in such order, but not later than the close of the replacement period (as deffned in section 1033(k)(2)), or

"(III) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person that is approved by that Commission as consistent with Texas State law regarding an independent transmission organization."

(2) Effective date.—The amendments made by this subsection shall apply to distributions occurring after the date of the enactment of this Act.

SEC. 03. CERTAIN AMOUNTS RECEIVED BY ELECTRIC UTILITIES EXCLUDED FROM GROSS INCOME AS CONTRIBUTIONS TO CAPITAL.

(a) In General.—Subsection (c) of section 118 of the Internal Revenue Code of 1986 (relating to contributions to the capital of a corporation) is amended—

(1) by striking "Water and Sewage Disposal" in the heading, and inserting "Certain",

(2) by striking "water or," in the matter preceding subparagraph (A) of paragraph (1) and inserting "electric energy, water, or",

(3) by striking "water or" in paragraph (1)(B)and inserting "electric energy (but not including assets used in the generation of electricity), water, or",

(4) by striking "water or" in paragraph (2)(A)(ii) and inserting "electric energy (but not including assets used in the generation of electricity), water, or",

(5) by inserting "such term shall include amounts paid as customer connection fees (including amounts paid to connect the customer's line to an electric line or a main water or sewer line) and" after "except that" in paragraph (3)(A), and

(6) by striking "water or" in paragraph (3)(C) and inserting "electric energy, water, or".

(b) Effective Date.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

SEC. 04. TAX TREATMENT OF NUCLEAR DECOMMISSIONING FUNDS.

(a) Increase in Amount Permitted To Be Paid Into Nuclear Decommissioning Reserve Fund.—Subsection (b) of section 468A of the Internal Revenue Code of 1986 (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

"(b) Limitation on Amounts Paid Into Fund.—

"(1) In general.—The amount which a taxpayer may pay into the Fund for any taxable year during the funding period shall not exceed the level funding amount determined pursuant to subsection (d), except—

"(A) where the taxpayer is permitted by Federal or State law or regulation (including authorization by a public service commission) to charge customers a greater amount for nuclear decommissioning costs, in which case the taxpayer may pay into the Fund such greater amount, or

"(B) in connection with the transfer of a nuclear powerplant, where the transferor or transferee (or both) is required pursuant to the terms of the transfer to contribute a greater amount for nuclear decommissioning costs, in which case the transferor or transferee (or both) may pay into the Fund such greater amount.

"(2) Contributions after funding period.—Notwithstanding any other provision of this section, a taxpayer may make deductible payments to the Fund in any taxable year between the end of the funding period and the termination of the license issued by the Nuclear Regulatory Commission for the nuclear powerplant to which the Fund relates provided such payments do not cause the assets of the Fund to exceed the nuclear decommissioning costs allocable to the taxpayer's current or former interest in the nuclear powerplant to which the Fund relates. The foregoing limitation shall be applied by taking into account a reasonable rate of inflation for the nuclear decommissioning costs and a reasonable after-tax rate of return on the assets of the Fund until such assets are anticipated to be expended."

(b) Deduction for Nuclear Decommissioning Costs When Paid.—Paragraph (2) of section 468A(c) of the Internal Revenue Code of 1986 (relating to income and deductions of the taxpayer) is amended to read as follows:

"(2) Deduction of nuclear decommissioning costs.—In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162."

(c) Level Funding Amounts.—Subsection (d) of section 468A of the Internal Revenue Code of 1986 is amended to read as follows:

"(d) Level Funding Amounts.—

"(1) Annual amounts.—For purposes of this section, the level funding amount for any taxable year shall equal the annual amount required to be contributed to the Fund in each year remaining in the funding period in order for the Fund to accumulate the nuclear decommissioning costs allocable to the taxpayer's current or former interest in the nuclear powerplant to which the Fund relates. The annual amount described in the foregoing sentence shall be calculated by taking into account a reasonable rate of inflation for the nuclear decommissioning costs and a reasonable after-tax rate of return on the assets of the Fund until such assets are anticipated to be expended.

"(2) Funding period.—The funding period for a Fund shall end on the last day of the last taxable year of the expected operating life of the nuclear powerplant.

"(3) Nuclear decommissioning costs.—For purposes of this section—

"(A) In general.—The term 'nuclear decommissioning costs' means all costs to be incurred in connection with entombing, decontaminating, dismantling, removing, and disposing of a nuclear powerplant, and shall include all associated preparation, security, fuel storage, and radiation monitoring costs. Such term shall include all such costs which, outside of the decommissioning context, might otherwise be capital expenditures.

"(B) Identification of costs.—The taxpayer may identify nuclear decommissioning costs by reference either to a site-specific engineering study or to the financial assurance amount calculated pursuant to section 50.75 of title 10 of the Code of Federal Regulations.".

(d) Effective Date.—The amendments made by this section shall apply to amounts paid after June 30, 2000, in taxable years ending after such date.

SA 2215. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect on October 1, 2004.

SA 2216. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect on October 1, 2004.

SA 2217. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect on October 1, 2003.

SA 2218. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect on October 1, 2003.

SA 2219. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page of the amendment, strike line and all that follows through line on page , and insert the following:

TITLE —HUMAN CLONING PROHIBITION

SEC. 01. SHORT TITLE.

This title may be cited as the "Human Cloning Prohibition Act of 2001".

SEC. 02. FINDINGS.

Congress finds that—

(1) the National Bioethics Advisory Commission (referred to in this title as the "NBAC") has reviewed the scientific and ethical implications of human cloning and has determined that the cloning of human beings is morally unacceptable;

(2) the NBAC recommended that Federal legislation be enacted to prohibit anyone from conducting or attempting human cloning, whether using Federal or non-Federal funds;

(3) the NBAC also recommended that the United States cooperate with other countries to enforce mutually supported prohibitions on human cloning;

(4) the NBAC found that somatic cell nuclear transfer (also known as nuclear transplantation) may have many important applications in medical research;

(5) the Institute of Medicine has found that nuclear transplantation may enable stem cells to be developed in a manner that will permit such cells to be transplanted into a patient without being rejected;

(6) the NBAC concluded that any regulatory or legislative actions undertaken to prohibit human cloning should be carefully written so as not to interfere with other important areas of research, such as stem cell research; and

(7)(A) biomedical research and clinical facilities engage in and affect interstate commerce;

(B) the services provided by clinical facilities move in interstate commerce;

(C) patients travel regularly across State lines in order to access clinical facilities; and

(D) biomedical research and clinical facilities engage scientists, doctors, and other staff in an interstate market, and contract for research and purchase medical and other supplies in an interstate market.

SEC. 03. PURPOSES.

It is the purpose of this title to prohibit any attempt to clone a human being while protecting important areas of medical research, including stem cell research.

SEC. 04. PROHIBITION ON HUMAN CLONING.

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

"CHAPTER 16—PROHIBITION ON HUMAN CLONING

"Sec.

"301. Prohibition on human cloning.

"§ 301. Prohibition on human cloning

"(a) Definitions.—In this section:

"(1) Human cloning.—The term 'human cloning' means asexual reproduction by implanting or attempting to implant the product of nuclear transplantation into a uterus.

"(2) Human somatic cell.—The term 'human somatic cell' means a mature, diploid cell that is obtained or derived from a living or deceased human being at any stage of development.

"(3) Nuclear transplantation.—The term 'nuclear transplantation' means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus or all chromosomes have been or will be removed or rendered inert.

"(4) Nucleus.—The term 'nucleus' means the cell structure that houses the chromosomes, and thus the genes.

"(5) Oocyte.—The term 'oocyte' means the female germ cell, the egg.

"(b) Prohibitions on Human Cloning.—It shall be unlawful for any person or other legal entity, public or private—

"(1) to conduct or attempt to conduct human cloning;

"(2) to ship the product of nuclear transplantation in interstate or foreign commerce for the purpose of human cloning in the United States or elsewhere; or

"(3) to use funds made available under any provision of Federal law for an activity prohibited under paragraph (1) or (2).

"(c) Protection of Medical Research.—Nothing in this section shall be construed to restrict areas of biomedical and agricultural research or practices not expressly prohibited in this section, including research or practices that involve the use of—

"(1) nuclear transplantation to produce human stem cells;

"(2) techniques to create exact duplicates of molecules, DNA, cells, and tissues;

"(3) mitochondrial, cytoplasmic or gene therapy; or

"(4) nuclear transplantation techniques to create nonhuman animals.

"(d) Penalties.—

"(1) In general.—Whoever intentionally violates any provision of subsection (b) shall be fined under this title and imprisoned not more than 10 years.

"(2) Civil penalties.—Whoever intentionally violates paragraph (1), (2), or (3) of subsection (b) shall be subject to a civil penalty of $1,000,000 or three times the gross pecuniary gain resulting from the violation, whichever is greater.

"(3) Civil actions.—If a person is violating or about to violate the provisions of subsection (b), the Attorney General may commence a civil action in an appropriate Federal district court to enjoin such violation.

"(4) Forfeiture.—Any property, real or personal, derived from or used to commit a violation or attempted violation of the provisions of subsection (b), or any property traceable to such property, shall be subject to forfeiture to the United States in accordance with the procedures set forth in chapter 46 of title 18, United States Code.

"(5) Advisory opinions.—The Attorney General shall, upon request, render binding advisory opinions regarding the scope, applicability, interpretation, and enforcement of this section with regard to specific research projects or practices.

"(e) COOPERATION WITH FOREIGN COUNTRIES.—It is the sense of Congress that the President should cooperate with foreign countries to enforce mutually supported restrictions on the activities prohibited under subsection (b).

"(f) RIGHT OF ACTION.—Nothing in this section shall be construed to give any individual or person a private right of action.

"(g) PREEMPTION OF STATE LAW.—The provisions of this section shall preempt any State or local law that prohibits or restricts research regarding, or practices constituting, nuclear transplantation, mitochondrial or cytoplasmic therapy, or the cloning of molecules, DNA, cells, tissues, organs, plants, animals, or humans.".

(b) ETHICAL REQUIREMENTS FOR NUCLEAR TRANSPLANTATION RESEARCH.—Part H of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by adding at the end the following:

"SEC. 498C. ETHICAL REQUIREMENTS FOR NUCLEAR TRANSPLANTATION RESEARCH.

"(a) DEFINITIONS.—In this section:.

"(1) HUMAN SOMATIC CELL.—The term 'human somatic cell' means a mature, diploid cell that is obtained or derived from a living or deceased human being at any stage of development.

"(2) NUCLEAR TRANSPLANTATION.—The term 'nuclear transplantation' means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus or all chromosomes have been or will be removed or rendered inert.

"(3) NUCLEUS.—The term 'nucleus' means the cell structure that houses the chromosomes, and thus the genes.

"(4) OOCYTE.—The term 'oocyte' means the female germ cell, the egg.

"(b) APPLICABILITY OF FEDERAL ETHICAL STANDARDS TO NUCLEAR TRANSPLANTATION RESEARCH.—Research involving nuclear transplantation shall be conducted in accordance with the applicable provisions of part 46 of title 45, Code of Federal Regulations (as in effect on the date of enactment of the Human Cloning Prohibition Act of 2001).

"(c) CIVIL PENALTIES.—Whoever intentionally violates subsection (b) shall be subject to a civil penalty of not more than $250,000.

"(d) ENFORCEMENT.—The Secretary of Health and Human Services shall have the exclusive authority to enforce this section.".

SA 2220. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

"SEC. . Notwithstanding any other provision of this Act, the $15,000,000,000 transfer authorized under section 107(a) shall not take effect unless the Secretary of the Treasury finds that no portion of the transferred funds are attributable to the surplus in Social Security.".

SA 2221. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

"SEC. . Notwithstanding any other provision of this Act, the $15,000,000,000 transfer authorized under section 107(a) shall not take effect unless the Secretary of the Treasury finds that no portion of the transferred funds are attributable to the surplus in Social Security or in Medicare.".

SA 2222. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

"SEC. . Notwithstanding any other provision of this Act, the reduction in the retirement age authorized by section 102 shall not take effect until the Secretary of the Treasury finds that there has been a comparable reduction in the Social Security retirement age.".

SA 2223. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

"SEC. . Notwithstanding any other provision of Act, the Board of Trustees created under section 105 shall invest the funds of the Trust only in a manner that maximizes return on investment, consistent with prudent risk management. Any railroad employee, retiree, survivor, or company may bring a civil action to enforce this section.".

SA 2224. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

"SEC. . Notwithstanding any other provision of Act, in the table in Section 3241(b) of the Internal Revenue Code of 1986 (as added by this Act) strike 22.1 and insert 'such percentage as the Secretary determines necessary to restore the average account benefit ratio to 2.5'.".

SA 2225. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

"SEC. . Notwithstanding any other provision of this Act, the Secretary of the Treasury shall not make the transfers authorized under Sec. 107(c)(1).".

SA 2226. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

"SEC. . Notwithstanding any other provision of this Act, any reduction in tax or increase in benefits shall take effect only to the degree that the Secretary of the Treasury finds that the actual earnings of the Railroad Retirement Investment Trust Fund are sufficient to fund them.".

SA 2227. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At end end of the amendment, insert the following:

"SEC. . Notwithstanding any other provision of this Act, section 105(c) shall not apply.".

SA 2228. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the of the amendment, insert the following:

"SEC. . Notwithstanding any other provision of this Act, any reduction in tax under section 204 shall be null and void in any year that the combined balances of the Railroad Retirement trust funds have been depleted by more than 10 percent as compared to the combined balances of the Railroad Retirement trust funds projected by the Railroad Retirement Board under employment assumption II as of the day before the date of enactment of this Act, and the Secretary of the Treasury shall apply the rate of tax necessary to restore the depleted funds.".

SA 2229. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

"SEC. . Notwithstanding any other provision of this Act, any reduction in tax under section 204 shall be null and void in any year that the combined balances of the Railroad Retirement trust funds have been depleted by more than 20 percent as compared to the combined balances of the Railroad Retirement trust funds projected by the Railroad Retirement Board under employment assumption II as of the day before the date of enactment of this Act, and the Secretary of the Treasury shall apply the rate of tax necessary to restore the depleted funds.".

SA 2230. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

"SEC. . Notwithstanding any other provision of this Act, any reduction in tax under section 204 shall be null and void in any year that the combined balances of the Railroad Retirement trust funds have been depleted by more than 40 percent as compared to the combined balances of the Railroad Retirement trust funds projected by the Railroad Retirement Board under employment assumption II as of the day before the date of enactment of this Act, and the Secretary of the Treasury shall apply the rate of tax necessary to restore the depleted funds.".

SA 2231. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

"SEC. . Notwithstanding any other provision of this Act, any reduction in tax under section 204 shall be null and void in any year that the combined balances of the Railroad Retirement trust funds have been depleted by more than 75 percent as compared to the combined balances of the Railroad Retirement trust funds projected by the Railroad Retirement Board under employment assumption II as of the day before the date of enactment of this Act, and the Secretary of the Treasury shall apply the rate of tax necessary to restore the depleted funds.".

SA 2232. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10), to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

TITLE —METHYL TERTIARY BUTYL ETHER

SEC. 1. SHORT TITLE.

This title may be cited as the "Federal Reformulated Fuels Act of 2001".

SEC. 2. LEAKING UNDERGROUND STORAGE TANKS.

(a) USE OF LUST FUNDS FOR REMEDIATION OF MTBE CONTAMINATION.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraphs (1), (2), and (12)"; and

(B) by inserting "and section 9010" before "if"; and

(2) by adding at the end the following:

"(12) REMEDIATION OF MTBE CONTAMINATION.—

"(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9011(1) to carry out corrective actions with respect to a release of methyl tertiary butyl ether that presents a threat to human health, welfare, or the environment.

"(B) APPLICABLE AUTHORITY.—Subparagraph (A) shall be carried out—

"(i) in accordance with paragraph (2); and

"(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).".

(b) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

"SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.

"Funds made available under section 9011(2) from the Leaking Underground Storage Tank Trust Fund may be used for conducting inspections, or for issuing orders or bringing actions under this subtitle—

"(1) by a State (pursuant to section 9003(h)(7)) acting under—

"(A) a program approved under section 9004; or

"(B) State requirements regulating underground storage tanks that are similar or identical to this subtitle; and

"(2) by the Administrator, acting under this subtitle or a State program approved under section 9004.

"SEC. 9011. AUTHORIZATION OF APPROPRIATIONS.

"In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund—

"(1) to carry out section 9003(h)(12), $200,000,000 for fiscal year 2002, to remain available until expended; and

"(2) to carry out section 9010—

"(A) $50,000,000 for fiscal year 2002; and

"(B) $30,000,000 for each of fiscal years 2003 through 2007.".

(c) TECHNICAL AMENDMENTS.—

(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:

"Sec. 9010. Release prevention and compliance.
"Sec. 9011. Authorization of appropriations."

(2) Section 9001(3)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(3)(A)) is amended by striking "sustances" and inserting "substances".

(3) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking "subsection (c) and (d) of this section" and inserting "subsections (c) and (d)".

(4) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended in the second sentence by striking "referred to" and all that follows and inserting "referred to in subparagraph (A) or (B), or both, of section 9001(2).".

(5) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking "study taking" and inserting "study, taking";

(B) in subsection (b)(1), by striking "relevent" and inserting "relevant"; and

(C) in subsection (b)(4), by striking "Evironmental" and inserting "Environmental".

SEC. 3. AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.

(a) IN GENERAL.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting "fuel or fuel additive or" after "Administrator any"; and

(B) by striking "air pollution which" and inserting "air pollution, or water pollution, that";

(2) in paragraph (4)(B), by inserting "or water quality protection," after "emission control,"; and

(3) by adding at the end the following:

"(5) BAN ON THE USE OF MTBE.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall ban use of methyl tertiary butyl ether in motor vehicle fuel.".

(b) NO EFFECT ON LAW REGARDING STATE AUTHORITY.—The amendments made by subsection (a) have no effect on the law in effect on the day before the date of enactment of this Act regarding the authority of States to limit the use of methyl tertiary butyl ether in gasoline.

SEC. 4. WAIVER OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking "Within 1 year after the enactment of the Clean Air Act Amendments of 1990," and inserting the following:

"(A) IN GENERAL.—Not later than November 15, 1991,"; and

(2) by adding at the end the following:

"(B) WAIVER OF OXYGEN CONTENT REQUIREMENT.—

"(i) AUTHORITY OF THE GOVERNOR.—

"(I) IN GENERAL.—Notwithstanding any other provision of this subsection, a Governor of a State, upon notification by the Governor to the Administrator during the 90-day period beginning on the date of enactment of this subparagraph, or during the 90-day period beginning on the date on which an area in the State becomes a covered area by operation of the second sentence of paragraph (10)(D), may waive the application of paragraphs (2)(B) and (3)(A)(v) to gasoline sold or dispensed in the State.

"(II) OPT-IN AREAS.—A Governor of a State that submits an application under paragraph (6) may, as part of that application, waive the application of paragraphs (2)(B) and (3)(A)(v) to gasoline sold or dispensed in the State.

"(ii) TREATMENT AS REFORMULATED GASOLINE.—In the case of a State for which the Governor invokes the waiver described in clause (i), gasoline that complies with all provisions of this subsection other than paragraphs (2)(B) and (3)(A)(v) shall be considered to be reformulated gasoline for the purposes of this subsection.

"(iii) EFFECTIVE DATE OF WAIVER.—A waiver under clause (i) shall take effect on the earlier of—

"(I) the date on which the performance standards under subparagraph (C) take effect; or

"(II) the date that is 270 days after the date of enactment of this subparagraph.

"(C) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—

"(i) IN GENERAL.—As soon as practicable after the date of enactment of this subparagraph, the Administrator shall—

"(I) promulgate regulations consistent with subparagraph (A) and paragraph (3)(B)(ii) to ensure that reductions of toxic air pollutant emissions achieved under the reformulated gasoline program under this section before the date of enactment of this subparagraph are maintained in States for which the Governor waives the oxygenate requirement under subparagraph (B)(i); or

"(II) determine that the requirement described in clause (iv)—

"(aa) is consistent with the bases for performance standards described in clause (ii); and

"(bb) shall be deemed to be the performance standards under clause (ii) and shall be applied in accordance with clause (iii).

"(ii) PADD PERFORMANCE STANDARDS.—The Administrator, in regulations promulgated under clause (i)(I), shall establish annual average performance standards for each Petroleum Administration for Defense District (referred to in this subparagraph as a 'PADD') based on—

"(I) the average of the annual aggregate reductions in emissions of toxic air pollutants achieved under the reformulated gasoline program in each PADD during calendar years 1999 and 2000, determined on the basis of the 1999 and 2000 Reformulated Gasoline Survey Data, as collected by the Administrator; and

"(II) such other information as the Administrator determines to be appropriate.

"(iii) Applicability.—

"(I) In general.—The performance standards under this subparagraph shall be applied on an annual average importer or refinery-by-refinery basis to reformulated gasoline that is sold or introduced into commerce in a State for which the Governor waives the oxygenate requirement under subparagraph (B)(i).

"(II) More stringent requirements.—The performance standards under this subparagraph shall not apply to the extent that any requirement under section 202(l) is more stringent than the performance standards.

"(III) State standards.—The performance standards under this subparagraph shall not apply in any State that has received a waiver under section 209(b).

"(IV) Credit program.—The Administrator shall provide for the granting of credits for exceeding the performance standards under this subparagraph in the same manner as provided in paragraph (7).

"(iv) Statutory performance standards.—

"(I) In general.—Subject to subclause (IV), if the regulations under clause (i)(I) have not been promulgated by the date that is 270 days after the date of enactment of this subparagraph, the requirement described in subclause (III) shall be deemed to be the performance standards under clause (ii) and shall be applied in accordance with clause (iii).

"(II) Publication in federal register.—Not later than 30 days after the date of enactment of this subparagraph, the Administrator shall publish in the Federal Register, for each PADD, the percentage equal to the average of the annual aggregate reductions in the PADD described in clause (ii)(I).

"(III) Toxic air pollutant emissions.—The annual aggregate emissions of toxic air pollutants from baseline vehicles when using reformulated gasoline in each PADD shall be not greater than—

"(aa) the aggregate emissions of toxic air pollutants from baseline vehicles when using baseline gasoline in the PADD; reduced by

"(bb) the quantity obtained by multiplying the aggregate emissions described in item (aa) for the PADD by the percentage published under subclause (II) for the PADD.

"(IV) Subsequent regulations.—Through promulgation of regulations under clause (i)(I), the Administrator may modify the performance standards established under subclause (I) to require each PADD to achieve a greater percentage reduction than the percentage published under subclause (II) for the PADD.".

SEC. 5. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking "may also" and inserting "shall, on a regular basis,"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and"; and

(2) by adding at the end the following:

"(4) Ethyl tertiary butyl ether.—

"(A) In general.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

"(i) conduct a study on the effects on public health, air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

"(I) ethyl tertiary butyl ether; and

"(II) other ethers, as determined by the Administrator; and

"(ii) submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the results of the study.

"(B) Contracts for study.—In carrying out this paragraph, the Administrator may enter into 1 or more contracts with nongovernmental entities.".

SEC. 6. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following:

"(o) Analyses of Motor Vehicle Fuel Changes and Emissions Model.—

"(1) Anti-backsliding analysis.—

"(A) Draft analysis.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Federal Reformulated Fuels Act of 2001.

"(B) Final analysis.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this subsection, the Administrator shall publish the analysis in final form.

"(2) Emissions model.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of fuel characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2005.".

SEC. 7. ELIMINATION OF ETHANOL WAIVER.

Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraph (5) as paragraph (4).

SEC. 8. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking "(6) Opt-in areas.—(A) Upon" and inserting the following:

"(6) Opt-in areas.—

"(A) Classified areas.—

"(i) In general.—Upon";

(2) in subparagraph (B), by striking "(B) If" and inserting the following:

"(ii) Effect of insufficient domestic capacity to produce reformulated gasoline.—If";

(3) in subparagraph (A)(ii) (as so redesignated)—

(A) in the first sentence, by striking "subparagraph (A)" and inserting "clause (i)"; and

(B) in the second sentence, by striking "this paragraph" and inserting "this subparagraph"; and

(4) by adding at the end the following:

"(B) Nonclassified areas.—

"(i) In general.—In accordance with section 110, a State may submit to the Administrator, and the Administrator may approve, a State implementation plan revision that provides for application of the prohibition specified in paragraph (5) in any portion of the State that is not a covered area or an area referred to in subparagraph (A)(i).

"(ii) Period of effectiveness.—Under clause (i), the State implementation plan shall establish a period of effectiveness for applying the prohibition specified in paragraph (5) to a portion of a State that—

"(I) commences not later than 1 year after the date of approval by the Administrator of the State implementation plan; and

"(II) ends not earlier than 4 years after the date of commencement under subclause (I).".

SEC. 9. MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.

Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) (as amended by section 3(a)(3)) is amended by adding at the end the following:

"(6) MTBE merchant producer conversion assistance.—

"(A) In general.—The Administrator may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (B) to the production of other fuel additives that—

"(i) will be consumed in nonattainment areas;

"(ii) will assist the nonattainment areas in achieving attainment with a national primary ambient air quality standard;

"(iii) will not degrade air quality or surface or ground water quality or resources; and

"(iv) have been registered and tested in accordance with the requirements of this section.

"(B) Eligible production facilities.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

"(i) is located in the United States; and

"(ii) produced methyl tertiary butyl ether for consumption in nonattainment areas during the period—

"(I) beginning on the date of enactment of this paragraph; and

"(II) ending on the effective date of the ban on the use of methyl tertiary butyl ether under paragraph (5).

"(C) Authorization of appropriations.—There is authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2002 through 2004.".

SA 2233. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. Daschle and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 51, insert the following after Section 301 and redesignate accordingly:

SEC. . PRICE-ANDERSON REAUTHORIZATION.

(a) Indemnification of Licensees.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking "LICENSES" and inserting "LICENSEES"; and

(2) in the first sentence, by striking "August 1, 2001" and inserting "August 1, 2012".

(b) Reports to Congress.—Section 170p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking "August 1, 1998" and inserting "August 1, 2008".

(c) Applicability. –The amendments made by this section apply with respect to nuclear incidents occurring on or after the date of enactment of this Act.

SEC. . ELIMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.

(a) Commercial Licenses.—Section 103d. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(d)) is amended by striking the second sentence.

(b) Medical Therapy and Research and Development.—Section 104d. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(d)) is amended by striking the second sentence.

SEC. . SCOPE OF ENVIRONMENT REVIEW.

(a) In General.—Chapter 10 of title I of the Atomic Energy Act of 1954 (42 U.S.C. 2131 et seq.) is amended—

(1) by redesignating sections 110 and 111 as sections 111 and 112, respectively; and

(2) by inserting after section 109 the following:

SEC. 110. SCOPE OF ENVIRONMENTAL REVIEW.

"In conducting any environmental review (including any activity conducted under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332)) in connection with an application for a license or a renewed license under this chapter, the Commission shall not give any consideration to the need for, or any alternative to, the facility to be licensed.".

(b) Conforming Amendments.—

(1) The Atomic Energy Act of 1954 is amended—

(A) in the table of contents (42 U.S.C. prec. 2011), by striking the items relating to section 110 and inserting the following:

"Sec. 110. Scope of environmental review.
"Sec. 111. Exclusions.
"SEC. 112. LICENSING BY NUCLEAR REGULATORY COMMISSION OF DISTRIBUTION OF CERTAIN MATERIALS BY DEPARTMENT OF ENERGY.";

(B) in the last sentence of section 57b. (42 U.S.C. 2077(b)), by striking "section 111 b." and inserting "section 112b."; and

(C) in section 131a.(2)(C), by striking "section 111 b." and inserting "section 112b.".

(2) Section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842) is amended—

(A) by striking "section 110 a." and inserting "section 111a."; and

(B) by striking "section 110 b." and inserting "section 111b.".

SEC. . ELIMINATION OF DUPLICATIVE ANTITRUST REVIEW.

Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by striking subsection c. and inserting the following:

"(c.) Conditions.—

"(1) In general.—A condition for a grant of a license imposed by the Commission under this section shall remain in effect until the condition is modified or removed by the Commission.

"(2) Modification.—If a person that is licensed to construct or operate a utilization or production facility applies for reconsideration under this section of a condition imposed in the person's license, the Commission shall conduct a proceeding, on an expedited basis, to determine whether the license condition—

"(A) is necessary to ensure compliance with subsection a.; or

"(B) should be modified or removed.".

On page 52, insert the following after Section 304 and redesignate accordingly:

SEC. . HEARING PROCEDURES.

Section 189a.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)) is amended by adding at the end the following:

"(C) Hearings.—A hearing under this section shall be conducted using informal adjudicatory procedures unless the Commission determines that formal adjudicatory procedures are necessary—

"(i) to develop a sufficient record; or

"(ii) to achieve fairness.".

SEC. . AUTHORITY OVER FORMER LICENSEES FOR DECOMMISSIONING FUNDING.

Section 161i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking "and (3)" and inserting "(3)"; and

(2) by inserting before the semicolon at the end the following: ", and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility".

SEC. . ELIMINATION OF PENSION OFFSET.

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following:

"(y)" exempt from the application of sections 8344 and 8468 of title 5, United States Code, an annuitant who was formerly an employee of the Commission who is hired by the Commission as a consultant, if the Commission finds that the annuitant has a skill that is critical to the performance of the duties of the Commission.".

On page 53, insert the following after Section 308 and redesignate accordingly

SEC. . CONTRACTS WITH THE NATIONAL LABORATORIES.

Section 170A of the Atomic Energy Act of 1954 (42 U.S.C. 2210a) is amended by striking subsection c. and inserting the following:

"(c) Contracts, Agreements, and Other Arrangements With the National Laboratories.—Notwithstanding subsection b. and notwithstanding the potential for a conflict of interest that cannot be avoided, the Commission may enter into a contract, agreement, or other arrangement with a national laboratory if the Commission takes reasonable steps to mitigate the effect of the conflict of interest.".

On page 108, insert the following after Section 2302 and redesignate accordingly:

SEC. . NRC TRAINING PROGRAM.

(a) In General.—In order to maintain the human resources investment and infrastructure of the United States in the nuclear sciences, health physics, and engineering fields, in accordance with the statutory authorities of the Commission relating to the civilian nuclear energy program, the Nuclear Regulatory Commission shall carry out a training and fellowship program to address shortages of individuals with critical safety skills.

(b) Authorization of Appropriations—

(1) In general.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2002 through 2005.

(2) Availability.—Funds made available under paragraph (1) shall remain available until expended.

SA 2234. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. Lott and intended to be proposed to the amendment SA 2170 proposed by Mr. Daschle to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 401 and 402 and insert the following:

SEC. 401. ALTERNATIVE CONDITIONS.

(a) Alternative Mandatory Conditions.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

"(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls (in this subsection referred to as the 'Secretary') shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant may propose an alternative condition that will either—

"(A) cost less to implement, or

"(B) result in improved operation of the project works for electricity production.

"(2) Notwithstanding the first proviso of subsection (e), the Secretary shall accept the alternative condition proposed by the license applicant, and the Commission shall include in the license such alternative condition, if the Secretary determines that the alternative condition provides for the adequate protection and utilization of the reservation.

"(3) In making the determination set forth in subsection (2), the Secretary shall consult with and obtain the view of the Commission.

"(4) The Secretary shall submit to the Commission with any condition under subsection (e) or alternative condition it accepts under paragraph (2) a written statement explaining the basis for such condition and, if he determines not to accept an alternative condition proposed by the license applicant under paragraph (1), the basis for not accepting such alternative condition, along with all studies, data, and other information on which the Secretary based his decision.

"(5) The Commission shall place any statement, study, data, or other information received from the Secretary under paragraph (4) on the public record of the licensing proceeding.

"(6) The Secretary shall establish schedules for the submission of proposed conditions under paragraph (1) and the expedited review of the acceptance or rejection of proposed conditions under paragraph (2) that will enable the Secretary to submit conditions to the Commission in accordance with the Commission's license application review schedule.".

(b) Alternative Fishways.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

(1) inserting "(a)" before the first sentence; and

(2) adding at the end the following:

"(b)(1) Whenever the Commission shall require a licensee to construct, maintain, or operate a fishway prescribed by the Secretary of the Interior or the Secretary of Commerce under this section, the licensee may propose an alternative that will either—

"(A) cost less to implement, or

"(B) result in improved operation of the project works for electricity production.

"(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the alternative proposed by the licensee, if the Secretary of the appropriate department determines that the alternative will be no less effective than the fishway initially prescribed by the Secretary.

"(3) In making the determination set forth in subsection (2), the Secretary shall consult with and obtain the view of the Commission.

"(4) The Secretary of the appropriate department shall submit to the Commission with any fishway prescription under subsection (a) or alternative prescription it accepts under paragraph (2) a written statement explaining the basis of such prescription and, if it determines not to accept an alternative prescription proposed by the licensee under paragraph (1), the basis for not accepting such alternative prescription, along with all studies, data, and other information on which the Secretary based his decision.

"(5) The Commission shall place any statement, study, data or other information received from the Secretary under paragraph (3) on the public record of the licensing proceeding.

"(6) The Secretary of the appropriate department shall establish schedules for the submission of proposed conditions under paragraph (1) and the expedited review of the acceptance or rejection of proposed conditions under paragraph (2) that will enable the Secretary to submit conditions in accordance with the Commission's license application review schedule.".

SA 2235. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following and redesignate accordingly:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Climate Change Risk Management Act of 2001".

SEC. 2. FINDINGS.

Congress finds that—

(1) human activities, namely energy production and use, contribute to increasing concentrations of greenhouse gases in the atmosphere, which may ultimately contribute to global climate change beyond that resulting from natural variability;

(2) although the science of global climate change has been advanced in the past ten years, the timing and magnitude of climate change-related impacts on the United States cannot currently be predicted with any reasonable certainty;

(3) furthermore, a recent National Research Council review of climate change science suggests that without an understanding of the sources and degree of uncertainty regarding climate change and its impacts, decision-makers could fail to define the best ways to manage the risk of climate change;

(4) despite this uncertainty, the potential impacts from human-induced climate change pose a substantial risk that should be managed in a responsible manner;

(5) given that the bulk of greenhouse gas emissions from human activities result from energy production and use, national and international energy policy decisions made now and in the longer-term future will influence the extent and timing of any climate change and resultant impacts from climate change later this century;

(6) the characteristics of greenhouse gases and the physical nature of the climate system require that stabilization of atmospheric greenhouse gas concentrations at any future level must be a long-term effort undertaken on a global basis;

(7) the characteristics of existing energy-related infrastructure and capital suggest that effective greenhouse gas management efforts will depend on the development of long-term, cost-effective technologies and practices that can be demonstrated and deployed commercially in the United States and around the world;

(8) environmental progress, energy security, economic prosperity, and satisfaction of basic human needs are interrelated, particularly in developing countries;

(9) developing countries will constitute the major source of greenhouse gas emissions in the 21st century and the major source of increases in such emissions;

(10) any program to address the risks of climate change that does not fully include developing nations as integral participants will be ineffective;

(11) a new long-term, technology-based, cost-effective, flexible, and global strategy to ensure long-term energy security and manage the risk of climate change is needed, and should be promoted by the United States in its domestic and international activities in this regard.

SEC. 3. DEFINITIONS

Title XVI of the Energy Policy Act of 1992 (42 U.S.C. 13381, et seq.) is amended by inserting before section 1601 the following:

"SEC. 1600. DEFINITIONS.

(1) AGRICULTURAL ACTIVITY.—The term "agricultural activity" means livestock production, cropland cultivation, biogas and other waste material recovery and nutrient management.

(2) CLIMATE SYSTEM.—The term "climate system" means the totality of the atmosphere, hydrosphere, biosphere and geosphere and their interactions.

(3) CLIMATE CHANGE.—The term "climate change" means a change in the state of the climate system attributed directly or indirectly to human activity which is in addition to natural climate variability observed over comparable time periods.

(4) EMISSIONS.—The term "emissions" means the net release of greenhouse gases and/or their precursors into the atmosphere over a specified area and period of time, after taking into account any reductions due to greenhouse gas sequestration.

(5) GREENHOUSE GASES.—The term "greenhouse gases" means those gaseous and aerosol constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation.

(6) SEQUESTRATION.—The term "sequestration" means any process, activity or mechanism which removes a greenhouse gas or its precursor from the atmosphere or from emissions streams.

(7) FOREST PRODUCTS.—The term "forest products" means all products or goods manufactured from trees.

(8) FORESTRY ACTIVITY.—

(A) IN GENERAL.—The term "forestry activity means any ownership or management action that has a discernible impact on the use and productivity of forests.

(B) INCLUSIONS.—Forestry activities include, but are not limited to, the establishment of trees on an area not previously forested, the establishment of trees on an area previously forested if a net carbon benefit can be demonstrated, enhanced forest management (including thinning, stand improvement, fire protection, weed control, nutrient application, pest management, and other silvicultural practices), forest protection or conservation if a net carbon benefit can be demonstrated, and production or use of biomass energy (including the use of wood, grass or other biomass in lieu of fossil fuel).

(C) EXCLUSIONS.—The term "forest activity" does not include a land use change associated with—

(i) an act of war; or

(ii) an act of nature, including floods, storms, earthquakes, fires, hurricanes, and tornadoes.".

SEC. 4. NATIONAL CLIMATE CHANGE STRATEGY.

(a) IN GENERAL.—Section 1601 of the Energy Policy Act of 1992 (42 U.S.C. 13381) is amended to read as follows:

"SEC. 1601. NATIONAL CLIMATE CHANGE STRATEGY.

(a) IN GENERAL.—The President, in consultation with appropriate Federal agencies and the Congress, shall develop and implement a national strategy to manage the risks posed by potential climate change.

(b) GOAL.—The strategy shall be consistent with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, in a manner that—

(1) does not result in serious harm to the U.S. economy;

(2) adequately provides for the energy security of the U.S.;

(3) establishes and maintains U.S. leadership with respect to climate change-related scientific research, development and deployment of advanced energy technology; and

(4) will result in a reduction in the ratio that the net U.S. greenhouse gas emissions bears to the U.S. gross domestic production.

(c) ELEMENTS.—The strategy shall include short-term and long-term strategies, programs and policies that—

(1) enhance the scientific knowledge base for understanding and evaluation of natural and human-induced climate change, including the role of climate feedbacks and all climate forcing agents;

(2) improve scientific observation, modeling, analysis and prediction of climate change and its impacts, and the economic, social and environmental risks posed by such impacts;

(3) assess the economic, social, and environmental costs and benefits of current and potential options to reduce, avoid, or sequester greenhouse gas emissions.

(4) develop and implement market-directed policies that reduce, avoid or sequester greenhouse gas emissions, including

(i) cost-effective Federal, State, tribal, and local policies, programs, standards and incentives;

(ii) policies and incentives to speed development, deployment and consumer adoption of advanced energy technologies in the U.S. and throughout the world; and

(iii) removal of regulatory barriers that impede the development, deployment and consumer adoption of advanced energy technologies in the U.S. and throughout the world; and

(iv) participation in international institutions, or the support of international activities, that are established or conducted to facilitate effective measures to implement the United Nations Framework Convention on Climate Change.

(5) advance areas where bilateral or multilateral cooperation and investment would lead to adoption of advanced technologies for use within developing countries to reduce, avoid or sequester greenhouse gas emissions;

(6) identify activities and policies that provide for adaptation to natural and human-induced climate change;

(7) recommend specific legislative or administrative activities, giving preference to cost-effective and technologically feasible measures that will—

(A) result in a reduction in the ratio that the net U.S. greenhouse gas emissions bears to the U.S. gross domestic product;

(B) avoid adverse short-term and long-term economic and social impacts on the United States; and

(C) foster such changes in institutional and technology systems as are necessary to mitigate or adapt to climate change and its impacts in the short-term and the long-term;

(8) designate federal, state, tribal or local agencies responsible for carrying out recommended activities and programs, and identify interagency entities or activities that may be needed to coordinate actions carried out consistent with this strategy.

(d) CONSULTATION.—This strategy shall be developed in a manner that provides for meaningful participation by, and consultation among, Federal, State, tribal, and local government agencies, non-governmental organizations, academia, scientific bodies, industry, the public, and other interested parties.

(e) BIANNUAL REPORT.—No later than one year after the date of enactment of this section, and at the end of each second year thereafter, the President shall submit to Congress a report that includes—

(1) a description of the national climate change strategy and its goals and Federal programs and activities intended to carry out this strategy through mitigation, adaptation, and scientific research activities;

(2) an evaluation of Federal programs and activities implemented as part of this strategy against the goals and implementation dates outlined in the strategy;

(3) a description of changes to Federal programs or activities implemented to carry out this strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation or adaptation activities;

(4) a description of all Federal spending on climate change for the current fiscal year and each of the five years previous, categorized by Federal agency and program function (including scientific research, energy research and development, regulation, education and other activities);

(5) an estimate of the budgetary impact for the current fiscal year and each of the five years previous of any Federal tax credits, tax deductions or other incentives claimed by taxpayers that are directly or indirectly attributable to greenhouse gas emissions reduction activities; and

(6) an estimate of the amount, in metric tons, of greenhouse gas emissions reduced, avoided or sequestered directly or indirectly as a result of each spending program or tax credit, deduction or other incentive for the current fiscal year and each of the five years previous.

(f) REVIEW BY NATIONAL ACADEMIES.—

(1) IN GENERAL.—Not later than 90 days after the date of publication of the each biannual report as directed by this section, the President shall commission the National Academies to conduct a review of the national climate change strategy and implementation plan required by this section.

(2) CRITERIA.—The National Academies' review shall evaluate the goals and recommendations contained in the national climate change strategy report in light of—

(A) new or improved scientific knowledge regarding climate change and its impacts;

(B) new understanding of human social and economic responses to climate change, and responses of natural ecosystems to climate change;

(C) advancements in energy technologies that reduce, avoid, or sequester greenhouse gases or otherwise mitigate the risks of climate change;

(D) new or revised understanding of economic costs and benefits of mitigation or adaptation activities; and

(E) the existence of alternative policy options that could achieve the strategy goals at lower economic, environmental, or social cost.

(3) REPORT.—The National Academies shall prepare and submit to Congress and the President a report concerning the results of such review, along with any recommendations as appropriate. Such report shall also be made available to the public.

(4) DEFINITION.—For the purposes of this Section, the term "National Academies" means the National Research Council, the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine."

(b) CONFORMING AMENDMENT.—Section 1103(b) of the Global Climate Protection Act of 1987 (15 U.S.C. 2901) is amended by inserting ", the Department of Energy, and other Federal agencies as appropriate" after "Environmental Protection Agency".

SEC. 5. CLIMATE TECHNOLOGY RESEARCH, DEVELOPMENT, DEMONSTRATION AND DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 1604 of the Energy Policy Act of 1992 (42 U.S.C. 13384) is amended to read as follows:

"SEC. 1604. CLIMATE TECHNOLOGY RESEARCH, DEVELOPMENT, DEMONSTRATION AND DEPLOYMENT PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Advisory Board established under section 2302, shall establish a long-term Climate Technology Research, Development, Demonstration, and Deployment Program, in accordance with sections 3001 and 3002.

(b) PROGRAM OBJECTIVES.—The program shall conduct a long-term research, development, demonstration and deployment program to foster technologies and practices that—

(1) reduce or avoid anthropogenic emissions of greenhouse gases;

(2) remove and sequester greenhouse gases from emissions streams; and

(3) remove and sequester greenhouse gases from the atmosphere.

(c) PROGRAM PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 10-year program plan to guide activities under this section. Thereafter, the Secretary shall biennially update and resubmit the program plan to the Congress. In preparing the program plan, the Secretary shall:

(1) include quantitative technology performance and carbon emissions reduction goals, schedule milestones, technology approaches, Federal funding requirements, and non-Federal cost sharing requirements;

(2) consult with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional, scientific and technical societies;

(3) take into consideration how the Federal Government, acting through the Secretary, can be effective in ensuring the availability of such technologies when they are needed and how the Federal Government can most effectively cooperate with the private sector in the accomplishment of the goals set forth in subsection (b); and

(4) consider how activities funded under the program can be complementary to, and not duplicative of, existing research and development activities within the Department.

(d) SOLICITATION.—Not later than 1 year after the date of submission of the 10-year program plan, the Secretary shall solicit proposals for conducting activities consistent with the 10-year plan and select one or more proposals not later than 180 days after such solicitations.

(e) PROPOSALS.—Proposals may be submitted by applicants or consortia from industry, institutions of higher education, or Department of Energy national laboratories. At minimum, each proposal shall also include the following:

(1) a multi-year management plan that outlines how the proposed research, development, demonstration and deployment activities will be carried out;

(2) quantitative technology goals and greenhouse gas emission reduction targets that can be used to measure performance against program objectives;

(3) the total cost of the proposal for each year in which funding is requested, and a breakdown of those costs by category;

(4) evidence that the applicant has in existence or has access to—

(i) the technical capability to enable it to make use of existing research support and facilities in carrying out the research objectives of the proposal;

(ii) a multi-disciplinary research staff experienced in technologies or practices able to sequester, avoid, or capture greenhouse gas emissions;

(iii) access to facilities and equipment to enable the conduct of laboratory-scale testing or demonstration of technologies or related processes undertaken through the program; and

(iv) commitment for matching funds and other resources from non-Federal sources, including cash, equipment, services, materials, appropriate technology transfer activities, and other assets directly related to the cost of the proposal;

(5) evidence that the proposed activities are supplemental to, and not duplicative of, existing research and development activities carried out, funded, or otherwise supported by the Department;

(6) a description of the technology transfer mechanisms and industry partnerships that the applicant will use to make available research results to industry and to other researchers;

(7) a statement whether the unique capabilities of Department of Energy national laboratories warrant collaboration with those laboratories, and the extent of any such collaboration proposed; and

(8) demonstrated evidence of the ability of the applicant to undertake and complete the proposed project, including the successful introduction of the technology into commerce.

(f) SELECTION OF PROPOSALS.—From the proposals submitted, the Secretary shall select for funding one or more proposals that will best accomplish the program objectives outlined in this section.

(g) ANNUAL REPORT.—The Secretary shall prepare and submit an annual report to Congress that—

(1) demonstrates that the program objectives are adequately focused, peer-reviewed for merit, and not unnecessarily duplicative of the science and technology research being conducted by other Federal agencies and programs,

(2) states whether the program as conducted in the prior year addresses an adequate breadth and range of technologies and solutions to address anthropogenic climate change; and

(3) evaluates the quantitative progress of funded proposals towards the program objectives outlined in this section, and the technology and greenhouse gas emission reduction, avoidance or sequestration goals as described in their respective proposals.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle $200,000,000 for each of fiscal years 2002 through 2011, to remain available until expended.".

(b) CONFORMING AMENDMENTS.—Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3) by striking the period at the end and inserting ", and"; and

(C) by adding at the end of the following:

"(4) solutions to the effective management of greenhouse gas emissions in the long term by the development of technologies and practices designed to—

(A) reduce or avoid anthropogenic emissions of greenhouse gases;

(B) remove and sequester greenhouse gases from emissions streams; and

(C) remove and sequester greenhouse gases from the atmosphere."; and

(2) in subsection (b)—

(A) in paragraph (2), by striking "subsection (a)(1) through (3)" and inserting "paragraphs (1) through (4) of subsection (a)"; and

(B) in paragraph (3)—

(i) in subparagraph (R), by striking "and" at the end;

(ii) in subparagraph (S), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(T) to pursue a long-term climate technology strategy designed to demonstrate a variety of technologies by which stabilization of greenhouse gases might be best achieved, including accelerated research, development, demonstration and deployment of—

(i) renewable energy systems;

(ii) advanced fossil energy technology;

(iii) advanced nuclear power plant design;

(iv) fuel cell technology for residential; industrial and transportation applications;

(v) carbon sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon;

(vi) efficient electrical generation, transmission and distribution technologies; and

(vii) efficient end use energy technologies.".

SEC. 6. INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.

Section 1608 of the Energy Policy Act of 1992 (42 U.S.C. 13387) is amended by striking subsection (l) and inserting the following:

"(l) INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term "international energy deployment project" means a project to construct an energy production facility outside the United States—

(i) the output of which will be consumed outside the United States; and

(ii) the deployment of which will result in a greenhouse gas reduction per unit of energy produced when compared to the technology that would otherwise be implemented of—

(I) 10 percentage points or more, in the case of a unit placed in service before January 1, 2010;

(II) 20 percentage points or more, in the case of a unit placed in service after December 31, 2009, and before January 1, 2020; or

(III) 30 percentage points or more, in the case of a unit placed in service after December 31, 2019, and before January 1, 2030.

(C) QUALIFYING INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term "qualifying international energy deployment project" means an international energy deployment project that—

(i) is submitted by a United States firm to the Secretary in accordance with procedures established by the Secretary by regulation;

(ii) uses technology that has been successfully developed or deployed in the United States, or in another country as a result of a partnership with a company based in the United States;

(iii) meets the criteria of subsection (k);

(iv) is approved by the Secretary, with notice of the approval being published in the Federal Register; and

(v) complies with such terms and conditions as the Secretary establishes by regulation.

(D) UNITED STATES.—The term "United States", when used in a geographical sense, means the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) PILOT PROGRAM FOR FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall, by regulation, provide for a pilot program for financial assistance for qualifying international energy deployment projects.

(B) SELECTION CRITERIA.—After consultation with the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, the Secretary shall select projects for participation in the program based solely on the criteria under this title and without regard to the country in which the project is located.

(C) FINANCIAL ASSISTANCE.—

(i) IN GENERAL.—A United States firm that undertakes a qualifying international energy deployment project that is selected to participate in the pilot program shall be eligible to receive a loan or a loan guarantee from the Secretary.

(ii) RATE OF INTEREST.—The rate of interest of any loan made under clause (i) shall be equal to the rate for Treasury obligations then issued for periods of comparable maturities.

(iii) AMOUNT.—The amount of a loan or loan guarantee under clause (i) shall not exceed 50 percent of the total cost of the qualified international energy deployment project.

(iv) DEVELOPED COUNTRIES.—Loans or loan guarantees made for projects to be located in a developed country, as listed in Annex I of the United Nations Framework Convention on Climate Change, shall require at least a 50% contribution towards the total cost of the loan or loan guarantee by the host country.

(v) DEVELOPING COUNTRIES.—Loans or loan guarantees made for projects to be located in a developed country (those countries not listed in Annex I of the United Nations Framework Convention on Climate Change) shall require at least a 10% contribution towards the total cost of the loan or loan guarantee by the host country.

(vi) CAPACITY BUILDING RESEARCH.—Proposals made for projects to be located in a developing country may include a research component intended to build technological capacity within the host country. Such research must be related to the technologies being deployed and must involve both an institution in the host country and an industry, university or national laboratory participant from the United States. The host institution must contribute at least 50% of funds provided for the capacity building research.

(D) COORDINATION WITH OTHER PROGRAMS.—A qualifying international energy deployment project funded under this section shall not be eligible as a qualifying clean coal technology under section 415 of the Clean Air Act (42 U.S.C. 7651n).

(E) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to the President and the Congress a report on the results of the pilot projects.

(F) RECOMMENDATIONS.—Not later than 60 days after receiving the report under subparagraph (E), the Secretary shall submit to Congress a recommendation concerning whether the financial assistance program under this section should be continued, expanded, reduced, or eliminated.

(G) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2002 through 2011, to remain available until expended.".

SEC. 7. NATIONAL GREENHOUSE GAS EMISSIONS REGISTRY.

Section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385) is amended—

(1) by amending the second sentence of subsection (a) to read as follows:

"The Secretary shall annually update and analyze such inventory using available data, including, beginning in calendar year 2001, information collected as a result of voluntary reporting under subsection (b). The inventory shall identify for calendar year 2001 and thereafter the amount of emissions reductions attributed to those reported under subsection (b)";

(2) by amending subsection (b)(1)(B) and (C) to read as follows—

"(B) annual reductions or avoidance of greenhouse gas emissions and carbon sequestration achieved through any measures, including agricultural activities, co-generation, appliance efficiency, energy efficiency, forestry activities that increase carbon sequestration stocks (including the use of forest products), fuel switching, management of crop lands, grazing lands, grasslands and drylands, manufacture or use of vehicles with reduced greenhouse gas emissions, methane recovery, ocean seeding, use of renewable energy, chlorofluorocarbon capture and replacement, and power plant heat rate improvement; and

(C) reductions in, or avoidance of, greenhouse gas emissions achieved as a result of voluntary activities domestically, or internationally, plant or facility closings, and State or Federal requirements.".

(3) by striking in the first sentence of subsection (b)(2) the word "entities" and inserting "persons or entities" and in the second sentence of such subsection, by inserting after "Persons" the words "or entities";

(4) by inserting in the second sentence of subsection (b)(4) the words "persons or" before "entity";

(5) by adding after subsection (b)(4) the following new paragraphs—

"(5) RECOGNITION OF VOLUNTARY GREENHOUSE GAS EMISSIONS REDUCTION, AVOIDANCE, OR SEQUESTRATION.—To encourage new and increased voluntary efforts to reduce, avoid, or sequester emissions of greenhouse gases, the Secretary shall develop and establish a program of giving annual public recognition to all reporting persons and entities demonstrating voluntarily achieved greenhouse gases reduction, avoidance, or sequestration, pursuant to the voluntary collections and reporting guidelines issued under this section.

Such recognition shall be based on the information certified, subject to section 1001 of title 18, United States Code, by such persons or entities for accuracy as provided in paragraph 2 of this subsection, and shall include such information reported prior to the enactment of this paragraph. At a minimum such recognition shall annually be published in the Federal Register.

(6) REVIEW AND REVISION OF GUIDELINES.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subparagraph, the Secretary of Energy, acting through the Administrator of the Energy Information Administration, shall conduct a review of guidelines established under this section regarding the accuracy and reliability of reports of greenhouse gas reductions and related information.

(B) CONTENTS.—The review shall include the consideration of the need for any amendments to such guidelines, including—

(i) a random or other verification process using the authorities available to the Secretary under other provisions of law;

(ii) a range of reference cases for reporting of project-based activities in sectors, including the measures specified in subparagraph (1)(B) of this subsection, and the inclusion of benchmark and default methodologies and best practices for use as reference cases for eligible projects;

(iii) issues, such as comparability, that are associated with the option of reporting on an entity-wide basis or on an activity or project basis; and

(iv) safeguards to address the possibility of reporting, inadvertently or otherwise, of some of all of the same greenhouse gas emissions reductions by more than one reporting entity or person and to make corrections where necessary;

(v) provisions that encourage entities or persons to register their certified, by appropriate and credible means, baseline emissions levels on an annual basis, taking into consideration all of their reports made under this section prior to the enactment of this paragraph;

(vi) procedures and criteria for the review and registration of ownership of all or part of any reported and verified emissions reductions relative to a reported baseline emissions level under this section; and

(vii) accounting provisions needed to allow for changes in registration of ownership of emissions reductions resulting from a voluntary private transaction between reporting entities or persons.

For the purposes of this paragraph, the term "reductions" means any and all activities taken by a reporting entity or person that reduce, avoid or sequester greenhouse gas emissions, or sequester greenhouse gases from the atmosphere.

(C) ECONOMIC ANALYSIS.—The review should consider the costs and benefits of any such amendments, the effect of such amendments on participation in this program, including by farmers and small businesses, and the need to avoid creating undue economic advantages or disadvantages for persons or entities in the private sector. The review should provide, where appropriate, a range of reasonable options that are consistent with the voluntary nature of this section and that will help further the purposes of this section.

(D) PUBLIC COMMENT AND SUBMISSION OF REPORT.—The findings of the review shall be made available in draft form for public comment for at least 45 days, and a report containing the findings of the review shall be submitted to Congress and the President no later than one year after date of enactment of this section.

(E) REVISION OF GUIDELINES.—If the Secretary, after consultation with the Administrator, finds, based on the study results, that changes to the program are likely to be beneficial and cost effective in improving the accuracy and reliability of reported greenhouse gas reductions and related information, are consistent with the voluntary nature of this section, and further the purposes of this section, the Secretary shall propose and promulgate changes to program guidelines based with such findings. In carrying out the provisions of this paragraph, the Secretary shall consult with the Secretary of Agriculture and the Administrator of the Small Business Administration to encourage greater participation by small business and farmers in addressing greenhouse gas emission reductions and reporting such reductions.

(F) PERIODIC REVIEW AND REVISION OF GUIDELINES.—The Secretary shall thereafter review and revise these guidelines at least once every 5 years, following the provisions for economic analysis, public review, and revision set forth in subsections (C) through (E) of this section."

(6) in subsection (c), by inserting "the Secretary of the Department of Agriculture, the Secretary of the Department of Commerce, the Administrator of the Energy Information Administration, and" before "the Administrator"; and

(7) by adding at the end the following:

"(d) PUBLIC AWARENESS PROGRAM.—

(1) IN GENERAL.—The Secretary shall create and implement a public awareness program to educate all persons in the United States of—

(A) the direct benefits of engaging in voluntary greenhouse gas emissions reduction measures and having the emissions reductions certified under this section and available for use therein; and

(B) the case of use of the forms and procedures for having emissions reductions certified under this section.

(2) AGRICULTURAL AND SMALL BUSINESS OUTREACH.—The Secretary of Agriculture and the Administrator of the Small Business Administration shall assist the Secretary in creating and implementing a targeted public awareness program to encourage voluntary participation by small businesses and farmers."

SEC. 8. REVIEW OF FEDERALLY FUNDED ENERGY TECHNOLOGY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Title XVI of the Energy Policy Act of 1992 (42 U.S.C. 13381 et seq.) is amended by adding the following new section:

"SEC. 1610. REVIEW OF FEDERALLY FUNDED ENERGY TECHNOLOGY RESEARCH AND DEVELOPMENT.

(a) DEPARTMENT OF ENERGY REVIEW.—

(1) IN GENERAL.—The Secretary shall review annually all federally funded research and development activities carried out with respect to energy technology; and submit to a report to Congress by October 15 of each year.

(2) ASSESSMENT OF TECHNOLOGY READINESS AND BARRIERS TO DEPLOYMENT.—As part of this review, the Secretary shall—

(A) assess the status and readiness (including the potential commercialization) of each energy technology and any regulatory or market barriers to deployment;

(B) consider—

(i) the length of time it will take for deployment and use of the energy technology and for the technology to have a meaningful impact on emission reductions;

(ii) the cost of deploying the energy technology; and

(iii) the safety of the energy technology;

(C) assess the available resource base for any energy resources used by the energy technology, and the potential for expanded sustainable use of the resource base; and

(D) recommend to Congress any changes in law or regulation deemed appropriate by the Secretary to hasten deployment and use of the energy technology.

(b) ENERGY TECHNOLOGY RESEARCH AND DEVELOPMENT CLEARINGHOUSE.—The Secretary shall establish an information clearinghouse to facilitate the transfer and dissemination of the results of federally funded research and development activities being carried out on energy technology subject to any restrictions or safeguards established for national security or the protection of intellectual property rights (including trade secrets and confidential business information protected under section 552(b)(4) of title 5, United States Code)."

(c) TECHNICAL AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (106 Stat. 2776) is amended by inserting after the item relating to section 1609 the following:

"Sec. 1610. Review of federally funded energy technology research and development.".

SEC. 9. OFFICE OF APPLIED ENERGY TECHNOLOGY AND GREENHOUSE GAS MANAGEMENT.

Section 1603 of the Energy Policy Act of 1992 (42 U.S.C. 13383) is amended to read as follows:

"SEC. 1603. OFFICE OF APPLIED ENERGY TECHNOLOGY AND GREENHOUSE GAS MANAGEMENT.

(a) ESTABLISHMENT.—There is established by this section in the Department of Energy an Office of Applied Energy Technology and Greenhouse Gas Management.

(b) FUNCTION.—The Office shall—

(1) establish appropriate quantitative performance and deployment goals for energy technologies that reduce, avoid, or sequester emissions of greenhouse gases, provided that such goals are consistent with any national climate change strategy;

(2) manage domestic and international energy technology demonstration and deployment programs for energy technologies that reduce, avoid or sequester emissions of greenhouse gases, including those authorized under this title; provided that such programs supplement and do not replace existing energy research and development activities within the Department;

(3) facilitate the development of domestic and international cooperative research and development agreements (as that term is defined in section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))), or similar cooperative, cost-shared partnerships with non-Federal organizations to accelerate the rate of domestic and international demonstration and deployment of energy technologies that reduce, avoid or sequester emissions of greenhouse gases;

(4) conduct necessary programs of monitoring, experimentation, and analysis of the technological, scientific, and economic viability of energy technologies that reduce, avoid, or sequester greenhouse gas emissions; and

(5) coordinate issues, policies, and activities for the Department regarding climate change and related energy matters pursuant to this title, and coordinate the issuance of such reports as may be required under this title.

(c) Director.—The Secretary shall appoint a director of the Office, who—

(1) shall report to the Secretary;

(2) shall be compensated at no less than level IV of the Executive Schedule; and

(3) at the request of the Committees of the Senate and House of Representatives with appropriation and legislative jurisdiction over programs and activities of the Department of Energy, shall report to Congress on the activities of the Office.

(d) Duties.—The Director shall, in addition to performing all functions necessary to carry out the functions of the Office—

(1) in the absence of the Secretary, serve as the Secretary's representative for interagency and multilateral policy discussions of global climate change, including the activities of the Committee on Earth and Environmental Sciences as established by the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.);

(2) participate, in cooperation with other federal agencies, in the development and monitoring of domestic and international policies for their effects on any kind of climate change globally and domestically and on the generation, reduction, avoidance, and sequestration of greenhouse gases;

(3) develop and implement a balanced, scientific, non-advocacy educational and informational public awareness program on—

(A) potential climate change, including any known adverse and beneficial effects on the United States and the economy of the United States and the world economy, taking into consideration whether those effects are known or expected to be temporary, long-term, or permanent;

(B) the role of national energy policy in the determination of current and future emissions of greenhouse gases, particularly measures that develop advanced energy technologies, improve energy efficiency, or expand the use of renewable energy or alternative fuels; and

(C) the development of voluntary means and measures to mitigate or minimize significant adverse effects of climate change and, where appropriate, to adapt, to the greatest extent practicable, to climate change.

(4) provide, consistent with applicable provisions of law, public access to all information on climate change, effects of climate change, and adaptation to climate change; and

(5) in accordance with all law administered by the Secretary and other applicable Federal law and contracts, including patent and intellectual property laws, and in furtherance of the United Nations Framework Convention on Climate Change—

(i) identify for, and transfer, deploy, diffuse, and apply to, Parties to such Convention, including the United States, any technologies, practices, or processes which reduce, avoid, or sequester emissions of greenhouse gases if such technologies, practices or processes have been developed with funding from the Department of Energy or any of its facilities or laboratories; and

(ii) support reasonable efforts by the Parties to such convention, including the United States, to identify and remove legal, trade, financial, and other barriers to the use and application of any technologies, practices, or processes which reduce, avoid, or sequester emissions of greenhouse gases.”.

SEC. 10. COORDINATION OF GLOBAL CHANGE RESEARCH.

(A) Definitions.— As used in this Section, the term—

(1) “Committee” means the Committee on Earth and Environmental Sciences established under Section 102 of the Global Change Research Act of 1990 (15 U.S.C. 2933).

(2) “Program” means the United States Global Change Research Program established under Section 103 of the Global Change Research Act of 1990 (15 U.S.C. 2933).

(b) Coordination of Climate Observation Activities.—At the direction of the Committee, the Director of the Program shall develop and implement activities within the Program that—

(1) coordinate system design and implementation and operation ,of a multi-user, multi-purpose long-term climate observing system for the measurement and monitoring of relevant climatic variables;

(2) carry out basic research, development and deployment of innovative scientific techniques and instruments (both in-situ and space-based) for measurement and monitoring of relevant climatic variables;

(3) coordinate Program activities to ensure the integrity and continuity of data records; including—

(i) calibration and inter-comparison of multiple instruments that measure the same climatic variable or set of variables;

(ii) backup instruments to ensure data record continuity; and

(iii) documentation of changes in instruments, observing practices, observing locations, sampling rates, processing algorithms and other changes;

(4) establish ongoing activities for the development, implementation, operation and management of climate-specific observational programs with special emphasis on activities that seek the most efficient and reliable means of observing the climate system;

(5) coordinate activities of the Program that contribute to the design, implementation, operation, and data management activities of international climate system observation networks; and

(6) establish and maintain a free and openly accessible national data management system for the storage, maintenance, and archival of climate observation data, with an emphasis on facilitating access to, use of and interpretation of such data by the scientific research community and the public.

(c) Coordination of Climate Modeling Activities.—At the direction of the Committee, the Director of the Program shall develop and implement activities within the Program that—

(1) establish and periodically revise a national climate system modeling strategy designed to position the United States as a world leader in all aspects of climate system modeling;

(2) coordinate Program activities designed to carry out such a national climate system modeling strategy;

(3) carry out basic research, development and deployment of innovative computational techniques for climate system modeling;

(4) develop the intellectual and computational capacity to carry out climate system modeling activities to assess the potential consequences of climate change on the United States;

(5) carry out the continued development and inter-comparison of United States climate models with special emphasis on activities that—

(i) establish the ability of United States climate models to successfully reproduce the historical climate observational record;

(ii) incorporate new climate system processes or improve spatial temporal resolution of climate model simulations;

(iii) develop standardized tools and structures for climate model output, evaluation and programming design;

(iv) improve the accuracy and completeness of supporting data sets used to drive climate models; and

(v) reduce uncertainty in assessments of climate change and its impacts on the United States.

(6) coordinate activities of the Program that contribute to the design, implementation, operation, and data analysis activities of international climate system modeling inter-comparisons and assessments; and

(7) establish and maintain a free and openly accessible national data management system for the storage, maintenance, and archival of climate model code, auxiliary data, and results, with an emphasis on facilitating access to, use of and interpretation of such data by the scientific research community and the public.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2002 through 2004, to remain available until expended, and thereafter such sums as are necessary.

(e) Use of Existing Infrastructure.—In carry out new activities under subsections (b) and (c) of this section, the Program shall, where possible, use and incorporate existing Program activities and resources, such as Program Working Groups.

SA 2236. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. Lott and intended to be proposed to the amendment SA 2170 proposed by Mr. Daschle to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert the following:

Subtitle —Price-Anderson Act Reauthorization

SEC. 101. SHORT TITLE.

This subtitle may be cited as the “Price-Anderson Act Reauthorization Act of 2001”.

SEC. 102. INDEMNIFICATION AUTHORITY.

(a) Multiple Reactors.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)(1)) is amended by adding after the first proviso and before: “Such primary financial protection. . . .”: “And provided further, That for multiple modular reactors located at a single site, a combination of such reactors (irrespective of whether they are licensed jointly or singly) having a total rated capacity between 100,000 and 950,000 electrical kilowatts shall, exclusively and only for the purpose of this section, be denominated a single facility having a rated capacity of 100,000 electrical kilowatts or more.”

(b) Indemnification of NRC Licensees.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended by striking “August 1, 2002” each place it appears and inserting “August 1, 2012”.

(c) Indemnification of DOE Contractors.—Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking “, until August 1, 2002,”.

(d) Indemnification of Nonprofit Educational Institutions.—Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking “August 1, 2002” each place it appears and inserting “August 1, 2012”.

SEC. 103. DOE LIABILITY LIMIT.

(a) Aggregate Liability limit.—Section 170 d. of the Atomic Energy Act of 1954 (42

U.S.C. 2210(d)) is amended by striking subsection (2) and inserting the following:

"(2) In agreements of indemnification entered into under paragraph (1), the Secretary—

"(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and

"(B) shall indemnify the persons indemnified against such claims above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with such contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.".

(b) Contract Amendments.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking subsection (3) and inserting the following:

"(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person, shall be deemed to be amended, on the date of the enactment of the Price-Anderson Amendments Act of 2001, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection on such date.".

SEC. 104. INCIDENTS OUTSIDE THE UNITED STATES.

(a) Amount of Indemnification.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking "$100,000,000" and inserting "$500,000,000".

(b) Liability Limit.—Section 170e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking "$100,000,000" and inserting "$500,000,000".

SEC. 105. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking "August 1, 1998" and inserting "August 1, 2008".

SEC. 106. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(a) by renumbering paragraph (2) as paragraph (3); and

(b) by adding after paragraph (1) the following new paragraph:

"(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 2001, in accordance with the aggregate percentage change in the Consumer Price Index since—

"(A) such date of enactment in the case of the first adjustment under this subsection; or

"(B) the previous adjustment under this subsection.".

SEC. 107. CIVIL PENALTIES

(a) Repeal of Automatic Remission.—Section 234A b.(2) of the Atomic Energy of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) Limitation for Nonprofit Institutions.—Section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282(a) is further amended by striking subsection d. and inserting the following:

"d. Notwithstanding subsection a., no contractor, subcontractor, or supplier considered to be nonprofit under the Internal Revenue Code of 1954 shall be subject to a civil penalty under this section in excess of the amount of the performance fee paid by the Secretary to such contractor, subcontractor, or supplier under the contract in the fiscal year under which the violation or violations occur.".

SEC. 108. EFFECTIVE DATE.

(a) In General.—The amendments made by this subtitle shall become effective on the date of the enactment of this subtitle.

(b) Indemnificaiton Provisions.—The amendments made by sections 2103, 2104, and 2105 shall not apply to any nuclear incident occurring before the date of the enactment of this subtitle.

(c) Civil Penalty Provisions.—The amendments made by section 2108 to section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2281a(b)(2)) shall not apply to any violation occurring under a contract entered into before the date of the enactment of this subtitle.

SA 2237. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. Lott and intended to be proposed to the amendment SA 2170 proposed by Mr. Daschle to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the Amendment, insert the following:

SEC. . OFFICE OF SPENT NUCLEAR FUEL RESEARCH.

(a) Findings.—Congress finds that—

(1) before the Federal Government takes any irreversible action relating to the disposal of spent nuclear fuel, Congress must determine whether the spent fuel in the repository should be treated as waste subject to permanent burial or should be considered an energy resource that is needed to meet future energy requirements; and

(2) national policy on spent nuclear fuel may evolve with time as improved technologies for spent fuel are developed or as national energy needs evolve.

(b) Definitions.—In this section:

(1) Associate Director.—The term "Associate Director" means the Associate Director of the Office.

(2) Office.—The term "Office" means the Office of Spent Nuclear Fuel Research within the Office of Nuclear Energy Science and Technology of the Department of Energy.

(c) Establishment.—There is established an Office of Spent Nuclear Fuel Research within the Office of Nuclear Energy Science and Technology of the Department of Energy.

(d) Head of Office.—The Office shall be headed by the Associate Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Nuclear Energy Science and Technology, and compensated at a rate determined by applicable law.

(e) Duties of the Associate Director.—

(1) In general.—The Associate Director shall be responsible for carrying out an integrated research, development, and demonstration program on technologies for treatment, recycling, and disposal of high-level nuclear radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary.

(2) Participation.—The Associate Director shall coordinate the participation of national laboratories, universities, the commercial nuclear industry, and other organizations in the investigation of technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste.

(3) Activities.—The Associate Director shall—

(A) develop a research plan to provide recommendations by 2015;

(B) identify promising technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste;

(C) conduct research and development activities for promising technologies;

(D) ensure that all activities include as key objectives minimization of proliferation concerns and risk to the health of the general public or site workers, as well as development of cost-effective technologies;

(E) require research on both reactor- and accelerator-based transmutation systems;

(F) require research on advanced processing and separations;

(G) include participation of international collaborators in research efforts, and provide funding to a collaborator that brings unique capabilities not available in the United States if the country in which the collaborator is located is unable to provide for their support; and

(H) ensure that research efforts are coordinated with research on advanced fuel cycles and reactors conducted by the Office of Nuclear Energy Science and Technology.

(f) Grant and Contract Authority.—The Secretary may make grants, or enter into contracts, for the purposes of the research projects and activities described in this section.

(g) Report.—The Associate Director shall annually submit to Congress a report on the activities and expenditures of the Office that describes the progress being made in achieving the objectives of this section.

SA 2238. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. Lott and intended to be proposed to the amendment SA 2170 proposed by Mr. Daschle to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the Amendment, insert the following:

SEC. . UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) Establishment.—The Secretary shall support a program to maintain the nation's human resource investment and infrastructure in the nuclear sciences and engineering and related fields (including health physics and nuclear and radiochemistry), consistent with departmental missions related to civilian nuclear research and development.

(b) Duties.—In carrying out the program under this section, the Secretary shall—

(1) develop a graduate and undergraduate fellowship program to attract new and talented students;

(2) assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering through a Junior Faculty Research Initiation Grant Program;

(3) support fundamental nuclear sciences and engineering research through the Nuclear Engineering Education Research Program;

(4) encourage collaborative nuclear research between industry, national laboratories and universities through the Nuclear Energy Research Initiative; and

(5) support communication and outreach related to nuclear science and engineering.

(c) Maintaining University Research and Training Reactors and Associated Infrastructure.—Activities under this section may include:

(1) converting research reactors to low-enrichment fuels, upgrading operational instrumentation, and sharing of reactors among universities;

(2) providing technical assistance, in collaboration with the U.S. nuclear industry, in relicensing and upgrading training reactors as part of a student training program;

(3) providing funding for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) University-National Laboratory Interactions.—The Secretary shall develop—

(1) a sabbatical fellowship program for university professors to spend extended periods of time at National Laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which National Laboratory staff can spend time in academic nuclear science and engineering departments. The Secretary may provide for fellowships for students to spend time at National Laboratories in the area of nuclear science with a member of the Laboratory staff acting as a mentor.

(e) Operating and Maintenance Costs.—Funding for a research project provided under this section may be used to offset a portion of the operating and maintenance costs of a university research reactor used in the research project, on a cost-shared basis with the university.

(f) Authorization of Appropriations.—From amounts authorized under section 4401, the following amounts are authorized for activities under the section—

(1) $19,000,000 for fiscal year 2002;

(2) $33,000,000 for fiscal year 2003;

(3) $37,900,000 for fiscal year 2004;

(4) $43,600,000 for fiscal year 2005; and

(5) $50,100,000 for fiscal year 2006.

SA 2239. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. Lott and intended to be proposed to the amendment SA 2170 proposed by Mr. Daschle to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the Amendment, insert the following:

SEC. . ADVANCED ACCELERATOR APPLICATIONS PROGRAM.

(a) Establishment of Program.—The Secretary shall establish a program to be known as the "Advanced Accelerator Applications Program".

(b) Mission.—The mission of the program is research, development and demonstration of comprehensive spent fuel management strategies, which emphasize avoidance of proliferation issues and have minimal environmental impact, along with reasonable economic prospects that include efficient utilization of the energy resource of spent nuclear fuel and of repositories for the final waste products.

(c) Goals.—The Office of Nuclear Energy, Science, and Technology of the Department of Energy, called the Office in this section, shall develop goals for the overall program that lead to final waste forms derived from spent nuclear fuel that significantly decrease the long-term toxicity to levels well below that of the original spent fuel. Secondary goals may be developed by the Office to efficiently utilize resources developed within this program, such as production of radio isotopes for medical applications and production of tritium for defense missions.

(d) Administration.—The program shall be administered by the Office—

(1) in consultation with the Office of Civilian Radioactive Waste Management, for all activities relating to the impact of waste transmutation on repository requirements of transmutation or reprocessing of spent fuel; and

(2) in consultation with the National Nuclear Security Administration, for any activities related to tritium production.

(e) Participation.—The Office shall encourage participation of international collaborators, industrial partners, national laboratories, and universities.

(f) Program.—The Office shall pursue research, development and demonstration programs consistent with the goals of the program. The program shall include evaluation of strategies that involve combinations of current or innovative reactor designs and/or accelerator-driven facilities.

(g) Facilities.—The Program shall utilize existing facilities, either domestic or international, whenever possible, and develop plans as required for new facilities required to demonstrate key aspects of a final system.

(h) Additional Goals.—The Secretary is empowered to add additional goals to the program that increase the efficient utilization of the resources required for the primary mission. Production of tritium by accelerator-based systems may be one of these additional goals.

(i) Authorization of Appropriations.—From amounts authorized under section 4401, there are authorized to be appropriated $70,000,000 in fiscal year 2002 and such sums as are required in subsequent years.

PRIVILEGES OF THE FLOOR

Mr. HATCH. Mr. President, I request unanimous consent that Jim Byrne, a staff fellow in my office, be given privileges of the floor during the pendency of consideration of the Railroad Retirement bill, as well as the Defense Authorization bill, S. 1438, and the Defense Appropriations bill, H.R. 3338.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent that Mark Zaineddin, a fellow in my office from the U.S. Department of Commerce, be granted floor privileges for the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—H.R. 2299

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding rule XXII, at 9:30 a.m., Tuesday, December 4, the Senate proceed to the conference report to accompany H.R. 2299, the Transportation appropriations bill; that the time be reduced to 60 minutes and divided as follows: 10 minutes each for the chair and ranking member of the subcommittee, Senator Murray and Senator Shelby, as well as 10 minutes each for Senator Dorgan, Senator McCain, and Senator Gramm, and 5 minutes each for the chair and ranking member of the full committee; that the vote on adoption of the conference report occur on Tuesday at a time to be determined by the majority leader, following consultation with the Republican leader, without further intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, DECEMBER 4, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Tuesday, December 4; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate begin consideration of the Transportation appropriations conference report; further, that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party conferences, and that the time be charged against cloture on the Daschle substitute amendment, and that the time during the adjournment of the Senate also be charged against cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:39 p.m., adjourned until Tuesday, December 4, 2001, at 9:30 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, December 4, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 5

9 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine the response of the technology sector in times of crisis, focusing on the successes and failures in the aftermath of the events of September 11, 2001.
SR–253

9:30 a.m.
Energy and Natural Resources
To hold hearings on the nomination of Margaret S.Y. Chu, of New Mexico, to be Director of the Office of Civilian Radioactive Waste Management, and the nomination of Beverly Cook, of Idaho, to be Assistant Secretary for Environment, Safety and Health, both of the Department of Energy; and the nomination of Jeffrey D. Jarrett, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement, and the nomination of Rebecca W. Watson, of Montana, to be Assistant Secretary for Land and Minerals Management, both of the Department of the Interior.
SD–366

Appropriations
Treasury and General Government Subcommittee
To hold hearings to examine United States northern border security policy.
SD–192

10 a.m.
Judiciary
To hold hearings to examine the nominations of Callie V. Granade, to be United States District Judge for the Southern District of Alabama, Marcia S. Krieger, to be United States District Judge for the District of Colorado, James C. Mahan, to be United States District Judge for the District of Nevada, Philip R. Martinez, to be United States District Judge for the Western District of Texas, C. Ashley Royal, to be United States District Judge for the Middle District of Georgia, and Mauricio J. Tamargo, of Florida, to be Chairman of the Foreign Claims Settlement Commission of the United States, Department of Justice.
SD–226

1:30 p.m.
Judiciary
Crime and Drugs Subcommittee
To hold hearings to examine the future of the community oriented policing services program of the Department of Justice.
SD–226

2 p.m.
Conferees
Closed meeting of conferees on H.R.2883, to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System.
S–407 Capitol

DECEMBER 6

9:30 a.m.
Governmental Affairs
To hold hearings to assess the vulnerability of United States seaports and whether the Federal Government is adequately structured to safeguard them.
SD–342

Energy and Natural Resources
To hold hearings to examine negotiations for renewing the Compact of Free Association.
SD–366

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the corporate average fuel economy.
SR–253

Banking, Housing, and Urban Affairs
To hold hearings to examine the nomination of J. Joseph Grandmaison, of New Hampshire, to be a Member of the Board of Directors of the Export-Import Bank of the United States; and the nomination of Kenneth M. Donohue, Sr., of Virgina, to be Inspector General, Department of Housing and Urban Development.
SD–538

Judiciary
To resume oversight hearings to examine the Department of the Judiciary, focusing on how to preserve freedoms while defending against terrorism.
SD–106

10:30 a.m.
Foreign Relations
To hold hearings to examine the political future of Afghanistan.
SD–419

2 p.m.
Commission on Security and Cooperation in Europe
To hold hearings to examine the state of human rights, democracy and security concerns in Kyrgyzstan, focusing on human rights and democracy in the Central Asian region.
334 Cannon Building.

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Jeffrey Shane, of the District of Columbia, to be Associate Deputy Secretary, and the nomination of Emil H. Frankel, of Connecticut, to be Assistant Secretary of Transportation Policy, both of the Department of Transportation.
SR–253

DECEMBER 7

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Sean O'Keefe, of New York, to be Administrator of the National Aeronautics and Space Administration.
SR–253

DECEMBER 10

10 a.m.
Judiciary
To hold hearings on the nomination of David L. Bunning, to be United States District Judge for the Eastern District of Kentucky.
SD–226

DECEMBER 13

9:30 a.m.
Governmental Affairs
To hold hearings to examine security of the passenger and transit rail infrastructure.
SD–342

POSTPONEMENTS

DECEMBER 5

9:30 a.m.
Governmental Affairs
To hold hearings to examine the local role in homeland security.
SD–342

2:30 p.m.
Foreign Relations
Central Asia and South Caucasus Subcommittee
To hold hearings to examine contributions of Central Asian nations to the campaign against terrorism.
SD–419

SENATE—*Tuesday, December 4, 2001*

The Senate met at 9:30 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, on this day designated by Congress to be a Day of Reconciliation, we confess anything which stands between us and You and between us and anyone else. We long to be in a right relationship with You again. We know the love, joy, and peace that floods our being when we are reconciled with You. We become riverbeds for the flow of the supernatural gifts of leadership: wisdom, knowledge, discernment, vision, and authentic charisma. We confess our pride that estranges us from You and our judgmentalism that strains our relationships. Forgive our cutting words and hurting attitudes toward other religions or races and people with different beliefs, political preferences, or convictions on issues. So often we are divided into camps of liberal and conservative, Republican and Democrat, and are critical of those with whom we disagree. Help us to express to each other the grace we have received in being reconciled to You. May our efforts to reach out to each other be a way of telling You how much we love You. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 4, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Madam President, this morning the Senate will consider the Transportation conference report under a 60-minute time agreement. A vote on the conference report will occur today. At approximately 10:30, the Senate will resume consideration of the Railroad Retirement Act with the Daschle substitute amendment pending under postcloture conditions. There will be rollcall votes on amendments to the Railroad Retirement Act during today's session.

The Senate will recess from 12:30 to 2:15 p.m. for the weekly party conferences.

On behalf of the majority leader, I have been asked to tell everyone we appreciate the cooperation yesterday. We are moving along on the legislation. There are just a few things left we have to do before we leave for the Christmas break.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 2299, which the clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2299) "making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes," having met, have agreed that the House recede from its disagreement to the amendment of the Senate and the House agree to the same, with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD on November 29, 2001.)

The ACTING PRESIDENT pro tempore. Under a previous order, there will now be 60 minutes for debate.

The Senator from Washington.

Mrs. MURRAY. Madam President, I rise to bring before the Senate the conference report accompanying the Transportation appropriations bill for fiscal year 2002.

This conference agreement represents many weeks of negotiations with the House and the administration, and I am proud of the progress it will bring to our Nation's transportation system.

This conference agreement has already passed the House by an overwhelming margin of 371-11.

In total, the bill includes appropriations and obligation limitations totaling roughly $59.6 billion.

While that is about $1.5 billion more than the fiscal year 2001 level, it is approximately $400 million less than the amount passed by the Senate on August 1.

It was very difficult to pare $400 million out of the Senate bill, but we did so while carefully looking out for the needs of all of the critical agencies within the Department of Transportation as well as the Members' individual priorities.

The conference agreement provides funding levels that are equal to or higher than the operating accounts for agencies such as the Coast Guard, the FAA, and the National Highway Traffic Safety Administration.

Several important safety initiatives—that were included in the Senate bill—have been maintained, including: the hiring of new aviation safety and security inspectors, improvements to the Coast Guard's struggling search and rescue mission, and additional funding to increase seat belt use across the nation.

The bill before us also includes a full $1.25 billion in funding to launch the transportation security act, which is the aviation security bill that was enacted just a few days ago.

The act required that the revenues from its user fees be appropriated before becoming available.

The security act includes many strict deadlines for the improvement of our aviation security system.

And we expect the DOT to meet those deadlines.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

That is why we worked hard to get the $1.25 billion in user fees into the hands of the Transportation Secretary in this bill as soon as possible—rather than wait for the Defense supplemental.

For highways, our bill includes $100 million more than the amount guaranteed under TEA-21.

The bill also fully funds the levels authorized under AIR-21 for the FAA's air traffic control improvements and airport grants.

When the Senate considered this bill, we spent a lot of time debating the safety of Mexican trucks entering the United States.

While the conference agreement provides the administration flexibility in implementation, it carefully follows the safety provisions of the bill that passed the Senate in August.

The safety requirements in this bill are considerably stronger than anything the administration had proposed, and anything that was presented to the Senate as an alternative during our debate this past summer.

Let me mention quickly just a few of the safety provisions in the bill.

Licenses will be checked for every driver transporting hazardous materials and for at least half of all other Mexican truck drivers every time they cross the border.

Mexican trucks will undergo rigorous inspections before they are allowed full access to our highways, and they will be reinspected every 90 days.

And trucking firms will need to demonstrate that they have a drug and alcohol testing program, proof of insurance, and drivers who have clean driving records before the first truck crosses the border.

There are many people to thank for their contributions to this bill.

The former chairman of the subcommittee and now its ranking member, Senator SHELBY has been a stalwart ally and regular contributor to our efforts.

Congressman ROGERS, the chairman of the House subcommittee is not only an outstanding chairman, he is a true Kentucky gentleman as well.

I also want to thank Representative SABO of Minnesota, the ranking member of the House subcommittee, whose leadership on the Mexican truck issue was essential to our getting an outstanding safety regimen in place.

As always, I thank Senator BYRD and Senator STEVENS for their assistance throughout the process.

I also thank the House and Senate Appropriations subcommittee staffs—along with some members of my personal staff who have worked a great many hours to bring together this conference agreement, including:

On the Senate subcommittee on Transportation appropriations, for the majority: Peter Rogoff, Kate Hallahan, Cynthia Stowe, and Angela Lee;

For the minority: Wally Burnett Paul Doerrer, and Candice Rogers,

On the House subcommittee on Transportation appropriations, for the majority: Rich Efford, Stephanie Gupta, Cheryle Tucker, Linda Muir, and Theresa Kohler;

For the minority: Bev Pheto;

On the chairman personal staff, Rich Desimone and Dale Learn;

On the Senate Commerce, Science, and Transportation Committee, Debbie Hersman.

I thank all these people who spent a lot of time helping us to get to this point. I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SHELBY. Madam President, I yield myself as much time as I consume.

I rise in support of the fiscal year 2002 Transportation appropriations conference report before the Senate this morning. While I do not support every item, policy, program, or initiative in the conference report or statement of managers, I do support the package reported overwhelmingly from the conference committee and as just described by the Senator from Washington.

This is the first year the Senator from Washington is chair of the Transportation Appropriations Subcommittee, and I believe that she has accounted herself well on this bill. This is a balanced bill.

Clearly, the Mexican truck issue reflects that balanced approach. I believe that the Senator from Washington did an admirable job of managing this issue through a lengthy debate on the Senate floor and through the conference committee negotiations with the House and the administration.

The resolution of the Mexican truck issue allows for the safe opening of the border to Mexican trucks with appropriate inspections, oversight, and audits of Mexican-domiciled trucks and trucking companies. This compromise kept the focus on truck safety and security at our border and never lost sight of the need to work with the administration and the House to forge a workable solution.

Our approach on this issue was always to move the debate forward and allow a resolution based on safety standards rather than prohibiting any action by the department to manage the truck safety issues we face at our southern border. I think the conference report treatment of this matter meets that test.

The FAA, the Coast Guard, and the Department's new Transportation Security Agency are all adequately, if not generously, funded in this bill. The funding levels match the AIR 21 levels for the FAA's two capital accounts, and the funding for FAA operations meets the President's budget request.

Accordingly, the conference report meets the TEA 21 transit funding levels and increases the obligation limitation for highways above the TEA 21 firewalled levels. This funding commitment recognizes the priorities our colleagues in the Senate place on these accounts.

This is not only the first year of the Senator from Washington as the chair of this subcommittee, it is also the first year that Peter Rogoff has assisted her on the bill as the majority clerk. The committee and the Senator from Washington were both well served by Peter Rogoff—and his staff, Kate Hallahan, and Coast Guard Commander Cyndi Stowe.

I also commend Wally Burnett and Paul Doerrer of my staff on the committee. They worked hand in hand with the Democrats. I believe that is why we are where we are today, on the verge of adopting this conference report.

I urge all of my colleagues to support the conference report and send it to the President for his signature, with the type of overwhelming margin we saw in the other body of a 371-to-11 vote on the adoption of this report.

I reserve the remainder of my time and yield the floor.

Mr. BYRD. Mr. President, the Senate has now turned to consideration of the conference report accompanying the Transportation and Related Agencies Appropriations Act for Fiscal Year 2002. The bill includes a combination of appropriations and obligation limitations totaling $59.643 billion. That is $1.526 billion or 2.6 percent higher than the level provided for fiscal year 2001.

This is the ninth of the thirteen appropriations conference reports to come before the Senate. It is the ninth conference report that is within its 302 (B) allocation and it is fully consistent with the $686 billion bipartisan budget agreement on discretionary spending for the thirteen bills.

When the President signed the Transportation Equity Act for the 21st Century, he placed into law a provision I and my colleague from Texas, Senator GRAMM, championed here in the Senate. That provision served to guarantee that we appropriate every year on our Nation's highway system the funds that are received into the Highway Trust Fund through fuel taxes at the pump. I'm pleased to say that this year's Transportation bill, like every Transportation bill enacted since TEA-21, honors that commitment. Indeed, this year, for the first time since 1998, the Transportation bill provides more money for highways than was assumed in the highway guarantee—$100 million more. This is made possible since we still have an unobligated balance in the trust fund that existed before TEA-21 was enacted. So I commend the managers of the bill, Senators MURRAY and SHELBY, for making this significant investment in our Nation's highway infrastructure which is very much in need of repair, restoration, and expansion.

As long as I have had the pleasure of serving on the Transportation Subcommittee, it has always operated in an open and bipartisan manner. I am pleased to see that this tradition has continued under the leadership of Senator MURRAY. She and Senator SHELBY have cooperated on all aspects of this bill. Both of them were required to take on the very contentious issue regarding the safety risks of Mexican trucks traveling on our highways. We debated that issue for several days here in the Senate and took a total of three cloture votes during that debate. Senators MURRAY and SHELBY stood their ground on the floor of the Senate and they prevailed. They then went to conference and negotiated a compromise with the House that maintains the strong safety requirements passed by the Senate but eliminates the threat of a veto against this bill.

I commend both managers and their respective staffs for a job well done and I encourage all members to support the conference report.

Mr. BAUCUS. Mr. President, I rise today to voice my concern regarding an element on the Fiscal Year 2002 Transportation Appropriation Conference Report. While I believe that this report, for the most part, spends funding according to statute and aids our Nation's transportation system, I am very concerned about the distribution of a major funding category.

The Transportation Equity Act for the 21st Century, TEA 21, was passed by the Congress in 1998 by overwhelming margins. For the first time receipts into the Highway Trust Fund were guaranteed to be spent for transportation purposes. This is accomplished through the annual calculation of Revenue Aligned Budget Authority, RABA, which makes adjustments in obligations to compensate for actual receipts into the Trust Fund versus the estimated authorization included in TEA 21 for the fiscal year.

While I am pleased that the Appropriations Committee has upheld the firewalls in this conference report, I find the redistribution of RABA funds to be unacceptable. Under TEA 21, RABA funds are to be distributed proportionately to the States through formula apportionments and also to allocated programs. This conference report is a radical departure from that and is a cause for great concern. States receive less money in this conference report than is called for under TEA 21. For that reason, this conference report is in violation of TEA 21.

I am dismayed to have to voice my concern regarding an otherwise beneficial transportation bill. However, as an author of TEA 21 and a believer in its principles, I am saddened to see TEA 21 violated at the expense of the States.

Mr. SMITH of New Hampshire. Mr. President, I rise to speak about the transportation appropriations conference report.

First, I wish to commend the Appropriations Committee members for their determination to protect our highways from unsafe Mexican trucks.

I am not eager for trucks to freely cross from Mexico into the United States, for many reasons, but I am pleased that these trucks will at least be required to pass a safety compliance review.

The remainder of my comments have to do with the portion of the conference report that funds the Federal-aid highway program.

As the ranking member of the Environment and Public Works Committee, with authorizing jurisdiction over the highway program, I am pleased with the overall funding level for Federal-aid highways.

As my colleagues will recall, one of the major accomplishments of TEA-21, passed by Congress in 1998, was that for the first time, gas tax revenues into the Highway Trust Funds were guaranteed to be promptly returned to the States for transportation spending.

This guarantee is accomplished with a provision in TEA-21 called Revenue Aligned Budget Authority, or RABA as it is known.

RABA calculations compare actual gas tax receipts to our 1998 estimates, and guaranteed funding will go up or down depending on whether we have more or less revenue in the Highway Trust Fund than TEA-21 anticipated.

Reflecting several years of a strong economy, gas tax receipts have been billions of dollars more than we anticipated in 1998.

This year, as guaranteed by TEA-21, the Federal-aid highway program is funded at almost $33 billion ($32.954 billion); an increase of about $1.2 billion over last year; which includes $4.5 billion from RABA funds.

As I said, I am pleased with the success of these funding guarantees.

But I am concerned about the diversion of over $1.5 billion to project earmarks instead of being distributed fairly under formulas developed in TEA-21.

There are 590 project earmarks from the Highway Trust Fund, and 55 more highway projects taken from the general fund.

I want to alert my colleagues to such extensive earmarking contained in this appropriations report.

This earmarking is mostly within discretionary programs created in TEA-21 and mostly funded with the RABA funds.

Almost a billion dollars in RABA funds are diverted away from the fair distribution that we agreed to in TEA-21, and are used for earmarks in this conference report.

This money does not get distributed evenly as authorized in TEA-21, but there are winners and losers.

Some States get a lot of this money for projects, some get very little.

This process completely distorts the funding formulas we agreed to in TEA-21.

It also distorts the discretionary programs we created in TEA-21 for projects that meet specified criteria.

For instance, one pilot program we created to fund local projects that link transportation and community needs, for instance, was authorized in TEA-21 at $25 million per year.

This year, that program has become the catch-all for project earmarks, with a total of 219 projects at a cost of $276 million.

This is incredible that a small discretionary program has grown to an earmarking account at over 10 times the authorized amount.

The Appropriations Committee began earmarking these TEA-21 accounts a few years ago, over strong objections from the authorizing committees, and the practice has grown exponentially each year.

Indeed, the Appropriations Committee has begun the practice of soliciting project requests, creating a terrible dilemma where the number of projects that Members submit far exceed any authorized amounts.

And now Members have no choice but to compete for these discretionary funds in the appropriations process.

I admit to requesting projects for my State that received funding only because the pot of money grew so large, again from $25 million to $276 million.

The Appropriations Committee has gone further now than in recent years toward making so many transportation project funding decisions.

I believe strongly that State and local agencies are responsible for transportation planning and funding decisions.

I much prefer to send Highway Trust Fund dollars back to the States and I do not think Congress should pick and choose projects.

Where any fault for this situation rests with the framework in TEA-21, we will address it in the reauthorization of TEA-21.

Next year the Environment and Public Works Committee will begin hearings on reauthorization, and I know that there is a lot of concern about this earmarking process.

I will vote in favor of this conference report for the good it contains, but I am compelled to register my strong objections to the hundreds of highway projects that do not belong in an appropriations bill.

Mr. SARBANES. Mr. President, I want to take a moment while the transportation appropriations conference report is pending before us to express my concern, as chairman of the Senate Banking Committee, which has jurisdiction over the Federal transit laws, about a provision in that report that attempts by report language to rewrite established law by reducing the Federal match for New Start transit projects from 80 percent to 60 percent. I am referring to language in the conference report that would "direct [the Federal Transit Administration] not to sign any new full funding grant agreements after September 30, 2002 that have a maximum federal share of higher than 60 percent." The Senate Banking Committee will begin to consider transit reauthorization issues next year. In the meantime, we have not had the benefit of any hearings or other public debate on this issue that would justify such report language.

Over 200 communities around the country, in urban, suburban, and rural areas, are considering light rail or other fixed guideway transit investments to meet their growing transportation needs. Recognizing this increasing demand, Congress in 1998 passed the Transportation Equity Act for the 21st Century, which authorized almost $8.2 billion over 6 years to fund these New Starts projects.

The process for evaluating and awarding a Federal grant under the New Starts program is laid out in the Federal transit laws, found in section 5309 of Title 49, United States Code. Section 5309(h) specifies that "[a Federal] grant for [a New Starts] project is for 80 percent of the net project cost, unless the grant recipient requests a lower grant percentage." By including language in the conference report—not in the statute—directing the FTA not to sign new full funding grant agreements after September 30, 2002 with a Federal share greater than 60 percent, the conferees are seeking to direct the FTA to act contrary to existing law.

Efforts to alter the Federal share would disrupt the level playing field established when the Intermodal Surface Transportation Efficiency Act—ISTEA—set forth the 80 percent Federal cap for both highway and transit projects. ISTEA created a funding system by which communities could choose between transportation modes based on local needs, not based on the amount of Federal money available for the project. Seeking to lower the Federal match for transit projects while keeping the available highway match at 80 percent has the potential to skew the dynamics of choice for local communities.

It is true that there is very strong demand for New Starts funding. This is an issue which will be thoroughly considered as the transit laws are reauthorized in less than two years' time. Given the importance of the New Starts program to communities around the country, any proposal for dealing with this issue should be thoroughly considered. Report language directions to the FTA to act contrary to existing law are not a constructive contribution to this thorough consideration.

BUS REPLACEMENT

Mr. HARKIN. Mr. President, the conference report indicates that $5 million is provided for bus replacement in Iowa. But, it is my understanding that the intent was to allow these funds which have been allocated in a collaborative process involving the Iowa DOT and the local transit authorities to be used for bus replacement, bus expansion and for facility and equipment costs.

Mrs. MURRAY. Mr. President, the Senator from Iowa is correct regarding the allocation of these funds. The intention is that the funds may be used for the authorized purposes that you noted.

FUNDING OF TRANSPORTATION SECURITY IMPROVEMENT MEASURES

Mr. LIEBERMAN. I say to Senator MURRAY, I would like to confirm my understanding that between the funding you have included in the conference report for the Transportation Security Administration and the funding included in the bill for the Federal Aviation Administration's research, engineering and development, there are sufficient funds for the expanded use of existing technology and research and development of new technology to improve aviation security. Is that correct?

Mrs. MURRAY. The Senator is correct. The funds appropriated are intended to cover those costs.

PAYMENT FOR WORK PERFORMED

Mrs. HUTCHISON. Mr. President, regarding this week's Senate passage of the fiscal year 2002 Transportation appropriations conference report, Senator DURBIN and I have recently become aware that several of the major contractors on the Tren Urbano project have substantial disputes outstanding with Puerto Rico concerning payment for work performed on the project. I find this troubling given the extent of oversight we have come to expect of major transit projects like this one.

Mr. DURBIN. I certainly agree with Senator HUTCHISON. It is indeed important that these transit projects be managed efficiently, and preferably without dispute; otherwise, these projects are viewed by the contracting community as more risky, and thus they become more costly to deliver, to the detriment of the taxpayers who ultimately bear the financial burden of these projects.

Mrs. HUTCHISON. I understand that the FTA is currently withholding approximately $165M of funding for the Tren Urbano Project, and has required a more accurate cost estimate and schedule for the Project than has been previously furnished.

Mr. DURBIN. I want to encourage FTA to release only such funds as it considers appropriate in order to resolve outstanding disputes with respect to payment for work performed on the Tren Urbano project, and suspend all further Federal funding for the project.

Mrs. HUTCHISON. I concur with the Senator and, if such disputes have not been resolved by March 1, 2002, would further request that the Inspector General promptly report back to the House and Senate Committees on Appropriations on FTA's assessment of (i) The reasons why such disputes remain unresolved, (ii) the cost impact of such disputes, and (iii) the IG's recommendation, if appropriate, for a more cost effective dispute resolution process.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SHELBY. Madam President, I suggest the absence of a quorum.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator will withhold.

Mrs. MURRAY. I ask the Senator to ask the time be equally divided and request he retain the remainder of the time of the chairman and ranking member toward the end.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Madam President, for the information of all Members, the majority leader has indicated that the vote on this matter will occur at 12:30 today.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Without objection, the quorum call will be charged as previously specified.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Madam President, how much time am I allowed?

The ACTING PRESIDENT pro tempore. The Senator has 8 minutes.

Mr. DORGAN. Madam President, I shall not take all 8 minutes. I understand there is a long line of people wishing to speak on this conference report later.

First of all, I compliment the chairman and ranking member from the Senate side. I think they have done an extraordinary job on the conference report. I appreciate the work they have done on a range of issues. I think the Senate owes them a debt of gratitude.

I could spend some long period of time talking about the important provisions in this Transportation conference report. I know it took a long while to get to this point. Senator MURRAY, chairing the subcommittee on the Senate side, and others who have worked on this bill for some length of time undoubtedly wish this had been completed much earlier, but there were a series of things that prevented it from happening. In any event, at the end of this session we have a conference report that contains a lot of important items for this country's transportation system. I compliment Senator SHELBY and Senator MURRAY and thank them for their work.

I do want to say—and I will say it briefly—there are two items in the conference report that provide some heartburn for me. The conference was required—or forced, I guess—to accept a provision dealing with the spending of $400,000 to put airport signs up that describe National Airport really as Reagan National Airport. This conference report, because the House insisted, requires the Metro Airport Authority to spend $400,000 changing signs so that people will not be confused that they are at the airport when, in fact, the signs now say "National Airport."

George Will had a little something to say about that in a piece in April of this year. He said:

> Travelers too oblivious to know they are at an airport, when large, clear signs say they are, should be given those little plastic pilot wings that are issued to unaccompanied children taken into protective custody. The conservatives want to get Congress to order Metro officials to spend several thousand dollars to add Reagan's name to the station signs and all references to the station on the maps.

He is talking about the station at the Metro stop.

He said:

> Reagan had a memorable thing or two to say about bossy Federal institutions meddling in local affairs.

I want to make the point that the House of Representatives has insisted on this for some long while. I regret they forced their will into this conference. I think it is a waste of $400,000 that probably could have better been used, if the House had thought clearly about this, for security.

We have a range of security needs, given post-September 11, on a range of transportation systems. I would have much rather seen, if the $400,000 is to be spent, that it be spent on Metro security. I know the Senators from Washington and Alabama share my concern about that.

Let me make one additional point, and that is on the issue of Mexican trucks. The House of Representatives had a provision that actually prohibited the Mexican trucks from coming into this country beyond the 20-mile limit. The Senate provision was not as strong but was a pretty good provision. I would have preferred a stronger provision. The provision that came out of conference is weaker than both.

I understand the work that Senator MURRAY and Senator SHELBY did. I am not here to criticize their work. I respect the work they did in conference to try to resolve this issue. They make the point—and it is an accurate point—that this is a restriction on funding for 1 year during the appropriations year. So this issue will not be concluded with this judgment in this conference committee. This issue will be a part of the interests of the authorizing committee, oversight by this subcommittee, and also will be a part of the interest of others of us in the Congress who still believe it will be unsafe to have any wholesale movement of Mexican trucks beyond the 20-mile border limit.

It is interesting to me that we now have a limitation on the movement of Mexican trucks in this country, and yet Mexican truck drivers with Mexican trucks have been apprehended in North Dakota, which, of course, is significantly beyond the 20-mile limit from the Mexican border. And it is true they have been apprehended in a good many other States as well.

We have a lot of difficulties, problems, and concerns trying to merge two different kinds of economies with respect to transportation, two different kinds of systems dealing with short- and long-haul trucks, and two different safety standards, different standards with respect to both drivers and trucks.

I wish we had in fact had the House position, which originally came to conference with a prohibition until adequate safety standards were in place and adequate inspection opportunities were in place. That, regrettably, is not the case. And I am not here to suggest that our two Senators—Senator MURRAY and Senator SHELBY—in any way weakened this provision. I am here to say the conference itself forced that weakening. I think that will not and cannot be the last word on this subject. Those on the authorizing committee and those of us who will return to this subject in the appropriations process next year will have more to say.

But having spoken on both of those issues, let me again say to my colleague, Senator MURRAY, and my colleague, Senator SHELBY, they operate in good faith and do an extraordinary job. They run a subcommittee that is very important to this country, especially again in relation to post-September 11, the issue of transportation, the security of our transportation systems in the country.

Our transportation industry is so important to this country's economy. There is no way you can overstate it. The appropriations bill offered to us today by Senators MURRAY and SHELBY is an appropriations bill that I think the Senate will want to approve. This conference report will get the Senate's approval today.

Madam President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. If the Senator will withhold, the Chair recognizes the Senator from Washington.

Mrs. MURRAY. Madam President, I ask unanimous consent the time be divided as before.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I understand under the UC I have 15 minutes; is that correct?

The PRESIDING OFFICER. The time has been reduced by a series of quorum calls. The Senator has 6 minutes.

Mr. MCCAIN. Six minutes. Mr. President, I ask unanimous consent I be granted 4 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I wish to express my strong opposition to the conference agreement on H.R. 2299, the fiscal year 2002 Transportation appropriations bill approved by the House and Senate conferees last week.

I once again find myself in a position in which I must express strong concerns with yet another appropriations bill. This measure, like the eight appropriations bills approved by the Congress this year and like so often has been the case during recent years, continues what I believe is an inappropriate overreach by the appropriators in an effort to fulfill their own agendas at the expense of both current law and the work of the authorizers.

They again are redirecting programmatic funding, funding that in many cases is authorized to be distributed by formula or at the discretion of the Secretary and based on competitive merit.

Instead of allowing the normal funding distribution process to go forward, the appropriators have earmarked that funding for pet projects for the members of the Appropriations Committee.

Before citing a host of examples of the pork barrel spending associated with this conference report, I want to first address the very important trade issue that the appropriators have tied to the pending measure, that is, the North American Free Trade Agreement, NAFTA.

As my colleagues well know, provisions in both the House and the Senate versions of the Transportation appropriations bill proposed to restrict the administration's ability to abide by our obligations under NAFTA. As a result of this fact, the Statement of Administrative Policy included a very clear and direct veto threat stating that "the Senate Committee has adopted provisions that could cause the United States to violate our commitments under NAFTA. Unless changes are made to the Senate bill, the President's senior advisors will recommend that the President veto the bill."

Several of us also strongly objected to the appropriators' actions. As a result, we spent considerable floor time—nearly two full weeks in July—discussing the importance of NAFTA and our obligation to abide by our commitments to our trading partners.

At no time has the senior Senator from Texas or I argued that safety concerns were not of considerable importance in this debate. In fact, it was our proposal offered as an alternative to the Senate version that first called for an inspection of every Mexican truck similar to the model used in the State of California at the border.

Indeed, the proponents of NAFTA have had one goal since this issue surfaced in the DOT appropriations legislation this summer. From the beginning, our goal has been to ensure the appropriators did not succeed in their attempts through the DOT appropriations bill to effectively alter our solemn agreement with our neighbors to the South. If our trading partners are subject to the whimsical mood of the appropriators, how can we ever expect any nation that we have executed a trade agreement with, or one we are seeking to enter into trade agreements with, to have any faith that our word is true and we will abide by our agreements? If the appropriators' agenda had prevailed, I shudder to consider the consequences and the impact as we attempted to seek to negotiate new trade agreements or renewed ones.

After receiving assurances from the ranking member of the Appropriations Committee that he would work with the administration to ensure the conference agreement would not include any provisions that would prevent use from abiding by our NAFTA commitments, the senior Senator from Texas and I agreed to forgo some of our procedural rights and allowed the bill to go to conference without several additional votes and the expenditure of additional floor time. While early into the conference the Senate managers of the bill issued a release indicating a determination to provoke a Presidential veto, the appropriators finally agreed last week to incorporate provisions agreeable to the administration.

Upon hearing of the agreement with respect to Mexican trucks last week, I raised reservations over some of the provisions that I felt could be troublesome. However, in response to these concerns, the administration has assured us the agreement is not in violation of NAFTA. Last Friday, November 30, the White House issued the following statement of the President:

> The compromise reached by the House and Senate appropriators on Mexican trucking is an important victory for safety and free trade. We must promote the highest level of safety and security on American highways while meeting our commitments to our friends to the South. The compromise reached by the conferees will achieve these twin objectives by permitting our border to be opened in a timely manner and ensuring that all United States safety standards will be applied to every truck and bus operating on our highways.

Moreover, I have received a letter from U.S. Trade Representative, Robert Zoellick, which states:

> The Administration supports the agreement reached by the House and Senate appropriators on Mexican trucking as fully promoting highway safety and U.S. trade commitments. In addition, it will permit the United States to meet the commitments made to Mexico as part of the North American Free Trade Agreement.

I ask unanimous consent a copy of that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, THE UNITED STATES TRADE REPRESENTATIVE,
Washington, DC.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I am writing to convey the Administration's views on Section 350 of H.R. 2299, the Department of Transportation's appropriations bill for fiscal year 2002.

The Administration supports the agreement reached by the House and Senate appropriators on Mexican trucking as fully promoting highway safety and U.S: trade commitments. In addition, it will permit the United States to meet the commitments made to Mexico as part of the North American Free Trade Agreement.

Sincerely,

ROBERT B. ZOELLICK.

Mr. MCCAIN. Additionally, I note the conference report does include additional funding to address the many safety related enforcement requirements concerning Mexican carriers and drivers. While much of my statement today will express disagreement to the actions of the appropriators, in this case I want to note for the record that they have worked to provide sufficient funding to allow DOT to carry out the requirements with respect to the Mexican trucking issue and enable the border to be opened in a time-frame deemed appropriate by the administration.

Mr. President, enactment of this legislation will not be the end of our due-diligence to ensure we are allowed to open the border to Mexican carriers and in turn, allow American carriers to do business in Mexico. I intend to stay vigilant on this very important issue and will monitor the administration's actions with respect to the border opening in my capacity as ranking member of the Senate Committee on Commerce, Science, and Transportation. I remain committed to doing all I can to ensure the border is open consistent with our obligations under NAFTA while protecting the safety of the American traveling public.

Mr. President, this is a bittersweet victory for highway safety and free trade. On the one hand the United States will be allowed to keep its promise to abide by its solemn treaty. Yet on the other hand, the egregious process of pork barrel earmarking continues. Unless you are from a state with a member on the Appropriations Committee, your State's transportation dollars most likely will be reduced by enactment of this bill which in many cases redirects authorized funding programs for the sake of the home-state projects of the appropriators.

I recognize that there are very important provisions in the legislation, sections that appropriate funds for programs vital to the safety and security of the traveling public and our national transportation system over all. Yet despite that necessary funding, and the fact that the legislation is not in violation of NAFTA, it once again goes overboard on pork barrel spending.

It is so bad, in fact, yesterday's Wall Street Journal included an article highlighting the very egregious actions of the appropriators to reduce state transportation dollars and direct those funds to earmarked projects. The article is entitled "Bill Gains To Cut State-Controlled Highway Funds." I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BILL GAINS TO CUT STATE-CONTROLLED HIGHWAY FUNDS

(By David Rogers)

WASHINGTON.—In a total display of patronage politics, Congress is poised to remove nearly $450 million of federal highway aid from state control to instead spend the money on road projects selected by lawmakers.

The appropriations leadership added the provision to a $59.6 billion transportation budget for fiscal-year 2002 that was filed just before dawn Friday and rushed through the House hours later, where it passed 371-11. Tight limits on Senate debate all but ensure final passage this week, despite complaints that lawmakers are tampering with funding formulas laid out in the 1998 highway act.

Until the dust settles, it is difficult to say precisely how individual states will fare, but three—Kentucky, Alabama, and West Virginia—are clear winners. Rep. Hal Rogers (R., Ky), who led the House negotiators, engineered the arrangement and used it to corral extra dollars for his state. Alabama had three votes at the negotiating table, including Sen. Richard Shelby, the Senate's top GOP negotiator. West Virginia needed only one, Sen. Robert Byrd, chairman of the Appropriations panel and a master at capturing highway money for his rural state. Among the four largest earmarked highway accounts, Kentucky, West Virginia and Alabama are promised $211 million, almost a fifth of the $1.1 billion total.

> Never before has the Appropriations leadership gone so far in tampering with the 1998 highway act, which was built on the premise that federal gas-tax receipts should be returned quickly to the states regardless of other federal spending priorities. The act even created a mechanism to adjust authorized highway funding upward as revenue rose. In recent years, that pot of money—identified by the title Revenue Aligned Budget Authority, or RABA—has exploded, reaching $4.5 billion this year.
>
> Under the highway law, $3.95 billion was to be apportioned among the states this year with the remaining $574 million going to about 40 highway programs authorized in the highway act and administered through the Transportation Department. The bill would cut the state share to $3.5 billion and combine the extra $450 million with the $574 million, creating a $1 billion-plus pot.
>
> The negotiators made wholesale changes in the priorities set in the highway act, substituting projects they favor for the ones preferred by the House and Senate transportation committees that wrote the highway law. A $25 million community-preservation pilot program, for example, ballooned to $276 million, with virtually each dollar earmarked as to where it should be spent.
>
> The Bush administration had opened the door by proposing changes in how RABA dollars are distributed. Negotiators said the $3.5 billion apportioned to the states narrowly exceeds the amount proposed in the president's budget, and an additional $100 million has been added elsewhere to core highway funds available to the states. There is little doubt the deal was driven by pork-barrel politics. There were bitter fights over unsuccessful Republican attempts to deny money for vulnerable Democrats in conservative House districts in Mississippi and Arkansas.
>
> The bill would impose a much tougher safety regimen than the White House had wanted for Mexican trucks that are due to begin operating in the U.S. next year. The Transportation Department expects to meet the requirements and open the border by the spring—just a few months later than planned. But the final settlement is a personal victory for Rep. Martin Sabo (D., Minn.) and Sen. Patty Murray (D. Wash.), the two managers of the bill who had insisted lawmakers must consider safety.
>
> For Sen. Byrd, there will be more at stake than the transportation bill. The West Virginia Democrat will be at center stage again this week, which he is expected to force Senate roll calls on adding more money for homeland security to a pending Pentagon budget. Though the White House should win an early procedural vote, Sen. Byrd appears prepared to confront Republicans with the choice of accepting the money or pulling down the entire military budget.

Mr. MCCAIN. Mr. President, I ask my colleagues, how much longer are we going to let the appropriators subordinate the jurisdiction and responsibilities of the authorizers? Didn't most of us think the multi-year highway funding legislation, known as TEA-21, would essentially be the law of the land through fiscal year 2003 with respect to highway funding formulas and state apportionments? I guess we were wrong, given the appropriations reprogramming maneuvers.

Let me again quote from the Wall Street Journal: "The negotiators made wholesale changes in the priorities set in the highway act, substituting projects they favor for the ones preferred by the House and Senate transportation committees that wrote the highway law." This is precisely why no projects should be earmarked by either the authorizers or the appropriators and we should instead allow the states to fund the projects that meet the legitimate transportation needs of their states.

Mr. President, the Revenue Aligned Budget Authority—RABA—funds mentioned in the article are to be distributed proportionately to the states through formula apportionments and to allocated programs. This conference report represents a fundamental departure from that approach.

To pay for some of the report's many earmarks, $423 million will be redirected from state apportionments, meaning the states lose 10.7 percent of RABA funds from the regular formula program. Further, another $423 million will be redistributed from allocated programs in a manner in which the appropriators have selected programmatic winners and losers. In fact, 24 of 38 highway funding programs will receive none of the funding under RABA they were to receive before the appropriators' stroke of pen. But again, if you have the good fortune to reside in a state with a member in a leadership position on the DOT Appropriations Subcommittee, you are among the winners in this appropriations bill lottery. I ask unanimous consent that two charts prepared by the Federal Highway Administration to show the impact on each state and the allocated programs through the RABA redistributing work of the appropriators be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION—ESTIMATED RABA DISTRIBUTION

Federal-aid highway programs	TEA-21	Conference	Difference
Apportioned Programs	3,968,764,800	3,545,423,946	(423,340,854)
Allocated Programs:			
Federal Lands Highways Program:			
Indian Reservation Roads	36,050,486	36,565,651	(484,835)
Public Lands Highways	32,249,049	31,815,091	(433,958)
Park Roads and Parkways	21,631,440	21,339,391	(292,049)
Refuge Roads	2,624,255	2,586,593	(37,662)
National Corridor Planning & Devel. & Coord Border Infrastructure Pg	18,633,932	352,256,000	333,622,068
Construction of Ferry Boats and Ferry Terminal Facilities	5,059,012	25,579,000	20,519,988
National Scenic Byways Program	3,393,730	3,348,128	(45,602)
Value Pricing Pilot Program	1,464,300	0	(1,464,300)
High Priority Projects Program	236,671,037	0	(236,671,037)
Highway Use Tax Evasion Projects	666,113	0	(666,113)
Commonwealth of Puerto Rico Highway Program	14,642,998	0	(14,642,998)
Woodrow Wilson Memorial Bridge	29,946,366	0	(29,946,366)
Miscellaneous Studies, Reports, & Projects	2,503,665	0	(2,503,665)
Magnetic Levitation Transp. Tech. Deployment Program	0	0	0
Transportation and Community and System Preservation Pilot Program	3,324,822	251,092,600	247,767,778
Safety Incentive Grants for Use of Seat Belts	14,907,146	0	(14,907,146)
Transportation Infrastructure Finance and Innovation	15,969,481	0	(15,969,481)
Surface Transportation Research	13,442,846	0	(13,442,846)
Technology Deployment Program	5,989,273	0	(5,989,273)
Training and Education	2,526,635	0	(2,526,635)
Bureau of Transportation Statistics	4,128,751	0	(4,128,751)
ITS Standards, Research, Operational Tests, and Development	13,976,885	0	(13,976,885)
ITS Deployment	15,969,481	0	(15,969,481)
University Transportation Research	3,525,804	0	(3,525,804)
Emergency Relief Program	13,310,772	0	(13,310,772)
Interstate Maintenance Discretionary	13,310,772	76,025,000	62,714,228
Territorial Highways	4,846,545	0	(4,846,545)
Alaska Highway	2,503,665	0	(2,503,665)
Operation Lifesaver	68,908	0	(68,908)
High Speed Rail	700,567	0	(700,567)
DBE & Supportive Services	2,664,451	0	(2,664,451)
Bridge Discretionary	13,310,772	62,650,000	49,339,228
Study of CMAQ Program Effectiveness	0	0	0
Long-term Pavement	0	10,000,000	10,000,000
New Freedom Initiative	0	0	0
State Border Infrastructure	0	56,300,000	56,300,000
Motor Carrier Safety Grants	24,221,241	23,896,000	(325,241)
Public Lands Discretionary	0	45,122,600	45,122,600
Subtotal, allocated programs	574,235,200	997,576,054	423,340,854

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION—ESTIMATED RABA DISTRIBUTION—Continued

Federal-aid highway programs	TEA-21	Conference	Difference
Total	4,543,000,000	4,543,000,000	

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION—DISTRIBUTION OF ESTIMATED FY 2002 REVENUE ALIGNED BUDGET AUTHORITY

States	TEA-21	Conference	Difference
Alabama	78,660,918	70,270,303	(8,390,615)
Alaska	47,506,115	42,438,725	(5,067,390)
Arizona	71,794,955	64,136,719	(7,658,236)
Arkansas	50,998,628	45,558,698	(5,439,930)
California	357,228,521	319,088,155	(38,140,386)
Colorado	51,633,630	46,125,966	(5,507,664)
Connecticut	59,372,721	53,039,542	(6,333,179)
Delaware	18,097,567	16,167,133	(1,930,434)
Dist. of Col.	15,517,870	13,862,608	(1,655,262)
Florida	187,841,638	167,804,915	(20,036,723)
Georgia	141,803,966	126,677,998	(15,125,968)
Hawaii	20,042,262	17,904,391	(2,137,871)
Idaho	28,813,232	25,739,778	(3,073,454)
Illinois	129,699,234	115,864,455	(13,834,779)
Indiana	91,837,217	82,041,110	(9,796,107)
Iowa	46,752,049	41,765,094	(4,986,955)
Kansas	45,442,357	40,595,104	(4,847,253)
Kentucky	68,342,130	61,052,200	(7,289,930)
Louisiana	61,436,479	54,883,163	(6,553,316)
Maine	20,796,328	18,578,021	(2,218,307)
Maryland	64,532,116	57,648,593	(6,883,523)
Massachusetts	71,715,580	64,065,811	(7,649,769)
Michigan	126,563,909	113,063,570	(13,500,339)
Minnesota	57,110,525	51,018,651	(6,091,874)
Mississippi	50,720,814	45,310,518	(5,410,296)
Missouri	90,924,402	81,225,663	(9,698,739)
Montana	40,640,152	36,305,141	(4,335,011)
Nebraska	31,472,305	28,150,666	(3,321,639)
Nevada	28,932,295	25,846,141	(3,086,154)
New Hampshire	19,605,698	17,514,394	(2,091,304)
New Jersey	100,687,563	89,947,406	(10,740,157)
New Mexico	38,735,144	34,603,338	(4,131,806)
New York	197,128,548	176,101,207	(21,027,341)
North Carolina	111,046,039	99,200,962	(11,845,077)
North Dakota	26,630,412	23,789,795	(2,840,617)
Ohio	136,327,071	121,785,313	(14,541,758)
Oklahoma	60,722,101	54,244,986	(6,477,115)
Oregon	46,434,548	41,481,460	(4,953,088)
Pennsylvania	186,849,447	166,918,559	(19,930,888)
Rhode Island	24,050,715	21,485,269	(2,565,446)
South Carolina	67,429,314	60,236,753	(7,192,561)
South Dakota	27,979,792	24,995,239	(2,984,553)
Tennessee	89,614,709	80,055,673	(9,559,036)
Texas	310,674,910	277,535,786	(33,139,124)
Utah	30,202,300	26,980,676	(3,221,624)
Vermont	18,375,381	16,415,313	(1,960,068)
Virginia	103,703,824	92,641,928	(11,061,896)
Washington	68,461,193	61,158,563	(7,302,630)
West Virginia	41,711,718	37,262,406	(4,449,312)
Wisconsin	77,986,228	69,667,581	(8,318,647)
Wyoming	28,178,230	25,172,507	(3,005,723)
Subtotal	3,968,764,800	3,545,423,946	[1](423,340,854)
Allocated Programs	574,235,200	997,576,054	423,340,854
Total	4,543,000,000	4,543,000,000	0

[1] Represents (−10.7%).

Mr. McCAIN. In addition to the RABA funding shell game, host of other actions by the appropriators merit concern. For example, section 330 of the conference report appropriates $144 million in grants for surface transportation projects while the Statement of Managers then earmarks the entire allotment for 55 projects in 31 States. I should point out that the Senate-passed version of the appropriations bill provided $20 million for these grants, not a dime of which was earmarked, while the House bill did not appropriate any funding for such grants. But through the will of the conferees, the level of funding for surface transportation projects grants are increased by $124 million and the conferees have recommended earmarks for every penny of the grant funding instead of allowing it to be made available for distribution on a competitive or meritorious basis.

Examples of these earmarks included in the Statement of Mangers include: $1.5 million for the Big South Fork Scenic Railroad enhancement project in Kentucky; $2 million for a public exhibition on "America's Transportation Stories" in Michigan—this sounds like a very critical and legitimate use of transportation dollars—and one of my favorites, $3 million for the Odyssey Maritime Project in Seattle, WA. What makes this last one a highlight is that the "Odyssey Maritime Project" is not a surface transportation project of all. It is, in fact, a museum. But the sponsor of that project must not have wanted us to really know what the funding was being allocated for and instead chose to incorporate some cleaver penmanship to mask the true nature of the so-called transportation project.

With respect to the Coast Guard, the conference report earmarks $2,000,000 for the Coast Guard to participate in an unrequested joint facility that would locate a new air station in Chicago with a new facility that would also house city and State facilities. The new marine safety and rescue station is not justified, not requested, and in fact would provide duplicative air coverage already met by other Coast Guard air stations.

The conference report also earmarks $4,650,000 to test and evaluate a currently developed 85-foot fast patrol craft that is manufactured in the United States and has a top speed of 40 knots. Interestingly, there is only one company with such a patrol craft, Guardian Marine International, LLC., and it is based in the State of Washington. The Coast Guard did not request this vessel, does not need this vessel, nor does this vessel meet the Coast Guard's requirements. The Coast Guard's resources are already stretched thin and this will only hamper its ability to meet its new challenges since September 11. But again, the appropriators know best.

The conference report further earmarks $500,000 for the Columbia River Aquatic Non-indigenous Species Initiative—CRANSI—Center at Portland State University in Portland, Oregon, to support surveys of nonindigenous aquatic species in the Columbia River. This earmark is directly taking away much needed Coast Guard R&D funds that could be used to fight the war on drugs, protect our ports, or aid in search and rescue efforts.

And, as with other modes of transportation, the appropriators have larded the DOT's aviation programs with numerous earmarks and authorizing language that is within the jurisdiction of the Commerce Committee. For example, the Statement of Managers earmarks more than $206 million in FAA facilities and equipment projects at dozens of specific airports. I am not sure how the appropriators seem to know precisely which pieces of equipment need to be installed at which airports, but I believe that we should be leaving these decisions to the FAA. The more projects that are forced upon the agency, the less ability it has to focus on those that are truly needed to enhance safety and capacity.

The appropriators do the same thing when it comes to airport projects and the expenditure of discretionary funds. The Statement of Managers earmarks more than 100 specific airport construction projects totaling more than $200 million. Once again, this is intended to take away significantly from the discretion of the FAA to determine the most important needs of the system as a whole.

This might be the time to remind the Secretary and the modal administrators that the slew of projects included in the Statement of Managers are advisory only. The Statement of Managers does not have the force of law and the FAA and other modal agencies must exercise its judgment in complying with the recommendations of the managers.

While the aviation earmarking is bad, the raiding of existing aviation accounts for unrelated purposes is even worse. The FAA's Airport Improvement Program is supposed to be devoted to the infrastructure needs of our nation's airports. Yet the conference report takes tens of millions of dollars out of AIP to pay for the FAA's costs of administering AIP, the Essential Air Service program, and the Small Community Air Service Developing Pilot Program. These are worthy activities and programs, but it violates the long-established purpose of AIP to use monies for these things.

Mr. President, last year I warned that we should just as well get rid of DOT and let the appropriators act as the authorizing agency since they so routinely substitute their own judgment for that of the agency's. Well, apparently I have a job in my retirement predicting the future. There is a provision in this bill that prohibits the use of any funds for a regional airport in southeast Louisiana, unless a commission of stakeholders submits a comprehensive plan for the Administrator's approval. While that is not necessarily good government, that is well within the agency purview. However, the bill goes further and requires that if the Administrator approves the plan, it must be then submitted to the Appropriations Committee for approval before funds can be spent.

This is unconscionable. Clearly the appropriators do not want this airport to be funded unless they say so. Are the appropriators now going to require that every decision that is made by the oversight agency be approved by them first? Will the Administrator or Secretary have to send letters regarding transportation policy to Congress for approval? Will DOT leave requests and travel schedules have to be sent to the Appropriations Committees? Where does this end? I understand that Congress is supposed to act as a check and balance to the executive branch, but I must ask, who is serving as a check and balance to the appropriators? At a minimum, isn't it supposed to be the authorizers? But passage of this conference report will provide clear proof that once again there are no checks and there is no balance.

Mr. President, I could go on and on but will refrain. It is hard to imagine but despite the seemingly unlimited lists of projects and funding redirectives provided for in this bill, it actually could have been worse. The appropriators did rightly reject some of the requests and wish-lists they received, such as including language to effectively alter the federal cap on the Boston Central Artery Tunnel Project—the Big Dig—or to take action to eliminate the Amtrak self-sufficiency requirement now that the Amtrak Reform Council has made its finding that Amtrak will not meet its statutory directive. Perhaps if the requesters were appropriators, their Christmas wish list would have been fulfilled as well. I tell my colleagues, I will be going all over the country discussing this egregious, outrageous procedure which has gone completely out of control on a bipartisan basis. Of all the years I have seen this egregious porkbarrel spending, this is one of the worst.

The PRESIDING OFFICER. The Senator from Washington has 5 minutes remaining; the Senator from Alabama has 5 minutes remaining.

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. I yield 3 minutes of my time to the Senator from Pennsylvania, Mr. SPECTER.

Mr. SPECTER. Mr. President, I thank my colleague from Alabama for yielding me a brief period of time to comment about an omission from the appropriations conference report involving a constituent company of mine, Traffic.com. There had been an arrangement worked out in previous legislation. This would have given Traffic.com a followup contract for some $50 million where they have devised systems for monitoring traffic on the highways so the people can be informed where there is traffic congestion.

The first contract was awarded to Traffic.com under an arrangement where the second would follow through. There was competitive bidding for the first contract. The Department of Transportation wanted clarification, which was added in this Chamber on an amendment which was accepted to give the followup contract to Traffic.com. Then when we went to conference last week, I was informed a few minutes before the conference began that the provision had been dropped. There had been no notification.

When I raised the issue in the conference, I was advised there was legislation which prohibited this arrangement which they characterized as "sole source contracting," but, in fact, it was not because the first contract had been competitively bid with the understanding that the second contract would follow.

In any event, our research in the interim since the conference committee met last week, to today, shows there is no legislative prohibition against this arrangement, even if it were sole source contracting, which, I repeat again, it is not. We then discussed at the conference the approach of having it included in the supplemental appropriations bill, which we are working on now. The Appropriations Committee is meeting this afternoon.

I thank the distinguished chairman of the subcommittee, Senator MURRAY, and the distinguished ranking member, Senator SHELBY, for commenting at that time they would support the effort to get it in the supplemental appropriations bill so we hope we can be cured at that time.

I did want to make the brief statement on the record at this point. I thank Senator SHELBY for yielding me the time. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. How much time remains?

The PRESIDING OFFICER. Three minutes five seconds.

Mr. SHELBY. I yield that time back.

UNANIMOUS CONSENT AGREEMENT

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Under the authority granted to the majority leader by the unanimous consent agreement of December 3, I ask unanimous consent that the vote on adoption of the conference report to accompany H.R. 2299, the Transportation appropriations bill occur at 12:30 p.m. today, without further intervening action, and I now ask for the yeas and nays on adoption.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Mrs. MURRAY. Mr. President, back in July and August, the Senate spent a lot of time talking about the safety of Mexican trucks.

Originally, the White House wanted to allow Mexican trucks to travel throughout the United States without sufficient safety checks.

That raised real safety concerns for everyone from the Advocates for Highway & Auto Safety to the AAA of Texas.

The House of Representatives, meanwhile, voted to prevent any Mexican trucks from traveling beyond a limited area near the border.

I have always believed that we could ensure our safety and promote commerce at the same time.

So Senator SHELBY and I—working with our colleagues on both sides of the aisle—created a commonsense safety plan.

The Senate turned back several amendments—and voted twice with strong bipartisan super-majorities—to invoke cloture both on the committee substitute and the bill itself.

This summer, there were several attempts to weaken the safety provisions, but the Senate consistently rejected them.

And I am proud to say that the final conference agreement strictly adheres to the outlines of the Senate bill.

This agreement prohibits the border from being opened to Mexican trucks until the DOT implements a number of important safety measures, and until the DOT's inspector general has concluded a thorough audit of the Department's efforts.

I would like to spend a moment comparing the conference agreement with the administration's original plan.

Let me start with compliance reviews, which are comprehensive inspections of a trucking firm's vehicles, its management systems, and all of its license, insurance, and maintenance records.

It looks at the trucking firm's operating and violation histories and yields a decision as to whether the firm should be allowed to continue operating in the U.S.

Under the administration's plans, there was never going to be a requirement that a Mexican trucking firm undergo a compliance review.

The conference agreement, however, includes a requirement that each and every Mexican trucking firm undergo a compliance review before being granted permanent operating authority. There are no exceptions.

Let's look at on-site inspections.

The administration never intended to require that inspections by U.S. truck safety inspectors take place on-site at a Mexican trucking firm's facilities.

The conference agreement, however, requires that U.S. truck safety inspectors must visit every Mexican trucking firm either when they conduct their initial safety examination or when they conduct a compliance review to determine whether the firm should be granted permanent operating authority in the U.S.

The only exception is granted to the smallest independent operators in Mexico. They will be required to have these same exams conducted at the border.

Even with this exception, it is likely that these smallest of firms will be visited on-site.

That's because the DOT will have to conduct on-site inspections of at least half of all firms and half of all the traffic volume coming into the U.S.

Originally, the administration did not intend to verify many licenses when Mexican truckers crossed the border.

The DOT told us that they would verify the licenses on a random basis—but deliberately avoided defining what was meant by the word "random."

That could mean verifying 1 out of every 100 licenses or 1 out of every 1,000 licenses.

Under the conference agreement, the DOT will be required to electronically verify at least one out of every two licenses.

And the actual ratio will be even higher.

That's because the conference agreement requires that border inspectors verify the license of every trucker carrying hazardous materials, and every trucker undergoing a Level I inspection, and then requires that inspectors verify 50 percent of all other vehicles crossing the border.

On the issue of overweight trucks, the administration did not intend to implement any special effort to address overweight vehicles—even though Mexican weight limits far exceed those in the U.S.

The conference agreement, however, requires that—within 1 year of the date of enactment—each and every truck crossing the border at the ten busiest border crossings between the U.S. and Mexico will be weighed.

In fact, the conference agreement prohibits the border from being opened at all—until half of these border crossings have weigh-in-motion systems fully installed.

The administration did not intend to require that Mexican trucks cross the border only where DOT safety inspectors are on duty.

The conference agreement requires that the trucks cross where inspectors are on duty.

It also requires that they enter the U.S. at crossings where there is adequate capacity for the inspectors to conduct meaningful inspections and, if need be, place vehicles out-of-service for safety violations.

The DOT was planning to open the border whether or not a number of critical truck safety rulemakings had been finalized and published.

Some of these rulemakings have been delayed for years, but the DOT planned to open the border anyway.

The conference agreement, however, requires that the Secretary either implement policy directives or publish interim final rules that will immediately govern the behavior of trucking firms—before the border can be opened.

Now let's look at the hauling of hazardous materials across the border. The administration had not planned on implementing any unique requirements for hazardous materials trucks even though they represent a unique and dangerous threat on our highways.

The conference agreement, however, requires that even if other trucks have already been allowed to cross the border no hazardous material trucks will be allowed to enter the U.S. until the governments of the U.S. and Mexico enter into a separate agreement confirming that U.S. and Mexican drivers of these vehicles have been subjected to the same unique requirements.

Finally, concerning the oversight of the inspector general, the administration was planning to open the border without regard to the long list of safety deficiencies that had been cited by the DOT inspector general.

As far as the DOT was concerned, the inspector general could continue to publish as many critical audits as he wanted to—but they were going to open the border on January 1 without regard to whether any of the deficiencies had been addressed.

There wasn't even a process in place to require the Transportation Secretary to acknowledge the findings of the IG.

Under the conference agreement, no trucks may cross the border until the IG has completed another entire audit of the DOT's efforts.

And no trucks may cross the border until the Transportation Secretary has received the IG's findings and has certified in writing, in a manner addressing each of those findings, that the opening of the border does not present an unacceptable risk to our constituents.

So, the conference agreement includes a serious mechanism to hold the Transportation Secretary accountable for his decision to open the border.

And you can be sure that the Transportation Appropriations subcommittee will be holding a hearing with both the Transportation Secretary and the inspector general once the IG has made his findings and the Secretary is poised to issue his certification.

Some observers have suggested that the requirements of the conference agreement are not as restrictive as the measures that passed the Senate.

As I view it, the safety requirements are effectively the same.

The conference agreement gives the administration a degree of flexibility in implementing these safety requirements.

Others have said that the border is likely to open more quickly under the provisions of the conference agreement than under the Senate-passed bill.

That may be true. But I want to remind my colleagues that, it has never been our goal to keep the border closed.

I voted for NAFTA.

I represent a state that is highly-dependent on international trade.

And I believe in the economic benefits that come with lower trade barriers.

Throughout this entire process, my goal—and that of Senator SHELBY—has been to ensure the safety of our highways.

And I am proud that this conference agreement makes great progress for our safety.

I am prepared to yield back all of our time on the bill if there is no one to speak.

I yield back the remainder of our time.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 10) to provide pension reform and for other purposes.

Pending:

Daschle (for Hatch/Baucus) Amendment No. 2170, in the nature of a substitute.

The PRESIDING OFFICER. The assistant majority leader.

Mr. REID. Mr. President, will the Chair indicate how much time is remaining on this matter?

The PRESIDING OFFICER. There remain 14 hours 40 minutes.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2202 TO AMENDMENT NO. 2170

Mr. DOMENICI. Mr. President, I call up amendment No. 2202 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 2202 to amendment No. 2170.

(Purpose: To strike the provision related to directed scorekeeping)

Strike section 105(c).

Mr. DOMENICI. Mr. President, I put before the Senate an interesting, simple amendment that we as a Senate should adopt. I hope this amendment is aired for a while. Because Senators have asked me not to, I do not have any intention to move rapidly. Other Senators are presently indisposed and they might come and perhaps become cosponsors. We will see what we can do.

But I want to make sure the Domenici amendment No. 2202 will not be mistaken for anything other than what it is. This amendment is not a killer amendment with reference to the underlying amendment. The railroad retirement bill will in no way be damaged by this amendment. This amendment is just a very simple recognition that the bill has some language in it that shouldn't be in it. As much as we want to do for the railroad retirees and for all of those who have joined in a rather mass number of Senators who want to see this happen—that is, passage of the bill—they actually should join in saying we want to do this. But we want to be honest with the American people in terms of what the bill costs and how you should score the actual costs against the Treasury.

My amendment would strike what we call directed scorekeeping language out of section 105. This technical language inserted just before the House passed the bill instructs the Office of Management and Budget to deviate—let me go slow here so everybody will get it—from the standard accounting practice when implementing this bill.

The Congressional Budget Office estimates that the provision allowing private investment in equities would increase outlays by $15.3 billion in 2002. That means, if you follow the way we do things in a normal manner pursuant to the rules and guidelines in the law, this bill adds $15.3 billion in increased outlays.

That is a matter of the Congressional Budget Office doing its work and telling us the answer when they are asked the question, How much does the bill cost? What do you put on the books of the United States?

They did their work. Now this bill, at the last minute, deviates from the standard accounting to the extent of $15.3 billion.

If my amendment is agreed to, which strikes the language permitting the deviation and permitting the violation of the Congressional Budget Office, it does nothing, except it puts before us the reality, the truth. It doesn't cause the bill to be any more or any less in conformance with the rules and the Congressional Budget Office. It doesn't make the bill subject to a point of order. It is already subject to that. That has nothing to do with this amendment that I am offering to clarify and make consistent this bill, and make it consistent with what we ought to do in following the language and process and past procedures with reference to the estimated cost.

Once again, the Congressional Budget Office estimates that the provision allowing private investment in equities would increase outlays by $15.3 billion in 2002. It doesn't say you can't do it. It doesn't say you shouldn't do it. It just says if you do it, report it. Just put it in here. Ask the Congressional Budget Office and report their answer. Don't ask the Congressional Budget Office and then say, regardless of their answer, which we are supposed to follow, we are going to determine and declare that we are not going to follow it.

That is called directed scoring—telling them how to score things contrary to the rules, contrary to reality, and contrary to the way we have been doing it.

That is pathetic. We shouldn't do that on any bill.

I repeat that it does not kill the bill. It does not damage the bill. It just reports the reality of the bill for bookkeeping and scorekeeping, which I believe the American people want. They don't want one bill, as good as it is, to have inserted in it just before it passes the House language saying that whatever the reality and the truth is, don't report it this time for this bill. Just report it another way.

All I do is strike that language saying report it that way. It is a very simple idea. It is simple to understand. Just take that language out, return it to language which an ordinary, everyday bill of this type would have had in it and should be expected to be part of what we do.

By preventing the OMB from reporting that expenditure as an outlay, this, in fact, deviates from; it distorts. It makes us look at something and say it isn't what it is. That is a good way to say it. We just put language in saying no matter what it is, it isn't. I am saying no matter what it is, it is, in taking out the language that would do the contrary.

The Government has always recorded any investment from equities to research and development and to education and training as an outlay. The Government should get a good rate of return on all types of investments. In contrast to private sector accounting, we record these investments as an expenditure because the Government operates under cash accounting rules. We certainly cannot use that fact as a reason for changing it. If we are going to choose to change that system of accounting, we shouldn't do it selectively for one bill, no matter how good the bill is, and no matter how much support it has. You ought to change the whole system after a thoughtful evaluation of whether we should continue to use that kind of an approach.

I will not go into the reasons why the Federal Government uses the cash accounting system instead of an accrual accounting system. But I will say that the Federal Government has operated under cash accounting rules since 1789, the first year Congress appropriated $639,000 to cover the expenses of our new government. This isn't the time to change the rules. Obviously, it is neither the time, nor the bill. It is a bill with great support. I am going to support it. It seems to have huge support. We will get it done, but we ought not choose the bill to change the rules of accounting that have existed for our Government since 1789, the first time Congress appropriated $639,000 as our expenditure.

We know, from example, in the private sector that bending the accounting rules creates confusion for the same reason we should not bend the accounting rules of the Federal Government to suit our purpose. Doing so reduces transparency and misleads the public.

If my amendment is not agreed to, this bill will set a troubling precedent for Social Security. Under current accounting practices, both the Government and the privately controlled investments of Social Security funds in stocks are treated consistently. They would increase outlays. If Government-controlled investments were not reported as outlay proposals to collectively invest in Social Security, the assets would have a significant advantage over proposals to create individual accounts. I don't think that should be done. Certainly we wouldn't want to use this as a precedent for that.

That is one of the problems when you violate precedent and pluck something out and say, we are not going to use it now, for whatever reason. We would rather not show the accounting as it is or for real.

Specifically, the proposals to have the Government invest in Social Security assets would be free, whereas proposals to establish individual accounts would cost trillions of dollars.

We understand that is not justified. This bill should not be used as something that gives impetus to that conclusion in a completely different area of huge confusion.

Regardless of whether you support individual accounts for Social Security, as the President's commission is about to propose, or collective investments such as President Clinton proposed, it doesn't make much sense for budget rules to save one policy over another. That is why I think we should be consistent, and do what is right.

Finally, the directed scorekeeping language in the bill creates a 306 budget point of order against the entire Railroad Retirement Act.

The point of order prevents Congress from changing the budget rules unless the proposal is reported from the Budget Committee. My amendment, by dropping the directed scorekeeping language, will ensure that we follow the right accounting proposals.

But understand, I do not make a point of order. There are plenty of votes for this bill. But I think plenty of those votes ought to be used to correct the accounting so there is no black mark that follows this bill around as to why did we have to do that. We do not have to do that. We just do not have to do it.

At the point it went through the House, maybe it was some way to affect the cost and make it easier to get through because we were not going to charge so much against the surplus of the country. All of those kinds of problems have long gone away. As the occupant of the chair knows, we have been spending the surplus for many months. All of the spending that took place on behalf of the New York incident was out of the surplus there. We began to break the bank, so to speak.

So if there was some reason to manage or distort the real cost, it does not exist any longer. In fact, we should not have done it anyway. But if that was the reason, it is not needed and we ought to fix it. That one change will not kill this bill. It has nothing to do with the life. Whether it is good or not so good, this action just gets rid of something that puts a little black mark or maybe even a big black mark on this bill as seeking some superattention by way of the budget rules that follow this.

That is all I have to say. But I note the presence of the chairman of the Budget Committee in this Chamber. From my standpoint, I am ready to proceed. But I do not want to cut anybody out of either joining me as a cosponsor or speaking.

So with that, I make a parliamentary inquiry. Was there a certain amount of time allocated to the Senator from New Mexico for this amendment?

The PRESIDING OFFICER. Under cloture, the Senator is limited to 1 hour. The Senator has consumed about 14 minutes.

Mr. DOMENICI. I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. REID. Mr. President, Senator INHOFE tried to arrange some time last week to speak when we had lots of time. The time is a little more constrained today, but he has always been so easy to work with, and I ask unanimous consent that following my remarks and those of Senator CONRAD, the Senator from Oklahoma be recognized for up to 40 minutes. Of course, the time would be charged against the 30 hours.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. REID. Mr. President, for me to speak against Senator DOMENICI and Senator CONRAD is difficult. I work very closely with Senator DOMENICI. We have been on the Appropriations Committee working side by side on a number of issues, including the Energy and Water Development Subcommittee, of which I have been chairman and he has been chairman, back and forth. Of course, Senator CONRAD and I came to the Senate together. There is no one I have more respect for than Senator CONRAD and for his integrity and his absolute brilliance. So for me to speak against something on which they agree is difficult. But as much respect as I have for both of these outstanding men, it does not mean they are always right. I respectfully submit that what they are trying to accomplish now is wrong.

Leave it in the bill is basically what my message is. I know I speak for the chairman of the Finance Committee, Senator BAUCUS, and I know I speak for the majority leader, Senator DASCHLE, when I say this.

The House-passed bill includes directed scorekeeping language. This language would require the CBO and OMB to treat the purchase of private sector securities by the new railroad retirement trust as a means of financing rather than as an outlay. OMB sets the official rules right now. Under those rules, the purchase of private sector securities is scored as an outlay just as any other purchase of goods and services would be scored.

However, the issue of how to score the purchase of private sector securities is really a very gray area. Unlike the purchase of goods and services, the purchase of private sector securities does not diminish the financial and budgetary wealth of the Government. So a case could be made that these purchases should not be scored as outlays. In such a case, a means of financing Federal deficits is a technical term for the budgetary category of the purchases. The primary means of financing Federal deficits historically has been Federal borrowing.

Those who would like to continue the current OMB scoring rules would argue that almost all the Federal budget is on a cash basis. From that perspective, the purchase of private sector securities requires cash and should be treated the same as any purchase of goods and services.

I do not have an opinion as to which is the best approach, which is superior. I think they both work. However, from a pragmatic point of view—and that is where I am today—this legislative session is winding down. We are facing a serious time constraint if we are going to be able to enact this important legislation this year.

The railroads have been working and trying to get something such as this done for decades. For once, now we have victory in our grasp. The railroad companies and the unions, which rarely agree on the time of day, have agreed on this package. I think it is a victory that we should not let fall from our grasp.

If this amendment passes, it is gone. Everyone should understand, it is gone. Why? Because this bill will not pass this year.

There are very few days left in the calendar. The House has already passed this legislation, the legislation that is basically before us, that includes directed scorekeeping, by a vote of 384 to 33. It was not a close call in the House: 384 to 33.

If we pass a bill that does not have directed scorekeeping, then we face one of three scenarios. No. 1, we have to go to conference. If this happens, curtains this year, this legislation is all through. No. 2, the House could send back our bill with an amendment in disagreement. In that case, there would not be enough time on the Senate floor to deal with this possibility. No. 3, the House could agree with our bill.

Under two of the three outcomes, the bill would not be enacted this year. We do not know which of the three outcomes will occur, but I have an idea. It is just too risky to proceed in this way. The prudent course of action is to leave the directed scorekeeping language in this bill, the legislation before us.

I urge my colleagues to defeat this amendment.

Mr. President, we have come a long way to arrive at a point where we actually have in our grasp this bill on which we can vote. I hope this amendment, while well intentioned by two fine Senators, both of whom want to protect their budget jurisdiction—I just think, in this instance, they are wrong. I think it would be much better if we went through with this legislation, followed the lead of the House.

The House, as I indicated, passed this bill overwhelmingly. I think if we did that, we would have a lot of happy widows, we would have a lot of happy railroad retirees; of course, we would have a railroad industry that would be much stronger and firmer.

I know in Nevada we have watched the railroads come through our State. We had a merger of Union Pacific coming through the northern part of the State on very shaky ground. But they were able to pull themselves out. We have done a number of remarkable things with the railroad to help them move more traffic because of the merger. One example is that they have come forward and we are building a depressed railroad sector through Reno to make it a much better, quieter program than we have had with railroads in the entire history of railroads coming through Nevada. All this amendment will do is set that back, and then many other things we have been able to accomplish. But of course the thing that really hurts has to do with the railroad retirees.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise today to support the amendment of the Senator from New Mexico, the distinguished ranking member of the Budget Committee. I ask unanimous consent to be added as a cosponsor to his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. DOMENICI. Mr. President, I thank Senator CONRAD. As chairman of the Budget Committee, it is really welcome that he would join me in this endeavor.

As a matter of fact, I believe by his joining, he makes the case that we are not trying to kill this bill. He has been a staunch advocate. I just told railroad retirees I am voting for the bill. I didn't tell them, nor did I tell the Senator, that I used to work for the railroad. I was a baggage clerk when I was 22. It was a fun job. I didn't work long enough to be part of any of this program. I want everybody to know, I have no interest. It was a great summer job. I became friends with some wonderful railroaders.

I repeat, so that nobody misunderstands the Senator's views, this takes out of the bill some language that is not needed for this bill and that in essence treats this bill in a way that says what is isn't; it is going to cost this much, but it is not going to cost it because we wrote language in the bill saying it isn't.

That is not the way to pass a bill. We don't do that for anybody on anything.

I welcome the Senator's support. I think it is a good way for him to start his chairmanship, saying that he is going to watch the rules carefully and abide by them. I thank the Senator so much for joining me.

(Mrs. CARNAHAN assumed the chair.)

Mr. CONRAD. I thank the Senator. My great-grandfather was a foreman on the railroad. My great-grandparents, when they went on their honeymoon, went on a pushcart for 100 miles on the railroad.

I do strongly favor this bill. I have to answer to my responsibility as chairman of the Budget Committee and as a Member of this body to be accurate with our colleagues as to the scoring of this legislation.

Directed scoring, if we are to be blunt about it, is to say something doesn't cost when we know that it does. I have an obligation to my colleagues to report accurately to them this legislation. I have been a staunch supporter of this bill the entire time it has been before the Senate. It represents an extraordinary effort by the rail companies and their employees and labor to work together to improve the lives of thousands and thousands of rail workers and their families.

I agree this legislation provides an important opportunity to modernize the rail pension program. I have received countless e-mails, phone calls, faxes, and letters from North Dakota rail workers and their spouses who have told me how important this legislation is to them and their families.

Some of my dearest friends and strongest supporters are in favor of this legislation. I am in favor of the legislation. But I have a special responsibility as chairman of the Budget Committee to give an accurate assessment to our colleagues of the cost of legislation that moves through this Chamber. That is an obligation I take seriously.

The directed scorekeeping provision creates the impression that the cost of this legislation in fiscal year 2002 has dropped from $16 billion to $250 million. In reality, with or without directed scorekeeping, the impact on the budget in 2002 is precisely the same. It is not $250 million; it is $16 billion.

That is the reality. That is the fact. With this amendment, the Senator from New Mexico has provided us with a second chance to review the directed scorekeeping provision of this bill. He is right to do so. That is why I have joined him in this effort.

Traditionally, those of us with special responsibility for the budget have vigorously opposed directed scorekeeping because it fundamentally undercuts the entire system of budget controls and budget discipline that is so important to the United States being fiscally prudent and wise. We cannot do our job of being stewards of the finances of this country if we don't report accurately and honestly to our colleagues the cost of legislation.

That is the most fundamental responsibility of any Budget Committee chairman and ranking member. Senator DOMENICI and I are meeting our responsibility by saying to our colleagues the simple fact is, this bill is going to cost $16 billion in fiscal year 2002 no matter what the directed scorekeeping provision says. You can make it up, but it is not true. The fact is, the impact on the federal budget will be $16 billion.

That is a cost for which I am willing to vote and support, but I am not willing to say it is something it is not. That is not, in my view, the appropriate role for any Budget Committee chairman.

It is not just a matter of $16 billion in fiscal year 2002; it has much greater significance than that. If we establish the precedent that through directed scorekeeping we can say a $16 billion expense is really a $250 million expense, what is next? I predict what is next is: When we get to the reform of Social Security, some will say we can simply take a trillion dollars of the Social Security trust fund and move it over into private accounts and say there has been no expenditure. That is the implication of this vote and why it matters. If we say on this bill you can take something that cost $16 billion and, by legislative language, direct the scorekeeping and say it doesn't cost $16 billion, it costs $250 million, then others may try to take a $1 trillion transfer of Social Security money and say it is cost free.

If we start down that path, we will rue the day, if we go down the path of creating fiscal fictions in this Chamber in order to accomplish even the best of intentions.

This is a good bill. It is worthy of support. But the price cannot be, should not be, must not be that we say to the American people that a bill that costs $16 billion only costs $250 million. That cannot be the way we do business in the Senate.

If that is the direction we take, I repeat to my colleagues the implication because I believe the next step will be in the Social Security reform debate, that others will try to say: A trillion dollars taken out of the Social Security trust fund and moved into private accounts doesn't cost anything. It is cost free.

That would not be true. That would be totally misleading. The money that is in the Social Security trust fund that has been credited to the Social Security trust fund, to be more accurate, has been credited to that fund to meet current promises, promises already made. We can't take that money and make a new set of promises and use the money that was raised to keep the previous promises. It won't work. We can't use the same money twice.

You can't use the same money twice. That is what will lead us into the swamp of deficits and debt and disastrous economic decline. Make no mistake, what is at stake here is a big deal. This matters. This is not a free vote. I remain committed to this legislation, but I also remain committed to being straight with our colleagues and our countrymen as to the cost of the legislation that is before us.

Our friends in the House included this directed scorekeeping back in July. It was a mistake then; it would be a mistake for us to repeat it here. Those who say, well, this kills the bill —I don't accept that. This legislation has to go back for further action in the House in any event because of the way it has come before us. It has to go back to the House for action in any event.

Let's pass this legislation, but let's do it right and let's do it by being straight with our colleagues and our countrymen as to its cost.

Mr. CARPER. Will the Senator from North Dakota yield?

Mr. CONRAD. I am happy to yield.

Mr. CARPER. I, too, am a strong advocate of this legislation. I have spoken for it in the Chamber and in our caucus meetings as well. As the Senator from North Dakota and the Senator from New Mexico have indicated about their relatives, my grandfather was also on the railroad. My grandmother lived many years on a survivor's pension from his service. Whenever the chairman of the Budget Committee and the ranking member on the

Budget Committee stand to endorse an amendment, it gives me pause. I want to make sure in the next several minutes—maybe hours—that we consider this legislation I understand the full ramifications of the amendment or the failure to adopt the amendment.

Let me ask the chairman of the Budget Committee this. When I first learned of the directed scorekeeping in the House of Representatives, which, as he said, is an extraordinary act, I tried to understand why they may have done that. Was it chicanery or was there real logic behind it?

As I studied the issue more, my understanding is if we were not on a cash basis of accounting, but an accrual basis, this probably would not be an issue. Most States used to be on a cash basis of accounting. The majority of States now use the accrual basis, and most States direct the retirement funds into U.S. Treasury obligations. Today, it is a whole array of investments, including equities, or stocks, bonds, and the kinds of things envisioned here under this legislation. There are, as we know, tier 1 benefits under the railroad and tier 2.

This is my question: The tier 1 benefits mirror Social Security benefits. Tier 2 are more private sector benefits. The moneys that go into those tier 2 funds for payout come from the railroad companies themselves—from the tax assessed on them—and also a payment by the railroad employees themselves. My understanding is that those monies that go into that retirement fund, paid into by the railroad companies and by the employees through the payroll deduction—those monies in the future will be invested not in U.S. Treasury obligations, but in a wide variety of investment options. But because of the peculiarity of our accounting rules, because those monies will now be not spent for roads or any other purpose, and not for space exploration, they will still be invested in the same pension benefits, but because of our accounting rules, those monies—simply by saying you can now invest those pension monies, the trust fund monies, in non-Treasury obligations triggers a $15 billion outlay. Is that what this is all about? I know that is a long question, but let me lay that question at the feet of our Budget Committee chairman.

Mr. CONRAD. I am happy to respond. First of all, we use a cash method of accounting for the Federal budget. We do not use an accrual system. You can't mix the two or you start misleading people. That is No. 1.

No. 2, the Senator's question sounds as though it is prospective in nature; as though simply going forward, Tier II revenues would not be invested in Treasurys. That is not the case in this bill. In this bill, CBO estimates that approximately $16 billion currently invested in Treasurys by the Federal Government would be sold and instead invested through an investment trust in private-sector assets. Again, the amount is $16 billion and they would be free to invest it in other ways. I support that.

But we have to be straight with people. It costs $16 billion to the Federal Government in the fiscal year 2002 under the accounting rules that apply to every program of the Federal Government. It doesn't cost $250 million; it costs $16 billion. The money moves out of Government Treasuries and moves into a railroad investment trust, with the ability under a board, to invest those moneys in higher rate of return assets. I support that basic notion.

But the hard fact is that it costs the Federal Government $16 billion. It means the fact is the Federal Government will have to borrow $16 billion more in fiscal year 2002 than it was otherwise going to borrow.

Mr. CARPER. If the Senator will continue to yield, I have two glasses of water here. We will say one is the railroad pension fund as it currently exists, and it is full of U.S. Treasury obligations. There is another glass here and we will pretend it is empty for our purposes. What I think we are talking about doing is taking some of the moneys invested in these Treasury obligations in this one pension fund and, presumably, the railroad retirement fund would have to sell those obligations and then use the money from the sale of those obligations to put in their new pension fund. When they sell those, they are going to sell them to somebody—individuals, funds, banks, corporations. It is difficult for me to understand how that transaction I have just described should cost the Treasury $16 billion. A lot of us are struggling on this one.

Mr. CONRAD. Let me say it as simply as I can state it. The reason it costs the U.S. Treasury $16 billion is because the money moves out of U.S. Government Treasury and moves over to the control of a board that is run by private sector representatives to be invested in non-governmental assets. That is about as easy as I can make it.

The fact is that the Federal Government is going to have to borrow, as a result of that transaction, not $250 million more, but $16 billion more in 2002. For us to have our colleagues say "but it really doesn't mean that" is not accurate and it is not factual. To say to our colleagues, by direct scorekeeping, by legislative fiat, that it won't cost $16 billion, that it won't mean the Federal Government has to borrow $16 billion more in 2002, that it is only going to cost $250 million more, is just not the truth. I don't know how more direct I can be.

Mr. CARPER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that following the statement of Senator INHOFE, Senator STABENOW be recognized for up to 15 minutes, and the time be charged against the 30 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Oklahoma is recognized for 40 minutes.

AN ABSOLUTE VICTORY

Mr. INHOFE. I thank the Chair. First, I say to the leadership how much I appreciate the fact you are allowing me to bust in on a different subject. I think it is very significant at this time because something happened yesterday that I think makes it worthwhile to talk about this and maybe to do so at some length.

Willie George was right. Lest some of you do not know who Willie George is, some people consider Willie George a preacher, but he is also a very able historian. As I listened to him and added some perspectives on what the attack on America was all about, I realized the inside-Washington mentality is sometimes and often flawed and that mentality that comes from Oklahoma reflects more of real America.

The Apostle Paul gave us our marching orders in Ephesians 6, verses 10, 11, and 12. He said:

> Finally, my brethren, be strong in the Lord, and in the power of his might. Put on the whole armor of God, that you may be able to stand against the wiles of the devil. For we wrestling is not against flesh and blood, but against the principalities, against the powers, against the rulers of this darkness—

About which we are talking—

> against the spiritual hosts of wickedness in high places.

Make no mistake about it. This war is first and foremost a spiritual war. It is not a political war. It has never been a political war. It is not about politics. It is a spiritual war. It has its roots in spiritual conflict. It is a war to be fought to destroy the very fabric of our society and the very things for which we stand.

Many of the wars in history have been fought because of human desire or greed, to have that of a neighboring country—to have mineral deposits, to have what some other country has. But this war is of a different nature.

It is not just simple greed that motivated these people to kill. This war has been launched against the United States of America. It is a spiritual attack. It is an attack that was created in the mind and heart of Satan. It is a demonically inspired attack. It is not just the selfish ambitions of an egotistical leader. It is not just someone wanting to hold on to power. This is nothing more than a satanically inspired attack against America created by demonic powers through the perverted minds of terrorists.

One may ask: What is it about our Nation that makes them hate us so much? Three things. First, in our country, we have the freedom and the right to choose the kind of worship we want. I am a born-again Christian. I have accepted Jesus Christ as my virtual Lord and Savior. I believe it is through Him that we will reach the Father. I believe every American has a right to choose whether or not to believe that.

Some people have the notion that if you are a Christian who believes in the Bible, you are totally intolerant; you do not allow other people to have a choice. Nothing could be further from the truth.

In nations of this world where Christianity is the dominant way of worship, we also find Jewish synagogues, Islamic mosques; we find freedom of worship. But we will not find the same kinds of freedom in the militant Islamic nations of this world. They do not allow Christian churches and Jewish synagogues to operate freely. They do not allow people the freedom of choice. In Sudan, they sell Christians into slavery.

So one of the reasons America is hated so much is that we have allowed people through the years to choose what they are going to do. It is choice.

The second reason we are hated is that we have opened the door for people to achieve their God-given place on this Earth. We have not restrained people. We have allowed people freedom of expression, the freedom to pursue dreams, the freedom to pursue goals. This is not true around the world.

Freedom did not come cheap. One of my memories that I consider an advantage for me and that I hold over many others is when I first started my education in first grade, it was in a country schoolhouse. Not many people here know what they are. They are eight grades in one room out in the country. It was called Hazel Dell. In fact, I remember three brothers who rode on a workhorse to school every morning.

We had a different sense of history at that time. I remember so well reading and learning history as a very young child in that environment. Keep in mind, that was the environment at the beginning of World War II when we had a sense of patriotism that is comparable to today.

I remember my teacher said the Pilgrims did not come to this country for adventure; they did not come for excitement; they were not adventurous people. They came to this country to escape tyranny, to pursue freedoms—freedom of religion and economic freedom. Half of them died the first year. They knew it was going to happen. It was worth it to get these freedoms.

They had freedom of religion and economic freedom. Each was given a piece of property to do with as they wanted, and he could work his land and reap the benefits of this property. And he prospered mightily, so mightily that in one of his letters back to England, Smith said: Now one farmer can grow 10 times as much corn as the previous farmers could.

They were prospering so mightily. I normally tell young people when you have a good thing going, quite often someone is going to try to take it away from you. That is exactly what happened. The British came across the sea. They wanted in on this prosperity, and they started imposing laws, rules, and regulations so that the trapper on the frontier could not make a hat of the pelt he caught. He had to sell it to British merchants at British prices to be shipped to Great Britain on English ships to be made into a hat by English laborers to be shipped back and sold to the trapper, who caught it in the first place, at English prices. Guess what happened. God bless him, the trapper kept right on making his own hats.

That was treason in those days. So they sent this great army to this country, the greatest army in the world at that time, to stop these things from occurring. They started marching up toward Lexington and Concord.

I remember so well sitting in that little one-room schoolhouse and having this vision of what it was really like. Farmers and trappers and frontiersmen were up there. They were not well educated, but they were ready to stop this resistance, the greatest army on the face of this Earth. Most of them could not read or write. As the saying goes, they did not know their right foot from their left foot, so they would put a tuft of hay in one boot and a tuft of straw in the other boot and marched to the cadence of "hay foot, straw foot."

While they were not greatly educated, they knew freedom, and they were going to keep that freedom. As they stood there knowing they were signing their death warrants, those soldiers, listening to the thundering cadence of the largest army in the world going towards Lexington and Concord, waited until they saw the whites of their eyes and fired the shot heard round the world, not knowing at that very moment a tall redhead stood in the House of Burgess and made a speech for them, made a speech for us today:

> They tell us, sir, that we are weak; unable to cope with so formidable an adversary. But when shall we be stronger? Will it be the next week, or the next year? Will it be when we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance by lying supinely on our backs and hugging the delusive phantom of hope, until our enemies shall have bound us hand and foot? Sir, we are not weak if we make proper use of those means which the God of nature hath placed in our power. The millions of people, armed in the holy cause of liberty, and in such a country as that which we possess, are invincible by any force which our enemy can send against us.

This is critical.

> Besides, sir, we shall not fight our battles alone. There is a just God who presides over the destinies of nations, and who will raise up friends to fight our battles with us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave . . . Gentlemen may cry, Peace, Peace—but there is no peace . . . Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God . . . but as for me, give me liberty or give me death.

He got both.

These freedoms are not found in every nation. America is a great nation because we have magnified the rights of individuals, protected the rights of individuals in our culture. We are careful to allow people to have expression in our society, and we are hated for it.

The third reason we are hated is because we are a nation of laws. We are a people ruled by laws. Lest one thinks that is common, do a careful study of the history of the world. Most of the world's countries do not have a 200-year-old Constitution. They are ruled by dictators. They are ruled by the whims of those leaders or by political parties as they change. The rule of law is what makes civilization possible. The rule of law is what makes an orderly society work. If there is no rule of law, the strongest, toughest bully is the one who runs the country.

America is a country of law and order because of the philosophies of the people who founded this Nation. They believed in the rule of law because of what they knew from the Bible. Our Constitution and the constitutions of most of the governments in the world are similar and are indeed based upon the Ten Commandments. Our fathers knew that the Ten Commandments and the laws of God were a basis for all laws. They understood the concepts of absolute right and absolute wrong. There were not many who believed in what we today call situational ethics where things change according to our needs. They believed in absolute right and absolute wrong. America was founded on those principles. That is a reason we are hated so much as a nation. We are hated because of the fact we are a beacon of light, a beacon of freedom all the way around the world. We know contemporarily what this means.

One of the greatest speeches of all times was "A Rendezvous with Destiny" made by Ronald Reagan before he was into politics. He talked about the atrocities committed in Castro's Communist Cuba and about the little boat that escaped and washed up on the southern shores of Florida. When the boat came up, a man who escaped talked about what was happening in Communist Cuba. When he was through talking about the atrocities, a woman said: I guess we in this country don't know how lucky we are.

He said: No, no. It is how lucky we are because we had a place to escape to.

What he was saying was, we were that beacon of freedom. Many, including the Senator sitting to my right, will remember 15 years ago when the Communists, then the Soviet Union, were trying to get a foothold in Nicaragua and the freedom fighters were fighting for their freedom. I remember going down there, watching them fight against impossible odds. There is no way they could win, by normal concept. They were fighting.

There was a hospital tent in Nicaragua. It was half the size of this Senate Chamber. I remember so well, this is where the freedom fighters from Nicaragua would come in and get taken care of medically. There was an operating table in the middle of this giant tent. All they did was amputations. The problem was, of course, the mines. They had the beds of all the patients around the perimeter of this hospital tent.

I went around and talked to the individuals. The average age of the fighter in Nicaragua at that time was 19 years old. All the older ones were either maimed or killed. I used to be a pilot in Mexico and I communicate well.

I asked each one: Why is it you are doing this against impossible odds? Why are you doing this? Why are you fighting?

I got to the last bed. Her name was Maria Gonzalez. I asked her that question. She was 18 years old, weighed 90 pounds, and this was her third trip back to the hospital tent. They amputated her leg that morning. Blood was coming through the bandages. That little girl said: We are fighting because they have taken everything we have, our farms, our houses, all that we have. Surely you in the United States don't have to ask that question because you had to fight for your freedoms against the same odds that we are doing today. And with God's help, we will win, as you, with God's help, won.

That little girl didn't know whether our Revolution was fought 25 years ago or 150 years ago. But she was brilliant in her knowledge of freedom. We were the beacon of hope. We were the beacon of freedom.

Do you know the outcome? We are hated because we are the beacon of freedom for the rest of the world. We are hated because in America we have freedom of choice and freedom of worship, we have freedom of expression, and we are a nation of laws.

Now, why was America attacked on September 11? Why did they single us out? America was attacked because of our system of values. It is a spiritual war. It is not just because we are Israel's best friend. We are Israel's best friend in the world because of the character we have as a nation. We came under attack and we are Israel's best friend.

One of the reasons God has blessed our country is because we have honored his people. Genesis 12:3 says: I will bless them who bless you. I will curse him who curses you. This is God talking about Israel.

Madam President, on the table where you sit is a Bible. You can look it up. He said: I will bless them who bless you. I will curse him who curses you. God is talking about Israel.

One of the reasons America has been blessed abundantly over the years is because we as a society have opened our doors to Jewish people. Jewish people have been blessed in the United States of America. When the tiny State of Israel was founded in 1948, we stood in the beginning with Israel. We were the first country to stand up for Israel. Because we took a stand, other nations in the world followed after very quickly. The United States made it possible for there to be an Israel. We stood with Israel again and again and again in its fight to survive.

Make no mistake. It is not just because of our support of Israel. It is what we believe as a nation that caused us to come under attack.

Recently in the city of Durban, South Africa, there was a conference called the World Conference on Racism. African Christians are being slaughtered by the thousands today by Islamic fundamentalists in Sudan. You didn't hear a lot about that in the reports of this conference; you didn't hear about racism in South Africa. I have a mission in West Africa and have become pretty familiar with some of the atrocities and the ethnic cleansing going on in the world today.

I can remember standing at this podium when we were under a different President. He was trying to get us to send troops into Kosovo, and used in his arguments in Kosovo all the ethnic cleansing and the difficulty going on. I said at that time, for every one person who is killed, who is ethnically cleansed in Kosovo, on any given day there are over 100 who are killed and ethnically cleansed in West Africa alone. Do we hear about that? No, we didn't hear about that at the Conference on Racism. What you heard was how the nations of the world came together and decided all the attention should be focused on the tensions in the Middle East. They were appeasing the terrorists.

Israel is under attack in the Middle East because it is the only true democracy that exists in the Middle East. There are more than 20 Arab nations in north Africa and in the Middle East. Virtually every Arab nation is run by either a king or a dictator. Israel is the only true democracy that exists in the Middle East.

Madam President, did you know if you are an Arab and have an Israeli citizenship, you can vote in the country of Israel? Did you know the Arabs have parties in the Knesset, the Congress of Israel? Israel is the only true democracy that exists in the Middle East. It has a Western form of government based on the laws we see in the Bible. The laws of God that our country is based on are the same laws from which Israel gets its law. It represents the laws of God. That is the reason it is under attack.

We ought to be Israel's best friend. If we cannot stand for Israel today, can we ever again be counted on as a beacon of hope, a beacon of freedom for oppressed nations? You may ask what does this have to do with the attack on America? We are under attack because of our character and because we have supported the tiny little nation in the Middle East. That is why we are under attack. If we don't stand for this tiny country today, when do we start standing for tiny little countries in the world that are right?

Yasser Arafat and others do not recognize Israel's right to the land. They don't recognize Israel's right to exist.

I will discuss seven things I consider to be indisputable and incontrovertible evidence and grounds to Israel's right to the land. You have heard this before, but it has never been in the RECORD. Most know this. We are going to be hit by skeptics who are going to say we are being attacked all because of our support for Israel, and if we get out of the Middle East all of the problems will go away. That is not so. It is not true. If we withdraw, it will come to our door and will not go away. I have some observations to make about that in just a minute, but first the seven reasons that Israel has the right to the land.

Israel has a right to the land because of all the archeological evidence. This is reason No. 1. It all supports it. Every time there is a dig in Israel, it does nothing but support the fact that Israelis have had a presence there for 3,000 years. They have been there for a long time. The coins, the cities, the pottery, the culture—there are other people, groups that are there, but there is no mistaking the fact that Israelis have been present in that land for 3,000 years.

It predates any claims that other peoples in the regions may have. The ancient Philistines are extinct. Many other ancient peoples are extinct. They do not have the unbroken line to this date that the Israelis have.

Even the Egyptians of today are not racial Egyptians of 2,000, 3,000 years ago. They are primarily an Arab people. The land is called Egypt but they are not the same racial and ethnic stock as the old Egyptians of the ancient world. The Israelis are in fact descended from the original Israelites. The first proof, then, is the archeology.

The second proof of Israel's right to the land is the historic right. History supports it totally and completely. We know there has been an Israel up until the time of the Roman Empire. The Romans conquered the land. Israel had no homeland, although Jews were allowed to live there. They were driven from the land in two dispersions: One was in 70 A.D. and the other was in 135 A.D. But there was always a Jewish presence in the land.

The Turks, who took over about 700 years ago and ruled the land up until about World War I, had control. Then the land was conquered by the British. The Turks entered World War I on the side of Germany. The British knew they had to do something to punish Turkey and also to break up that empire that was going to be a part of the whole effort of Germany in World War I, so the British sent troops against the Turks in the Holy Land.

One of the generals who was leading the British armies was a man named Allenby. Allenby was a Bible-believing Christian. He carried a Bible with him everywhere he went and he knew the significance of Jerusalem.

The night before the attack against Jerusalem to drive out the Turks, Allenby prayed that God would allow him to capture the city without doing damage to the holy places.

That day, Allenby sent World War I biplanes over the city of Jerusalem to do a reconnaissance mission. You have to understand that the Turks had at that time never seen an airplane. So there they were, flying around. They looked in the sky and saw these fascinating inventions and did not know what they were and they were terrified by them. Then they were told that they were being opposed by a man named Allenby the next day, which in their language means "man sent from God" or "prophet from God." They dared not fight against a prophet from God, so the next morning when Allenby went to take Jerusalem, he went in and captured it without firing a single shot.

The British Government was grateful to Jewish people around the world and particularly to one Jewish chemist who helped them with the manufacture of niter. Niter is an ingredient which goes into nitroglycerin, necessary to the war effort. They were getting dangerously low of niter in England at that time, so the chemist, who was called Weitzman, discovered a way to make it from materials that existed in England.

It was coming from the new world over there, the niter was. But the German U-boats were shooting them down so it was all at the bottom of the Atlantic Ocean. When Weitzman discovered a way to make it from materials that existed in England, it saved the British war effort. Out of gratitude to this Jew and out of gratitude to Jewish bankers and financiers and others who lent financial support, England said we are going to set aside a homeland in the Middle East for the Jewish people. And that is history.

The homeland that Britain said it would set aside consisted of all of what is now Israel and all of what was then the nation of Jordan, the whole thing. That was what Britain promised to give the Jews in 1917.

In the beginning, there was some Arab support for this. There was not a huge Arab population in the land at that time and there is a reason for that. The land was not able to sustain a large population of people. It just didn't have the development it needed to handle all those people, and the land wasn't really wanted by anybody.

I want you to listen to Mark Twain. Have you ever read "Huckleberry Finn" or "Tom Sawyer"? Mark Twain—Samuel Clemens—took a tour of Palestine in 1867. This is how he described it. We are talking about Israel. He said:

> A desolate country whose soil is rich enough but is given over wholly to weeds. A silent, mournful expanse. We never saw a human being on the whole route. There was hardly a tree or a shrub anywhere. Even the olive and the cactus, those fast friends of a worthless soil, had almost deserted the country.

Where was this great Palestinian nation? It didn't exist. It wasn't there. The Palestinians weren't there. Palestine was a region named by the Romans, but at the time it was under the control of Turkey and there was no large mass of people there because the land would not support them.

This is the report of the Palestinian Royal Commission, created by the British. It quotes an account of the conditions on the coastal plain, along the Mediterranean Sea in 1913. This is the Palestinian Royal Commission. They said:

> The road leading from Gaza to the north was only a summer track, suitable for transport by camels or carts. No orange groves, orchards or vineyards were to be seen until one reached the Yavnev village. Houses were mud. Schools did not exist. The western part toward the sea was almost a desert. The villages in this area were few and thinly populated. Many villages were deserted by their inhabitants.

The French author Voltaire described Palestine as:

> A hopeless, dreary place.

In short, under the Turks the land suffered from neglect and low population, and that is a historical fact. The nation became populated with both Jews and Arabs because the land came to prosper when Jews came back and began to reclaim it. Historically, they began to reclaim it. If there had never been any archeological evidence at all to support the rights of the Israelis to the territory, it is also important to recognize that other nations in the area have no longstanding claim to the country either.

Madam President, did you know that Saudi Arabia was not created until 1913? Lebanon until 1920? Iraq didn't exist as a nation until 1932; Syria until 1941; the borders of Jordan were established in 1946, and Kuwait in 1961.

Any of these nations who would say that Israel is only a recent arrival would have to deny their own rights as recent arrivals as well. They did not exist as countries. They were all under the control of the Turks. So, historically, Israel gained its independence in 1948.

The third reason I believe the land belongs to Israel is because of the practical value of the Israelis being there. Israel today is a modern marvel of agriculture. Israel is able to bring more food out of a desert environment than any other country in the world. The Arab nations ought to make Israel their friend and import technology from Israel that would allow all the Middle East, not just Israel, to become an exporter of food. Israel has unarguable success in its agriculture.

The fourth reason I believe Israel has the right to the land is on the grounds of humanitarian concern. You see, there were 6 million Jews slaughtered in Europe in World War II. The persecution against the Jews has been very strong in Russia since the advent of communism. It was against them even before then under the Czars.

These people have a right to their homeland. If we are not going to allow them a homeland in the Middle East, then where? What other nation on Earth is going to cede territory? To give up land?

They are not asking for a great deal. You know the whole nation of Israel would fit into my State of Oklahoma seven times. So on humanitarian grounds alone, Israel ought to have the land.

The fifth reason Israel ought to have the land is because she is a strategic ally to the United States. Whether we realize it or not, Israel is a detriment, an impediment to certain groups hostile to democracies and hostile to those things that we believe in, hostile to the very things that make us the greatest nation in the history of the world. They have kept them from taking complete control of the Middle East. If it were not for Israel, they would overrun the region. They are our strategic ally.

Madam President, it is good to know that we have a friend in the Middle East that we can count on. They vote with us in the United Nations more than England. They vote with us more than Canada, more than France, more than Germany, more than any other country in the world.

The sixth reason is that Israel is a roadblock to terrorism. The war we are now facing is not against a sovereign nation. It is a group of terrorists who are very fluid, moving from one country to another. They are almost invisible. That is who we are fighting against. We need every ally we can get. If we do not stop terrorism in the Middle East, it will be on our shores. We have said this and said this and said this.

One of the reasons I believe the spiritual door was opened for an attack against the United States of America is because the policy of our Government has been to ask Israelis and demand with pressure that they not retaliate in a significant way against the terrorist strikes that have been launched against them, the most recent one just 2 days ago.

Since its independence in 1948, Israel has fought four wars: the war in 1948–1949; the war in 1956, the Sinai campaign; the Six-Day War in 1967; and in 1973 the Yom Kippur War, the holiest day of the year, with Egypt and Syria.

You have to understand that in all four cases, Israel was attacked. Some people may argue that wasn't true because they went in first in the war of 1956. But they knew at that time that Egypt was building a huge military to become the aggressor. Israel, in fact, was not the aggressor and has not been the aggressor in any of the four wars.

Also, they won all four wars against impossible odds. They are great warriors. They consider a level playing field being outnumbered two to one.

There were 39 Scud missiles that landed on Israeli soil during the gulf war. Our President asked Israel not to respond. In order to have the Arab nations on board, we asked Israel not even to participate in the war. They showed tremendous restraint and did not. And now we've asked them to stand back and not do anything over these last several attacks.

We have criticized them. We have criticized them in our media. Local people in television and radio offer criticisms of Israel not knowing the true issues. We need to be informed.

I was so thrilled when I heard a reporter pose a question to our Secretary of State, Colin Powell. He said, "Mr. Powell, the United States has advocated a policy of restraint in the Middle East. We have discouraged Israel from retaliation again and again, and again because we've said it leads to continued escalation—that it escalates the violence." He said, "Are we going to follow that preaching ourselves?"

Mr. Powell indicated that we would strike back. In other words, we can tell Israel not to do it, but when it hits us we are going to do something. That is one of the reasons I believe the door was opened. Because we have held back our tiny little friend. We have not allowed them to go to the heart of the problem. The heart of the problem—that is where we are going now.

But all that changed yesterday when the Israelis went into the Gaza with gunships and into the West Bank with F–16s. With the exception of last May, the Israelis had not used F–16s since the 1967 7-Day War. And I am so proud of them because we have to stop terrorism. It is not going to go away. If Israel were driven into the sea tomorrow, if every Jew in the Middle East were killed, terrorism would not end. You know that in your heart. Terrorism would continue.

It is not just a matter of Israel in the Middle East. It is the heart of the very people who are perpetrating this stuff. Should they be successful in overrunning Israel—they won't be—but should they be, it would not be enough. They will never be satisfied.

No. 7, I believe very strongly that we ought to support Israel; that it has a right to the land. This is the most important reason: Because God said so. As I said a minute ago, look it up in the book of Genesis.

In Genesis 13:14–17, the Bible says:

> The Lord said to Abram, "Lift up now your eyes, and look from the place where you are northward, and southward, and eastward and westward: for all the land which you see, to you will I give it, and to your seed forever. . . . Arise, walk through the land in the length of it and in the breadth of it; for I will give it to thee."

That is God talking.

The Bible says that Abram removed his tent, and came and dwelt in the plain of Mamre, which is in Hebron, and built there an altar before the Lord. Hebron is in the West Bank. It is at this place where God appeared to Abram and said, "I am giving you this land,"—the West Bank.

This is not a political battle at all. It is a contest over whether or not the word of God is true. The seven reasons here, I am convinced, clearly establish that Israel has a right to the land.

Eight years ago on the lawn of the White House, Yitzhak Rabin shook hands with PLO Chairman, Yasser Arafat. It was a historic occasion. It was a tragic occasion.

At that time, the official policy of the Government of Israel began to be, "Let us appease the terrorists. Let us begin to trade the land for peace." This process has continued unabated up until last year. Here in our own Nation, at Camp David, in the summer of 2000, then Prime Minister of Israel, Ehud Barak, offered the most generous concessions to Yasser Arafat that had ever been laid on the table.

He offered him more than 90 percent of all the West Bank territory; sovereign control of it. There were some parts he did not want to offer, but in exchange for that he said he would give up land in Israel proper that the PLO was not asking for.

And he also did the unthinkable. He even spoke of dividing Jerusalem and allowing the Palestinians to have their capital there in the East. Yasser Arafat stormed out of the meeting.

Why did he storm out of the meeting? Everything he has said he has wanted all of these years was put into his hand. Why did he storm out of the meeting?

A couple of months later, there began to be riots, terrorism. The riots began when, now Prime Minister, Ariel Sharon, went to the Temple Mount. And this was used as the thing that lit the fire and that caused the explosion.

Did you know that Sharon did not go unannounced and that he contacted the Islamic authorities before he went and secured their permission and had permission to be there? It was no surprise. The response was very carefully calculated. They knew the world would not pay attention to the details.

They would portray this in the Arab world as an attack upon the holy mosque. They would portray it as an attack upon that mosque and use it as an excuse to riot. Over the last eight years, during this time of the peace process, where the Israeli public has pressured its leaders to give up land for peace because they're tired of fighting, there has been increased terror.

In fact, it has been greater in the last eight years than any other time in Israel's history. Showing restraint and giving in has not produced any kind of peace. It is so much so, that today the leftist peace movement in Israel does not exist because the people feel they were deceived.

They did offer a hand of peace, and it was not taken. That is why the politics of Israel have changed drastically over the past 12 months. The Israelis have come to see that, "No matter what we do, these people do not want to deal with us . . . They want to destroy us." that is why even yet today the stationery of the PLO still has upon it the map of the entire state of Israel, not just the tiny little part they call the West Bank that they want. They want it all.

The unwavering loyalty we have received from our only consistent friend in the Middle East has got to be respected and appreciated by us. No longer should foreign policy in the Middle East be one of appeasement. As Hiram Mann said, "No man survives when freedom fails. The best men rot in filthy jails and those who cried 'appease, appease' are hanged by those they tried to please."

Islamic fundamentalist terrorism has now come to America. We have to use all of our friends, all of our assets, and all of our resources to defeat the satanic evil.

When Patrick Henry said, "We will not fight our battles alone. There is a just God who reigns over the destiny of nations who will raise up friends who will fight our battles with us," he was talking about all our friends, including Israel. And that is what is happening, as of yesterday and I thank God for that. Israel is now in the battle by our side.

That is what is happening. As of yesterday, Israel is now in the battle by our side, and I thank God for that. It is time for our policy of appeasement in the Middle East and appeasement to the terrorists to be over. With our partners, our victory must and will be absolute victory.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I was to speak next, but I ask unanimous consent that the Senator from Vermont be given 3 minutes and then I have the opportunity to address the Senate after that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—CONFERENCE REPORT—Continued

Mr. JEFFORDS. Madam President, as chairman of the Environment and Public Works Committee, which is the lead authorizing committee for many of the programs authorized in the Transportation Equity Act for the 21st Century, I would like to comment on the pending FY 2002 transportation appropriations conference report.

Overall, this is an excellent bill and I intend to vote for it. However, there are a few provisions in the highway portion of this legislation that concern me. TEA-21 represented a carefully negotiated compromise between many different points of view, numerous committees, and the entire House and Senate. One key provision of this compromise legislation was Revenue Aligned Budget Authority—RABA—which ensured that obligations from the Highway Trust Fund would equal revenues into the fund, called TEA-21. TEA-21 determined a carefully negotiated breakdown between the share of RABA funds that would flow to the States through the apportionment formulas and the share that would be competitively distributed through the allocated programs.

Unfortunately, the conference report makes significant changes to the authorization for RABA funding. As it has done in each of the past 2 years, the conference report ignores the authorized distribution of funds for allocated programs under RABA. However, this time, rather than giving the money back to the States through the formulas, this legislation earmarks it for special projects. In addition, the conference report earmarks nearly $500 million that was supposed to be distributed to States through the apportionment formulas. As a result, some States will lose significant amounts of highway funding. In essence, I am very concerned that the appropriators are rewriting the apportionment formulas that were so carefully negotiated in TEA-21.

I do not mean to begrudge the appropriators their prerogative to earmark funding for specific projects. In fact, I am very pleased that some of the funding is set aside for Vermont. However, at some point we do have to draw the line on earmarking when it threatens the very fabric of a carefully negotiated authorization. Unfortunately, this year we may have finally crossed that line.

I look forward to working with the appropriators next year and throughout the reauthorization process to make sure we do a better job of maintaining the integrity of TEA-21 while providing the appropriators flexibility within the guidelines set forth in that law. TEA-21 is a delicately balanced piece of legislation and we must be careful not to upset that balance.

I yield back any time I have.

The PRESIDING OFFICER (Mr. DURBIN). The Senator from Michigan is recognized.

PARTISAN ATTACKS ON THE MAJORITY LEADER

Ms. STABENOW. Mr. President, I rise today to express great concern about recent events and comments that have been made in this Chamber and in the House of Representatives that I believe are not in keeping with the sense of cooperation and bipartisanship that we have seen since September 11.

I remember, after the horrible attacks that we all grieved about and have focused on, on that day of September 11 we joined together on the Capitol steps, and one of our colleagues spontaneously started singing "God Bless America," and we all joined in. And there was a sense of purpose and dedication and commitment as Americans. We all said that while we may have had differences—that is what it is all about in a democracy—we were going to put aside the partisan bickering and the personal assaults and do as our President asked, which was to come together and focus on the needs of the country and to set a new tone.

And then a few weeks later we saw our own majority leader and his staff under another kind of attack, that of anthrax. It came to be an attack on those of us in the Hart Building. And we have now seen other letters. But we have seen our majority leader and his staff operating with incredible dedication, with poise, with tremendous leadership. And the hard work of the staff is continuing.

In fact, all of our staffs are continuing under very difficult circumstances. My own staff operates out of a room in the loading dock at Russell. We see people who are in various situations around this complex of the Capitol, but they continue to serve.

We have done a lot of things. We immediately responded to the attacks with a commitment of resources for New York and for the Pentagon. Yesterday I had the opportunity to visit the Pentagon and see the incredible changes that have taken place since September 11. They are rebuilding the Pentagon with speed that is amazing. Everyone involved in that should be commended for the work they are doing to rebuild this important part of our country and our national security and leadership.

We have responded to that. We have passed airport security bills. Yes, there were differences, but they were worked out to move us forward in terms of airport and airline security.

We have passed economic legislation to support the airlines and passed a sweeping antiterrorism bill that has included the ability to track the money through money laundering provisions—I was pleased to be a part of it in the Banking Committee—as well as upgrading the tools available to law enforcement officials and create the kinds of opportunities to reach out and prevent terrorism as well as to respond to it.

We have continued to move the appropriations bills through this process. We are coming to the conclusion of that in the next couple of weeks. But we are still debating economic recovery, how best to do that. What should be our priorities? Should we, in fact, invest in additional homeland security, beefing up our public health infrastructure, as I hope we will do?

But we are now seeing a constant drone of attacks and comments being made about our Senate majority leader, and I just have to rise today to express deep disappointment and concern about that. We have seen personal comments being made.

Last week the chair of the House Ways and Means Committee made statements about our leader saying there was nothing inside the leader's head on which to focus. There have been implications, with all kinds of derogatory statements that have been made about his leadership and calls for him to step aside because he may be putting forward a different vision or set of values and priorities than someone on the other side—statement after statement, attacks about someone's sincerity and their patriotism and their leadership that are just not helpful and not necessary and, by the way, absolutely absurd.

I found it offensive, when we were listening to the debate on the energy bill on Friday; over and over again it was laced with personal comments, comments that are unbecoming to this body or the body on the other side of the building from which I came as a House Member.

Mrs. BOXER. Will the Senator yield for a question?

Ms. STABENOW. I am happy to yield to my good friend from California.

Mrs. BOXER. First, I want to say how proud I am you took to the floor to bring this to light. I think the

American people are ill-served, as you do, when there are personal attacks on any of our leaders.

Do we have differences? Yes. Should we express those differences? Absolutely. Because, frankly, I have a lot of people who say: What really is the difference between Democrats and Republicans? So the fact that we do not agree on an economic stimulus package is to be expected. The fact that the Democrats are fighting for people who lost their jobs, yes, that is to be expected. The fact that we do not think it is right to give big rebate checks to the largest and most wealthy corporations in America and call it a stimulus, the fact that we do not agree with it is to be expected. The fact that the other side would support that is to be expected. So debating that is fine.

But my colleague has pointed out the viciousness of the attack against the leader of this Senate, TOM DASCHLE, who happens to be one of the kindest, most compassionate people in politics today, is something that cannot go by without a statement.

So I say to my friend, by way of a question, isn't it true that the people of this country expect us to have differences, expect us, on domestic policy, to bring those differences to light, where we are so united on the terrorism front—and we support our President and our Secretary of State; and we are moving together in this fight; there are no differences really, not even around the edges on that. But isn't it a fact that it is fine for us to have these differences, but that these differences should be debated with respect, with fairness, and with dignity?

Ms. STABENOW. I couldn't agree more with my friend from California. I know the families I represent in Michigan are saying to me: We know there are differences in approaches.

That is a reason why they sent me here. And I am of a different party, a different philosophy, on economic questions possibly, or other domestic issues, than those on the other side of the aisle.

They expect us to operate with civility, with respect. I believe and in fact have been telling people in Michigan that there is a new day, that since September 11 we have come together. Yes, we have differences in priorities. We are Americans. Under the Constitution, we have a right, an obligation, to give our point of view. There will be differences.

The personal attacks, the vicious partisan attacks that we have heard recently are just the same old thing we have seen for too long around here. People don't want to see that happening.

I will not question someone's patriotism. I will not say because they differ with my thoughts that there is nothing between their ears or that they are somehow a child who wants a recess and that they are a third grader—whatever the comments were last week. Those kinds of things, frankly, demean all of us. That is my concern.

We have a lot of work to do in this next couple of weeks. People expect us to be focused on their needs and on the needs of the country, the safety of the country, the economy. It is legitimate for us to debate, and we have legitimate differences on how to move the economy forward. I have spoken before in this Chamber about whether it is supply side economics or demand side economics, what is the best mix? That is legitimate. People expect us to do that. We would not be fulfilling our own responsibilities as individual Senators not to come forward with our own ideas. But when it goes on and we hear our leader being attacked for abrogating his responsibility or that every day someone is in pain should be laid at the foot of TOM DASCHLE, that is uncalled for.

I was particularly concerned that there are actually ads being run now attacking our leader in the Senate because of a meeting he had in Mexico with the President of Mexico. Our President has met with Vicente Fox. President Fox has been here. We have welcomed him to the Capitol. They are our neighbors to the south. We have important work to do with them. Certainly part of what happens economically relates to trade and the relationship of our two countries. Yet we have those who have actually paid for partisan ads back in our leader's home State to imply that while a weekend in Mexico might be a nice break from the attacks at hand, in fact, this trip was the wrong thing to do.

I hope we can decide we are going to dedicate the time between now and the end of this session to the serious, vital business at hand and the priorities about which we can disagree. We can disagree about whether or not to drill in Alaska's national wildlife refuge. We can disagree about appropriations priorities.

As someone who has tremendous respect for the leader of this body, I will continue to object when there are personal comments made either about our leader or about the Republican leader or about others on the Senate floor. We have been through too much together since September 11 to turn back to the personal kinds of derogatory statements that were a part of the past. We can do better than that. The American people deserve better. The American people expect us to do better than that.

I call on the President of the United States and the Republican leadership to join us in a vigorous, sincere debate on the priorities for the country, the best way to achieve economic recovery and security, and to do that with the highest and best that is in us. We have a great body and people of wonderful good will on both sides of the aisle in both Houses, as well as the White House. We can do what the people expect us to do. We can do it right. I hope in fact we will get about the business of doing it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the previously scheduled vote which is scheduled for 12:30 now begin at 12:25 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment, the Domenici amendment No. 2202, be laid aside, to recur at 2:15 p.m. today; that there then be 5 minutes of debate equally divided and controlled in the usual form prior to a vote in relation to the amendment; that there be no second-degree amendments in order, nor to the language proposed to be stricken.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—Continued

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the conference report to accompany H.R. 2299.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—97

Akaka
Allard
Allen
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—2

Bayh
McCain

NOT VOTING—1

Hutchison

The conference report was agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:55 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—Continued

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, parliamentary inquiry: What bill is pending before the Senate? What are the agreements regarding it?

The PRESIDING OFFICER. The pending bill is H.R. 10, to which pending is the Daschle substitute amendment, and an amendment to that is the amendment by the Senator from New Mexico with time for debate evenly divided.

Mr. DOMENICI. Has a vote been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. DOMENICI. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I yield myself the 2½ minutes that I have.

First, I thank the chairman of the Budget Committee for cosponsoring this amendment.

Second, for those—they are numerous in the Senate—who are for the railroad retirement bill, this amendment is not a poison pill for the railroad retirement bill. It does not impact how this bill will be implemented. It simply will make sure the costs are recorded correctly. If you record them correctly rather than direct how they will be scored, you have no impact on whether the bill proceeds.

There is no additional point of order or anything that is an impediment to the bill. It is just that we very seldom, if ever, let a bill go through that costs money where we direct how it should be scored. In this case, the Congressional Budget Office was asked how much it will cost. They told us. Instead of scoring it as we would normally in almost every single bill that affects spending, the House, in the final moments as this bill was getting ready to be passed, put in language saying it shouldn't be scored as it is; we want to score it another way; we direct it not be scored costing $15.3 billion.

All I ask is that provision be stricken. The bill does not have language in it, if the Domenici amendment is agreed to, that directs how you score it, but rather the costs will be scored as estimated by the Congressional Budget Office, which does the same thing for every bill that goes through. Bills do not have language telling you that you must score it differently than you score all the other bills and differently than the Congressional Budget Office indicates.

I reserve whatever time I have and yield the floor.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself a minute and a half.

Mr. President, I have the highest regard for the Senator from New Mexico and also for Senator CONRAD, chairman of the Budget Committee. They do an excellent job in a very difficult situation trying to keep us on track with the budget matters. They are very good Senators. I think people from their home States know that. But I just wanted to state that.

The question here is, does this cost any money? If you assume it does cost money, then there is an argument against directed scorekeeping; that is, there is an argument we do have outlays of maybe $15, $17 billion.

What is it we are addressing? We are addressing that the tier 2 retirement trust fund buys securities; that is, stocks and bonds, rather than buying Treasury bills. The question is, Is buying equity securities the same or different from buying Treasury notes? Under the rules, they are different; that is, one is an outlay and the other is not. So it will be a $15 billion outlay cost under the budget rules if the trust fund invests in securities; that is, equity securities, and no outlay, no cost when the trust fund buys Treasury bonds.

I yield myself an additional 30 seconds.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, technically, the chairman and the Senator from New Mexico are right because that is the way the budget rules have been applied. And this is a gray area. This is not similar to buying a truck or a gold mine or buying another physical asset. Rather, it is buying securities instead of Treasury bonds.

I yield myself an additional 30 seconds.

So I am saying to my friends, the Government is no better off or worse off whatsoever if the trust fund buys securities rather than buying Treasury notes, as all pension funds do. They invest in both Treasury securities as well as equity securities.

So I urge my colleagues to not apply this rule at this time because the Government is no better or worse off; second, if the Senator's amendment were to be adopted, that would be the end of the railroad retirement bill this year because we would have to go back to the House and it would not survive this session or maybe even this Congress.

The PRESIDING OFFICER. The time for the Senator from Montana has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield whatever time I have to Senator CONRAD and thank him for cosponsoring the amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I favor the railroad retirement legislation. I strongly favor it. But I just as strongly support this amendment to knock out directed scorekeeping because I think it misleads our colleagues and our countrymen.

Directed scorekeeping would suggest this legislation costs $250 million this year to implement. That simply is not correct. The cost is $15.6 billion. The hard reality is, that is what the Federal Government is going to have to borrow to fund this legislation, $15.6 billion, not $250 million. We should not say otherwise.

We can support this legislation but be direct and clear with respect to its cost.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to amendment No. 2202. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—40

Allard
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Conrad
Craig
Crapo
DeWine
Domenici
Ensign
Feingold
Fitzgerald
Frist
Gramm
Grassley
Gregg
Helms
Inhofe
Kyl
Levin
Lott
Lugar
McCain
McConnell
Murkowski
Nelson (FL)
Nickles
Roberts
Santorum
Sessions
Smith (NH)
Stevens
Thomas
Thompson
Thurmond
Voinovich

NAYS—59

Akaka
Allen
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Enzi
Feinstein
Graham
Hagel
Harkin
Hatch
Hollings
Hutchinson
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Shelby
Smith (OR)
Snowe
Specter
Stabenow
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Hutchison

The amendment (No. 2202) was rejected.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Minnesota.

UNANIMOUS CONSENT REQUEST—H.R. 2716

Mr. WELLSTONE. Mr. President, I do not want to rudely interrupt, but I want to take a minute to make a unanimous consent request.

I see the ranking member of the Veterans' Committee in the Chamber. Shortly, I am going to ask unanimous consent to pass a veterans homeless bill. I will give my colleagues the background.

Three weeks prior to the Thanksgiving recess, I came to the Chamber to try to pass a version of the homeless veterans assistance bill. LANE EVANS has done a lot of work on the House side, so has CHRIS SMITH. It is an excellent bill. We passed this bill out of the Veterans' Committee by a unanimous vote.

I had to come to the Chamber four times asking unanimous consent to pass the legislation. There was an anonymous hold. Again, I say to colleagues, any Senator certainly can object, but this whole business of anonymous holds and no arguments made is unbelievable. So I had to say to my colleagues on the other side that on nonemergency measures, I was putting a hold on everything. My hold was not anonymous. I said on the floor—it is me—I am putting a hold on it.

We have been doing all this work with Democrats and Republicans on the House side. CHRIS SMITH, who is chairman of the Veterans' Committee in the House, has been especially helpful on the bill. We had strong bipartisan support on the Senate side as well. We preconferenced it, and we have unanimity of opinion. This veterans homeless bill is superb legislation.

About a third of the homeless adult males in the country are veterans. Many of them are Vietnam vets. Most struggle with posttraumatic stress syndrome. Most struggle with addiction. They do not get help. It is a scandal.

This legislation is one-stop shopping, places where people can go for community-based care, mental health services, treatment, and assistance in getting affordable housing. My God, we could not do anything that is better.

This legislation came back from the House. I thought we certainly would pass it. I know the chair of the Veterans' Committee in the House, a Republican, has urged colleagues to do so.

Now I understand we have another one of these anonymous holds.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 201, H.R. 2716.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I am sorry that I have to do this, but for the proceedings we are now under, and the fact we have dealt with this issue before—my colleague and I agree on much of what he has just said, but I do believe the way he now attempts to address this issue does not fit where we want to go or where the Senate has acted and the House has acted. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Minnesota.

Mr. WELLSTONE. If I had gone further, I would have mentioned also, with the support of Senator ROCKEFELLER and Senator SPECTER, the unanimous consent request was that the amendment be agreed to; the act, as amended, be read a third time and passed; and the motion to reconsider be laid upon the table. Of course, my colleague from Idaho has objected.

I am a bit of an emotional Senator. I say to my good friend from Idaho that unlike the Senator who has put an anonymous hold on this bill, my hold is not anonymous. I have a hold on every single resolution and legislation introduced by my colleagues on the other side of the aisle that is nonemergency—all of it. It is not anonymous. I have just said it here.

I did it for 3 weeks before Thanksgiving. I cannot believe it. Now we are back at this again. It comes over here from the House with the full approval of the chair of the Veterans' Committee—I think unanimous support—support of both Senator ROCKEFELLER, who chairs the Veterans' Committee, and Senator SPECTER.

We have been working on this for several years. It is a scandal. Is it too much to ask that we get this support to veterans? People are giving all these speeches about how great it is that our men and women are serving our country, they are in harm's way, we support them—and we do, I agree—and then when they get out of the Armed Services and they are now veterans, all of a sudden we do not say thank you any longer. You don't think you can find it in your hearts to pass this bill that is so important to this group of veterans in this country? That is my first point.

My second point deals with my indignation, for which I apologize. I am just getting sick and tired of these anonymous holds. I really am. Therefore, I say to my good friend from Idaho, I know this is not his position. He has to come out here by proxy, representing someone who has put an anonymous hold on this bill again, in which case I have a hold on all legislation, all resolutions introduced by my good friends on the other side of the aisle that are nonemergency.

Mr. CRAIG. Will the Senator yield?

Mr. WELLSTONE. I will be pleased to yield. I do not yield the floor. I will be pleased to yield for a question.

Mr. CRAIG. Briefly on this issue.

The PRESIDING OFFICER. Will the Senator yield for a question?

Mr. WELLSTONE. I yield for a question.

Mr. CRAIG. I thank the Senator for yielding. As the Senator from Minnesota knows, a hold is not absolute. It merely is to notify those who have objection to the bill that it might be coming up. I think the Senator has operated appropriately. I am not the person who has the hold on his bill, but it is important we deal with the issue in a timely fashion.

There is much of what the Senator said I agree with. I serve on the Veterans' Committee. I do not say by this action I am not in support of veterans, homeless veterans, those who are in need. I understand where the Senator wants to go. My guess is ultimately we can get there, and I will work with the Senator to make that happen.

Mr. WELLSTONE. Mr. President, I note my colleague from Texas is in the Chamber. I will only take 1 more minute.

I thank the Senator from Idaho. I take his remarks as being very sincere. Again, the reason I have to do this, I say to my colleague, is because I went through this for 3 weeks prior to Thanksgiving. I came to the Senate Chamber 4, 5 times and never could get approval. The hold was anonymous.

Last week, I tried to get approval, and I have tried to get approval since. It is out there. Everybody knows what the bill is. We have been working on this a long time. There is strong bipartisan support for the bill.

I thank my colleague. I hope we can work it out. In the meantime, before we work it out, I want all of my good friends on the other side to know my hold is not anonymous. I have a hold on all their resolutions, amendments, and bills unless they are emergency.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—Continued

AMENDMENT NO. 2196

(Purpose: To ensure that returns on investment are earned prior to any reduction in taxes or increase in benefits.)

Mr. GRAMM. Mr. President, I call up amendment 2196. It is a short amendment, and I would like it read.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2196:

On page 2 of the amendment, insert before line 1 the following:

"SEC. 2. Notwithstanding any other provision of this Act, any reduction in tax or increase in benefits shall take effect only to the degree that the Secretary of the Treasury finds that the actual earnings of the Railroad Retirement Investment Trust Fund are sufficient to fund them.".

Mr. GRAMM. Mr. President, we have before us a bill that 74 Members have cosponsored. It is clear from the previous vote where the votes are on this bill. I remind my colleagues that Senator DOMENICI offered an amendment to strike a provision of the bill that was not in any bill that anybody cosponsored, and it was literally a provision that was written into the bill that orders the Office of Management and Budget, which is the budget scoring arm of the executive branch, and the Congressional Budget Office, which is the budget scoring arm of the legislative branch of Government, to falsify the budget by not counting $15 billion that is being taken out of the Treasury.

This is an extraordinary provision. It basically ordered both budgeting arms—the budgeting arm of the executive branch of Government and the budgeting arm of the legislative branch of Government—to simply look the other way and not count $15 billion being taken out of the Treasury.

Senator DOMENICI, with the support of the chairman of the Budget Committee, offered an amendment to strike that language so at least we could have honest bookkeeping. Only 40 Members of the Senate voted for honest bookkeeping. It is clear this railroad retirement bill is wired.

What I wanted to do was to offer an amendment to achieve everything proponents of the bill claim they want to do but to do it in a responsible manner. I don't know where this amendment is going. I expect it is going to get relatively few votes. However, I feel obligated to offer the amendment and people can do what they want to do with it.

Let me try to define the problem. If you read what people are saying in the paper and you talk to all these very nice people in the hallways who are lobbying for this bill, they say: Look, we have over $15 billion in our trust fund. It is our money. It is invested in Government bonds. We don't think it is a good investment—I sure agree with them there. They claim they want to take the money and invest it. Then with the higher interest rates that they can earn, they want to lower taxes and increase benefits.

Now, there is a big problem here. If you look at the actual estimates done by the railroad retirement board, you find under any of the three economic scenarios that the railroad retirement trust fund actuaries look at, this proposal does a lot more than simply invest the money. In fact, as I pointed out on many occasions, what this bill does, in essence, is, over a 17-year period, it literally takes $15 billion of capital out of the trust fund. This chart shows—and this is based on the Railroad Retirement Board's data; this is not my data—under current law the trust fund would build up along the black line entitled "Trust Fund Under Current Law."

Let me remind my colleagues that railroad retirement is not fully funded. If we had ERISA laws applied to railroad retirement where you had to have a trust fund sufficient to pay benefits, ERISA would shut railroad retirement down today. This is a program that has no actuarial solvency whatever and it is currently receiving huge Federal taxpayer subsidies today and has always received Federal subsidies.

Basically what is going on, this is what the trust fund balance looks like under current law. Proponents of this bill say it doesn't make sense to invest this in Government bonds; let us invest it in stocks and bonds. We will have more money; we can have a better, more secure retirement program. I agree with that. I am supportive of letting them invest the money. The problem is, that is a smokescreen.

What they are really doing, if you look at what happens to the trust fund before any money is invested, before one single penny is invested, they cut the amount of money the railroads are putting into retirement from 16.1 percent of payroll to 14.75 percent, and it falls to 14.2 percent and then to 13.1 percent. They also lower the retirement age from 62 to 60. At the same time we are raising the retirement age for Social Security, they lower the number of years to be vested from 10 to 5 and they raise benefits. The net result is, even though they assume they will earn 8 percent in real terms, whereas they are only getting 1 percent in real terms from Government bonds the way they are calculating it, even with as high a rate of return, what happens to the trust fund under this bill? What happens to the trust fund is, it goes down because not only are we paying out every penny of earnings from the higher rate of return but we are also paying out principal.

Why doesn't it go broke? The reason it doesn't go broke is, in 2021, the trust fund is now down to about a third of what it would be under current law because you have added all the new benefits. You reduce the amount of money going into the fund so even though you hope to earn a much higher rate of return, you expect all the return and two-thirds of the trust fund.

What happens in 2021 that keeps the system from going bankrupt? The way the bill is written, at that point, the payroll tax, which is down to 13.1 percent of payroll, skyrockets. It goes from 13.1 percent up to 22.1 percent and it does that all in a span of some 5 years.

I ask my colleagues the following question: If railroads are saying they cannot operate profitably while we are putting 16.1 percent of payroll into this retirement program—and remember, they have three retirees for every worker; Social Security has three workers for every retiree; this program is nine times as financially vulnerable as Social Security—if they can't afford to pay 16.1 percent today and they are urging us to let them cut that to 13.1 percent, how can they come in 2025 and afford to pay 22.1 percent of payroll, which is what their numbers require?

Does any Member here not believe that come 2019 the railroads are going to come to Congress and say, we would be required simply to maintain the trust fund at roughly one-fourth of what it would have been without this law, already four-fifths of the trust fund would be good? They are going to run to Congress in 18 years and say, we can't possibly pay a 22.1-percent payroll tax and remain in business. So you are going to either have to have the taxpayer come in and bail out this fund or you are going to have every railroad in America going broke.

One question that is never answered is, if they can't afford to pay 16.1 percent today, how are they going to afford paying 22.1 percent in 25 years? The point is, they don't ever intend to pay that amount. They are, in essence, asking us, despite all the rhetoric to the contrary, to let them take four-fifths of the trust fund over the next 25 years and divide it up with retirees and then have the Federal Government guarantee the fund so 25 years from now we have one-fourth of the trust fund to pay benefits we have today, and the railroads, which cannot pay 16.1 percent, would be paying 22.1 percent then.

Now, they are going to argue the system would be solvent, they can pay the benefits. But they can only do that with a 22.1-percent payroll tax. Nobody that I know believes that is a tax they can pay. Anyone who looks at this realizes if we adopt this bill, 20 years from now we won't be here, other people will be here, but the railroads will be saying, you are going to have to come and do something because we can't pay these taxes.

Under the best of economic circumstances—and this is data from the railroad retirement board—under the best of circumstances, the bill before the Congress will deplete 53 percent of the trust fund by 2026. Under a more restricted and a more normal economic circumstance, it will deplete 75 percent of the trust fund. And under a pessimistic economic scenario it will bankrupt the trust fund in 20 years. These are not my numbers. These are the numbers of the actuaries of the railroad retirement trust fund.

Now, I understand people want to pass this bill, so I put together an amendment which lets the railroads and the unions do what they want to do, which is take $15 billion out of the trust fund right now and invest it. That will become a private trust fund and they will have it in stocks and bonds and then they will earn on those stocks and bonds. The amendment I have offered says, look, do everything you are claiming to do here but don't reduce the amount of money going into the trust fund from the railroads and don't increase benefits until you have invested the $15 billion, and until you have earned a rate of return on it. And then when you are dealing with the interest and not the principal, you can do whatever you want to do.

What this bill does is take the money out of Government bonds and allow it to be invested, $15 billion of it; then as that money earns interest, you could lower the amount the railroads are paying in, you could lower the retirement age, you could increase benefits, but only to the degree you were doing it with the interest you are earning. You could not spend off the trust fund, thereby putting the taxpayer at greater risk.

I know if anyone defends the proposal, they will say, look, the trust fund does not go broke under the bill. In fact, I guess they would concede it goes down in value under the expected economic scenario by three-fourths. But there is still enough money to pay the benefits. That is only part of the story. The rest of the story is, the only reason there is enough money to pay benefits at this point under the bill is that it is assumed by them that the tax on the railroads to pay for the retirement benefits has risen from 13.1 percent to 22.1 percent.

Does anybody believe the railroads are capable of paying 22.1 percent of the wages of all the railroad retirees into the railroad retirement trust fund? Are we not here today because the railroads say they cannot pay 16.1 percent? The whole logic, when you strip away the window dressing, is they want to lower the amount they are putting into the trust fund from 16.1 to 13.1 percent, to try to help the railroads. They have worked out an agreement to get the unions to support it by saying, in essence, $7.5 billion goes to the railroads and giving $7.5 billion to the union members. But the net result is the trust fund is $15 billion poorer 17 years from today than it is now. Even though you are earning a higher rate of return, because you are taking out huge amounts, you are depleting the trust fund.

All I am trying to do with this amendment is say invest the money and every penny you earn belongs to the railroads and the unions. Forget about the taxpayer. But don't take the principal out, just take the earnings.

Frankly, if this were some kind of reasonable debate, you might say let's take these higher earnings; part should go to the taxpayer because the taxpayer is paying a substantial amount of these benefits, part should go to the railroads, and part should go to the retirees. But I am saying forget that; take the interest, but don't take the principal. That is the essence of the amendment.

I would like to submit the amendment. I hope my colleagues will accept it. I do not understand how it can be prudent public policy to set out a policy which, while claiming to get a higher rate of return, actually reduces the size of the trust fund available to pay benefits, between now and the year 2026, by 75 percent. How can that make sense? How can it be prudent public policy to set out a program which is salvaged only by the willingness of the railroads to pay to 22.1 percent of all wages into a trust fund, when today they claim they cannot afford to pay 16.1 percent? How can that possibly make any sense?

What I am saying is don't deplete the trust fund. But every penny you earn, by investing it, you can give to the railroads and you can give to the retirees. But maintain the assets to protect the taxpayers. That is the proposal. I think it is simple and easy to understand. For those who want investment, it gives you investment. For those who want a better rate of return potentially, it gives you a better rate of return. But what it does not let you do is pillage 75 percent of the trust fund over the next 25 years. That it does not let you do.

That is the essence of the amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Montana.

Mr. BAUCUS. Mr. President, I have been listening carefully to my good friend from Texas, and a lot of what he says is accurate. But he does not, as they say, tell you the whole story. Ultimately, the question comes down to: Are there enough funds in tier 2, in the railroad retirement fund, to pay additional benefits to retirees and spouses and also to decrease the amount of taxes the railroads are now paying? Admittedly, it is a very high rate. That is the question. And can that be done in a fiscally sound manner?

Today the railroad retirement trust fund balance is growing very dramatically. Under current law, the trust fund will have balances this year of about six times the cost of benefits. Through about the year 2020, the ratio never sinks below six. At that point, the year 2020, it continues to decline forever. By the end of 75 years, the balances in the trust fund will equal an unbelievable 53 times the cost of 1 year's benefits.

So the question is, Why all this increase in balances? Isn't there something prudent that can be done about this very large increase in balances? Because under the actuarial estimates it just continues to grow and grow.

And how much of the balance is really necessary? In Social Security, the actuary considers the system to be in actuarial balance in any year the balances of the Social Security trust fund are equal to at least one time the amount of benefits that are paid out in a year. That is Social Security's standards. The actuaries have determined there is at least a 1-to-1 ratio of balances in the Social Security trust fund compared to the costs in that year that have to be paid out. Clearly, today it is much more than one, but the standard, the actuaries say, is 1 to 1. It is not six times or three times, but one.

Today, on the railroad retirement trust fund tier 2, there is a real need, frankly, to do something about the balances in a way that seems reasonable and prudent. There are some changes that should be made. One is the retirement age. Some industries are a lot more hazardous and dangerous than some others. Railroading is certainly more hazardous and more dangerous than some other industries. The retirement age today in the railroad industry under current law is 62 years. It is only fair that it be reduced to 60 years. In many industries across the Nation, the retirement age is lower than that. It can be 55, and for a hazardous industry such as railroads it makes sense that the retirement age be 60.

In addition, vesting does not have to be a full 10 years as it is today. In many industries, vesting is less than that. It is 5 years.

For survivor benefits, today when a railroader retires, he and his wife will receive 145 percent of wages. If he dies, the widow gets 50 percent. If he were single, it would be 100 percent. So the thought is to at least raise the widow's. If she survives her husband, raise her benefits to 100 percent. It seems to me that the railroader himself would get 100 percent if he retired and is single. It just makes sense.

The current taxes that the company pays are too high. They are much higher than taxes paid in the private arena, and they are higher than what a company would pay in its pension program for its employees.

The idea is to lower the taxes and increase the benefits in a way that is reasonable and prudent so we don't have that huge balance accumulating in the railroad trust fund. I think it is done in a very sound and fair way.

The ultimate question really is, Is the balance of money in the trust fund large enough to accommodate these changes? In the legislation before us, which includes the changes I have indicated, the balances in the trust fund in any year are at least one and two-thirds times greater than the amount needed to pay benefits in that year. That is a higher standard by two-thirds than the standard currently for Social Security. By the end of the 75-year period under this bill, the balances are about 12 times the cost of paying benefits in any 1 year.

Look at the chart of the Senator from Texas. He has that red portion. It continually falls off until about the year 2023. In 2026, his chart stops. It doesn't keep going. If his chart were to keep going, it would have the effect of this chart behind me to my right. It falls down to the levels indicated on the chart of the Senator from Texas, but then it starts right up again at a very high rate.

The low level which is of concern to the Senator from Texas rightfully should be addressed. It is a level which is one and two-thirds times higher than the actuarial balance that the chief actuary at Social Security says must be maintained.

There are provisions in the bill—the Senator from Texas is correct, and the railroad industry agrees and thinks this is just fine—which say if the funds are not what we assume them to be, then the railroader's and employer's taxes begin to rise. But the Senator from Texas says when that happens, and if it happens, Congress is going to just come right in and bail out the railroad industry.

We have not done that, historically. The last five times this Congress generally addressed the question of the financial viability of the railroads and/or the retirement system, in 1974, in 1981, in 1983, and in 1987, Congress did not bail out the railroads. Congress either decreased benefits or raised employer taxes. We encourage the railroad to solve these problems themselves. We have never "bailed out" the railroad industry.

Further, this legislation before us has lots of built-in sort of requirements of independent audits, of reports, and looking far ahead as possible to try to anticipate if there is going to be a problem of some kind or another.

Specifically, the legislation before us requires the trust fund to have an independent, qualified public accountant to audit the trust. The trust fund then must submit a report to Congress which includes a report based on the audit. The report supplied to Congress must contain financial statements of operations and cashflow.

Moreover, two financial reports required in current law would continue. The chief actuary for the Railroad Retirement Board must also do a major update of actuarial evaluations every 4 years but with annual updates every year by the chief actuary of the Railroad Retirement Board. The Railroad Retirement Board will report annually to the Congress and to the President as to the state of the system. Every year we will get updates.

The lines on the chart of the Senator from Texas as well as these are the intermediate assumptions; that is, there is a pessimistic assumption, there is an intermediate assumption, and there is an optimistic assumption. These are the intermediate assumptions on both of these charts.

What basically drives these assumptions? What is the biggest unknown that we have to look at?

It is essentially the level of employment in the railroad industry. When the level of employment in the railroad industry declines significantly, obviously, as is in the case of Social Security, there are fewer people paying into the trust fund compared with the number of people drawing benefits from the trust fund.

This is an industry which is almost the opposite of Social Security. For Social Security, there are about three workers for every one person paying in. In this industry, it is about one to three. It is a mature industry. It is not a young industry. It is an industry with fewer employees and more retirees.

The question is, How many more fewer employees will there be to accommodate the number of retirees?

I would like you to look at this chart behind me. It indicates that we need not worry about a cut in the number of employees. That is because of increased productivity and increased efficiencies in the railroad industry. It really can't get much lower per ton mile or per railroad mile traveled.

This chart shows the railroad crew size and productivity. As you can see, in about the years 1950 to 1964, the average crew size was five. In the years roughly 1960 to 1978, the crew size was four, and on down to about 1998, the average crew size is two.

You can't get much lower than two for a crew on a train. There is always going to be at least two. We are not going to have fewer employees. We will probably have more trains, which means more employees, but we are not going to have fewer employees per train.

Meanwhile, the revenue per ton mile and per employee, as you can tell by the chart, is increasing at a very high rate. We have more revenue for ton miles per employee. That is going to help the solvency of the trust fund. At the same time there are not going to be any fewer employees than there are today.

The basic point is, Is this the responsible way to solve the problem of explosive trust fund balances? I submit yes. One, the actuaries will maintain a balance that is proper. There will be annual reports galore.

I urge Senators to resist this amendment. It is unnecessary. It is wrong. It means the balances will stay forever. The benefits will not be greater. The burden on taxes will not be lower in due time.

If this amendment is agreed to, despite being wrong on its merits, it is going to probably mean no railroad bill this session, and maybe next year, because we will have to go to conference on this matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me be brief. When all the people came to see me about 6 months ago—actually, almost a year ago, in relation to this bill—I sat down to listen to them, having spent about 3 years working on Social Security.

Let me give you my response, based on something I think everybody can understand. Today we are really worried about Social Security because we have 3.3 workers per retiree. We are going to two workers per retiree. We are very concerned about our ability to pay Social Security benefits.

I have done a great deal of work and written a fair amount of material and articles explaining how investing Social Security surpluses in interest-earning real assets will cause the trust fund in Social Security to grow and will enhance our ability to pay benefits.

But I have never suggested that investing the Social Security surplus could allow us to lower the retirement age in Social Security from 65 to 60. In fact, under current law, it is rising from 65 to 67 even at this moment. I have never suggested that before any money is invested that we could cut Social Security taxes. Someone would laugh in your face if you suggested that.

Now, into my office walk representatives of the railroads and unions, and they say: Look, we have a program which has one worker for every three retirees, not the other way around, which it is with Social Security. This retirement program is in much worse shape than Social Security. We want to invest our trust fund, and we are going to cut the retirement age, reduce the amount of time you have to work to get benefits, increase benefits, and reduce the amount that the railroads are putting into the program through two different payments they are making.

First of all, if, in your retirement, somebody told you they could spend 75 percent of your trust fund, give you more benefits, and you could pay less in, I do not think you would believe it. Well, you should not believe it because it is not true.

My colleague points out my chart ends in 2026. Why? Because in 2026 the payroll tax, which the railroads are saying have to be reduced for them to be able to operate—they have to be reduced from 16.1 percent down to 13.1 percent—by the time we get to 2026, the payroll tax is up not to 16.1 percent but 22.1 percent. Does anybody believe that the railroads can or will pay 22.1 percent of payroll into this retirement program? Nobody believes they can or will.

Everybody understands that 20 years from now we are going to hear this knock on our door. We are not going to be here, but somebody is going to be here, and the railroads are going to say: My God, this retirement program is in terrible trouble, and under law our payroll tax is getting ready to jump from 13.1 percent to 22.1 percent. We cannot pay these taxes. At that point whatever these charts show is not relevant because everybody knows the railroads cannot pay that amount into this program and operate viably in the American economy.

So what is going to happen? You have spent four-fifths of the trust fund or let the railroads spend four-fifths of the trust fund. You have a payroll tax of 22.1 percent. What is going to happen? They are going to say they can't pay it and they are going to ask the Federal Government to intervene.

When you are talking about what good shape this trust fund is in, what is being called solvency here is having enough money to pay benefits for 4 years. There is no private retirement program under ERISA that would not be shut down if it had assets that would only pay for 4 years.

My amendment is not what I would call a stingy amendment. My amendment says, OK, take this trust fund, and we are going to give you $15 billion right out of the Treasury. You can invest it on behalf of the retirees. And then you can spend every penny that you earn on that $15 billion. You can lower the amount railroads are putting into the system. You can give new benefits, but you cannot spend the principal. That is all my amendment does.

If we do not adopt an amendment similar to this, I want to predict, even though I do not think any of us will be here 20 years from now—I certainly will not—that 20 years from now this retirement program is going to be on its back, the railroads are going to be being pulled down economically by having a 22.1-percent payroll tax, and we are going to have a transportation crisis in America.

I do not know if anybody will ever look back at what we are doing here, but they should. Because what we have done, underneath all else, is that while we are doing some things that make sense—letting them invest the trust fund makes sense—we are literally letting them take $15 billion, we are letting the railroads pocket $7.5 billion, we are letting them give $7.5 billion in gifts to their retirees and workers, and we are setting up a situation where there is going to be a train wreck, and the taxpayers are going to be forced to pick up the pieces.

Senator NICKLES and I have no constituency. That is obvious. This thing has been sold. All the railroads have come to Republicans and said: This is great; it will be great for railroads. The unions have come to the Democrats and said: This will be great for the workers. And the bottom line is, nobody cares, apparently, about the taxpayer or about the future of this retirement program.

So we are on the verge of cutting this, taking 75 percent of the money out of this trust fund and giving it away, committing ourselves to the railroads, having to pay a tax that we know they are not capable of paying, that we know cannot be paid. How are railroads going to put 22.1 percent of every dollar they pay to every worker into this trust fund 20 years from now when they cannot put 16.1 percent in today? They are not going to be able to do it.

So all my amendment says is, let them invest it and do whatever they want to do with the interest, but do not let them spend the principal. What that will mean is, the trust fund will basically stay at its current level. They can reduce the amount railroads are paying in. They can increase benefits. Neither of those actions, in my opinion, is fiscally responsible, but they cannot simply pillage the trust fund for $15 billion over 17 years, which is exactly what happens under this proposal—and every set of figures used by every person in this debate all come from the railroad retirement board. All of them show that the trust fund, over the next 20 years, is depleted, under the expected economic projections, by 75 percent. That cannot be good public policy.

I understand that Senator NICKLES has an amendment. What I would like to do is yield the floor. If there is any more debate on this amendment, there can be, and I would be happy to have the amendment set aside. Senator NICKLES can offer his amendment, and then it can be debated. And then we could have the vote on the two amendments and sort of see where we are.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2175 TO AMENDMENT NO. 2170

(Purpose: To use a 5-year average rather than a 10-year average on capturing the average account benefits ratio)

Mr. NICKLES. Mr. President, I ask unanimous consent the pending amendment be laid aside and I call up amendment No. 2175.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 2175 to amendment No. 2170:

On page 40, line 1, strike "10 most" and insert "5 most".

Mr. NICKLES. Mr. President, I compliment Senator GRAMM for reading the bill and trying to do something to protect the integrity of the trust fund.

He has said, No. 1, if we are going to give them $15 billion, let's make sure we don't spend down the principal. And, No. 2, let's only spend the interest or the dividends from that trust fund to provide new benefits. I support him in that. I compliment him for that.

I also have an amendment that wants to protect the integrity of the trust fund. The trust fund, by any of the scenarios—I will show the charts in just a minute—the trust funds goes way too low. The bill's stated objective is to keep the trust fund equal to but somewhere between four and six times the annual payment to beneficiaries. That is their goal. That is their objective. Unfortunately, the bill before us, under the middle assumption, doesn't even come close to that.

As a matter of fact, the trust fund goes all the way down to about 1.3 annual payments. In other words, it almost goes bankrupt. It barely has enough to make 1 year's payments of benefits. That is not a good deal for taxpayers, and it is certainly not a good deal for railroad retirees. I don't think it is a good deal for the railroad companies because they are going to be socked with a very large tax increase.

I will use the chart Senator BAUCUS has. I think it illustrates it. We start out with about 6 years of benefits under today's standard, but when we pass this bill, in a period of about 20 years, we go down to just a little over 1 year's balance. In other words, we take a fund—and I will insert this in the RECORD. Actually, I will insert for all three assumptions.

Under the assumption I will talk about, the employment assumption No. 2, the one in the middle, we start with a balance this year of $19.3 billion. And under current law, that goes to $34 billion.

Under the bill we are getting ready to pass—and I can count votes; frankly, I could count votes before this week started—that trust fund balance goes from $19 to $8.4 billion. Instead of being $34 billion, it goes to $8.4 billion. That is the bill we are getting ready to pass.

I wish I could wake up all my colleagues, most of whom have not read this bill, most of whom had nothing to do with drafting the bill. This is the first time I can recall in my 21 years in the Senate that we have had a bill that was totally written by special interest groups. In this case, railroad unions and management got together and said: Here is our bill, don't touch it. Don't have a hearing on it.

They didn't have a hearing in the House. We didn't have a hearing in the Senate. I asked for a hearing in the Senate Finance Committee. We did not get it. We had a markup but it was already railroaded. There were not going to be any amendments. There was one amendment adopted in the House or the Senate. That was the amendment dealing with scoring. We are not going to count it. It didn't say we will waive the Budget Act. It said will not count it, which I think is even worse than just waiving the Budget Act. Why have a Budget Act if you are going to have $15.3 billion in budget outlays and it doesn't count?

We just had a vote on that by Chairman DOMENICI and ranking member CONRAD, and we lost. We lost that vote. So the special interest groups are together. And they said: Let's leave it in. They didn't request that amendment. It is interesting; that was put in by the House. So that was the only amendment they put in.

It was a bad amendment in my opinion. We are going to accept that, and we are going to keep the bill. We will not touch it. I think we are making a mistake.

You ask: Why are you still fighting this? You know this bill is going to pass? Sure, I do. But I want to make a statement. I want to show that we can do a better job. We are not beholden to the special interest groups. We are beholden to taxpayers. This is a Federal statute. We are changing Federal law. How many CEOs of the railroad companies or how many union members were elected to the Senate? I don't know, but they wrote the law. They wrote the bill that is going to become law.

I don't think they did a very good job. If I thought they did a good job, maybe I would cosponsor the bill. I don't think they did a good job. History will tell.

I will make a prediction. I am not going to be here in 20 years. I guess if I was as studious and healthy as Senator THURMOND, maybe I could be. If I was fortunate enough to be reelected by the people of Oklahoma, maybe I could be. Agewise it is possible, but it is not possible after consulting with my spouse. But 20 years from now, if not well before that, Congress is going to have to readdress this issue because we are going to have a big problem.

As this chart shows—I am borrowing Senator BAUCUS's chart, and I thank him—we are going from 6 years of benefits down to a little over 1, we think. That is in 20-some years.

Then Senator BAUCUS said: Wait a minute. Way out in the outyears, it goes way up. Who knows? I know they are going to have problems when we get into the year 2021, 2022, 2023, 2024, 2025 and 2026. It goes way down. The trust fund actually falls by 65 percent. When you have that trigger, payroll taxes have to go way up. Payroll taxes have to go up by 69 percent.

That is because in the bill we say if it triggers at a certain point, we are going to have a tax increase, a tax increase that is paid by the railroad companies. And it goes from 13.1 percent to 22.1 percent.

Senator GRAMM said they are having problems. They have shrunk their labor force significantly. They are not going to be able to handle that kind of increase. They will come back to Congress and say: Here, it is yours. The trust fund is broke. It didn't work out very well, so pay our employees. And because the Railroad Retirement Act is a Federal statute, it becomes an entitlement.

Many people here say it is not that. No, they won't be coming back to us.

I predict that within 20 years they will be coming back to Congress and saying: We need a fix. We need a little bump. We need a little transfusion. Maybe the transfusion will be from Social Security. They are already getting it. I wonder how many of our colleagues know that they get billions of dollars from Social Security, basically from tier 1 going into tier 2, to pay their benefits. It is in the bill. I have an amendment that will address that. Possibly we will consider that soon.

Right now I offer an amendment that I urge my colleagues to look at, consider, and hopefully pass. The triggering mechanism to have a tax increase is if the trust fund goes so low that there will be a tax increase. If you actually get low enough to pay benefits for 4 years, you have a tax increase. It is automatic. It is in the bill. It would become law soon. OK. That makes sense. But you ought to have some kind of triggering mechanism so if we keep the trust fund balanced, we won't be coming to the taxpayers for general revenues.

What is wrong is the calculation. You look back over 10 years to figure that average. By looking over 10 years, if you just see the revenue estimates, they estimate that the trust fund balance goes from a high, somewhere in the neighborhood, under present law, of about $27 billion. Under the Daschle bill or the railroad bill we are getting ready to pass, the railroad trust fund runs about $23 billion. Then the next several years it falls to 19, 18, 17, 16, 13, 12, 10, 8. You are looking at a 10-year average. If you look at a 10-year average and you are averaging 8 and averaging 20, maybe it won't trigger the tax increase until about the year 2021, 2022, 2023. In other words, it allows the fund to fall from about 6 years' payments down to a little over 1 before the tax increase is triggered.

That is too late. That doesn't allow the trust fund to have enough time to recharge, to build, to have a cushion to earn interest or to earn dividends. In other words, we allow this dip to go too low.

The effect of my amendment would be to smooth that out. Possibly it would smooth out the payroll tax increase. In other words, instead of looking back over 10, we would look over 5. So your average, once you got on the decline, it would say, if we get much lower, we will have to have a tax increase sooner to keep that fund from going so low. That is too big of a dip. That is too dangerous for railroad employees or retirees to have the fund balance dip down as low as 1.3 annual payments.

This is under the middle scenario. If you look under the pessimistic scenario, it goes in the red. Under the pessimistic scenario, the whole trust fund goes totally in the red by the year 2022. It will not be able to make payments. It will need either general revenue funds or it will have to cancel increases or suspend payments or whatever.

In other words, there is a scenario here where the fund is totally broke in 20 years. That is not acceptable. I don't think it is acceptable. I think we should protect railroad retirees. We have too much of a variable by using a 10-year average before you have a trigger for a tax increase. So my suggestion is, let's make it over a 5-year average. If you get on a down slope, the trust fund starts falling in value, we won't have to wait another 8 years before you trigger a tax increase.

That is the essence of my amendment. It is a friendly amendment. It is not an amendment to gut the bill. It is not an amendment to say we don't want railroad retirement and we are not going to have railroad retirement. It is an amendment that says they put together a deal that was negotiated between labor and the employees or the unions. They may have cut a good deal for the employers, basically saying let the fund go almost bankrupt before you trigger a tax increase.

We will do that in 20 years. Guess what. Everybody running those companies will all be retired by then, and Members of Congress will all be gone by then. Let somebody else worry about that. So these big tax increases are not triggered—it is interesting, they are not triggered until 15 years from now, but then they are pretty big. It is not a 10-percent increase in payroll taxes, not a 20-percent increase; they keep the tax rate basically at 13.1 percent for about the next 15 years and, bingo, you go from 13.1 percent to 22.1. That is a 69-percent increase in payroll taxes.

I just can imagine—as a matter of fact, I will make this prediction: When this happens 15, 20 years from now, somebody is going to come back—the railroad companies will say: We can't afford that. That will bankrupt us. They will basically say: Taxpayers, you handle it or liquidate the railroad so they can pay these benefits.

You are in that kind of scenario. That will happen. That is too Draconian of an increase because we allowed the trust fund to get too low before we triggered the changes. I say, let's trigger the tax increase. Instead of over a 10-year average, do it over a 5-year average. That makes a lot more sense. We are not holding these funds to fiduciary standards. I have an amendment to do that. We don't hold them to fiduciary standards that we do all other multiemployer plans. Maybe we should.

I have told some of my colleagues who have been voting and saying they want to take up the bill, all right, we are on the bill. I want to consider the bill. They say let's consider amendments. Well, this is an amendment. This is an amendment that would help the security of the trust fund, make sure it doesn't get down too low. We would have the automatic trigger moved up a little bit. That is the essence of the amendment. Instead of letting the fund dip down quite so low—before it goes down too low, below the threshold of four times annual payments, we would trigger the tax increase a little earlier so it doesn't go down quite so low. That is the essence of the amendment.

We want to save the trust funds so the funds will be there to make the payments and not bankrupt the railroads at the same time. Now, maybe if, in the interest in this bill, the railroad companies and the unions would have come before Congress and said, yes, let's have a hearing on this bill, I could have asked them questions. My guess is the railroad unions would say, yes, I like that idea. They would probably say I like that idea because we don't want to jeopardize our payments. If somebody is retired at age 60, and they happen to be age 80 and they are reading the reports, they would say, the trust fund went down to almost bankrupt. They can barely make payments this year. They are not going to get a lot of comfort over that. So the idea is, let's try to make greater protection of the trust fund.

Mr. President, I want to have printed in the RECORD a table that I have compiled, my staff, of the three various employment assumptions, 1, 2, and 3.

I ask unanimous consent that this table be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RAIDING THE RAILROAD RETIREMENT TRUST FUND

[Daschle amendment 'versus' current law (in millions of dollars)]

Year	Railroad Retirement Trust Fund balance employment assumption 1				Railroad Retirement Trust Fund balance employment assumption 2				Railroad Retirement Trust Fund balance employment assumption 3			
	Current law	Daschle	Change	Percent change	Current law	Daschle	Difference	Percent change	Current law	Daschle	Difference	Percent change
2001	19,383	19,383			19,363	19,363			19,341	19,341		
2002	20,412	20,504	92		20,339	20,431	92		20,254	20,347	93	
2003	21,484	21,351	(133)	−1	21,332	21,194	(138)	−1	21,135	21,014	(121)	−1
2004	22,594	22,027	(567)	−3	22,304	21,756	(548)	−2	21,973	21,446	(527)	−2
2005	23,745	22,698	(1,047)	−4	23,285	22,273	(1,012)	−4	22,763	21,790	(973)	−4
2006	24,750	23,170	(1,580)	−6	24,075	22,549	(1,526)	−6	23,312	21,846	(1,466)	−6
2007	25,951	23,753	(2,198)	−8	25,011	22,887	(2,124)	−8	23,954	21,913	(2,041)	−9
2008	27,176	24,263	(2,913)	−11	25,915	23,100	(2,815)	−11	24,506	21,799	(2,707)	−11
2009	28,417	24,710	(3,707)	−13	26,777	23,191	(3,586)	−13	24,954	21,501	(3,453)	−14
2010	29,657	25,096	(4,561)	−15	27,574	23,158	(4,416)	−16	25,271	21,011	(4,260)	−17
2011	30,724	25,213	(5,511)	−18	28,129	22,784	(5,345)	−19	25,273	20,107	(5,166)	−20
2012	31,983	25,430	(6,553)	−20	28,800	22,432	(6,368)	−22	25,314	19,145	(6,169)	−24
2013	33,257	25,567	(7,690)	−23	29,404	21,916	(7,488)	−25	25,205	17,930	(7,275)	−29
2014	34,550	25,626	(8,924)	−26	29,939	21,228	(8,711)	−29	24,940	16,448	(8,492)	−34
2015	35,868	25,613	(10,255)	−29	30,406	20,366	(10,040)	−33	24,509	14,688	(9,821)	−40
2016	37,016	25,337	(11,679)	−32	30,601	19,130	(11,471)	−37	23,707	12,441	(11,266)	−48
2017	38,423	25,224	(13,199)	−34	30,945	17,935	(13,010)	−42	22,943	10,237	(12,706)	−55
2018	39,916	25,103	(14,813)	−37	31,259	16,600	(14,659)	−47	22,034	7,769	(14,265)	−65
2019	41,524	24,998	(16,526)	−40	31,562	15,136	(16,426)	−52	20,990	5,166	(15,824)	−75
2020	43,278	24,933	(18,345)	−42	31,876	13,723	(18,153)	−57	19,823	2,691	(17,132)	−86
2021	45,014	24,734	(20,280)	−45	32,027	12,023	(20,004)	−62	18,353	309	(18,044)	−98
2022	47,142	24,808	(22,334)	−47	32,420	10,604	(21,816)	−67	16,977	(2,060)	(19,037)	−112
2023	49,512	24,983	(24,529)	−50	32,890	9,660	(23,230)	−71	15,529	(4,599)	(20,128)	−130
2024	52,149	25,268	(26,881)	−52	33,455	8,704	(24,751)	−74	14,021	(7,316)	(21,337)	−152
2025	55,079	25,687	(29,392)	−53	34,132	8,495	(25,637)	−75	12,461	(10,206)	(22,667)	−182

Source: Railroad Retirement Trust Fund actuaries. Provided by Senator Don Nickles, 12/4/01.

Mr. NICKLES. This compares present law to this bill, under those assumptions. Present law under the employment assumption, the middle assumption, shows in current law a trust fund balance of $19.3 billion today and $34 billion in the year 2025. Under the Daschle amendment, or the bill we have before us, we start at $19.3 billion, and in 25 years we end at $8.5 billion. In other words, the trust fund is only about—well, it is 75 percent below where it is today, or where it would be under current law. That is assuming a 21-percent payroll tax in the last few years. So even with enormous payroll tax increases, the fund is still in serious jeopardy of being able to pay benefits, being able to provide security and assurances that there is going to be money there for retirees who maybe worked most of their lives and depend on it.

I have put this in the RECORD because I want people to see it. I want railroad management companies to look at these scenarios and realize, OK, we are trading current law for this. This may be a great deal for them for the intermediate time. People may say: Why are you doing this? Railroad companies will save a few hundred million dollars a year—over 10 years, $4 billion; over 15, 17 years, $17.5 billion. Their taxes are going to be cut. I will put that into the RECORD. Their taxes are going to be cut over $400 million and that gets larger every year. That is what the companies get by reducing the payroll tax from present law, $16.1 billion, to 13.1 percent, and then it eliminates another supplemental benefit tax that boils down to, I think, 26 cents an hour. They eliminate both of those taxes and save about $400 million a year—"they" being maybe a dozen railroad companies. They save $400 million a year.

What do the employees get? The employees get a pretty good deal. They get a deal because they have tier 1 benefits that are supposed to be equal to Social Security; they pay the same tax. The Social Security tax is equal to 6.2 percent for employees, 6.2 percent for the employer. They pay the identical tax, same tax as everybody else in America. But they don't get the same benefit. Under Social Security benefits, people receive their full retirement benefits at age 65, which is going to age 67. Under railroad retirement, they get to receive 100 percent benefit now at 62. This bill makes that 60. They pay the same tax with more benefit. You get zero if you retire at age 60 under Social Security. If you retire at 62 under Social Security, you get 80 percent of the benefit you were expected to receive at age 65. That 80 percent is being reduced under current law to 70 percent over the next several years. So under Social Security, a person who retires at 62, many years from now, gets 70 percent; and under railroad retirement, they get 100 percent benefit at age 60—and they pay the same taxes. There is a big difference there.

What about the survivor benefit? That is a great big benefit increase for railroad retirees. It costs money. How much does it cost? Guess what. It costs about $4 billion a year over the next 10 years. They also have another little benefit: tier 2 benefits, non-Social Security benefits, the other railroad retirement benefits, a survivor benefit equal to 100 percent of what the employee was receiving. That is pretty nice because in most private pension systems the survivor receives 50 percent. I wish they could pay that much and more. Who is going to have to pay the bill? What are those benefits? They add up to $4 billion over the next 10 years. That is about $400 million per year in a couple of years. So it totals about $4 billion over the next 10 years. It just happens to come out even that the railroad companies and employees come out with the same amount of benefit. That is what they mutually agreed upon. Well, what they didn't do, in my opinion, they didn't protect the fund. The fund goes almost bankrupt before this triggering mechanism to make sure the fund stays solvent is kicked in. That is not to get too technical, but they have a 10-year lookback average before, and if that average gets below 4 years' annual payments, then they have an automatic tax increase. That waits too long and allows the fund to go down to 1.3 annual payments before the tax is really kicked in—maybe it is kicked in in the last couple years, but it doesn't catch up.

So the fund is in jeopardy. The payments are in jeopardy. The whole concept of paying railroad retirement is in serious jeopardy because we didn't do a good enough job, when we created this change, to make sure it would be solvent. So I have an amendment—really a simple amendment—that says instead of looking back over 10 years, look back over 5 years. I think it is a reasonable amendment, one that if the railroad employees could look at, they would support in a minute, absolutely, totally, completely. It is a good provision to try to make sure there will be a trust fund there instead of allowing it to dip so low.

I urge my colleagues to support the amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, basically, this amendment offered by the Senator from Oklahoma is just unnecessary. In fact, he used my chart. My chart makes a case that is much worse than would occur under the bill.

I am just trying to present the facts so people can make a reasonable judgment. I looked at the balance on a year-by-year basis. That is what that chart shows. Under the bill before us, there is a 10-year rolling average lookback which means that lower level on the chart would never get that low under the bill. The Senator from Oklahoma wants to change it from 10 to 5. Even 5 will not get that low.

The main point is that many people have looked at this issue from different directions and have concluded that this legislation is a good way to deal with the excess balance in the railroad retirement trust fund. By increasing some benefits, by lowering taxes, and yet building in some automatic auditing devices, that comports with requiring the actuary to report whether the trust fund is actuarially sound in the current year and succeeding years under various economic assumptions.

I do not know how much better we can do than that. It is very difficult to predict the future. I remind my colleagues that CBO, in trying to make 10-year estimates, let alone the 20 years we are talking about here, has varied its 10-year totals by $1 trillion over a 6-month period of time. It is because economic assumptions change so quickly, so often.

We are in a more uncertain world than we were, say, 10, 15, 20, 30, 40 years ago. The actuaries have done the best they can with what they have. They made three different projections. One is pessimistic, one is intermediate, one is optimistic. The assumption we have been talking about is the intermediate. It is not the pessimistic, not the optimistic; it is the intermediate.

I submit that with the annual reports from the actuaries coming to the Congress, we will know whether we are getting into trouble or not.

This is the best solution we could come up with at this time, and it is done on a fair, reasonable basis.

Taking a more pessimistic analysis than provided by the analysis of the Senator from Oklahoma, the worst case is about the year 2020, 2022, and that is when the ratio is 1 to two-thirds, balance to costs. The Social Security actuary says we can get as low as 1 to 1. We are not 1 to 1 today in Social Security. The Social Security actuary says that is the lowest benchmark with which he deals.

Under our intermediate assumptions, we do not get that low. We get 1 to two-thirds, 1 to 1. I suggest we are even too pessimistic.

I asked the question of the chief actuary how the economic estimates have been on employment levels, which is the most difficult estimate to make. His response is: Employment levels over the last 5 years—railroad employment—have decreased an average of .9 percent per year. He said this decrease is better than assumption 1. Assumption 1 is the most optimistic assumption. He says for the last 5 years, the actual decrease in employment was .9 percent per year, which is better than provided for in assumption 1. We are talking about the intermediate, not assumption 1.

He also says employment levels over the last 10 years have decreased an average of 1.8 percent which falls somewhere in between assumption 1 and assumption 2.

We have been a little too conservative actually. The main point is, who knows what the world is going to be like in the year 2020? The Senator from Oklahoma takes the most pessimistic assumption and says we cannot have that. My Lord, if we are in that bad a shape in 18, 19 years, I can tell my colleagues we are going to be doing a lot of other things in this body in addition to railroad retirement. I have confidence in the Congress, in the system. We analyzed this thoroughly. We will do well.

Mr. NICKLES. Will the Senator yield for a question?

Mr. BAUCUS. In just a second. I also say this measure before us has 73 cosponsors. It was considered last year in September in the Finance Committee. We had 20 amendments in the Finance Committee. It passed by a very large margin in the House.

In sum, this amendment is unnecessary, and it is also mischievous because if it were to be adopted, this bill would have to go to conference. There would be no railroad retirement bill this session, and there could be no railroad retirement bill this Congress.

I urge Members not to agree to this amendment.

Mr. NICKLES. Will the Senator yield for a question?

Mr. BAUCUS. Yes.

Mr. NICKLES. The Senator said I took the most pessimistic assumption. I correct him. All my statements and the charts are on the middle assumption, not the most pessimistic assumption. The most pessimistic assumption says this bill has real problems. I did not use that. I used the middle assumption.

Mr. BAUCUS. I stand corrected. Mr. President, most of his analysis was on the intermediate assumption. At one point, he was talking about the most pessimistic assumption. My response was to both.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I do not want to inflate anything. I am very particular on being factual. I want to correct a mistake I made in my earliest debate. This came up, frankly, when those of us who had some concerns about the legislation were informed of it on Monday and we were to debate it on Tuesday. I cited from memory that this fund had actually paid out more every year than it had taken in, to the tune of about $90 billion. That was not factually correct.

The facts are the fund has paid out more than it has taken in every year since 1957. For the last 43 years, it has actually received payroll taxes, contributions from employees, and it has made benefit payments. The benefit payments have exceeded payroll taxes and company contributions every year for the last 43 years, so I was correct from 1957 on. I wanted to state that, and I will insert that in the RECORD as well.

I want to be factually correct. I want my colleagues to understand that when I state that 20 years from now there is going to be a big problem if we do not do something because we are getting ready to set up a system that allows this fund to almost go bankrupt, almost to where they cannot pay the benefits before we let the tax increase trigger.

Some people have said: This is self-funding. This is great. We are going to keep these fund balances between four and six times annual payments for the next 75 years. If the trust fund balances go up, they make good investments, they invest in a lot of stocks that did exceptionally well, great; they can have payroll tax cuts.

If they do poorly, if they get below that four, we will have automatic payroll tax increases on the employer, not the employee. Fine, if that works.

Under the middle assumption, the tax increases are not triggered until well after the fund is depleted because they use a 10-year average. So they are on a sliding-down scale before the tax increases trigger, so the fund almost goes bankrupt. It goes down to about 1.3 annual payments before they have the tax increases, and then they are in serious trouble.

Somebody said this is the law; this does not allow general fund financing, which is one of the reasons I happened to be concerned about it. Somebody asks: Why are you so concerned? Ultimately the Federal Government could be liable. You say: Why? Let me read a couple statements.

I like to think the railroad companies would take care of their employees, and if they did, I couldn't care less what benefits they pay. If this were out of the Federal system, they could pay whatever benefits they want. I do not care if they have retirement at age 40 if they pay for it and the Federal Government is not liable for it. I do not care if they have early retirement.

I do not care if they have a spouse benefit that exceeds 100 percent if they pay for it.

What I disagree with strongly is if they greatly increase benefits and underfund the system and then say: If this does not work out, taxpayers, you pick up the cost. Why should we be asking people in Minnesota or Oklahoma who make $40,000 a year or $20,000 a year to increase their taxes to pay benefits for people who make a lot more money than they do and enable them to retire at age 60 when people in Oklahoma do not get to retire until they are 65 or 67 and then they receive benefits far greater than people in Oklahoma receive? I do not want the people of Oklahoma to have to pay taxes for them to do that.

I will read a couple quotes. Supporters insist the amendment places responsibility on future benefits on the railroads in the event investments do not work out.

I will read what the railroad industry thinks of its responsibility. This is a quote from the United Transportation newsletter dated May of 2000:

> The legislation also requires that the railroads would be responsible if the trust fund falls below a certain level. If this happens, a tax would automatically be placed solely on the carriers in order to replenish the fund. In order to add a final assurance to the integrity of the fund, it is still bound by the full faith and credit of the United States Government. They would be required to pay the obligations of the fund if, for some reason, the other safety nets in place were insufficient.

Earlier this year, the Lincoln Journal Star—on 8/15 of this year—stated:

> Other unions and the Association of American Railroads are promoting the bill as a self-financed shoo-in. In fact, the U.S. government would still back the retirement fund, acknowledged Obie O'Bannon, vice president of legislative affairs for the association. But, he pointed out, the "automatic tax ratchet" would require the railroads to kick in more money any time the fund's balance is below four times annual benefits, so that's protection that would mean all U.S. railroads would face insolvency before the Federal liability applies.

I don't want the railroad to go insolvent, but I don't want the Federal liability to apply either. I don't want our taxpayers across the country to have to bail this system out because we did a crummy job of legislating in 2001, and in 20 years we say: Well, we made a mistake. Darn, Senators GRAMM and NICKLES were right. Now the railroad companies are faced with a huge tax increase they cannot pay.

The fund is raising towards insolvency. Taxpayers, would you please give a supplemental. Let us raid a little more from Social Security—which they do under this bill, as well. There is about a $2 billion transfer from Social Security to help pay tier 2 benefits. That is interesting. I thought we would protect Social Security. But we have a Social Security bailout for the bill. Maybe we will address that shortly.

How else do we fix the fund? Are we going to write a check? Is the Federal Government going to write the check? I don't know. Some people in the unions say that is what we will do. Some in management say that is what we will do. I don't think that is the solution.

Let me read the last sentence of the vice president of legislative affairs for the Association of American Railroads:

> All railroads would face insolvency before the federal liability applies.

I don't want the railroads to become insolvent, nor do I want the Federal taxpayers to become liable for all the generous benefits. These benefits, in comparison to retirement benefits in the private sector, are very generous—overly generous. Find other private pension systems that offer full retirement at age 60. You won't find very many. Find other pension systems that offer spousal benefits or survivor benefits at 100 percent. You won't find very many. I doubt the department stores offer these kinds of benefits. Manufacturing companies don't offer these benefits. Yet we are getting ready to do it.

Now I read that if it doesn't work out, taxpayers "will bail us out."

I won't be in the Senate, or I doubt I will be in the Senate, 20 years from now, but if I am, I guarantee I will be opposing a taxpayer bailout of this industry. And conversely, I hope there will be others opposing this. This will happen. It is a prediction. It will be in the CONGRESSIONAL RECORD.

I hope I am wrong. I hope they find investments that do enormously well. They might find good investments such as Intel, 10 years ago, going up in multiples. They might also find investments such as Enron. I am concerned. Everybody indicated this is not so bad.

I have not raised this on the general issue of debate. This investing in private funds is a good idea. I love for private individuals investing for themselves to buy parts of different companies. I am reluctant to think: What will this board invest in? Mr. President, $15 or $16 billion is a lot of money. What companies will they buy? Are they going to be politically correct? Would they buy Microsoft? Our Government was suing Microsoft. I guess they still have suits pending against Microsoft. Maybe that is not politically correct. What about tobacco? Our Government in the previous administration was going after tobacco. Philip Morris was a good investment the last year. Microsoft was a good investment the last year. Would they be buying utility companies? A lot of utility companies are being sued for a lot of different reasons. Do they have to wash their hands from investments?

I have concerns when you have a board comprised of rail management representatives, union representatives, and they select one additional person they mutually agree upon to invest billions and billions. I have reservations about that. That is not what I raised this issue on.

For the information of colleagues, we will vote on the Gramm amendment and the Nickles amendment starting around 4:30. For the information of our colleagues, we will have the joint prayer service, which we desperately need, starting at 5 o'clock. The amendment I am offering says, before we allow the trust funds to be depleted on such a steep decline, if a 5-year average gets below 4 years, annual payments trigger the tax increases at that time instead of using the 10-year average. That would keep this a lot more shallow. It will keep the fund probably well above 2 or 3 in the annual balance statement, certainly above 2—not allowed to dip down so deep. That is for the protection of the railroad retirees and for the protection of taxpayers, to make sure we will not have to do what the United Transportation Newsletter said: We can always fall back on the full faith and credit of the U.S. Government.

I hope that doesn't happen. I will work energetically to see it doesn't happen. If we keep the trust balance more level, it will not happen.

I urge my colleagues to support the amendment that would say, instead of having a 10-year lookback before you trigger an automatic tax increase, do it over 5 years so we don't allow the trust fund balances to go as low as they are now projected to by the railroads' own actuaries of the pension plan.

I yield the floor.

Mr. BAUCUS. Mr. President, I don't see any other Senators wishing to speak, and the leadership would like to schedule these votes around 4:30, so we have 15 more minutes. I will take that time to make a couple of points.

First, this amendment offered by the Senator from Oklahoma simply is unnecessary. It is true that there is a dip. The fact is, on a yearly basis the dip is as represented on that chart, but the bill before the Senate will not be as low as represented on the chart. Even if it is as low as represented on the chart, this is unnecessary.

It is true that there is a question in the year 2021. There are a lot of questions. We have to do the best we can with what we have. The vast majority of Senators and House Members have considered and concluded that this is a fair way to deal with this issue. This issue, if it arises, will not arise, according to the basis of this debate, for another 20 years. So we are talking about what may or may not occur in 20 years. Because of the annual reports provided in the bill and the actuarial estimates on an annual basis, when it gets closer to 20 years from now, we will have an idea whether or not this is working. If it is not working, we will make adjustments. This amendment is totally unnecessary.

A couple of other points. The Senator mentioned there is a lot of Social Security money going into railroad retirement. I will address that. It is a point that is not commonly understood. In America today, clearly, there is a wide variety of industries. Some are new young industries, service industries; some are older, mature industries, such as railroad or mining industries. Industries come and go. They expand. They are just different, which means they have different ratios of the number of employees paying into Social Security compared with retirees receiving Social Security in that industry.

Social Security, of course, doesn't collect and pay on an industry basis. It collects and pays on a national basis. It is a large pool of Americans, American workers paying into Social Security, and there are a large number of retirees in America receiving benefits.

So as a practical matter, if we look at an industry, say a mature industry where there are fewer employees paying into a Social Security trust fund, and a lot of retirees receiving benefits, in effect there is a transfer of Social Security to that industry away from a younger industry where there are so many more employees paying in and so many fewer retirees receiving benefits. In effect, that is what happens today in America under Social Security. That is what is happening today in railroad retirement under tier 1, which is essentially Social Security. Because it is a mature industry and because there are fewer employees—railroaders in the industry, compared with the number of retirees proportionate to the average industry in America—there are transfers in effect to railroad retirees under tier 1 as is the case for all industries and for all workers in America today. There is no difference. There is no difference.

So it sounds as if Social Security is helping out unfairly, enriching railroad retirees under tier 1. It just is not because the Social Security tier 1 employees are treated the same way as are employees in a mature industry receiving benefits.

The second point is it has been suggested here that it is not fair to lower the retirement age to 60 from 62. After all, the retirement age under Social Security is higher. It has been suggested that it is not fair to vest earlier, 5 years instead of 10 years; that it is not fair that survivor's benefits for a survivor would be 100 percent instead of, say, 45 percent. And the point is made under Social Security retirees' survivors get benefits at a later age. So isn't this some special deal that railroad retirees are getting? It is not fair.

On the face of it that is a question. But, as they say, that is only half of the story. In the rest of the story, the facts are that tier 2 in railroad retirement is very comparable to a private pension plan that a company may have for its employees. The company's employees—retirees, say—would receive benefits under Social Security, tier 1 in the railroad system, and they receive benefits under their pension plan, tier 2 in the railroad industry. Many pension plans provide for an earlier retirement age—not 65 or up to 67, as required in Social Security, but at an earlier age.

Those people pay Social Security. Those are Social Security retirees. How does all that work out? What is happening here?

It is very simple. In the private sector pension plans participate in what is called a bridge with Social Security; that is, under Social Security the retirement age is 65, but under the private pension plan if you fully vest—say 30 years employment at, say, 60—the private pension plan makes up the amount that Social Security does not pay. It is called a bridge. That is how it works and it makes sense. If Social Security does not provide those benefits for early retirement age, then the private pension plan provides the benefits. That is what is happening in this legislation. It is just the same.

That is, tier 2 would provide the extra benefits under a bridge to tier 1, in effect. Actually, they don't provide it in tier 1. It is just that the extra benefits go to the retiree to make up the difference.

I submit, railroading is pretty hazardous. It is a dangerous industry. And a 62 retirement age—excuse me, a 60 retirement age after 30 years of hard work as a railroader certainly seems fair to me. There are other industries not as dangerous or demanding, but this one certainly is. It is a dangerous industry.

It has been suggested that ERISA provisions ought to apply. Railroad pensions should be fully funded, and this is not fully funded—as is the case under ERISA, which is what applies to most private pension plans.

First of all, Social Security is not fully funded. Maybe it should be. We would like to work in that direction, but it is not today. But more important, to fully fund the railroad retirement plan would require the injection of $40 billion. Then it could be fully funded. We do not have $40 billion. I think the total revenue of the railroad system in America is about $40 billion per year, and I think the income per year is close to $4 billion in the railroad industry.

Still more to the point, this trust fund, tier 2, would have about $40 billion today, an extra $40 billion, if Congress in the past had lived up to its word. It would have it. What am I saying?

Many years ago, Congress—I think it was in 1950—passed something called dual benefits. The effect of it is that railroad retirees got dual benefits. They got twice the benefits.

Clearly, that got to be a lot of money for the trust fund. If they get double benefits for Social Security compared with other retirement systems, that adds up pretty quickly. Congress decided to change that, in 1974—to end that. Congress said we are going to end this dual benefits idea. It is just too expensive. It is just too much.

But we, Congress, will grandfather in prior retirees so they do not get less than they thought they were going to get. So as a practical matter, that would have been—those benefits paid prior to 1974 would have been about $3.5 billion. If the railroad retirement system had that $3.5 billion—they did not get it, Congress did not give it to them—today that would be worth about $30 billion, $40 billion.

If Congress had lived up to its word in the past, we could come close to having enough dollars in the fund to make it fully funded and ERISA applicable. But ERISA cannot be applicable today because it is $40 billion short because Congress didn't live up to its word. Nevertheless, I think the provisions in this bill requiring all these reports assure us of notice, adequately in advance, whether or not there is going to be a problem during the next 20 years. It could be just the opposite. It could be a lot better than we expect. But if it is worse than we expect, there will be more than enough benefits for Congress to be able to change it.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will ask unanimous consent to have printed in the RECORD the "Railroad Retirement and Survivors Improvement Act of 2001 Progress of the Railroad Retirement and Social Security Equivalent Benefit Accounts under Employment Assumption II."

It basically says let's transfer $1.586 billion in from Social Security, or the tier 1 fund, into the tier 2 fund. Social Security is subsidizing tier 2 benefits.

I also state to my colleagues, a real solution would be if tier 1 is supposed to be equivalent to Social Security, and people want that—and then as Senator BAUCUS says, tier 2, if they want to subsidize Social Security for a lower retirement, they can do that—let's just put them under Social Security so we do not intermingle these funds. There is a little raiding going on. Under this bill, there is about $2 billion, then, $80-some million almost every year, and then it increases to almost $100 million every year that is transferred from tier 1 to tier 2.

I do not like it. We are raiding the Social Security fund.

I ask unanimous consent to have this table printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 3–II.—RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001

[Progress of the Railroad Retirement and Social Security Equivalent Benefit Accounts under Employment Assumption II (dollar amounts in millions)]

Calendar year	Interest rate (percent)	Tier 2 tax rate (percent)	Railroad Retirement Account					Social Security Equivalent Benefit Account						Railroad Retirement Trust Fund			Combined balance end year
			Benefits and administration	Tax income	Other inc/exp	Transfer to RRTF	Balance, end year	Benefits and administration	Tax income	Interest income	Other inc/exp	Transfer to RRTF	Balance, end year	Benefit payments	Income	Balance end year	
2001	5	21.0	$3,127	$2,870	$1,056	....	$17,913	5,265	2,225	$77	$2,653	....	$1,450	....	....	....	$19,363
2002	8	20.5	57	2,816	....	$20,673	....	5,335	2,254	73	3,145	$1,586	....	$3,371	$23,802	$20,431	20,431
2003	8	19.1	59	2,682	....	2,623	....	5,395	2,279	17	3,181	82	....	3,554	4,317	21,194	21,194
2004	8	18.0	62	2,582	....	2,521	....	5,489	2,307	18	3,247	83	....	3,706	4,267	21,756	21,756
2005	8	18.0	64	2,621	....	2,557	....	5,611	2,337	18	3,341	85	....	3,830	4,348	22,273	22,273
2006	8	18.0	67	2,661	(84)	2,510	....	5,735	2,367	17	3,351	....	....	3,971	4,247	22,549	22,549
2007	8	18.0	69	2,703	89	2,722	....	5,854	2,395	19	3,440	....	....	4,144	4,483	22,887	22,887
2008	8	18.0	72	2,746	2	2,676	....	5,991	2,423	19	3,637	89	....	4,334	4,547	23,100	23,100
2009	8	18.0	75	2,789	....	2,714	....	6,160	2,453	20	3,781	93	....	4,511	4,602	23,191	23,191
2010	8	18.0	78	2,833	....	2,755	....	6,353	2,485	20	3,944	96	....	4,682	4,649	23,158	23,158
2011	8	18.0	81	2,879	(90)	2,708	....	6,555	2,517	20	4,019	....	....	4,864	4,490	22,784	22,784
2012	8	18.0	84	2,926	97	2,939	....	6,769	2,551	22	4,201	5	....	5,052	4,700	22,432	22,432
2013	8	18.0	88	2,975	....	2,888	....	6,997	2,588	22	4,492	106	....	5,232	4,716	21,916	21,916
2014	8	18.0	91	3,026	....	2,934	....	7,235	2,626	23	4,695	109	....	5,408	4,721	21,228	21,228
2015	8	18.0	95	3,078	....	2,983	....	7,477	2,667	24	4,899	119	....	5,576	4,713	20,366	20,366
2016	8	18.0	99	3,131	(84)	2,948	....	7,725	2,711	23	4,990	....	....	5,721	4,485	19,130	19,130
2017	8	18.0	103	3,184	91	3,173	....	7,971	2,759	25	5,216	30	....	5,842	4,647	17,935	17,935
2018	8	18.0	107	3,240	....	3,133	....	8,205	2,810	26	5,493	124	....	5,940	4,605	16,600	16,600
2019	8	18.0	111	3,297	....	3,186	....	8,424	2,865	27	5,660	127	....	6,017	4,553	15,136	15,136
2020	8	19.0	115	3,516	....	3,401	....	8,621	2,922	27	5,802	130	....	6,074	4,661	13,723	13,723
2021	8	19.0	120	3,579	(58)	3,401	....	8,797	2,982	27	5,788	....	....	6,111	4,411	12,023	12,023
2022	8	20.0	123	3,811	63	3,751	....	8,951	3,045	29	5,951	72	....	6,132	4,713	10,605	10,604
2023	8	23.0	123	4,393	....	4,270	....	9,087	3 108	29	6,087	137	....	6,151	5,206	9,660	9,660
2024	8	23.0	123	4,473	....	4,350	....	9,207	3,173	29	6,144	139	....	6,170	5,215	8,704	8,704
2025	8	27.0	124	5,268	....	5,145	....	9,323	3,239	30	6,195	141	....	6,176	5,967	8,495	8,495

Source: Railroad Retirement Board actuaries, 12/3/01.

Mr. NICKLES. Mr. President, we can solve that by putting all railroad employees, like we put all new Federal employees, under Social Security. We did it. We put Members of Congress under Social Security. To me, it would help this problem so we would get away from this little financial wiggling that has been going on with this fund for a long time.

Also, I ask unanimous consent to have printed in the RECORD a table that I have that shows the benefits for employees and the benefits for railroad companies, or management, on a year-to-year basis. I alluded to this in my statement, but I wanted to have the facts with these charts substantiating my oral comments.

There being no objection, the material ordered to be printed in the RECORD, as follows:

RAILROAD RETIREMENT: H.R. 1140 AS PASSED BY THE HOUSE

[In millions of dollars]

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Reduction in Retirement Age	37	121	192	228	259	305	359	397	420	443	2,761
Expansion of Widow/er Benefits	83	92	94	95	97	100	102	104	106	108	981
Repeal of RRR Benefit Ceiling	11	14	15	16	18	19	20	22	24	26	185
Reduction in Vesting Requirements	*	*	*	*	*	1	1	1	1	2	6
New Benefits for Labor	131	227	301	339	374	425	482	524	551	579	3,933
Adjustment in Tier II Tax Rate	(59)	(198)	(329)	(362)	(366)	(374)	(379)	(383)	(384)	(386)	(3,220)
Repeal of Supplemental Annuity Tax	(59)	(79)	(81)	(79)	(77)	(76)	(75)	(75)	(74)	(74)	(749)
Tax Cuts for Management	(118)	(277)	(410)	(441)	(443)	(450)	(454)	(458)	(458)	(460)	(3,969)

RAILROAD RETIREMENT: H.R. 1140 AS PASSED BY THE HOUSE—Continued

[In millions of dollars]

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Stock Market Investment of Trust Funds	15,320	(460)	(660)	(830)	(920)	(990)	(1,060)	(1,140)	(1,250)	(1,340)	6,670
Change in Deficit/Surplus	(15,569)	(44)	(51)	50	103	115	125	159	242	302	(14,568)

Source: CBO; Provided by Senator Don Nickles, 11/26/01.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that there be 4 minutes for debate prior to the vote in relation to the Gramm amendment No. 2196; that regardless of the outcome of the vote, there be 4 minutes of debate prior to the vote in relation to the Nickles amendment No. 2175 with the time equally divided and controlled in the usual form, and that no second-degree amendments be in order to either amendment nor the language that may be stricken.

Mr. REID. Mr. President, reserving the right to object, I wonder if Senator NICKLES will also agree that we have 1 minute on each rather than 4 minutes. The Senator wants 4?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. BAUCUS. Mr. President, I ask unanimous consent that the amendments the Senate gave consent to earlier be reversed so the first vote will be on the Nickles amendment No. 2175 and the second vote will be on the Gramm amendment No. 2196.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. NICKLES. Mr. President, this amendment is to help protect the solvency of the trust fund. As the chart shows, the trust fund falls under the middle scenario. The trust fund falls from about 6 years' of payments. There is enough money in the trust fund to pay 6 years' worth of benefits. Under that scenario, if we pass this bill, which we are going to do, it goes down to about 1.3. I keep hearing 1.6. I believe it is 1.3—barely enough to pay 1 years' benefit. That is because we use a 10-year average looking back. The fund has to fall so far before the tax increase is triggered.

Under this amendment, we strike the 10 years and say let us make it 5. As the fund balance starts to fall under the railroad retirement assumption, it falls all the way down to $8 billion. We pay $8 billion in benefits right now.

I am saying, let us not let it go quite that low. Let us look back over 5 because if it starts falling, that fund gets below the 4 years' payments—enough to pay for 4 years' worth of benefits—if it gets below that, let us have the tax increase triggered then. Not 10 years, it will be 5 years out.

That will keep the fund solvent for railroad retirees. It will decrease the pressure on the railroad companies later on. It also gives some protection to taxpayers. It will decrease the likelihood that there will be a bailout or a necessity for a bailout to be falling on general revenues or general taxpayers in the year—whether it is 2015, 2017, or 2021, I do not know. Let us not let the fund go all the way down to almost 1 year's payment before we trigger a tax increase. Let us do it a little bit earlier. Let us use the 5-year average instead of the 10-year average.

I used to do this work. Anybody who talks to their actuary will say that makes a lot of sense. Waiting for a 10-year average would be absurd.

I yield the floor.

Mr. BAUCUS. Mr. President, this amendment is, first, totally unnecessary. The actuaries project that the balance of the fund without this bill over 75 years will be at least one and one-thirds above the benefits paid. That is the lowest level; that is, about the year 2002, which is significantly more than the short-term actuarial balance necessary for Social Security. One and two-thirds; one for Social Security.

This amendment is totally unnecessary. It is, second, a killer amendment. If this amendment is agreed to, we will go to conference. There are not many days left in the session. There will be no railroad retirement bill passed this year and probably not in this Congress. It is unnecessary and I particularly urge Members to oppose it.

The underlying bill requires many audit reports, financial and actuarial reports on a yearly basis on the strength, viability, and the health of this trust fund. We will have plenty of time and many years in advance to see whether or not some of the dire predictions made in this Chamber are accurate.

We have a hard time knowing 10-year budgets in the budget process around here. We are talking about 20 years down the road. A, it is not necessary; B, a lot of reports, if the dire predictions do come true; and, C, it is a killer amendment.

I urge colleagues to oppose this amendment.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) is necessarily absent.

The PRESIDING OFFICER (Mr. REED). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 27, nays 72, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—27

Allard
Bennett
Bond
Bunning
Burns
Campbell
Cochran
Ensign
Fitzgerald
Frist
Gramm
Grassley
Gregg
Helms
Kyl
Lott
Lugar
McCain
McConnell
Nickles
Santorum
Sessions
Smith (NH)
Thomas
Thompson
Thurmond
Voinovich

NAYS—72

Akaka
Allen
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Brownback
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Graham
Hagel
Harkin
Hatch
Hollings
Hutchinson
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Shelby
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Hutchison

The amendment (No. 2175) was rejected.

Mr. KERRY. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2196

The PRESIDING OFFICER. Under the previous order, there are 4 minutes evenly divided with respect to the Gramm amendment.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, this is an amendment offered by the Senator from Texas, Mr. GRAMM. I strongly urge Members to not vote for it. It is unnecessary. There are actuarial reports required in this bill to the Congress, and financials are required annually. We will know well in advance of any potential problem that may occur in 20 years. This is a killer amendment. If it passes, we have to go to conference. That means no bill this year. I urge Members not to support this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, the amendment is very simple. The amendment before us says you can invest the railroad retirement trust fund, you can invest it in stocks and bonds, but you cannot spend out of it until you have earned something on the investment.

Under the bill before us, you lower the amount of money going into the fund and you raise benefits before one penny is earned, before one investment is made, and in fact you take money out so quickly that you deplete 75 percent of the trust fund before the tax on railroads has to rise from 13.1 percent to over 22 percent in order to maintain absolute minimum solvency.

The amendment before us simply says invest the money, earn income on the money, use the income to lower taxes to fund railroad retirement and to increase benefits, but don't spend the trust fund's money, spend the earnings on the money. It is an eminently reasonable amendment. It is in no way a gutting amendment. If we could have gone to committee with a bill, I believe this would have been the solution. I understand my colleagues are for the bill, but I think this is a prudent way of doing it. Make the investments, do it exactly as the bill would do it, but don't spend the principal, spend the earnings. Don't do the things the bill calls for until you have the money in hand.

I think that is a simple principle. The people understand it. I would appreciate if they would vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 21, nays 78, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—21

Allard
Bond
Bunning
Burns
Campbell
Cochran
Ensign
Fitzgerald
Frist
Gramm
Gregg
Helms
Kyl
Lott
Lugar
McCain
McConnell
Nickles
Smith (NH)
Thomas
Thompson

NAYS—78

Akaka
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Breaux
Brownback
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Graham
Grassley
Hagel
Harkin
Hatch
Hollings
Hutchinson
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—1

Hutchison

The amendment was rejected.

Mr. FITZGERALD. Mr. President, I would like to bring attention to one particular segment of the railroad industry—commuter rail. As a Senator from Illinois, I have had the opportunity to become very acquainted with the excellent commuter rail system that serves Chicago and northeastern Illinois. This system—Metra—is the second largest commuter rail system in the country and is a key part of the overall, growing, commuter rail industry. Metra employs between 2,500 and 3,000 workers, nearly all of whom are covered under the Railroad Retirement Board benefit plan.

The extent of commuter rail's growth over recent decades is made clear by looking at the number of workers that it employs. Nationally, roughly one-quarter of all rail employees work for commuter and passenger rail, and it is expected that this number will grow substantially in the future.

For these reasons, I believe commuter rail, because of its growing size, importance, and impact, should be represented on the Railroad Retirement Board of Trustees that is created by this bill. As this bill moves forward in the legislative process, I hope that I will be able to work with the chairman and ranking member of the Senate Finance Committee and other conferees to ensure that commuter rail is represented on the Board of Trustees.

Ms. MIKULSKI. Mr. President, I rise in strong support of the Railroad Retirement and Survivors' Improvement Act of 2001. Finally, Congress is going to consider this important bill. I have been working to improve the benefits for our retired railroad workers for many years. Today, we can finally say that promises made are promises kept to our rail workers and their families.

The people who have made their contribution to family and to society by working on our Nation's railroads deserve a decent retirement. I know the job that railroad employees perform is very hard, very important work. Our country has an obligation to help those who have worked hard, saved, and played by the rules. That is why I am proud to have been a sponsor of Railroad Retirement Improvement legislation for many years and am proud to be a supporter of this bill.

I have been fighting to improve the benefits for railroad workers and their families since I was first elected to Congress. The retirement age for railroad workers and their spouses to qualify for railroad retirement benefits should be lowered. It is difficult for people and families to plan for their retirement in today's world, even with two salaries. That is why strengthening retirement benefits for all Americans has always been one of my highest priorities.

This bill is bipartisan. The House passed their version of this important bill by an overwhelming vote of 384-33. Seventy-four of my colleagues are cosponsors of the Senate version of the Railroad Retirement and Survivors' Improvement Act of 2001. The support for this measure is clear, and the time to act is now.

The Railroad Retirement and Survivor's Improvement Act expands benefits for the widows of rail employees and lowers the minimum retirement age at which employees with 30 years of experience are eligible for full retirement benefits to 60 years old. This legislation also reduces the number of years required to be fully vested for tier II benefits and expands the system's investment authority by creating an independent, non-governmental Railroad Retirement Trust Fund.

I urge all my colleagues to join me in standing up for our railroad retirees and their families and support this very important bill.

Mr. REID. I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DAY OF RECONCILIATION

Mr. REID. Senator BROWNBACK and Senator AKAKA have asked me to make this announcement. They have worked very hard on a piece of legislation which is now law, setting forth today as a National Day of Reconciliation. Members of the House of Representatives and the Senate are encouraged to attend. The meeting is taking place in the Rotunda of the Capitol as we speak. It just started. During assembly, Members of both Houses gather to seek the blessings of Providence for forgiveness, reconciliation, unity, and charity for all of the people of the United States, thereby assisting the Nation to realize its potential as a champion of hope, a vindicator of the defenseless, and the guardian of freedom.

I hope all who are able will drop what they are doing and make themselves available at the Capitol Rotunda. It will go until 7 p.m. today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we now proceed to a period of morning business with Senators permitted to speak for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEATH OF MRS. ELISABETH THURMOND OF NORTH AUGUSTA, SC

Mr. THURMOND. Mr. President, I rise today in remembrance of Mrs. Elisabeth T. Thurmond, my sister-in-law and a valued member of the community of North Augusta, SC, who passed away Friday, November 16, 2001, at the age of 90.

Elisabeth Thurmond, who was married to my late brother Dr. J. William Thurmond, will be remembered as a caring and generous woman. She was known for volunteering much of her time to serve the people of North Augusta and she made significant contributions to her community in a host of areas. For example, she was a charter member of Fairview Presbyterian Church and served in a variety of roles within the church, including as a trustee and a Sunday school teacher. Furthermore, Mrs. Thurmond worked to help improve the educational system of North Augusta. She was very active in school PTAs and served as the chairwoman of the North Augusta Parent Teacher Association Council that helped to establish the Paul Knox Educational Endowment Fund. In addition, she was a member of countless boards and councils and often held important leadership positions such as a seat on the Board of Directors of the North Augusta Chamber of Commerce. Clearly Elisabeth Thurmond lived a life full of civic accomplishment, and she was honored for her service as the 1981 North Augusta Citizen of the Year.

However, the impact of Mrs. Thurmond's good deeds were seen not only by the people of North Augusta but also across State lines. She was very active with the local chapter of the Girl Scouts of America for many years and, after serving as member of the Regional Board of Directors for the Girl Scouts of America, she was named a member of the national board of directors of the organization.

In conclusion, Mrs. Elisabeth Thurmond was a woman of character and integrity. She lived a life of great accomplishment and made wonderful contributions to the city and people of North Augusta. Our State is a better place because of all her hard work, and the impact she made in the lives of others will be felt long after her passing. She was a true American and a fine South Carolinian, and she will certainly be missed by a wide circle of friends.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 24, 2000 in Somerset, KY. Two women, while working as caretakers at a hospital, beat and abused a mentally retarded patient. The assailants, Valerie Hoskins and Crystal Wright, were indicted on criminal charges in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

CONGRATULATING IDAHO'S NATIONAL BOARD CERTIFIED TEACHERS

• Mr. CRAPO. Mr. President, I rise today to honor a very special group of educators in my home State of Idaho.

Last month, sixty-six teachers received a National Board Certification from the National Board for Professional Teaching Standards, the highest professional credential in the field of teaching. With the addition of these individuals, there are now 272 National Board Certified Teachers in Idaho.

High-quality teachers are the most important assets to any educational system. In order to gain a National Board Certification, these teachers voluntarily, often at great personal expense and sacrifice, submit to a nearly yearlong performance-based assessment. They must demonstrate their mastery in several areas including: Knowledge of subject matter; ability to effectively teach their subjects to students; and ability to manage and measure student learning. In fact, the State of Idaho recognizes teachers who gain a National Board Certification as "master teachers." I commend these educators for the dedication and sacrifice it takes to successfully complete this program. Not only do they benefit in their teaching techniques, but Idaho's school children benefit through their dedication.

Each one of these teachers has touched countless lives of students. They have been diligent in the trust that has been given to them by parents throughout Idaho. It is appropriate that we honor them today and recognize how hard they have worked to achieve this certification. Sometimes these types of recognitions are only hung on walls, and that rarely provides the public acknowledgement of the achievement. For this reason, I wanted to rise today and share with the U.S. Senate how important this achievement is to the education of young Idahoans.

I ask that the names of the sixty-six Idahoans newly named as National Board Certified Teachers be printed in the RECORD following my statement.

The names follow:

Susan Alt, Boise, ID, Independent School District of Boise City, Early Childhood/Generalist.

Carleen Baldwin, Lapwai, ID, Lapwai, Middle Childhood/Generalist.

Arlene Balls, Soda Springs, ID, Soda Springs District 150, Early Adolescence/Science.

Devon Barker, Nezperce, ID, Nezperce Jt School District No. 302, Middle Childhood/Generalist.

Leslie Rae Bedke, Sugar City, ID, Sugar Salem School District 322, Early Adolescence/English Language Arts.

Marta Bidondo, Boise, ID, Meridian School District No. 2, Early Adolescence/Generalist.

Leah Bug-Townsend, Idaho Falls, ID, Idaho Falls School District 91, Early Adolescence/Social Studies-History.

Khrista Buschhorn, Aberdeen, ID, Aberdeen V, Early and Middle Childhood/English as a New Language.

William Dean, Post Falls, ID, Post Falls School District 273, Adolescence and Young Adulthood/English Language Arts.

Lisa Dreadfulwater, Nezperce, ID, Nezperce 302, Early Childhood/Generalist.

Julie Elliott, Tampa, ID, Nampa 131, Middle Childhood/Generalist.

Anne Marie Elmore, Bellevue, ID, Blaine County, Early Childhood/Generalist.

Joanna Ferris, Inkom, ID, Marsh Valley School District No. 21, Early Childhood/Generalist.

Paula Fisher, Boise, ID, Meridian Joint School District No. 2 Adolescence and Young Adulthood/English Language Arts.

Elaine Forsnes, Rexburg, ID, Madison 321, Adolescence and Young Adulthood/Mathematics.

Victoria Francis, Boise, ID, Independent School District of Boise, Early Adolescence through Young Adulthood/Career and Technical Education.

Janet Greer, Eagle, ID, Meridian School District, Adolescence and Young Adulthood/English Language Arts.

Victor Haight, Meridian, ID, Meridian School District, Early Adolescence through Young Adulthood/Art.

Connie Hawker, Pocatello, ID, School District 25, Early Childhood/Generalist.

Esther Kaye Henry, Rigby, ID, Joint School District No. 251, Adolescence and Young Adulthood/English Language Arts.

Nick Hoffman, Wallace, ID, Wallace 393, Adolescence and Young Adulthood/Science.

Katholyn Howell, Shelley, ID, Shelley School District 60, Middle Childhood/Generalist.

Susan Hufford, Boise, ID, Meridian School District, Early Adolescence/English Language Arts.

Laurel Jensen, Montpelier, ID, Bear Lake, Middle Childhood/Generalist.

Mari Knutson, Caldwell, ID, Caldwell School District 132, Middle Childhood/Generalist.

Christine Lawrence, Meridian, ID, Joint District 2, Meridian Idaho, Middle Childhood/Generalist.

Marietta Leitch, Nezperce, ID, Nezperce Joint School District No. 302, Early Childhood/Generalist.

Kim Lickley, Jerome, ID, Joint Jerome, Early Childhood/Generalist.

Eric Louis, Coeur D'alene, ID, Coeur D'alene 271, Adolescence and Young Adulthood/English Language Arts.

Denise Diane Martell, Idaho Falls ID, Idaho Falls 91, Early Childhood through Young Adulthood/Exceptional Needs Specialist.

Kristine Martin, Aberdeen, ID, Aberdeen, Middle Childhood/Generalist.

Terri Meyer, Potlatch, ID, Potlatch School District No. 285, Early Adolescence through Young Adulthood/Career and Technical Education.

Michelle Moore, Pocatello, ID, Pocatello School District 25, Early Childhood/Generalist.

Mary Morrisey, Boise, ID, Boise School District, Early Adolescence/English language Arts.

Jacklyn Mosman, Nezperce, ID, Nezperce Joint School District No. 302, Middle Childhood/Generalist.

Carol Ohrtman, Lewiston, ID, Independent School District No. 1, Adolescence and Young Adulthood/English Language Arts.

Maren Oppelt, Rupert, ID, Minidoka County, Adolescence and Young Adulthood/English Language Arts.

Catherine Pierce, St. Maries, ID, Joint Distr Ct 41, St. Maries, Early Childhood/Generalist.

Susan Pliler, Boise, ID, Independent School District of Boise City, Adolescence and Young Adulthood/English Language Arts.

B. Potter, Potlatch, ID, Potlatch School District #285, Adolescence and Young Adulthood/English Language Arts.

Lani Rembelski, Montpelier, ID, Bear Lake School 33, Early Childhood/Generalist.

Stan Richter, Jerome, ID, Jerome, Adolescence and Young Adulthood/Science.

Vikki Ricks, Rigby, ID, Jefferson 251, Middle Childhood/Generalist.

Douglas Rotz, Grand View, ID, Bruneau Grant View Joint 365, Middle Childhood/Generalist.

Laurie Sadler Rich, Paris, ID, Bear Lake School District 33, Early Childhood through Young Adulthood/Exceptional Needs Specialist.

Patrick Schmidt, Lewiston, ID, Lewiston Independent 1, Early Adolescence through Young Adulthood/Career and Technical Education.

Allan Schneider, Emmett, ID, Emmett School District 221, Adolescence and Young Adulthood/English Language Arts.

Thomas Seifert, Boise, ID, Meridian District, Adolescence and Young Adulthood/Social Studies-History.

Mary Sorger, ID, Boise, Middle Childhood/Generalist.

Julie Stafford, Moscow, ID, Moscow School District 281, Early Adolescence through Young Adulthood/Career and Technical Education.

Lois Standley, Bellevue, ID, Blain County School District No. 61, Early Childhood/Generalist.

Angela Stevens, Inkom, ID, Marsh Valley, Early Childhood/Generalist.

Lorraine Stewart, Shelley, ID, Joint School District No. 60, Adolescence and Young Adulthood/Social Studies-History.

Tammi Taylor Utter, Idaho Falls, ID, Idaho Falls School District 91, Middle Childhood/Generalist.

Portia Toobian-Bailey, Kamiah, ID, Kamiah Joint School District 304, Middle Childhood/Generalist.

Cheryl Tousley, Kooskia, ID, School District 241, Adolescence and Young Adulthood/English Language Arts.

Katherine Uhrig, Twin Falls, ID, Twin Falls, Middle Childhood/Generalist.

April Weber, Troy, ID, Whitepine School District 286, Early Adolescence/Social Studies-History.

Lynn Wessels, Nezperce, ID, Nezperce Joint School District No. 302, Early Childhood/Generalist.

Marlys Westra, Nampa, ID, Vallivue, Early Childhood/Generalist.

Dena Jill Whitesell, Twin Falls, ID, Twin Falls 411, Early Adolescence/English Language Arts.

Donna Wommack, Genesee, ID, .Genesee Joint School District No. 282, Early Childhood/Generalist.

Norie Wyatt, Post Falls, ID, Post Falls, Early Childhood/Generalist.

Mary Yamamoto, Caldwell, ID, Caldwell, Middle Childhood/Generalist.

Pamala Young, Decio, ID, Cassia Joint 151, Adolescence and Young Adulthood/Social Studies History.●

THANKING MR. BERNARD MARCUS

● Mr. CLELAND. Mr. President, I would like to offer my thanks and appreciation to Mr. Bernard Marcus for his generous donation of $200 million for the construction of a five-million-gallon aquarium in the city of Atlanta, GA. This gift, made by the Marcus Foundation, is one of the largest single grants ever made by a private foundation and will provide the people of Georgia and those who visit our great State the opportunity to experience the wonders of aquatic and riparian wildlife. In addition to this most recent gesture of generosity, Mr. Marcus has contributed to causes ranging from the Centers for Disease Control and Prevention, vascular diseases, developmentally disabled children, and Jewish charities. Those who have benefitted from his benevolence know him to be a man dedicated to his community and friends. I thank him for his friendship and generosity and look forward to this exciting new addition to the City of Atlanta and the State of Georgia. At this time, I would like to ask that the text of two Atlanta Journal-Constitution articles be printed in the RECORD.

The articles follow:

[From the Atlanta Journal-Constitution, Nov. 20, 2001]

AQUARIUM "WILL BE A GREAT MARVEL" HOME DEPOT CHIEF PLEDGES $200 MILLION

(By Shelia M. Poole)

Home Depot Chairman Bernard Marcus promised that the huge Georgia Aquarium announced Monday would have "no boundaries" in offering top-notch entertainment and research opportunities for residents and visitors.

"It will be a great marvel," said Marcus, whose private Marcus Foundation will spend up to $200 million to build and endow the aquarium, which will be owned by the state.

The nonprofit aquarium—at 5 million gallons and 250,000 square feet—would be among the largest and most elaborate in the nation. It will contain freshwater and saltwater fish and mammals.

Marcus, the 72-year-old cofounder of Home Depot, said the aquarium is a way for him and his wife, Billi, to give back to the community in a way that is "meaningful and will last past our lifetimes."

The aquarium, to open in 2005, will be built on 15.5 acres adjacent to Atlantic Station, a planned $2 billion minicity under construction west of the Downtown Connector. When completed, the development will include apartments, condominiums, offices, shops and a 20-screen movie theater.

The site for the aquarium is just north of Atlantic Station, east of Mecaslin Street and south of Deering Road, near the former National Lead Industries site.

The developer of Atlantic Station, Jim Jacoby, who owns Marineland in Florida, is assisting in acquiring the property.

On Monday, representatives of state and local government, business, academia and the .tourism and convention industry attended the announcement in the Georgia Capitol's Senate chamber.

Atlanta Mayor-elect Shirley Franklin called it "a wonderful gift for the city."

She said the aquarium would not only provide entertainment and education opportunities for residents, but also create a draw for tourists and conventioneers. City boosters have long decried the lack of attractions in downtown Atlanta.

Marcus' announcement effectively supersedes other efforts to build aquariums in Atlanta. At least two proposals had been floated to build aquariums at Stone Mountain Park and near Turner Field.

"We're not in business to compete," but to work toward getting quality recreation facilities in the area, said Thomas Dortch, chairman of the Atlanta-Fulton County Recreation Authority, which had tried for years to find financing and a downtown site for an aquarium. "With the commitment from Mr. Marcus and the governor, we're excited about the fact there will be a world-class aquarium."

The aquarium is still very much a work in progress, say those associated with it. There are no renderings, site plans or economic impact figures, although attendance is projected to be between 1.5 million and 2.5 million annually.

Don Harrison, a Home Depot spokesman, said Marcus planned to visit aquariums across the United States and elsewhere, including China. The design will be finalized over the next 18 months.

"Now is when all the work begins," said Harrison. The aquarium will be global in scope, drawing researchers and visitors from around the world, he said. "The world is, frankly, our target."

Former Atlantan Jeffrey Swanagan, executive director and chief executive officer of the Florida Aquarium in Tampa, has been tapped to run the project. Swanagan spent 10 years as deputy director of Zoo Atlanta and was a protege of director Terry Maple.

Marcus first approached Gov. Roy Barnes about the project a year ago. The governor suggested Atlantic Station as a possible site. "Location was key," Marcus said. "In our minds it will become a destination to visitors."

Already the city has museums, art galleries and theater. What it doesn't have, Marcus said, is an aquarium.

Dan Graveline—executive director of the Georgia World Congress Center—said, "It will be a wonderful asset for the city. One of [the city's] biggest shortcomings is that convention[-goers] lack things to do in downtown Atlanta."

The aquarium represents the largest donation to date from the Marcus Foundation and is a departure from previous endeavors, noted Harrison, the spokesman for Home Depot.

With the private funding, the Georgia aquarium will open with no debt. Other aquariums, typically funded by municipal bonds and saddled with enormous debt, have struggled to prosper. Many have had difficulty funding new exhibits critical to attracting repeat customers.

A notable exception is the Monterey Bay Aquarium in California. The aquarium, which opened in October 1984, was privately financed with a $55 million gift from David and Lucile Packard of the Hewlett-Packard fortune.

There were "no bonds and no debt," said Ken Peterson, a spokesman for the Monterey Bay Aquarium, which attracts 1.8 million visitors annually and was expanded in 1996. "When you're paying a mortgage plus your operating expenses, it doesn't leave a lot of extra revenue for developing special exhibitions or new exhibit galleries."

Bob Masterson, president of Orlando-based Ripley Entertainment Inc., which operates aquariums in Myrtle Beach, S.C., and Gatlinburg, Tenn., said the size of the Atlanta Facility will make it expensive to operate.

"We spend about $30,000 a day to run the 1.3 million-gallon aquarium in Myrtle Beach and a little more than that in Gatlinburg," he said. "With a 5 million-gallon tank, I'd guess it would cost at least $50,000 a day to operate. And if it fails, there is nothing else you can do with that building."

[From the Atlanta Journal-Constitution, Nov. 20, 2001]

AN AQUARIUM FOR ATLANTA: GIANT FACILITY WILL INCREASE KNOWLEDGE ABOUT OCEANS

(By Charles Seabrook)

Call it the Atlanta Ocean.

A world-class aquarium in Atlanta will mean not only a place where people can marvel over ocean wonders, but also a place where scientists and students can unravel mysteries of the sea.

Understanding the oceans' workings is vital, scientists say, because the declining health of the world's seas has become a pressing public problem.

Dozens of ocean fish species are in peril because of overfishing, and marine biologists estimate that more than 25 percent of the coral reefs in the world's tropical oceans are sick or dying.

"If this aquarium is built the way it's envisioned, it will be wonderful not only for economic development but also for basic science," said Mark Hay, professor of environmental biology at Georgia Tech. "It will be of immense importance for researchers."

The Georgia Aquarium that Bernard Marcus, chairman of Home Depot, says he wants to build—spending up to $200 million—will hold more than 5 million gallons of water and encompass 250,000 square feet.

"People who may never travel to the coast will be able to come to Atlanta to learn the lessons of the sea," Hay said.

For scientists, the size and scope of the aquarium, scheduled for completion in 2005, means they may be able to conduct studies that cannot be done very well in laboratories.

"We can buy little tanks and put little creatures in them and observe them in our labs," Hay said.

But a large aquarium, he says, could accommodate complete ecosystems—such as a living coral reef—replete with large numbers of different creatures and plants and minerals.

Scientists say the ocean will never be fully understood until they understand how its ecosystems function.

The Georgia Aquarium will follow the lead of other major aquariums around the world. Scientific research is a basic mission at most of those institutions.

"We realize that health oceans are essential to our survival on Earth," says Ken Peterson of the Monterey Bay Aquarium in California.

"As an aquarium, we see our role as raising public awareness of the oceans and conducting research to help resolve the problems the oceans face."

He notes that half the Earth's oxygen comes from the sea, and the only protein for more than a billion people is provided by the ocean.

"We believe it is important that people know that and know how important the oceans are for their survival," he says.

Jeffrey Swanagan, who has been tapped as the executive director of the aquarium, says a theme has not been chosen. "But it will have a world focus, so that we can tell any freshwater or saltwater story," he says.

Swanagan, a Georgia Tech graduate who spent 10 years at Zoo Atlanta, said the "value of research and conservation is very strong in me."

Swanagan said he hopes the Georgia Aquarium will make people in Atlanta as familiar with the sea as they are with the Chattahoochee River.

"In Tampa, where I live now, kids take the sea for granted because it's all around them," he said. "They think nothing of driving over a causeway and seeing dolphins jumping out the water. We want the people in Atlanta to have similar experiences, albeit it will be an indoor one."

Swanagan, executive director of the Florida Aquarium, said he and his staff will be looking closely at aquariums all over the world to study their exhibits, planning and their public appeal.

Universities and other academic institutions in Georgia also are being asked for help in establishing a marine research program.

"We want an aquarium like no other," he says.

That means, he adds, that the aquarium might attempt to house sea creatures that have been heretofore difficult for other aquariums to maintain.

Some of those creatures, say marine biologists, include fish, squids and other animals that live deep in the ocean under tremendous pressures—and which have never been seen alive on land.

For Hay and other scientists, the aquarium will be the chance of a lifetime.

Hay helped build the renowned living coral reef aquarium at the Smithsonian Institution 20 years ago.

Many scientists said that facility could not be done because of all the requirements needed to keep the reef animals alive and healthy.

"We did have to learn as we went along," he said.

For instance, one scientist argued that a machine was needed to create wave patterns in the aquarium, but others argued that it was unnecessary.

The researchers found, however, that wave action is vital to maintaining a health coral reef system.

"So, designing and building a new aquarium will further our knowledge even more," he says.●

DEPARTING NATIONAL INSTITUTE OF MENTAL HEALTH DIRECTOR: DR. STEVEN E. HYMAN

● Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to commend Steven E. Hyman for his distinguished leadership at the National Institute of Mental Health at NIH for the past 5 years. Dr. Hyman will soon be turning his immense talents to his new duties as the Provost at Harvard University, and I wish him well in this new chapter of his outstanding career.

Steven Hyman was remarkably effective in bringing issues to the national agenda that for too long have met with shame and stigma. As a renowned neuroscientist, he used his considerable talent, reputation, and communication skills to demonstrate to the entire Nation the progress that is being made in understanding and healing mental illnesses. He worked closely with the Surgeon General in his efforts to bring this profoundly important message to the attention of the country.

It is because of efforts like these that we are closer than ever before to providing fair treatment for patients and their families, who have suffered from discrimination because mental illness for so long has been treated unfairly. Under Dr. Hyman's leadership, the NIMH has charted a bold course, initiating new clinical trials that will not exclude patients who are coping with difficulties so often associated with mental illness. He has insisted on including members of the public in the Institutes' research planning, including the groups reviewing grant applications. He has increased the Institute's research emphasis on areas of critical need, such as children and the elderly. He has worked skillfully to guarantee that greater effort is made to translate research into practice.

I know that the National Institute of Mental Health will miss Dr. Hyman's bold and brilliant presence, and so will the nation, as he takes up his eminent new position at Harvard I commend him for his outstanding service to this country.●

TRIBUTE TO MAYOR BRUCE TOBEY

● Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to pay tribute to Bruce Tobey, the outstanding Mayor of Gloucester, MA, who is retiring at the end of this year. I join the people of Gloucester in expressing my deep appreciation for his commitment and dedication to the City of Gloucester and I thank him for his leadership and his friendship.

Mayor Tobey has been a strong and effective leader for Gloucester, working to improve opportunities for all of Gloucester's residents. Mayor Tobey took a particular interest in the fishing community. Fishing has been the lifeblood of Gloucester for nearly four hundred years, and Mayor Tobey has worked tirelessly to continue this proud tradition.

Mayor Tobey's leadership was especially significant in opening the Gloucester Fish Exchange. The Fish Exchange has been a major success as a site for fishermen to sell their fish and for buyers to view the fish. It is the second Fish Exchange to be established in the entire country. I commend the Mayor for his foresight and perseverance, which has made Gloucester's Fish Exchange such a resounding success.

Mayor Tobey has also worked skillfully to rehabilitate the State Fish Pier in Gloucester. New businesses on the pier, including the Cape Ann Seafood Center, a 50,000-square-foot seafood-processing center, are there today because of Mayor Tobey's leadership and dedication. New businesses on the pier have been essential in improving access to local seafood processing, and have also created numerous new jobs on the waterfront.

Mayor Tobey has also been a strong supporter of the Gloucester Fisheries Forum, a day-long symposium dedicated to the discussion of major fisheries issues. Year in and year out, this Forum has become a productive opportunity for members of the local fishing community to speak to leaders in the field and learn from them about the current challenges and future hopes for the fishing industry. Mayor Tobey understood the need to bring people together, and he did an outstanding job.

There has been no greater friend or supporter of these fishing communities than Mayor Tobey. We are grateful for his distinguished service to the City of Gloucester and to our state, and we're proud of his friendship. I know that his commitment to public service will continue in other ways, and he will be deeply missed.●

TRIBUTE TO MAYOR GERRY DOYLE OF PITTSFIELD

● Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to pay tribute to Gerry Doyle, the outstanding Mayor of Pittsfield, MA, who is retiring at the end of this year. He has been a wonderful mayor for the people of Pittsfield, and I know they join me in thanking him for his commitment and dedication to public service.

Mayor Doyle will long be remembered for his outstanding leadership in achieving an historic agreement to clean up the Housatonic River and the General Electric industrial site. He was the driving force behind this impressive agreement which protects the magnificent environmental heritage of the Berkshires and the public health of the entire community, and has laid a solid basis for future economic development in Pittsfield.

The settlement is one of the largest of its kind ever achieved in Massachusetts, Mayor Doyle won great progress for all the Berkshires by striking this all-important balance between economic development and environmental cleanup. The day this agreement was reached was the dawning of a new era for Pittsfield, and for that we will always be grateful to Mayor Doyle for his outstanding leadership.

Mayor Doyle has also done an outstanding job of increasing tourism in the Berkshires and in improving the quality of life for the people of Pittsfield. He's worked skillfully to improve transportation in the city, which in turn has helped attract new businesses to Pittsfield.

All of us in Massachusetts are grateful for Mayor Doyle's distinguished service to the City of Pittsfield and to our State, and we are grateful for his friendship. We know that his commitment to public service will continue in other ways, and he will be deeply missed.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 60

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), I transmit herewith a 6-month periodic report on the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938 of November 14, 1994.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 4, 2001.*

PERIODIC REPORT ON THE NATIONAL EMERGENCIES WITH RESPECT TO THE FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO) AND KOSOVO—MESSAGE FROM THE PRESIDENT—PM 61

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 401(c) of the National emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a combined 6-month periodic report on the national emergencies declared with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) in Executive Order 12808 on May 30, 1992, and Kosovo in Executive Order 13088 on June 9, 1998.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 4, 2001.*

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:17 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 717. An act to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and Emery-Dreifuss muscular dystrophies.

H.R. 2291. An act to extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

The enrolled bills were signed subsequently by the president pro tempore (Mr. BYRD).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1765. A bill to improve the ability of the United States to prepare for and respond to a biological threat or attack.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4796. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "4- Amino-6-(1, 1-dimethylethyl)-3 -(methylthio)-2, 2, 4-triazin-5(4H)—one (Metribuzin), Dichlobenil, Diphenylamine, Sulprofos, Pendimethalin, and Terbacil; Tolerance Actions" (FRL6804-4) received on December 3, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4797. A communication from the Acting Assistant General Counsel for Regulatory Services, Office of the Chief Financial Officer, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Direct Grant Programs" (RIN1890-AA02) received on November 29, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-4798. A communication from the Secretary of Labor, transmitting, pursuant to law, the Eighth Annual Report relative to Trade and Employment Effects of the Andean Trade Preference Act, November 2001; to the Committee on Finance.

EC-4799. A communication from the Assistant Secretary of Defense, Command, Control, Communications, and Intelligence, transmitting, pursuant to law, a report entitled "Financial Addendum to Fiscal Year Department of Defense Chief Information Officer Annual Information Assurance Report"; to the Committee on Armed Services.

EC-4800. A communication from the Chairman of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, transmitting, pursuant to law, the Advance Executive Summary of the Third Annual Report of the Advisory Panel dated October 31, 2001; to the Committee on Armed Services.

EC-4801. A communication from the Acting Assistant Secretary of Land and Minerals Management, Engineering and Operations Division, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf-Revision of Requirements Governing Surety Bonds for Outer Continental Shelf Leases" (RIN1010-AC68) received on November 29, 2001; to the Committee on Energy and Natural Resources.

EC-4802. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Utah Regulatory Program" (UT-037-FOR) received on November 29, 2001; to the Committee on Energy and Natural Resources.

EC-4803. A communication from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Weatherization Assistance Program for Low-Income Persons" (RIN1901-AB05) received on December 3, 2001; to the Committee on Energy and Natural Resources.

EC-4804. A communication from the Secretary of Labor, transmitting, pursuant to law, the Semiannual Report of the Office of the Inspector General for the period April 1, 2001, through September 30, 2001; to the Committee on Governmental Affairs.

EC-4805. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-177, "Parking Meter Fee Moratorium Temporary Act of 2001"; to the Committee on Governmental Affairs.

EC-4806. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-174, "Chief Financial Officer Establishment Reprogramming During Non-Control Years Technical Temporary Amendment Act of 2001"; to the Committee on Governmental Affairs.

EC-4807. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-173, "Sentencing Reform Technical Amendment Temporary Act of 2001"; to the Committee on Governmental Affairs.

EC-4808. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-170, "Closing of a Portion of F Street, N.W., S.O. 99-70, Act of 2001"; to the Committee on Governmental Affairs.

EC-4809. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-172, "Redevelopment Land Agency-RLA Revitalization Corporation Transfer Temporary Act of 2001"; to the Committee on Governmental Affairs.

EC-4810. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-169, "Citizens with Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2001"; to the Committee on Governmental Affairs.

EC-4811. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-184, "Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2001"; to the Committee on Governmental Affairs.

EC-4812. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-183, "Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Temporary Act of 2001"; to the Committee on Governmental Affairs.

EC-4813. A communication from the Chairman of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-182, "Public Disclosure of Findings and Information in Cases of Child Fatality or Near Fatality Amendment Act of 2001"; to the Committee on Governmental Affairs.

EC-4814. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of the Operating Permits Program; for the Pinal County Air Quality Control District, Arizona" (FRL7112-8) received on November 29, 2001; to the Committee on Environment and Public Works.

EC-4815. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Arizona State Implementation Plan, Maricopa County Environmental Services Department" (FRL7105-3) received on November 29, 2001; to the Committee on Environment and Public Works.

EC-4816. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Minnesota; Final Approval of State Underground Storage Tank Program" (FRL7110-8) received on November 29, 2001; to the Committee on Environment and Public Works.

EC-4817. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Final Approval of Operating Permits Program; State of Vermont" (FRL7110-2) received on November 29, 2001; to the Committee on Environment and Public Works.

EC-4818. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans; Illinois" (FRL7111-1) received on November 29, 2001; to the Committee on Environment and Public Works.

EC-4819. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans, State of Missouri" (FRL7110-5) received on November 29, 2001; to the Committee on Environment and Public Works.

EC-4820. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Illinois" (FRL7107-9) received on November 29, 2001; to the Committee on Environment and Public Works.

EC-4821. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Illinois" (FRL7108-8) received on November 29, 2001; to the Committee on Environment and Public Works.

EC-4822. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of the Implementation Plans; Illinois" (FRL7107-7) received on November 29, 2001; to the Committee on Environment and Public Works.

EC-4823. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Final Full Approval of Operating Permit Program; Michigan" (FRL7111-6) received on November 29, 2001; to the Committee on Environment and Public Works.

EC-4824. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Final Full Approval of 40 CFR Part 70 Operating Permits Program; Minnesota" (FRL7111-7) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4825. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Final Full Approval of Operation Permit Program; Wisconsin" (FRL7111–8) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4826. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Proposed Full Approval of 40 CFR Part 70 Operating Permits Program; Indiana" (FRL7111–9) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4827. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Proposed Full Approval of 40 CFR Part 70 Operating Permits Program; Illinois" (FRL7112–1) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4828. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of Operating Permits Program; State of Hawaii" (FRL7111–5) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4829. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Full Approval of Operating Permit Program; District of Columbia" (FRL7112–3) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4830. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of Operating Permit Program; Virginia" (FRL7112–5) received on November 29, 2001; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 1233, a bill to provide penalties for certain unauthorized writing with respect to consumer products. (Rept. No. 107–106).

By Mr. INOUYE, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 3338: A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. THOMAS (for himself and Mrs. LINCOLN):

S. 1760. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. CAMPBELL, and Mr. BINGAMAN):

S. 1761. A bill to amend title XVIII of the Social Security Act to provide for coverage of cholesterol and blood lipid screening under the medicare program; to the Committee on Finance.

By Mr. JOHNSON:

S. 1762. A bill to amend the Higher Education Act of 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1763. A bill to promote rural safety and improve rural law enforcement; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 1764. A bill to provide incentives to increase research by commercial, for-profit entities to develop vaccines, microbicides, diagnostic technologies, and other drugs to prevent and treat illnesses associated with a biological or chemical weapons attack; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. ALLEN, Mr. DASCHLE, Mr. BENNETT, Mr. AKAKA, Mr. BOND, Mr. BAUCUS, Mr. BROWNBACK, Mr. BAYH, Mr. BURNS, Mr. BIDEN, Mr. CAMPBELL, Mr. BINGAMAN, Mr. CHAFEE, Mr. BREAUX, Mr. COCHRAN, Mrs. CARNAHAN, Ms. COLLINS, Mr. CLELAND, Mr. CRAIG, Mrs. CLINTON, Mr. CRAPO, Mr. CORZINE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. GRASSLEY, Mr. DURBIN, Mr. HAGEL, Mr. EDWARDS, Mr. HUTCHINSON, Mrs. FEINSTEIN, Mrs. HUTCHISON, Mr. HARKIN, Mr. LUGAR, Mr. JEFFORDS, Mr. MCCONNELL, Mr. JOHNSON, Mr. MURKOWSKI, Mr. KERRY, Mr. ROBERTS, Ms. LANDRIEU, Mr. SANTORUM, Mr. LEAHY, Ms. SNOWE, Mr. LIEBERMAN, Mr. SPECTER, Mrs. LINCOLN, Mr. STEVENS, Ms. MIKULSKI, Mr. THOMAS, Mr. MILLER, Mr. THOMPSON, Mrs. MURRAY, Mr. THURMOND, Mr. NELSON of Florida, Mr. VOINOVICH, Mr. REED, Mr. WARNER, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. TORRICELLI, Mr. WELLSTONE, Mr. SCHUMER, Mr. DAYTON, Mr. HELMS, Mr. FITZGERALD, Mr. CONRAD, Mr. HATCH, and Ms. STABENOW):

S. 1765. A bill to improve the ability of the United States to prepare for and respond to a biological threat or attack; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE:

S. Res. 186. A resolution to authorize representation of Senator Lott in the case of Lee v. Lott; considered and agreed to.

ADDITIONAL COSPONSORS

S. 690

At the request of Mr. WELLSTONE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 690, a bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

S. 724

At the request of Mr. BOND, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 724, a bill to amend title XXI of the Social Security Act to provide for coverage of pregnancy-related assistance for targeted low-income pregnant women.

S. 990

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 990, a bill to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1008

At the request of Mr. BYRD, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1008, a bill to amend the Energy Policy Act of 1992 to develop the United States Climate Change Response Strategy with the goal of stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, while minimizing adverse short-term and long-term economic and social impacts, aligning the Strategy with United States energy policy, and promoting a sound national environmental policy, to establish a research and development program that focuses on bold technological breakthroughs that make significant progress toward the goal of stabilization of greenhouse gas concentrations, to establish the National Office of Climate Change Response within the Executive Office of the President, and for other purposes.

S. 1209

At the request of Mr. BINGAMAN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1209, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. 1248

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1248, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable, housing for low-income families, and for other purposes.

S. 1312

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1312, a bill to authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach, Florida, for possible inclusion in the National Park System.

S. 1373

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 1373, a bill to protect the right to life of each born and preborn human person in existence at fertilization.

S. 1478

At the request of Mr. SANTORUM, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1478, a bill to amend the Animal Welfare Act to improve the treatment of certain animals, and for other purposes.

S. 1609

At the request of Mr. KERRY, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1609, a bill to amend the National Trails System Act to direct the Secretary of the Interior to conduct a study on the feasibility of designating the Metacomet-Monadnock-Mattabesett Trail extending through western Massachusetts and central Connecticut as a national historic trail.

S. 1618

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1618, a bill to enhance the border security of the United States, and for other purposes.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1707

At the request of Mr. JEFFORDS, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1738

At the request of Mr. KERRY, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 1738, a bill to amend title XVIII of the Social Security Act to provide regulatory relief, appeals process reforms, contracting flexibility, and education improvements under the medicare program, and for other purposes.

S. 1745

At the request of Mrs. LINCOLN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mrs. MURRAY), the Senator from Georgia (Mr. CLELAND), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from New York (Mr . SCHUMER) were added as cosponsors of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S. 1749

At the request of Mr. KENNEDY, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from New York (Mr. SCHUMER), the Senator from Nebraska (Mr. HAGEL), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1749 , a bill to enhance the border security of the United States, and for other purposes.

S. 1757

At the request of Mr. CRAIG, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1757, a bill to authorize an additional permanent judgeship in the district of Idaho, and for other purposes.

S.J. RES. 12

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S.J. Res. 12, a joint resolution granting the consent of Congress to the International Emergency Management Assistance Memorandum of Understanding.

AMENDMENT NO. 2152

At the request of Mr. DEWINE, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 2152 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

AMENDMENT NO. 2157

At the request of Mr. MCCAIN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of amendment No. 2157 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

AMENDMENT NO. 2202

At the request of Mr. CONRAD, his name was added as a cosponsor of amendment No. 2202.

STATEMENTS ON INTRODUCED BILLS AND JOINTS RESOLUTIONS

By Mr. THOMAS (for himself and Mrs. LINCOLN):

S. 1760. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare Program, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the Seniors Mental Health Access Improvement Act of 2001 with my distinguished colleague from Arkansas, Mrs. LINCOLN. Specifically, the Seniors Mental Health Access Improvement Act of 2001 permits mental health counselors and marriage and family therapists to bill Medicare for their services. This will result in an increased choice of providers for seniors and enhance their ability to access mental health services in their communities.

This legislation is especially crucial to rural seniors who are often forced to travel long distances to utilize the services of mental health providers currently recognized by the Medicare program. Rural communities have difficulty recruiting and retaining providers, especially mental health providers. In many small towns a mental health counselor or a marriage and family therapist is the only mental health care provider in the area. Medicare law, as it exists today, compounds the situation because only psychiatrists, clinical psychologists, clinical social workers and clinical nurse specialists are able to bill Medicare for their services.

It is time the Medicare program recognized the qualifications of mental health counselors and marriage and family therapists as well as the critical role they play in the mental health care infrastructure. These providers go through rigorous training, similar to the curriculum of masters level social workers, and yet are excluded from the Medicare program.

Particularly troubling to me is the fact that seniors have disproportionally higher rates of depression and suicide than other populations. Additionally, 75 percent of the 518 nationally designated Mental Health Professional Shortage Areas are located in rural areas and one-fifth of all rural counties have no mental health services of any kind. Frontier counties have even more drastic numbers as 95 percent do not have a psychiatrist, 68 percent do not have a psychologist and 78 percent do not have a social worker. It is quite obvious we have an enormous task ahead of us to reduce these staggering statistics. Providing mental health counselors and marriage and family therapists the ability to bill Medicare for their services is a key part of the solution.

Virtually all of my State of Wyoming is a mental health professional shortage area and will greatly benefit from this legislation. Wyoming has 169 psychologists, 121 psychiatrists, and 247 social workers for a total of 537 Medicare eligible mental health providers. Enactment of the Seniors Mental Health Access Improvement Act of 2001 will double the number of mental health providers available to seniors in my State with the addition of 517 mental health counselors and 55 marriage and family therapists currently licensed in the State.

In crafting this legislation Senator LINCOLN and I worked with numerous outside organizations with an interest in this issue. As a result of this collaboration, the "Seniors Mental Health Access Improvement Act of 2001" is strongly supported by the American Counseling Association, the Wyoming Counseling Association, the American Mental Health Counselors Association, the Arkansas Mental Health Counselors Association, the American Association for Marriage and Family Therapy, the Wyoming and Arkansas Chapters of the Association for Marriage and Family Therapy, the California Association of Marriage and Family Therapists, and the National Rural Health Association.

I believe this legislation is critically important to the health and well-being of our Nation's Seniors and I strongly urge all my colleagues to become a cosponsor.

Mr. President, I ask unanimous consent that the text of the bill and letters of endorsement from supporting organizations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Seniors Mental Health Access Improvement Act of 2001".

SEC. 2. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

(a) COVERAGE OF SERVICES.—

(1) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by sections 102(a) and 105(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–468 and 2763A–471), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(A) in subparagraph (U), by striking "and" after the semicolon at the end;

(B) in subparagraph (V)(iii), by inserting "and" after the semicolon at the end; and

(C) by adding at the end the following new subparagraph:

"(W) marriage and family therapist services (as defined in subsection (ww)(1)) and mental health counselor services (as defined in subsection (ww)(3));".

(2) DEFINITIONS.—Section 1861 of such Act (42 U.S.C. 1395x), as amended by sections 102(b) and 105(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–468 and 2763A–471), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by adding at the end the following new subsection:

"Marriage and Family Therapist Services; Marriage and Family Therapist; Mental Health Counselor Services; Mental Health Counselor

"(ww)(1) The term 'marriage and family therapist services' means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

"(2) The term 'marriage and family therapist' means an individual who—

"(A) possesses a master's or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

"(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

"(C) in the case of an individual performing services in a State that provides for licensure or certification of marriage and family therapists, is licensed or certified as a marriage and family therapist in such State.

"(3) The term 'mental health counselor services' means services performed by a mental health counselor (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

"(4) The term 'mental health counselor' means an individual who—

"(A) possesses a master's or doctor's degree in mental health counseling or a related field;

"(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

"(C) in the case of an individual performing services in a State that provides for licensure or certification of mental health counselors or professional counselors, is licensed or certified as a mental health counselor or professional counselor in such State.".

(3) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

"(v) marriage and family therapist services and mental health counselor services;".

(4) AMOUNT OF PAYMENT.—Section 1833(a)(1) of such Act (42 U.S.C. 1395*l*(a)(1)), as amended by sections 105(c) and 223(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–472 and 2763A–489), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(A) by striking "and (U)" and inserting "(U)"; and

(B) by inserting before the semicolon at the end the following: ", and (V) with respect to marriage and family therapist services and mental health counselor services under section 1861(s)(2)(W), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under clause (L)".

(5) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)) is amended—

(A) in paragraph (2)(A)(i)(II), by striking "clauses (ii) and (iii)" and inserting "clauses (ii) through (iv)"; and

(B) by adding at the end of paragraph (2)(A) the following new clause:

"(iv) EXCLUSION OF CERTAIN MENTAL HEALTH SERVICES.—Services described in this clause are marriage and family therapist services (as defined in section 1861(ww)(1)) and mental health counselor services (as defined in section 1861(ww)(3)).".

(6) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of such Act (42 U.S.C. 1395u(b)(18)(C)), as amended by section 105(d) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–472), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by adding at the end the following new clauses:

"(vii) A marriage and family therapist (as defined in section 1861(ww)(2)).

"(viii) A mental health counselor (as defined in section 1861(ww)(4)).".

(b) COVERAGE OF CERTAIN MENTAL HEALTH SERVICES PROVIDED IN CERTAIN SETTINGS.—

(1) RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by inserting ", by a marriage and family therapist (as defined in subsection (ww)(2)), by a mental health counselor (as defined in subsection (ww)(4))," after "by a clinical psychologist (as defined by the Secretary)".

(2) HOSPICE PROGRAMS.—Section 1861(dd)(2)(B)(i)(III) of such Act (42 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by inserting "or a marriage and family therapist (as defined in subsection (ww)(2))" after "social worker".

(c) AUTHORIZATION OF MARRIAGE AND FAMILY THERAPISTS TO DEVELOP DISCHARGE PLANS FOR POST-HOSPITAL SERVICES.—Section 1861(ee)(2)(G) of the Social Security Act (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting "marriage and family therapist (as defined in subsection (ww)(2))," after "social worker,".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 2002.

AMERICAN COUNSELING ASSOCIATION,
Alexandria, VA, November 27, 2001.
Hon. CRAIG THOMAS,
U.S. Senate,
Washington, DC.

DEAR SENATOR THOMAS: I am writing on behalf of the American Counseling Association, which with over 53,000 members is the nation's largest non-profit membership organization representing state-licensed professional mental health counselors, to express our strong support for your legislation, the "Seniors Mental Health Access Improvement Act of 2001". We applaud your leadership in introducing this legislation.

Medicare's mental health benefit currently excludes two core mental health professions: licensed professional counselors and licensed marriage and family therapists. Statistics such as those included in the attached fact sheet show that Medicare beneficiaries are not getting the mental health treatment they need. Lack of access to providers is one of the primary factors involved.

As with other areas of health care, accessing mental health services is especially problematic in rural areas. In many underserved communities, licensed professional counselors are the only mental health specialists available. We feel strongly that proposals to improve rural Medicare beneficiaries' access to mental health care must include expanding the pool of covered providers. However, access to providers is not only a rural issue. An article cited on the enclosed fact sheet, recently published by the American Psychiatric Association, states that "the supply of both specialists and resources cannot meet current or future demands" for mental health treatment of older Americans.

Coverage of licensed professional counselors under Medicare is a common-sense step toward ensuring that all beneficiaries get the help they need. There are over 81,000 professional counselors licensed as master's level mental health professionals in Wyoming and 44 other states across the country. These providers meet education, training, and examination requirements on par with those of clinical social workers, who have been covered under Medicare for over ten years.

Thank you for your leadership in introducing this important legislation. We look forward to working with you to gain its enactment, and I urge you and your staff to call on us if we can be of any assistance.

Sincerely,
JANE GOODMAN,
President.

AMERICAN COUNSELING ASSOCIATION,
Alexandria, VA, November 27, 2001.
Hon. BLANCHE L. LINCOLN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LINCOLN: I am writing on behalf of the American Counseling Association, which with over 53,000 members is the nation's largest non-profit membership organization representing state-licensed professional mental health counselors, to express our strong support for your legislation, the "Seniors Mental Health Access Improvement Act of 2001". We applaud your leadership in introducing this legislation.

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Thank you for your leadership in introducing this important legislation. We look forward to working with you to gain its enactment, and I urge you and your staff to call on us if we can be of any assistance.

Sincerely,
JANE GOODMAN,
President.

WYOMING COUNSELING ASSOCIATION,
November 27, 2001.
Hon. CRAIG THOMAS,
U.S. Senate,
Washington, DC

DEAR SENATOR THOMAS: The Wyoming Counseling Association is pleased to convey its strong support of your legislation, the "Seniors Mental Health Access Improvement Act of 2001". We are proud of your leadership on mental health issues, as evidenced by your introduction of this and other legislation, and your support of S. 543, the "Mental Health Equitable Treatment Act of 2001".

Wyoming's residents often have only limited—if any—access to mental health professionals. There simply aren't enough providers. Given this fact, it makes no sense to continue to exclude licensed professional counselors from Medicare coverage, when similarly-trained providers are covered. In many parts of the state, licensed professional counselors are the only mental health specialists around.

We believe that establishing Medicare coverage of licensed professional counselors is a cost-effective means of improving the health and well-being of enrollees. The more than 500 professional counselors licensed in Wyoming should be allowed to help meet their mental health needs. It should jolt Congress into action to know that older Americans are the demographic group in the U.S. most at risk of committing suicide. This must be remedied.

Please let us know if there is anything we can do to assist you on mental health issues, and thank you again for your leadership, initiative, and hard work.

Sincerely,
KAREN ROBERTSON,
President.
DR. DAVID L. BECK,
Past-President.
LESLEY TRAVERS,
President-elect.

AMERICAN MENTAL HEALTH
COUNSELORS ASSOCIATION,
Alexandria, VA, November 27, 2001.
Hon. CRAIG THOMAS,
U.S. Senate, Hart Senate Office Building,
Washington, DC

DEAR SENATOR THOMAS: I am writing on behalf of the American Mental Health Counselors Association (AMHCA) to express our strong support for the Seniors Mental Health Access Improvement Act, legislation to expand access to mental health providers in the Medicare program. As president of AMHCA and a Licensed Mental Health Counselor (LMHC), I commend you and Senator Lincoln for introducing this important legislation.

AMHCA is the nation's largest professional organization exclusively representing the mental health counseling profession. Our members practice in a variety of settings, including hospitals, community mental health centers, managed behavioral health care organizations, employee assistance plans, substance abuse treatment centers, and private practice. Currently, there are more than 80,000 licensed or certified professional counselors practicing in the United States, including many in rural areas where access to mental health care is often scarce.

As you know, Medicare covers the services of independently practicing psychiatrists, clinical psychologists, clinical social workers, and clinical nurse specialists, but does not recognize mental health counselors or marriage and family therapists as separately reimbursable mental health providers. Specifically, the Seniors Mental Health Access Improvement Act would correct this inequity by including mental health counselors and marriage and family therapists among the list of providers who can deliver mental health services to Medicare beneficiaries, provided they are legally authorized to deliver such care under state law. Enactment of this provision would increase access to and the availability of mental health services to Medicare beneficiaries, particularly for those seniors who reside in rural and underserved areas. The inclusion of mental health counselors and marriage and family therapists as Medicare providers would also afford beneficiaries greater choice among qualified providers.

Again, thank you for the leadership you have shown in introducing this legislation and for your commitment to ensuring greater access for seniors affected by mental illness. If I can be of assistance to you as you work towards the enactment of the Seniors Mental Health Access Improvement Act, please feel free to contact me. Beth Powell, AMHCA's Director of Public Policy and Professional Issues, is also available to assist you and your staff.

Sincerely,
MIDGE WILLIAMS,
President.

AMERICAN MENTAL HEALTH
COUNSELORS ASSOCIATION,
Alexandria, VA, November 28, 2001
Hon. BLANCHE L. LINCOLN,
U.S. Senate, Dirksen Senate Office Building,
Washington, DC

DEAR SENATOR LINCOLN: I am writing on behalf of the American Mental Health Counselors Association (AMHCA) to express our strong support of the Seniors Mental Health Access Improvement Act, legislation to expand access to mental health providers in the Medicare program. As president of AMHCA and a Licensed Mental Health Counselor (LMHC), I commend you and Senator

Thomas for introducing this important legislation.

AMHCA is the nation's largest professional organization exclusively representing the mental health counseling profession. Our members practice in a variety of settings, including hospitals, community mental health centers, managed behavioral health care organizations, employee assistance plans, substance abuse treatment centers, and private practice. Currently, there are more than 80,000 licensed or certified professional counselors practicing in the United States, including many in rural areas where access to mental health care is often scarce. The Arkansas Mental Health Counselors Association (ArMHCA), a state chapter of AMHCA, represents the interests of mental health counselors practicing in your state.

As you know, Medicare covers the services of independently practicing psychiatrists, clinical psychologists, clinical social workers, and clinical nurse specialists, but does not recognize mental health counselors or marriage and family therapists as separately reimbursable mental health providers. Specifically, the Seniors Mental Health Access Improvement Act would correct this inequity by including mental health counselors and marriage and family therapists among the list of providers who can deliver mental health services to Medicare beneficiaries, provided they are legally authorized to deliver such care under state law. Enactment of this provision would increase access to and the availability of mental health services to Medicare beneficiaries, particularly for those seniors who reside in rural and underserved areas. The inclusion of mental health counselors and marriage and family therapists as Medicare providers would also afford beneficiaries greater choice among qualified providers.

Again, thank you for the leadership you have shown in introducing this legislation and for your commitment to ensuring greater access for seniors affected by mental illness. If I can be of assistance to you as you work towards the enactment of the Seniors Mental Health Access Improvement Act, please feel free to contact me. Beth Powell, AMHCA's Director of Public Policy and Professional Issues, is also available to assist you and your staff.

Sincerely,

MIDGE WILLIAMS,
President.

ARKANSAS MENTAL HEALTH
COUNSELORS ASSOCIATION,
Jonesboro, AR, November 27, 2001.

Hon. BLANCHE L. LINCOLN,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LINCOLN: I am writing on behalf of the Arkansas Mental Health Counselors Association (ArMHCA) to express our strong support for the Seniors Mental Health Access Improvement Act and to convey our sincere appreciation to you for introducing this legislation. As a Licensed Professional Counselor (LPC) and a constituent, I want to express to you the importance of this legislation to LPCs in our state and to the nation's 39 million Medicare beneficiaries.

Mental health counselors-called Licensed Professional Counselor in Arkansas are mental health professionals with a master's or doctoral degree in counseling or related disciplines who provide services along a continuum of care. Currently, 45 states and the District of Columbia license or certify mental health counselors to independently provide mental health services, including the diagnosis and treatment of mental and emotional disorders. LPCs practice in a variety of settings, including hospitals, community mental health centers, managed behavioral health care organizations, employee assistance plans, substance abuse treatment centers, and private practice.

Medicare currently covers the services of independently practicing psychiatrists, clinical psychologists, clinical social workers, and clinical nurse specialists, however; it does not recognize mental health counselors or marriage and family therapists as separately reimbursable mental health providers. The Seniors Mental Health Access Improvement Act corrects this oversight by including mental Health counselors and marriage and family therapist among the list of providers who deliver mental health services to Medicare beneficiaries, provided they are legally authorized to perform the services under state law. Enactment of this provision would increase access to and the availability of mental health services to Medicare beneficiaries, particularly for those seniors who reside in rural and underserved area. The inclusion of mental health counselors and marriage and family therapists in the program would also afford beneficiaries a choice among qualified providers.

Again, thank you for the leadership you have shown in introducing this important legislation. If I can be of assistance to you as your work towards enactment of the Seniors Mental Health Improvement Access Act please feel free to contact me. Beth Powell, AMHCA's Director of Public and Professional Issues, is also available to assist you and your staff.

Sincerely,

DEE KERNODLE
President.

AMERICAN ASSOCIATION FOR
MARRIAGE AND FAMILY THERAPY,
Washington, DC, December 3, 2001.

Hon. CRAIG THOMAS,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR THOMAS: The American Association for Marriage and Family Therapy is writing on behalf of the 46,000 marriage and family therapists throughout the United States to commend you for sponsoring the Seniors Mental Health Access Improvement Act of 2001. This crucial legislation to expand the mental health benefits for our elderly will go a long way towards improving Medicare beneficiaries' access to critical mental health services provided by Marriage and Family Therapist (MFTs) and Mental Health Counselors (MHCs) across the nation.

As you know, mental illness is a major problem for many Americans, and particularly for the elderly. Research demonstrates that depression is disproportionately high among older persons, as is the incidence of suicide. The Surgeon General's Report on Mental Health has indicated that there are effective treatments for these and other mental illnesses. The Seniors Mental Health Access Improvement Act of 2001 helps make these treatments accessible to elderly citizens. By expanding the pool of qualified providers, the bill also achieves the important objective of increasing access to mental health services for elderly in rural areas, where there is a recognized shortage of professionals.

Passage of the Seniors Mental Health Access Improvement Act of 2001 will ensure that Medicare beneficiaries in need of mental health services will have the same freedom to choose a mental health professional available in their community as the non-Medicare population. The Archives of General Psychiatry projects that the number of people over 65 years with psychiatric disorders will increase from about 4 million in 1970 to 15 million in 2030. It also indicates that the current health care system is unprepared to meet the upcoming crisis in geriatric mental health. Providing access to licensed MFTs and MHCs will help ensure that there are an adequate number of providers available to meet the needs of the growing elderly population.

Your leadership and support to address the mental health needs of our seniors is greatly appreciated. It is about time the Medicare program is structured to respond to the demands of the elderly population it serves. AAMFT hopes the Seniors Mental Health Improvement Act of 2001 will become law. We look forward to working with you to meet this objective. Thank you again for your commitment to improving the lives of the elderly.

Sincerely,

DAVID M. BERGMAN,
Director of
Legal and Government Affairs.

AMERICAN ASSOCIATION FOR
MARRIAGE AND FAMILY THERAPY,
Washington, DC, December 3, 2001.

Hon. BLANCHE LAMBERT LINCOLN,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR LINCOLN: The American Association for Marriage and Family Therapy is writing on behalf of the 46,000 marriage and family therapists throughout the United States to commend you for sponsoring the Seniors Mental Health Access Improvement Act of 2001. This crucial legislation to expand the mental health benefits for our elderly will go a long way towards improving Medicare beneficiaries' access to critical mental health services provided by Marriage and Family Therapist (MFTs) and Mental health Counselors (MHCs) across the nation.

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Your leadership and support to address the mental health needs of our seniors is greatly appreciated. It is about time the Medicare program is structured to respond to the demands of the elderly population it serves. AAMFT hopes the Seniors Mental Health Improvement Act of 2001 will become law. We look forward to working with you to meet this objective. Thank you again for your commitment to improving the lives of the elderly.

Sincerely,

DAVID M. BERGMAN,
Director of
Legal and Government Affairs.

WYOMING ASSOCIATION FOR
MARRIAGE AND FAMILY THERAPY,
Jackson, WY, November 30, 2001.

Hon. CRAIG THOMAS,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR THOMAS: On behalf of the Wyoming Association for Marriage and Family Therapy, I want to thank you for agreeing to sponsor the Seniors Mental Health Improvement Act of 2001.

This important legislation will go a long way toward improving Medicare beneficiaries' access to critical mental health services in our state. As you know, more than 90 percent of Wyoming has been designated by the federal government as a mental health professional shortage area. By authorizing Medicare coverage for both Marriage and Family Therapists (MFTs) and Mental Health Counselors (MHCs), you are more than doubling the number of mental health professionals available to provide services to the Medicare population in these underserved areas.

Your legislation will also ensure that Wyoming beneficiaries in need of mental health services will have the same freedom to choose the mental health professional available in their community as the non-Medicare population. As you are aware, our state has already authorized MFTs to provide a wide range of mental health services covered by the Medicare program. Unfortunately, because Medicare does not currently recognize MFTs, Medicare beneficiaries must often travel hundreds of miles to be seen by a mental health professional who is recognized by the Medicare program. This, despite the fact that there may be a Marriage and Family Therapist in their community that the state has already deemed qualified to provide the covered services.

Your support for improved access to mental health services is greatly appreciated. We look forward to working with you on this important legislation. I would also personally like to send my best wishes to you and Susan and hope that all is well in Washington.

Sincerely,

CINDY KNIGHT
President.

ARKANSAS ASSOCIATION FOR
MARRIAGE AND FAMILY THERAPY,
December 1, 2001.

Hon. BLANCHE LAMBERT LINCOLN,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR LINCOLN: I was part of a coalition of four mental health organizations that wrote to you last week on behalf of the Seniors Mental Health Improvement Act of 2001. However, I wanted to address that again with you specifically from the Arkansas Association for Marriage and Family Therapy. This is such an important piece of legislation on behalf of our aging population.

This important legislation will go a long way towards improving Medicare beneficiaries' access to critical mental health services in our state. As you know, more than 90 percent of Arkansas has been designated by the federal government as a mental health professional shortage area. By authorizing Medicare coverage for both Marriage and Family Therapists (MFTs) and Licensed Professional Counselors (LPCs) or Mental Health counselors (MHCs) you are more than doubling the number of mental health professionals available to provide services to the Medicare population in these under-served regions.

Your legislation will also ensure that Arkansas Medicare beneficiaries in need of mental health services will have the same freedom to choose the mental health professional available in their community as the non-Medicare population. As you are aware, our state has already authorized MFTs to provide a wide range of mental health services covered by the Medicare program. Unfortunately, because Medicare does not currently recognize MFTs, Medicare beneficiaries must often travel hundreds of miles to be seen by a mental health professional that is recognized by Medicare. In my practice, I am aware of long waits for seniors to see providers due to the few and the overload of those providers. This, despite the fact that there may be a Marriage and Family Therapist in their community that the state has already deemed qualified to provide the covered services.

Your support for improved access to mental health services is greatly appreciated. We look forward to working with you on this important legislation.

Sincerely,

DELL TYSON,
President.

NATIONAL RURAL HEALTH ASSOCIATION,
Kansas City, MO, December 3, 2001.

Hon. CRAIG THOMAS,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR THOMAS: On behalf of the National Rural Health Association, I would like to convey our strong support for the Seniors Mental Health Access Improvement Act of 2001.

While a lack of primary care services in rural and frontier areas has long been acknowledged, the scarcity of rural mental health services has only recently received increased attention. At the end of 1997, 76% of designated mental health professional shortage areas were located in non-metropolitan areas with a total population of over 30 million Americans. Currently there is an increased need for intervention by mental health care professionals to help people cope with the aftermath of the September 11 terrorist attacks as well as the ongoing war on terrorism. Because there is less access to mental health care in rural America, rural residents will have a subsequent lack of professional guidance in dealing with the recent trauma experienced by our country.

The Seniors Mental Health Access Improvement Act of 2001 would help provide increased access to mental health car services in rural and frontier areas by allowing Licensed Professional Counselors and Marriage and Family Therapists to bill Medicare for their services and be paid 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist.

The membership of the NRHA appreciates your bringing attention to the critical issue of access to mental health care in rural areas as well as your ongoing leadership on rural health issues. The NRHA stands ready to work with you on enactment of the Seniors Mental Health Access Improvement Act of 2001, which would help to increase the availability of mental health care in rural and frontier areas.

Sincerely,

CHARLOTTE HARDT,
President.

NATIONAL RURAL HEALTH ASSOCIATION,
Kansas City, MO, December 3, 2001.

Hon. BLANCHE LINCOLN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

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Sincerely,

CHARLOTTE HARDT,
President.

CALIFORNIA ASSOCIATION OF
MARRIAGE AND FAMILY THERAPISTS,
San Diego, CA, November 19, 2001.

Re Medicare Legislation to Recognize Marriage and Family Therapists and Professional Counselors.

Hon. CRAIG THOMAS,
U.S. Senate,
Washington, DC.

DEAR SENATOR THOMAS: We are writing to you in recognition and support of your willingness to cosponsor legislation that would dramatically improve access to mental health services for Medicare beneficiaries. By adding licensed marriage and family therapists and licensed professional counselors, it will open many opportunities within Medicare for patients to locate and receive therapy from appropriately trained and qualified professionals.

On behalf of the 24,500 members of the California Association of Marriage and Family

Therapists, we support your willingness to co-sponsor this legislation. Under California law, licensed marriage and family therapists are legally authorized to provide mental health services and are reimbursed by most all third party payers for the diagnosis and treatment of mental disorders. However, because Medicare does not recognize this particular discipline, California licensed marriage and family therapists are precluded from providing these services and Medicare beneficiaries are precluded from utilizing marriage and family therapists to provide mental health counseling and treatment.

Marriage and family therapists are considered one of the five "core mental health professions" recognized by the federal government. Unfortunately, however, we are the only core mental health profession not recognized by Medicare.

We appreciate and thank you for you willingness to take on the challenge of sponsoring legislation to make LMFTs and LPCs eligible for reimbursement by Medicare.

Sincerely,

MARY RIEMERSMA,
Executive Director.

CALIFORNIA ASSOCIATION OF
MARRIAGE AND FAMILY THERAPISTS,
San Diego, CA, November 19, 2001.

Re Medicare Legislation to Recognize Marriage and Family Therapists and Professional Counselors.

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On behalf of the 24,500 members of the California Association of Marriage and Family Therapists, we support your willingness to co-sponsor this legislation. Under California law, licensed marriage and family therapists are legally authorized to provide mental health services and are reimbursed by most all third party payers for the diagnosis and treatment of mental disorders. However, because Medicare does not recognize this particular discipline, California licensed marriage and family therapists are precluded from providing these services and Medicare beneficiaries are precluded from utilizing marriage and family therapists to provide mental health counseling and treatment.

Marriage and family therapists are considered one of the five "core mental health professions" recognized by the federal government. Unfortunately, however, we are the only core mental health profession not recognized by Medicare.

We appreciate and thank you for you willingness to take on the challenge of sponsoring legislation to make LMFTs and LPCs eligible for reimbursement by Medicare.

Sincerely,

MARY RIEMERSMA,
Executive Director.

Mrs. LINCOLN. Mr. President, I am pleased to join my colleague Senator THOMAS today in introducing the Seniors Mental Health Access Improvement Act of 2001.

This bill would expand Medicare coverage to licensed professional counselors and licensed marriage and family therapists. One result of this expanded coverage will be to increase seniors' access to mental health services, especially in rural and underserved areas.

Licensed professional counselors and marriage and family therapists are currently excluded from Medicare coverage even though they meet the same education, training, and examination requirements that clinical social workers do. The only difference is that clinical social workers have been covered under Medicare for over a decade.

Why do we need this legislation? The mental health needs of older Americans are not being met. Although the rate of suicide among older Americans is higher than for any other age group, less than three percent of older Americans report seeing mental health professionals for treatment. And going to their primary care physician is simply not enough. Research shows that most primary care providers receive inadequate mental health training, particularly in geriatrics.

Lack of access to mental health providers is one of the primary reasons why older Americans don't get the mental health treatment they need. Not surprisingly, this problem is exacerbated in rural and underserved areas.

Licensed professional counselors are often the only mental health specialists available in rural and underserved communities. This is true in my home State of Arkansas, where 91 percent of Arkansans reside in a mental health professional shortage area.

Since there are more licensed professional counselors practicing in my State than any other mental health professional, this legislation will significantly increase the number of Medicare—eligible mental health providers in Arkansas. Licensed professional counselors are already serving patients who have private insurance or Medicaid. It is time for Medicare patients to also have access to these professionals.

The bill we are introducing today is an important first step in expanding access to good mental health. By including licensed professional counselors and licensed marriage and family therapists among the list of providers who deliver mental health services to Medicare beneficiaries, we will help ensure that all seniors, no matter where they live, have the opportunity to receive mental health treatment.

By Mr. DORGAN (for himself, Mr. CAMPBELL, and Mr. BINGAMAN):

S. 1761. A bill to amend title XVII of the Social Security Act to provide for coverage of cholesterol and blood lipid screening under the Medicare Program; to the Committee on Finance.

Mr. DORGAN. Mr. President, today I am introducing the Medicare Cholesterol Screening Coverage Act of 2001, along with my colleagues Mr. CAMPBELL and Mr. BINGAMAN. This bipartisan legislation, which also has been introduced in the House of Representatives, would add blood cholesterol screening as a covered benefit for Medicare beneficiaries.

The most recent guidelines from the National Heart, Lung and Blood Institute recommends that all Americans over the age of 20 be screened for high cholesterol. Yet current Medicare policy only covers cholesterol testing for patients who already have heart disease, stroke or other disorders associated with elevated cholesterol levels. Thus, enactment of this bill will help save lives of the approximately one-third of Medicare recipients not already covered for cholesterol testing.

High cholesterol is a major risk factor for heart disease and stroke, the Nation's number 1 and number 3 killers of both men and women. Cardiovascular disease kills nearly a million people each year in this country, more than the next seven leading causes of death combined. In particular, Americans over the age of 65 have the highest rate of coronary heart disease, CHD, in the Nation and about 80 percent of the deaths from CHD occur in this age group. It is not surprising that cardiovascular diseases account for one-third of all Medicare's spending for hospitalizations.

Obviously, in order to slow the onset of CHD, it is first necessary to identify those with elevated cholesterol, which is why passage of this bill is so critical. The importance of identifying those at risk for CHD is illustrated by the results of just released research from Oxford University. This study showed that in elderly people, lowering of cholesterol was associated with a one-third reduction in heart attack and stroke and a substantially reduced need for surgery to repair or open clogged arteries.

Clearly, this bill can save lives. Yet despite the importance of identifying this major, changeable risk factor for cardiovascular disease, screening for cholesterol is not covered by Medicare. I have felt for a long while that our health care system, and Medicare in particular, needs to place a greater emphasis on preventative health care. Implementation of the measures in this bill can potentially decrease the incidence of cardiovascular disease resulting in reduced illness, debilitation and death. Early detection of illness is often an important factor in successful treatment and has been effective in reducing long-term health care costs.

Previously, Congress in its wisdom, has acted to provide for other screening tests including bone mass measurement, and screenings for glaucoma and for colorectal, prostate and breast cancer. Now we must take another step in the right direction by extending Medicare coverage for cholesterol screening.

It is only right that the Congress do what it can to help implement the guidelines of the National Heart, Lung and Blood Institute, and it is only right that we provide these benefits for all Medicare recipients. I urge my Senate colleagues to join me in cosponsoring this piece of legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Cholesterol Screening Coverage Act of 2001".

SEC. 2. MEDICARE COVERAGE OF CHOLESTEROL AND BLOOD LIPID SCREENING.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraph (U);

(B) by adding "and" at the end of subparagraph (V); and

(C) by adding at the end the following new subparagraph:

"(W) cholesterol and other blood lipid screening tests (as defined in subsection (ww)(1));"; and

(2) by adding at the end the following new subsection:

"Cholesterol and Other Blood Lipid Screening Test

"(ww)(1) The term 'cholesterol and other blood lipid screening test' means diagnostic testing of cholesterol and other lipid levels of the blood for the purpose of early detection of abnormal cholesterol and other lipid levels.

"(2) The Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency and type of cholesterol and other blood lipid screening tests for individuals who do not otherwise qualify for coverage for cholesterol and other blood lipid testing based on established clinical diagnoses.".

(b) FREQUENCY.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (H);

(2) by striking the semicolon at the end of subparagraph (I) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(J) in the case of a cholesterol and other blood lipid screening test (as defined in section 1861(ww)(1)), which is performed more frequently than is covered under section 1861(ww)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2003.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1763. A bill to promote rural safety and improve rural law enforcement; to the Committee on Finance.

Mr. DASCHLE. Mr. President, in the weeks since September 11, we've heard a lot about homeland security. Right now, we're working to make our Nation's infrastructure more secure, our food and water supply safer, and to improve our government's ability to respond to chemical and biological weapons attacks.

To me, homeland security also means giving all of our Nation's law enforcement officers the tools and training they need to do their jobs. And that means recognizing that law enforcement in rural America has its own unique set of challenges: rural law enforcement officers patrol larger areas, and operate under tighter budgets with smaller staffs, than most of their urban and suburban counterparts.

In States like South Dakota, often, just a handful of people are responsible for patrolling an entire county. Law enforcement officers respond to a lot of calls alone, and often have to communicate with each other by cell phone. Backup can be several hours away. Yet we expect the same quality of service, and we demand lower crime rates.

I believe Washington can and must do a better job of helping rural law enforcement do their work. That is why I am proud to join my colleague and friend, Senator TIM JOHNSON, in introducing the Rural Safety Act of 2001.

While TIM and I are the ones introducing this bill, we want to thank all of the South Dakota sheriffs with whom we've spoken whose ideas and experiences are incorporated within it. For my part, I'd like to recognize: Sheriff Mike Milstead of Minnehaha County, Sheriff Mark Milbrandt of Brown County, Sheriff Leidholt of Hughes County, Chief Al Aden of Pierre, Chief Duane Heeney of Yankton, Chief Ken Schwab of my hometown, Aberdeen, Chief Doug Feltman of Mitchell; and Chief Craig Tieszen of Rapid City.

One theme I've heard repeated on visit after visit is this: Washington needs to do a better job working with State and local law enforcement agencies. To me, that means building on what we know works, and developing new initiatives that respond to the special law enforcement challenges of small towns and rural communities. To that end, this bill does six things: First, it builds on our success with the COPS program. COPS has enabled South Dakota communities to hire more than 300 law enforcement officers. Across the country, it's added more than 100,000 new officers to the "thin blue line." Under this proposal, rural communities that hire officers through the COPS program will be eligible for federal funding to keep those offices on for a fourth year.

Second, because rural law enforcement officers have to cover such large areas, rural law enforcement agencies arguably have a greater need for advanced communications equipment than many urban and suburban departments, but have fewer resources to purchase them. Recently, I received a letter from Sgt. Marty Goetsch in the Lawrence County Sheriff's Office in Deadwood, SD. He told me that his office, and its staff of 11, are "very much behind in the available technology." This bill provides funds to help rural communities obtain things like mobile data computers and dash-mounted video cameras. It will also provide additional funds for training to use new technologies.

Third, this bill will establish a Rural Policing Institute as a way to help rural law enforcement officers upgrade their skills and tactics.

Fourth, it will expand and improve the 9-1-1 emergency assistance systems in rural areas. Many of us take for granted that in an emergency, we can call 9-1-1, and help will be there. In rural and remote areas, the nearest help may be miles away. We need to make sure that people in rural areas can rely on a modern, integrated system of communication between law enforcement, and fire and other safety officials. The Rural Safety Act will provide the resources to finish the job and develop a seamless 9-1-1 system all across America.

Fifth, the bill will help communities create "restorative justice" for first-time, non-violent juvenile offenders. These programs offer victims the opportunity to confront youthful offenders and require that these offenders make meaningful restitution to their victims. In many cases, that will meet our societal goals more effectively and more efficiently that costly incarceration.

Sixth, it will enable us to stop the spread of "meth" now, before it becomes a crisis. A study released last year by the Center on Addiction and Substance Abuse at Columbia University shows that eighth graders living in rural communities are 104 percent more likely to have used amphetamines, including methamphetamine. We need to stop the use of all of these drugs, but in rural America, meth is particularly addictive, and devastatingly destructive. This proposal will increase prevention and treatment of meth use, and cleanup of meth labs that have been discovered and shut down.

Seventh and finally, our plan will offer gun owners tax credits to purchase gun safes. It will also provide law enforcement agencies with resources to buy and install gun safes or gun storage racks for officers' homes. I don't believe Washington should restrict the right of law-abiding citizens to own guns. But if gun owners want help in preventing accidental gun tragedies, I believe Washington can, and should, help.

When we talk about homeland security, I believe we need to think about the law enforcement needs of those who live in America's rural areas. That is what this bill does, and that is why I encourage all of my colleagues to support it.

By Mr. LIEBERMAN:

S. 1764. A bill to provide incentives to increase research by commercial, for-profit entities to develop vaccines, microbicides, diagnostic technologies, and other drugs to prevent and treat illnesses associated with a biological or chemical weapons attack; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, America has a major flaw in its defenses against bioterrorism. Recent hearings I chaired in the Government Affairs Committee on bioterrorism demonstrated that America has not made a national commitment to research and development of treatments and cures for those who might be exposed to or infected by a biological agent or chemical toxin. Correcting this critical gap is the purpose of legislation I am introducing today.

Obviously, our first priority must be to attempt to prevent the use of these agents and toxins by terrorists, quickly assess when an attack has occurred, take appropriate public health steps to contain the exposure, stop the spread of contagion, and then detoxify the site. These are all critical functions, but in the end we must recognize that some individuals may be exposed or infected. Then the critical issue is whether we can treat and cure them and prevent death and disability.

We need a diversified portfolio of medicines. In cases where we have ample advance warning of an attack and specific information about the agent or toxin, we may be able to vaccinate the vulnerable population in advance. In other cases, even if we have a vaccine, we might well prefer to use medicines that would quickly stop the progression of the disease or the toxic effects. We also need a powerful capacity quickly to develop new countermeasures where we face a new agent or toxin.

Unfortunately, we are woefully short of vaccines and medicines to treat individuals who are exposed or infected. We have antibiotics that seem to work for most of those infected in the current anthrax attack, but these have not prevented five deaths. We have no effective vaccines or medicines for most other biological agents and chemical toxins we might confront. In some cases we have vaccines to prevent, but no medicines to treat, an agent. We have limited capacity to speed the development of vaccines and medicines to prevent or treat novel agents and toxins not currently known to us.

We have provided, and should continue to provide, direct Federal funding for research and development of new medicines, however, this funding is unlikely to be sufficient. Even with ample Federal funding, many private companies will be reluctant to enter into agreements with government agencies to conduct this research. Other companies would be willing to conduct the research with their own capital and at their own risk but are not able to secure the funding from investors.

The legislation I introduce today would provide incentives for private biotechnology companies to form capital to develop countermeasures, medicines, to prevent, treat and cure victims of bioterror attacks. This will enable this industry to become a vital part of the national defense infrastructure and do so for business reasons that make sense for their investors on the bottom line.

Enactment of these incentives is necessary as most biotech companies have no approved products or revenue from product sales to fund research. They rely on investors and equity capital markets to fund the research. They must necessarily focus on research that will lead to product sales and revenue and, thus, to an end to their dependence on investor capital. There is no established or predictable market for countermeasures. Investors are justifiably reluctant to fund this research, which will present challenges similar in complexity to AIDS. Investors need assurances that research on countermeasures has the potential to provide a rate of return commensurate with the risk, complexity and cost of the research, a rate of return comparable to that which may arise from a treatment for cancer, MS, Cystic Fibrosis and other major diseases.

It is in our national interest to enlist these companies in the development of countermeasures as biotech companies tend to be innovative and nimble and intently focused on the intractable diseases for which no effective medical treatments are available.

The incentives I have proposed are innovative and some may be controversial. I invite everyone who has an interest and a stake in this research to enter into a dialogue about the issue and about the nature and terms of the appropriate incentives. I have attempted to anticipate the many complicated technical and policy issues that this legislation raises. The key focus of our debate should be how, not whether, we address this critical gap in our public health infrastructure and the role that the private sector should play. Millions of Americans will be at risk if we fail to enact legislation to meet this need.

My proposal is complimentary to legislation on bioterrorism preparedness sponsored by Senators FRIST and KENNEDY. Their bill, the Bioweapons Preparedness Act of 2001, S. 1715, focuses on many needed improvements in our public health infrastructure. It builds on their proposal in the 106th Congress, S. 2731, and H.R. 4961, sponsored by Congressman RICHARD BURR.

Among the provisions in these bills are initiatives on improving bioterrorism preparedness capacities, improving communication about bioterrorism, protection of children, protection of food safety, and global pathogen surveillance and response. The Senate Appropriations Committee reported legislation to appropriate the funds for the purposes authorized in the Frist-Kennedy proposal and that was incorporated in the stimulus package pending in the Senate before the Thanksgiving recess.

Title IV of their bill includes provisions to expand research on biological agents and toxins, as well as new treatments and vaccines for such agents and toxins. Since the effectiveness of vaccines, drugs, and therapeutics for many biological agents and toxins often may not ethically be tested in humans, the bill ensures that the Food and Drug Administration, FDA, will finalize by a date certain its rule regarding the approval of new countermeasures on the basis of animal data. Priority countermeasures will also be given enhanced consideration for expedited review by the FDA. They rely on the authority, through an existing Executive Order, to ensure indemnification of sponsors who supply vaccines to the Government. And the bill provides a limited antitrust exemption to allow potential sponsors to discuss and agree upon how to develop, manufacture, and produce new countermeasures, including vaccines, and drugs. Federal Trade Commission and the Department of Justice approval of such agreements is required to ensure such agreements are not anti-competitive.

My legislation builds on these provisions by providing incentives to enable the biotechnology industry acting on its own initiative to fund and conduct research on countermeasures. It includes tax, procurement, intellectual property and liability incentives. Accordingly, my proposal raises issues falling within the jurisdiction of the HELP, Finance, and Judiciary Committees.

The Frist-Kennedy bill and my bill are complimentary. We do need to conform the two bills to one another on some issues: the bills have different definitions of the term "countermeasure," my bill gives the Director of Homeland Defense authority over the countermeasure list whereas the Secretary of Health and Human Services would have authority under Frist/Kennedy, and my bill establishes a "purchase fund" and Frist-Kennedy is a "stockpile." The best, most comprehensive approach would be to meld the two bills together.

The bottom line is that we need both bills, one focusing on public health and one focusing on medical research. Without medical research, public health workers will not have the single most important tool to use in an attack, medicine to prevent death and disability and medicine that will help us avoid public panic.

We are fortunate that we have broad-spectrum antibiotics including Cipro to treat the type of anthrax to which so many have been exposed. This treatment seems to be effective before the anthrax symptoms become manifest, and effective to treat cutaneous anthrax, and we have been able to effectively treat some individuals who have inhalation anthrax. I am thankful that this drug exists to treat those who have been exposed, including my own Senate staff. Our offices are immediately above those of Senator DASCHLE.

We have seen how reassuring it is that we have an effective treatment for this biological agent. We see long lines of Congressional staffers and postal workers awaiting their Cipro. Think what it would be like if we could only say, "We have nothing to treat you and hope you don't contract the disease." Think of the public panic that we might see.

I am grateful that this product exists and proud of the fact that the Bayer Company is based in Connecticut. The last thing we should be doing is criticizing this company for their research success. The company has dispensed millions of dollars worth of Cipro free of charge. Criticizing it for the price that it charges tells other research companies that the more valuable their products are in protecting the public health, the more likely they are to be criticized and bullied.

It is fortuitous that Cipro seems to be effective against anthrax. The product was not developed with this use in mind. My point with this legislation is we cannot rely on good fortune and chance in the development of countermeasures. We need to make sure that these countermeasures will be developed. We need more companies like Bayer, we need them focused specifically on developing medicines to deal with the new bioterror threat, and we need to tell them that there are good business reasons for this focus.

We also are fortunate to have an FDA-licensed vaccine, made by BioPort Corporation, that is recommended by our country's medical experts at the DOD and CDC for pre-anthrax exposure vaccination of individuals in the military and some individuals in certain laboratory and other occupational settings where there is a high risk of exposure to anthrax. This vaccine is also recommended for use with Cipro after exposure to anthrax to give optimal and long-lasting protection. That vaccine is not now available for use. We must do everything necessary to make this and other vaccines available in adequate quantities to protect against future attacks. But the point of this legislation is that we need many more Cipro-like and antrax vaccine-like products. That we have these products is the good news; that we have so few others is the problem.

One unfortunate truth in this debate is that we cannot rely upon international legal norms and treaties alone to protect our citizens from the threat of biological or chemical attack.

The United States ratified the Biological and Toxin Weapons Convention, BWC, on January 22, 1975. That Convention now counts 144 nations as parties. Twenty-two years later, on April 24, 1997, the United States Senate joined 74 other countries when it ratified the Chemical Weapons Convention, CWC. While these Conventions serve important purposes, they do not in any way guarantee our safety in a world with rogue states and terrorist organizations.

The effectiveness of both Conventions is constrained by the fact that many countries have failed to sign on to either of them. Furthermore, two signatories of the BWC, Iran and Iraq, are among the seven governments that the Secretary of State has designated as state sponsors of international terrorism, and we know for a fact that they have both pursued clandestine biological weapons programs. The BWC, unlike the CWC, has no teeth, it does not include any provisions for verification or enforcement. Since we clearly cannot assume that any country that signs on to the Convention does so in good faith, the Convention's protective value is limited.

On November 1 of this year, the President announced his intent to strengthen the BWC as part of his comprehensive strategy for combating terrorism. A BWC review conference, held every 5 years to consider ways of improving the Convention's effectiveness, will convene in Geneva beginning November 19. In anticipation of that meeting, the President has urged that all parties to the Convention enact strict national criminal legislation to crack down on prohibited biological weapons activities, and he has called for an effective United Nations procedure for investigating suspicious outbreaks of disease or allegations of biological weapons use.

These steps are welcomed, but they are small. Even sweeping reforms, like creating a more stringent verification and enforcement regime, would not guarantee our safety. The robust verification and enforcement mechanisms in the CWC, for instance, have proven to be imperfect, and scientists agree that it is much easier to conceal the production of biological agents than chemical weapons.

The inescapable fact, therefore, is that we cannot count on international regimes to prevent those who wish us ill from acquiring biological and chemical weapons. We must be prepared for the reality that these weapons could fall into the hands of terrorists, and could be used against Americans on American soil. And we must be prepared to treat the victims of such an attack if it were ever to occur.

On November 26, the Centers for Disease Control issued its interim working draft plan for responding to an outbreak of smallpox. The plan does not call for mass vaccination in advance of a smallpox outbreak because the risk of side effects from the vaccine outweighs the risks of someone actually being exposed to the smallpox virus. At the heart of the plan is a strategy sometimes called "search and containment."

This strategy involves identifying infected individual or individuals with confirmed smallpox, identifying and locating those people who come in contact with that person, and vaccinating those people in outward rings of contact. The goal is to produce a buffer of immune individuals and was shown to prevent smallpox and to ultimately eradicate the outbreak. Priorities would be set on who is vaccinated, perhaps focusing on the outward rings before those at the center of the outbreak. The plan assumes that the smallpox vaccination is effective for persons who have been exposed to the disease as long as the disease has not taken hold.

In practice it may be necessary to set a wide perimeter for these areas because smallpox is highly contagious before it might be diagnosed. There may be many areas subject to search and containment because people in our society travel frequently and widely. Terrorists might trigger attacks in a wide range of locations to multiply the confusion and panic. The most common form of smallpox has a 30-percent mortality rate, but terrorists might be able to obtain supplies of "flat-type" smallpox with a mortality rate of 96 percent and hemorrhagic-type smallpox, which is almost always fatal. For these reasons, the CDC plan accepts the possibility that whole cities or other geographic areas could be cordoned off, letting no one in or out, a quarantine enforced by police or troops.

The plan focuses on enforcement authority through police or National Guard, isolation and quarantine, mandatory medical examinations, and rationing of medicines. It includes a discussion of "population-wide quarantine measures which restrict activities or limit movement of individuals [including] suspension of large public gatherings, closing of public places, restriction on travel [air, rail, water, motor vehicle, and pedestrian], and/or 'cordon sanitaire' [literally a 'sanitary cord' or line around a quarantined area guarded to prevent spread of disease by restricting passage into or out of the area]." The CDC recommends that States update their laws to provide authority for "enforcing quarantine measures" and it recommends that States in "pre-event planning" identify "personnel who can enforce these isolation and quarantine measures, if necessary." Guide C, Isolation and Quarantine, page 17.

On October 23, 2001, the CDC published a "Model State Emergency Health Powers Act." It was prepared by the Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities, in conjunction with the National Governors Association, National Conference of State Legislatures, Association of State and Territorial Health Officials, National Association of City and County Health Officers, and National Association of Attorneys General. A copy of the model law is printed at www.publichealthlaw.net. The law would provide powers to enforce the "compulsory physical separation, including the restriction of movement or confinement, of individuals and/or groups believed to have been exposed to or known to have been infected with a contagious disease from individuals who are believed not to have been exposed or infected, in order to prevent or limit the transmission of the disease to others." Federal law on this subject is very strong and the Administration can always rely on the President's Constitution authority as Commander in Chief.

Let us try to imagine, however, what it would be like if a quarantine is imposed. Let us assume that there is not enough smallpox vaccine available for use in a large outbreak, that the priority is to vaccinate those in the outward rings of the containment area first, that the available vaccines cannot be quickly deployed inside the quarantined area, that it is not possible to quickly trace and identify all of the individuals who might have been exposed, and/or that public health workers themselves might be infected. We know that there is no medicine to treat those who do become infected. We know the mortality rates. It is not hard to imagine how much force might be necessary to enforce the quarantine. It would be quite unacceptable to permit individuals to leave the quarantined area no matter how much panic had taken hold.

Think about how different this scenario would be if we had medicines that could effectively treat and cure those who become infected by smallpox. We still might implement the CDC plan but a major element of the strategy would be to persuade people to visit their local clinic or hospital to be dispensed their supply of medicine. We could trust that there would be a very high degree of voluntary compliance. This would give us more time, give us options if the containment is not successful, give us options to treat those in the containment area who are infected, and enable us to quell the public panic.

Because we have no medicine to treat those infected by smallpox, we have to be prepared to implement a plan like the one CDC has proposed. Theirs is the only option because our options are so limited. We need to expand our range of options.

We should not be lulled by the apparent successes with Cipro and the strains of anthrax we have seen in the recent attacks. We have not been able to prevent death in some of the patients with late-stage inhalation anthrax and Robert Stevens, Thomas Morris Jr., Joseph Curseen, Kathy Nguyen, and Ottilie Lundgren have died. This legislation is named in honor of them. What we needed for them, and did not have, is a drug or vaccine that would treat late stage inhalation anthrax.

As I have said, we need an effective treatment for those who become infected with smallpox. We have a vaccine that effectively prevents smallpox infection, and administering this vaccine within four days of first exposure has been shown to offer some protections against acquiring infection and significant protection against a fatal outcome. The problem is that administering the vaccine in this time frame to all those who might have been exposed may be exceedingly difficult. And once infection has occurred, we have no effective treatment options.

In the last century 500 million people have died of smallpox, more than have from any other infectious diseases, as compared to 320 million deaths in all the wars of the twentieth century. Smallpox was one of the diseases that nearly wiped out the entire Native American population in this hemisphere. The last naturally acquired case of smallpox occurred in Somalia in 1977 and the last case from laboratory exposure was in 1978.

Smallpox is a nasty pathogen, carried in microscopic airborne droplets inhaled by its victims. The first signs are headache, fever, nausea and backache, sometimes convulsions and delirium. Soon, the skin turns scarlet. When the fever lets up, the telltale rash appears, flat red spots that turn into pimples, then big yellow pustules, then scabs. Smallpox also affects the throat and eyes, and inflames the heart, lungs, liver, intestines and other internal organs. Death often came from internal bleeding, or from the organs simply being overwhelmed by the virus. Survivors were left covered with pockmarks, if they were lucky. The unlucky ones were left blind, their eyes permanently clouded over. Nearly one in four victims died. The infection rate is estimated to be 25–40 percent for those who are unvaccinated and a single case can cause 20 or more additional infections.

During the 16th Century, 3.5 million Aztecs, more than half the population, died of smallpox during a 2-year span after the Spanish army brought the disease to Mexico. Two centuries later, the virus ravaged George Washington's troops at Valley Forge. And it cut a deadly path through the Crow, Dakota, Sioux, Blackfoot, Apache, Comanche and other American Indian tribes, helping to clear the way for white settlers to lay claim to the western plains. The epidemics began to subside with one of medicine's most famous discoveries: the finding by British physician Edward Jenner in 1796 that English milkmaids who were exposed to cowpox, a mild second cousin to smallpox that afflicts cattle, seemed to be protected against the more deadly disease. Jenner's work led to the development of the first vaccine in Western medicine. While later vaccines used either a killed or inactivated form of the virus they were intended to combat, the smallpox vaccine worked in a different way. It relied on a separate, albeit related virus: first cowpox and the vaccinia, a virus of mysterious origins that is believed to be a cowpox derivative. The last American was vaccinated back in the 1970s and half of the U.S. population has never been vaccinated. It is not known how long these vaccines provide protection, but it is estimated that the term is 3–5 years.

In an elaborate smallpox biowarfare scenario enacted in February 1999 by the Johns Hopkins Center for Civilian Biodefense Studies, it was projected that within 2 months 15,000 people had died, epidemics were out of control in fourteen countries, all supplies of smallpox vaccine were depleted, the global economy was on the verge of collapse, and military control and quarantines were in place. Within twelve months it was projected that eighty million people worldwide had died.

A single case of smallpox today would become a global public health threat and it has been estimated that a single smallpox bioterror attack on a single American city would necessitate the vaccination of 30–40 million people.

The U.S. Government is now in the process of purchasing substantial stocks of the smallpox vaccine. We then face a very difficult decision on deploying the vaccine. We know that some individuals will have an adverse reaction to this vaccine. No one in the United States has been vaccinated against smallpox in 25 years. Those that were vaccinated back then may not be protected against the disease today. If we had an effective treatment for those who might become infected by smallpox, we would face much less pressure regarding deploying the vaccine. If we face a smallpox epidemic from a bioterrorism attack, we will have no Cipro to reassure the public and we will be facing a highly contagious disease and epidemic. To be blunt, it will make the current anthrax attack look benign by comparison.

Smallpox is not the only threat. We have seen other epidemics in this century. The 1918 influenza epidemic provides a sobering admonition about the need for research to develop medicines.

In 2 years, a fifth of the world's population was infected. In the United States the 1918 epidemic killed more than 650,000 people in a short period of time and left 20 million seriously ill, one-fourth of the entire population. The average lifespan in the U.S. was depressed by ten years. In just 1 year, the epidemic killed 21 million human beings worldwide—well over twice the number of combat deaths in the whole of World War I. The flu was exceptionally virulent to begin with and it then underwent several sudden and dramatic mutations in its structure. Such mutations can turn flu into a killer because its victims' immune systems have no antibodies to fight off the altered virus. Fatal pneumonia can rapidly develop.

Another deadly toxin, ricin toxin, was of interest to the al-Qaeda terrorist network. At an al-Qaeda safehouse in Saraq Panza, Kabul reporters found instructions for making ricin. The instructions make chilling reading. "A certain amount, equal to a strong dose, will be able to kill an adult, and a dose equal to seven seeds will kill a child," one page reads. Another page says: "Gloves and face mask are essential for the preparation of ricin. Period of death varies from 3–5 days minimum, 4–14 days maximum." The instructions listed the symptoms of ricin as vomiting, stomach cramps, extreme thirst, bloody diarrhoea, throat irritation, respiratory collapse and death.

No specific treatment or vaccine for ricin toxin exists. Ricin is produced easily and inexpensively, highly toxic, and stable in aerosolized form. A large amount of ricin is necessary to infect whole populations, the amount of ricin necessary to cover a 100-km^2 area and cause 50 percent lethality, assuming aerosol toxicity of 3 mcg/kg and optimum dispersal conditions, is approximately 4 metric tons, whereas only 1 kg of Bacillus anthracis is required. But it can be used to terrorize a large population with great effect because it is so lethal.

Use of ricin as a terror weapon is not theoretical. In 1991 in Minnesota, 4 members of the Patriots Council, an extremist group that held antigovernment and antitax ideals and advocated the overthrow of the U.S. Government, were arrested for plotting to kill a U.S. marshal with ricin. The ricin was produced in a home laboratory. They planned to mix the ricin with the solvent dimethyl sulfoxide, DMSO, and then smear it on the door handles of the marshal's vehicle. The plan was discovered, and the 4 men were convicted. In 1995, a man entered Canada from Alaska on his way to North Carolina. Canadian custom officials stopped the man and found him in possession of several guns, $98,000, and a container of white powder, which was identified as ricin. In 1997, a man shot his stepson in the face. Investigators discovered a makeshift laboratory in his basement and found agents such as ricin and nicotine sulfate. And, ricin was used by the Bulgarian secret police when they killed Georgi Markov by stabbing him with a poison umbrella as he crossed Waterloo Bridge in 1978.

Going beyond smallpox, influenza, and ricin, we do not have an effective vaccine or treatment ,for dozens of other deadly and disabling agents and toxins. Here is a partial list of some of the other biological agents and chemical toxins for which we have no effective treatments: clostridium botulinum toxin, botulism; francisella tularensis, tularaemia; Ebola hemorrhagic fever, Marbug hemorrhagic fever, Lassa fever, Julin, Argentine hemorrhagic fever; Coxiella burnetti, Q fever; brucella species, brucellosis; burkholderia mallei, glanders; Venezuelan encephalomyelitis, eastern and western equine encephalomyelitis, epsilon toxin of clostridium perfringens, staphylococcus entretoxin B, salmonella species, shigella dysenteriae, escherichia coli O157:H7, vibrio cholerae, cryptosporidium parvum, nipah virus, hantaviruses, tickborne hemorrhagic fever viruses, tickborne encephalitis virus, yellow fever, nerve agents, tabun, sarin, soman, GF, and VX; blood agents, hydrogen cyanide and cyanogens chloride; blister agents, lewisite, nitrogenadn sulfur mustards, and phosgene oxime; heavy metals, arsenic, lead, and mercury; and volatile toxins, benzene, chloroform, trihalomethanes; pulmonary agents, Phosgene, chlorine, vinly chloride; and incapacitating agents, BZ.

The naturally occurring forms of these agents and toxins are enough to cause concern, but we also know that during the 1980s and 1990s the Soviet Union conducted bioweapons research at 47 laboratories and testing sites, employed nearly 50,000 scientists in the work, and that they developed genetically modified versions of some of these agents and toxins. The goal was to develop an agent or toxin that was particularly virulent or not vulnerable to available antibiotics.

The United States has publicly stated that five countries are developing biological weapons in violation of the Biological Weapons convention, North Korea, Iraq, Iran, Syria, and Libya, and stated that additional countries not yet named, possibly including Russia, China, Israel, Sudan and Egypt, are also doing so as well.

What is so insidious about biological weapons is that in many cases the symptoms resulting from a biological weapons attack would likely take time to develop, so an act of bioterrorism may go undetected for days or weeks. Affected individuals would seek medical attention not from special emergency response teams but in a variety of civilian settings at scattered locations. This means we will need medicines that can treat a late stage of the disease, long after the infection has taken hold.

We must recognize that the distinctive characteristic of biological weapons is that they are living micro-organisms and are thus the only weapons that can continue to proliferate without further assistance once released in a suitable environment.

The lethality of these agents and toxins, and the panic they can cause, is quite frightening. The capacity for terror is nearly beyond comprehension. I do not believe it is necessary to describe the facts here. My point is simple: we need more than military intelligence, surveillance, and public health capacity. We also need effective medicines. We also need more powerful research tools that will enable us to quickly develop treatments for agents and toxins not on this or any other list.

We need to do whatever it takes to be able to reassure the American people that hospitals and doctors have powerful medicines to treat them if they are exposed to biological agents or toxins, that we can contain an outbreak of an infectious agent, and that there is little to fear. To achieve this objective, we need to rely on the entrepreneurship of the biotechnology industry.

There is already some direct funding of research by the Defense Advanced Research Projects Agency, DARPA, the National Institutes of Health, NIH, and the Centers for Disease Control, CDC. This research should go forward.

DARPA, for instance, has been described as the Pentagon's "venture capital fund," its mission to provide seed money for novel research projects that offer the potential for revolutionary findings. Last year, DARPA's Unconventional Pathogen Countermeasures program awarded contracts totalling $50 million to universities, foundations, pharmaceutical and biotechnology companies seeking new ways to fight biological agents and toxins.

The Unconventional Pathogen Countermeasures program now funds 43 separate research efforts on antibacterials, anti-toxins, anti-virals, decontamination, external protection from pathogens, immunization and multi-purpose vaccines and treatments. A common thread among many of these undertakings is the goal of developing drugs that provide broad-spectrum protection against several different pathogens. This year, with a budget of $63 million, the program has received over 100 research proposals in the last two months alone.

Some of this DARPA research is directed at developing revolutionary, broad-spectrum, medical countermeasures against significantly pathogenic microorganisms and/or their pathogenic products. The goal is to develop countermeasures that are versatile enough to eliminate biological threats, whether from natural sources or modified through bioengineering or other manipulation. The countermeasures would need the potential to provide protection both within the body and at the most common portals of entry, e.g., inhalation, ingestion, transcutaneous. The strategies might include defeating the pathogen's ability to enter the body, traverse the bloodstream or lymphatics, and enter target tissues; identifying novel pathogen vulnerabilities based on fundamental, critical molecular mechanisms of survival or pathogenesis, e.g., Type III secretion, cellular energetics, virulence modulation; constructing unique, robust vehicles for the delivery of countermeasures into or within the body; and modulating the advantageous and/or deleterious aspects of the immune response to significantly pathogenic microorganisms and/or the pathogenic products in the body

While DAPRA's work is specifically aimed at protecting our military personnel, the National Institutes of Health also spent $49.7 million in the last fiscal year to find new therapies for those who contract smallpox and on systems for detecting the disease. In recent years, NIH's research programs have sought to create more rapid and accurate diagnostics, develop vaccines for those at risk of exposure to biological agents, and improve treatment for those infected. Moreover, in the last fiscal year, the Centers for Disease Control has allocated $18 million to continue research on an anthrax vaccine and $22.4 million on smallpox research.

Some companies are willing to enter into a research relationships funded by DARPA and other agencies to develop countermeasures. Relationships between the Government and private industry can be very productive, but they can also involve complex issues reflecting the different cultures of government and industry. Some companies, including some of the most entrepreneurial, might prefer to take their own initiative to conduct this research. Relationships with government entities involve risks, issues, and bureaucracy that are not present in relationships among biotechnology companies and between them and non-governmental partners.

The Defense Departments Joint Vaccine Acquisition Program, JVAP, illustrates the problems with a government led and managed program. A report in December 2000 by a panel of independent experts found that the current program "is insufficient and will fail" and recommended it adopt an approach more on the model of a private sector effort. It needs to adopt "industry practices," "capture industry interest," "implement an organizational alignment that mirrors the vaccine industry's short chain of command and decision making," "adopt an industry-based management philosophy," and "develop a sound investment strategy." It bemoaned the "extremely limited" input from industry in the JVAP program.

It is clear from this experience that we should not rely exclusively on government funding of countermeasures research. We should take advantage of the entrepreneurial fervor, and the independence, of our biotechnology industry entrepreneurs. It is not likely that the Government will be willing or able to provide sufficient funding for the development of the countermeasures we need. Some of the most innovative approaches to vaccines and medicines might not be funded with the limited funds available to the Government. We need to provide incentives that will encourage every biotech company to review its research priorities and technology portfolio for its relevance and potential for countermeasure research. Some of this research is early stage, basic research that is being developed and considered only for its value in treating an entirely different disease. We need to kindle the imagination of biotechnology companies and their tens of thousands of scientists regarding countermeasures research.

My proposal would supplement direct Federal government funding of research with incentives that make it possible for private companies to form the capital to conduct this research on their own initiative, utilizing their own capital, and at their own risk, all for good business reasons going to their bottom line.

The U.S. biotechnology industry, approximately 1,300 companies, spent $13.8 billion on research last year. Only 350 of these companies have managed to go public. The industry employs 124,000, Ernest & Young data, people. The top five companies spent an average of $89,000 per employee on research, making it the most research-intensive industry in the world. The industry has 350 products in human clinical trials targeting more than 200 diseases. Losses for the industry were $5.8 billion in 2001, $5.6 billion in 2000, $4.4 billion in 1999, $4.1 billion in 1998, $4.5 billion in 1997, $4.6 billion in 1996, and similar amounts before that. In 2000 fully 38 percent of the public biotech companies had less than 2 years of funding for their research. Only one-quarter of the biotech companies in the United States are publicly traded and they tend to be the best funded.

There is a broad range of research that could be undertaken under this legislation. Vaccines could be developed to prevent infection or treat an infection from a bioterror attack. Broad-spectrum antibiotics are needed. Also, promising research has been undertaken on antitoxins that could neutralize the toxins that are released, for example, by anthrax. With anthrax it is the toxins, not the bacteria itself, that cause death. An antitoxin could act like a decoy, attaching itself to sites on cells where active anthrax toxin binds and then combining with normal active forms of the toxin and inactivating them. An antitoxin could block the production of the toxin.

We can rely on the innovativeness of the biotech industry, working in collaboration with academic medical centers, to explore a broad range of innovative approaches. This mobilizes the entire biotechnology industry as a vital component of our national defense against bioterror weapons.

The legislation takes a comprehensive approach to the challenges the biotechnology industry faces in forming capital to conduct research on countermeasures. It includes capital formation tax incentives, guaranteed purchase funds, patent protections, and liability protections. I believe we will have to include each of these types of incentives to ensure that we mobilize the biotechnology industry for this urgent national defense research.

I am aware that all three of the tax incentives I have proposed, and both of the two patent incentives I have proposed, may be controversial. In my view, we can debate tax or patent policy as long as you want, but let's not lose track of the issue here, development of countermeasures to treat people infected or exposed to lethal and disabling bioterror weapons.

We know that incentives can spur research. In 1983 we enacted the Orphan Drug Act to provide incentives for companies to develop treatments for rare diseases with small potential markets deemed to be unprofitable by the industry. In the decade before this legislation was enacted, fewer than 10 drugs for orphan diseases were developed and these were mostly chance discoveries. Since the Act became law, 218 orphan drugs have been approved and 800 more are in the pipeline. The Act provides 7 years of market exclusivity and a tax credit covering some research costs. The effectiveness of the incentives we have enacted for orphan disease research show us how much we can accomplish when we set a national priority for certain types of research.

The incentives I have proposed differ from those set by the Orphan Drug Act. We need to maintain the effectiveness of the Orphan Drug Act and not undermine it by adding many other disease research targets. In addition, the tax credits for research for orphan drug research have no value for most biotechnology companies because few of them have tax liability with respect to which to claim the credit. This explains why I have not proposed to utilize tax credits to spur countermeasures research. It is also clear that the market for countermeasures is even more speculative than the market for orphan drugs and we need to enact a broader and deeper package of incentives.

The Government determines which research is covered by the legislation. The legislation confers on the Director of the Office of Homeland Security, in consultation with the Secretary of Defense and Secretary of Health and Human Services, authority to set the list of agents and toxins with respect to which the legislation applies. The Director determines which agents and toxins present a threat and on whether the countermeasures are more likely to be developed with the application of the incentives of the legislation. The Director may determine that an agent or toxin does not present a threat or that countermeasures are not more likely to be developed with the incentives. The legislation includes an illustrative list of agents and toxins that might be selected by the Director. The decisions of the Director are final and cannot be subject to judicial review.

Once the list of agents and toxins is set, companies may register with the Food and Drug Administration their intent to undertake research and development of a countermeasure to prevent or treat the agent or toxin. This registration is required only for companies that seek to be eligible for the tax, purchase, patent, and liability provisions of the legislation. The registration does not apply to non-profit entities or to companies that do not seek such eligibility. The registration requirement gives the FDA vital information about the research effort and the personnel involved with the research.

The Director of the Office of Homeland Security then may certify that the company is eligible for the tax, purchase, patent, and liability incentives in the legislation. Eligibility for the purchase fund, patent and liability incentives is contingent on successful development of a countermeasure according to the standards set in the legislation.

The legislation contemplates that a company might well register and seek certification with respect to more than one research project and become eligible for the tax, purchase, patent, and liability incentives for each. There is no policy rationale for limiting a company to one registration and one certification.

This process is similar to the current registration process for research on orphan, rare, diseases. In that case, companies that are certified by the FDA become eligible for both tax and market exclusivity incentives. This process gives the Government complete control on the number of registrations and certifications. This gives the Government control over the cost and impact of the legislation on private sector research.

The legislation includes three tax incentives to enable biotechnology companies to form capital to fund research and development of countermeasures. Companies must irrevocably elect only one of the incentives with regard to the research. These tax incentives are available only to biotechnology companies with less than $750,000,000 in paid-in capital.

The paid-in capital of a corporation is quite distinct from the market capitalization of the firm. The paid-in capital is the aggregate amount paid by investors into the corporation when this stock was issued, the price at issue multiplied by the number of shares sold. The market capitalization is the value of this stock in the stock market as it is traded among investors. I have focused on the paid-in capital as this is the amount of capital actually available to the corporation to fund its research.

The legislation includes three different tax incentives to give companies flexibility in forming capital to fund the research. Each of the options comes with advantages and limitations that may make it appropriate or inappropriate for a given company or research project. We do not now know fully how investors and capital markets will respond to the different options, but we assume that companies will consult with the investor community about which option will work best for a given research project. Capital markets are diverse and investors have different needs and expectations. Over time these markets and investor expectations evolve. If companies register for more than one research project, they may well utilize different tax incentives for the different projects.

Companies are permitted to undertake a series of discrete and separate research projects and make this election with respect to each project. They may only utilize one of the options with respect to each of these research projects.

The company is eligible to establish an R&D Limited Partnership to conduct the research. The partnership passes through all business deductions and credits to the partners. For example, under this arrangement, the research and development tax credits and depreciation deductions for the company may be passed by the corporation through to its partners to be used to offset their individual tax liability. These deductions and credits are then lost to the corporation.

The company is eligible to issue a special class of stock for the entity to conduct the research. The investors would be entitled to a zero capital gains tax rate on any gains realized on the stock held for at least 3 years. This is a modification of the current Section 1202 where only 50 percent of the gains are not taxed. This provision is adapted from legislation I have introduced, S. 1134, and introduced in the House by Representatives DUNN and MATSUI, H.R. 2383. A similar bill has been introduced by Senator COLLINS, S. 455.

The company is eligible to receive refunds for Net Operating Losses, NOLs, to fund the research. Under current law, net operating losses can only be used to offset a company's tax liability. If a company has no profits and therefore no tax liability, it cannot use its net operating losses. It can carry them forward, but the losses have no current value. This option would allow the company to receive a refund of its NOLs at a rate of 75 percent of their value. Once the company becomes profitable, and incurs tax liability, it must repay all of the refunds it has received. The provision in my legislation is adapted from bills introduced by Senator TORRICELLI, S. 1049, and Congressman ROBERT MATSUI, H.R. 2153.

A company that elects to utilize one of these incentives is not eligible to receive benefits of the Orphan Drug Tax Credit. Companies that can utilize tax credits, companies with taxable income and tax liability, might find the Orphan Credit more valuable. The legislation includes an amendment to the Orphan Credit to correct a defect in the current credit. The amendment has been introduced in the Senate as S. 1341 by Senators HATCH, KENNEDY and JEFFORDS. The amendment simply states that the Credit is available starting the day an application for orphan drug status is filed, not the date the FDA finally acts on it. The amendment was one of many initiatives championed by Lisa J. Raines, who died on September 11 in the plane that hit the Pentagon, and the amendment is named in her honor. As we go forward in the legislative process, I hope we will have an opportunity to speak in more detail about the service of Ms. Raines on behalf of medical research, particularly on rare diseases.

My legislation does not include an enhanced tax credit for this research. Very few biotechnology companies can utilize a tax credit as they have no taxable revenue and tax liability with respect to which to claim a credit. Instead, they can carry the credit forward and utilize it when they do have tax liability. But that may be many years from now. That is why I have focused on other incentives to assist the biotechnology industry to form capital to fund this countermeasures research.

The guaranteed purchase fund, and the patent bonus and liability provisions described below provide an additional incentive for investors to fund the research. Without capital from investors these biotechnology companies do not have the capacity, irrespective of their interest, to conduct the research.

The market for countermeasures is speculative and small. This means that if a company successfully develops a countermeasure, it may not receive sufficient revenue on sales to justify the risk and expense of the research. This is why the legislation establishes a countermeasures purchase fund that will define the market for the products with some specificity before the research begins.

The fund managers will set standards for which countermeasures it will purchase and define the financial terms of the purchase commitment. This will enable companies to evaluate the market potential of its research before it launches into the project. The specifications will need to be set with sufficient specificity so that the company, and its investors, can evaluate the market and with enough flexibility so that it does not inhibit the innovativeness of the researchers. This approach is akin to setting a performance standard for a new military aircraft.

The legislation provides that the purchase fund is not obligated to purchase more than one product per class. This seeks to avoid a situation where the Government must purchase more than one product when it only intends to use one. But it might make more sense, as an incentive, for the Government to commit to purchasing more than one product so that many more than one company conducts the research. A winner-take-all system may well intimidate some companies and we may end up without a countermeasure to be purchased. It is also possible that we will find that we need more than one countermeasure because different products are useful for different patients. We may also find that the first product developed is not the most effective. Given the urgency of the research, we would like to have the problem of seeing more than one effective countermeasure developed. How we reconcile these competing considerations is a key issue we need to resolve.

My legislation provides that the countermeasure must be approved by the FDA. The standards that the FDA should apply in reviewing these types of products is an issue have been discussed in some detail and we need to fashion the most effective provision on this subject. We need to recognize that the requirement for FDA approval might, in some cases, not be needed, appropriate or possible.

The purchase commitment for countermeasures is available to any company irrespective of its paid-in capital.

Intellectual property protection of research is essential to biotechnology companies for one simple reason: they need to know that if they successfully develop a medical product another company cannot expropriate it. It's a simple matter of incentives.

The patent system has its basis in the U.S. Constitution where the Federal Government is given the mandate to "promote the Progress of Science and the Useful Arts by securing for a limited time to Authors and Inventors the exclusive right to their respective Writings and Discoveries." In exchange for full disclosure of the terms of their inventions, inventors are granted the right to exclude others from making, using, or selling their inventions for a limited period of time. This quid pro quo provides investors with the incentive to invent. In the absence of the patent law, discoverable inventions would be freely available to anyone who wanted to use them and inventors would not be able to capture the value of their inventions or secure a return on their investments.

The patent system strikes a balance. Companies receive limited protection of their inventions if they are willing to publish the terms of their invention for all to see. At the end of the term of the patent, anyone can practice the invention without any threat of an infringement action. During the term of the patent, competitors can learn from the published description of the invention and may well find a new and distinct patentable invention.

The legislation provides two types of intellectual property protection. One simply provides that the term of the patent on the countermeasure will be the term of the patent granted by the Patent and Trademark Office without any erosion due to delays in approval of the product by the Food and Drug Administration. The second provides that a company that successfully develops a countermeasure will receive a bonus of 2 years on the term of any patent held by that company. Companies must elect one of these two protections and only small biotechnology companies may elect the second protection. Large, profitable pharmaceutical companies may elect only the first of the two options.

The first protection against erosion of the term of the patent is an issue that is partially addressed in current law, the Hatch-Waxman Patent Term Restoration Act. That act provides partial protection against erosion of the term, length of a patent when there are delays at the FDA in approving a product. The erosion occurs when the PTO issues a patent before the product is approved by the FDA. In these cases, the term of the patent is running but the company cannot market the product. The Hatch-Waxman Act provides some protections against erosion of the term of the patent, but the protections are incomplete. As a result, many companies end up with a patent with a reduced term, sometimes substantially reduced.

The issue of patent term erosion has become more serious due to changes at the PTO in the patent system. The term of a patent used to be fixed at 17 years from the date the patent was granted by the PTO. It made no difference how long it took for the PTO to process the patent application and sometimes the processing took years, even decades. Under this system, there were cases where the patent would issue before final action at the FDA, but there were other cases where the FDA acted to approve a product before the patent was issued. Erosion was an issue, but it did not occur in many cases.

Since 1995 the term of a patent has been set at 20 years from the date of application for the patent. This means that the processing time by the PTO of the application all came while the term of the patent is running. This gives companies a profound incentive to rush the patent through the PTO. Under the old system, companies had the opposite incentive. With patents being issued earlier by the PTO, the issue of erosion of patent term due to delays at the FDA is becoming more serious and more common.

The provision in my legislation simply states that in the case of bioterrorism countermeasures, no erosion in the term of the patent will occur. The term of the patent at the date of FDA approval will be the same as the term of the patent when it was issued by the PTO. There is no extension of the patent, simply protections against erosion. Under the new 20-year term, patents might be more or less than 17 years depending on the processing time at the PTO, and all this legislation says is that whatever term is set by the PTO will govern irrespective of the delays at the FDA. This option is available to any company that successfully develops a countermeasure eligible to be purchased by the fund.

The second option, the bonus patent term, is only available to small biotechnology companies. It provides that a company that successfully develops a countermeasure is entitled to a 2-year extension of any patent in its portfolio. This does not apply to any patent of another company bought or transferred in to the countermeasure research company.

I am well aware that this bonus patent term provision will be controversial with some. A company would tend to utilize this option if it owned the patent on a product that still had, or might have, market value at the end of the term of the patent. Because this option is only available to small biotechnology companies, most of whom have no product on the market, in most cases they would be speculating about the value of a product at the end of its patent. The company might apply this provision to a patent that otherwise would be eroded due to FDA delays or it might apply it to a patent that was not eroded. The result might be a patent term that is no longer than the patent term issued by the PTO. It all depends on which companies elect this option and which patent they select. In some cases, the effect of this provision might be to delay the entry onto the market of lower priced generics. This would tend to shift some of the cost of the incentive to develop a countermeasure to insurance companies and patients with an unrelated disease.

My rationale for including the patent bonus in the legislation is simple: I want this legislation to say emphatically that we mean business, we are serious, and we want biotechnology companies to reconfigure their research portfolios to focus in part on development of countermeasures. The other provisions in the legislation are powerful, but they may not be sufficient.

This proposal protects companies willing to take the risks of producing anti-terrorism products for the American public from potential losses incurred from lawsuits alleging adverse reactions to these products. It also preserves the right for plaintiffs to seek recourse for alleged adverse reactions in Federal District Court, with procedural and monetary limitations.

Under the plan, the Secretary of HHS is authorized, and in the case of contractors with HHS, is required, to indemnify and defend persons engaged in research, development and other activities related to biological defense products through execution of "indemnification and defense agreements." An exclusive means of resolving civil cases that fall within the scope of the indemnification and defense agreements is provided with litigation rights for injured parties. Non-economic damages are limited to $250,000 per plaintiff and no punitive or exemplary damages may be awarded.

Some have tried to apply the existing Vaccine Injury Compensation Program, VICP, to this national effort. That is inappropriate because that program will be extremely difficult to use, both administratively and scientifically. For example, it would take several years to develop the appropriate "table" that identifies a compensable injury. Companies will be liable during this process. Note that when VICP was created, there had been studies of what adverse reactions to mandated childhood vaccines had occurred and the table was based largely on this experience. Even so, it has taken years of effort, ultimately resulting in wholesale revisions to the table by regulation, to get the current table in place. For anti-bioterrorism products currently being developed, it will simply be impossible to construct a meaningful Vaccine Injury Table, there will be no experience with the product.

The Frist-Kennedy bill relies on the President's Executive Order regarding liability protections, so there is a basis for an agreement regarding this issue as applied to bioterrorism countermeasures. The provisions that I have proposed are superior to those in the Executive Order because the order provides protection only on a contract basis. So, it doesn't provide protection based on the product being developed, only if that product is being developed under a specific government contract. Therefore, it's negotiated case by case by HHS and a company. Your proposal provides assurance to companies, especially small and medium sized companies, that they will be protected. This will allow them to go forward with their development plans. Their lawyers may be leery of trying to negotiate their own deal with HHS. So, the EO may be effective for a large company when it negotiates making additional smallpox vaccine, but it provides little assurance to a small company that wants to start development. Also, the administration says the EO will be used to protect companies, however, the next administration could interpret it differently. That's why a statutory provision will provide greater assurance to companies.

The legislation focuses intently on development of vaccines and medicines, but it is possible that we will face biological agents and chemical agents we've never seen before. As I've mentioned, the Soviet Union bioterror research focused in part on use of genetic modification technology to develop agents and toxins that currently-available antibiotics can not treat. Australian researchers accidentally created a modified mousepox virus, which does not affect humans, but it was 100 percent lethal to the mice. Their research focused on trying to make a mouse contraceptive vaccine for pest control. The surprise was that it totally suppressed the "cell-mediated response," the arm of the immune system that combats viral infection. To make matters worse, the engineered virus also appears unnaturally resistant to attempts to vaccinate the mice. A vaccine that would normally protect mouse strains that are susceptible to the virus only worked in half the mice exposed to the killer version. If bioterrorists created a human version of the virus, vaccination programs would be of limited use. This highlights the drawback of working on vaccines against bioweapons rather than treatments.

With the advances in gene sequencing, genomics, we will know the exact genetic structure of a biological agent. This information in the wrong hands could easily be manipulated to design and possibly grow a lethal new bacterial and viral strains not found in nature. A scientist might be able to mix and match traits from different microorganisms, called recombinant technology, to take a gene that makes a deadly toxin from one strain of bacteria and introduce it into other bacterial strains. Dangerous pathogens or infectious agents could be made more deadly, and relatively benign agents could be designed as major public health problems. Bacteria that cause diseases such as anthrax could be altered in such a way that would make current vaccines or antibiotics against them ineffective. It is even possible that a scientist could develop an organism that develops resistance to antibiotics at an accelerated rate.

This means we need to develop technology, research tools, that will enable us to quickly develop a tailor-made, specific countermeasure to a previously unknown organism or agent. These research tools will enable us to develop a tailor-made vaccine or drug to deploy as a countermeasure against a new threat. The legislation authorizes companies to register and receive a certification making them eligible for the tax incentives in the bill for this research.

Perhaps the greatest strength of our biomedical research establishment in the United States is the synergy between our superb basic research institutions and private companies. The Bayh-Dole Act and Stevenson-Wydler Act form the legal framework for mutually beneficially partnerships between academia and industry. My legislation strengthens this synergy and these relationships with two provisions, one to upgrades in the basic research infrastructure available to conduct research on countermeasures and the other to increase cooperation between the National Institutes of Health and private companies.

Research on countermeasures necessitates the use of special facilities where biological agents can be handled safely without exposing researchers and the public to danger. Very few academic institutions or private companies can justify or capitalize the construction of these special facilities. The Federal Government can facilitate research and development of countermeasures by financing the construction of these facilities for use on a fee-for-service basis. The legislation authorizes appropriations for grants to non-profit and for-profit institutions to construct, maintain, and manage up to ten Biosafety Level 3-4 facilities, or their equivalent, in different regions of the country for use in research to develop countermeasures. BSL 3-4 facilities are ones used for research on indigenous, exotic or dangerous agents with potential for aerosol transmission of disease that may have serious or lethal consequences or where the agents pose high risk of life-threatening disease, aerosol-transmitted lab infections, or related agents with unknown risk of transmission. The Director of the Office and NIH shall issue regulations regarding the qualifications of the researchers who may utilize the facilities. Companies that have registered with and been certified by the Director, to develop countermeasures under Section 5(d) of the legislation, shall be given priority in the use of the facilities.

The legislation also reauthorizes a very successful NIH-industry partnership program launched in FY 2000 in Public Law 106–113. The funding is for partnership challenge grants to promote joint ventures between NIH and its grantees and for-profit biotechnology, pharmaceutical and medical device industries with regard to the development of countermeasures, as defined in Section 3 of the bill, and research tools, as defined in Section 4(d)(3) of the bill. Such grants shall be awarded on a one-for-one matching basis. So far the matching grants have focused on development of medicines to treat malaria, tuberculosis, emerging and resistant infections, and therapeutics for emerging threats. My proposal should be matched by reauthorization of the challenge grant program for these deadly diseases.

My legislation is carefully calibrated to provide incentives only where they are needed. This accounts for the choices in the legislation about which provisions are available to small biotechnology companies and large pharmaceutical companies.

Most biotechnology companies rely on infusions of investor capital to fund research, so the capital formation tax incentives only apply to them. Large pharmaceutical companies have ample revenues from product sales, and access to debt capital, so they do not need these incentives for capital formation.

The guaranteed purchase fund applies to any company that successfully develops a countermeasure. There is no reason to make any distinction between small and large companies. They all need to know the terms and dimensions of the potential market for the products they seek to develop. With countermeasures the market may well be uncertain or small, necessitating the creation of the purchase fund.

The patent protection provisions are also well calibrated. Both small and large companies face the patent term erosion problem due to delays at the FDA. There is no reason why companies that successfully develop a countermeasure should end up with a patent with an eroded term.

With regard to the patent bonus provision, this is included to supplement the capital formation tax incentives for small biotechnology companies. It provides a dramatic statement to investors that this research makes good business sense. As capital formation is not a challenge for a large pharmaceutical company, this patent bonus provision is not available to them.

Finally, with regard to the liability provisions, there is no reason to make any distinction between small and large companies.

The legislation makes choices. It sets the priorities. It provides a dose of incentives and seeks a response in the private sector. We are attempting here to do something that has not been done before. This is uncharted territory. And it's also an urgent mission.

There may be cases where a countermeasure developed to treat a biological toxin or chemical agent will have applications beyond this use. A broad-spectrum antibiotic capable of treating many different biological agents may well have the capacity to treat naturally occurring diseases.

This same issue arises with the Orphan Drug Act, which provides both tax and FDA approval incentives for companies that develop medicines to treat rare diseases. In some cases these treatments can also be used for larger disease populations. There are few who object to this situation. We have come to the judgment that the urgency of this research is worth the possible additional benefits that might accrue to a company.

In the context of research to develop countermeasures, I do not consider it a problem that a company might find a broader commercial market for a countermeasure. Indeed, it may well be the combination of the incentives in this legislation and these broader markets that drives the successful development of a countermeasure. If our intense focus on developing countermeasures, and research tools, provides benefits for mankind going well beyond terror weapons, we should rejoice. If this research helps us to develop an effective vaccine or treatment for AIDS, we should give the company the Nobel Prize for Medicine. If we do not develop a vaccine or treatment for AIDS, we may see 100 million people die of AIDS. We also have 400 million people infected with malaria and more than a million annual deaths. Millions of children die of diarrhea, cholera and other deadly and disabling diseases. Countermeasures research may deepen our understanding of the immune system and speed development of treatments for cancer and autoimmune diseases. That is not the central purpose of this legislation, but it is an additional rationale for it.

The issue raised by my legislation is very simple: do we want the Federal Government to fund and supervise much of the research to develop countermeasures or should we also provide incentives that make it possible for the private sector, at its own expense, and at its own risk, to undertake this research for good business reasons. The Frist-Kennedy legislation focuses effectively on direct Federal funding and coordination issues, but it does not include sufficient incentives for the private sector to undertake this research on its own initiative. Their proposal and mine are perfectly complimentary. We need to enact both to ensure that we are prepared for bioterror attacks.

I ask unanimous consent that an outline of my legislation appear at this point in the RECORD.

There being no objection, the outline was ordered to be printed in the RECORD, as follows

BIOLOGICAL AND CHEMICAL WEAPONS COUNTERMEASURES RESEARCH ACT OF 2001

The premise of the legislation is that there will be limits on direct Federal funding of research and development of countermeasures, vaccines, drugs, and other medicines, to prevent or treat infections from biological and chemical agents and toxins. The legislation proposes incentives that will enable biotechnology companies to take the initiative, for good business reasons, to conduct research to develop these countermeasures.

The incentives are needed because most biotech companies have no approved products or revenue from product sales to fund research. They rely on investors and equity capital markets to fund the research. These companies must focus on research that will lead to product sales and revenue and end their dependence on investor capital. When they are able to form the capital to fund research, biotech companies tend to be innovative and nimble and focused on the intractable diseases for which no effective medical treatments are available.

There is no established or predictable market for countermeasures. Investors are justifiably reluctant to fund this research, which will present technical challenges similar in complexity to development of effective treatments for AIDS. Investors need assurances that research on countermeasures has the potential to provide a rate of return commensurate with the risk, complexity and cost of the research, a rate of return comparable to that which may arise from a treatment for cancer, MS, Cystic Fibrosis and other major diseases or from other investments.

The legislation provides tax incentives to enable biotech companies to form capital to conduct the research. It then provides a guaranteed and pre-determined market for the countermeasures and special intellectual property protections to serve as a substitute for a market. Finally, it establishes liability protections for the countermeasures that are developed.

Specifics of the legislation are as follows: one, Office of Homeland Security sets research priorities in advance. Biotech companies that seek to be eligible for the incentives in the legislation must register with the Food and Drug Administration and be certified as eligible for the incentives; two, once a company is certified as eligible for the incentives, it becomes eligible for the tax, purchasing, patent, and liability provisions. A company is eligible for certification for the tax and patent provisions if it seeks to develop a research tool that will make it possible to quickly develop a countermeasure to a previously unknown agent or toxin, or an agent or toxin not targeted for research; three, Capital Formation for Countermeasures Research: The legislation provides that a company seeking to fund research is eligible to elect from among three tax incentives. The three alternatives are as follows: a. The company is eligible to establish an R&D Limited Partnership to conduct the research. The partnership passes through all business deductions and credits to the partners; b. The company is eligible to issue a special class of stock for the entity to conduct the research. The investors would be entitled to a zero capital gains tax rate on any gains realized on the stock; and, c. The company is eligible to receive refunds for Net Operating Losses, NOLs, to fund the research.

These tax incentives are available only to biotechnology companies with less than $750,000 in paid-in capital.

A company must elect only one of these incentives and, if it elects one of these incentives, it is then not eligible to receive benefits under the Orphan Drug Act. The legislation includes amendments to the Orphan Drug Act championed by Senators HATCH, KENNEDY and JEFFORDS, S. 1341. The amendments make the Credit available from the date of the application for Orphan Drug status, not the date the application is approved as provided under current law; four, Countermeasure Purchase Fund: The legislation provides that a company that successfully develops a countermeasure, through FDA approval, is eligible to sell the product to the Federal Government at a pre-established price and in a pre-determined amount. The company is given notice of the terms of the sale before it commences the research. Sales to this fund may be made by any company irrespective of its paid-in capital; five, Intellectual Property Incentives: The legislation provides that a company that successfully develops a countermeasure is eligible to elect one of two patent incentives. The two alternatives are as follows: a. The company is eligible to receive a patent for its invention with a term as long as the term of the patent when it was issued by the Patent and Trademark Office, without any erosion due to delays in the FDA approval process. This alternative is available to any company that successfully develops a countermeasure irrespective of its paid-in capital; b. The company is eligible to extend the term of any patent owned by the company for two years. The patent may not be one that is acquired by the company from a third party. This is included as a capital formation incentive for small biotechnology companies with less than $750,000 in paid-in capital.

Six, Liability Protections: The legislation provides for protections against liability for the company that successfully develops a countermeasure. This option is available to any company that successfully develops a countermeasure irrespective of its paid-in capital; and seven, Strengthening of Biomedical Research Infrastructure: Authorizes appropriations for grants to construct specialized biosafety containment facilities where biological agents can be handled safely without exposing researchers and the public to danger. Also reauthorizes a successful NIH-industry partnership challenge grants to promote joint ventures between NIH and its grantees and for-profit biotechnology, pharmaceutical and medical device industries with regard to the development of countermeasures and research tools.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 186—TO AUTHORIZE REPRESENTATION OF SENATOR LOTT IN THE CASE OF LEE V. LOTT

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

S. RES. 186

Whereas, in the case of Lee v. Lott, Case No. 01-CV-792, pending in the United States District Court for the Southern District of Mississippi, the plaintiff has named Senator Trent Lott as the sole defendant; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Lott in the case of Lee v. Lott.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, December 4, 2001, at 9:30 a.m., in open session to consider the nomination of Claude M. Bolton, Jr. to be Assistant Secretary of the Army for Acquisition, Logistics, and Technology and, following the open session, to meet in executive session to consider certain pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, December 4, 2001, at 9:30 a.m. to conduct a hearing on the remediation process of biologically contaminated buildings. Specifically, the Committee is interested in the challenges of, and technologies available for, remediating buildings contaminated by biological contaminants. The hearing will be held in the Rm. SD-406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, December 4, 2001, at 2:15 p.m. to hold a nomination hearing.

Agenda

Nominees: Adolfo Franco, of Virginia, to be an Assistant Administrator (Latin America and the Caribbean) of the United States Agency for International Development; Frederick Schieck, of Virginia, to be Deputy Administrator of the United States Agency for International Development; and Roger Winter, of Maryland, to be an Assistant Administrator (Democracy, Conflict, and Humanitarian Assistance) of the United States Agency for International Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, December 4, 2001, at 4:30 p.m. to hold a nomination hearing.

Agenda

Nominees: William R. Brownfield, of Texas, to be Ambassador to the Republic of Chile; and Charles S. Shapiro, of Georgia, to be Ambassador to the Bolivarian Republic of Venezuela.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Department of Justice Oversight: Preserving Our Freedoms While Defending Against Terrorism," Tuesday, December 4, 2001, at 10 a.m. in Dirksen Room 226.

Tentative Witness List

Panel I: The Honorable Pierre-Richard Prosper, Ambassador-at-Large for War Crimes Issues, Department of State, Washington, DC.

Panel II: George J. Terwilliger III, Partner, White and Case, former Deputy Attorney General, Washington, DC; Professor Laurence H. Tribe, Harvard Law School, Cambridge, MA; Major General Michael J. Nardotti, Jr., Partner, Patton Boggs LLP, former Army Judge Advocate General, Washington, DC; Professor Cass R. Sunstein, University of Chicago Law School, Chicago, IL; and Timothy Lynch, Esq., Director, Project on Criminal Justice, Cato Institute, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Department of Justice Oversight: Preserving Our Freedoms While Defending Against Terrorism," Tuesday, December 4, 2001, at 2 p.m. in Dirksen Room 226.

Witness List

Panel I: Viet D. Dinh, Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice.

Panel II: Ali Al-Maqtari, New Haven, CT; Michael J. Boyle, Esq., Law Offices of Michael J. Boyle, North Haven CT; Steven Emerson, The Investigative Project, Washington, DC; Gerald H. Goldstein, Esq., Goldstein, Goldstein & Hilley, San Antonio, TX; Nadine Strossen, President, American Civil Liberties Union, Professor, New York Law School, New York, NY; and Victoria Toensing, Esq., DiGenova & Toensing, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, John Stewart and Scott Donelly are interns in the office of the Finance Committee chairman, Senator BAUCUS. I ask unanimous consent that the privilege of the floor be granted to them today during the pendency of the Railroad Retirement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 10

Mr. REID. Mr. President, I ask unanimous consent that at 9:30 a.m. tomorrow Senator NICKLES be recognized to raise a point of order against the pending substitute with Senator BAUCUS then immediately to be recognized to make a motion to waive. Further, I ask unanimous consent that there then be 30 minutes equally divided between Senators BAUCUS and NICKLES or their designees. I also ask unanimous consent that following the debate time the Senate proceed to a vote on the motion to waive, and if the motion to waive is agreed to then the substitute amendment be agreed to, the bill be read the third time, and the Senate then proceed to a vote on passage of H.R. 10, with the cloture vote having been vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING LEGAL REPRESENTATION

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 186, submitted earlier today by the majority leader.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 186) to authorize representation of Senator LOTT in the case of Lee v. Lott.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, this resolution concerns a civil action commenced in the United States District Court for the Southern District of Mississippi. The lawsuit, filed by a prolific, pro se plaintiff, names Senator LOTT as the sole defendant. The plaintiff has filed a number of prior lawsuits against other public officials, which have been dismissed by several courts.

In this action, the plaintiff calls upon Senator LOTT to commence impeachment proceedings against the United States Supreme Court for its ruling in Bush v. Gore. The plaintiff contends that because the Supreme Court's decision in that case was unlawful, all actions taken by President George Bush are unconstitutional, including one allegedly denying him disability benefits. This resolution authorizes the Senate Legal Counsel to represent Senator LOTT in this suit to move for its dismissal. Of course, under the Constitution, it is the House of Representatives, not the Senate, that initiates impeachment proceedings and the judgment of neither House in impeachment matters is the subject of judicial review.

Mr. REID. I ask unanimous consent the resolution and its preamble be agreed to en bloc, the motion to reconsider be laid on the table, and that statements by the majority leader be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 186) was agreed to.

The preamble were agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

MEASURE READ THE FIRST TIME—S. 1765

Mr. REID. I send a bill to the desk regarding bioterrorism preparedness and ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1765) to improve the ability of the United States to prepare for and respond to a biological threat or attack.

Mr. FRIST. Mr. President, I rise today on behalf of myself, Senator KENNEDY, and dozens of our colleagues on both sides of the aisle to support critical legislation that will help our Nation better prepare to defend against potential bioterrorist attacks.

The Bioterrorism Preparedness Act of 2001 was first introduced on November 15. Today, we are reintroducing this bill so that it may be placed directly on the calendar and available for consideration by the full Senate.

As my colleagues will note, the Bioterrorism Preparedness Act enjoys broad bipartisan support. We are re-introducing the legislation today with 71 cosponsors—33 Republicans and 38 Democrats. In addition, in the two weeks since the legislation was first introduced, we have gained the support of over two dozen organizations, including the American Medical Association, the Biotechnology Industry Organization, the American Academy of Family Physicians, the American Public Health Association, the Association of Minority Health Professions Schools, and the National Association of Children's Hospitals & Related Institutions. The list of supporters is growing every day.

In light of this overwhelming support and the short time remaining this session of Congress, we are moving the bill directly onto the Senate calendar so that it will be available for us to consider as soon as possible.

In the wake of the attacks at the Pentagon and World Trade Center on September 11 and subsequent bioterrorist attacks, we know that bioterrorism is a significant and growing threat. I believe we must take steps this year to strengthen our capabilities to prepare for and respond to potential attacks.

Three years ago, as Chair of the Senate Public Health Subcommittee, I began a series of hearings to study in-depth the ability of our nation's public health infrastructure—at the local, state, and national level—to respond to public health threats and emergencies, including bioterrorism. Those hearings culminated in the passage of legislation last year—the Public Health Threats and Emergencies Act of 2000—intended to enhance coordination and improve resources for our public health system, principally at the state and local levels. But that authorizing legislation has never fully been funded, and it is now clear that more resources are needed to immediately strengthen our response capabilities.

That is why I feel so strongly that we must pass the Bioterrorism Preparedness Act of 2001. The legislation will address gaps in our Nation's defenses by expanding the capabilities of local, state, and federal government to respond to bioterrorist attacks, improving coordination among those responsible for responding to bioterrorist threats, speeding the development of vaccines and other countermeasures, and safeguarding the Nation's food supply and agriculture.

In closing, I want to thank my colleagues who have worked so hard to develop this legislation. In particular, I would like to single out Senator ROBERTS, Senator DASCHLE, and Senator HUTCHISON for their work on the agricultural provisions; Senators GREGG and HUTCHINSON for their contributions on the drug and vaccine development components; and Senator COLLINS for her input on the food safety provisions. Of course, I would also like to acknowledge my chief Democratic cosponsor, Senator KENNEDY. I encourage my colleagues who have not yet cosponsored this legislation to do so. And I encourage the leadership of the Senate to work with Senator KENNEDY and myself to find time in the days remaining so that this important legislation can be passed.

I yield the floor.

Mr. REID. Mr. President, I ask for the second reading and object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

ORDERS FOR WEDNESDAY, DECEMBER 5, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Wednesday, December 5; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 10; further, that upon disposition of H.R. 10, there be 1 hour of debate equally divided between the two leaders or their designees prior to the vote on cloture on the motion to proceed to S. 1731, with the live quorum being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:35 p.m., adjourned until Wednesday, December 5, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 4, 2001:

DEPARTMENT OF COMMERCE

JAMES R. MAHONEY, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, VICE ELWOOD HOLSTEIN, JR.

DEPARTMENT OF STATE

GRANT S. GREEN, JR., OF VIRGINIA, TO BE DEPUTY SECRETARY OF STATE FOR MANAGEMENT AND RESOURCES. (NEW POSITION)

OVERSEAS PRIVATE INVESTMENT CORPORATION

SAMUEL E. EBBESEN, OF THE VIRGIN ISLANDS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2003, VICE GEORGE DARDEN.

DISTRICT OF COLUMBIA OFFENDER SUPERVISION, DEFENDER, AND COURTS SERVICES AGENCY

PAUL A. QUANDER, JR., OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE DISTRICT OF COLUMBIA OFFENDER SUPERVISION, DEFENDER, AND COURTS SERVICES AGENCY FOR A TERM OF SIX YEARS. (NEW POSITION)

HOUSE OF REPRESENTATIVES—*Tuesday, December 4, 2001*

The House met at 12:30 p.m.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 3, 2001, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority leader, the minority leader, or the minority whip limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Indiana (Mr. PENCE) for 5 minutes.

ISRAEL ACTING IN SELF-DEFENSE

Mr. PENCE. Mr. Speaker, I rise today after a harrowing set of days, explosions, fire, innocent civilians running in panic through the streets; and I do not refer to life in America, New York City, or in the environs of the Pentagon on September 11; but I speak of Jerusalem and Israel. I speak of a nation that in the last week and past several days has grievously lost husbands and fathers, wives and mothers, sons and daughters, grandsons and granddaughters to the scourge of political terror.

I rise today humbly to speak of Israel and of the precious relationship that does and must continue to exist between the Government of the United States and the government of that great and historic people. As an American, a Christian, and a Hoosier, it is my firm belief now more than ever that it is my duty to insist that the United States of America never waver in protecting and defending the interests of the State of Israel in its battle for survival in this dangerous part of the world, and in its efforts now to open up, as the President's press secretary spoke yesterday, of the second front of the war on terrorism.

Mr. Speaker, many of these things may seem obvious, but many in the media are having a hard time figuring out who is right in the current conflict and how to best stop, we are told, the cycle of violence in order to help the parties get back to the negotiating table so they can iron out differences and misunderstandings. While I will say I am the first to admit that I know less than most of my colleagues do about Israel and its importance to America, let me say what I think this conflict is about and see whether my colleagues might agree.

Mr. Speaker, first I want to assert that I do not think that there is anything current about this conflict. I believe it is part of a continuing struggle being waged by many in the Arab world of extremists' views to do nothing other than to destroy the State of Israel, period. It is the historic aim of many in the terrorist organizations of Palestine and elsewhere, and the conflict today is simply an extension of that.

As to the question of who is right, that is simple. Mr. Speaker, it has ever been the policy of the United States of America and the people of this country since 1948 that Israel is right, believing as I do, as millions of Americans do, that He will still bless those who bless Israel, and so we stand with her.

A cycle of violence. I reject the term. When terrorists blow up a school bus or explode bombs in a mall killing children and innocent men and women, this is their aim. When Israel defense forces strike back, as they are at this hour and have in the last 24 hours, killing known terrorists and neutralizing terrorist assets. Mr. Speaker, this is not a cycle of violence; it is Israel performing her own self-defense.

As to returning to negotiations, one might ask what is there left to negotiate. Last summer at Camp David former Prime Minister Barak offered Yasser Arafat virtually everything. And how did Arafat respond? By launching a 9-month guerrilla war culminating this weekend, targeting women and children, some of whom were born in this country, and even in my State of Indiana. No, Yasser Arafat is not an effective negotiating partner. He is a terrorist, and it is time America stood strongly by Israel and said to Yasser Arafat, it is time that the terrorists and their capabilities are secured within the Palestinian Authority or else.

Mr. Speaker, the Bible tells us of another time when a man of God stood alone with his servant and hostile forces were arrayed against him. His servant was frightened, and so he prayed that God might open the eyes of his servant, that he would see more of those who are with us than those that are with them. It is my prayer, Mr. Speaker, that Israel's eyes would be opened, to know that though her enemies are ruthless, her friends in this country and this government are many, many more.

INCREASED TRANSPORTATION BENEFIT IS A WIN FOR HOUSE EMPLOYEES AND ENVIRONMENT

The SPEAKER pro tempore (Mr. CULBERSON). Under the Speaker's announced policy of January 3, 2001, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, I came to Congress with the notion that the Federal Government ought to be a better partner with American communities, local governments, business and citizens to help promote the livability of these communities, to make our families safe, healthy and economically secure.

One of the examples of where we could in fact make a difference was found upon my arrival here in Washington, D.C. Despite the fact that the District of Columbia was reputed to have the second worst traffic congestion of any metropolitan region in the country, despite concerns about congestion, pollution, a lack of parking here on Capitol Hill, the House of Representatives provided unlimited free parking for our employees, but would not do anything to help those who wanted to use mass transit and perhaps be part of the solution, despite the fact that we were arguing that the private sector and other governments ought to step up and try and help their employees with transit.

Mr. Speaker, it took an effort of almost 2 years and working with the gentlewoman from Maryland (Mrs. MORELLA), the gentleman from Michigan (Mr. EHLERS), the gentleman from Maryland (Mr. HOYER), the gentleman from Virginia (Mr. MORAN) we were able to implement a transit benefit program for the House employees.

Mr. Speaker, I am pleased that we have moved into a new era of that. We have more than tripled the benefit. Starting this month, employees will be able to have a $65 transportation benefit for those who do not avail themselves of free parking on Capitol Hill; and starting January 1, they will be able to deduct pretax an additional $35 for a $100 transit benefit.

I am extremely grateful, Mr. Speaker, to the leadership of the Committee on Administration under the leadership of the gentleman from Ohio (Mr. NEY) with the gentleman from Maryland (Mr. HOYER), the ranking member, where they stepped up, worked with the committee and put in place a program that is going to allow us to provide an extensive benefit for our employees; but it also, in a time when we

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

are concerned about the energy security of this country, when we are deeply concerned about the quality of life in and around our Nation's capital, and when we are watching the problems associated with increased security every day stack up cars as they are waiting to be inspected coming into our House parking lots, this transportation benefit is a win for the environment, it is a win for the morale and efficiency of employees on the House. It is a win for those who want to make sure that Congress leads by example.

I strongly urge that each office look anew at this enhanced benefit program to make sure that each eligible employee takes advantage of it, and in fact, that each Member of Congress and their chief of staff encourage others to take advantage of it, because it is going to be good for them in the long run. We want the program to be a success. It is an important step to save money, to save the environment, and make Capitol Hill a little more livable.

ANTI-DUMPING LAWS LAST LINE OF DEFENSE AGAINST UNFAIRLY TRADED IMPORTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, despite the overwhelming passage of a sense of Congress resolution urging the President to keep U.S. anti-dumping laws off of Qatar's negotiating table, the U.S. Trade Representative, Bob Zoellick, did just the opposite after a 410 to 4 vote.

U.S. officials have signaled that they are willing to negotiate on trade dumping laws that provide safeguards against countries selling products in the U.S. marketplace at below cost. The American steel industry, like so many others, relies on anti-dumping laws as their last line of defense against unfairly traded imports.

Unfortunately, since the WTO Uruguay Round, the steel industry's ability to defend itself against dumping has been severely weakened. Now, in Qatar, a couple of weeks ago, the U.S. Trade Representative has remained open to further weakening the rules on trade dumping, further jeopardizing American steel, further threatening American jobs.

Many of us were concerned about Qatar long before the negotiations began. It is a country that does not allow free elections. It is a country that does not allow freedom of expression. It is a country where women are treated not much differently from the way women are treated by the Taliban in Afghanistan.

□ 1245

It is a country where public worship by non-Muslims is banned. The message that sends to people around the world that the trade ministers of all of the nations in the world are meeting in a city, in a country, where public protest will not be allowed, where free speech is not allowed, where public expression is not allowed, where freedom of worship is not allowed, and where free elections are not allowed, the message that sends is troubling. It is troubling because all too often our own trade minister, Robert Zoellick, has used in the past language to suggest that those of us who do not support his free trade agenda, his agenda to weaken environmental standards, to weaken labor standards around the world, those of us who do not support this free trade agenda, he implies, are indifferent to terrorism. He has questioned our patriotism saying, we do not really share American values if we do not support Fast Track, if we do not support his trade legislation because, he tells us, that is the way to combat terrorism around the world: You are either with us or you are against us. Many of us resent the U.S. Trade Representative questioning our patriotism, claiming we are indifferent to terrorism because we believe his Fast Track proposal is not coincident with American values and does not do the right things for our country.

Supporters of Fast Track argue that the U.S. is being left behind. They tell us we need Fast Track to increase American exports and provide new jobs for American workers. But this country's history of flawed trade agreements has led to a trade deficit with the rest of the world that surges well above $350 billion. The 2000 trade deficit is 40 percent higher than the previous record set in 1999. The Department of Labor has reported that NAFTA, and these are very conservative government figures, that NAFTA has caused the loss of 300,000 jobs.

The American steel industry is no stranger to trade-induced adversity. Thousands of steel workers have lost their jobs. Mr. Speaker, 25 companies have filed for bankruptcy, 16 in the last year. We import 39 million tons of steel, double the 16 million tons we imported only 10 years ago, and steel prices, because of that, are below 1998 levels. In my home district, steel workers from LTV are learning firsthand that our trade policies put American workers in jeopardy. LTV terminated negotiations with its major union and went to bankruptcy court seeking permission to shut down its steel-making operations in anticipation of its sale. Now 11,000 jobs and the pensions and health benefits of more than 65,000 retirees and surviving spouses hang in the balance. LTV and the rest of the steel industry need Congress' assistance in solving this problem. Fast Track is not the answer. While our trade agreements go to great lengths to protect investors and protect property rights, these agreements do not include enforceable protections for workers or for the environment.

CEOs of multinational corporations tell us that globalization stimulates development and allows nations to improve their environmental and labor record. The truth is, flawed trade agreements cost American jobs, put downward pressure on U.S. wages and working conditions, and erode the ability of government to protect public health and to protect the environment. If we fail to include these important provisions and trade agreements, multinational corporations will continue to dismiss labor and environmental protection as discretionary and wholly unnecessary. Global working conditions, global living conditions will continued to suffer.

We need to press for U.S. trade policy with provisions that protect American workers. We need to press for a U.S. trade policy with provisions that protect the American environment. We have experienced an economic slowdown, a drop in the stock market. Fast Track will not solve that problem, it will only make it worse.

ISRAEL MUST DEFEND ITSELF

The SPEAKER pro tempore (Mr. CULBERSON). Under the Speaker's announced policy of January 3, 2001, the gentleman from Massachusetts (Mr. FRANK) is recognized during morning hour debates for 5 minutes.

Mr. FRANK. Mr. Speaker, at a profoundly troubling time in the Middle East, I want to express very strongly my complete support for the right of the government of Israel to defend itself, its existence as a Nation, and its people from the systematic campaign of mass murder that is being inflicted on it. Americans should understand that if we take into account the populations of the two countries, the number of victims of blatant terrorism against unarmed civilians in Israel exceeds in the past few months the number of tragic deaths suffered here in America, and the Israeli government has every right to respond in a way that protects its people.

I say that, Mr. Speaker, as one who was a strong supporter of the peace process that President Clinton encouraged the parties in the Middle East to undertake. I thought that Prime Minister Barak, former Prime Minister Barak, took very creditworthy risks on behalf of peace. I defend the right of the Israeli government to support itself, not because peace is an irrelevancy, but because peace cannot come in an atmosphere of terror. In fact, we should be very clear that the recent terrible, tragic increase in the deaths of innocent people was brought about, in part, by people who are threatened by peace, who do not want to see coexistence of an Israeli and Palestinian State. It is not an accident that as the Bush administration repudiated its past mistake of staying out of the Middle East peace process in their effort to repudiate everything that President Clinton had done, it is not a coincidence that the terror stepped up after the Bush administration sought to increase peace efforts.

The mistake, however, would be to say that the terrorism should be allowed to have an impact. People who argue that the way to end and respond to terrorism in the short run is in some ways to move towards the policies advocated by the terrorists make an error.

I am in favor of some change in Israeli policy. I think that the expansion of settlements is a grave error. I think the Mitchell Commission was right on that point. I think there ought to be movement towards peace. But if that movement is seen to have come as a result of mass murder, it gives an encouragement to the policy of murder.

The second question that has to be addressed here is, can Yasser Arafat in fact put an end to this. People have said well, in defense of Arafat, even if he wanted to put an end to this terror, he could not do it. Those who make that argument, and I am skeptical that anyone really knows the answer, but those who make that argument should be very clear: That is an attack on the peace process. If in fact Arafat confronts a population so imbued with hatred for Israel, so opposed to the notion of a genuine peace that could be acceptable to both sides, that he is powerless to put an end to this systematic murder campaign, then the prospects for peace are very bleak indeed.

I hope that is not the case. I think the Israeli government, with the encouragement and support of the U.S. Government should continue to probe. But we should be very clear that the so-called defense of Arafat, namely that bringing about an end to the terror and bringing about a genuine commitment to peace is beyond his capacity or the capacity of any other Palestinian leader is, in fact, a repudiation of the peace process. And in any case, whether that bleak prospect is what faces us or not, no one can deny the right of the democratically elected government of Israel to defend its people against a systematic campaign of mass murder, and no government should be asked to divert its attention from that most fundamental task of a government, that most fundamental responsibility of government to protect its innocent and unarmed citizens from systematic murder; no one should be diverted from that.

If, in fact, Arafat is sincere and he has the power, we will see that soon. He will genuinely cooperate in putting an end to this campaign. And if not, and if the peace process founders because of that, since no government can be expected to seriously negotiate under the threat of this sort of systematic campaign of terror, then it will be clear where the responsibility lies, and it will not be with the government of Israel.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 53 minutes, p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PETRI) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, judge of all and savior of Your people, prepare the hearts and minds of Your servants that they may attend to Your Holy Word and be moved to reconciliation.

You alone forgive sin. From You alone comes the first movement of grace which changes human hearts. Destroy all false images and idols that all may come to know You, the one true living God.

Be with the Members of the House of Representatives on this National Day of Reconciliation as they join Members of the Senate in solemn assembly to seek the blessings of Your Divine Providence for forgiveness, reconciliation, unity and charity for all people of the United States.

As Members humble themselves in prayer before You, may Your healing Spirit touch profoundly all divided communities across this Nation. Make us one Nation, truly wise, a symbol of equal justice to the world, a responsive partner, defender of life and friend of the poor.

Renewed as Your people, forgiven of our sins, may this Nation be a sign of hope to others as You bring peace and goodwill to earth, both now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Michigan (Mr. KNOLLENBERG) come forward and lead the House in the Pledge of Allegiance.

Mr. KNOLLENBERG led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

DISPENSING WITH CALL OF PRIVATE CALENDAR ON TODAY

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Office of the Clerk,
House of Representatives,
Washington, DC, December 3, 2001.

Hon. J. Dennis Hastert,
The Speaker, House of Representatives,
Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 3, 2001 at 10:34 a.m.

That the Senate passed without amendment H.R. 1766.

That the Senate passed without amendment H.R. 2261.

That the Senate passed without amendment H.R. 2454.

That the Senate passed without amendment H.J. Res. 71.

With best wishes, I am

Sincerely,

Jeff Trandahl,
Clerk of the House.

COMMUNICATION FROM STAFF MEMBER OF THE HONORABLE JOHN CONYERS, JR., MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Deanna Maher, congressional aide to the Honorable JOHN CONYERS, Jr., Member of Congress:

House of Representatives,
Washington, DC, October 11, 2001

Hon. J. Dennis Hastert,
Speaker, House of Representatives,
Washington, DC.

Dear Mr. Speaker: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for production of documents issued by the Washtenaw County Circuit Court.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,

Deanna Maher,
Congressional Aide.

PASSAGE OF TRADE PROMOTION AUTHORITY

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, in my home State of Kansas, family farms are no longer able to make ends meet. Farmers tell me it is crucial that we expand markets for their products now or they will not be in business in 10 years.

Today, one in three acres planted by our farmers is harvested for export. We can and should do better.

Trade Promotion Authority is a tool that can boost the profits of American farmers and make them even more self-sufficient. If we streamline the trade agreement process that President Bush must follow, we will have increased competition, economic efficiency, and greater markets for our farm products.

As the key player on the world stage, we should give President Bush our vote of confidence to promote trade without excessive barriers.

I believe in the American farmer, and I trust President Bush. I urge my colleagues to allow the President to create more markets for American grains and products by granting Trade Promotion Authority.

TERRORIST ATTACKS AGAINST ISRAEL

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, today the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the House Committee on International Relations, and I will introduce a resolution that categorically condemns this week's outrageous terrorist strikes against the State of Israel and Israeli people.

In the attacks of September 11, our Nation suffered the loss of over 3,000 innocent men, women, and children. Since that fateful day, our ally Israel has suffered a comparable loss. With 6 million citizens compared to our 280 million, Israel's 60 victims since September equates to over 2,700 American victims. Nearly half this number perished in a span of just 14 hours this past weekend.

Mr. Speaker, the United States is currently targeting regimes that harbor terrorists, as well as terrorists themselves. Israel must also target the terrorists' protectors. The Palestinian Authority bears full responsibility for the attacks of December 1 and 2, just as the Taliban bears full responsibility for the attacks of September 11.

I urge all of our colleagues to join the gentleman from Illinois (Mr. HYDE) and me in this resolution expressing solidarity with the people of Israel.

VOTING FOR TRADE PROMOTION AUTHORITY

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, when we vote in 2 days on Trade Promotion Authority, nothing less than American leadership in the world is at stake.

As we lead the world in an effort to eradicate terrorism, we risk abdicating our position of leadership in an area that is just as vital to America's well-being and that is international trade.

The United States has been falling rapidly behind the rest of the world in international trade. I said rapidly behind. There are more than 130 trade agreements in effect in the world today, but the United States is party to just three.

For the world's most open society, the U.S., which should be leading the charge to open up other countries to our products, this is a sorry state of affairs.

We have a chance on Thursday to reclaim the mantle of leadership by passing TPA. When we do, the exports will go abroad; and the high paying jobs will stay here.

I urge all my colleagues to support TPA.

RECOGNITION OF THE ROLE WOMEN PLAYED IN THE TRAGEDY OF SEPTEMBER 11

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute.)

Mrs. CHRISTENSEN. Mr. Speaker, today I join the other members of the Caucus of Women's Issues at a luncheon to honor women at Ground Zero.

To look at the media reporting, we believe that all who responded were men; but as was the case, there was a need, and the women were there were, firefighters, police officers, construction workers, emergency medical personnel, doctors, nurses and others, putting their lives on the line and in some cases giving their lives.

I want to thank the co-chairs, the gentlewoman from Illinois (Mrs. BIGGERT) and the gentlewoman from California (Ms. MILLENDER-MCDONALD), for having the NOW legal defense and education fund, and Lieutenant Brenda Berkman there to tell the story of the brave and selfless women who were there with the men to respond in our country's tragic hour of need.

The story brought a tear to many an eye, male and female, not just because of the stories the women told, and they were powerful, but also because once again women were invisible, in the media, in the new recruits, also in the recovery planning; and this is America, not Afghanistan.

This is a potent reminder that women even here are still underrepresented at high levels of business and politics and that we are underpaid and have less opportunity.

As we put our country back on the road to recovery, let us not get back to normal. Let us get better.

HALT STORAGE OF NUCLEAR WASTE AT YUCCA MOUNTAIN

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, here we go again. The General Accounting Office, a nonpartisan congressional investigative agency, is calling on the President and the Department of Energy to indefinitely postpone its decision on whether to build a huge permanent centralized waste storage site at Yucca Mountain, Nevada.

The GAO report calls the plan to bury waste at Yucca Mountain a failed scientific process, echoing the concern I and my fellow Nevadans have expressed for years.

Yet the report goes on further; it warns that the plans the DOE has been showing to Congress and Nevadans may not describe the facilities that DOE would actually develop.

Mr. Speaker, it is obvious that the plan to bury nuclear waste at Yucca Mountain has not only been an obscene waste of taxpayer money but also a huge conspiracy to misrepresent the facts and deceive the American public.

It is time for the DOE to tell the truth. Storing nuclear waste at Yucca Mountain is not a safe plan, and I call upon my colleagues in the Congress to protect the American people and halt Yucca Mountain.

SUPPORT TRADE PROMOTION AUTHORITY

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Speaker, we hear many reasons why this House should pass legislation to renew Trade Promotion Authority. Today, I rise on behalf of working American families who need TPA.

American families in the bottom 20 percent of the income scale spend 52 percent of their after-tax income on food and clothing. Unfortunately for these hard-working families, food and clothing are the most heavily taxed income sectors, accounting for more than half of U.S. import taxes.

In fact, the average American family of four pays $1,100 every year because of import taxes. Talk about regressive taxation. Families struggling to make ends meet are disproportionately hit by import taxes at the same time our trade negotiators sit on the sidelines, lacking authority to make the deals needed to eliminate these taxes.

Passing TPA will help working families. Let us pass H.R. 3005 and give them a break.

SUPPORTING ISRAEL'S WAR ON TERRORISM

(Mr. FERGUSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FERGUSON. Mr. Speaker, the scene is one that we know all too well: mindless terrorists attacking the young and the innocent, fleeing civilians with terror in their eyes, and once again, Mr. Speaker, scores of young people, their lives ended by the violent hatred of terrorism. We saw this on our own soil on September 11, and we saw it again this past weekend in Israel.

Mr. Speaker, September 11, while devastating for us, also gave us a sense for what our friends in Israel have been dealing with for decades; but beyond our new understanding of Israeli suffering, September 11 also gave us a new responsibility, to support Israel's own war on terrorism.

I applaud President Bush and the recent comments from Secretary of State Colin Powell. They have recognized that Israel has a right and a responsibility to defend itself.

Mr. Speaker, I ask my colleagues in Congress and the American people to support our friends in Israel as they struggle for peace and security.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

PERIODIC REPORT ON NATIONAL EMERGENCIES WITH RESPECT TO YUGOSLAVIA AND KOSOVO—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–154)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a combined 6-month periodic report on the national emergencies declared with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) in Executive Order 12808 on May 30, 1992, and Kosovo in Executive Order 13088 on June 9, 1998.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 4, 2001.*

PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–155)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), I transmit herewith a 6-month periodic report on the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938 of November 14, 1994.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 4, 2001.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules, but not before 7 p.m. today.

RECOGNIZING RADIO FREE EUROPE/RADIO LIBERTY'S SUCCESS IN PROMOTING DEMOCRACY

Mr. LEACH. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 242) recognizing Radio Free Europe/Radio Liberty's success in promoting democracy and its continuing contribution to United States national interests.

The Clerk read as follows:

H. CON. RES. 242

Whereas on May 1, 1951, Radio Free Europe inaugurated its full schedule of broadcast services to the people of Eastern Europe and, subsequently, Radio Liberty initiated its broadcast services to the peoples of the Soviet Union on March 1, 1953, just before the death of Stalin;

Whereas now fifty years later, Radio Free Europe/Radio Liberty (RFE/RL, Inc.) continues to promote democracy and human rights and serve United States national interests by fulfilling its mission "to promote democratic values and institutions by disseminating factual information and ideas";

Whereas Radio Free Europe and Radio Liberty were established in the darkest days of the cold war as a substitute for the free media which no longer existed in the communist-dominated countries of Central and Eastern Europe and the Soviet Union;

Whereas Radio Free Europe and Radio Liberty developed a unique form of international broadcasting known as surrogate broadcasting by airing local news about the countries to which they broadcast as well as providing regional and international news, thus preventing the communist governments from establishing a monopoly on the dissemination of information and providing an alternative to the state-controlled, party dominated domestic media;

Whereas the broadcast of uncensored news and information by Radio Free Europe and Radio Liberty was a critical element contributing to the collapse of the totalitarian communist governments of Central and Eastern Europe and the Soviet Union;

Whereas since the fall of the Iron Curtain, RFE/RL has continued to inform and therefore strengthen democratic forces in Central Europe and the countries of the former Soviet Union, and has contributed to the development of a new generation of political and economic leaders who have worked to strengthen civil society, free market economies, and democratic government institutions;

Whereas United States Government funding established and continues to support international broadcasting, including RFE/RL, and this funding is among the most useful and effective in promoting and enhancing the Nation's national security over the past half century;

Whereas RFE/RL has successfully downsized in response to legislative mandate and adapted its programming to the changing international broadcast environment in order to serve a broad spectrum of target audiences—people living in fledgling democracies where private media are still weak and do not enjoy full editorial independence, transitional societies where democratic institutions and practices are poorly developed, as well as countries which still have tightly controlled state media;

Whereas RFE/RL continues to provide objective news, analysis, and discussion of domestic and regional issues crucial to democratic and free-market transformations in emerging democracies as well as strengthening civil society in these areas;

Whereas RFE/RL broadcasts seek to combat ethnic, racial, and religious intolerance and promote mutual understanding among peoples;

Whereas RFE/RL provides a model for local media, assists in training to encourage media professionalism and independence, and develops partnerships with local media outlets in emerging democracies;

Whereas RFE/RL is a unique broadcasting institution long regarded by its audience as an alternative national media that provides both credibility and security for local journalists who work as its stringers and editors in the broadcast region; and

Whereas RFE/RL fosters closer relations between the United States and other democratic states, and the states of Central Europe and the former Soviet republics: Now therefore be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) congratulates the editors, journalists, and managers of Radio Free Europe/Radio Liberty on a half century of effort in promoting democratic values, and particularly their contribution to promoting freedom of the press and freedom of expression in areas of the world where such liberties have been denied or are not yet fully institutionalized; and

(2) recognizes the major contribution of Radio Free Europe/Radio Liberty to the growth of democracy throughout the world and its continuing efforts to advance the vital national interests of the United States in building a world community that is more peaceful, democratic, free, and stable.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

□ 1415

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 242, the concurrent resolution under consideration.

The SPEAKER pro tempore (Mr. PETRI). Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume, and simply stress that this resolution recognizes 50 years of outstanding broadcasts by Radio Free Europe/Radio Liberty.

Earlier this year, we celebrated the one-half century of service of Radio Free Europe/Radio Liberty, and now we bring before this House a resolution to memorialize this occasion: Today, RFE/RL continues its mission to promote democratic values and institutions by disseminating factual information and ideas, thus expressing the idealism of the American experience.

As we face the war against terrorism and continued suppression of free media in many countries, it is clear that there remains a compelling mission for U.S. support of international broadcasting to provide factual information about world events and events within a given country.

The resolution before us recognizes the work of the broadcasters, the editors, the journalists, and the managers of RFE/RL, who see their work not just as a job but as a mission. Daily, they bring hope to people who do not have access to fair and independent media.

I urge my colleagues to support this resolution to formally recognize the work and successes of Radio Free Europe/Radio Liberty and our support for their ongoing work to promote democratic values around the world.

Before reserving the balance of my time, let me just say I am particularly appreciative of the work of the gentleman from Illinois (Mr. HYDE), the gentleman from California (Mr. LANTOS), the gentleman from California (Mr. BERMAN), the gentleman from New Jersey (Mr. SMITH), and the gentleman from California (Mr. ROYCE), and so many others for their strong support of public diplomacy of the United States.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume, and I would like to add to that good list of names the gentleman just recited the name of my dear friend, the gentleman from California (Mr. LEACH), who has made such enormous contributions to this issue and to all other issues before our committee.

Mr. Speaker, I rise in strong support of this resolution. I was pleased to join the gentleman from Illinois (Mr. HYDE) in introducing this important resolution, Mr. Speaker, and I commend the chairman for his initiative.

As the United States mounts an intensive public diplomacy campaign in the Middle East in support of our war on terrorism, it is critical that we reflect on our Nation's past success in amplifying American values around the globe through the airwaves. Radio Free Europe and Radio Liberty stand as shining examples of the power of American democratic values and the potential of public diplomacy to advance United States national interests.

Since the founding of Radio Free Europe a half a century ago and the founding of Radio Liberty 48 years ago, these two broadcasting services have provided people around the world with hope and support in their struggle against repression. During the Cold War, Mr. Speaker, Radio Free Europe/Radio Liberty responded to the yearnings of those people who were suffering under the yoke of Communism and the Soviet Union in Eastern Europe. Since the fall of the Berlin Wall, the two broadcasting services have adapted their missions, reformed their institutions, and extended their reach to Iraq, Iran, Afghanistan, and beyond.

As a young man in occupied Hungary during the Second World War, I recall the inspirational and liberating broadcasts of the BBC, and I can testify personally to the dramatic effect those radio programs had in providing hope to people denied basic information.

Unlike the dictators whom we resist, we have truth on our side. Democracy and the market economy are destined to prevail. To hasten this state, we must promote aggressively our values by all means of communication available to us. Radio Free Europe and Radio Liberty are among the most effective tools in our public diplomacy toolbox, and they deserve our continued and strong support.

I commend Radio Free Europe and Radio Liberty on 50 years of distinguished service to our Nation, and I ask all of my colleagues to join me in wishing this great organization many more years of success by supporting this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume to just again compliment the gentleman from California (Mr. LANTOS), whose visions on these issues have been nothing less than extraordinary.

Mr. GILMAN. Mr. Speaker, I would like to voice my ardent support for H. Con. Res. 242, which congratulates Radio Free Europe/Radio Liberty for its half century of work in promoting democratic values, and recognizes the organization's contribution to the growth of democracy throughout the world, as we strive toward creating a world of free democratic states living in peace with one another.

One of the most effective, efficient ways to promote the growth of democratic institutions on every continent is for Americans to communicate directly with people in other countries. For 50 years, Radio Free Europe/Radio Liberty has continued to broadcast daily news, analysis, and current affairs programming in a coherent, objective manner throughout the world. Radio Free Europe/Radio Liberty programs continue to provide 35 million listeners with balanced, reliable information, aimed at bolstering democratic development and market economies in countries where peaceful evolution to civil societies is of vital national interest to the United States.

With the advent of the war on terrorism, it becomes vital that Radio Free Europe/Radio Liberty continues to demonstrate to other societies how having the freedom to live and do business creates a dynamic economy and a vibrant society. Explaining the value of freedom by directly communicating with the general population of other countries and their power elites is the best example of public diplomacy.

Mr. LEACH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 242.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GEORGE P. SHULTZ NATIONAL FOREIGN AFFAIRS TRAINING CENTER

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3348) to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center.

The Clerk read as follows:

H.R. 3348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF THE GEORGE P. SHULTZ NATIONAL FOREIGN AFFAIRS TRAINING CENTER.

(a) IN GENERAL.—

(1) Section 701(a) of the Foreign Service Act of 1980 (22 U.S.C. 4021(a)) is amended by adding at the end the following: "The institution shall be designated the 'George P. Shultz National Foreign Affairs Training Center' ".

(2) Any reference in any provision of law to the National Foreign Affairs Training Center or the Foreign Service Institute shall be considered to be a reference to the George P. Shultz National Foreign Affairs Training Center.

(b) CONFORMING AMENDMENTS.—

(1) Section 53 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2725) is amended—

(A) in the section heading by inserting "GEORGE P. SHULTZ" after "THE"; and

(B) by inserting "George P. Shultz" after "use of the".

(2) Section 708(a) of the Foreign Service Act of 1980 (22 U.S.C. 4028(a)) is amended by inserting "George P. Shultz" after "director of the".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on H.R. 3348, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume, and let me welcome this opportunity to bring H.R. 3348 to the House floor. The bill designates the National Foreign Affairs Training Center after a distinguished American, George Shultz.

Mr. Shultz, among his many achievements, was responsible for creation of the new Foreign Service training facility established in Arlington, Virginia. He undertook the difficult task of convincing Congress that the funding of the new campus would be an investment in the future of our foreign affairs community. In 1993, the professional and modern facilities opened as the National Foreign Affairs Training Center.

Secretary Shultz has a strong belief that the Nation should have a permanent home for training U.S. Government officials that serve overseas. Since 1947, the State Department has operated an in-service training facility, but by the late 1980s, it was apparent that there was a need for expanded course offerings and a larger facility to accommodate the increased number of participants. Secretary Shultz successfully pursued his goal to have a first-rate training facility established, which today has an enrollment of approximately 30,000 a year.

As thrice a graduate of courses at the old Foreign Service Institute, it is an honor to bring this bill before the House. As a longtime admirer of the public service of Secretary Shultz, it is a particular honor to help bring his vision to reality.

I would urge strong support for this resolution and again would commend my good friend, the gentleman from California (Mr. LANTOS), for his support for this initiative.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume. And let me just say at the outset that one of the many reasons why the contributions of the gentleman from Iowa (Mr. LEACH) to the work of this body and to the Committee on International Relations is of such high quality is because of his earlier service as a member of our Foreign Service. He exemplifies the extraordinary talent of our diplomatic corps, and I want to commend him for bringing this legislation to our attention.

Mr. Speaker, I am delighted to cosponsor this bill with the gentleman from Illinois (Mr. HYDE) because Secretary George Shultz deserves all the recognition that this Congress and the American people may offer. George Shultz was a brilliant Secretary of State and he guided the United States through a most critical time in our Nation's history.

I was a member of the Committee on International Relations during Secretary Shultz's entire tenure, and I have the highest regard for him both professionally and personally. After leaving Washington, Secretary Shultz made the wise decision to return to my area of the country, the San Francisco Bay area, and I have been delighted to claim him both as a constituent and as a friend.

George Shultz is proud of his Princeton and Marine Corps background, and he has provided a quality of integrity and intelligence and commitment to public service which is truly extraordinary. He may have left the government and moved away from Washington, but George continues to be actively engaged in our foreign policy and committed to strengthening and supporting the Department of State and the men and women who work there. I think it is more than fitting that this great institution that he worked so hard to establish, that he has been so dedicated to, should bear his name.

The Foreign Service Institute was originally created in 1943, and it provides training to the State Department and 43 other Federal agencies, providing instruction to over 30,000 U.S. Government employees every year in 63 foreign languages as well as in courses on management, leadership, diplomacy, security, economics, and other valuable skills and subjects.

Secretary Shultz was instrumental in obtaining the land and the funding to move the Institute to its current home on a 72-acre plot at the National Foreign Affairs Training Center in Arlington, Virginia. I am indeed proud to be a cosponsor of this bill to designate the National Foreign Affairs Training Institute as the George P. Shultz National Foreign Affairs Training Center.

I thank the chairman and the gentleman from Iowa (Mr. LEACH) for their leadership on this issue. I urge all of my colleagues to support this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROYCE).

☐ 1430

Mr. ROYCE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think that it is indeed proper that the many achievements of George P. Shultz be recognized by the naming of this new National Foreign Affairs Training Center after Mr. Shultz.

As well as commending the gentleman from Iowa (Mr. LEACH) for the gentleman's efforts, I also commend the ranking member, the gentleman from California (Mr. LANTOS), for the bill that he brought up prior to this measure, and take a moment, if I could, to speak about the importance of commemorating the 50th anniversary of Radio Free Europe and Radio Liberty.

I think it is important that we remember within 10 minutes of the establishment of Radio Free Europe, the Soviets were already attempting in 1951 to jamb those broadcasts, and yet those broadcasts got through. What Joseph Stalin was afraid of was what was being told over the air waves. He was afraid of the truth; Radio Free Europe/Radio Liberty developed a rather unique form of international broadcasting. We call that today surrogate radio, airing local news about the countries to which they broadcast, operating as if they had a free and vibrant press.

During the Cold War, these radios brought the news of the Hungarian revolution of 1956, the Prague uprising of 1968, and most importantly, the rise of the solidarity movement in Poland. And when we talk with the leaders of the Czech Republic or Poland, they say that the hearts and minds of people were turned by the opportunity to listen every day to a radio broadcast which explained what was actually happening inside their country. These broadcasts were able to explain and to put into context what people were hearing from the Soviet broadcasts, and over time we know that this was the most effective single thing that changed the attitudes of the average person in Eastern Europe, we know that from the leaders of these countries today. They were critical in contributing to the collapse of communism, the collapse of the totalitarian governments of Eastern Europe and the former Soviet Union. And besides its outstanding impact behind the Iron Curtain during the Cold War, the radios also aided in Afghanistan from 1985–1993 during the Soviet invasion.

Radio Free Europe/Radio Liberty still continues to tell the truth, countering dictators like Saddam Hussein. Saddam Hussein has long complained that Radio Free Iraq is, in his words, an act of aggression. The Iraqi dictator has become so irked by his attempt to undermine his control over the media that Saddam Hussein instructed his intelligence officials, and apparently recently there has been a plot uncovered by Iraq to bomb Radio Free Europe's headquarters in Prague.

Last month this House passed legislation authored by myself and the gentleman from California (Mr. BERMAN) to re-create Radio Free Afghanistan by a margin of 405 to two. The Taliban is on its way out; but if Afghanistan is to have a chance of becoming stable, if its various factions and ethnic groups are to strike a workable governing accord, the country will need free-flowing, accurate news information.

Unfortunately, the country is starting from scratch. What media the Taliban did not corrupt, it destroyed. Looking ahead at the great challenges Afghanistan faces, it is clear to those that are on the ground that a credible and effective media will not emerge any time soon. This legislation will provide for 12 hours of broadcasting a day in the two major dialects of Afghanistan, and that is vital to the peace and stability in that country. The bill awaits action by the other body. Radio Free Europe has been heard by individuals with a message of hope and freedom for the past 50 years, and I commend Radio Free Europe and Radio Liberty on their anniversary.

Mr. Speaker, I wanted to speak on behalf of the measure of the gentleman from California (Mr. LANTOS), and also speak on the appropriate resolution today for a very distinguished American, George P. Shultz, and to thank the gentleman from Iowa (Mr. LEACH) for bringing that resolution to the floor.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, George P. Shultz began his career in the South Pacific in World War II. He is ending his career, to the degree it is ending, and we hope it is not fully, with a bill aimed in his honor, a facility designed to prevent further wars. I think this could not be more fitting.

Mr. GILMAN. Mr. Speaker, long before the current emphasis on training for the foreign affairs community, George Shultz had a vision of a world-class foreign affairs training center for those who staff our foreign affairs establishment. That vision eventually became the National Foreign Affairs Training Center in Arlington, Virginia, which by this act, we name it after Secretary Shultz.

With all due respect to the current occupant of that office, George Shultz is in my estimation the finest person I have had the honor of working with during his or her service as Secretary of State. He played an enormous role in the tremendous expansion of the scope of liberty in the world during the Reagan Administration, all while protecting our national security from real threats. At times, he suffered the slings and arrows of fierce partisan attack, as he advanced the sometimes unpopular policies of his Administration. He did so always with inspiring grace and intellectual honesty.

If those who serve our Nation in foreign affairs were to model themselves after George Shultz, we would do well indeed. Let us help keep his spirit in their consciousness by naming the facility he planned after this visionary Secretary of State, our friend George Shultz.

I urge all my colleagues to support this tribute to an outstanding American, Secretary of State, George P. Shultz.

Mr. LEACH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass the bill, H.R. 3348.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HUNGER TO HARVEST: DECADE OF SUPPORT FOR SUB-SAHARAN AFRICA RESOLUTION

Mr. LEACH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Con. Res. 102) relating to efforts to reduce hunger in sub-Saharan Africa, as amended.

The Clerk read as follows:

H. CON. RES. 102

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. SHORT TITLE.

This concurrent resolution may be cited as the "Hunger to Harvest: Decade of Support for Sub-Saharan Africa Resolution".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Despite some progress in recent years, sub-Saharan Africa enters the new millennium with many of the world's poorest countries and is the one region of the world where hunger is both pervasive and increasing.

(2) Thirty-three of the world's 41 poorest debtor countries are in sub-Saharan Africa and an estimated 291,000,000 people, nearly one-half of sub-Saharan Africa's total population, currently live in extreme poverty on less than $1 a day.

(3) One in three people in sub-Saharan Africa is chronically undernourished, double the number of three decades ago. One child out of seven dies before the age of five, and one-half of these deaths are due to malnutrition.

(4) Sub-Saharan Africa is the region in the world most affected by infectious disease, accounting for one-half of the deaths worldwide from HIV/AIDS, tuberculosis, malaria, cholera, and several other diseases.

(5) Sub-Saharan Africa is home to 70 percent of adults, and 80 percent of children, living with the HIV virus, and 75 percent of the people worldwide who have died of AIDS lived in Africa.

(6) The HIV/AIDS pandemic has erased many of the development gains of the past generation in sub-Saharan Africa and now threatens to undermine economic and social progress for the next generation, with life expectancy in parts of sub-Saharan Africa having already decreased by 10–20 years as a result of AIDS.

(7) Despite these immense challenges, the number of sub-Saharan African countries that are moving toward open economies and more accountable governments has increased, and these countries are beginning to achieve local solutions to their common problems.

(8) To make lasting improvements in the lives of their people, sub-Saharan Africa governments need support as they act to solve conflicts, make critical investments in human capacity and infrastructure, combat corruption, reform their economies, stimulate trade and equitable economic growth, and build democracy.

(9) Despite sub-Saharan Africa's enormous development challenges, United States companies hold approximately $12,800,000,000 in investments in sub-Saharan Africa, greater than United States investments in either the Middle East or Eastern Europe, and total United States trade with sub-Saharan Africa currently exceeds that with all of the independent states of the former Soviet Union, including the Russian Federation. This economic relationship could be put at risk unless additional public and private resources are provided to combat poverty and promote equitable economic growth in sub-Saharan Africa.

(10) Bread for the World Institute calculates that the goal of reducing world hunger by one-half by 2015 is achievable through an increase of $4,000,000,000 in annual funding from all donors for poverty-focused development. If the United States were to shoulder one-fourth of this aid burden—approximately $1,000,000,000 a year—the cost to each United States citizen would be one penny per day.

(11) Failure to effectively address sub-Saharan Africa's development needs could result in greater conflict and increased poverty, heightening the prospect of humanitarian intervention and potentially threatening a wide range of United States interests in sub-Saharan Africa.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the United States should declare "A Decade of Support for Sub-Saharan Africa";

(2) not later than 90 days after the date of adoption of this concurrent resolution, the President should submit a report to Congress setting forth a five-year strategy, and a ten-year strategy, to achieve a reversal of current levels of hunger and poverty in sub-Saharan Africa, including a commitment to

contribute an appropriate United States share of increased bilateral and multilateral poverty-focused resources for sub-Saharan Africa, with an emphasis on—

(A) health, including efforts to prevent, treat, and control HIV/AIDS, tuberculosis, malaria, and other diseases that contribute to malnutrition and hunger, and to promote maternal health and child survival;

(B) education, with an emphasis on equal access to learning for girls and women;

(C) agriculture, including strengthening subsistence agriculture as well as the ability to compete in global agricultural markets, and investment in infrastructure and rural development;

(D) private sector and free market development, to bring sub-Saharan Africa into the global economy, enable people to purchase food, and make health and education investments sustainable;

(E) democratic institutions and the rule of law, including strengthening civil society and independent judiciaries;

(F) micro-finance development; and

(G) debt relief that provides incentives for sub-Saharan African countries to invest in poverty-focused development, and to expand democratic participation, free markets, trade, and investment;

(3) the President should work with the heads of other donor countries and sub-Saharan African countries, and with United States and sub-Saharan African private and voluntary organizations and other civic organizations, including faith-based organizations, to implement the strategies described in paragraph (2);

(4) Congress should undertake a multi-year commitment to provide the resources to implement those strategies; and

(5) 120 days after the date of adoption of this concurrent resolution, and every year thereafter, the Administrator of the United States Agency for International Development, in consultation with the heads of other appropriate Federal departments and agencies, should submit to Congress a report on the implementation of those strategies, including the action taken under paragraph (3), describing—

(A) the results of the implementation of those strategies as of the date of the report, including the progress made and any setbacks suffered;

(B) impediments to, and opportunities for, future progress;

(C) proposed changes to those strategies, if any; and

(D) the role and extent of cooperation of the governments of sub-Saharan countries and other donors, both public and private, in combating poverty and promoting equitable economic development.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 102, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the cooperation of the majority leader, the gentleman from Illinois (Chairman HYDE) and the gentleman from California (Mr. LANTOS) for allowing the House to consider this Hunger to Harvest: Decade of Support for sub-Saharan Africa Resolution.

The bill was introduced by the gentleman from New Jersey (Mr. PAYNE) and me earlier this year and currently has 150 cosponsor, including many of our colleagues on the Committee on International Relations. The amendment in the nature of a substitute that the committee is offering today conforms the House version with similar language already passed by the Senate.

This resolution expresses the sense of the Congress that the United States should commit itself to acting with its partners in sub-Saharan Africa to reduce poverty and hunger on the subcontinent over the next decade.

What is most extraordinary about the 20th century in relation to the rest of human history is that economic and social development, coupled with modern medicines, caused the life spans of human beings to double on much of the planet. Tragically, the exception has been in Africa, particularly sub-Saharan Africa, where not only have life spans not been extended, but life has been shortened in the last several decades.

While sub-Saharan Africa has tremendous untapped human and economic potential, for the most part the region has not prospered. Indeed, in all of the developing regions of the world, the severity of poverty and malnutrition is greatest in that sub-continent and is also growing at the fastest rate on the Earth. Roughly 290 million people in the region, nearly half the total population, live on less than a dollar a day.

Mr. Speaker, 33 of the world's 41 most heavily indebted poor countries are in sub-Saharan Africa. According to the World Bank, those more vulnerable to poverty live in rural areas in large households which are often headed by women.

In addition, the scourge of HIV/AIDS is fast reversing many of the modest social gains which have been achieved in recent years. There are many causes for this distressing state of affairs: interstate conflict, natural disaster, corruption, underdeveloped private sectors, to name a few. While the people of sub-Saharan Africa must take ultimate responsibility for the success or failure of these countries, the United States has the moral obligation and resources to help improve the lives of millions of people living there.

This resolution directs the Agency for International Development to devise 5- and 10-year strategic plans in health, education and agriculture, and for promoting free market economies, trade investment, democracy, and the rule of law.

In closing, I would like to acknowledge the extraordinary leadership of America's faith-based community, churches, synagogues, mosques and associated institutes like Bread for the World and its thoughtful president, David Beckman, for compelling support for this resolution. It is this private, faith-based community that has awakened the conscience of the world on the need to confront the moral and development challenges of issues such as debt relief and world hunger. In their name, I urge passage of this resolution.

Before turning to the distinguished ranking member of the committee, let me thank the gentleman for his leadership and that of course of the gentleman from New Jersey (Mr. PAYNE), which has been so extraordinary on this subject.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution. First, I would like to commend the gentleman from Iowa (Mr. LEACH) for introducing this important resolution. I want to commend our Chair, the gentleman from Illinois (Mr. HYDE); and I certainly pay tribute to the chairman of the Subcommittee on Africa, the gentleman from California (Mr. ROYCE), and to the ranking member, the gentleman from New Jersey (Mr. PAYNE), whose contribution on the subject of Africa and indeed on all subjects coming before our committee is immeasurable in importance.

Mr. Speaker, each night more than 800 million people around the globe, many of them children, go to bed not knowing if they will have enough to eat the next day. Most of these poor and hungry souls live in sub-Saharan Africa. In Africa, hunger is both pervasive and growing. The sad truth is that hunger, poverty, and disease go hand in hand. A poor and hungry mother has few defenses against tuberculosis, malaria, cholera, HIV-AIDS, and other deadly diseases when hunger, too, gnaws at her body and saps her spirit.

Some of Africa's poverty is caused by decades of civil strife where the sole purpose of conflict is to rob the nation of its wealth. Resource wars fought over diamonds, oil, or simply the largess of the state leave little behind for the citizens of the nation. Mr. Speaker, this must end. These wars leave farming areas seeded with land mines instead of maize. Young boys stripped of their innocence become vicious child soldiers instead of school boys. War lords reap millions in personal gain.

Global indifference, Mr. Speaker, has caused some of the Africa's poverty. The ubiquitous faces of hungry African children cease to stir concern in rich countries as new crises arise that affect our own lives. One is only stirred from the seeming banality of Africa's hunger when one truly looks into the eyes of a malnourished child or a helpless mother. It has become too easy to turn away and worry instead about tax relief or global trade or school reform.

Mr. Speaker, taxes, trade and education matter; but they do not relieve us of our obligation to care for Africa's poor and hungry. Despite immense challenges, the number of sub-Saharan African countries digging deep to find local solutions to their problems is growing. They are moving toward open economies and more accountable and transparent government. To make long-term, sustainable improvements in the lives of their people, African governments need the support that we can give them to resolve their conflicts, make critical investment in human capacity and infrastructure, combat corruption, reform their economies, and ultimately build democracy. They do not need handouts, but they certainly do need us to join hands.

Mr. Speaker, we can come together with those African leaders who are ready to act responsibly. We can build strong economic relationships that combat poverty and promote equitable economic growth in Africa. Together we can address effectively Africa's human needs and bring about a continent with a different face, a face no longer filled with hunger, hopelessness and despair, but one etched with promise, prosperity and hope.

□ 1445

Mr. Speaker, the Hunger to Harvest Resolution is a very important piece of legislation. Its passage will put Congress on record in support of efforts to alleviate hunger in Africa, and I ask every one of our colleagues to vote in support of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, I rise in support of this legislation, and I rise to commend the gentleman from Iowa (Mr. LEACH) for his humanitarian efforts and his work over the years with AID and his efforts to bring focus on this issue of hunger in Africa, and also to commend the gentleman from New Jersey (Mr. PAYNE), the ranking member of the Subcommittee on Africa, for his efforts to raise before this body this critically important issue of what we can do to reduce hunger in sub-Saharan Africa.

Far too little progress has been made over the years in fighting hunger. I believe that Congress has taken several tangible steps, in addition to this Hunger to Harvest legislation, that have helped in some way to reduce poverty and hunger in Africa. One that I wanted to focus on for just a minute was the fact that in May of 2000, after years of effort, Congress passed and the President signed into law the African Growth and Opportunity Act. Although the bill has only been in effect for a year, it has had a very positive development impact in terms of some of the poorest African countries.

I will give my colleagues two examples: Malawi and Madagascar, two of the world's poorest countries, have experienced a 70 percent and 120 percent increase respectively in trade with the United States, causing a direct increase there in jobs and causing an increase in income to the neediest people in those countries; and that means food on the plates of children who might otherwise not eat, and shoes on their feet.

Mr. Speaker, we should do more in fighting hunger in Africa, and this resolution focuses on that issue, and we should also do more to promote trade with Africa, which is good for African countries and, frankly, good for America too. With a global economic slowdown underway, Africa is one of the few regions in the world, frankly, where we are increasing trade, and Africa wants to do business with the United States.

The U.S. has a growing commercial interest there. It has a growing strategic interest in Africa which has been described as the "soft underbelly" in our war against terrorism but, most important for us, the U.S. has an important humanitarian interest there. America has always had that humanitarian interest in Africa. I want to commend these Members of Congress who have routinely tried to keep that focus on that issue, and it is that interest that the Hunger to Harvest legislation speaks to.

So I again wanted to commend the gentleman from Iowa (Mr. LEACH) and to commend the gentleman from New Jersey (Mr. PAYNE) for their efforts.

Mr. LANTOS. Mr. Speaker, I am delighted to yield such time as he may consume to our distinguished colleague, the gentleman from New Jersey (Mr. PAYNE), my dear friend, who has been our leader on our side of the aisle on all issues relating to these matters.

Mr. PAYNE. Mr. Speaker, I rise in strong support of H. Con. Res. 102.

Let me thank the gentleman from Illinois (Mr. HYDE) for moving this important piece of legislation through and the ranking member, the gentleman from California (Mr. LANTOS), whose long interest in foreign affairs throughout the world and his own experience has been an example of leadership to our committee. Let me commend the gentleman from California (Mr. ROYCE), who has led the Subcommittee on Africa into a forward-moving committee, and the gentleman from Iowa (Mr. LEACH), who not only on this bill dealing with hunger, but his leadership on legislation focusing the attention of the Global AIDS Fund with the gentlewoman from California (Ms. LEE), who should be commended for his tireless effort on behalf of people of the world who are less fortunate.

While the Nation's attention is understandably with the war in Afghanistan, Congress has made a firm pledge to poor and hungry people in Africa with this legislation, H. Con. Res. 102, Hunger to Harvest: A Decade of Concern for Africa, which calls for significant new poverty-focused development assistance to sub-Saharan Africa. Hunger to Harvest would increase poverty-focused assistance to sub-Saharan Africa by $1 billion. According to Bread for the World, the national grass-roots organization that works with antihunger programs, and they have actively lobbied for this bill, a commitment of $4 billion a year from the G–8 countries would cut world hunger in half by the year 2015. The U.S. share of that would be $1 billion, which translates into a mere penny a day for each American. We can certainly afford that. We have the means to effectively attack hunger and we have the means to feed every child in the world where, as it has been mentioned, 200 million children out of 800 million people go hungry every day. We have the means to save the precious lives of innocent children when, in developing countries, 6 million children die every year, mostly because of hunger-related illnesses.

The world produces enough food to feed its growing population, so the issue is not the sufficiency of food. The issue is about access and distribution. The long-term solution to hunger in sub-Saharan Africa, therefore, must include strengthening agriculture as a source of food and income and improving basic health and education in sub-Saharan Africa.

We cannot as a country say we are for development and not deal with the issue of hunger, which inhibits progress, growth, and life, nor can we effectively fight the war on terrorism and win if we do not deal with conditions of hunger and poverty which can lead to feelings of disillusionment and marginalization. Helping Africa work its way to prosperity is not only the right thing to do but it also makes good sense to America's workers. The United States holds approximately $13 billion in investments in sub-Saharan Africa, more than in the Middle East or Eastern Europe, and the total U.S. trade with sub-Saharan Africa exceeds that of the entire former Soviet Union.

What Congress will do in enthusiastically passing the Hunger to Harvest Resolution is join our G–8 partners and the World Bank in expressing support for the long-term development initiatives of African governments as expressed in the new Program for African Development announced by Presidents

Mbeki of South Africa, Obasanjo of Nigeria, Wade of Senegal, and Bouteflika of Algeria.

I have been inspired by this bipartisan effort and by the work of Bread for the World. With more than a third of the Members of the House cosponsoring this resolution from both sides of the aisle, I think together we can fight hunger and poverty in Africa. Let me once again commend the gentleman from Iowa (Mr. LEACH) who has fought tirelessly to reach this milestone. While our two parties may disagree on some issues, it is wonderful to see that ending hunger and aiding in Africa's development is something we can all agree on.

At a time when more and more Americans say the U.S. would benefit from greater involvement in world affairs, America has helped put Congress on record.

Mr. Speaker, I ask our colleagues to pass this bill.

Mr. LANTOS. Mr. Speaker, I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

In conclusion, let me again thank the gentleman from California (Mr. LANTOS), the gentleman from New Jersey (Mr. PAYNE), and the gentleman from California (Mr. ROYCE) for their leadership on so many African issues. Symbolically, this bill is about the world family, about kids and their grandparents. If we keep our priorities right, the likelihood of moral and national splintering becomes remote. If, on the other hand, we wear blinkers, chaos is inevitable. The American national spirit, as well as our national interest, is interlinked with the commitment to end despair in the furthest reaches of the globe. Hope is the only hope for the world today.

Mr. GILMAN. Mr. Speaker, I would like to take time to voice my support for H. Con. Res. 102. Sub-Saharan Africa is clearly a region afflicted by poverty. Despite some positive economic and political changes in sub-Saharan Africa, it remains an area of the world where hunger is pervasive and steadily increasing with one of every three persons being chronically undernourished. This hunger has multiple causes, including severe poverty, the HIV/AIDS pandemic, civil wars, continued foreign debt, degraded land, and inadequate education.

African nations need additional U.S. aid to develop their human and natural resources—and thereby strengthen their capacity to deal with hunger, poverty, and related problems. Sub-Saharan Africa needs additional resources to improve farming and support farmer-owned businesses; help prevent and treat HIV/AIDS, malaria, tuberculosis, and other infectious diseases; encourage the enrollment of more children in school; and help develop microenterprises and other business opportunities.

However, assistance alone will not solve their problems. Although such poverty-focused development aid has proven effective, our efforts to assist sub-Saharan Africans to overcome poverty must remain focused on encouraging their participation in the private sector. The foundation for sustained economic growth in sub-Saharan Africa depends upon the development of an environment receptive to trade and investment. This can only be brought about by investments in human resources, domestic economic development, the implementation of free market policies, and the widespread application of the rule of law and democratic governance by the sub-Saharan nations themselves.

I urge support for this measure.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of H. Con. Res. 102, the Hunger to Harvest Resolution: A Decade of Concern for Africa. Additionally, this Member, as a cosponsor of this resolution, would like to thank the distinguished gentleman from Iowa (Mr. LEACH) and the distinguished gentleman from New Jersey (Mr. PAYNE) for introducing this important legislation.

Mr. Speaker, the terrorist attacks of September 11th highlighted the extent to which American security is placed at risk when the U.S. fails to provide development aid and assistance to areas in peril of falling into the hands of unfriendly regimes. Indeed, sub-Saharan Africa currently faces many of the same conditions which coalesced to create the Afghanistan in which the Taliban has thrived. Much of sub-Saharan Africa has fought ravaging civil wars, demoralizing poverty, recurring droughts, and debilitating disease.

This country's own long-term security depends to a large extent on stability in sub-Saharan Africa. The mirco-enterprise, agriculture development, debt relief, and health programs which are outlined in this bill have the potential to serve as key investments in preventing terrorism against the U.S. and against U.S. interests.

Mr. Speaker, this Member strongly urges his colleagues to vote for H. Con. Res. 102.

Mr. MATHESON. Mr. Speaker, I am grateful today for the opportunity to speak on a topic that is important to all Americans.

The issue of hunger in sub-Saharan Africa strikes at the very core of our nation's values. The current situation in this part of the world is both alarming and poignant. Many of the people in this region suffer from disease, malnutrition, and hunger. The suffering of so many is attributed to the lack of such basic needs as food and adequate shelter which makes the situation all the more disturbing.

Currently the American people are focused on overcoming recent tragedy and forging new roads toward progress and prosperity. The humanity and compassion that the people of this nation have displayed transcends geographical borders. As noted in H. Con. Res. 102, the majority of Americans want to see the United States, along with the rest of the world, join together in a concerted effort to alleviate world hunger.

As the United States leads the world into the twenty-first century, we must ensure that we leave no one behind. There is a risk that if left unresolved, the gap between rich and poor nations of the world will only increase. It is important that the United States lead the world in showing a real commitment to eliminating the suffering of the world's hungry. While it is important that we act quickly, we must also be willing to persevere in order to create real and lasting change.

Sub-Saharan Africa is a region fraught with many problems. One in three people are chronically undernourished, leading one-seventh of all children to die before they are five years old. Upwards of 70 percent of all AIDS patients reside in sub-Saharan Africa, and though almost half of its population survives on less than $1 a day, U.S. companies hold $15 billion in investments there—more than either the Middle East or Eastern Europe.

Mr. Speaker, I am confident that this resolution takes the necessary steps to begin substantial change. H. Con. Res. 102 calls for the engagement of other nations in a multi-lateral effort to be conducted for several years. Through a multi-year commitment to funding health, education, agriculture, and micro-finance programs, as well as debt relief, we can show our commitment to real progress. I encourage my colleagues to vote for this resolution, declare "A Decade of Concern" for sub-Saharan Africa, and begin the process of alleviating this human suffering.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to express my strong support for H. Con. Res. 102. This resolution highlights the stark realities facing the African sub-continent at the precipice of this millennium, and highlights the commitments that the United States must make in order to further the health and safety of the African peoples.

The findings in this resolution tell a stark story. Africa is the one area of the world where hunger is both pervasive and increasing; 33 of the 41 poorest debtor countries are in sub-Saharan Africa. Nearly half of the total population of this geographic population lives on less than $1 a day; 70 percent of the adults and 80 percent of children living with HIV are in Africa, and two-thirds of worldwide deaths due to the ravages of AIDS have taken place there.

Mr. Speaker, the American people overwhelmingly think that the U.S. should commit to cutting world hunger in half by 2015. Private organizations such as Bread of the World estimate that the U.S. burden for this project would be around a penny per day. This makes Congress' action here that much more important.

Mr. Speaker, I share the sense of this body that "a moral people cannot tolerate the existence of hunger, poverty, and disease in any part of the world." This nation should declare a "Decade of Concern for Africa" and commit to increased levels of poverty focused development assistance across sub-Saharan Africa. I agree that this support should be focused on the immediate needs of the African Diaspora by directing funding toward health and HIV prevention, education and equal learning for girls and women, agriculture and sustainable development, and bilateral and multilateral debt relief that acknowledges the West's role in creating instability in Africa.

By passing this resolution, this Congress moves closer to my goal of a stable, healthy, and viable Africa for all its nations and peoples. This body follows the efforts of the Congressional Black Caucus to highlight the horrific conditions at play in the region. In light of the U.S. actions during the recent U.N. Conference Against Racism held in South Africa, this resolution establishes that the American people are humane and compassionate.

Mr. Speaker, I am again happy to support this resolution, and encourage all members to further its goals of a stable, healthy, and hunger-free Africa.

Mr. LEACH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 102, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ZIMBABWE DEMOCRACY AND ECONOMIC RECOVERY ACT OF 2001

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 494) to provide for a transition to democracy and to promote economic recovery in Zimbabwe, as amended.

The Clerk read as follows:

S. 494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Zimbabwe Democracy and Economic Recovery Act of 2001".

SEC. 2. STATEMENT OF POLICY.

It is the policy of the United States to support the people of Zimbabwe in their struggle to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and restore the rule of law.

SEC. 3. DEFINITIONS.

In this Act:

(1) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term "international financial institutions" means the multilateral development banks and the International Monetary Fund.

(2) MULTILATERAL DEVELOPMENT BANKS.—The term "multilateral development banks" means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

SEC. 4. SUPPORT FOR DEMOCRATIC TRANSITION AND ECONOMIC RECOVERY.

(a) FINDINGS.—Congress makes the following findings:

(1) Through economic mismanagement, undemocratic practices, and the costly deployment of troops to the Democratic Republic of the Congo, the Government of Zimbabwe has rendered itself ineligible to participate in International Bank for Reconstruction and Development and International Monetary Fund programs, which would otherwise be providing substantial resources to assist in the recovery and modernization of Zimbabwe's economy. The people of Zimbabwe have thus been denied the economic and democratic benefits envisioned by the donors to such programs, including the United States.

(2) In September 1999 the IMF suspended its support under a "Stand By Arrangement", approved the previous month, for economic adjustment and reform in Zimbabwe.

(3) In October 1999, the International Development Association (in this section referred to as the "IDA") suspended all structural adjustment loans, credits, and guarantees to the Government of Zimbabwe.

(4) In May 2000, the IDA suspended all other new lending to the Government of Zimbabwe.

(5) In September 2000, the IDA suspended disbursement of funds for ongoing projects under previously-approved loans, credits, and guarantees to the Government of Zimbabwe.

(b) SUPPORT FOR DEMOCRATIC TRANSITION AND ECONOMIC RECOVERY.—

(1) BILATERAL DEBT RELIEF.—Upon receipt by the appropriate congressional committees of a certification described in subsection (d), the Secretary of the Treasury shall undertake a review of the feasibility of restructuring, rescheduling, or eliminating the sovereign debt of Zimbabwe held by any agency of the United States Government.

(2) MULTILATERAL DEBT RELIEF AND OTHER FINANCIAL ASSISTANCE.—It is the sense of Congress that, upon receipt by the appropriate congressional committees of a certification described in subsection (d), the Secretary of the Treasury should—

(A) direct the United States executive director of each multilateral development bank to propose that the bank should undertake a review of the feasibility of restructuring, rescheduling, or eliminating the sovereign debt of Zimbabwe held by that bank; and

(B) direct the United States executive director of each international financial institution to which the United States is a member to propose to undertake financial and technical support for Zimbabwe, especially support that is intended to promote Zimbabwe's economic recovery and development, the stabilization of the Zimbabwean dollar, and the viability of Zimbabwe's democratic institutions.

(c) MULTILATERAL FINANCING RESTRICTION.—Until the President makes the certification described in subsection (d), and except as may be required to meet basic human needs or for good governance, the Secretary of the Treasury shall instruct the United States executive director to each international financial institution to oppose and vote against—

(1) any extension by the respective institution of any loan, credit, or guarantee to the Government of Zimbabwe; or

(2) any cancellation or reduction of indebtedness owed by the Government of Zimbabwe to the United States or any international financial institution.

(d) PRESIDENTIAL CERTIFICATION THAT CERTAIN CONDITIONS ARE SATISFIED.—A certification under this subsection is a certification transmitted to the appropriate congressional committees of a determination made by the President that the following conditions are satisfied:

(1) RESTORATION OF THE RULE OF LAW.—The rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association, and an end to the lawlessness, violence, and intimidation sponsored, condoned, or tolerated by the Government of Zimbabwe, the ruling party, and their supporters or entities.

(2) ELECTION OR PRE-ELECTION CONDITIONS.—Either of the following two conditions is satisfied:

(A) PRESIDENTIAL ELECTION.—Zimbabwe has held a presidential election that is widely accepted as free and fair by independent international monitors, and the president-elect is free to assume the duties of the office.

(B) PRE-ELECTION CONDITIONS.—In the event the certification is made before the presidential election takes place, the Government of Zimbabwe has sufficiently improved the pre-election environment to a degree consistent with accepted international standards for security and freedom of movement and association.

(3) COMMITMENT TO EQUITABLE, LEGAL, AND TRANSPARENT LAND REFORM.—The Government of Zimbabwe has demonstrated a commitment to an equitable, legal, and transparent land reform program consistent with agreements reached at the International Donors' Conference on Land Reform and Resettlement in Zimbabwe held in Harare, Zimbabwe, in September 1998.

(4) FULFILLMENT OF AGREEMENT ENDING WAR IN DEMOCRATIC REPUBLIC OF CONGO.—The Government of Zimbabwe is making a good faith effort to fulfill the terms of the Lusaka, Zambia, agreement on ending the war in the Democratic Republic of Congo.

(5) MILITARY AND NATIONAL POLICE SUBORDINATE TO CIVILIAN GOVERNMENT.—The Zimbabwean Armed Forces, the National Police of Zimbabwe, and other state security forces are responsible to and serve the elected civilian government.

(e) WAIVER.—The President may waive the provisions of subsection (b)(1) or subsection (c), if the President determines that it is in the national interest of the United States to do so.

SEC. 5. SUPPORT FOR DEMOCRATIC INSTITUTIONS, THE FREE PRESS AND INDEPENDENT MEDIA, AND THE RULE OF LAW.

(a) IN GENERAL.—The President is authorized to provide assistance under part I and chapter 4 of part II of the Foreign Assistance Act of 1961 to—

(1) support an independent and free press and electronic media in Zimbabwe;

(2) support equitable, legal, and transparent mechanisms of land reform in Zimbabwe, including the payment of costs related to the acquisition of land and the resettlement of individuals, consistent with the International Donors' Conference on Land Reform and Resettlement in Zimbabwe held in Harare, Zimbabwe, in September 1998, or any subsequent agreement relating thereto; and

(3) provide for democracy and governance programs in Zimbabwe.

(b) FUNDING.—Of the funds authorized to be appropriated to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 2002—

(1) $20,000,000 is authorized to be available to provide the assistance described in subsection (a)(2); and

(2) $6,000,000 is authorized to be available to provide the assistance described in subsection (a)(3).

(c) SUPERSEDES OTHER LAWS.—The authority in this section supersedes any other provision of law.

SEC. 6. SENSE OF CONGRESS ON THE ACTIONS TO BE TAKEN AGAINST INDIVIDUALS RESPONSIBLE FOR VIOLENCE AND THE BREAKDOWN OF THE RULE OF LAW IN ZIMBABWE.

It is the sense of Congress that the President should begin immediate consultation with the governments of European Union member states, Canada, and other appropriate foreign countries on ways in which to—

(1) identify and share information regarding individuals responsible for the deliberate breakdown of the rule of law, politically motivated violence, and intimidation in Zimbabwe;

(2) identify assets of those individuals held outside Zimbabwe;

(3) implement travel and economic sanctions against those individuals and their associates and families; and

(4) provide for the eventual removal or amendment of those sanctions.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROYCE) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROYCE).

GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 494.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to begin by expressing my appreciation to the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations, and the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, for moving this important legislation. I would also like to express my appreciation to the gentleman from California (Mr. LANTOS), the ranking member of the Committee on International Relations, and the gentleman from New Jersey (Mr. PAYNE), the ranking member of the Subcommittee on Africa that I chair, for their support of this bill. With elections approaching in Zimbabwe, and the conditions on the ground deteriorating, it is important that we pass the Zimbabwe Democracy and Economic Recovery Act of 2001 before this Congress adjourns.

In Zimbabwe we are sadly seeing a dictator there literally burning his country down. I feel that he is very desperate there to keep his perks and avoid accountability for his crimes. As a consequence of that, he has sanctioned utter anarchy in his homeland in an attempt to win an election that he has been pressured by Zimbabweans into holding. I think that if he had his way, Mr. Mugabe would undoubtedly run Zimbabwe as a one-party State as he did run it during the 1980s, but Mugabe has spared no means in his attempt to suppress democratic expression in Zimbabwe. His ZANU–PF Party thugs have employed murder, mass beatings, systematic torture, gang rape, house burning, death threats, and every type of police brutality. And while Zimbabwe police are quick to crack down on peaceful political protests, violent ZANU–PF operatives are rarely brought to justice. The Zimbabwe Lawyers for Human Rights group has observed that it is "outraged by the continued brutality, lack of respect for fundamental human rights and political partisanship of the Zimbabwe Republic Police." Offices of the political opposition there are routinely fire-bombed. Dozens of political opponents have been murdered in State-sanctioned violence, yet Mr. Mugabe does not speak out against those doing the violence. Instead, President Mugabe calls the peaceful political opposition "terrorists" and vows to crush them.

□ 1500

For Zimbabweans, it is a sad irony that the Mugabe Government represses political opponents with the same Law and Order Maintenance Act which Ian Smith's Rhodesian repressive government pioneered to prevent majority rule there.

Having led a congressional delegation to Saudi Arabia some years back, I saw then the climate of fear the Zimbabwe Government long ago created. This legislation provides reasonable guidelines for U.S. engagement with Zimbabwe. It expresses the United States' interest in assisting the Zimbabwean people with economic development; and it provides funding for such efforts, but only when the climate is right, that is, when the rule of law has been established and when free and fair elections are possible.

We must be realistic, though. The prospects are increasingly remote that the presidential elections, which must be held by March, will be free and fair. The U.S.-based International Foundation for Electoral Systems has been chased from the country.

The government rejected a call by the European Union to allow for election monitors. While it recently relented on its decision, it is likely to reverse course. The government is likely to again prohibit those observers from coming in for the elections.

I was scheduled to lead an election observation team for the 2000 parliamentary elections there, but the Zimbabwean Government pulled the visas at the last minute.

A U.S. District Court judge in New York recently ruled that Zimbabwe's governing political party, ZANU–PF, was liable for murdering and torturing its political opponents in the run-up to those elections. The court found that ZANU–PF, in its organized violence and methodological terror, worked in tandem with Zimbabwean Government officials. That was in the year 2000. The current Mugabe Government has never changed its modus operandi.

Mugabe is doing all that he can to see that the world is not watching him. The Washington Post and the New York Times reporters have been denied visas to cover the chaos there. The BBC was booted out in July. Foreign journalists are routinely harassed and intimidated.

It is Zimbabwean journalists, though, that have borne the brunt of it. Newspaper offices have been bombed. Against this, we have seen many profiles in courage. Jeff Nyarota, editor of the Daily News, Zimbabwe's only independent newspaper, recently won the New York-based Committee to Protect Journalists Press Freedom Award for his courageous work uncovering government corruption.

I am certain that this legislation is a morale boost to brave Zimbabwean journalists who fear that the world ignores them. Let me just say a word about the economy there.

Predictably, the Zimbabwean economy is now in ruins. With farmland under government siege, half a million Zimbabweans face starvation in a country that traditionally produces enough food to export. The current government is oblivious to the suffering of the people there.

ZANU–PF leadership, though, is not hurting. The U.N. recently reported how Zimbabwean troops are clear-cutting invaluable forests in the Democratic Republic of Congo, and proceeds from this environmental crime assuredly are going to supporting the luxurious lifestyle of Zimbabwe's ruling elite.

This legislation, importantly, asks the administration to begin a process of identifying the assets of those involved, those military personnel involved in just that effort, and to impose personal economic sanctions against them for breaking down the rule of law in Zimbabwe. It does not affect trade, however.

This legislation provides aid for lawful and transparent land resettlement, and I believe that this will have to come after there is a new government. We should not lose sight of the fact that President Mugabe has created the current land crisis. He has sanctioned the violent land invasions and the murders of Zimbabweans, black and white, precisely because it serves his political interests. That is why many attempts by the international community to aid a lawful land reform program have gone for naught.

The latest attempt, the Abuja Agreement, has fallen apart, with the Mugabe Government intensifying farm invasions and violence. President Mugabe's land reform program has been to take land and give it to the generals and to give it to his political associates. Recent reports have him now giving land to Libyan business partners.

The Mugabe Government has shown little interest in the welfare of the people of Zimbabwe, and that is why we need to move this legislation.

Mr. Speaker, I include for the RECORD an exchange of letters between the gentleman from Ohio (Chairman OXLEY) of the Committee on Financial Services and Chairman HYDE concerning the Senate bill, S. 494:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, November 30, 2001.
Hon. HENRY J. HYDE,
Chairman, Committee on International Relations, Washington, DC.

DEAR MR. CHAIRMAN: I understand that on November 28, 2001, the Committee on International Relations ordered S. 494, the Zimbabwe Democracy and Economic Recovery Act of 2001, reported to the House. As you know, the Committee on Financial Services was granted the primary referral of the bill upon its introduction pursuant to the Committee's jurisdiction over debt relief and other financial assistance under Rule X of the Rules of the House of Representatives.

Because of the importance of this matter and your commitment to address this Committee's concerns, I recognize your desire to bring this legislation before the House in an expeditious manner and will waive consideration of the bill by the Financial Services Committee. By agreeing to waive its consideration of the bill, the Financial Services Committee does not waive its jurisdiction over S. 494. In addition, the Committee on Financial Services reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on Financial Services for conferees on S. 494 or related legislation.

I request that you include this letter and your response as part of the Congressional Record during consideration of the legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,
MICHAEL G. OXLEY,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, November 29, 2001.
Hon. MICHAEL OXLEY,
Chairman, Committee on Financial Services, Washington, DC.

DEAR MR. CHAIRMAN: I am writing you concerning the bill S. 494, Zimbabwe Democracy and Economic Recovery Act of 2001, which this Committee ordered reported yesterday. I recognize that the bill was jointly referred to the Committee on Financial Services based on your Committee's jurisdiction over language relating to debt relief and other financial assistance.

It is my intention to take this matter up under suspension of the rules. While recognizing your jurisdiction over this subject matter, I would appreciate your willingness to waive your right to consider this bill without waiving your jurisdiction over the general subject matter. I will support the Speaker's naming Members of your Committee as conferees on the matter should it get to conference.

As you have requested, I will include this exchange of letters in the Record during consideration of the resolution.

I appreciate your assistance in getting this important bill to the floor.

Sincerely,
HENRY J. HYDE,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 494, the Zimbabwe Democracy and Economic Recovery Act.

First, I would like to commend the distinguished chairman of the Subcommittee on Africa, my good friend and fellow Californian, the gentleman from California (Mr. ROYCE), and the ranking minority member, our distinguished colleague, the gentleman from New Jersey (Mr. PAYNE), for their active pursuit of human rights, democracy, and decency in Zimbabwe, and for their strong support for this legislation.

I also want to thank the gentleman from Illinois (Mr. HYDE), the chairman, for expediting the consideration of this important legislation.

Mr. Speaker, the Zimbabwe Democracy and Economic Recovery Act of 2001 is designed to support the people of Zimbabwe, and provides a clear strategy for the United States and Zimbabwe to reengage in normal political and economic activity. This is an incentives bill, not a sanctions bill, Mr. Speaker.

Our legislation provides that the United States will initiate a plan to promote Zimbabwe's economic recovery, but only after certain political conditions will have been met. These conditions include restoring the rule of law, ensuring a positive pre-election environment, pursuing equitable legal and transparent land reform, and ensuring civilian control of both the military and the police.

The House is acting on this legislation today because, unfortunately, the situation in Zimbabwe is increasingly grim. Partisan political violence condoned and encouraged by Mugabe has crippled a once prosperous economy. Once an exporter of maize, Zimbabwe is set to run out by February of this coming year. Without emergency humanitarian assistance, thousands of Zimbabweans will go hungry, fall prey to disease, and starve.

Mugabe has made the so-called land question central to his political campaign and used it to justify pervasive violence. He has unleashed so-called war veterans and party militants on black farm workers, white farmers, journalists, professionals, academics, and indeed, anyone who opposes his land seizure policy.

His policy has not unified the country behind him. To the contrary, according to the most recent opinion poll, his criminal practice is turning the people of Zimbabwe against him.

Mr. Speaker, Zimbabwe's economic and political disaster threatens the whole of southern Africa. The Presidents of Africa's three largest economies, South Africa, Nigeria, and Algeria, recently launched a new Partnership for Africa's Development. This plan calls for a new relationship between Africa and the international community; and it is premised on the African states making commitments to good government, democracy, and human rights. Zimbabwe, under Mugabe, is the antithesis of this vision.

Mr. Speaker, our bill provides a set of incentives for Mugabe and his government to move in the right direction, away from intimidation, violence, corruption, and Draconian economic policies towards land reform that reflects the rule of law, policies that restore an independent judiciary, allow political competition, and support a free and independent media.

Mr. Speaker, I urge all of our colleagues to vote for this bill. It will send a strong signal to Mugabe that the people of America reject the violent situation he has created and that we support the people of Zimbabwe.

Mr. Speaker, I reserve the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding time to me.

I want to thank the Committee on International Relations, and particularly the gentleman from California (Mr. ROYCE), for bringing this issue to the fore, Mr. Speaker, and for fighting for its adoption. I want to applaud the committee for improving the document as it went forward into a bill that we can all support.

Mr. Speaker, I had the great privilege in the early 1980s of spending time in Zimbabwe just soon after the transition to independence. There was great hope at that point. The people had hoped that the rule of law and democracy would flourish and take hold.

Twenty years later, that has not been the case. We have a brutal dictator there who simply does not want to give up power. He does not want to assent to the rule and to the will of the people.

That is unfortunate. With this legislation we hope, and the purpose of it is, to help those forces in Zimbabwe who want to bring back democracy and the rule of law.

Mr. Speaker, I want to caution my colleagues, all of us, to avoid the kind of drive-by diplomacy that often characterizes our action in Africa and other third world countries, when we will pay attention when the issue is hot; and then after a successor regime comes in, we forget about the country and move on, sometimes leaving sanctions in place or other items that the successor regime has to work out of.

I hope we do not do that. I am pleased that this bill is not a sanction bill; that it seeks to target individuals, rather than target trade in general.

Mr. Speaker, I look forward one day soon to saying to the people of Zimbabwe, coda ko tu, which means in Shona, congratulations; congratulations on a return to free and fair elections and on their return to the rule of law.

Mr. LANTOS. Mr. Speaker, I am delighted to yield such time as he may consume to our distinguished colleague, the gentleman from New Jersey

(Mr. PAYNE), who probably has more experience in this part of the world than any of us, and has been a leader on this issue.

Mr. PAYNE. I thank the gentleman for yielding time to me, Mr. Speaker.

Let me once again commend the gentleman from California (Mr. ROYCE), the chairman of the subcommittee, and the gentleman from Illinois (Mr. HYDE), who brought this before the full committee, and as I indicated, the leadership of the gentleman from California (Mr. LANTOS) on Committee on International Relations, on which he has served for so many years.

Mr. Speaker, Zimbabwe is one of the most important countries in Africa. Many of us remember the people of Zimbabwe's courageous struggle for independence that took many years of fighting with Mr. Nkomo and Mr. Mugabe and others.

As I recently said in a letter to President Mugabe, indeed, post-independence Zimbabwe clearly demonstrates much of the best of Africa and what Africans are capable of doing, despite decades of repressive white rule, as we saw in Rhodesia, by Ian Smith's government.

After independence, white Zimbabweans were embraced, not chased out of the country, nor mistreated, as many cynics predicted would happen. Human rights were largely respected and the rule of law prevailed across the country.

Mr. Speaker, Zimbabwe has long been a model country with a stable government, a good educational system, and a modern economy. But in recent years, conditions have gone from bad to worse, in large part due to poor leadership. The economy is in shambles, human rights abuses are extensive, and there seems to be little respect for the rule of law. The once vibrant independent press is under intense pressure, and the independence of the judiciary has been compromised due to intrusive government actions.

The United States is not the only government concerned about the deteriorating situation in Zimbabwe. According to an article in today's New York Times, several neighboring countries, including South Africa and Botswana, have expressed their frustrations with the government of Zimbabwe's obstructionist behavior.

The Zimbabwe Democracy and Economic Recovery Act is a small effort on our part to help bring much needed stability to Zimbabwe. Why this legislation now and why Zimbabwe? Simple: Zimbabwe is too important to ignore, and the legislation offers a credible policy option to deal with the challenges that face Zimbabwe today.

Unfortunately, the situation in Zimbabwe is deteriorating by the day. Dozens of people have been killed, the rule of law is nonexistent, and authoritarian tendencies have reached a very dangerous level.

I strongly believe it is in our interests and in the interests of Zimbabwe and Africa not to allow another African country to go down this way.

□ 1515

Instability in Zimbabwe threatens the entire sub-region of southern Africa. We cannot afford to have another Somalia in southern Africa.

Mr. Speaker, some people have deliberately portrayed this legislation as punitive, and sanction legislation. They are dead wrong. What are the key objectives? Simply put, Zimbabwe Democracy and Economic Recovery Act has three key objectives. One, a just and equitable land reform, consistent with the rule of law. Two, a conducive environment for free and fair elections. And, three, the respect for human rights and the rule of law.

Mr. Speaker, if the above conditions are met by the Government of Zimbabwe, the legislation, one, authorizes $20 million for land reform, and an additional $6 million to promote democracy. Two, it will assist in debt relief. Three, it will support lifting of restrictions by the IMF and the World Bank. Fourth, we would urge our country to have AGOA, the Africa Growth and Opportunity Act, introduced in Zimbabwe.

So this is a bill to say let us have transparent elections. Let us allow the rule of law. Let us let the independent parties have their platform told. And by doing that we will embrace and we will move Zimbabwe back.

Mr. Speaker, this is a good bill that will go a long way in strengthening our ties with the people of Zimbabwe who truly deserve our support. We must be steadfast in our commitment to the people of Zimbabwe. We should not and must not turn a blind eye to abuses in Zimbabwe, and therefore I urge all of my colleagues to support this legislation.

Mr. ROYCE. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. COOKSEY).

Mr. COOKSEY. Mr. Speaker, I would like to echo the remarks of my friend, the gentleman from New Jersey (Mr. PAYNE). I feel that he knows more and has done more than probably most anyone else in this body for the people of Africa. He has been there many times. He knows it well and he has worked hard.

The chairman of the subcommittee, the gentleman from California (Mr. ROYCE) has worked equally hard and, I feel, been equally effective.

What does this bill call for? This bill calls for support of democratic institutions. It calls for a free press and independent media. And yes, it calls for the rule of law, including private property rights. These seem like simple expectations, but yet they would be major, major advances for the people of Zimbabwe.

What does this bill offer? What does it threaten? First, there are no sanctions involved. There is the offer of debt relief and there is the offer of aid for land reform if the people of Zimbabwe, if the Government of Zimbabwe is able to carry out these changes.

Land reform seems to be the major issue. I appreciate those calling for land reform and I agree that land reform is the key to Zimbabwe's future. But why has land reform not worked in Zimbabwe? Basically Mugabe has essentially stolen the money that he had that had been given to this country to carry out land reform. He distributes the land that has already been purchased, purchased with international money in many cases, a major portion of it from the U.K., and there were countries lined up in 1998 to give a major amount of money to this country. But Zimbabwe under the leadership of Mugabe has given this land, the money, to his political cronies, to the fat cats, to the generals, to his political supporters. He distributes the land that has already been purchased to his allies and not to the people of Zimbabwe who need it. Even Mugabe's fellow African leaders recognize that Mugabe's policies are the reason that land reform has not worked.

Mugabe was an important leader but he stayed too long. He now cares solely for his own power, not for the welfare of his people. But he is resorting to violence to hold onto his own power. The time for such dictators has passed.

There are neighboring countries, Botswana, South Africa, Malawi, all of whom have democratic institutions, free press and the rule of law.

Mr. LANTOS. Mr. Speaker, I yield back the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, what a depressing contrast between Zimbabwe's Robert Mugabe and South Africa's Nelson Mandela. President Mandela prized democracy. He prized the rule of law. He stepped down from power when people were telling him he was a king. He brought races together. And we contrast that with the situation where President Mugabe threatens his political opponents with death.

What we have in Zimbabwe is a man who sends his operatives to terrorize teachers, to terrorize teachers because they are the poll guards basically, they are the individuals who do the monitoring of the elections; to terrorize the doctors, and to terrorize others working for a better future.

A recent Zimbabwe Catholic Bishops' Conference Pastoral letter noted, "Violence, intimidation, and threats are the tools of failed politicians." They are the dastardly tools of the men now ruling Zimbabwe.

The political opposition in Zimbabwe deserves credit for remaining peaceful in the face of violence. For years now, its members have been beaten, they have been tortured, they have been killed; and they have resisted going on an offensive throughout this. Their discipline will be further tested in the coming months as the Mugabe regime provokes unrest to legitimize canceling the elections.

I hope that the political opposition remain steadfastly committed to nonviolence. I have great confidence in the brave Zimbabweans who are struggling against tyranny so that their country can begin to reach its potential.

The legislation we are considering today lays a foundation for the U.S. to contribute to that future, and I ask that my colleagues support Senate bill 494.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of S. 494, the Zimbabwe Democracy and Economic Recovery Act of 2001. This Member would like to thank the Chairman of the House International Relations Committee, the distinguished gentleman from Illinois (Mr. HYDE), for bringing this measure to the Floor expeditiously after the Committee's consideration of it. In addition, this Member would like to thank the Chairman of the House Financial Services Committee, the distinguished gentleman from Ohio (Mr. OXLEY) for his supportive role in this legislation. This Member also appreciates the Chairman of the International Relations Subcommittee on Africa, the distinguished gentleman from California (Mr. ROYCE), for his longstanding dedication to following U.S. foreign policy toward Africa. Indeed, there are few Members in this Body who can have so convincingly outlined the horrific atrocities which Zimbabwe's President Robert Mugabe has committed against the people of Zimbabwe.

The Zimbabwe Democracy and Economic Recovery Act of 2001 sets up a Presidential certification process for Zimbabwe which is contingent upon the following: restoration of the rule of law; certain electoral and land ownership reforms; fulfillment of agreement ending war in the Democratic Republic of Congo; and military and national police subordination to the civilian government in Zimbabwe. Until this Presidential certification is made, and except as may be required to meet basic human needs or for good governance, this legislation would require the Secretary of the Treasury to instruct the United States Executive Director to each international financial institution (IFI) to oppose and vote against both of the following: (1) any extension by the respective institution of any loan, credit, or guarantee to the Government of Zimbabwe; or (2) any cancellation or reduction of indebtedness owed by the Government of Zimbabwe to the United States or any international financial institution. This Member is pleased that it is currently the Administration's policy for U.S. representatives to the IFIs to oppose and vote against loans and debt restructuring for Zimbabwe.

It is important to note that, in September 1999, the International Monetary Fund suspended its "Stand By Arrangement," which had been approved the prior month, for economic adjustment and reform in Zimbabwe. In addition, the International Development Association, which is the concessional window of the World Bank, suspended all structural adjustment loans, credits, and guarantee to the Government of Zimbabwe in October of 1999.

Furthermore, during the International Relations Committee's consideration of S. 494, this Member offered an amendment which struck from the legislation a provision which would have created a Southern Africa Finance Center to be located in Zimbabwe. The center was to have included regional offices for the Overseas Private Investment Corporation (OPIC), the Export-Import Bank (Ex-Im), and the Trade and Development Agency (TDA).

While it is important for the U.S. to offer incentives to Zimbabwe to encourage political and economic reform, it is critical that those carrots be appropriate for the conditions. Even with significant changes in Zimbabwe's political climate, the country simply will not have the infrastructure in the near future to support such a center for the entire region. Additionally, this center would be a completely new endeavor for two of the U.S. agencies—namely OPIC and the Ex-Im Bank—neither of which currently have offices outside of the U.S.

However, that is not to say that the agencies cannot or should not play a critical role in stabilizing the region's economic health. Indeed, this Member would like to commend the Ex-Im Bank for developing a Sub-Saharan Africa Advisory Committee which has facilitated a dramatic increase in Ex-Im's investment in Africa. As the Chairman of the House Financial Services Subcommittee on International Monetary Policy and Trade, this Member introduced H.R. 2871, the Export-Import Bank Reauthorization Act of 2001, which, among other things, would reauthorize this Sub-Saharan Africa Advisory Committee for four years until FY2005. This legislation, which passed the House Financial Services Committee on October 31, 2001, would also create an Office on Africa to further enhance the Ex-Im Bank's emphasis on Africa.

Additionally, this Member is very pleased that in lieu of the Southern Africa Finance Center originally included in S. 494, the Bush administration has announced the creation of an Africa Regional Trade and Development Office which will be located in Johannesburg, South Africa, and will serve all of Sub-Saharan Africa. This announcement was made after the Senate considered and passed S. 494.

Through this office, the TDA, which will serve as the lead agency at the center, can more closely coordinate its trade development and promotion activities in the region with local governments and with U.S. representatives already on the ground. Perhaps some day Zimbabwe might serve as an appropriate location for a branch office of the Africa Regional Trade and Development Office. Until then, the Administration's proposal appears to be the most viable option to provide Sub-Saharan Africa with the access to economic development and trade promotion tools which the region desperately needs to build economic stability.

Mr. Speaker, this Member encourages his colleagues to vote for S. 494.

Mr. RANGEL. Mr. Speaker, I rise today in support of important legislation, S. 494, the Zimbabwe Democracy and Recovery Act. First and foremost, I want to thank Mr. ROYCE and Mr. PAYNE, for bringing this important piece of legislation to the floor. Unlike previous bills that sought to penalize the people of Zimbabwe, this bill offers incentives to help guide their nation on a path of political and economic reform with United States assistance.

I have watched the Zimbabwe crisis unfold over the past several years and am deeply concerned about the increasing repression and violence which has created deepening concern over the manner in which the upcoming elections will be conducted. Our hope in the Congress is that Zimbabwe will become a model for other democracies around the world by ensuring that the upcoming elections are executed in a free and fair manner which assures full participation by all its citizens and manifests the will of the people.

The challenges that the nation of Zimbabwe faces are great. Zimbabwe is plagued with a horrific economic crisis that is characterized by extreme poverty, food shortages, and widespread loss of jobs and negative economic growth. These problems must be seriously addressed and dealt with in this nation's recovery efforts, but they cannot be unless political stability is achieved.

It is of the utmost importance that stability and economic viability are restored to the people of Zimbabwe. I believe that this bill, the Zimbabwe Democracy and Recovery Act of 2001, is the first step in achieving this end goal. Through the passage of this bill, not only will Zimbabwe benefit, but the entire southern region of Africa that has been impacted by this crisis will also stand to benefit from the passage of this legislation.

The Zimbabwe Democracy and Recovery Act of 2001 provides that when imperative political conditions are met, such as, restoring the rule of law, conducting fair political elections, and providing for equitable and legal land reform, that the U.S. will initiate an economic recovery policy. It also provides financial incentives, which include bilateral debt relief and U.S. support for similar action with the International Financial Institutions.

This bill offers an opportunity for the U.S. and Zimbabwe to re-engage on the road to democracy and economic recovery. It recognizes the need for land reform and for the first time provides tangible U.S. support for its achievement. It authorizes $20m for land reform efforts and $6m for democracy and governance.

This piece of legislation is very important to the friends of Africa who are dedicated to stopping civil conflict which impedes development and who continue to work on increasing trade opportunities and promoting economic growth for African nations.

I stand today in support of this bill and urge all of my colleagues to also show their support for a democratic and prosperous future in Zimbabwe and the southern region of Africa.

Mr. GILMAN. Mr. Speaker, I rise to voice my support for S. 494, which declares that it is U.S. policy to support the Zimbabwean people in their struggles to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and to restore the rule of law to that troubled country. Furthermore, I fully support the bill's authorization of additional funding to non-governmental organizations working with the people of Zimbabwe to promote good governance and the rule of law.

Today, Zimbabwe continues to face difficult social, economic and political problems. The goal of U.S. policy toward Zimbabwe must be to assist its development into a stable, free-market democracy, both as a goal in itself and as a bulwark against regional instability and conflict. However, this cannot be achieved until the government of Zimbabwe undertakes comprehensive reforms to enfranchise its people politically and economically.

The essential foundations of freedom and democracy are free and fair elections, a free and open press, and the development of democratic institutions based on the rule of law. However, all evidence points to the conclusion that these institutions do not currently exist in Zimbabwe, and that respect for the rule of law is seriously lacking. I regret that a sense of Congress is necessary to express our view that sanctions must be necessary to bring about the necessary reforms and democracy to Zimbabwe. Let me be clear: our goal is not to harm the people of Zimbabwe but rather to send a clear signal to its government that an expeditious transition to democracy is imperative. The people of Zimbabwe have waited much too long and endured far too many hardships, and clearly deserve better.

I also want to voice my concern with regards to Libya's attempts to establish military ties with the government of Zimbabwe. I hope that the Zimbabwe government sees its future in an alignment with Western democracies and not with state-sponsors of terrorism such as Libya.

We truly hope the government of Zimbabwe takes advantage of the opportunities presented by this legislation, and will seek to build better relations with the United States. Should the government of Zimbabwe choose to improve its democratic record, and establish good governance and the rule of law, its success will serve as a model for other countries in the region.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this legislation, which renews our commitment to the stabilization of the Zimbabwean democracy and reaffirms our commitment to the establishment of democratic principles throughout the African subcontinent.

This legislation sends a strong message to the rest of the world regarding our intentions toward Zimbabwe with its opening language: "It is the policy of the United States to support the people of Zimbabwe in their struggle to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and restore the rule of law."

The need for such a forthright statement from this nation has been pressing for some time. International news agencies have chronicled the decent into political anarchy within Zimbabwe over the last year, as armed bands of "veterans" attacked homesteads and other economic and farming interests with the support of the Mugabe regime. These interests claim an unfair distribution of resources in the nation, and highlight the need for positive action by the United States.

Mr. Speaker, Zimbabwe is a nation of many needs. HIV/AIDS is ravaging the population at a rate of 25%, and the current average life expectancy of her citizens is only 37 years. The nation had a protracted role in the war in the Democratic Republic of Congo, and this action and other budgetary mismanagement issues have resulted in Zimbabwe being ineligible for IMF and International Bank for Reconstruction and Development programs, further stressing the people of this nation.

Mr. Speaker, this legislation allows the U.S. to acknowledge both the dire economic and social needs of the Zimbabweans while seeking a positive resolution of the political crisis that animates this struggle. This legislation directs the U.S. government to restructure or forgive loans contributing to the sovereign debt of Zimbabwe by any agency of the U.S. government. This act also creates a Southern Africa Finance Center to be located within Zimbabwe that will coordinate the regional offices of OPIC, Eximbank, and TDA in order to help with the economic stabilization of Zimbabwe.

Thus, Mr. Speaker, Congress has provided good incentives for the political leaders in Zimbabwe to work towards reestablishing the rule of law for their people. These benefits will only accrue to Zimbabwe if the President certifies that the rule of law and respect for ownership, property, and freedom of speech has been restored; that the next Zimbabwean election is a free and fair contest; that transparent land reform procedures are enacted; that Zimbabwe contributes a good faith effort to the Lusaka Accords ending the war in the Democratic Republic of Congo; and that the military and national police in the nation are "responsible to and serve the elected civilian government. These requirements can be waived, however, if the President deems it in the national interest to do so.

Fulfillment of these requirements will be a hard task, and thus this legislation includes monies for the land reform and democracy and governance programs in Zimbabwe.

Mr. Speaker, in these times of global uncertainty, the ever present goal of the U.S. is the widespread development of democratic principle that place the benefits of good governance in the hands of citizens and not politicians. This legislation demonstrates to the rest of the world that we stand for the principles of freedom and democracy above all.

Mr. ROYCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and pass the Senate bill, S. 494, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2299) "An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.".

KNOW YOUR CALLER ACT OF 2001

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 90) to amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes, as amended.

The Clerk read as follows:

H.R. 90

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Know Your Caller Act of 2001".

SEC. 2. PROHIBITION OF INTERFERENCE WITH CALLER IDENTIFICATION SERVICES.

Section 227 of the Communications Act of 1934 (47 U.S.C. 227) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) PROHIBITION ON INTERFERENCE WITH CALLER IDENTIFICATION SERVICES.—

"(1) IN GENERAL.—It shall be unlawful for any person within the United States, in making any telephone solicitation—

"(A) to interfere with or circumvent the capability of a caller identification service to access or provide to the recipient of the telephone call involved in the solicitation any information regarding the call that such service is capable of providing; and

"(B) to fail to provide caller identification information in a manner that is accessible by a caller identification service, if such person has capability to provide such information in such a manner.

For purposes of this section, the use of a telecommunications service or equipment that is incapable of transmitting caller identification information shall not, of itself, constitute interference with or circumvention of the capability of a caller identification service to access or provide such information.

"(2) REGULATIONS.—Not later than 6 months after the enactment of the Know Your Caller Act of 2001, the Commission shall prescribe regulations to implement this subsection, which shall—

"(A) specify that the information regarding a call that the prohibition under paragraph (1) applies to includes—

"(i) the name of the person or entity who makes the telephone call involved in the solicitation;

"(ii) the name of the person or entity on whose behalf the solicitation is made; and

"(iii) a valid and working telephone number at which the person or entity on whose behalf the telephone solicitation is made may be reached during regular business hours for the purpose of requesting that the recipient of the solicitation be placed on the do-not-call list required under section 64.1200 of the Commission's regulations (47 CFR 64.1200) to be maintained by such person or entity; and

"(B) provide that a person or entity may not use such a do-not-call list for any purpose (including transfer or sale to any other person or entity for marketing use) other than enforcement of such list.

"(3) PRIVATE RIGHT OF ACTION.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

"(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation;

"(B) an action to recover for actual monetary loss from such a violation, or to receive $500 in damages for each such violation, whichever is greater; or

"(C) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) CALLER IDENTIFICATION SERVICE.—The term 'caller identification service' means any service or device designed to provide the user of the service or device with the telephone number of an incoming telephone call.

"(B) TELEPHONE CALL.—The term 'telephone call' means any telephone call or other transmission which is made to or received at a telephone number of any type of telephone service and includes telephone calls made using the Internet (irrespective of the type of customer premises equipment used in connection with such services). Such term also includes calls made by an automatic telephone dialing system, an integrated services digital network, and a commercial mobile radio source.".

SEC. 3. EFFECT ON STATE LAW AND STATE ACTIONS.

(a) EFFECT ON STATE LAW.—Subsection (f)(1) of section 227 of the Communications Act of 1934 (47 U.S.C. 227(f)(1)), as so redesignated by section 2(1) of this Act, is further amended by inserting after "subsection (d)" the following: "and the prohibition under paragraphs (1) and (2) of subsection (e),".

(b) ACTIONS BY STATES.—The first sentence of subsection (g)(1) of section 227 of the Communications Act of 1934 (47 U.S.C. 227(g)(1)), as so redesignated by section 2(1) of this Act, is further amended by striking "telephone calls" and inserting "telephone solicitations, telephone calls,".

SEC. 4. STUDY REGARDING TRANSMISSION OF CALLER IDENTIFICATION INFORMATION.

The Federal Communications Commission shall conduct a study to determine—

(1) the extent of the capability of the public switched network to transmit the information that can be accessed by caller identification services;

(2) the types of telecommunications equipment being used in the telemarketing industry, the extent of such use, and the capabilities of such types of equipment to transmit the information that can be accessed by caller identification services; and

(3) the changes to the public switched network and to the types of telecommunications equipment commonly being used in the telemarketing industry that would be necessary to provide for the public switched network to be able to transmit caller identification information on all telephone calls, and the costs (including costs to the telemarketing industry) to implement such changes.

The Commission shall complete the study and submit a report to the Congress on the results of the study, not later than one year after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Texas (Mr. GREEN) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 90, the Know Your Caller Act, by my good friend the gentleman from New Jersey (Mr. FRELINGHUYSEN), deals with the controversial business practice of telemarketing.

There are thousands of reputable telemarketing companies and they provide a benefit to the public by offering a broad range of consumer products and business opportunities. These companies employ hundreds of thousands of citizens across this country and they fuel this economy with literally billions of dollars.

Increasingly, however, telemarketers are the cause of complaints. Consumers are concerned that telemarketers are intruding into their homes, and we continue to hear stories about telemarketing schemes that separate consumers from their hard-earned money.

In fact, telemarketing complaints lodged with the Federal Trade Commission seem to support these consumer concerns. In 1997, for example, there were 2,260 complaints. In 2000, there were 36,804 complaints, a significant increase.

H.R. 90 takes these consumer complaints seriously. With the excellent work of the author, the gentleman from New Jersey (Mr. FRELINGHUYSEN), we can remove the cloak of secrecy that fraudulent telemarketers use to swindle their victims. No longer will telemarketers be able to hide behind the anonymous telephone call.

H.R. 90 prohibits telemarketers from blocking the transmission of caller ID information. In addition, this bill requires telemarketers to send caller ID information if their equipment is capable to do so. What this means is that the flashing signals on caller ID boxes, "caller unknown," or "out of area" will no longer protect the scam artist.

The transmission of caller identification information is so important to consumers, not only for safety and privacy reasons, but also because it provides the consumer with a telephone number that can be used to place the consumer on what is known as a telemarketer's "do-not-call" list. You see, if you know who is calling you and you do not want them to call him again, under the law, you can put a call in and say do not call me anymore; I do not want to be bothered anymore. By being placed on a do-not-call list, the telemarketer is prohibited from calling back for the next 10 years. That will protect you for a while.

Additionally, the bill takes steps to prevent the sale of do-not-call lists, which is currently allowed under the law.

I have worked with the gentleman from Michigan (Mr. DINGELL) on bipartisan amendment efforts to clarify this point. To remedy this loophole, H.R. 90 prohibits telemarketers from selling, leasing or receiving anything of value for these do-not-call lists. Few things are more offensive than being asked to be placed on a do-not-call list, only to have your name sold to another direct mail company.

This amendment respects and protects the privacy requests of the consumer and should prevent an increase in unwanted telephone solicitations.

I believe this bill strikes a good balance between the consumers' right to privacy and safety and the telemarketers' legitimate business interests. It protects consumers as well as the very thriving commercial industry and, indeed, protects the good players from the bad consequences of bad actors.

I support this bill and urge support from the House as well.

Mr. Speaker, I reserve the balance of my time.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to begin by complimenting the gentleman from New Jersey (Mr. FRELINGHUYSEN), the sponsor of H.R. 90, who did excellent work here in crafting this legislation.

Consumers who want to exercise their right to be placed on a do-not-call list, or to take a telemarketer to small claims court after being called, are often frustrated when they cannot get the caller ID information from the telemarketer to identify them.

This legislation prohibits telemarketers from interfering with or circumventing the capability of caller ID services. Telemarketers who solicit the public in their homes for commercial gains should not be permitted to evade the purpose and function of caller ID services. This bill will prevent the telemarketers from doing so, while further empowering consumers to control the communications going to and from their home.

Mr. Speaker, the bottom line is the telecommunications revolution gives enormous opportunities for telemarketers, but it also gives opportunities for consumer power. These powers should include the ability, by using caller ID, to prevent information from going to their family which they deem and believe is inappropriate.

I think this information strikes a good balance between the rights of consumers to protect their privacy and the rights of telemarketers to practice their trade. This bill allows consumers to use the best available technology to protect their privacy but does not allow telemarketers to start a de facto race to outsmart this technology.

I congratulate the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. Speaker, I reserve the balance of my time.

□ 1530

Mr. TAUZIN. Mr. Speaker, I am pleased to yield as much time as he may consume to the gentleman from New Jersey (Mr. FRELINGHUYSEN), the author of the legislation.

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN) for yielding me the time, and I want to commend him and the gentleman from Michigan (Mr. DINGELL), the ranking member, and all Members for their assistance in getting this bill to the floor, particularly the gentleman from Louisiana (Mr. TAUZIN), who has been very helpful. He has been very supportive, and he has been personally very interested in this bill. H.R. 90 would not be here without his support and the way that he has helped me along the way.

Mr. Speaker, the Know Your Caller Act will provide a simple but important consumer protection. Many consumers purchase and pay for caller ID service and caller ID equipment for several reasons: In the first instance, to protect their privacy; secondly, they provide for their personal security by identifying incoming calls and allow them the opportunity to decide before picking up the receiver, whether or not to answer the call.

Guess what, some of the most frequent calls, those from telemarketers, not all telemarketers but many, appear with a message Out of the Area or Caller Unknown. Mr. Speaker, telemarketing is a commercial enterprise. As such, what would be the reason for not disclosing a business telephone number? There simply is no reason.

I believe that all commercial enterprises that use the telephone to advertise or sell their services to encourage the purchase of property or goods or for any other good commercial purposes should be required to have the name of their business and their business telephone number disclosed on caller ID boxes. Some telemarketing enterprises purposely block out caller ID devices; yet these same companies know a person's name, address, and telephone number. Is it not only fair that they share their company name and their telephone number so a person can make sure that they are a legitimate company, that they are who they say they are?

Also, if my colleagues are like me and politely ask to have their name removed from their list, I think we should also be able to track the name and number of these telemarketing callers to ensure that they do not call back again. My legislation will simply require any person making a telephone solicitation to clearly identify themselves on these devices.

Mr. Speaker, this legislation will help separate legitimate telemarketers from fraudulent ones. While the majority of telemarketers are legitimate business people attempting to sell a product or service, there are some unscrupulous individuals and companies violating existing telemarketing rules and scamming many customers.

Consumers pay a monthly service fee to subscribe to the caller ID service because they want to protect their personal privacy and their pocketbooks, but they have little recourse to protest intrusions on their privacy because most telemarketers intentionally block their identity from being transmitted to caller ID devices.

Mr. Speaker, we already require telemarketers to identify themselves over the telephone and via telephone fax transmission. This bill simply extends the protection to consumers with caller ID devices.

Mr. Speaker, I express my thanks for this opportunity. This bill passed unanimously in the last session; and again, I thank the gentleman from Louisiana (Mr. TAUZIN) for his support of it.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

I say in closing that this is a good bill. I especially appreciate the ability of individuals and the private cause of action that is in the legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Again, I want to thank the gentleman from New Jersey (Mr. FRELINGHUYSEN) for his absolute perseverance in seeing to it that this bill is passed again this year. Hopefully, it will become law and consumers will be much better off for it and he will be a hero. A lot of Americans have been troubled by this, and I commend this bill to the House.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 90, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RECOGNIZING IMPORTANT CONTRIBUTIONS OF HISPANIC CHAMBER OF COMMERCE

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 277) recognizing the important contributions of the Hispanic Chamber of Commerce.

The Clerk read as follows:

H. CON. RES. 277

Whereas the Hispanic Chamber of Commerce of the United States has had a significant impact among Hispanic businesses, and in the business community in general;

Whereas the Hispanic Chamber of Commerce has served in a key support role, not merely as a business group but also as a civic organization working in the Hispanic-American community; and

Whereas the Hispanic Chamber of Commerce has helped to bring entrepreneurship to the Hispanic community as well as helping to pool the resources and talents of Hispanic American entrepreneurs: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that it is important to the promotion of the free market process of the United States, to the future success of Hispanic Americans, and to society at large that the special role of the Hispanic Chamber of Commerce of the United States be recognized and further cultivated to the benefit of all Americans.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from New York (Mr. TOWNS) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 277.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Concurrent Resolution 277, recognizing the important contributions of the United States Hispanic Chamber of Commerce.

The Hispanic community is booming in this country. In fact, it has become the fastest-growing segment of our Nation's population; and by the year 2010, Hispanics will become the largest minority group in the United States and by 2050 will comprise nearly 25 percent of the entire U.S. population.

One sector within the Hispanic community that has been experiencing especially rapid growth over the past few years is the small business community. At present, it is estimated that there are over 1.5 million Hispanic-owned small businesses in the country.

Created in 1979 by a handful of dedicated Hispanic leaders, the U.S. Hispanic Chamber of Commerce has helped to realize the enormous potential of the Hispanic business community in these United States, and the U.S. Hispanic Chamber of Commerce has worked tirelessly to bring the issues of the Nation's Hispanic-owned businesses to the national economic agenda and drives the engine of economic growth.

Today, we thank them for increasing their contribution to the strength of this country.

It is a good resolution. My mother, Ms. Enola Martinez Tauzin, appreciates it personally; and I urge the House to adopt it.

Mr. Speaker, I reserve the balance of my time.

Mr. TOWNS. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of this resolution, H. Con. Res. 277, which recognizes the important contributions of the Hispanic Chamber of Commerce. The chamber's mission, to actively promote the economic growth and development of Hispanic entrepreneurs, is important to the free market process and the success of Hispanic Americans. Especially during these times of economic hardship, I fully expect that the Hispanic business community will be an engine for growth and recovery benefiting our whole economy.

In the 5-year period from 1992 to 1997, Hispanic businesses across the Nation grew about 82 percent. The programs, services and support that the chamber continues to offer the more than 200 local chambers across this Nation have been integral to the success and vitality of these Hispanic businesses.

I have seen the effects of the chamber's initiatives in my own 10th Congressional District in Brooklyn. The Hispanic community has produced some of the most exciting entrepreneurial initiatives, enriching Brooklyn for all of its residents. From small stores and bodegas to supermarkets like Compare Market and ABC Beverages to large construction companies like Park Avenue Building and Roofing Supplies, Hispanic-owned businesses employ hundreds of residents as well as adding to the economic viability of our neighborhoods.

Since its formation in 1979, the Hispanic Chamber of Commerce has represented the interests of more than 1.2 million Hispanic-owned businesses in the United States and Puerto Rico. In addition to its annual convention featuring hundreds of domestic and international exhibitors, the chamber also supports Hispanic businesses with legislative and governmental affairs services, business development and marketing services, and active promotion of international trade, by networking with Latin American governments.

Through its Empowerment Through Entrepreneurship Initiative, the chamber has also established a $20 million venture capital fund and, in partnership with the Ford Motor Company, has formed a bilingual National Director of Hispanic Businesses. It has also sewn the seeds of entrepreneurship by sponsoring programs for Hispanic youth such as Bizfest and funding Hispanic scholarship programs.

The chamber's contributions to the Hispanic business community have and will continue to enrich all of our lives. I urge my colleagues to join me in giving the Hispanic Chamber of Commerce the recognition that it deserves.

Mr. TOWNS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I rise in support of House Concurrent Resolution 277. I am very pleased to see that we are recognizing the important contributions of the Hispanic Chamber of Commerce. As a former businessman from the lower Rio Grande Valley in south Texas, I can personally attest to the invaluable assistance that the Hispanic Chamber of Commerce provides for the Hispanic business community.

The rapid growth of the Latino population has made our community a more crucial part of the American economy than ever before. The Hispanic Chamber of Commerce has provided the vision and the leadership to promote a spirit of entrepreneurship and an ethic of competitiveness in the Hispanic business community. It has also served as an effective advocate by communicating the community's concerns in the greater business and political arena.

I want to thank the Hispanic Chamber for all of the hard work it has put into achieving economic progress for our community, and I urge my colleagues to join me in supporting this resolution. In south Texas, we are members of the Texas Association of Hispanic Chambers of Commerce, and we have had lots of meetings and we have had lots of successful gatherings, and so that is why I am here to show our support for this group.

Mrs. WILSON. Mr. Speaker, I rise today in support of H. Con. Res. 277, recognizing the important contributions of the Hispanic Chamber of Commerce.

From top-level corporate positions, to Mom and Pop corner stores, Hispanics in America make tremendous contributions to the nation. Minority owned businesses are growing and creating jobs faster than other companies.

In 1979, realizing the enormous potential of the Hispanic business community in the United States and the need for a national organization to represent its interests, the United States Hispanic Chamber of Commerce (USHCC) was incorporated in my home state of New Mexico, creating a structured organization aimed at developing a business network that would provide the Hispanic community with cohesion and strength. Since its inception, the USHCC has worked towards bringing the issues and concerns of the nation's more than 1.2 million Hispanic-owned businesses to the forefront.

Throughout the years, the Albuquerque Hispano Chamber of Commerce has improved the quality of life in the Middle Rio Grande corridor by promoting economic and education activities, with an emphasis on small business.

This has also been a great year for the Albuquerque Hispano Chamber of Commerce. The Chamber officially opened the doors to their Barelas Job Opportunity Center. This center houses a state-of-the-art technology lab and will focus on work force development and entrepreneur opportunities. The facility is also home to the U.S. Small Business Administration Business Information Center and the Senior Corp of Retired Executives. This Center is a hub for consultations on how to grow a business, start a business, manage a business or capitalize a business.

Over the past 26 years the Albuquerque Hispano Chamber of Commerce has experienced change and growth that would rival any successful business. I am grateful to the Albuquerque Hispano Chamber of Commerce for helping to make Albuquerque a better place and improving the quality of life in New Mexico.

Mr. PAUL. Mr. Speaker, I want today to address my resolution, H. Con. Res. 277 to recognize the important contributions of the Hispanic Chamber of Commerce. Mr. Speaker, the United States Hispanic Chamber of Commerce was founded in New Mexico in 1979. Headquartered in Washington, DC the Hispanic Chamber of Commerce currently has a network of more than 200 chapters in the United States and its territories. One of those active chapters is in my district, in fact the San Marcos Hispanic Chamber of Commerce just held its successful Turkey Trot Golf Tournament during our Thanksgiving break.

The importance of this national organization cannot be overstated, Hispanics have an annual purchasing power of approximately $500 billion and the Chamber effectively represents the more than 1 million Hispanic-owned businesses. The organization's recent growth has shown its influence in communities not traditionally considered centers for Latino development, locations such as Richmond, Virginia; Charlotte, North Carolina and Minnesota's Twin Cities area.

The Hispanic Chamber of Commerce provides important recognition to its members and supporters through an annual awards program. Moreover, the organization furnishes its membership with a host of critical services, ably guided by the leadership of its President and CEO George Herrera, Chair Ms. Elizabeth Lisboa-Farrow, who also chairs the DC Chamber of Commerce; and Vice Chairman J.R.

Gonzales, President of a communications firm in Austin, Texas.

Importantly, the Chamber has maintained international trade as one of its top long term priorities, even maintaining an office in Mexico City. The Hispanic Chamber of Commerce provides and promotes the kind of private sector trade initiatives and assistance that I believe all of us can support.

Mr. Speaker, I am gratified to be able to bring to the Floor today this resolution to recognize the important contributions of the United States Hispanic Chamber of Commerce and ask for the support of members in passing this item.

Mr. TOWNS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 277.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS REGARDING TUBEROUS SCLEROSIS

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 25) expressing the sense of the Congress regarding tuberous sclerosis, as amended.

The Clerk read as follows:

H. CON. RES. 25

Whereas at least two children born each day will be affected with tuberous sclerosis;

Whereas nearly one million people worldwide are known to have tuberous sclerosis;

Whereas tuberous sclerosis affects all races and ethnic groups equally;

Whereas tuberous sclerosis is caused by either an inherited autosomal disorder or by a spontaneous genetic mutation;

Whereas when tuberous sclerosis is genetically transmitted as an autosomal dominant disorder, a child with a parent with the gene will have a 50-percent chance of inheriting the disease;

Whereas two-thirds of the cases of tuberous sclerosis are believed to be a result of spontaneous mutation, although the cause of such mutations is a mystery;

Whereas diagnosis takes an average of 90 days with consultation of at least three specialists;

Whereas tuberous sclerosis frequently goes undiagnosed because of the obscurity of the disease and the mild form the symptoms may take; and

Whereas the Congress as an institution, and Members of Congress as individuals, are in unique positions to help raise public awareness about the need for increased funding for research, detection, and treatment of tuberous sclerosis and to support the fight against tuberous sclerosis: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) all Americans should take an active role in the fight against tuberous sclerosis by all means available to them, including early and complete clinical testing and investigating family histories;

(2) the role played by national and community organizations and health care providers in promoting awareness of the importance of early diagnosis, testing, and ongoing screening should be recognized and applauded;

(3) the Federal Government has a responsibility to—

(A) endeavor to raise awareness about the importance of the early detection of, and proper treatment for, tuberous sclerosis;

(B) increase funding for research so that the causes of, and improved treatment for, tuberous sclerosis may be discovered; and

(C) continue to consider ways to improve access to, and the quality of, health care services for detecting and treating tuberous sclerosis; and

(4) the Director of the National Institutes of Health should take a leadership role in the fight against tuberous sclerosis by acting with appropriate offices within the National Institutes of Health to provide to the Congress a five-year research plan for tuberous sclerosis.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 25.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

I rise today to support this concurrent resolution increasing awareness of tuberous sclerosis and supporting programs for greater research.

Though few Americans have ever heard of tuberous sclerosis, it is a disease that affects 50,000 here at home and nearly 1 million people worldwide. It is a genetic disorder that causes seizures and tumor growth in vital organs such as the brain, heart, kidneys, lungs, and skin. Though these tumors are benign, they often compromise the proper functioning of essential organs. For example, many of those afflicted have some type of learning disability or behavioral problem caused by the combination of the brain tumors and seizures.

Individuals with tuberous sclerosis and their families face significant financial, emotional and social hardships. More than 60 percent of those living with the disease will never live independently. This means a dramatically reduced quality of life for both those afflicted and their families.

We can make a difference by raising awareness about the importance of early detection and proper treatment for tuberous sclerosis. The resources of the Federal Government's health and resource institutes can help advance the understanding of the biological factors causing this disease. Working in partnership with other research initiatives, we can help reduce the long-term impact of this problem.

H. Con. Res. 25 takes an important step in the fight against tuberous sclerosis, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself as much time as I may consume.

I would like to thank the gentlewoman from New York (Mrs. KELLY) for her dedication to the issue of tuberous sclerosis. H. Con. Res. 25 expresses our support in the fight against tuberous sclerosis, a rare genetic disorder that affects the central nervous system.

Tuberous sclerosis affects one in 6,000 babies in our country and does not discriminate by race or by gender. At least two babies born today will be touched in this country by this disorder. It can cause kidney problems, brain tumors, skin abnormalities, seizures, and various degrees of mental disability. Tuberous sclerosis is frequently unrecognized and frequently misdiagnosed.

There is no cure for this disease, yet. The NINDS, one of the institutes of health, is studying this disorder, trying to find new treatments, trying to find new methods of prevention, and trying ultimately, of course, to find a cure.

Congress must continue to improve access to quality health care services for detecting and treating tuberous sclerosis.

This resolution encourages the director of NIH to take a leadership role in the fight to eradicate tuberous sclerosis.

□ 1545

As Members of Ohio are in unique positions to raise awareness about disorders that simply do not garner the attention that they deserve, the bill of the gentlewoman from New York (Mrs. KELLY) will help bring focus to the fight against tuberous sclerosis. I urge Congress to pass this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Mrs. KELLY), who we are all indebted to for bringing the issue of tuberous sclerosis to our attention.

Mrs. KELLY. Mr. Speaker, I rise today in strong support of the concurrent resolution, H. Con. Res. 25, expressing the sense of Congress regarding tuberous sclerosis. I commend the gentleman from Louisiana (Mr. TAUZIN), the distinguished chairman of the Committee on Commerce, and the chairman of the Subcommittee on

Health, the gentleman from Florida (Mr. BILIRAKIS), for acting so quickly to report this important legislation.

H. Con. Res. 25 represents the opportunity Congress has to educate Americans about the little known genetic disease tuberous sclerosis. It is estimated that at least two children born each day will have tuberous sclerosis. There are approximately 1 million people worldwide who are affected. TS is a disorder that can be inherited or result from genetic mutation. The disease is characterized by seizures and tumors which form in vital organs such as brain, heart, skin, kidneys and lungs. Though not malignant, these tumors can cause debilitating and sometimes life-threatening problems.

Diagnosis of TS is very difficult, and all too often it goes undetected or is misdiagnosed because its symptoms are similar to those of more common conditions like epilepsy or autism. It is often first recognized following a series of epileptic seizures or varying degrees of developmental delay. An average TS diagnosis takes 90 days and involves up to three specialists and numerous tests.

Preliminary research has found specific genes associated with tuberous sclerosis, but to date there is no widely used genetic test, leaving diagnosis to be based on clinical findings. Increased awareness of TS among health care providers and the general population is the key to early diagnosis.

As is the case with many diseases, early detection often determines TS patients' successes in managing the disease. With the variety of treatments currently available to ease symptoms and improve the quality of life for people with tuberous sclerosis, funding to promote awareness in the medical community as well as research to increase early diagnosis really are imperative.

For instance, early intervention has the potential to reduce developmental delay experienced by young patients. Likewise, surgery to remove tumors can help preserve organ function. TS is a permanent medical condition, and those affected and their families must cope with the illness for their entire lives. In some cases, TS does not preclude those who have it from living a relatively normal life. However, in most cases, it is much more intrusive. In addition to the difficulty of diagnosis, there are other post-diagnostic issues with which families must contend, such as obtaining adequate health insurance and, later in life, arranging for independent living solutions.

H. Con. Res. 25 highlights the severity of tuberous sclerosis and affirms the Federal Government's responsibility to facilitate research in this area. We must build on the foundation of knowledge of tuberous sclerosis that has already been built, largely through the organization and resources of friends and families of TS patients.

This bill instructs the director of the National Institutes of Health to work with the appropriate offices within NIH to bring awareness to this disease and to devise a 5-year plan for outlining research initiatives for TS. Congress must act to foster increased research on tuberous sclerosis. We must use our excellent scientific and medical resources to better understand this very complicated disease.

I urge my colleagues to support this worthwhile and necessary legislation.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the full committee.

Mr. TAUZIN. Mr. Speaker, I thank the chairman for yielding me this time and commend him for moving so expeditiously on this resolution, and also I want to commend the gentlewoman from New York (Mrs. KELLY) for her incredible work in this area and other areas. I understand she is also very similar, in moving a similar resolution on Crohn's Disease.

Yesterday, in the Nation's capital, we had an amazing function of families across America gathering for the Cancer Research Family Awareness Luncheon. Sam Donaldson was here, himself a cancer survivor. The whole idea behind the luncheon was to honor those who have worked tirelessly to make people aware of what early detection can do to cure it.

My mother is a three-time cancer survivor. In each case, because she caught it early, she was cured with operation rather than chemo or radiation, sort of a miracle. It started in 1960 with breast cancer; in 1980, then lung cancer; and, just recently, with uterine cancer.

The fact that we make people aware of these diseases so that their doctors and moms and dads can spot them when we see them and treat them sooner makes immeasurable difference not only in the care and treatment of these diseases, but very often in life itself. Many cancer survivors were there to tell their stories yesterday about how, because someone took the trouble to talk about these diseases on television, on the radio, on the floor of the House today, somebody paid attention, somebody caught it early, and somebody was better off for it.

Yesterday, for example, a young woman who is an anchor of a San Antonio, Texas television station was honored for the work she did. She discovered she had breast cancer. Instead of hiding the fact, she went on the air with it and actually did a documentary of how she went through treatment, and how they operated on the cancer and how she went through the incredible ordeal of the chemotherapy, losing her hair. She even did an anchor one night, bald, just to show that you can get through these things and you can live and you can survive if you are willing to be brave enough to face these diseases head-on and treat them early and deal with them.

Here, in this case, the gentlewoman from New York (Mrs. KELLY) has brought to us a concern of so many families, 50,000 families in America which have someone in their family with tuberous sclerosis. And here is another genetic disease that, if we pay enough attention to it, put a little research money on it, we will find a way to cure it and save an uncounted number of lives not only in America but around the world, and certainly make life much more comfortable and bearable for those who suffer with that disease today.

Again, I want to congratulate my colleague from New York for her fine work, and the chairman of the Subcommittee on Health (Mr. BILIRAKIS), and the ranking member, the gentleman from Ohio (Mr. BROWN), for their excellent cooperation in moving this and similar resolutions forward.

Mr. BEREUTER. Mr. Speaker, as a cosponsor of the concurrent resolution, this Member wishes to add his strong support for H. Con. Res. 25, which expresses the sense of Congress that the Federal Government has a responsibility to raise public awareness of tuberous sclerosis and educate all Americans about the importance of the early detection of, and proper treatment for the disease.

This Member would like to commend the distinguished gentleman from Louisiana [Mr. TAUZIN], the Chairman of the House Committee on Energy and Commerce, and the distinguished gentleman from Michigan [Mr. DINGELL], the ranking member of the House Committee on Energy and Commerce, for bringing this important resolution to the House Floor today. This Member would also like to commend the gentlelady from New York [Mrs. KELLY] for sponsoring H. Con. Res. 25 and for her personal interest in tuberous sclerosis.

Tuberous sclerosis complex (TSC) is a genetic disorder characterized by seizures and tumor growth in vital organs such as the brain, heart, kidneys, lungs and skin. Individuals with tuberous sclerosis commonly begin having seizures during the first year of life, and conventional epilepsy therapies often do not control the seizure activity in infants, children or adults. Seizures, as well as brain tumors, contribute to cognitive impairment. As a result, a majority of those afflicted with tuberous sclerosis experience some form of learning disability or behavioral problem, such as attention deficit hyperactivity disorder, autism or mental retardation.

This Member recently received a letter from his constituents, Mr. and Mrs. Lorenz Niemeyer. The Niemeyer's are the proud grandparents of a 23-month old granddaughter, who was diagnosed with tuberous sclerosis at four weeks of age, having tumors on the brain. The Neimeyer's fear that their granddaughter is severely disabled, both mentally and developmentally.

The toll on the family of a person with tuberous sclerosis is enormous. Care for a tuberous sclerosis patient often requires on-going treatment that involves multiple medical specialists, speech, occupational and other therapists, as well as those skilled in the proper care and educational and emotional development of a medically and mentally disabled individual.

House Concurrent Resolution 25 expresses the sense of the Congress that the Federal Government has a responsibility to raise public awareness of tuberous sclerosis and educate all Americans about the importance of the early detection of, and proper treatment for, tuberous sclerosis. In addition, the resolution urges an increase in funding for research on tuberous sclerosis. Finally, H. Con. Res. 25 urges the National Institutes of Health to take a leadership role and to provide a five-year research plan in the fight against tuberous sclerosis.

Mr. Speaker, in closing, this Member urges his colleagues to support H. Con. Res. 25.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of H. Con. Res. 25, which expresses the sense of Congress regarding tuberous sclerosis. This measure urges increased federal aid for research and calls on the Director of the National Institutes of Health to help develop a five-year research plan for tuberous sclerosis. H. Con. Res. 25 also declares that all Americans should take an active role in the fight against this genetic disorder.

At least two children born each day will be affected with tuberous sclerosis (TS). Nearly one million people worldwide are known to have TS. TS does not discriminate against any race or ethnic group.

According to a report released by the Tuberous Sclerosis Association, preschool children with TS develop intellectual and behavioral problems. The intellectual development varies greatly. Approximately 40% will not have global (affecting all areas of intelligence) intellectual impairments. The remaining may have mile, moderate, or severe mental retardation.

It appears that children under the age of five years with moderate to severe mental retardation will remain mentally retarded to this degree into adulthood.

Problems with behavior are some of the most common difficulties experienced by children with TS. Poor expressive language, poor development of social skills, motor impairments, and hyperactivity or inattention are a few examples.

As this bill prescribes, early intervention is most effective. It has been found that during the first five years of life, developmentally disabled children tend to fall farther and farther behind children their own age who do not have developmental difficulties. These declines in the rate of intellectual development of disabled children and reduce with early intervention.

Mr. Speaker, let us work together to raise awareness of tuberous sclerosis and help children with this disorder to live a normal life. I urge my colleagues to support H. Con. Res. 25.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 25, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL HANSEN'S DISEASE PROGRAMS CENTER

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2441) to amend the Public Health Service Act to redesignate a facility as the National Hansen's Disease Programs Center, and for other purposes.

The Clerk read as follows:

H.R. 2441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL HANSEN'S DISEASE PROGRAMS CENTER.

(a) REFERENCES IN PUBLIC HEALTH SERVICE ACT.—Section 320(a)(1) of the Public Health Service Act (42 U.S.C. 247e(a)(1)) is amended by striking "Gillis W. Long Hansen's Disease Center" and inserting "National Hansen's Disease Programs Center".

(b) PUBLIC LAW 105–78.—References in section 211 of Public Law 105–78, and in deeds, agreements, or other documents under such section, to the Gillis W. Long Hansen's Disease Center shall be deemed to be references to the National Hansen's Disease Programs Center.

(c) OTHER REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Gillis W. Long Hansen's Disease Center shall be deemed to be a reference to the National Hansen's Disease Programs Center.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 2441.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2441, changing the name of the Gillis W. Long Hansen's Disease Center housing the National Hansen's Disease Program to The National Hansen's Disease Programs Center.

This change is necessary to avoid further confusion in mail delivery between the former location of the NHDP and its current location. Mail is often misdirected, delaying important research and legal documents. Name confusion has also delayed critical patient medical information.

NHDP continues to treat some 6,000 people in the United States with Hansen's disease. Receiving patient medical records is critical to that treatment. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

The National Hansen's Disease Programs in Baton Rouge, Louisiana is the only institution in the U.S. exclusively devoted to the complex infectious disease known as Hansen's disease. Hansen's disease can cause nerve damage, resulting in the loss of muscle control and the crippling of the hands and feet.

Fortunately, considerable progress has been made over the last 40 years to treat successfully the majority of Hansen's disease cases. There are roughly 6,500 cases of this disease in the United States.

In the 105th Congress, the National Hansen's Disease Programs, located in the Gillis Long Disease Center in Carville, Louisiana was relocated to Baton Rouge. Although the programs moved from Carville to Baton Rouge, they still bear the name Gillis Long Hansen's Disease Center. Likewise, the Louisiana National Guard in Carville is named the Gillis Long Center.

As a result of these two facilities sharing a name, the National Hansen's Disease Program has suffered from unnecessary postal delays. This bill clears up confusion and reinforces the unique function of the Baton Rouge facility by renaming it the National Hansen's Disease Programs Center.

H.R. 2441 is straightforward legislation. It is located in the State of the chairman of the committee, the gentleman from Louisiana (Mr. TAUZIN), and I urge my colleagues to vote in favor of it.

Mr. Speaker, I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the chairman of the full committee, the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, again my thanks to the chairman for yielding me this time.

I rise in strong support of H.R. 2441, sponsored by my friend and colleague, the gentleman from the great State of Louisiana (Mr. BAKER).

The National Hansen's Disease Programs has a long history of excellence, beginning with the humane treatment rather than detention of those with leprosy in the late 1800s, the development of the treatment for leprosy in the 1940s, and the current extension of research to tuberculosis and diabetes.

It has been an important part of Louisiana's great history and this Nation's great history. Countless lives were changed in what many called the "Miracle of Carville."

In the 105th Congress, we passed a bill transferring ownership of the Gillis W. Long Hansen's Disease Center in Carville, Louisiana from the Department of Health and Human Services to the State of Louisiana and moving it to Baton Rouge. The NHDP has continued its fine work in Baton Rouge instead of Carville, but the Carville facility has retained the name the Gillis W. Long Hansen's Disease Center. As required by law, the new facility in Baton Rouge is also called the Gillis W. Long Hansen's Disease Center.

You can imagine the confusion. The bill simply straightens out the confusion, to make sure the mail goes to the proper party, and changes the name of the NHDP to the National Hansen's Programs Center to eliminate that confusion. It has the support, by the way, of our good friend, former Congresswoman Long, who is Gillis' widow, and a dear friend of ours, and I urge the adoption of this resolution.

Mr. BILIRAKIS. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. BAKER), who is responsible for this legislation.

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding me this time and wish to express my appreciation to both gentlemen for their courtesies in facilitating such prompt consideration of this important matter.

For those not familiar with the fine institution in Louisiana, in Carville, known as the Gillis W. Long Hansen's Disease Center, it is in fact a very historic facility which has provided immeasurable service to many people throughout its longstanding history.

It is important that the Congress favorably act on this important name change today, for a very simple but important administrative reason. The National Hansen's Disease Programs have been relocated from the Carville facility to a new institution at the Summit Hospital within Baton Rouge. However, under the current regulatory provisions, that secondary site must also be designated as the Gillis W. Long Center, therein creating problems for the patients of the new Hansen's Disease Programs in Baton Rouge.

Even simple matters such as delivery of mail now is necessitated to go through the Carville Academy site, as opposed to going directly to the National Hansen's Disease Center Programs.

□ 1600

This name change facilitates that. However, it in no way diminishes the importance of the Gillis W. Long Center, where there has been an extraordinary change over the past several years in the scope and direction of that valuable property.

For well over 100 years, it was the target for treatment and research for Hansen's disease. But in an act passed by this Congress a few years ago, ownership of the facility was transferred to the State of Louisiana and a youth at-risk education program has been created there. In this brief time since the program's initiation, the Youth Challenge Program has seen 3,582 students graduate from this new programmatic activity. What is remarkable is the likelihood of these individuals completing their high school education was seriously in question.

After exposure to this fine program, 3,500 students have successfully completed the educational curricula. Twenty-four percent of our graduates have gone on to engage in military service, while another 50 percent have been employed or are in some job training program, while the remaining 20 percent have gone on to higher education pursuits. Some 13 percent have gone on to college.

It is a remarkable program which carries on in the random tradition of Congressman Gillis Long, a tireless servant of the American public, and his spouse, a former Member as well, Cathy Long, who is well aware of this name change.

This programmatic activity is in the highest of American principles. We give nothing away except a chance; and young people from across our great State who are unlikely to be successful in any other endeavor, come here to find renewed hope and opportunity through discipline, education, and job training. It, in fact, is carrying on the mission of the Sisters of Charity who served countless numbers of hopeless social outcasts for many years at the Hansen's Disease Center. They too have signed on to the program at Carville Academy, seeing the hope and vision that this opportunity creates for the innumerable graduates of this fine program.

To both chairmen, I ask that the House do concur in this recommendation.

Mr. BILIRAKIS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 2441.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HONORING MAUREEN REAGAN ON THE OCCASION OF HER DEATH AND EXPRESSING CONDOLENCES TO HER FAMILY

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 60) honoring Maureen Reagan on the occasion of her death and expressing condolences to her family, including her husband Dennis Revell and her daughter Rita Revell, as amended.

The Clerk read as follows:

H.J. RES. 60

Whereas the Congress is greatly saddened by the tragic death of Maureen Reagan on August 8, 2001;

Whereas Maureen Reagan's love of life and countless contributions to family and the Nation serve as an inspiration to millions;

Whereas Maureen Reagan was a remarkable advocate for a number of causes and had many passions, the greatest being her dedication to addressing the scourge of Alzheimer's disease;

Whereas in 1994 when former President Ronald Reagan announced that he had been diagnosed with Alzheimer's disease, Maureen Reagan joined her father and Nancy Reagan in the fight against Alzheimer's disease and became a national spokesperson for the Alzheimer's Association;

Whereas Maureen Reagan served as a tireless advocate to raise public awareness about Alzheimer's disease, support care givers, and substantially increase the Nation's commitment to research on Alzheimer's disease;

Whereas Maureen Reagan helped inspire the Congress to increase Federal research funding for Alzheimer's disease by amounts proportionate to increases in research funding for other major diseases;

Whereas Maureen Reagan went far beyond merely lending her name to the work of the Alzheimer's Association: she was a hands-on activist on the association's board of directors, a masterful fund-raiser, a forceful advocate, and a selfless and constant traveler to anywhere and everywhere Alzheimer's advocates needed help;

Whereas at every stop she made and every event she attended in her efforts to eradicate Alzheimer's disease through research, Maureen Reagan emphasized that researchers are in a "race against time before Alzheimer's reaches epidemic levels" with the aging of the Baby Boomers;

Whereas Maureen Reagan stated before the Congress in 2000 that "14 million Baby Boomers are living with a death sentence of Alzheimer's today";

Whereas despite her declining health, Maureen Reagan never decreased her efforts in her battle to eliminate Alzheimer's disease;

Whereas during the last six months of her life, from her hospital bed and home, Maureen Reagan urged the Congress to increase funding for Alzheimer's disease research at the National Institutes of Health;

Whereas Maureen Reagan said, "The best scientific minds have been brought into the race against Alzheimer's, a solid infrastructure is in place, and the path for further investigations is clear. What's missing is the money, especially the Federal investment, to keep up the pace."; and

Whereas Maureen Reagan's remarkable advocacy for the millions affected and afflicted by Alzheimer's disease will forever serve as an inspiration to continue and ultimately win the battle against the illness: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress, on the occasion of the tragic and untimely death of Maureen Reagan—

(1) recognizes Maureen Reagan as one of the Nation's most beloved and forceful champions for action to cure Alzheimer's disease and treat those suffering from the illness; and

(2) expresses deep and heartfelt condolences to the family of Maureen Reagan, including her husband Dennis Revell and her daughter Rita Revell.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the joint resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.J. Res. 60 honoring Maureen Reagan. I would like to thank the gentleman from Massachusetts (Mr. MARKEY) for sponsoring this resolution. Maureen Reagan was once described by one of her critics as one who was "not schooled in the ways of holding her tongue." Thank goodness she was not because we are all better off as a result of her powerful words.

Her desire to contribute to our Nation started at a young age when in 1952 she knocked on doors for Dwight Eisenhower. That early enthusiasm stretched into her adult life. She promoted American businesses abroad in the early 1980s, represented the United States at the U.N. Decade for Women Conference in 1985, and chaired the Republican National Committee as well as the Republican Women's Political Action League.

More than all of this impressive and important work, however, what stands out most as an inspiration to millions of Americans is her tireless dedication to addressing the plague of Alzheimer's disease. The chairman of the Alzheimer's Association board of directors called her the Joan of Arc of Alzheimer's. Anyone whose life has been touched or will be touched by the disease owes her a debt of gratitude. Even at the end of her life she disregarded her own failing health in order to educate people about Alzheimer's and speak in favor of increased funding for research. As Ms. Reagan said, "We are in a race against time before Alzheimer's reaches epidemic levels."

Today, 4 million people are living with Alzheimer's; and this number will grow as the baby boomer population ages. Research is essential to a cure for Alzheimer's, and funding is essential to research. The experts are gaining ground, and the course for future science is clear. Before this disease puts an incredible strain on our Nation's public health system, we must take the initiative, Maureen Reagan's initiative, and confront this scourge with a commitment to finding a remedy.

Mr. Speaker, the Secret Service agents who guarded Maureen Reagan in life and who carried her casket at her funeral had given her the code name "Radiant." I believe there is not a more fitting description of her life, her work and her memory. Mr. Speaker, I hope all of my colleagues will join me in supporting H.J. Res. 60 in honoring Maureen Reagan, her work and her courageous spirit.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MARKEY), for his work on this resolution, H.J. Res. 60, recognizing Maureen Reagan as one of the country's most effective advocates on behalf of Alzheimer's disease and expresses the House condolences to her family.

Maureen Reagan is the daughter of former President Ronald Reagan and his first wife, actress Jane Wyman. She died in August of this year after a courageous 5-year battle with malignant melanoma. She was 60 at the time. Since her father's diagnosis of Alzheimer's in 1994, Maureen Reagan was committed to raising awareness about Alzheimer's and the importance of family caregivers.

She was elected a member of the Alzheimer's Association's national board 3 years ago. She testified on numerous occasions before this Congress and State legislatures in support of more funding for Alzheimer's research and caregivers' support.

A year ago she received the Alzheimer's Association Distinguished Service Award for outstanding service to the national board and for helping to advance the mission of this organization. She was also active in raising awareness about melanoma, the deadliest form of skin cancer. In 1998, she received the president's Gold Triangle Award from the American Academy of Dermatology for her work in raising awareness of melanoma and for promoting the importance of skin examination. For that we recognize her.

Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank my colleagues for helping to make this resolution possible. The gentleman from New Jersey (Mr. SMITH) and I introduced this resolution as a way of honoring this great woman. She died on August 8. She passed away after having waged a courageous 5-year battle with cancer. With her passing, this country has lost a true leader in the fight against Alzheimer's disease. She was an extraordinary woman, a talented spokesperson, a tireless advocate.

As a member of the Alzheimer's Association's national board of directors, she worked with Members of Congress to increase funding for Alzheimer's research. She provided compelling testimony before Congress warning that Alzheimer's was on the road to becoming the epidemic of the 21st century unless science could find a way to prevent millions of baby boomers from getting the disease.

Just prior to her untimely death, she called on Congress to double the funding for Alzheimer's research at the NIH to $1 billion by 2003. As co-chair with the gentleman from New Jersey (Mr. SMITH) of the Congressional Task Force on Alzheimer's Disease, I always valued Maureen's sage advice on task force goals and legislative initiatives.

In March 2000 when Maureen came to lobby Congress for increased Alzheimer's research funding, in between a busy schedule of press interviews and visits with congressional leaders, she spent several hours meeting with members of the Alzheimer's Task Force, including the gentleman from New Jersey (Mr. SMITH) and myself. In that meeting, Maureen expertly outlined the research breakthroughs of the 1990s and reiterated that scientists were in a race against time to find the answers to Alzheimer's disease.

With grace and warmth and delightful wit, Maureen convinced lawmakers to pay attention to the scourge plaguing one in 10 Americans over the age of 65, and 50 percent of the seniors over the age of 85. She took the tragedy of her own father's illness and chose to fight not only for him, but also for the 4 million Americans who currently have Alzheimer's disease and for the 15 million Americans who are predicted to have this disease by the time all of the baby boomers have retired, a staggering number of Americans.

Mr. Speaker, it takes tremendous courage to take on Alzheimer's disease in such a public way when a parent is still at home in a deteriorating condition from that same disease. She knew that there was no time to waste, and so she took on the challenge despite a heavy emotional burden. Even as her own health declined, she refused to let up in her advocacy role, continuing her fight for more Federal research dollars from her hospital bed, and later while recovering from cancer treatments at home in California.

Mr. Speaker, I can think of no better way to pay tribute to Maureen's legacy than to continue her fight to create a world without Alzheimer's disease. Although we have lost her voice, Maureen's passion and energy live on and continue to inspire us as we work to improve the quality of life for those affected by Alzheimer's disease.

Mr. Speaker, I am deeply saddened by the loss of Maureen and miss her dearly. My thoughts and prayers are with her husband, Dennis, her daughter, Rita, and the entire Reagan family. May she rest in peace.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, I rise in support of House Joint Resolution 60 honoring Maureen Reagan, and I recognize the gentleman from Massachusetts (Mr. MARKEY) for his extraordinary thoughtfulness and consideration in offering this resolution. This resolution speaks as well of Maureen Reagan as it does of its author, the gentleman from Massachusetts (Mr. MARKEY), for his fine work as co-chair of the Alzheimer's task force and for the great work the gentleman has done for bringing attention to this issue.

Maureen Reagan was a vivacious woman with a passion for life and family and country. She had a contagious enthusiasm, an unshakeable will for all of the interests that she pursued. She actively campaigned for her father, former President Ronald Reagan, and spent much energy in the 1980s fundraising for Republican women who were seeking office.

Although she was nationally recognized for her political activities and her commentary, it was her work for victims of Alzheimer's that brought the most attention to her life and perhaps her greatest contribution. When the disease silenced the great communicator, Maureen Reagan, who shared her father's knack for public speaking, became the national spokeswoman for the Alzheimer's Association, and her advocacy raised awareness of not only her father's condition, but also the 4 million Americans currently living with Alzheimer's.

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In the final years of her life she traveled the Nation nearly nonstop, ignoring her own failing health, to gather support for Alzheimer's patients and their caregivers.

She was unwavering in her enthusiasm and optimism that a cure was close at hand and she made several appearances here before Congress, calling for increased Federal spending. Although Ms. Reagan did not live to see a cure for Alzheimer's, the national recognition of the disease and the resulting progress and research have much to do with her efforts. Just last week a report was issued that a single ibuprophen tablet taken each day can literally limit the onset and, in fact, diminish and decrease the onset of Alzheimer's disease. That kind of research is possible today, those breakthroughs, because of much of the work that she did. Her tireless commitment and campaign against Alzheimer's will serve as an inspiration for those who continue to fight this ghastly disease.

Again, I want to thank the gentleman from Massachusetts (Mr. MARKEY), my dear friend, for his thoughtfulness and consideration in bringing this resolution forward, and I urge its adoption.

Mr. BROWN of Ohio. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I would like to thank the gentleman from Florida (Mr. BILIRAKIS), my colleague and good friend. I am happy to be here today to come to the floor of the House to join with my colleagues in the House to commemorate the life and work of a dear friend, the strong and vibrant Maureen Reagan.

Mr. Speaker, many things have been said on this House Floor today about Maureen Reagan, all of which I share, and I would like to join in and add my voice to the same great comments that have been made about Maureen Reagan and her life and her dedication to what she did. The numerous contributions that Maureen made to the causes and charities that she pursued would remind all of us of the person, the courage, and the passion and the leadership qualities that she shared with her father.

Mr. Speaker, many times I have met with Maureen and her family, either at her home in California or mine in Nevada, and never once did Maureen, even though she was afflicted with cancer, ever complain about her status, her health, or the fact that she did have a terrible disease called cancer. She was always vibrant, she was always outspoken, always talking positively and passionately about the future and where she was going with her work in dealing with these charitable organizations and issues that she did deal with.

In putting these great qualities to work, Maureen would go on to leave many of her own footsteps across this Nation for many to follow. She never once needed her name to prove both her effectiveness or her charm. Maureen's deep commitment to raising the awareness of Alzheimer's disease and the importance of research confirmed her status as a selfless, dedicated benefactor for millions of Americans. I extend my heartfelt prayers and deepest condolences to Maureen's husband, Dennis, and her lovely daughter, Rita. Indeed, the sense of loss that our Nation has felt is in no comparison to that, I am sure, of Maureen's own family.

Mr. Speaker, I would like to thank the gentleman from Massachusetts (Mr. MARKEY), as well as the gentleman from New Jersey (Mr. SMITH) for bringing H.J. Res. 60 to the floor, and I urge my colleagues to join me in honoring this courageous and amazing woman. Maureen's contributions to her family and Nation will certainly never be forgotten.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, I want to thank, as did the gentleman from Louisiana (Mr. TAUZIN) a few moments ago, our very distinguished colleague from Massachusetts (Mr. MARKEY) for his kindness in sponsoring this legislation. I think it shows a real sensitivity for Maureen Reagan who was a very courageous woman, wife and mother, and a tireless advocate, a champion, for research and medical assistance for Alzheimer's patients and, equally important, for their caregivers.

As we all know, one of those victims includes her own father, President Ronald Reagan. Ronald Reagan was a fighter since his early days growing up during the Great Depression, but he turned his disclosure that he suffered from Alzheimer's Disease into a battle for more research money and more assistance for his fellow patients. When Ronald Reagan was unable to continue this fight because of his own deteriorating condition, his daughter, Maureen Reagan, stepped up to the plate and became one of the most tenacious advocates for Alzheimer's research and for trying to find a cure for this horrific disease. Her untimely death to cancer this past summer caused the Alzheimer's community to lose one of its best.

Significantly, even while battling cancer during 5 tough years, Maureen never rested in her quest to try to procure more research money and to help more patients and their loved ones with this terrible disease. Not long before she died, as the gentleman from Massachusetts pointed out earlier, she called on Congress to double to $1 billion the amount of money allocated for Alzheimer's research by the National Institutes of Health.

As was also pointed out, this disease afflicts so many of our families. Half of those over age 85 suffer to some degree from Alzheimer's, and 1 of every 10 Americans over the age of 65 also is in some stage of Alzheimer's disease. The current number of affected—4 million—will grow to 14 million people if we do not take prompt action and do all that is humanly possible to mitigate and hopefully eradicate this terrible disease.

Maureen Reagan was a great champion. She will be sorely missed in this battle. And we want to just, and I know this will be a unanimous vote on both sides of the aisle, say to her loved ones, to her husband and to her daughter and to the entire family, how much we deeply care for them and how we miss Maureen Reagan.

Mr. THOMAS. Mr. Speaker, I rise today to support H.J. Res. 60 and to pay tribute to my friend Maureen Reagan, a loving wife and mother, a dedicated member of the Republican Party, and a crusader for Alzheimer's Disease sufferers. I also extend my deepest condolences to her husband, my friend and former constituent, Dennis Revell, and their daughter Rita.

I had the privilege of knowing Maureen for over two decades. In 1980, she was a tireless volunteer in her father's campaign for the White House. Following his election, she became a vigorous activist for female Republicans, raising funds for over 100 candidates. She also served in an appointed position in the California Republican Party, and later ran to be a Member of this House.

After President Reagan poignantly shared with the world his Alzheimer's diagnosis, Maureen continued to dedicate her life to another worthy cause: educating the American public about this debilitating and degenerative disease. Even as Maureen was personally battling cancer, her resolve in making Americans more aware of Alzheimer's disease was remarkable; her passion unyielding. Testifying in front of congressional committees, Ms. Reagan added her voice in promoting the worthy work of our federal medical research agencies. Until the very end, Maureen continually reminded all of us how public advocacy can be vibrant and how public service can be courageous.

She will be missed by her family and friends, by the Alzheimer's patients for whom she worked so tirelessly, by the Republican party, and indeed by all Americans.

Ms. HARMAN. Mr. Speaker, one of the best parts of seeking my seat in Congress was meeting Maureen Reagan in 1992, when she ran in the primary for her party's nomination. It was my good fortune that, after Maureen lost, her supporters became mine and she and I became great friends.

Maureen brought an intelligence and vibrancy to the campaign and although she did not win her party's nomination, she continued to influence many policy debates, particularly in health care after her father revealed he was suffering from Alzheimer's disease.

I am deeply saddened to lose a friend. California and the nation have lost a strong and active voice.

I join my colleagues in honoring the life of Maureen Reagan.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the joint resolution, H. J. Res. 60, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

ADMINISTRATIVE SIMPLIFICATION COMPLIANCE ACT

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3323) to ensure that covered entities comply with the standards for electronic health care transactions and code sets adopted under part C of title XI of the Social Security Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Simplification Compliance Act".

SEC. 2. EXTENSION OF DEADLINE FOR COVERED ENTITIES SUBMITTING COMPLIANCE PLANS.

(a) IN GENERAL.—

(1) EXTENSION.—Subject to paragraph (2), notwithstanding section 1175(b)(1)(A) of the Social Security Act (42 U.S.C. 1320d-4(b)(1)(A)) and section 162.900 of title 45, Code of Federal Regulations, a health care provider, health plan (other than a small health plan), or a health care clearinghouse shall not be considered to be in noncompliance with the applicable requirements of subparts I through R of part 162 of title 45, Code of Federal Regulations, before October 16, 2003.

(2) CONDITION.—Paragraph (1) shall apply to a person described in such paragraph only if, before October 16, 2002, the person submits to the Secretary of Health and Human Services a plan of how the person will come into compliance with the requirements described in such paragraph not later than October 16, 2003. Such plan shall be a summary of the following:

(A) An analysis reflecting the extent to which, and the reasons why, the person is not in compliance.

(B) A budget, schedule, work plan, and implementation strategy for achieving compliance.

(C) Whether the person plans to use or might use a contractor or other vendor to assist the person in achieving compliance.

(D) A timeframe for testing that begins not later than April 16, 2003.

(3) ELECTRONIC SUBMISSION.—Plans described in paragraph (2) may be submitted electronically.

(4) MODEL FORM.—Not later than March 31, 2002, the Secretary of Health and Human Services shall promulgate a model form that persons may use in drafting a plan described in paragraph (2). The promulgation of such form shall be made without regard to chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(5) ANALYSIS OF PLANS; REPORTS ON SOLUTIONS.—

(A) ANALYSIS OF PLANS.—

(i) FURNISHING OF PLANS.—Subject to subparagraph (D), the Secretary of Health and Human Services shall furnish the National Committee on Vital and Health Statistics with a sample of the plans submitted under paragraph (2) for analysis by such Committee.

(ii) ANALYSIS.—The National Committee on Vital and Health Statistics shall analyze the sample of the plans furnished under clause (i).

(B) REPORTS ON SOLUTIONS.—The National Committee on Vital and Health Statistics shall regularly publish, and widely disseminate to the public, reports containing effective solutions to compliance problems identified in the plans analyzed under subparagraph (A). Such reports shall not relate specifically to any one plan but shall be written for the purpose of assisting the maximum number of persons to come into compliance by addressing the most common or challenging problems encountered by persons submitting such plans.

(C) CONSULTATION.—In carrying out this paragraph, the National Committee on Vital and Health Statistics shall consult with each organization—

(i) described in section 1172(c)(3)(B) of the Social Security Act (42 U.S.C. 1320d-1(c)(3)(B)); or

(ii) designated by the Secretary of Health and Human Services under section 162.910(a) of title 45, Code of Federal Regulations.

(D) PROTECTION OF CONFIDENTIAL INFORMATION.—

(i) IN GENERAL.—The Secretary of Health and Human Services shall ensure that any material provided under subparagraph (A) to the National Committee on Vital and Health Statistics or any organization described in subparagraph (C) is redacted so as to prevent the disclosure of any—

(I) trade secrets;

(II) commercial or financial information that is privileged or confidential; and

(III) other information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(ii) CONSTRUCTION.—Nothing in clause (i) shall be construed to affect the application of section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), including the exceptions from disclosure provided under subsection (b) of such section.

(6) ENFORCEMENT THROUGH EXCLUSION FROM PARTICIPATION IN MEDICARE.—

(A) IN GENERAL.—In the case of a person described in paragraph (1) who fails to submit a plan in accordance with paragraph (2), and who is not in compliance with the applicable requirements of subparts I through R of part 162 of title 45, Code of Federal Regulations, on or after October 16, 2002, the person may be excluded at the discretion of the Secretary of Health and Human Services from participation (including under part C or as a contractor under sections 1816, 1842, and 1893) in title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(B) PROCEDURE.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) (other than the first and second sentences of subsection (a) and subsection (b)) shall apply to an exclusion under this paragraph in the same manner as such provisions apply with respect to an exclusion or proceeding under section 1128A(a) of such Act.,

(C) CONSTRUCTION.—The availability of an exclusion under this paragraph shall not be construed to affect the imposition of penalties under section 1176 of the Social Security Act (42 U.S.C. 1320d-5).

(D) NONAPPLICABILITY TO COMPLYING PERSONS.—The exclusion under subparagraph (A) shall not apply to a person who—

(i) submits a plan in accordance with paragraph (2); or

(ii) who is in compliance with the applicable requirements of subparts I through R of part 162 of title 45, Code of Federal Regulations, on or before October 16, 2002.

(b) SPECIAL RULES.—

(1) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(A) as modifying the October 16, 2003, deadline for a small health plan to comply with the requirements of subparts I through R of part 162 of title 45, Code of Federal Regulations; or

(B) as modifying—

(i) the April 14, 2003, deadline for a health care provider, a health plan (other than a small health plan), or a health care clearinghouse to comply with the requirements of subpart E of part 164 of title 45, Code of Federal Regulations; or

(ii) the April 14, 2004, deadline for a small health plan to comply with the requirements of such subpart.

(2) APPLICABILITY OF PRIVACY STANDARDS BEFORE COMPLIANCE DEADLINE FOR INFORMATION TRANSACTION STANDARDS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, during the period that begins on April 14, 2003, and ends on October 16, 2003, a health care provider or, subject to subparagraph (B), a health care clearinghouse, that transmits any health information in electronic form in connection with a transaction described in subparagraph (C) shall comply with the requirements of subpart E of part 164 of title 45, Code of Federal Regulations, without regard to whether the transmission meets the standards required by part 162 of such title.

(B) APPLICATION TO HEALTH CARE CLEARINGHOUSES.—For purposes of this paragraph, during the period described in subparagraph (A), an entity that processes or facilitates the processing of information in connection with a transaction described in subparagraph (C) and that otherwise would be treated as a health care clearinghouse shall be treated as a health care clearinghouse without regard to whether the processing or facilitation produces (or is required to produce) standard data elements or a standard transaction as required by part 162 of title 45, Code of Federal Regulations.

(C) TRANSACTIONS DESCRIBED.—The transactions described in this subparagraph are the following:

(i) A health care claims or equivalent encounter information transaction.

(ii) A health care payment and remittance advice transaction.

(iii) A coordination of benefits transaction.

(iv) A health care claim status transaction.

(v) An enrollment and disenrollment in a health plan transaction.

(vi) An eligibility for a health plan transaction.

(vii) A health plan premium payments transaction.

(viii) A referral certification and authorization transaction.

(c) DEFINITIONS.—In this section—

(1) the terms "health care provider", "health plan", and "health care clearinghouse" have the meaning given those terms in section 1171 of the Social Security Act (42 U.S.C. 1320d) and section 160.103 of title 45, Code of Federal Regulations;

(2) the terms "small health plan" and "transaction" have the meaning given those terms in section 160.103 of title 45, Code of Federal Regulations; and

(3) the terms "health care claims or equivalent encounter information transaction", "health care payment and remittance advice transaction", "coordination of benefits transaction", "health care claim status transaction", "enrollment and disenrollment in a health plan transaction", "eligibility for a health plan transaction", "health plan premium payments transaction", and "referral certification and authorization transaction" have the meanings given those terms in sections 162.1101, 162.1601, 162.1801, 162.1401, 162.1501, 162.1201, 162.1701, and 162.1301 of title 45, Code of Federal Regulations, respectively.

SEC. 3. REQUIRING ELECTRONIC SUBMISSION OF MEDICARE CLAIMS.

(a) IN GENERAL.—Section 1862 of the Social Security Act (42 U.S.C. 1395y) is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (20);

(B) by striking the period at the end of paragraph (21) and inserting "; or"; and

(C) by inserting after paragraph (21) the following new paragraph:

"(22) subject to subsection (h), for which a claim is submitted other than in an electronic form specified by the Secretary."; and

(2) by inserting after subsection (g) the following new subsection:

"(h)(1) The Secretary—

"(A) shall waive the application of subsection (a)(22) in cases in which—

"(i) there is no method available for the submission of claims in an electronic form; or

"(ii) the entity submitting the claim is a small provider of services or supplier; and

"(B) may waive the application of such subsection in such unusual cases as the Secretary finds appropriate.

"(2) For purposes of this subsection, the term 'small provider of services or supplier' means—

"(A) a provider of services with fewer than 25 full-time equivalent employees; or

"(B) a physician, practitioner, facility, or supplier (other than provider of services) with fewer than 10 full-time equivalent employees.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to claims submitted on or after October 16, 2003.

SEC. 4. CLARIFICATION WITH RESPECT TO APPLICABILITY OF ADMINISTRATIVE SIMPLIFICATION REQUIREMENTS TO MEDICARE+CHOICE ORGANIZATIONS.

Section 1171(5)(D) of the Social Security Act (42 U.S.C. 1320d(5)(D)) is amended by striking "Part A or part B" and inserting "Parts A, B, or C".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION OF REGULATIONS.

(a) IN GENERAL.—Subject to subsection (b), and in addition to any other amounts that may be authorized to be appropriated, there are authorized to be appropriated a total of $44,200,000, for—

(1) technical assistance, education and outreach, and enforcement activities related to subparts I through R of part 162 of title 45, Code of Federal Regulations; and

(2) adopting the standards required to be adopted under section 1173 of the Social Security Act (42 U.S.C. 1320d-2).

(b) REDUCTIONS.—

(1) MODEL FORM 14 DAYS LATE.—If the Secretary fails to promulgate the model form described in section 1(a)(4) by the date that is 14 days after the deadline described in such section, the amount referred to in subsection (a) shall be reduced by 25 percent.

(2) MODEL FORM 30 DAYS LATE.—If the Secretary fails to promulgate the model form described in section 1(a)(4) by the date that is 30 days after the deadline described in such section, the amount referred to in subsection (a) shall be reduced by 50 percent.

(3) MODEL FORM 45 DAYS LATE.—If the Secretary fails to promulgate the model form described in section 1(a)(4) by the date that is 45 days after the deadline described in such section, the amount referred to in subsection (a) shall be reduced by 75 percent.

(4) MODEL FORM 60 DAYS LATE.—If the Secretary fails to promulgate the model form described in section 1(a)(4) by the date that is 60 days after the deadline described in such section, the amount referred to in subsection (a) shall be reduced by 100 percent.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent that the gentleman from California (Mr. STARK) be permitted to control 10 minutes of the time on this side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that the gentlewoman from Connecticut (Mrs. JOHNSON) on behalf of the gentleman from California (Mr. THOMAS) be permitted to control 10 minutes of time on this side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on this legislation now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3323, the Administrative Simplification Compliance Act introduced by the gentleman from Ohio (Mr. HOBSON).

A little over 5 years ago, Congress passed the Health Insurance Portability and Accountability Act, or HIPAA, a far-reaching law that imposed significant new requirements on health care plans and providers and created basic consumer protections in a number of areas. One of the most important provisions of the act, although infrequently discussed in Congress, relates to administrative simplification. This provision implements common standards for electronic health care transactions. It was designed to increase the health care system's efficiency and effectiveness, to improve law enforcement's ability to prevent fraud and abuse, and generally to reduce administrative burdens for plans and providers.

We in Congress strongly support the goals of administrative simplification. The provision's implementation will eliminate the confusing patchwork of electronic and paper standards that exist in the health care marketplace. However, as plans and providers move toward common electronic standards, we must also recognize that their efforts will require a significant amount of time and money, and that perhaps the time frames Congress originally set forth in statute to comply with these rules should be modified.

On August 17, 2000, the Department of Health and Human Services published its final rule implementing the standards for electronic health care transactions. The rule required all plans and providers to come into compliance with administrative simplification standards by October 16, 2002. From speaking with many people in the health care system during the past year, we have concluded that this deadline is much too ambitious.

That is why we are here today. The Hobson legislation will provide plans and providers with one additional year to come into compliance with the administrative simplification standards. His legislation, which is a compromise product negotiated between the bill's sponsors, the gentleman from Arizona (Mr. SHADEGG), the Committee on Energy and Commerce, and the Committee on Ways and Means allows covered entities the extra time they need to ensure that they will continue taking steps to come into compliance.

I would like to point out that one important change to the legislation is now in the bill in its reintroduced version. In its original form, H.R. 3323 imposed a $1 user fee on every paper claim submitted to the Medicare program. This provision has been replaced with a requirement that health care entities, with the exception of small providers, submit their claims to the Medicare program in electronic format. This requirement refinement significantly improves the bill and eliminates a tremendous burden for providers and the government.

Mr. Speaker, this legislation has been vetted extensively with the stakeholders in the health care system. It deserves everyone's vote and we should all be grateful for the fine work of the gentleman from Ohio (Mr. HOBSON) in the area.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, in 1996 Congress passed landmark legislation, and most of us know it as Kennedy/Kassebaum or HIPAA, that answered several difficult questions: How do we minimize coverage disruptions and barriers in the private health insurance market? How do we improve the efficiency of health care financing and delivery in the United States?

The gentlemen from my home State of Ohio (Mr. SAWYER) and (Mr. HOBSON) took on the second question. They championed commonsense provisions in HIPAA that ensure the transition to fully electronic transfers between health plans and providers. Electronic claiming is far superior to the old-fashioned paper version. It saves money, it saves trees, and it typically saves patients from paying out-of-pocket for services ultimately covered by insurance.

The deadline for implementing phase 1 of this transition is October 2002, but the reality is some sectors of the health industry and State governments need extra time to make the technical and the procedural changes necessary to achieve compliance. Delaying the compliance deadlines for administrative simplification is not an action any Member of Congress, Mr. Speaker, should take lightly.

CMS has estimated that the electronic claims processing can save $30 billion over 10 years. Any delay in implementation reduces, obviously, those associated savings. Health plans and providers throughout the country have invested time and money to gear up for this transition. To the extent that their new operations sit idle, they are losing money too. That said, it would be inappropriate to fault both public and private sector entities that work in good faith against a deadline they did not create and found they simply could not meet.

Mr. Speaker, H.R. 3323 accommodates the concerns of those on both sides of this issue. Under this legislation, health plans and providers must either meet the current compliance deadline or demonstrate their plans for achieving compliance by October 2003. This one-time 1-year extension creates a cushion for organizations bumping up against the current deadline without permitting an undue or indefinite delay.

Mr. Speaker, I am pleased to support this reasonable compromise. I again thank the gentlemen from Ohio (Mr. SAWYER) and (Mr. HOBSON) for their good work.

□ 1630

Mr. TAUZIN. Mr. Speaker, I am very pleased to yield 3 minutes to the distinguished gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Mr. Speaker, I appreciate the gentleman yielding time to me.

Mr. Speaker, I rise in support of H.R. 3323, a bill that would ensure that stakeholders in America's health care system are able to comply with regulations to standardize electronic health care transactions.

This legislation extends by 1 year the deadline for compliance with administrative simplification provisions created as part of the Health Insurance Portability and Accountability Act of 1996, which we fondly pronounce as HIPAA.

The legislation also implements an orderly transition process that will ensure that covered entities will be in a position to implement the new regulations by October of 2003.

In 1996, Congress passed HIPAA to improve efficiency and effectiveness in the health care system, to make it easier to detect fraud and abuse, facilitate access to health and medical information by researchers, and to reduce administrative costs.

When we passed HIPAA in 1996, it was the largest government action in health care since the creation of Medicare. Administrative simplification and standardization of the way medical data is transmitted electronically is vital to improving the quality of medical care. The American health care system currently has more than 12 million providers, plans, suppliers, and other participants that require access to medical data.

Today, there is no single standard by which this data can be exchanged electronically. Therefore, the full benefit of the technological revolution has yet to be implemented by the health care industry. Standardization of electronic data has the potential to simplify administrative functions, increase processing of medical claims, and improve the quality of care while substantially reducing health care costs.

However, flawed implementation of this process will prevent the full benefit of standardization from being realized. This bill alleviates this problem by requiring that each stakeholder seeking an extension submit a report to the Secretary of Health and Human Services on how they plan to implement electronic standardization. This will allow the Secretary to have access to the best transition plans that are proposed, allowing for an exchange of information that will benefit stakeholders less prepared to implement this process.

H.R. 3323 is a thoughtful and logical approach to ensuring that health care beneficiaries are able to take the fullest advantage of the coming revolution in medical care. I thank the gentleman from Arizona (Mr. SHADEGG) for taking the lead on this issue for the Committee on Energy and Commerce and the gentleman from Ohio (Mr. HOBSON) for introducing the support legislation.

I urge my colleagues to join me in supporting H.R. 3323.

Mr. TAUZIN. Mr. Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. HOBSON), the author of the legislation.

The SPEAKER pro tempore (Mr. CULBERSON). The gentleman from Ohio (Mr. HOBSON) is recognized for 4 minutes.

Mr. HOBSON. Mr. Speaker, we have before us today a reasonable and balanced bill that provides the final push for an idea that my colleague, the gentleman from Ohio (Mr. SAWYER), and myself have been working on for 7 years: The simplification of paperwork associated with paying health care costs.

In 1993, my colleague, the gentleman from Ohio, began to develop legislation that would create a standard framework for electronic filing of health care claims. Today, we all recognize electronic health care filing represents significant advantages over paper filings for every level of health care, from providers to insurance.

However, the patchwork of different computer systems needed to electronically file claims with different health care payers made the process a complicated, expensive, and unwieldy situation.

In 1996, our work culminated in the administrative simplification provisions included in the Health Insurance Portability and Accountability Act of 1996, which required a common format for electronic health care claims. This would have the effect of simplifying the administrative burden associated with health care transactions, and would, according to the Health Care Financing Administration at the time, produce $9.9 billion in savings for the health care community.

By reducing administrative overhead, we also help improve the quality of health care by freeing up resources now devoted to paperwork and administration. However, for a variety of reasons, the regulations implementing the administrative simplification provisions enacted in 1996 were delayed.

Now, 5 years later, two final rules are set to take effect shortly. The first, regarding medical privacy, is left untouched by the legislation before this body today, and will take effect as scheduled in April of 2003. The second, establishing code sets in transactions, is set to take effect October 16, 2002.

However, the current state of readiness in the health care community is inconsistent, and significant sectors have argued for additional time to undertake systems changes necessary to reach compliance. At the same time, some entities clearly will be ready for the first set of standards.

Mr. Speaker, the gentleman from Ohio (Mr. SAWYER) and I recognize the need for additional time for some entities to come into compliance. At the same time, we must ensure that this time is fully utilized by all the parties and that those entities that want to move forward can do so without penalty.

Our legislation provides a solution to the current status by establishing two tracks for entities covered by the original statute. For those plans and providers who will be ready to go by October, 2002, they can proceed under the original timetable. These entities can be sending and receiving electronic transactions under the new standardized format in October of next year.

However, our legislation also recognizes some entities may have underestimated what was needed to be operationally compliant with the standards of 2002. That is why our bill includes a provision which allows these plans and providers to file a plan with the Secretary of the Department of Health and Human Services explaining the steps they will take to reach compliance.

One other important fact. This bill also ensures that the additional time provided is fully utilized, from the government's perspective. Our bill includes an authorization for $44.2 million for the Department of Health and Human Services which will allow the Department to adequately prepare for the transition.

This authorization will support activities at the Department associated with finishing the remaining work on the original standards providing technical assistance and educational outreach and enforcement activities.

Finally, our bill requires the filing of electronic claims with Medicare by extending the deadline to October 16, 2003, with the exception for small providers and those physically unable to file electronically. This will help prevent backsliding to paper transactions and will help focus all entities on reaching the cost-saving goals of the original statute.

In conclusion, this statute represents a balanced package of measures that does not simply delay the administrative simplification provisions, but rather, provides a clear plan and one-time extension to reach compliance in the marketplace.

I urge my colleagues to support this legislation; and I would like to thank the staffs of both committees, my staff, Michael Beer, the staff of the gentleman from Ohio (Mr. SAWYER), and the staff of the Committee on Commerce.

I would like to thank the leadership and the staff of the Committee on Ways and Means, and particularly the leadership of the gentleman from Texas (Mr. ARMEY) and the Speaker, who encouraged us to bring this bill forward. We think we have done something good here.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. HOBSON. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I appreciate the gentleman's leadership in this.

I heard the gentleman's statement about the authorization for I think the $44.2 million for CMS for the Department of Health and Human Services to carry out their work.

I know, as a distinguished member of the Committee on Appropriations, that that will come to the gentleman in another form.

I often feel that we have added many chores to the Department of Health and Human Services without being so concerned as to how they will perform the activities. I want to commend the gentleman for thinking ahead and asking for the support for the Department of Health and Human Services to see that they have the resources to carry out this work. I would like to join with him to see that we get the appropriated funds.

Mr. BROWN of Ohio. Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from Summit and Portage Counties, Ohio (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I thank my friend, the gentleman from Lorain County, Ohio, for yielding time to me. I particularly want to thank my colleague, the gentleman from Ohio (Mr. HOBSON), for his leadership, his persistence, and his hard work, and in the last year, his attention to detail with regard to the administration of this.

I would also like to thank the chairman and ranking members of the Committee on Energy and Commerce and the Committee on Ways and Means, and particularly, their counterparts in the leadership of the subcommittees having to do with health care of both bodies.

Mr. Speaker, I want to thank them for their assistance on this legislation, for bringing it to the floor. This measure is a bipartisan compromise which keeps administrative simplification on track and should be passed by the House. The gentleman from Ohio (Mr. HOBSON) and I first started working on this back in the early 1990s. We met with a broad spectrum of industry groups on how to streamline the processes of administrative information and financial transactions.

By standardizing these efforts for electronic transmission, we, along with the industry, strongly believed that this would reduce paperwork, limit fraud and abuse where it may or may not exist, and help contain health care costs.

Every time we stand up here and talk about limiting waste, fraud and abuse, we do it too often by simply cutting money with the hopes that under that rubric, dollars lost can somehow go unreplaced. This goes a great deal further. It outlines a practical, hardheaded way to achieve the kinds of savings that we are talking about, and have been in this legislation for the last 5 years.

Back in September of 1993, the gentleman from Ohio (Mr. HOBSON) and I introduced this legislation for the first time. After 3 years of extensive and detailed consultation, the bill was included in HIPAA. According to HHS, as we have heard, it is expected to save about $30 billion.

Now, 5 years after enactment of the legislation, the first of a series of regulations are due to take effect next year. While an awful lot of health plans, hospital, and stakeholders have invested millions of dollars to be ready, some plans and some State Medicaid systems simply will not be in compliance in time.

That concern that this would disrupt transmission of health and financial information and cause any number of problems for the health care consumer is what motivates this legislation today. This bipartisan effort will prevent that from happening while still ensuring that the regulations are implemented in a timely manner.

For those who will not be ready, the bill holds them accountable by requiring them to file a plan documenting how they will reach compliance. If they fail to do so, they may not be able to participate in Medicare.

The document must include a budget, a work plan, and an implementation strategy for reaching compliance. This will ensure that at the end of the deadline all providers, plans, and other health care groups are ready. The plan must also outline a time frame for electronic testing, which means that consumers can be assured that there will be no disruptions in delivery, although the bill does provide additional time to reach compliance.

Everyone involved in this should know that this is a one-time deal. We hope Members will not come back again asking for any further delays. The answer the next time will be, I am certain, a clear and inarguable no.

This legislation will facilitate a smooth transition to processing electronic transactions and medical information by authorizing funds for HHS to issue the next set of regulations, and perhaps, even more importantly, to provide outreach, education, and technical assistance to those who seek to comply.

Many doctors' offices will need that kind of help in reaching compliance. This bill gives HHS the ability to help them.

Almost 10 years ago, we set out to make the health care system more efficient by encouraging the responsible electronic transfer of data. This legislation will help us meet that goal. I urge its passage.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Hobson bill. It is instructive that we passed this directive in 1996. That is 5 years ago. This was going to save the system $30 billion through greater efficiency, so it was with great conviction that many of us resisted, including the gentleman from California (Chairman THOMAS) of the Committee on Ways and Means, resisted a delay, and particularly an open-ended delay, of the implementation of these administrative simplification provisions of the Health Insurance Portability and Accountability Act.

However, in recent weeks it has become very clear that a number of providers and plans, as well as the State governments, have some legitimate reasons why they will have a hard time complying by the October 2002 deadline and have asked for a year's extension.

The gentlemen from Ohio (Mr. HOBSON and Mr. SAWYER) have developed a very responsible compromise which the Committee on Ways and Means supports, the Committee on Energy and Commerce supports, and really is a good example of how rational thinking can guide the Nation effectively.

This bill just creates a smoother glide path to compliance for all entities. It is not open-ended; it does require everybody who is going to be responsible to comply to think about what it is going to take to come into compliance with this very important provision, but one that is complicated, particularly for small providers or very, very large providers in this era of rapid change.

It forces those responsible to comply to think about what budget it will take, what work plan will accomplish the goal, what needs to be tested, what strategy needs to be adopted to impact and accomplish compliance with the HIPAA requirements. That is good. That means it will happen more surely and with better or greater effectiveness.

It not only requires that kind of planning, but it does not discourage those who can comply sooner.

□ 1645

I am particularly pleased that the Department of Health and Human Services under this legislation would be required to issue model guidance plans. So a lot of small providers can just take this plan, fill in the blanks and know exactly what they need to do and how they need to do it.

In addition, I am pleased that the bill requires the Secretary to disseminate reports from evaluating these plans that provide solutions to some of the problems that are identified through reviewing the compliance plans. This creates, in fact, a new partnership between government and the private sector as we near the compliance date for the HIPAA requirements, and I think that is going to mean a better quality of compliance as well as surer compliance with a new date a year from 2002, March 31.

I am also pleased that the bill does actually require all Medicare claims to be submitted electronically with the following exceptions: If there is no method to submit an electronic claim; or if one is a very small provider, a facility with fewer than 25 full-time employees; or a physician practice with fewer than 10 full-time employees; or in unusual circumstances as determined by the Secretary. I also believe that many of those small providers are going to use electronic means of submission because they are going to find it much faster, much more efficient, they will get paid more rapidly, and it will be more accurate.

But this bill does recognize that small compliers and certain other situations may require an exception. So I commend my colleagues, the gentleman from Ohio (Mr. Hobson) and the gentleman from Ohio (Mr. Sawyer) for moving with and through both the Committee on Ways and Means and the Committee on Energy and Commerce to bring this to the floor. It was really their knowledge of this issue, their insight, their determination that helped us find this very constructive solution.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I add my congratulations to the gentleman from Ohio (Mr. HOBSON) and the gentleman from Ohio (Mr. SAWYER) for working to push this bill to fruition.

Mr. Speaker, I rise in support of H.R. 3323. I remind my colleagues that the standards that we are talking about today for electronic claims and referrals are being passed because the health care industry asked for our help.

Unlike the banking industry or the securities industry and others, the health care providers could not agree amongst themselves on how to talk to each other electronically. They asked us to step in and help establish standards, and now many of the sectors of the health industry have realized the wisdom of the saying, "Be careful what you wish for, you might get it."

They support the goals of the administrative simplification, but they now say they underestimated the effort it will take for them to comply, and they say they need more time. I think some of the sectors, particularly hospitals, are ready to go and would like to participate in what they think might be up to $30 billion in savings. And I agree. I want these simplification plans to be adopted as soon as possible and with as little delay as we can allow them and still let them officially go ahead and put these rules into effect.

I would like to make one thing quite clear for the record, and that is that this bill does not delay the HIPAA privacy regulation, not for health plans, not for health care providers, not for health care clearinghouses. There has been some concern that extending the transaction and codes sets compliance deadline would effectively exempt some health care providers and health care clearinghouses from the privacy rule.

This bill should remove any and all ambiguity on that point. Any health care provider or health care clearinghouse that would be subject to the privacy rule before we pass this bill will still be subject to the privacy rule after we pass this bill, and they will need to comply by April of 2003. The bill does not delay the privacy compliance deadline or negatively impact the privacy regulation. It is that simple.

Having said that, again, all the people who have worked so diligently to bring this compromise and this bill to the floor, indeed, are to be congratulated. I hope it will save money, help the beneficiaries get their information more quickly and more efficiently, and help the providers provide good medical care to more people for less money over the years to come.

Mr. Speaker, I yield back the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentlewoman from Washington (Ms. DUNN), a member of the Subcommittee on Health of the Committee on Ways and Means. She is a hardworking member.

Ms. DUNN. Mr. Speaker, I rise in support of H.R. 3323. That is a bill to delay the administrative simplification rules for 1 year. I want to thank the gentleman from California (Chairman THOMAS), the chairwoman of the Subcommittee on Health, the gentlewoman from Connecticut (Mrs. JOHNSON), and particularly my colleague, the gentleman from Ohio (Mr. HOBSON) for working very, very hard to put a compromise together that we could live with. They worked diligently and provided a 1-year delay without implementing a user fee.

I would like to thank the gentleman from Arizona (Mr. SHADEGG) for working with me earlier this year when we introduced legislation to provide for a 2-year delay.

While I would have preferred our bill, I recognize that the compromise we have today balances the need of maintaining oversight and encouraging all providers to comply with the regulations.

I am very pleased that the user fees were removed from this legislation. Like many of my colleagues, I was concerned about requiring some physician to pay a user fee when they will experience a reduction in Medicare payments next year. This delay is vital to help those struggling to meet the challenges of compliance. The people I represent, the doctors, the hospitals and the health plans, support a delay.

I ask my colleagues to support this legislation. It is good legislation. Let us get it to the President's desk before the end of the year.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. HOBSON).

Mr. HOBSON. Mr. Speaker, I want to thank my colleague, the gentleman from Ohio (Mr. BROWN) as well as the gentleman from Ohio (Mr. SAWYER) again, and all the people who worked on this.

I want to explain to people this is a very complicated situation. This is not easy to do. It is not easy to understand what we are doing. This is a massive change in how we do things. But when we get done it will be more cost effective. We will have less fraud. We will have less abuse because we will have standardized coding. And we will have electronic transfer. And the frustrations that people have in doctors' offices about the huge stacks of bills that they are trying to collect should go away. That is a real step forward.

We hope to save more than the $29.9 billion that we are talking about in this bill with this type of activity.

The most important thing I want people to understand is sometimes we get all wrapped up in fights amongst ourselves. We did not in this legislation. The committees came together, the Members came together, and we worked out a situation that I think in the long run is maybe a better bill than we wrote, is a better bill than other people wrote. The finest solution to this is one that is good for this country, gives people time but moves the system forward to the final completion that we all want.

I want to particularly thank everybody, all the staffs, all the Members who worked so hard to make this work.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Ohio (Mr. HOBSON) for his really outstanding and consistent leadership on this issue.

Mr. MARKEY. Mr. Speaker, I rise in support of the language in the Administrative Simplification Compliance Act, H.R. 3323 which exempts from delay the compliance date for the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule.

In 1996 Congress made a promise to the American people that by February 2001 medical privacy protections would be in place. Despite the efforts of privacy opponents who lobbied this Administration heavily to postpone the effective date of these protections, the final privacy rule went forward in April 2001—a victory for patients, doctors and the quality of our nation's health care. But we're not quite out of the woods yet—the Administration has indicated that certain sections of this rule are to be opened for public comment early next year. It is my hope that this plan will not serve to undermine the strong privacy protections already in place and that the compliance date for these protections will not be postponed.

The date of compliance for these first time, fundamental medical privacy protections is April 2003. While we can all agree that these protections don't go far enough in providing comprehensive privacy for medical records they are a good first step.

I praise Representative HOBSON, the author of H.R. 3323, for including language to preserve the compliance date for the HIPAA privacy protections. Americans have waited far too long for medical privacy and they deserve it as soon possible.

Mr. SHADEGG. Mr. Speaker, I rise to support H.R. 3323, the Administrative Simplification Compliance Act. Mr. Speaker, earlier this year, I introduced legislation, H.R. 1975, that would have greatly assisted health care providers, physicians, health plans, and the states in coming into compliance with the Administrative Simplification provisions that were passed as part of the Health Insurance Portability and Accountability Act (HIPAA). My bill recognized the difficulty that health plans, providers, and states face in updating their computer systems by delaying the HIPAA compliance date to the later of October 16, 2004, or two years after the Secretary finalized all of the Administrative Simplification regulations. Unfortunately, however, there was skepticism as to the merit of any extension.

While the intention of the Administrative Simplification requirements is meritorious—moving from a slothy paper-based health care transaction system to an efficient electronic-based one—it is clear that health plans and providers will not be able to meet the deadlines set forth in regulations that were late in their release. According to a recent survey conducted by Phoenix Health Systems, "industry-wide readiness for the October 16, 2002 transactions deadline is questionable—even unlikely.

Further evidence of the difficulty of meeting the October 16, 2002 deadline for transactions and code sets found in an October 11, 2001 letter signed by the National Governors Association, National Conference of State Legislatures, Council of State Governments, National Association of Counties, National League of Cities, and the U.S. Conference of Mayors which stated "State and local governments will be unable to meet the requirements of HIPAA under the current implementation schedule. Regardless of whether other covered entities—such as hospitals, health plans, providers, and clearinghouse—except to be compliant with HIPAA under the current system, if state and local governments are not ready, HIPAA will not work."

The bill on the floor today represents a compromise. The bill does not contain all of the provisions I would like. It is, however, an improvement over its original form, which contained an onerous user fee on Medicare providers, an idea that has been rejected by the House of Representatives time and time again. In addition, the compliance plans that covered entities will have to submit—something that will get entities to focus on how to come into compliance—will be less burdensome under the new amended bill. I still have concerns about the bill's effect on small providers, but believe that the exceptions we have included are sufficient to not punish small physician practices.

Mr. Speaker, I want to thank Mr. HOBSON, Mr. SAWYER, Chairman TAUZIN, and Chairman THOMAS for their work on this issue.

Mr. DINGELL. Mr. Speaker, H.R. 3323, the "Administrative Simplification Compliance Act" is a responsible compromise. Congressman HOBSON and SAWYER have addressed the concerns of the health care industry while maintaining the integrity of the administrative simplification requirements. H.R. 3323 also reflects the bipartisan input of the committees of jurisdiction, the Committee on Energy and Commerce and the Committee on Ways and Means.

H.R. 3323 delays the implementation of the administrative simplification requirements in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) by one year. It ensures, however, that those sectors of the health care industry that take advantage of this delay are using the extra year to ready themselves for compliance.

Most importantly, the bill ensures that the one-year delay of administrative simplification does not touch the implementation of the health information privacy requirements in HIPAA, which will go into effect as scheduled.

H.R. 3323 also requires that Medicare claims be submitted electronically, with reasonable exceptions. The Medicare program has paved the way in moving from paper-based claims processing to electronic processing, and this requirement will help Medicare run more smoothly.

Ultimately, the administration simplification requirements in HIPAA will make our health system more efficient. These requirements will result in billions of dollars in savings, thus freeing up more funds to focus on expanding health care coverage and promoting higher quality care. H.R. 3323 reaffirms the importance of these requirements while giving additional time to prepare for their implementation. I ask my colleagues to join me in support of this bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 3323, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. JOHNSON of Connecticut. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

MEDICARE REGULATORY AND CONTRACTING REFORM ACT OF 2001

Mrs. JOHNSON of Connecticut. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3391) to amend title XVIII of the Social Security Act to provide regulatory relief and contracting flexibility under the Medicare Program.

The Clerk read as follows:

H.R. 3391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Regulatory and Contracting Reform Act of 2001".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; table of contents.
Sec. 2. Findings and construction.
Sec. 3. Definitions.

TITLE I—REGULATORY REFORM

Sec. 101. Issuance of regulations.
Sec. 102. Compliance with changes in regulations and policies.
Sec. 103. Reports and studies relating to regulatory reform.

TITLE II—CONTRACTING REFORM

Sec. 201. Increased flexibility in medicare administration.
Sec. 202. Requirements for information security for medicare administrative contractors.

TITLE III—EDUCATION AND OUTREACH

Sec. 301. Provider education and technical assistance.
Sec. 302. Small provider technical assistance demonstration program.
Sec. 303. Medicare Provider Ombudsman; Medicare Beneficiary Ombudsman.
Sec. 304. Beneficiary outreach demonstration program.

TITLE IV—APPEALS AND RECOVERY

Sec. 401. Transfer of responsibility for medicare appeals.
Sec. 402. Process for expedited access to review.
Sec. 403. Revisions to medicare appeals process.
Sec. 404. Prepayment review.
Sec. 405. Recovery of overpayments.
Sec. 406. Provider enrollment process; right of appeal.
Sec. 407. Process for correction of minor errors and omissions on claims without pursuing appeals process.
Sec. 408. Prior determination process for certain items and services; advance beneficiary notices.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Policy development regarding evaluation and management (E & M) documentation guidelines.
Sec. 502. Improvement in oversight of technology and coverage.
Sec. 503. Treatment of hospitals for certain services under medicare secondary payor (MSP) provisions.
Sec. 504. EMTALA improvements.
Sec. 505. Emergency Medical Treatment and Active Labor Act (EMTALA) Technical Advisory Group.
Sec. 506. Authorizing use of arrangements with other hospice programs to provide core hospice services in certain circumstances.
Sec. 507. Application of OSHA bloodborne pathogens standard to certain hospitals.
Sec. 508. One-year delay in lock in procedures for Medicare+Choice plans; change in Medicare+Choice reporting deadlines and annual, coordinated election period for 2002.
Sec. 509. BIPA-related technical amendments and corrections.
Sec. 510. Conforming authority to waive a program exclusion.
Sec. 511. Treatment of certain dental claims.
Sec. 512. Miscellaneous reports, studies, and publication requirements.

SEC. 2. FINDINGS AND CONSTRUCTION.

(a) FINDINGS.—Congress finds the following:

(1) The overwhelming majority of providers of services and suppliers in the United States are law-abiding persons who provide important health care services to patients each day.

(2) The Secretary of Health and Human Services should work to streamline paperwork requirements under the medicare program and communicate clearer instructions to providers of services and suppliers so that they may spend more time caring for patients.

(b) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to compromise or affect existing legal remedies for addressing fraud or abuse, whether it be criminal prosecution, civil enforcement, or administrative remedies, including under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act); or

(2) to prevent or impede the Department of Health and Human Services in any way from its ongoing efforts to eliminate waste, fraud, and abuse in the medicare program.

Furthermore, the consolidation of medicare administrative contracting set forth in this Act does not constitute consolidation of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund or reflect any position on that issue.

SEC. 3. DEFINITIONS.

(a) USE OF TERM SUPPLIER IN MEDICARE.—Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (c) the following new subsection:

"Supplier

"(d) The term 'supplier' means, unless the context otherwise requires, a physician or other practitioner, a facility, or other entity (other than a provider of services) that furnishes items or services under this title.".

(b) OTHER TERMS USED IN ACT.—In this Act:

(1) BIPA.—The term "BIPA" means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106-554.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

TITLE I—REGULATORY REFORM

SEC. 101. ISSUANCE OF REGULATIONS.

(a) CONSOLIDATION OF PROMULGATION TO ONCE A MONTH.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

"(d)(1) Subject to paragraph (2), the Secretary shall issue proposed or final (including interim final) regulations to carry out this title only on one business day of every month.

"(2) The Secretary may issue a proposed or final regulation described in paragraph (1) on any other day than the day described in paragraph (1) if the Secretary—

“(A) finds that issuance of such regulation on another day is necessary to comply with requirements under law; or

“(B) finds that with respect to that regulation the limitation of issuance on the date described in paragraph (1) is contrary to the public interest.

If the Secretary makes a finding under this paragraph, the Secretary shall include such finding, and brief statement of the reasons for such finding, in the issuance of such regulation.

“(3) The Secretary shall coordinate issuance of new regulations described in paragraph (1) relating to a category of provider of services or suppliers based on an analysis of the collective impact of regulatory changes on that category of providers or suppliers.”.

(2) GAO Report on publication of regulations on a quarterly basis.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the feasibility of requiring that regulations described in section 1871(d) of the Social Security Act be promulgated on a quarterly basis rather than on a monthly basis.

(3) Effective date.—The amendment made by paragraph (1) shall apply to regulations promulgated on or after the date that is 30 days after the date of the enactment of this Act.

(b) Regular Timeline for Publication of Final Rules.—

(1) In general.—Section 1871(a) (42 U.S.C. 1395hh(a)) is amended by adding at the end the following new paragraph:

“(3)(A) The Secretary, in consultation with the Director of the Office of Management and Budget, shall establish and publish a regular timeline for the publication of final regulations based on the previous publication of a proposed regulation or an interim final regulation.

“(B) Such timeline may vary among different regulations based on differences in the complexity of the regulation, the number and scope of comments received, and other relevant factors, but shall not be longer than 3 years except under exceptional circumstances. If the Secretary intends to vary such timeline with respect to the publication of a final regulation, the Secretary shall cause to have published in the Federal Register notice of the different timeline by not later than the timeline previously established with respect to such regulation. Such notice shall include a brief explanation of the justification for such variation.

“(C) In the case of interim final regulations, upon the expiration of the regular timeline established under this paragraph for the publication of a final regulation after opportunity for public comment, the interim final regulation shall not continue in effect unless the Secretary publishes (at the end of the regular timeline and, if applicable, at the end of each succeeding 1-year period) a notice of continuation of the regulation that includes an explanation of why the regular timeline (and any subsequent 1-year extension) was not complied with. If such a notice is published, the regular timeline (or such timeline as previously extended under this paragraph) for publication of the final regulation shall be treated as having been extended for 1 additional year.

“(D) The Secretary shall annually submit to Congress a report that describes the instances in which the Secretary failed to publish a final regulation within the applicable regular timeline under this paragraph and that provides an explanation for such failures.”.

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act. The Secretary shall provide for an appropriate transition to take into account the backlog of previously published interim final regulations.

(c) Limitations on New Matter in Final Regulations.—

(1) In general.—Section 1871(a) (42 U.S.C. 1395hh(a)), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

“(4) If the Secretary publishes notice of proposed rulemaking relating to a regulation (including an interim final regulation), insofar as such final regulation includes a provision that is not a logical outgrowth of such notice of proposed rulemaking, that provision shall be treated as a proposed regulation and shall not take effect until there is the further opportunity for public comment and a publication of the provision again as a final regulation.”.

(2) Effective date.—The amendment made by paragraph (1) shall apply to final regulations published on or after the date of the enactment of this Act.

SEC. 102. COMPLIANCE WITH CHANGES IN REGULATIONS AND POLICIES.

(a) No Retroactive Application of Substantive Changes.—

(1) In general.—Section 1871 (42 U.S.C. 1395hh), as amended by section 101(a), is amended by adding at the end the following new subsection:

“(e)(1)(A) A substantive change in regulations, manual instructions, interpretative rules, statements of policy, or guidelines of general applicability under this title shall not be applied (by extrapolation or otherwise) retroactively to items and services furnished before the effective date of the change, unless the Secretary determines that—

“(i) such retroactive application is necessary to comply with statutory requirements; or

“(ii) failure to apply the change retroactively would be contrary to the public interest.”.

(2) Effective date.—The amendment made by paragraph (1) shall apply to substantive changes issued on or after the date of the enactment of this Act.

(b) Timeline for Compliance With Substantive Changes After Notice.—

(1) In general.—Section 1871(e)(1), as added by subsection (a), is amended by adding at the end the following:

“(B)(i) Except as provided in clause (ii), a substantive change referred to in subparagraph (A) shall not become effective before the end of the 30-day period that begins on the date that the Secretary has issued or published, as the case may be, the substantive change.

“(ii) The Secretary may provide for such a substantive change to take effect on a date that precedes the end of the 30-day period under clause (i) if the Secretary finds that waiver of such 30-day period is necessary to comply with statutory requirements or that the application of such 30-day period is contrary to the public interest. If the Secretary provides for an earlier effective date pursuant to this clause, the Secretary shall include in the issuance or publication of the substantive change a finding described in the first sentence, and a brief statement of the reasons for such finding.

“(C) No action shall be taken against a provider of services or supplier with respect to noncompliance with such a substantive change for items and services furnished before the effective date of such a change.”.

(2) Effective date.—The amendment made by paragraph (1) shall apply to compliance actions undertaken on or after the date of the enactment of this Act.

(c) Reliance on Guidance.—

(1) In general.—Section 1871(e), as added by subsection (a), is further amended by adding at the end the following new paragraph:

“(2)(A) If—

“(i) a provider of services or supplier follows the written guidance (which may be transmitted electronically) provided by the Secretary or by a medicare contractor (as defined in section 1889(g)) acting within the scope of the contractor's contract authority, with respect to the furnishing of items or services and submission of a claim for benefits for such items or services with respect to such provider or supplier;

“(ii) the Secretary determines that the provider of services or supplier has accurately presented the circumstances relating to such items, services, and claim to the contractor in writing; and

“(iii) the guidance was in error;

the provider of services or supplier shall not be subject to any sanction (including any penalty or requirement for repayment of any amount) if the provider of services or supplier reasonably relied on such guidance.

“(B) Subparagraph (A) shall not be construed as preventing the recoupment or repayment (without any additional penalty) relating to an overpayment insofar as the overpayment was solely the result of a clerical or technical operational error.”.

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act but shall not apply to any sanction for which notice was provided on or before the date of the enactment of this Act.

SEC. 103. REPORTS AND STUDIES RELATING TO REGULATORY REFORM.

(a) GAO Study on Advisory Opinion Authority.—

(1) Study.—The Comptroller General of the United States shall conduct a study to determine the feasibility and appropriateness of establishing in the Secretary authority to provide legally binding advisory opinions on appropriate interpretation and application of regulations to carry out the medicare program under title XVIII of the Social Security Act. Such study shall examine the appropriate timeframe for issuing such advisory opinions, as well as the need for additional staff and funding to provide such opinions.

(2) Report.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than January 1, 2003.

(b) Report on Legal and Regulatory Inconsistencies.—Section 1871 (42 U.S.C. 1395hh), as amended by section 2(a), is amended by adding at the end the following new subsection:

“(f)(1) Not later than 2 years after the date of the enactment of this subsection, and every 2 years thereafter, the Secretary shall submit to Congress a report with respect to the administration of this title and areas of inconsistency or conflict among the various provisions under law and regulation.

“(2) In preparing a report under paragraph (1), the Secretary shall collect—

“(A) information from individuals entitled to benefits under part A or enrolled under part B, or both, providers of services, and suppliers and from the Medicare Beneficiary Ombudsman and the Medicare Provider Ombudsman with respect to such areas of inconsistency and conflict; and

“(B) information from medicare contractors that tracks the nature of written and telephone inquiries.

“(3) A report under paragraph (1) shall include a description of efforts by the Secretary to reduce such inconsistency or conflicts, and recommendations for legislation or administrative action that the Secretary determines appropriate to further reduce such inconsistency or conflicts.”.

TITLE II—CONTRACTING REFORM

SEC. 201. INCREASED FLEXIBILITY IN MEDICARE ADMINISTRATION.

(a) CONSOLIDATION AND FLEXIBILITY IN MEDICARE ADMINISTRATION.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1874 the following new section:

“CONTRACTS WITH MEDICARE ADMINISTRATIVE CONTRACTORS

“SEC. 1874A. (a) AUTHORITY.—

“(1) AUTHORITY TO ENTER INTO CONTRACTS.—The Secretary may enter into contracts with any eligible entity to serve as a medicare administrative contractor with respect to the performance of any or all of the functions described in paragraph (4) or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other entities).

“(2) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract with respect to the performance of a particular function described in paragraph (4) only if—

“(A) the entity has demonstrated capability to carry out such function;

“(B) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

“(C) the entity has sufficient assets to financially support the performance of such function; and

“(D) the entity meets such other requirements as the Secretary may impose.

“(3) MEDICARE ADMINISTRATIVE CONTRACTOR DEFINED.—For purposes of this title and title XI—

“(A) IN GENERAL.—The term ‘medicare administrative contractor’ means an agency, organization, or other person with a contract under this section.

“(B) APPROPRIATE MEDICARE ADMINISTRATIVE CONTRACTOR.—With respect to the performance of a particular function in relation to an individual entitled to benefits under part A or enrolled under part B, or both, a specific provider of services or supplier (or class of such providers of services or suppliers), the ‘appropriate’ medicare administrative contractor is the medicare administrative contractor that has a contract under this section with respect to the performance of that function in relation to that individual, provider of services or supplier or class of provider of services or supplier.

“(4) FUNCTIONS DESCRIBED.—The functions referred to in paragraphs (1) and (2) are payment functions, provider services functions, and functions relating to services furnished to individuals entitled to benefits under part A or enrolled under part B, or both, as follows:

“(A) DETERMINATION OF PAYMENT AMOUNTS.—Determining (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this title to be made to providers of services, suppliers and individuals.

“(B) MAKING PAYMENTS.—Making payments described in subparagraph (A) (including receipt, disbursement, and accounting for funds in making such payments).

“(C) BENEFICIARY EDUCATION AND ASSISTANCE.—Providing education and outreach to individuals entitled to benefits under part A or enrolled under part B, or both, and providing assistance to those individuals with specific issues, concerns or problems.

“(D) PROVIDER CONSULTATIVE SERVICES.—Providing consultative services to institutions, agencies, and other persons to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to qualify as providers of services or suppliers.

“(E) COMMUNICATION WITH PROVIDERS.—Communicating to providers of services and suppliers any information or instructions furnished to the medicare administrative contractor by the Secretary, and facilitating communication between such providers and suppliers and the Secretary.

“(F) PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.—Performing the functions relating to provider education, training, and technical assistance.

“(G) ADDITIONAL FUNCTIONS.—Performing such other functions as are necessary to carry out the purposes of this title.

“(5) RELATIONSHIP TO MIP CONTRACTS.—

“(A) NONDUPLICATION OF DUTIES.—In entering into contracts under this section, the Secretary shall assure that functions of medicare administrative contractors in carrying out activities under parts A and B do not duplicate activities carried out under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).

“(B) CONSTRUCTION.—An entity shall not be treated as a medicare administrative contractor merely by reason of having entered into a contract with the Secretary under section 1893.

“(6) APPLICATION OF FEDERAL ACQUISITION REGULATION.—Except to the extent inconsistent with a specific requirement of this title, the Federal Acquisition Regulation applies to contracts under this title.

“(b) CONTRACTING REQUIREMENTS.—

“(1) USE OF COMPETITIVE PROCEDURES.—

“(A) IN GENERAL.—Except as provided in laws with general applicability to Federal acquisition and procurement or in subparagraph (B), the Secretary shall use competitive procedures when entering into contracts with medicare administrative contractors under this section, taking into account performance quality as well as price and other factors.

“(B) RENEWAL OF CONTRACTS.—The Secretary may renew a contract with a medicare administrative contractor under this section from term to term without regard to section 5 of title 41, United States Code, or any other provision of law requiring competition, if the medicare administrative contractor has met or exceeded the performance requirements applicable with respect to the contract and contractor, except that the Secretary shall provide for the application of competitive procedures under such a contract not less frequently than once every five years.

“(C) TRANSFER OF FUNCTIONS.—The Secretary may transfer functions among medicare administrative contractors consistent with the provisions of this paragraph. The Secretary shall ensure that performance quality is considered in such transfers. The Secretary shall provide public notice (whether in the Federal Register or otherwise) of any such transfer (including a description of the functions so transferred, a description of the providers of services and suppliers affected by such transfer, and contact information for the contractors involved).

“(D) INCENTIVES FOR QUALITY.—The Secretary shall provide incentives for medicare administrative contractors to provide quality service and to promote efficiency.

“(2) COMPLIANCE WITH REQUIREMENTS.—No contract under this section shall be entered into with any medicare administrative contractor unless the Secretary finds that such medicare administrative contractor will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, quality of services provided, and other matters as the Secretary finds pertinent.

“(3) PERFORMANCE REQUIREMENTS.—

“(A) DEVELOPMENT OF SPECIFIC PERFORMANCE REQUIREMENTS.—In developing contract performance requirements, the Secretary shall develop performance requirements applicable to functions described in subsection (a)(4).

“(B) CONSULTATION.— In developing such requirements, the Secretary may consult with providers of services and suppliers, organizations representing individuals entitled to benefits under part A or enrolled under part B, or both, and organizations and agencies performing functions necessary to carry out the purposes of this section with respect to such performance requirements.

“(C) INCLUSION IN CONTRACTS.—All contractor performance requirements shall be set forth in the contract between the Secretary and the appropriate medicare administrative contractor. Such performance requirements—

“(i) shall reflect the performance requirements developed under subparagraph (A), but may include additional performance requirements;

“(ii) shall be used for evaluating contractor performance under the contract; and

“(iii) shall be consistent with the written statement of work provided under the contract.

“(4) INFORMATION REQUIREMENTS.—The Secretary shall not enter into a contract with a medicare administrative contractor under this section unless the contractor agrees—

“(A) to furnish to the Secretary such timely information and reports as the Secretary may find necessary in performing his functions under this title; and

“(B) to maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (A) and otherwise to carry out the purposes of this title.

“(5) SURETY BOND.—A contract with a medicare administrative contractor under this section may require the medicare administrative contractor, and any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

“(c) TERMS AND CONDITIONS.—

“(1) IN GENERAL.—A contract with any medicare administrative contractor under this section may contain such terms and conditions as the Secretary finds necessary or appropriate and may provide for advances of funds to the medicare administrative contractor for the making of payments by it under subsection (a)(4)(B).

"(2) PROHIBITION ON MANDATES FOR CERTAIN DATA COLLECTION.—The Secretary may not require, as a condition of entering into, or renewing, a contract under this section, that the medicare administrative contractor match data obtained other than in its activities under this title with data used in the administration of this title for purposes of identifying situations in which the provisions of section 1862(b) may apply.

"(d) LIMITATION ON LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS AND CERTAIN OFFICERS.—

"(1) CERTIFYING OFFICER.—No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by the individual under this section.

"(2) DISBURSING OFFICER.—No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by such officer under this section if it was based upon an authorization (which meets the applicable requirements for such internal controls established by the Comptroller General) of a certifying officer designated as provided in paragraph (1) of this subsection.

"(3) LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTOR.—No medicare administrative contractor shall be liable to the United States for a payment by a certifying or disbursing officer unless in connection with such payment or in the supervision of or selection of such officer the medicare administrative contractor acted with gross negligence.

"(4) INDEMNIFICATION BY SECRETARY.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (D), in the case of a medicare administrative contractor (or a person who is a director, officer, or employee of such a contractor or who is engaged by the contractor to participate directly in the claims administration process) who is made a party to any judicial or administrative proceeding arising from or relating directly to the claims administration process under this title, the Secretary may, to the extent the Secretary determines to be appropriate and as specified in the contract with the contractor, indemnify the contractor and such persons.

"(B) CONDITIONS.—The Secretary may not provide indemnification under subparagraph (A) insofar as the liability for such costs arises directly from conduct that is determined by the judicial proceeding or by the Secretary to be criminal in nature, fraudulent, or grossly negligent. If indemnification is provided by the Secretary with respect to a contractor before a determination that such costs arose directly from such conduct, the contractor shall reimburse the Secretary for costs of indemnification.

"(C) SCOPE OF INDEMNIFICATION.—Indemnification by the Secretary under subparagraph (A) may include payment of judgments, settlements (subject to subparagraph (D)), awards, and costs (including reasonable legal expenses).

"(D) WRITTEN APPROVAL FOR SETTLEMENTS.—A contractor or other person described in subparagraph (A) may not propose to negotiate a settlement or compromise of a proceeding described in such subparagraph without the prior written approval of the Secretary to negotiate such settlement or compromise. Any indemnification under subparagraph (A) with respect to amounts paid under a settlement or compromise of a proceeding described in such subparagraph are conditioned upon prior written approval by the Secretary of the final settlement or compromise.

"(E) CONSTRUCTION.—Nothing in this paragraph shall be construed—

"(i) to change any common law immunity that may be available to a medicare administrative contractor or person described in subparagraph (A); or

"(ii) to permit the payment of costs not otherwise allowable, reasonable, or allocable under the Federal Acquisition Regulations.".

(2) CONSIDERATION OF INCORPORATION OF CURRENT LAW STANDARDS.—In developing contract performance requirements under section 1874A(b) of the Social Security Act, as inserted by paragraph (1), the Secretary shall consider inclusion of the performance standards described in sections 1816(f)(2) of such Act (relating to timely processing of reconsiderations and applications for exemptions) and section 1842(b)(2)(B) of such Act (relating to timely review of determinations and fair hearing requests), as such sections were in effect before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO SECTION 1816 (RELATING TO FISCAL INTERMEDIARIES).—Section 1816 (42 U.S.C. 1395h) is amended as follows:

(1) The heading is amended to read as follows:

"PROVISIONS RELATING TO THE
ADMINISTRATION OF PART A".

(2) Subsection (a) is amended to read as follows:

"(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.".

(3) Subsection (b) is repealed.

(4) Subsection (c) is amended—

(A) by striking paragraph (1); and

(B) in each of paragraphs (2)(A) and (3)(A), by striking "agreement under this section" and inserting "contract under section 1874A that provides for making payments under this part".

(5) Subsections (d) through (i) are repealed.

(6) Subsections (j) and (k) are each amended—

(A) by striking "An agreement with an agency or organization under this section" and inserting "A contract with a medicare administrative contractor under section 1874A with respect to the administration of this part"; and

(B) by striking "such agency or organization" and inserting "such medicare administrative contractor" each place it appears.

(7) Subsection (l) is repealed.

(c) CONFORMING AMENDMENTS TO SECTION 1842 (RELATING TO CARRIERS).—Section 1842 (42 U.S.C. 1395u) is amended as follows:

(1) The heading is amended to read as follows:

"PROVISIONS RELATING TO THE
ADMINISTRATION OF PART B".

(2) Subsection (a) is amended to read as follows:

"(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.".

(3) Subsection (b) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)—

(i) by striking subparagraphs (A) and (B);

(ii) in subparagraph (C), by striking "carriers" and inserting "medicare administrative contractors"; and

(iii) by striking subparagraphs (D) and (E);

(C) in paragraph (3)—

(i) in the matter before subparagraph (A), by striking "Each such contract shall provide that the carrier" and inserting "The Secretary";

(ii) by striking "will" the first place it appears in each of subparagraphs (A), (B), (F), (G), (H), and (L) and inserting "shall";

(iii) in subparagraph (B), in the matter before clause (i), by striking "to the policyholders and subscribers of the carrier" and inserting "to the policyholders and subscribers of the medicare administrative contractor";

(iv) by striking subparagraphs (C), (D), and (E);

(v) in subparagraph (H)—

(I) by striking "if it makes determinations or payments with respect to physicians' services,"; and

(II) by striking "carrier" and inserting "medicare administrative contractor";

(vi) by striking subparagraph (I);

(vii) in subparagraph (L), by striking the semicolon and inserting a period;

(viii) in the first sentence, after subparagraph (L), by striking "and shall contain" and all that follows through the period; and

(ix) in the seventh sentence, by inserting "medicare administrative contractor," after "carrier,"; and

(D) by striking paragraph (5);

(E) in paragraph (6)(D)(iv), by striking "carrier" and inserting "medicare administrative contractor"; and

(F) in paragraph (7), by striking "the carrier" and inserting "the Secretary" each place it appears.

(4) Subsection (c) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2), by striking "contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B)," and inserting "contract under section 1874A that provides for making payments under this part";

(C) in paragraph (3)(A), by striking "subsection (a)(1)(B)" and inserting "section 1874A(a)(3)(B)";

(D) in paragraph (4), by striking "carrier" and inserting "medicare administrative contractor"; and

(E) by striking paragraphs (5) and (6).

(5) Subsections (d), (e), and (f) are repealed.

(6) Subsection (g) is amended by striking "carrier or carriers" and inserting "medicare administrative contractor or contractors".

(7) Subsection (h) is amended—

(A) in paragraph (2)—

(i) by striking "Each carrier having an agreement with the Secretary under subsection (a)" and inserting "The Secretary"; and

(ii) by striking "Each such carrier" and inserting "The Secretary";

(B) in paragraph (3)(A)—

(i) by striking "a carrier having an agreement with the Secretary under subsection (a)" and inserting "medicare administrative contractor having a contract under section 1874A that provides for making payments under this part"; and

(ii) by striking "such carrier" and inserting "such contractor";

(C) in paragraph (3)(B)—

(i) by striking "a carrier" and inserting "a medicare administrative contractor" each place it appears; and

(ii) by striking "the carrier" and inserting "the contractor" each place it appears; and

(D) in paragraphs (5)(A) and (5)(B)(iii), by striking "carriers" and inserting "medicare administrative contractors" each place it appears.

(8) Subsection (l) is amended—

(A) in paragraph (1)(A)(iii), by striking "carrier" and inserting "medicare administrative contractor"; and

(B) in paragraph (2), by striking "carrier" and inserting "medicare administrative contractor".

(9) Subsection (p)(3)(A) is amended by striking "carrier" and inserting "medicare administrative contractor".

(10) Subsection (q)(1)(A) is amended by striking "carrier".

(d) Effective Date; Transition Rule.—

(1) Effective date.—

(A) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 2003, and the Secretary is authorized to take such steps before such date as may be necessary to implement such amendments on a timely basis.

(B) Construction for current contracts.—Such amendments shall not apply to contracts in effect before the date specified under subparagraph (A) that continue to retain the terms and conditions in effect on such date (except as otherwise provided under this Act, other than under this section) until such date as the contract is let out for competitive bidding under such amendments.

(C) Deadline for competitive bidding.—The Secretary shall provide for the letting by competitive bidding of all contracts for functions of medicare administrative contractors for annual contract periods that begin on or after October 1, 2008.

(D) Waiver of provider nomination provisions during transition.—During the period beginning on the date of the enactment of this Act and before the date specified under subparagraph (A), the Secretary may enter into new agreements under section 1816 of the Social Security Act (42 U.S.C. 1395h) without regard to any of the provider nomination provisions of such section.

(2) General transition rules.—The Secretary shall take such steps, consistent with paragraph (1)(B) and (1)(C), as are necessary to provide for an appropriate transition from contracts under section 1816 and section 1842 of the Social Security Act (42 U.S.C. 1395h, 1395u) to contracts under section 1874A, as added by subsection (a)(1).

(3) Authorizing continuation of MIP functions under current contracts and agreements and under rollover contracts.—The provisions contained in the exception in section 1893(d)(2) of the Social Security Act (42 U.S.C. 1395ddd(d)(2)) shall continue to apply notwithstanding the amendments made by this section, and any reference in such provisions to an agreement or contract shall be deemed to include a contract under section 1874A of such Act, as inserted by subsection (a)(1), that continues the activities referred to in such provisions.

(e) References.—On and after the effective date provided under subsection (d)(1), any reference to a fiscal intermediary or carrier under title XI or XVIII of the Social Security Act (or any regulation, manual instruction, interpretative rule, statement of policy, or guideline issued to carry out such titles) shall be deemed a reference to an appropriate medicare administrative contractor (as provided under section 1874A of the Social Security Act).

(f) Reports on Implementation.—

(1) Plan for implementation.—By not later than October 1, 2002, the Secretary shall submit a report to Congress and the Comptroller General of the United States that describes the plan for implementation of the amendments made by this section. The Comptroller General shall conduct an evaluation of such plan and shall submit to Congress, not later than 6 months after the date the report is received, a report on such evaluation and shall include in such report such recommendations as the Comptroller General deems appropriate.

(2) Status of implementation.—The Secretary shall submit a report to Congress not later than October 1, 2006, that describes the status of implementation of such amendments and that includes a description of the following:

(A) The number of contracts that have been competitively bid as of such date.

(B) The distribution of functions among contracts and contractors.

(C) A timeline for complete transition to full competition.

(D) A detailed description of how the Secretary has modified oversight and management of medicare contractors to adapt to full competition.

SEC. 202. REQUIREMENTS FOR INFORMATION SECURITY FOR MEDICARE ADMINISTRATIVE CONTRACTORS.

(a) In General.—Section 1874A, as added by section 201(a)(1), is amended by adding at the end the following new subsection:

"(e) Requirements for Information Security.—

"(1) Development of information security program.—A medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall implement a contractor-wide information security program to provide information security for the operation and assets of the contractor with respect to such functions under this title. An information security program under this paragraph shall meet the requirements for information security programs imposed on Federal agencies under section 3534(b)(2) of title 44, United States Code (other than requirements under subparagraphs (B)(ii), (F)(iii), and (F)(iv) of such section).

"(2) Independent audits.—

"(A) Performance of annual evaluations.—Each year a medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall undergo an evaluation of the information security of the contractor with respect to such functions under this title. The evaluation shall—

"(i) be performed by an entity that meets such requirements for independence as the Inspector General of the Department of Health and Human Services may establish; and

"(ii) test the effectiveness of information security control techniques for an appropriate subset of the contractor's information systems (as defined in section 3502(8) of title 44, United States Code) relating to such functions under this title and an assessment of compliance with the requirements of this subsection and related information security policies, procedures, standards and guidelines.

"(B) Deadline for initial evaluation.—

"(i) New contractors.—In the case of a medicare administrative contractor covered by this subsection that has not previously performed the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) as a fiscal intermediary or carrier under section 1816 or 1842, the first independent evaluation conducted pursuant subparagraph (A) shall be completed prior to commencing such functions.

"(ii) Other contractors.—In the case of a medicare administrative contractor covered by this subsection that is not described in clause (i), the first independent evaluation conducted pursuant subparagraph (A) shall be completed within 1 year after the date the contractor commences functions referred to in clause (i) under this section.

"(C) Reports on evaluations.—

"(i) To the inspector general.—The results of independent evaluations under subparagraph (A) shall be submitted promptly to the Inspector General of the Department of Health and Human Services.

"(ii) To congress.—The Inspector General of Department of Health and Human Services shall submit to Congress annual reports on the results of such evaluations.".

(b) Application of Requirements to Fiscal Intermediaries and Carriers.—

(1) In general.—The provisions of section 1874A(e)(2) of the Social Security Act (other than subparagraph (B)), as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(2) Deadline for initial evaluation.—In the case of such a fiscal intermediary or carrier with an agreement or contract under such respective section in effect as of the date of the enactment of this Act, the first evaluation under section 1874A(e)(2)(A) of the Social Security Act (as added by subsection (a)), pursuant to paragraph (1), shall be completed (and a report on the evaluation submitted to the Secretary) by not later than 1 year after such date.

TITLE III—EDUCATION AND OUTREACH

SEC. 301. PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.

(a) Coordination of Education Funding.—

(1) In general.—The Social Security Act is amended by inserting after section 1888 the following new section:

"PROVIDER EDUCATION AND TECHNICAL ASSISTANCE

"Sec. 1889. (a) Coordination of Education Funding.—The Secretary shall coordinate the educational activities provided through medicare contractors (as defined in subsection (g), including under section 1893) in order to maximize the effectiveness of Federal education efforts for providers of services and suppliers.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) Report.—Not later than October 1, 2002, the Secretary shall submit to Congress a report that includes a description and evaluation of the steps taken to coordinate the funding of provider education under section 1889(a) of the Social Security Act, as added by paragraph (1).

(b) Incentives To Improve Contractor Performance.—

(1) In general.—Section 1874A, as added by section 201(a)(1) and as amended by section 202(a), is amended by adding at the end the following new subsection:

"(f) Incentives To Improve Contractor Performance in Provider Education and

Outreach.—In order to give medicare administrative contractors an incentive to implement effective education and outreach programs for providers of services and suppliers, the Secretary shall develop and implement a methodology to measure the specific claims payment error rates of such contractors in the processing or reviewing of medicare claims.".

(2) Application to fiscal intermediaries and carriers.—The provisions of section 1874A(f) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(3) GAO report on adequacy of methodology.—Not later than October 1, 2002, the Comptroller General of the United States shall submit to Congress and to the Secretary a report on the adequacy of the methodology under section 1874A(f)(1) of the Social Security Act, as added by paragraph (1), and shall include in the report such recommendations as the Comptroller General determines appropriate with respect to the methodology.

(4) Report on Use of methodology in assessing contractor performance.—Not later than October 1, 2002, the Secretary shall submit to Congress a report that describes how the Secretary intends to use such methodology in assessing medicare contractor performance in implementing effective education and outreach programs, including whether to use such methodology as a basis for performance bonuses. The report shall include an analysis of the sources of identified errors and potential changes in systems of contractors and rules of the Secretary that could reduce claims error rates.

(c) Provision of Access to and Prompt Responses From Medicare Administrative Contractors.—

(1) In general.—Section 1874A, as added by section 201(a)(1) and as amended by section 202(a) and subsection (b), is further amended by adding at the end the following new subsection:

"(g) Communications with Beneficiaries, Providers of Services and Suppliers.—

"(1) Communication strategy.—The Secretary shall develop a strategy for communications with individuals entitled to benefits under part A or enrolled under part B, or both, and with providers of services and suppliers under this title.

"(2) Response to written inquiries.—Each medicare administrative contractor shall, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, provide general written responses (which may be through electronic transmission) in a clear, concise, and accurate manner to inquiries of providers of services, suppliers and individuals entitled to benefits under part A or enrolled under part B, or both, concerning the programs under this title within 45 business days of the date of receipt of such inquiries.

"(3) Response to toll-free lines.—The Secretary shall ensure that each medicare administrative contractor shall provide, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, a toll-free telephone number at which such individuals, providers of services and suppliers may obtain information regarding billing, coding, claims, coverage, and other appropriate information under this title.

"(4) Monitoring of contractor responses.—

"(A) In general.—Each medicare administrative contractor shall, consistent with standards developed by the Secretary under subparagraph (B)—

"(i) maintain a system for identifying who provides the information referred to in paragraphs (2) and (3); and

"(ii) monitor the accuracy, consistency, and timeliness of the information so provided.

"(B) Development of standards.—

"(i) In general.—The Secretary shall establish and make public standards to monitor the accuracy, consistency, and timeliness of the information provided in response to written and telephone inquiries under this subsection. Such standards shall be consistent with the performance requirements established under subsection (b)(3).

"(ii) Evaluation.—In conducting evaluations of individual medicare administrative contractors, the Secretary shall take into account the results of the monitoring conducted under subparagraph (A) taking into account as performance requirements the standards established under clause (i). The Secretary shall, in consultation with organizations representing providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, establish standards relating to the accuracy, consistency, and timeliness of the information so provided.".

"(C) Direct monitoring.—Nothing in this paragraph shall be construed as preventing the Secretary from directly monitoring the accuracy, consistency, and timeliness of the information so provided.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect October 1, 2002.

(3) Application to fiscal intermediaries and carriers.—The provisions of section 1874A(g) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(d) Improved Provider Education and Training.—

(1) In general.—Section 1889, as added by subsection (a), is amended by adding at the end the following new subsections:

"(b) Enhanced Education and Training.—

"(1) Additional resources.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) $25,000,000 for each of fiscal years 2003 and 2004 and such sums as may be necessary for succeeding fiscal years.

"(2) Use.—The funds made available under paragraph (1) shall be used to increase the conduct by medicare contractors of education and training of providers of services and suppliers regarding billing, coding, and other appropriate items and may also be used to improve the accuracy, consistency, and timeliness of contractor responses.

"(c) Tailoring Education and Training Activities for Small Providers or Suppliers.—

"(1) In general.—Insofar as a medicare contractor conducts education and training activities, it shall tailor such activities to meet the special needs of small providers of services or suppliers (as defined in paragraph (2)).

"(2) Small provider of services or supplier.—In this subsection, the term 'small provider of services or supplier' means—

"(A) a provider of services with fewer than 25 full-time-equivalent employees; or

"(B) a supplier with fewer than 10 full-time-equivalent employees.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on October 1, 2002.

(e) Requirement To Maintain Internet Sites.—

(1) In general.—Section 1889, as added by subsection (a) and as amended by subsection (d), is further amended by adding at the end the following new subsection:

"(d) Internet Sites; FAQs.—The Secretary, and each medicare contractor insofar as it provides services (including claims processing) for providers of services or suppliers, shall maintain an Internet site which—

"(1) provides answers in an easily accessible format to frequently asked questions, and

"(2) includes other published materials of the contractor,

that relate to providers of services and suppliers under the programs under this title (and title XI insofar as it relates to such programs).".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on October 1, 2002.

(f) Additional Provider Education Provisions.—

(1) In general.—Section 1889, as added by subsection (a) and as amended by subsections (d) and (e), is further amended by adding at the end the following new subsections:

"(e) Encouragement of Participation in Education Program Activities.—A medicare contractor may not use a record of attendance at (or failure to attend) educational activities or other information gathered during an educational program conducted under this section or otherwise by the Secretary to select or track providers of services or suppliers for the purpose of conducting any type of audit or prepayment review.

"(f) Construction.—Nothing in this section or section 1893(g) shall be construed as providing for disclosure by a medicare contractor of information that would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

"(g) Definitions.—For purposes of this section, the term 'medicare contractor' includes the following:

"(1) A medicare administrative contractor with a contract under section 1874A, including a fiscal intermediary with a contract under section 1816 and a carrier with a contract under section 1842.

"(2) An eligible entity with a contract under section 1893.

Such term does not include, with respect to activities of a specific provider of services or supplier an entity that has no authority under this title or title IX with respect to such activities and such provider of services or supplier.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 302. SMALL PROVIDER TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) Establishment.—

(1) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the "demonstration program") under which technical assistance described in paragraph (2) is made available, upon request and on a voluntary basis, to small providers of services or suppliers in order to improve compliance with the applicable requirements of the programs under medicare program under title XVIII of the Social Security Act (including provisions of title XI of such Act insofar as they relate to such title and are not administered by the Office of the Inspector General of the Department of Health and Human Services).

(2) FORMS OF TECHNICAL ASSISTANCE.—The technical assistance described in this paragraph is—

(A) evaluation and recommendations regarding billing and related systems; and

(B) information and assistance regarding policies and procedures under the medicare program, including coding and reimbursement.

(3) SMALL PROVIDERS OF SERVICES OR SUPPLIERS.—In this section, the term "small providers of services or suppliers" means—

(A) a provider of services with fewer than 25 full-time-equivalent employees; or

(B) a supplier with fewer than 10 full-time-equivalent employees.

(b) QUALIFICATION OF CONTRACTORS.—In conducting the demonstration program, the Secretary shall enter into contracts with qualified organizations (such as peer review organizations or entities described in section 1889(g)(2) of the Social Security Act, as inserted by section 5(f)(1)) with appropriate expertise with billing systems of the full range of providers of services and suppliers to provide the technical assistance. In awarding such contracts, the Secretary shall consider any prior investigations of the entity's work by the Inspector General of Department of Health and Human Services or the Comptroller General of the United States.

(c) DESCRIPTION OF TECHNICAL ASSISTANCE.—The technical assistance provided under the demonstration program shall include a direct and in-person examination of billing systems and internal controls of small providers of services or suppliers to determine program compliance and to suggest more efficient or effective means of achieving such compliance.

(d) AVOIDANCE OF RECOVERY ACTIONS FOR PROBLEMS IDENTIFIED AS CORRECTED.—The Secretary shall provide that, absent evidence of fraud and notwithstanding any other provision of law, any errors found in a compliance review for a small provider of services or supplier that participates in the demonstration program shall not be subject to recovery action if the technical assistance personnel under the program determine that—

(1) the problem that is the subject of the compliance review has been corrected to their satisfaction within 30 days of the date of the visit by such personnel to the small provider of services or supplier; and

(2) such problem remains corrected for such period as is appropriate.

The previous sentence applies only to claims filed as part of the demonstration program and lasts only for the duration of such program and only as long as the small provider of services or supplier is a participant in such program.

(e) GAO EVALUATION.—Not later than 2 years after the date of the date the demonstration program is first implemented, the Comptroller General, in consultation with the Inspector General of the Department of Health and Human Services, shall conduct an evaluation of the demonstration program. The evaluation shall include a determination of whether claims error rates are reduced for small providers of services or suppliers who participated in the program and the extent of improper payments made as a result of the demonstration program. The Comptroller General shall submit a report to the Secretary and the Congress on such evaluation and shall include in such report recommendations regarding the continuation or extension of the demonstration program.

(f) FINANCIAL PARTICIPATION BY PROVIDERS.—The provision of technical assistance to a small provider of services or supplier under the demonstration program is conditioned upon the small provider of services or supplier paying an amount estimated (and disclosed in advance of a provider's or supplier's participation in the program) to be equal to 25 percent of the cost of the technical assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the demonstration program—

(1) for fiscal year 2003, $1,000,000, and

(2) for fiscal year 2004, $6,000,000.

SEC. 303. MEDICARE PROVIDER OMBUDSMAN; MEDICARE BENEFICIARY OMBUDSMAN.

(a) MEDICARE PROVIDER OMBUDSMAN.—Section 1868 (42 U.S.C. 1395ee) is amended—

(1) by adding at the end of the heading the following: "; MEDICARE PROVIDER OMBUDSMAN";

(2) by inserting "PRACTICING PHYSICIANS ADVISORY COUNCIL.—(1)" after "(a)";

(3) in paragraph (1), as so redesignated under paragraph (2), by striking "in this section" and inserting "in this subsection";

(4) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively; and

(5) by adding at the end the following new subsection:

"(b) MEDICARE PROVIDER OMBUDSMAN.—The Secretary shall appoint within the Department of Health and Human Services a Medicare Provider Ombudsman. The Ombudsman shall—

"(1) provide assistance, on a confidential basis, to providers of services and suppliers with respect to complaints, grievances, and requests for information concerning the programs under this title (including provisions of title XI insofar as they relate to this title and are not administered by the Office of the Inspector General of the Department of Health and Human Services) and in the resolution of unclear or conflicting guidance given by the Secretary and medicare contractors to such providers of services and suppliers regarding such programs and provisions and requirements under this title and such provisions; and

"(2) submit recommendations to the Secretary for improvement in the administration of this title and such provisions, including—

"(A) recommendations to respond to recurring patterns of confusion in this title and such provisions (including recommendations regarding suspending imposition of sanctions where there is widespread confusion in program administration), and

"(B) recommendations to provide for an appropriate and consistent response (including not providing for audits) in cases of self-identified overpayments by providers of services and suppliers.

The Ombudsman shall not serve as an advocate for any increases in payments or new coverage of services, but may identify issues and problems in payment or coverage policies.".

(b) MEDICARE BENEFICIARY OMBUDSMAN.—Title XVIII is amended by inserting after section 1806 the following new section:

"MEDICARE BENEFICIARY OMBUDSMAN

"SEC. 1807. (a) IN GENERAL.—The Secretary shall appoint within the Department of Health and Human Services a Medicare Beneficiary Ombudsman who shall have expertise and experience in the fields of health care and education of (and assistance to) individuals entitled to benefits under this title.

"(b) DUTIES.—The Medicare Beneficiary Ombudsman shall—

"(1) receive complaints, grievances, and requests for information submitted by individuals entitled to benefits under part A or enrolled under part B, or both, with respect to any aspect of the medicare program;

"(2) provide assistance with respect to complaints, grievances, and requests referred to in paragraph (1), including—

"(A) assistance in collecting relevant information for such individuals, to seek an appeal of a decision or determination made by a fiscal intermediary, carrier, Medicare+Choice organization, or the Secretary; and

"(B) assistance to such individuals with any problems arising from disenrollment from a Medicare+Choice plan under part C; and

"(3) submit annual reports to Congress and the Secretary that describe the activities of the Office and that include such recommendations for improvement in the administration of this title as the Ombudsman determines appropriate.

The Ombudsman shall not serve as an advocate for any increases in payments or new coverage of services, but may identify issues and problems in payment or coverage policies.

"(c) WORKING WITH HEALTH INSURANCE COUNSELING PROGRAMS.—To the extent possible, the Ombudsman shall work with health insurance counseling programs (receiving funding under section 4360 of Omnibus Budget Reconciliation Act of 1990) to facilitate the provision of information to individuals entitled to benefits under part A or enrolled under part B, or both regarding Medicare+Choice plans and changes to those plans. Nothing in this subsection shall preclude further collaboration between the Ombudsman and such programs.".

(c) DEADLINE FOR APPOINTMENT.—The Secretary shall appoint the Medicare Provider Ombudsman and the Medicare Beneficiary Ombudsman, under the amendments made by subsections (a) and (b), respectively, by not later than 1 year after the date of the enactment of this Act.

(d) FUNDING.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the provisions of subsection (b) of section 1868 of the Social Security Act (relating to the Medicare Provider Ombudsman), as added by subsection (a)(5) and section 1807 of such Act (relating to the Medicare Beneficiary Ombudsman), as added by subsection (b), such sums as are necessary for fiscal year 2002 and each succeeding fiscal year.

(e) USE OF CENTRAL, TOLL-FREE NUMBER (1-800-MEDICARE).—

(1) PHONE TRIAGE SYSTEM; LISTING IN MEDICARE HANDBOOK INSTEAD OF OTHER TOLL-FREE

NUMBERS.—Section 1804(b) (42 U.S.C. 1395b-2(b)) is amended by adding at the end the following: "The Secretary shall provide, through the toll-free number 1-800-MEDICARE, for a means by which individuals seeking information about, or assistance with, such programs who phone such toll-free number are transferred (without charge) to appropriate entities for the provision of such information or assistance. Such toll-free number shall be the toll-free number listed for general information and assistance in the annual notice under subsection (a) instead of the listing of numbers of individual contractors.".

(2) MONITORING ACCURACY.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study to monitor the accuracy and consistency of information provided to individuals entitled to benefits under part A or enrolled under part B, or both, through the toll-free number 1-800-MEDICARE, including an assessment of whether the information provided is sufficient to answer questions of such individuals. In conducting the study, the Comptroller General shall examine the education and training of the individuals providing information through such number.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subparagraph (A).

SEC. 304. BENEFICIARY OUTREACH DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the "demonstration program") under which medicare specialists employed by the Department of Health and Human Services provide advice and assistance to individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both, regarding the medicare program at the location of existing local offices of the Social Security Administration.

(b) LOCATIONS.—

(1) IN GENERAL.—The demonstration program shall be conducted in at least 6 offices or areas. Subject to paragraph (2), in selecting such offices and areas, the Secretary shall provide preference for offices with a high volume of visits by individuals referred to in subsection (a).

(2) ASSISTANCE FOR RURAL BENEFICIARIES.—The Secretary shall provide for the selection of at least 2 rural areas to participate in the demonstration program. In conducting the demonstration program in such rural areas, the Secretary shall provide for medicare specialists to travel among local offices in a rural area on a scheduled basis.

(c) DURATION.—The demonstration program shall be conducted over a 3-year period.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall provide for an evaluation of the demonstration program. Such evaluation shall include an analysis of—

(A) utilization of, and satisfaction of those individuals referred to in subsection (a) with, the assistance provided under the program; and

(B) the cost-effectiveness of providing beneficiary assistance through out-stationing medicare specialists at local offices of the Social Security Administration.

(2) REPORT.—The Secretary shall submit to Congress a report on such evaluation and shall include in such report recommendations regarding the feasibility of permanently out-stationing medicare specialists at local offices of the Social Security Administration.

TITLE IV—APPEALS AND RECOVERY

SEC. 401. TRANSFER OF RESPONSIBILITY FOR MEDICARE APPEALS.

(a) TRANSITION PLAN.—

(1) IN GENERAL.—Not later than October 1, 2002, the Commissioner of Social Security and the Secretary shall develop and transmit to Congress and the Comptroller General of the United States a plan under which the functions of administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions in title XI of such Act) are transferred from the responsibility of the Commissioner and the Social Security Administration to the Secretary and the Department of Health and Human Services.

(2) GAO EVALUATION.—The Comptroller General of the United States shall evaluate the plan and, not later than April 1, 2003, shall submit to Congress a report on such evaluation.

(b) TRANSFER OF ADJUDICATION AUTHORITY.—

(1) IN GENERAL.—Not earlier than July 1, 2003, and not later than October 1, 2003, the Commissioner of Social Security and the Secretary shall implement the transition plan under subsection (a) and transfer the administrative law judge functions described in such subsection from the Social Security Administration to the Secretary.

(2) ASSURING INDEPENDENCE OF JUDGES.—The Secretary shall assure the independence of administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Centers for Medicare & Medicaid Services and its contractors.

(3) GEOGRAPHIC DISTRIBUTION.—The Secretary shall provide for an appropriate geographic distribution of administrative law judges performing the administrative law judge functions transferred under paragraph (1) throughout the United States to ensure timely access to such judges.

(4) HIRING AUTHORITY.—Subject to the amounts provided in advance in appropriations Act, the Secretary shall have authority to hire administrative law judges to hear such cases, giving priority to those judges with prior experience in handling medicare appeals and in a manner consistent with paragraph (3), and to hire support staff for such judges.

(5) FINANCING.—Amounts payable under law to the Commissioner for administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund shall become payable to the Secretary for the functions so transferred.

(6) SHARED RESOURCES.—The Secretary shall enter into such arrangements with the Commissioner as may be appropriate with respect to transferred functions of administrative law judges to share office space, support staff, and other resources, with appropriate reimbursement from the Trust Funds described in paragraph (5).

(c) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to ensure timely action on appeals before administrative law judges and the Departmental Appeals Board consistent with section 1869 of the Social Security Act (as amended by section 521 of BIPA, 114 Stat. 2763A–534), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary such sums as are necessary for fiscal year 2003 and each subsequent fiscal year to—

(1) increase the number of administrative law judges (and their staffs) under subsection (b)(4);

(2) improve education and training opportunities for administrative law judges (and their staffs); and

(3) increase the staff of the Departmental Appeals Board.

(d) CONFORMING AMENDMENT.—Section 1869(f)(2)(A)(i) (42 U.S.C. 1395ff(f)(2)(A)(i)), as added by section 522(a) of BIPA (114 Stat. 2763A–543), is amended by striking "of the Social Security Administration".

SEC. 402. PROCESS FOR EXPEDITED ACCESS TO REVIEW.

(a) EXPEDITED ACCESS TO JUDICIAL REVIEW.—Section 1869(b) (42 U.S.C. 1395ff(b)) as amended by BIPA, is amended—

(1) in paragraph (1)(A), by inserting ", subject to paragraph (2)," before "to judicial review of the Secretary's final decision";

(2) in paragraph (1)(F)—

(A) by striking clause (ii);

(B) by striking "PROCEEDING" and all that follows through "DETERMINATION" and inserting "DETERMINATIONS AND RECONSIDERATIONS"; and

(C) by redesignating subclauses (I) and (II) as clauses (i) and (ii) and by moving the indentation of such subclauses (and the matter that follows) 2 ems to the left; and

(3) by adding at the end the following new paragraph:

"(2) EXPEDITED ACCESS TO JUDICIAL REVIEW.—

"(A) IN GENERAL.—The Secretary shall establish a process under which a provider of services or supplier that furnishes an item or service or an individual entitled to benefits under part A or enrolled under part B, or both, who has filed an appeal under paragraph (1) may obtain access to judicial review when a review panel (described in subparagraph (D)), on its own motion or at the request of the appellant, determines that no entity in the administrative appeals process has the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to a question of law or regulation in a case of an appeal.

"(B) PROMPT DETERMINATIONS.—If, after or coincident with appropriately filing a request for an administrative hearing, the appellant requests a determination by the appropriate review panel that no review panel has the authority to decide the question of law or regulations relevant to the matters in controversy and that there is no material issue of fact in dispute and if such request is accompanied by the documents and materials as the appropriate review panel shall require for purposes of making such determination, such review panel shall make a determination on the request in writing within 60 days after the date such review panel receives the request and such accompanying documents and materials. Such a determination by such review panel shall be considered a final decision and not subject to review by the Secretary.

"(C) ACCESS TO JUDICIAL REVIEW.—

"(i) IN GENERAL.—If the appropriate review panel—

"(I) determines that there are no material issues of fact in dispute and that the only issue is one of law or regulation that no review panel has the authority to decide; or

"(II) fails to make such determination within the period provided under subparagraph (B);

then the appellant may bring a civil action as described in this subparagraph.

"(ii) Deadline for filing.—Such action shall be filed, in the case described in—

"(I) clause (i)(I), within 60 days of date of the determination described in such subparagraph; or

"(II) clause (i)(II), within 60 days of the end of the period provided under subparagraph (B) for the determination.

"(iii) Venue.—Such action shall be brought in the district court of the United States for the judicial district in which the appellant is located (or, in the case of an action brought jointly by more than one applicant, the judicial district in which the greatest number of applicants are located) or in the district court for the District of Columbia.

"(iv) Interest on amounts in controversy.—Where a provider of services or supplier seeks judicial review pursuant to this paragraph, the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning after the 60-day period as determined pursuant to clause (ii) and equal to the rate of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund and by the Federal Supplementary Medical Insurance Trust Fund for the month in which the civil action authorized under this paragraph is commenced, to be awarded by the reviewing court in favor of the prevailing party. No interest awarded pursuant to the preceding sentence shall be deemed income or cost for the purposes of determining reimbursement due providers of services or suppliers under this Act.

"(D) Review panels.—For purposes of this subsection, a 'review panel' is a panel consisting of 3 members (who shall be administrative law judges, members of the Departmental Appeals Board, or qualified individuals associated with a qualified independent contractor (as defined in subsection (c)(2)) or with another independent entity) designated by the Secretary for purposes of making determinations under this paragraph.".

(b) Application to Provider Agreement Determinations.—Section 1866(h)(1) (42 U.S.C. 1395cc(h)(1)) is amended—

(1) by inserting "(A)" after "(h)(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) An institution or agency described in subparagraph (A) that has filed for a hearing under subparagraph (A) shall have expedited access to judicial review under this subparagraph in the same manner as providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, may obtain expedited access to judicial review under the process established under section 1869(b)(2). Nothing in this subparagraph shall be construed to affect the application of any remedy imposed under section 1819 during the pendency of an appeal under this subparagraph.".

(c) Effective Date.—The amendments made by this section shall apply to appeals filed on or after October 1, 2002.

(d) Expedited Review of Certain Provider Agreement Determinations.—

(1) Termination and certain other immediate remedies.—The Secretary shall develop and implement a process to expedite proceedings under sections 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)) in which the remedy of termination of participation, or a remedy described in clause (i) or (iii) of section 1819(h)(2)(B) of such Act (42 U.S.C. 1395i-3(h)(2)(B)) which is applied on an immediate basis, has been imposed. Under such process priority shall be provided in cases of termination.

(2) Increased financial support.—In addition to any amounts otherwise appropriated, to reduce by 50 percent the average time for administrative determinations on appeals under section 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary such additional sums for fiscal year 2003 and each subsequent fiscal year as may be necessary. The purposes for which such amounts are available include increasing the number of administrative law judges (and their staffs) and the appellate level staff at the Departmental Appeals Board of the Department of Health and Human Services and educating such judges and staffs on long-term care issues.

SEC. 403. REVISIONS TO MEDICARE APPEALS PROCESS.

(a) Requiring Full and Early Presentation of Evidence.—

(1) In general.—Section 1869(b) (42 U.S.C. 1395ff(b)), as amended by BIPA and as amended by section 402(a), is further amended by adding at the end the following new paragraph:

"(3) Requiring full and early presentation of evidence by providers.—A provider of services or supplier may not introduce evidence in any appeal under this section that was not presented at the reconsideration conducted by the qualified independent contractor under subsection (c), unless there is good cause which precluded the introduction of such evidence at or before that reconsideration.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on October 1, 2002.

(b) Use of Patients' Medical Records.—Section 1869(c)(3)(B)(i) (42 U.S.C. 1395ff(c)(3)(B)(i)), as amended by BIPA, is amended by inserting "(including the medical records of the individual involved)" after "clinical experience".

(c) Notice Requirements for Medicare Appeals.—

(1) Initial determinations and redeterminations.—Section 1869(a) (42 U.S.C. 1395ff(a)), as amended by BIPA, is amended by adding at the end the following new paragraph:

"(4) Requirements of notice of determinations and redeterminations.—A written notice of a determination on an initial determination or on a redetermination, insofar as such determination or redetermination results in a denial of a claim for benefits, shall include—

"(A) the specific reasons for the determination, including—

"(i) upon request, the provision of the policy, manual, or regulation used in making the determination; and

"(ii) as appropriate in the case of a redetermination, a summary of the clinical or scientific evidence used in making the determination;

"(B) the procedures for obtaining additional information concerning the determination or redetermination; and

"(C) notification of the right to seek a redetermination or otherwise appeal the determination and instructions on how to initiate such a redetermination or appeal under this section.

The written notice on a redetermination shall be provided in printed form and written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both.".

(2) Reconsiderations.—Section 1869(c)(3)(E) (42 U.S.C. 1395ff(c)(3)(E)), as amended by BIPA, is amended—

(A) by inserting "be written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include (to the extent appropriate)" after "in writing, "; and

(B) by inserting "and a notification of the right to appeal such determination and instructions on how to initiate such appeal under this section" after "such decision, ".

(3) Appeals.—Section 1869(d) (42 U.S.C. 1395ff(d)), as amended by BIPA, is amended—

(A) in the heading, by inserting "; Notice" after "Secretary"; and

(B) by adding at the end the following new paragraph:

"(4) Notice.—Notice of the decision of an administrative law judge shall be in writing in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include—

"(A) the specific reasons for the determination (including, to the extent appropriate, a summary of the clinical or scientific evidence used in making the determination);

"(B) the procedures for obtaining additional information concerning the decision; and

"(C) notification of the right to appeal the decision and instructions on how to initiate such an appeal under this section.".

(4) Submission of record for appeal.—Section 1869(c)(3)(J)(i) (42 U.S.C. 1395ff(c)(3)(J)(i)) by striking "prepare" and inserting "submit" and by striking "with respect to" and all that follows through "and relevant policies".

(d) Qualified Independent Contractors.—

(1) Eligibility requirements of qualified independent contractors.—Section 1869(c)(3) (42 U.S.C. 1395ff(c)(3)), as amended by BIPA, is amended—

(A) in subparagraph (A), by striking "sufficient training and expertise in medical science and legal matters" and inserting "sufficient medical, legal, and other expertise (including knowledge of the program under this title) and sufficient staffing"; and

(B) by adding at the end the following new subparagraph:

"(K) Independence requirements.—

"(i) In general.—Subject to clause (ii), a qualified independent contractor shall not conduct any activities in a case unless the entity—

"(I) is not a related party (as defined in subsection (g)(5));

"(II) does not have a material familial, financial, or professional relationship with such a party in relation to such case; and

"(III) does not otherwise have a conflict of interest with such a party.

"(ii) Exception for reasonable compensation.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified independent contractor of compensation from the Secretary for the conduct of activities under this section if the compensation is provided consistent with clause (iii).

"(iii) Limitations on entity compensation.—Compensation provided by the Secretary to a qualified independent contractor in connection with reviews under this section shall not be contingent on any decision rendered by the contractor or by any reviewing professional.".

(2) ELIGIBILITY REQUIREMENTS FOR REVIEWERS.—Section 1869 (42 U.S.C. 1395ff), as amended by BIPA, is amended—

(A) by amending subsection (c)(3)(D) to read as follows:

"(D) QUALIFICATIONS FOR REVIEWERS.—The requirements of subsection (g) shall be met (relating to qualifications of reviewing professionals)."; and

(B) by adding at the end the following new subsection:

"(g) QUALIFICATIONS OF REVIEWERS.—

"(1) IN GENERAL.—In reviewing determinations under this section, a qualified independent contractor shall assure that—

"(A) each individual conducting a review shall meet the qualifications of paragraph (2);

"(B) compensation provided by the contractor to each such reviewer is consistent with paragraph (3); and

"(C) in the case of a review by a panel described in subsection (c)(3)(B) composed of physicians or other health care professionals (each in this subsection referred to as a 'reviewing professional'), each reviewing professional meets the qualifications described in paragraph (4) and, where a claim is regarding the furnishing of treatment by a physician (allopathic or osteopathic) or the provision of items or services by a physician (allopathic or osteopathic), each reviewing professional shall be a physician (allopathic or osteopathic).

"(2) INDEPENDENCE.—

"(A) IN GENERAL.—Subject to subparagraph (B), each individual conducting a review in a case shall—

"(i) not be a related party (as defined in paragraph (5));

"(ii) not have a material familial, financial, or professional relationship with such a party in the case under review; and

"(iii) not otherwise have a conflict of interest with such a party.

"(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

"(i) prohibit an individual, solely on the basis of a participation agreement with a fiscal intermediary, carrier, or other contractor, from serving as a reviewing professional if—

"(I) the individual is not involved in the provision of items or services in the case under review;

"(II) the fact of such an agreement is disclosed to the Secretary and the individual entitled to benefits under part A or enrolled under part B, or both, (or authorized representative) and neither party objects; and

"(III) the individual is not an employee of the intermediary, carrier, or contractor and does not provide services exclusively or primarily to or on behalf of such intermediary, carrier, or contractor;

"(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as a reviewer merely on the basis of having such staff privileges if the existence of such privileges is disclosed to the Secretary and such individual (or authorized representative), and neither party objects; or

"(iii) prohibit receipt of compensation by a reviewing professional from a contractor if the compensation is provided consistent with paragraph (3).

For purposes of this paragraph, the term 'participation agreement' means an agreement relating to the provision of health care services by the individual and does not include the provision of services as a reviewer under this subsection.

"(3) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified independent contractor to a reviewer in connection with a review under this section shall not be contingent on the decision rendered by the reviewer.

"(4) LICENSURE AND EXPERTISE.—Each reviewing professional shall be—

"(A) a physician (allopathic or osteopathic) who is appropriately credentialed or licensed in one or more States to deliver health care services and has medical expertise in the field of practice that is appropriate for the items or services at issue; or

"(B) a health care professional who is legally authorized in one or more States (in accordance with State law or the State regulatory mechanism provided by State law) to furnish the health care items or services at issue and has medical expertise in the field of practice that is appropriate for such items or services.

"(5) RELATED PARTY DEFINED.—For purposes of this section, the term 'related party' means, with respect to a case under this title involving a specific individual entitled to benefits under part A or enrolled under part B, or both, any of the following:

"(A) The Secretary, the medicare administrative contractor involved, or any fiduciary, officer, director, or employee of the Department of Health and Human Services, or of such contractor.

"(B) The individual (or authorized representative).

"(C) The health care professional that provides the items or services involved in the case.

"(D) The institution at which the items or services (or treatment) involved in the case are provided.

"(E) The manufacturer of any drug or other item that is included in the items or services involved in the case.

"(F) Any other party determined under any regulations to have a substantial interest in the case involved.".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall be effective as if included in the enactment of the respective provisions of subtitle C of title V of BIPA, (114 Stat. 2763A-534).

(4) TRANSITION.—In applying section 1869(g) of the Social Security Act (as added by paragraph (2)), any reference to a medicare administrative contractor shall be deemed to include a reference to a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and a carrier under section 1842 of such Act (42 U.S.C. 1395u).

SEC. 404. PREPAYMENT REVIEW.

(a) IN GENERAL.—Section 1874A, as added by section 201(a)(1) and as amended by sections 202(b), 301(b)(1), and 301(c)(1), is further amended by adding at the end the following new subsection:

"(h) CONDUCT OF PREPAYMENT REVIEW.—

"(1) CONDUCT OF RANDOM PREPAYMENT REVIEW.—

"(A) IN GENERAL.—A medicare administrative contractor may conduct random prepayment review only to develop a contractor-wide or program-wide claims payment error rates or under such additional circumstances as may be provided under regulations, developed in consultation with providers of services and suppliers.

"(B) USE OF STANDARD PROTOCOLS WHEN CONDUCTING PREPAYMENT REVIEWS.—When a medicare administrative contractor conducts a random prepayment review, the contractor may conduct such review only in accordance with a standard protocol for random prepayment audits developed by the Secretary.

"(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing the denial of payments for claims actually reviewed under a random prepayment review.

"(D) RANDOM PREPAYMENT REVIEW.—For purposes of this subsection, the term 'random prepayment review' means a demand for the production of records or documentation absent cause with respect to a claim.

"(2) LIMITATIONS ON NON-RANDOM PREPAYMENT REVIEW.—

"(A) LIMITATIONS ON INITIATION OF NON-RANDOM PREPAYMENT REVIEW.—A medicare administrative contractor may not initiate non-random prepayment review of a provider of services or supplier based on the initial identification by that provider of services or supplier of an improper billing practice unless there is a likelihood of sustained or high level of payment error (as defined in subsection (i)(3)(A)).

"(B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall issue regulations relating to the termination, including termination dates, of non-random prepayment review. Such regulations may vary such a termination date based upon the differences in the circumstances triggering prepayment review.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

(2) DEADLINE FOR PROMULGATION OF CERTAIN REGULATIONS.—The Secretary shall first issue regulations under section 1874A(h) of the Social Security Act, as added by subsection (a), by not later than 1 year after the date of the enactment of this Act.

(3) APPLICATION OF STANDARD PROTOCOLS FOR RANDOM PREPAYMENT REVIEW.—Section 1874A(h)(1)(B) of the Social Security Act, as added by subsection (a), shall apply to random prepayment reviews conducted on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary shall specify.

(c) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(h) of the Social Security Act, as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

SEC. 405. RECOVERY OF OVERPAYMENTS.

(a) IN GENERAL.—Section 1893 (42 U.S.C. 1395ddd) is amended by adding at the end the following new subsection:

"(f) RECOVERY OF OVERPAYMENTS.—

"(1) USE OF REPAYMENT PLANS.—

"(A) IN GENERAL.—If the repayment, within 30 days by a provider of services or supplier, of an overpayment under this title would constitute a hardship (as defined in subparagraph (B)), subject to subparagraph (C), upon request of the provider of services or supplier the Secretary shall enter into a plan with the provider of services or supplier for the repayment (through offset or otherwise) of such overpayment over a period of at least 6 months but not longer than 3 years (or not longer than 5 years in the case of extreme hardship, as determined by the Secretary). Interest shall accrue on the balance through the period of repayment. Such plan shall meet terms and conditions determined to be appropriate by the Secretary.

"(B) HARDSHIP.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the repayment of an overpayment (or overpayments) within 30 days is deemed to constitute a hardship if—

“(I) in the case of a provider of services that files cost reports, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services for the cost reporting period covered by the most recently submitted cost report; or

“(II) in the case of another provider of services or supplier, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services or supplier for the previous calendar year.

“(ii) RULE OF APPLICATION.—The Secretary shall establish rules for the application of this subparagraph in the case of a provider of services or supplier that was not paid under this title during the previous year or was paid under this title only during a portion of that year.

“(iii) TREATMENT OF PREVIOUS OVERPAYMENTS.—If a provider of services or supplier has entered into a repayment plan under subparagraph (A) with respect to a specific overpayment amount, such payment amount under the repayment plan shall not be taken into account under clause (i) with respect to subsequent overpayment amounts.

“(C) EXCEPTIONS.—Subparagraph (A) shall not apply if—

“(i) the Secretary has reason to suspect that the provider of services or supplier may file for bankruptcy or otherwise cease to do business or discontinue participation in the program under this title; or

“(ii) there is an indication of fraud or abuse committed against the program.

“(D) IMMEDIATE COLLECTION IF VIOLATION OF REPAYMENT PLAN.—If a provider of services or supplier fails to make a payment in accordance with a repayment plan under this paragraph, the Secretary may immediately seek to offset or otherwise recover the total balance outstanding (including applicable interest) under the repayment plan.

“(E) RELATION TO NO FAULT PROVISION.—Nothing in this paragraph shall be construed as affecting the application of section 1870(c) (relating to no adjustment in the cases of certain overpayments).

“(2) LIMITATION ON RECOUPMENT.—

“(A) IN GENERAL.—In the case of a provider of services or supplier that is determined to have received an overpayment under this title and that seeks a reconsideration by a qualified independent contractor on such determination under section 1869(b)(1), the Secretary may not take any action (or authorize any other person, including any medicare contractor, as defined in subparagraph (C) to recoup the overpayment until the date the decision on the reconsideration has been rendered. If the provisions of section 1869(b)(1) (providing for such a reconsideration by a qualified independent contractor) are not in effect, in applying the previous sentence any reference to such a reconsideration shall be treated as a reference to a redetermination by the fiscal intermediary or carrier involved.

“(B) COLLECTION WITH INTEREST.—Insofar as the determination on such appeal is against the provider of services or supplier, interest on the overpayment shall accrue on and after the date of the original notice of overpayment. Insofar as such determination against the provider of services or supplier is later reversed, the Secretary shall provide for repayment of the amount recouped plus interest at the same rate as would apply under the previous sentence for the period in which the amount was recouped.

“(C) MEDICARE CONTRACTOR DEFINED.—For purposes of this subsection, the term ‘medicare contractor’ has the meaning given such term in section 1889(g).

“(3) LIMITATION ON USE OF EXTRAPOLATION.—A medicare contractor may not use extrapolation to determine overpayment amounts to be recovered by recoupment, offset, or otherwise unless—

“(A) there is a sustained or high level of payment error (as defined by the Secretary by regulation); or

“(B) documented educational intervention has failed to correct the payment error (as determined by the Secretary).

“(4) PROVISION OF SUPPORTING DOCUMENTATION.—In the case of a provider of services or supplier with respect to which amounts were previously overpaid, a medicare contractor may request the periodic production of records or supporting documentation for a limited sample of submitted claims to ensure that the previous practice is not continuing.

“(5) CONSENT SETTLEMENT REFORMS.—

“(A) IN GENERAL.—The Secretary may use a consent settlement (as defined in subparagraph (D)) to settle a projected overpayment.

“(B) OPPORTUNITY TO SUBMIT ADDITIONAL INFORMATION BEFORE CONSENT SETTLEMENT OFFER.—Before offering a provider of services or supplier a consent settlement, the Secretary shall—

“(i) communicate to the provider of services or supplier—

“(I) that, based on a review of the medical records requested by the Secretary, a preliminary evaluation of those records indicates that there would be an overpayment;

“(II) the nature of the problems identified in such evaluation; and

“(III) the steps that the provider of services or supplier should take to address the problems; and

“(ii) provide for a 45-day period during which the provider of services or supplier may furnish additional information concerning the medical records for the claims that had been reviewed.

“(C) CONSENT SETTLEMENT OFFER.—The Secretary shall review any additional information furnished by the provider of services or supplier under subparagraph (B)(ii). Taking into consideration such information, the Secretary shall determine if there still appears to be an overpayment. If so, the Secretary—

“(i) shall provide notice of such determination to the provider of services or supplier, including an explanation of the reason for such determination; and

“(ii) in order to resolve the overpayment, may offer the provider of services or supplier—

“(I) the opportunity for a statistically valid random sample; or

“(II) a consent settlement.

The opportunity provided under clause (ii)(I) does not waive any appeal rights with respect to the alleged overpayment involved.

“(D) CONSENT SETTLEMENT DEFINED.—For purposes of this paragraph, the term ‘consent settlement’ means an agreement between the Secretary and a provider of services or supplier whereby both parties agree to settle a projected overpayment based on less than a statistically valid sample of claims and the provider of services or supplier agrees not to appeal the claims involved.

“(6) NOTICE OF OVER-UTILIZATION OF CODES.—The Secretary shall establish, in consultation with organizations representing the classes of providers of services and suppliers, a process under which the Secretary provides for notice to classes of providers of services and suppliers served by the contractor in cases in which the contractor has identified that particular billing codes may be overutilized by that class of providers of services or suppliers under the programs under this title (or provisions of title XI insofar as they relate to such programs).

“(7) PAYMENT AUDITS.—

“(A) WRITTEN NOTICE FOR POST-PAYMENT AUDITS.—Subject to subparagraph (C), if a medicare contractor decides to conduct a post-payment audit of a provider of services or supplier under this title, the contractor shall provide the provider of services or supplier with written notice (which may be in electronic form) of the intent to conduct such an audit.

“(B) EXPLANATION OF FINDINGS FOR ALL AUDITS.—Subject to subparagraph (C), if a medicare contractor audits a provider of services or supplier under this title, the contractor shall—

“(i) give the provider of services or supplier a full review and explanation of the findings of the audit in a manner that is understandable to the provider of services or supplier and permits the development of an appropriate corrective action plan;

“(ii) inform the provider of services or supplier of the appeal rights under this title as well as consent settlement options (which are at the discretion of the Secretary);

“(iii) give the provider of services or supplier an opportunity to provide additional information to the contractor; and

“(iv) take into account information provided, on a timely basis, by the provider of services or supplier under clause (iii).

“(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply if the provision of notice or findings would compromise pending law enforcement activities, whether civil or criminal, or reveal findings of law enforcement-related audits.

“(8) STANDARD METHODOLOGY FOR PROBE SAMPLING.—The Secretary shall establish a standard methodology for medicare contractors to use in selecting a sample of claims for review in the case of an abnormal billing pattern.”.

(b) EFFECTIVE DATES AND DEADLINES.—

(1) USE OF REPAYMENT PLANS.—Section 1893(f)(1) of the Social Security Act, as added by subsection (a), shall apply to requests for repayment plans made after the date of the enactment of this Act.

(2) LIMITATION ON RECOUPMENT.—Section 1893(f)(2) of the Social Security Act, as added by subsection (a), shall apply to actions taken after the date of the enactment of this Act.

(3) USE OF EXTRAPOLATION.—Section 1893(f)(3) of the Social Security Act, as added by subsection (a), shall apply to statistically valid random samples initiated after the date that is 1 year after the date of the enactment of this Act.

(4) PROVISION OF SUPPORTING DOCUMENTATION.—Section 1893(f)(4) of the Social Security Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

(5) CONSENT SETTLEMENT.—Section 1893(f)(5) of the Social Security Act, as added by subsection (a), shall apply to consent settlements entered into after the date of the enactment of this Act.

(6) NOTICE OF OVERUTILIZATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish the process for notice of overutilization of billing codes under section 1893A(f)(6) of the Social Security Act, as added by subsection (a).

(7) PAYMENT AUDITS.—Section 1893A(f)(7) of the Social Security Act, as added by subsection (a), shall apply to audits initiated after the date of the enactment of this Act.

(8) STANDARD FOR ABNORMAL BILLING PATTERNS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish a standard methodology for selection of sample claims for abnormal billing patterns under section 1893(f)(8) of the Social Security Act, as added by subsection (a).

SEC. 406. PROVIDER ENROLLMENT PROCESS; RIGHT OF APPEAL.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) by adding at the end of the heading the following: "; ENROLLMENT PROCESSES"; and

(2) by adding at the end the following new subsection:

"(j) ENROLLMENT PROCESS FOR PROVIDERS OF SERVICES AND SUPPLIERS.—

"(1) ENROLLMENT PROCESS.—

"(A) IN GENERAL.—The Secretary shall establish by regulation a process for the enrollment of providers of services and suppliers under this title.

"(B) DEADLINES.—The Secretary shall establish by regulation procedures under which there are deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment). The Secretary shall monitor the performance of medicare administrative contractors in meeting the deadlines established under this subparagraph.

"(C) CONSULTATION BEFORE CHANGING PROVIDER ENROLLMENT FORMS.—The Secretary shall consult with providers of services and suppliers before making changes in the provider enrollment forms required of such providers and suppliers to be eligible to submit claims for which payment may be made under this title.

"(2) HEARING RIGHTS IN CASES OF DENIAL OR NON-RENEWAL.—A provider of services or supplier whose application to enroll (or, if applicable, to renew enrollment) under this title is denied may have a hearing and judicial review of such denial under the procedures that apply under subsection (h)(1)(A) to a provider of services that is dissatisfied with a determination by the Secretary.".

(b) EFFECTIVE DATES.—

(1) ENROLLMENT PROCESS.—The Secretary shall provide for the establishment of the enrollment process under section 1866(j)(1) of the Social Security Act, as added by subsection (a)(2), within 6 months after the date of the enactment of this Act.

(2) CONSULTATION.—Section 1866(j)(1)(C) of the Social Security Act, as added by subsection (a)(2), shall apply with respect to changes in provider enrollment forms made on or after January 1, 2002.

(3) HEARING RIGHTS.—Section 1866(j)(2) of the Social Security Act, as added by subsection (a)(2), shall apply to denials occurring on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary specifies.

SEC. 407. PROCESS FOR CORRECTION OF MINOR ERRORS AND OMISSIONS ON CLAIMS WITHOUT PURSUING APPEALS PROCESS.

The Secretary shall develop, in consultation with appropriate medicare contractors (as defined in section 1889(g) of the Social Security Act, as inserted by section 301(a)(1)) and representatives of providers of services and suppliers, a process whereby, in the case of minor errors or omissions (as defined by the Secretary) that are detected in the submission of claims under the programs under title XVIII of such Act, a provider of services or supplier is given an opportunity to correct such an error or omission without the need to initiate an appeal. Such process shall include the ability to resubmit corrected claims.

SEC. 408. PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES; ADVANCE BENEFICIARY NOTICES.

(a) IN GENERAL.—Section 1869 (42 U.S.C. 1395ff(b)), as amended by sections 521 and 522 of BIPA and section 403(d)(2)(B), is further amended by adding at the end the following new subsection:

"(h) PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES.—

"(1) ESTABLISHMENT OF PROCESS.—

"(A) IN GENERAL.—With respect to a medicare administrative contractor that has a contract under section 1874A that provides for making payments under this title with respect to eligible items and services described in subparagraph (C), the Secretary shall establish a prior determination process that meets the requirements of this subsection and that shall be applied by such contractor in the case of eligible requesters.

"(B) ELIGIBLE REQUESTER.—For purposes of this subsection, each of the following shall be an eligible requester:

"(i) A physician, but only with respect to eligible items and services for which the physician may be paid directly.

"(ii) An individual entitled to benefits under this title, but only with respect to an item or service for which the individual receives, from the physician who may be paid directly for the item or service, an advance beneficiary notice under section 1879(a) that payment may not be made (or may no longer be made) for the item or service under this title.

"(C) ELIGIBLE ITEMS AND SERVICES.—For purposes of this subsection and subject to paragraph (2), eligible items and services are items and services which are physicians' services (as defined in paragraph (4)(A) of section 1848(f) for purposes of calculating the sustainable growth rate under such section).

"(2) SECRETARIAL FLEXIBILITY.—The Secretary shall establish by regulation reasonable limits on the categories of eligible items and services for which a prior determination of coverage may be requested under this subsection. In establishing such limits, the Secretary may consider the dollar amount involved with respect to the item or service, administrative costs and burdens, and other relevant factors.

"(3) REQUEST FOR PRIOR DETERMINATION.—

"(A) IN GENERAL.—Subject to paragraph (2), under the process established under this subsection an eligible requester may submit to the contractor a request for a determination, before the furnishing of an eligible item or service involved as to whether the item or service is covered under this title consistent with the applicable requirements of section 1862(a)(1)(A) (relating to medical necessity).

"(B) ACCOMPANYING DOCUMENTATION.—The Secretary may require that the request be accompanied by a description of the item or service, supporting documentation relating to the medical necessity for the item or service, and any other appropriate documentation. In the case of a request submitted by an eligible requester who is described in paragraph (1)(B)(ii), the Secretary may require that the request also be accompanied by a copy of the advance beneficiary notice involved.

"(4) RESPONSE TO REQUEST.—

"(A) IN GENERAL.—Under such process, the contractor shall provide the eligible requester with written notice of a determination as to whether—

"(i) the item or service is so covered;

"(ii) the item or service is not so covered; or

"(iii) the contractor lacks sufficient information to make a coverage determination.

If the contractor makes the determination described in clause (iii), the contractor shall include in the notice a description of the additional information required to make the coverage determination.

"(B) DEADLINE TO RESPOND.—Such notice shall be provided within the same time period as the time period applicable to the contractor providing notice of initial determinations on a claim for benefits under subsection (a)(2)(A).

"(C) INFORMING BENEFICIARY IN CASE OF PHYSICIAN REQUEST.—In the case of a request in which an eligible requester is not the individual described in paragraph (1)(B)(ii), the process shall provide that the individual to whom the item or service is proposed to be furnished shall be informed of any determination described in clause (ii) (relating to a determination of non-coverage) and the right (referred to in paragraph (6)(B)) to obtain the item or service and have a claim submitted for the item or service.

"(5) EFFECT OF DETERMINATIONS.—

"(A) BINDING NATURE OF POSITIVE DETERMINATION.—If the contractor makes the determination described in paragraph (4)(A)(i), such determination shall be binding on the contractor in the absence of fraud or evidence of misrepresentation of facts presented to the contractor.

"(B) NOTICE AND RIGHT TO REDETERMINATION IN CASE OF A DENIAL.—

"(i) IN GENERAL.—If the contractor makes the determination described in paragraph (4)(A)(ii)—

"(I) the eligible requester has the right to a redetermination by the contractor on the determination that the item or service is not so covered; and

"(II) the contractor shall include in notice under paragraph (4)(A) a brief explanation of the basis for the determination, including on what national or local coverage or noncoverage determination (if any) the determination is based, and the right to such a redetermination.

"(ii) DEADLINE FOR REDETERMINATIONS.—The contractor shall complete and provide notice of such redetermination within the same time period as the time period applicable to the contractor providing notice of redeterminations relating to a claim for benefits under subsection (a)(3)(C)(ii).

"(6) LIMITATION ON FURTHER REVIEW.—

"(A) IN GENERAL.—Contractor determinations described in paragraph (4)(A)(ii) or (4)(A)(iii) (and redeterminations made under paragraph (5)(B)), relating to pre-service claims are not subject to further administrative appeal or judicial review under this section or otherwise.

"(B) DECISION NOT TO SEEK PRIOR DETERMINATION OR NEGATIVE DETERMINATION DOES NOT IMPACT RIGHT TO OBTAIN SERVICES, SEEK REIMBURSEMENT, OR APPEAL RIGHTS.—Nothing in this subsection shall be construed as affecting the right of an individual who—

"(i) decides not to seek a prior determination under this subsection with respect to items or services; or

"(ii) seeks such a determination and has received a determination described in paragraph (4)(A)(ii)), from receiving (and submitting a claim for) such items services and from obtaining administrative or judicial review respecting such claim under the other applicable provisions of this section. Failure to seek a prior determination under this subsection with respect to items and services shall not be taken into account in such administrative or judicial review.

"(C) No prior determination after receipt of services.—Once an individual is provided items and services, there shall be no prior determination under this subsection with respect to such items or services.".

(b) Effective Date; Transition.—

(1) Effective date.—The Secretary shall establish the prior determination process under the amendment made by subsection (a) in such a manner as to provide for the acceptance of requests for determinations under such process filed not later than 18 months after the date of the enactment of this Act.

(2) Transition.—During the period in which the amendment made by subsection (a) has become effective but contracts are not provided under section 1874A of the Social Security Act with medicare administrative contractors, any reference in section 1869(g) of such Act (as added by such amendment) to such a contractor is deemed a reference to a fiscal intermediary or carrier with an agreement under section 1816, or contract under section 1842, respectively, of such Act.

(3) Limitation on application to SGR.—For purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w-4(f)(2)(D)), the amendment made by subsection (a) shall not be considered to be a change in law or regulation.

(c) Provisions Relating to Advance Beneficiary Notices; Report on Prior Determination Process.—

(1) Data collection.—The Secretary shall establish a process for the collection of information on the instances in which an advance beneficiary notice (as defined in paragraph (4)) has been provided and on instances in which a beneficiary indicates on such a notice that the beneficiary does not intend to seek to have the item or service that is the subject of the notice furnished.

(2) Outreach and education.—The Secretary shall establish a program of outreach and education for beneficiaries and providers of services and other persons on the appropriate use of advance beneficiary notices and coverage policies under the medicare program.

(3) GAO report report on use of advance beneficiary notices.—Not later than 18 months after the date on which section 1869(g) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of advance beneficiary notices under title XVIII of such Act. Such report shall include information concerning the providers of services and other persons that have provided such notices and the response of beneficiaries to such notices.

(4) GAO report on use of prior determination process.—Not later than 18 months after the date on which section 1869(g) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of the prior determination process under such section. Such report shall include—

(A) information concerning the types of procedures for which a prior determination has been sought, determinations made under the process, and changes in receipt of services resulting from the application of such process; and

(B) an evaluation of whether the process was useful for physicians (and other suppliers) and beneficiaries, whether it was timely, and whether the amount of information required was burdensome to physicians and beneficiaries.

(5) Advance beneficiary notice defined.—In this subsection, the term "advance beneficiary notice" means a written notice provided under section 1879(a) of the Social Security Act (42 U.S.C. 1395pp(a)) to an individual entitled to benefits under part A or B of title XVIII of such Act before items or services are furnished under such part in cases where a provider of services or other person that would furnish the item or service believes that payment will not be made for some or all of such items or services under such title.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. POLICY DEVELOPMENT REGARDING EVALUATION AND MANAGEMENT (E & M) DOCUMENTATION GUIDELINES.

(a) In General.—The Secretary may not implement any new documentation guidelines for evaluation and management physician services under the title XVIII of the Social Security Act on or after the date of the enactment of this Act unless the Secretary—

(1) has developed the guidelines in collaboration with practicing physicians (including both generalists and specialists) and provided for an assessment of the proposed guidelines by the physician community;

(2) has established a plan that contains specific goals, including a schedule, for improving the use of such guidelines;

(3) has conducted appropriate and representative pilot projects under subsection (b) to test modifications to the evaluation and management documentation guidelines;

(4) finds that the objectives described in subsection (c) will be met in the implementation of such guidelines; and

(5) has established, and is implementing, a program to educate physicians on the use of such guidelines and that includes appropriate outreach.

The Secretary shall make changes to the manner in which existing evaluation and management documentation guidelines are implemented to reduce paperwork burdens on physicians.

(b) Pilot Projects to Test Evaluation and Management Documentation Guidelines.—

(1) In general.—The Secretary shall conduct under this subsection appropriate and representative pilot projects to test new evaluation and management documentation guidelines referred to in subsection (a).

(2) Length and consultation.—Each pilot project under this subsection shall—

(A) be voluntary;

(B) be of sufficient length as determined by the Secretary to allow for preparatory physician and medicare contractor education, analysis, and use and assessment of potential evaluation and management guidelines; and

(C) be conducted, in development and throughout the planning and operational stages of the project, in consultation with practicing physicians (including both generalists and specialists).

(3) Range of pilot projects.—Of the pilot projects conducted under this subsection—

(A) at least one shall focus on a peer review method by physicians (not employed by a medicare contractor) which evaluates medical record information for claims submitted by physicians identified as statistical outliers relative to definitions published in the Current Procedures Terminology (CPT) code book of the American Medical Association;

(B) at least one shall focus on an alternative method to detailed guidelines based on physician documentation of face to face encounter time with a patient;

(C) at least one shall be conducted for services furnished in a rural area and at least one for services furnished outside such an area; and

(D) at least one shall be conducted in a setting where physicians bill under physicians' services in teaching settings and at least one shall be conducted in a setting other than a teaching setting.

(4) Banning of targeting of pilot project participants.—Data collected under this subsection shall not be used as the basis for overpayment demands or post-payment audits. Such limitation applies only to claims filed as part of the pilot project and lasts only for the duration of the pilot project and only as long as the provider is a participant in the pilot project.

(5) Study of impact.—Each pilot project shall examine the effect of the new evaluation and management documentation guidelines on—

(A) different types of physician practices, including those with fewer than 10 full-time-equivalent employees (including physicians); and

(B) the costs of physician compliance, including education, implementation, auditing, and monitoring.

(6) Periodic reports.—The Secretary shall submit to Congress periodic reports on the pilot projects under this subsection.

(c) Objectives for Evaluation and Management Guidelines.—The objectives for modified evaluation and management documentation guidelines developed by the Secretary shall be to—

(1) identify clinically relevant documentation needed to code accurately and assess coding levels accurately;

(2) decrease the level of non-clinically pertinent and burdensome documentation time and content in the physician's medical record;

(3) increase accuracy by reviewers; and

(4) educate both physicians and reviewers.

(d) Study of Simpler, Alternative Systems of Documentation for Physician Claims.—

(1) Study.—The Secretary shall carry out a study of the matters described in paragraph (2).

(2) Matters described.—The matters referred to in paragraph (1) are—

(A) the development of a simpler, alternative system of requirements for documentation accompanying claims for evaluation and management physician services for which payment is made under title XVIII of the Social Security Act; and

(B) consideration of systems other than current coding and documentation requirements for payment for such physician services.

(3) Consultation with practicing physicians.—In designing and carrying out the study under paragraph (1), the Secretary shall consult with practicing physicians, including physicians who are part of group practices and including both generalists and specialists.

(4) Application of HIPAA uniform coding requirements.—In developing an alternative system under paragraph (2), the Secretary shall consider requirements of administrative simplification under part C of title XI of the Social Security Act.

(5) Report to congress.—(A) Not later than October 1, 2003, the Secretary shall submit to Congress a report on the results of the study conducted under paragraph (1).

(B) The Medicare Payment Advisory Commission shall conduct an analysis of the results of the study included in the report under subparagraph (A) and shall submit a report on such analysis to Congress.

(e) STUDY ON APPROPRIATE CODING OF CERTAIN EXTENDED OFFICE VISITS.—The Secretary shall conduct a study of the appropriateness of coding in cases of extended office visits in which there is no diagnosis made. Not later than October 1, 2003, the Secretary shall submit a report to Congress on such study and shall include recommendations on how to code appropriately for such visits in a manner that takes into account the amount of time the physician spent with the patient.

(f) DEFINITIONS.—In this section—

(1) the term "rural area" has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act, 42 U.S.C. 1395ww(d)(2)(D); and

(2) the term "teaching settings" are those settings described in section 415.150 of title 42, Code of Federal Regulations.

SEC. 502. IMPROVEMENT IN OVERSIGHT OF TECHNOLOGY AND COVERAGE.

(a) IMPROVED COORDINATION BETWEEN FDA AND CMS ON COVERAGE OF BREAKTHROUGH MEDICAL DEVICES.—

(1) IN GENERAL.—Upon request by an applicant and to the extent feasible (as determined by the Secretary), the Secretary shall, in the case of a class III medical device that is subject to premarket approval under section 515 of the Federal Food, Drug, and Cosmetic Act, ensure the sharing of appropriate information from the review for application for premarket approval conducted by the Food and Drug Administration for coverage decisions under title XVIII of the Social Security Act.

(2) PUBLICATION OF PLAN.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to appropriate Committees of Congress a report that contains the plan for improving such coordination and for shortening the time lag between the premarket approval by the Food and Drug Administration and coding and coverage decisions by the Centers for Medicare & Medicaid Services.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as changing the criteria for coverage of a medical device under title XVIII of the Social Security Act nor premarket approval by the Food and Drug Administration and nothing in this subsection shall be construed to increase premarket approval application requirements under the Federal Food, Drug, and Cosmetic Act.

(b) COUNCIL FOR TECHNOLOGY AND INNOVATION.—Section 1868 (42 U.S.C. 1395ee), as amended by section 301(a), is amended by adding at the end the following new subsection:

"(c) COUNCIL FOR TECHNOLOGY AND INNOVATION.—

"(1) ESTABLISHMENT.—The Secretary shall establish a Council for Technology and Innovation within the Centers for Medicare & Medicaid Services (in this section referred to as 'CMS').

"(2) COMPOSITION.—The Council shall be composed of senior CMS staff and clinicians and shall be chaired by the Executive Coordinator for Technology and Innovation (appointed or designated under paragraph (4)).

"(3) DUTIES.—The Council shall coordinate the activities of coverage, coding, and payment processes under this title with respect to new technologies and procedures, including new drug therapies, and shall coordinate the exchange of information on new technologies between CMS and other entities that make similar decisions.

"(4) EXECUTIVE COORDINATOR FOR TECHNOLOGY AND INNOVATION.—The Secretary shall appoint (or designate) a noncareer appointee (as defined in section 3132(a)(7) of title 5, United States Code) who shall serve as the Executive Coordinator for Technology and Innovation. Such executive coordinator shall report to the Administrator of CMS, shall chair the Council, shall oversee the execution of its duties, and shall serve as a single point of contact for outside groups and entities regarding the coverage, coding, and payment processes under this title.".

(c) GAO STUDY ON IMPROVEMENTS IN EXTERNAL DATA COLLECTION FOR USE IN THE MEDICARE INPATIENT PAYMENT SYSTEM.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study that analyzes which external data can be collected in a shorter time frame by the Centers for Medicare & Medicaid Services for use in computing payments for inpatient hospital services. The study may include an evaluation of the feasibility and appropriateness of using of quarterly samples or special surveys or any other methods. The study shall include an analysis of whether other executive agencies, such as the Bureau of Labor Statistics in the Department of Commerce, are best suited to collect this information.

(2) REPORT.—By not later than October 1, 2002, the Comptroller General shall submit a report to Congress on the study under paragraph (1).

(d) IOM STUDY ON LOCAL COVERAGE DETERMINATIONS.—

(1) STUDY.—The Secretary shall enter into an arrangement with the Institute of Medicine of the National Academy of Sciences under which the Institute shall conduct a study on local coverage determinations (including the application of local medical review policies) under the medicare program under title XVIII of the Social Security Act. Such study shall examine—

(A) the consistency of the definitions used in such determinations;

(B) the types of evidence on which such determinations are based, including medical and scientific evidence;

(C) the advantages and disadvantages of local coverage decisionmaking, including the flexibility it offers for ensuring timely patient access to new medical technology for which data are still be collected;

(D) the manner in which the local coverage determination process is used to develop data needed for a national coverage determination, including the need for collection of such data within a protocol and informed consent by individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both; and

(E) the advantages and disadvantages of maintaining local medicare contractor advisory committees that can advise on local coverage decisions based on an open, collaborative public process.

(2) REPORT.—Such arrangement shall provide that the Institute shall submit to the Secretary a report on such study by not later than 3 years after the date of the enactment of this Act. The Secretary shall promptly transmit a copy of such report to Congress.

(e) METHODS FOR DETERMINING PAYMENT BASIS FOR NEW LAB TESTS.—Section 1833(h) (42 U.S.C. 1395l(h)) is amended by adding at the end the following:

"(8)(A) The Secretary shall establish by regulation procedures for determining the basis for, and amount of, payment under this subsection for any clinical diagnostic laboratory test with respect to which a new or substantially revised HCPCS code is assigned on or after January 1, 2003 (in this paragraph referred to as 'new tests').

"(B) Determinations under subparagraph (A) shall be made only after the Secretary—

"(i) makes available to the public (through an Internet site and other appropriate mechanisms) a list that includes any such test for which establishment of a payment amount under this subsection is being considered for a year;

"(ii) on the same day such list is made available, causes to have published in the Federal Register notice of a meeting to receive comments and recommendations (and data on which recommendations are based) from the public on the appropriate basis under this subsection for establishing payment amounts for the tests on such list;

"(iii) not less than 30 days after publication of such notice convenes a meeting, that includes representatives of officials of the Centers for Medicare & Medicaid Services involved in determining payment amounts, to receive such comments and recommendations (and data on which the recommendations are based);

"(iv) taking into account the comments and recommendations (and accompanying data) received at such meeting, develops and makes available to the public (through an Internet site and other appropriate mechanisms) a list of proposed determinations with respect to the appropriate basis for establishing a payment amount under this subsection for each such code, together with an explanation of the reasons for each such determination, the data on which the determinations are based, and a request for public written comments on the proposed determination; and

"(v) taking into account the comments received during the public comment period, develops and makes available to the public (through an Internet site and other appropriate mechanisms) a list of final determinations of the payment amounts for such tests under this subsection, together with the rationale for each such determination, the data on which the determinations are based, and responses to comments and suggestions received from the public.

"(C) Under the procedures established pursuant to subparagraph (A), the Secretary shall—

"(i) set forth the criteria for making determinations under subparagraph (A); and

"(ii) make available to the public the data (other than proprietary data) considered in making such determinations.

"(D) The Secretary may convene such further public meetings to receive public comments on payment amounts for new tests under this subsection as the Secretary deems appropriate.

"(E) For purposes of this paragraph:

"(i) The term 'HCPCS' refers to the Health Care Procedure Coding System.

"(ii) A code shall be considered to be 'substantially revised' if there is a substantive change to the definition of the test or procedure to which the code applies (such as a new analyte or a new methodology for measuring an existing analyte-specific test).".

SEC. 503. TREATMENT OF HOSPITALS FOR CERTAIN SERVICES UNDER MEDICARE SECONDARY PAYOR (MSP) PROVISIONS.

(a) IN GENERAL.—The Secretary shall not require a hospital (including a critical access hospital) to ask questions (or obtain information) relating to the application of section 1862(b) of the Social Security Act (relating to medicare secondary payor provisions) in the case of reference laboratory services described in subsection (b), if the Secretary does not impose such requirement in the case of such services furnished by an independent laboratory.

(b) REFERENCE LABORATORY SERVICES DESCRIBED.—Reference laboratory services described in this subsection are clinical laboratory diagnostic tests (or the interpretation of such tests, or both) furnished without a face-to-face encounter between the individual entitled to benefits under part A or enrolled under part B, or both, and the hospital involved and in which the hospital submits a claim only for such test or interpretation.

SEC. 504. EMTALA IMPROVEMENTS.

(a) PAYMENT FOR EMTALA-MANDATED SCREENING AND STABILIZATION SERVICES.—

(1) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended by inserting after subsection (c) the following new subsection:

"(d) For purposes of subsection (a)(1)(A), in the case of any item or service that is required to be provided pursuant to section 1867 to an individual who is entitled to benefits under this title, determinations as to whether the item or service is reasonable and necessary shall be made on the basis of the information available to the treating physician or practitioner (including the patient's presenting symptoms or complaint) at the time the item or service was ordered or furnished by the physician or practitioner (and not on the patient's principal diagnosis). When making such determinations with respect to such an item or service, the Secretary shall not consider the frequency with which the item or service was provided to the patient before or after the time of the admission or visit.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items and services furnished on or after January 1, 2002.

(b) NOTIFICATION OF PROVIDERS WHEN EMTALA INVESTIGATION CLOSED.—Section 1867(d) (42 U.S.C. 42 U.S.C. 1395dd(d)) is amended by adding at the end the following new paragraph:

"(4) NOTICE UPON CLOSING AN INVESTIGATION.—The Secretary shall establish a procedure to notify hospitals and physicians when an investigation under this section is closed.".

(c) PRIOR REVIEW BY PEER REVIEW ORGANIZATIONS IN EMTALA CASES INVOLVING TERMINATION OF PARTICIPATION.—

(1) IN GENERAL.—Section 1867(d)(3) (42 U.S.C. 1395dd(d)(3)) is amended—

(A) in the first sentence, by inserting "or in terminating a hospital's participation under this title" after "in imposing sanctions under paragraph (1)"; and

(B) by adding at the end the following new sentences: "Except in the case in which a delay would jeopardize the health or safety of individuals, the Secretary shall also request such a review before making a compliance determination as part of the process of terminating a hospital's participation under this title for violations related to the appropriateness of a medical screening examination, stabilizing treatment, or an appropriate transfer as required by this section, and shall provide a period of 5 days for such review. The Secretary shall provide a copy of the report on the organization's report to the hospital or physician consistent with confidentiality requirements imposed on the organization under such part B.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to terminations of participation initiated on or after the date of the enactment of this Act.

SEC. 505. EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT (EMTALA) TECHNICAL ADVISORY GROUP.

(a) ESTABLISHMENT.—The Secretary shall establish a Technical Advisory Group (in this section referred to as the "Advisory Group") to review issues related to the Emergency Medical Treatment and Active Labor Act (EMTALA) and its implementation. In this section, the term "EMTALA" refers to the provisions of section 1867 of the Social Security Act (42 U.S.C. 1395dd).

(b) MEMBERSHIP.—The Advisory Group shall be composed of 19 members, including the Administrator of the Centers for Medicare & Medicaid Services and the Inspector General of the Department of Health and Human Services and of which—

(1) 4 shall be representatives of hospitals, including at least one public hospital, that have experience with the application of EMTALA and at least 2 of which have not been cited for EMTALA violations;

(2) 7 shall be practicing physicians drawn from the fields of emergency medicine, cardiology or cardiothoracic surgery, orthopedic surgery, neurosurgery, pediatrics or a pediatric subspecialty, obstetrics-gynecology, and psychiatry, with not more than one physician from any particular field;

(3) 2 shall represent patients;

(4) 2 shall be staff involved in EMTALA investigations from different regional offices of the Centers for Medicare & Medicaid Services; and

(5) 1 shall be from a State survey office involved in EMTALA investigations and 1 shall be from a peer review organization, both of whom shall be from areas other than the regions represented under paragraph (4).

In selecting members described in paragraphs (1) through (3), the Secretary shall consider qualified individuals nominated by organizations representing providers and patients.

(c) GENERAL RESPONSIBILITIES.—The Advisory Group—

(1) shall review EMTALA regulations;

(2) may provide advice and recommendations to the Secretary with respect to those regulations and their application to hospitals and physicians;

(3) shall solicit comments and recommendations from hospitals, physicians, and the public regarding the implementation of such regulations; and

(4) may disseminate information on the application of such regulations to hospitals, physicians, and the public.

(d) ADMINISTRATIVE MATTERS.—

(1) CHAIRPERSON.—The members of the Advisory Group shall elect a member to serve as chairperson of the Advisory Group for the life of the Advisory Group.

(2) MEETINGS.—The Advisory Group shall first meet at the direction of the Secretary. The Advisory Group shall then meet twice per year and at such other times as the Advisory Group may provide.

(e) TERMINATION.—The Advisory Group shall terminate 30 months after the date of its first meeting.

(f) WAIVER OF ADMINISTRATIVE LIMITATION.—The Secretary shall establish the Advisory Group notwithstanding any limitation that may apply to the number of advisory committees that may be established (within the Department of Health and Human Services or otherwise).

SEC. 506. AUTHORIZING USE OF ARRANGEMENTS WITH OTHER HOSPICE PROGRAMS TO PROVIDE CORE HOSPICE SERVICES IN CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended by adding at the end the following new subparagraph:

"(D) In extraordinary, exigent, or other non-routine circumstances, such as unanticipated periods of high patient loads, staffing shortages due to illness or other events, or temporary travel of a patient outside a hospice program's service area, a hospice program may enter into arrangements with another hospice program for the provision by that other program of services described in paragraph (2)(A)(ii)(I). The provisions of paragraph (2)(A)(ii)(II) shall apply with respect to the services provided under such arrangements.".

(b) CONFORMING PAYMENT PROVISION.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

"(4) In the case of hospice care provided by a hospice program under arrangements under section 1861(dd)(5)(D) made by another hospice program, the hospice program that made the arrangements shall bill and be paid for the hospice care.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to hospice care provided on or after the date of the enactment of this Act.

SEC. 507. APPLICATION OF OSHA BLOODBORNE PATHOGENS STANDARD TO CERTAIN HOSPITALS.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (R), by striking "and" at the end;

(B) in subparagraph (S), by striking the period at the end and inserting ", and"; and

(C) by inserting after subparagraph (S) the following new subparagraph:

"(T) in the case of hospitals that are not otherwise subject to the Occupational Safety and Health Act of 1970, to comply with the Bloodborne Pathogens standard under section 1910.1030 of title 29 of the Code of Federal Regulations (or as subsequently redesignated)."; and

(B) by adding at the end of subsection (b) the following new paragraph:

"(4)(A) A hospital that fails to comply with the requirement of subsection (a)(1)(T) (relating to the Bloodborne Pathogens standard) is subject to a civil money penalty in an amount described in subparagraph (B), but is not subject to termination of an agreement under this section.

"(B) The amount referred to in subparagraph (A) is an amount that is similar to the amount of civil penalties that may be imposed under section 17 of the Occupational Safety and Health Act of 1970 for a violation of the Bloodborne Pathogens standard referred to in subsection (a)(1)(T) by a hospital that is subject to the provisions of such Act.

"(C) A civil money penalty under this paragraph shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.".

(b) EFFECTIVE DATE.—The amendments made by this subsection (a) shall apply to hospitals as of July 1, 2002.

SEC. 508. ONE-YEAR DELAY IN LOCK IN PROCEDURES FOR MEDICARE+CHOICE PLANS; CHANGE IN MEDICARE+CHOICE REPORTING DEADLINES AND ANNUAL, COORDINATED ELECTION PERIOD FOR 2002.

(a) LOCK-IN DELAY.—Section 1851(e) (42 U.S.C. 1395w–21(e)) is amended—

(1) in paragraph (2)(A), by striking "THROUGH 2001" and "and 2001" and inserting "THROUGH 2002" and "2001, and 2002", respectively;

(2) in paragraph (2)(B), by striking "DURING 2002" and inserting "DURING 2003";

(3) in paragraphs (2)(B)(i) and (2)(C)(i), by striking "2002" and inserting "2003" each place it appears;

(4) in paragraph (2)(D), by striking "2001" and inserting "2002"; and

(5) in paragraph (4), by striking "2002" and inserting "2003" each place it appears.

(b) CHANGE IN DEADLINES AND ELECTION PERIOD.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) the deadline for submittal of information under section 1854(a)(1) of the Social Security Act (42 U.S.C. 1395w–24(a)(1)) for 2002 is changed from July 1, 2002, to the third Monday in September of 2002; and

(B) the annual, coordinated election period under section 1851(e)(3)(B) of such Act (42 U.S.C. 1395w–21(e)(3)(B)) with respect to 2003 shall be the period beginning on November 15, 2002, and ending on December 31, 2002.

(2) GAO STUDY ON IMPACT OF CHANGE ON BENEFICIARIES AND PLANS.—The Comptroller General of the United States shall conduct a review of the Medicare+Choice open enrollment process that occurred during 2001, including the offering of Medicare+Choice plans for 2002. By not later than May 31, 2002, the Comptroller General shall submit a report to Congress and the Secretary on such review. Such report shall include the following:

(A) An analysis of the effect of allowing additional time for the submittal of adjusted community rates and other data on the extent of participation of Medicare+Choice organizations and on the benefits offered under Medicare+Choice plans.

(B) An evaluation of the plan-specific information provided to beneficiaries, the timeliness of the receipt of such information, the adequacy of the duration of the open enrollment period, and relevant operational issues that arise as a result of the timing and duration of the open enrollment period, including any problems related to the provision services immediately following enrollment.

(C) The results of surveys of beneficiaries and Medicare+Choice organizations.

(D) Such recommendations regarding the appropriateness of the changes provided under paragraph (1) as the Comptroller General finds appropriate.

SEC. 509. BIPA-RELATED TECHNICAL AMENDMENTS AND CORRECTIONS.

(a) TECHNICAL AMENDMENTS RELATING TO ADVISORY COMMITTEE UNDER BIPA SECTION 522.—(1) Subsection (i) of section 1114 (42 U.S.C. 1314)—

(A) is transferred to section 1862 and added at the end of such section; and

(B) is redesignated as subsection (j).

(2) Section 1862 (42 U.S.C. 1395y) is amended—

(A) in the last sentence of subsection (a), by striking "established under section 1114(f)"; and

(B) in subsection (j), as so transferred and redesignated—

(i) by striking "under subsection (f)"; and

(ii) by striking "section 1862(a)(1)" and inserting "subsection (a)(1)".

(b) TERMINOLOGY CORRECTIONS.—(1) Section 1869(c)(3)(I)(ii) (42 U.S.C. 1395ff(c)(3)(I)(ii)), as amended by section 521 of BIPA, is amended—

(A) in subclause (III), by striking "policy" and inserting "determination"; and

(B) in subclause (IV), by striking "medical review —policies" and inserting "coverage determinations".

(2) Section 1852(a)(2)(C) (42 U.S.C. 1395w–22(a)(2)(C)) is amended by striking "policy" and "POLICY" and inserting "determination" each place it appears and "DETERMINATION", respectively.

(c) REFERENCE CORRECTIONS.—Section 1869(f)(4) (42 U.S.C. 1395ff(f)(4)), as added by section 522 of BIPA, is amended—

(1) in subparagraph (A)(iv), by striking "subclause -(I), (II), or (III)" and inserting "clause (i), (ii), or (iii)";

(2) in subparagraph (B), by striking "clause (i)(IV)" -and "clause (i)(III)" and inserting "subparagraph (A)(iv)" and "subparagraph (A)(iii)", respectively; and

(3) in subparagraph (C), by striking "clause (i)", "subclause (IV)" and "subparagraph (A)" and inserting "subparagraph (A)", "clause (iv)" and "paragraph (1)(A)", respectively each place it appears.

(d) OTHER CORRECTIONS.—Effective as if included in the enactment of section 521(c) of BIPA, section 1154(e) (42 U.S.C. 1320c–3(e)) is amended by striking paragraph (5).

(e) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall be effective as if included in the enactment of BIPA.

SEC. 510. CONFORMING AUTHORITY TO WAIVE A PROGRAM EXCLUSION.

The first sentence of section 1128(c)(3)(B) (42 U.S.C. 1320a–7(c)(3)(B)) is amended to read as follows: "Subject to subparagraph (G), in the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than five years, except that, upon the request of the administrator of a Federal health care program (as defined in section 1128B(f)) who determines that the exclusion would impose a hardship on individuals entitled to benefits under part A of title XVIII or enrolled under part B of such title, or both, the Secretary may waive the exclusion under subsection (a)(1), (a)(3), or (a)(4) with respect to that program in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community.".

SEC. 511. TREATMENT OF CERTAIN DENTAL CLAIMS.

(a) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended by inserting after subsection (c) the following new subsection:

"(d)(1) Subject to paragraph (2), a group health plan (as defined in subsection (a)(1)(A)(v)) providing supplemental or secondary coverage to individuals also entitled to services under this title shall not require a medicare claims determination under this title for dental benefits specifically excluded under subsection (a)(12) as a condition of making a claims determination for such benefits under the group health plan.

"(2) A group health plan may require a claims determination under this title in cases involving or appearing to involve inpatient dental hospital services or dental services expressly covered under this title pursuant to actions taken by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 60 days after the date of the enactment of this Act.

SEC. 512. MISCELLANEOUS REPORTS, STUDIES, AND PUBLICATION REQUIREMENTS.

(a) GAO REPORTS ON THE PHYSICIAN COMPENSATION.—

(1) SUSTAINABLE GROWTH RATE AND UPDATES.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the appropriateness of the updates in the conversion factor under subsection (d)(3) of section 1848 of the Social Security Act (42 U.S.C. 1395w–4), including the appropriateness of the sustainable growth rate formula under subsection (f) of such section for 2002 and succeeding years. Such report shall examine the stability and predictability of such updates and rate and alternatives for the use of such rate in the updates.

(2) PHYSICIAN COMPENSATION GENERALLY.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on all aspects of physician compensation for services furnished under title XVIII of the Social Security Act, and how those aspects interact and the effect on appropriate compensation for physician services. Such report shall review alternatives for the physician fee schedule under section 1848 of such title (42 U.S.C. 1395w–4).

(b) PROMPT SUBMISSION OF OVERDUE REPORTS ON PAYMENT AND UTILIZATION OF OUTPATIENT THERAPY SERVICES.—The Secretary shall submit to Congress as expeditiously as practicable the reports required under section 4541(d)(2) of the Balanced Budget Act of 1997 (relating to alternatives to a single annual dollar cap on outpatient therapy) and under section 221(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (relating to utilization patterns for outpatient therapy).

(c) ANNUAL PUBLICATION OF LIST OF NATIONAL COVERAGE DETERMINATIONS.—The Secretary shall provide, in an appropriate annual publication available to the public, a list of national coverage determinations made under title XVIII of the Social Security Act in the previous year and information on how to get more information with respect to such determinations.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from California (Mr. STARK) each will control 20 minutes.

The Chair recognizes the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 10 minutes to the gentleman from Louisiana (Mr. TAUZIN), and I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Secretary Thompson said about Medicare, "Complexity is over the system, criminalizing honest mistakes, and driving doctors, nurses, and other health care professionals out of the program."

I agree.

Medicare and Medicaid are governed by 132,000 pages of regulations. That is 3 times the IRS Code and its regulations and the result is exactly as the Secretary described.

Memorial Hospital in Gonzales, Texas has 33 beds and 20 billing staff. Northwestern Memorial Hospital in

Chicago just hired 26 new full-time employees to meet new regulatory requirements.

At a time when we need Medicare dollars for more nursing care, prescription drugs, annual physicals, and new systems to help seniors manage multiple chronic illnesses, we cannot in good conscience ignore the costly administrative burdens and the multitude of injustices being heaped on Medicare doctors, hospitals, home health care providers, nursing homes, and other providers by a literal explosion of complex law, regulation directives, and paperwork.

To address what I consider to be a crisis endangering the ability of small providers and many doctors to continue to serve our Nation's seniors, last January my subcommittee began taking a hard look at provider complaints. Today we bring to you a bipartisan bill to address the severe problems that have developed in Medicare.

The bill before us does many radical things. It disciplines the regulatory process so regulations will be issued through a predictable and timely process, with provider input before proposed regulations are made public.

Another radical thing it does, it stops, it prohibits government from imposing regulations retroactively. There will be no more changing the rules of the game and then punishing providers for noncompliance. It prohibits, read that "stops," government from imposing sanctions and demanding repayment if they provided care to seniors in compliance with written guidance from the government. It speeds up the process Medicare uses to set payments for new diagnostic and treatment technologies by creating a Council of Technology and Innovation. It requires a simple process to correct technical error, relieving our caregivers of all the paperwork and severe cash flow problems that result from the laborious appeals process, a killer of small providers.

Radically, we require through this bill that the people who process payments for Medicare services answer questions accurately. GAO found that these contractors answered only 15 percent of routine questions accurately, and, worse yet, 32 percent of provider questions were answered completely inaccurately.

By setting performance standards in competitive contracting, Medicare can assure better-quality provider support services.

Under this bill, doctors get fairer treatment when audited for billing inaccuracy. They will get explanations, the right to discuss coding differences, and written explanations when differences remain. This should stop the arbitrary decisions that result in tens of thousands of dollars of unjust fines.

When a physician who is responsible for running the Medicare program tells me she cannot tell the difference between a comprehensive physical and a detailed physical, two entirely different levels of care for billing purposes, should we be surprised that doctors who make coding errors are frustrated and angered by Medicare's arbitrary, confrontational audits by nonmedical people and its complex, irrational documentation requirements?

□ 1700

I am proud that this is a bipartisan bill. It has been developed with the study and input of every member of the Ways and Means Subcommittee on Health, and then the follow-on input of the Committee on Energy and Commerce, Republicans and Democrats, as well as the administration and the Inspector General.

I want to especially thank John McManus, Jennifer Baxendell, Deborah Williams, Joel White, Cybele Bjorklund and Carl Taylor, our Republican and Democratic staff members of the Committee on Ways and Means, because this has been an incredibly time-consuming, work-intensive bill. Without their endless attention to detail and thoughtful, sound judgments, it would not be before us today.

Please support H.R. 3391. It is a giant step toward a stronger Medicare program.

THANK YOUS ON H.R. 3391

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DEPT. OF HEALTH AND HUMAN SERVICES

Staff.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I ask unanimous consent that at the conclusion of 10 minutes of my time that 10 minutes be yielded to the gentleman from Ohio (Mr. BROWN) for the purposes of control.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

The bill we are moving today embodies basically the way Congress used to work, with the majority and minority working together to enact improvements to the Medicare program. On this bill, the Medicare Regulatory and Contracting Reform Act, both sides have worked closely with the administration, with providers, consumers groups and others. It has been a bipartisan, consultative process as it should be.

In addition, Mr. Speaker, I think it is important to acknowledge the outstanding leadership and hard work of the gentlewoman from Nevada (Ms. BERKLEY). She brought this matter to the attention of Congress and has shepherded it along the way and has been an invaluable help in seeing this legislation be completed.

The legislation contains important beneficiary provisions which I think are important to emphasize. We have established a beneficiary ombudsman program that will provide a voice for beneficiaries within the Centers for Medicare and Medicaid Services, now CMS, I still want to call it HCFA, but will enable that agency to better respond to and anticipate beneficiary needs. As every Member knows, Members must now help Medicare beneficiaries with their casework because no office really exists within CMS to help the beneficiaries.

We have also established a single national toll free telephone number, 1-800-MEDICARE, I hope it answers, for the beneficiaries to call with their questions; and this single telephone number will replace the many pages of telephone numbers that beneficiaries now must sort through in the Medicare handbook to find the correct place to call with their questions.

I am particularly pleased that a demonstration program will place Medicare staff in Social Security field offices to answer beneficiary questions and provide assistance on Medicare issues. Beneficiaries are accustomed to going to Social Security offices, as indeed are the caseworkers in our local offices, for help and assistance in these programs. This will help by having Medicare assistance for them in these same offices.

I would also like to suggest accolades for the gentleman from Pennsylvania (Mr. ENGLISH), who has worked with me on a bill to protect nurses and other health care workers from needle stick injuries by requiring the use of safe needle technology in public hospitals, as well as has been required by those hospitals under OSHA supervision. We have been working on this issue for years, and we have made significant progress; and this legislation completes those efforts, and this provision in the bill will save lives. It is an important component of the bill.

Importantly, this bill delays for a year the requirement in law that would begin in 2002 to lock beneficiaries into the Medicare+Choice plans, and under this legislation beneficiaries would continue to be able to enroll in and disenroll from these plans throughout the year. I would strongly prefer to repeal the lock-in altogether, but I believe a 1-year delay is a good start.

Finally, the bill takes long overdue steps to fundamentally reform Medicare's contracting system. We have worked on this for years. I am confident under this new system we can get a better deal for our government and still maintain quality service and performance goals for the beneficiary.

This will place additional administrative burdens on CMS; and as we discussed earlier today with the gentleman from Ohio (Mr. HOBSON) and others, we will continue to see that Labor HHS appropriation bills provide modest increases in administrative resources for CMS to complete this work.

I guess that said, Mr. Speaker, I have to add that I think it is somewhat disgraceful that this ends up being our really only Medicare legislation this year. We started the 107th Congress with a record budget surplus and the ability to easily enact and pay for comprehensive, affordable prescription drug coverage and other significant improvements through all Medicare beneficiaries, in addition to funding other key national priorities in education and other social areas.

The surplus, instead, was squandered on excessive tax breaks for the wealthy, and it is now clear that the Bush recession that began last spring and the Republican tax package have sealed the deal. Our legislative record at the end of the first session of the 107th Congress is a tribute to misplaced priorities.

I look forward to changing that and working with my colleagues as we have on this bill on the Subcommittee on Health to see if in the next session of Congress we can reverse this course and improve the Medicare system as it has long been set aside from doing.

Mr. Speaker, I reserve the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is my privilege to yield 1½ minutes to the gentlewoman from Washington (Ms. DUNN), a hardworking member of our subcommittee.

Ms. DUNN. Mr. Speaker, I rise in support of this bill to provide regulatory relief to doctors throughout the Nation. I want to thank the gentleman from California (Mr. THOMAS) for being involved in developing this legislation; but I want to give special kudos to the gentlewoman from Connecticut (Mrs. JOHNSON), the subcommittee chairman, and the gentleman from California (Mr. STARK), her ranking member, because they worked together. This is bipartisan and we are very pleased with the result of our work. It will cost nothing, but it does true regulatory reform.

I also want to thank my colleagues, the gentleman from Maryland (Mr. EHRLICH) and the gentleman from Washington (Mr. McDERMOTT), for working with me to ensure that in this bill our seniors have access to the latest clinical laboratory tests.

I am very pleased that this regulatory relief bill creates a transparent, timely and public process at CMS to evaluate and to incorporate new technologies into the Medicare program. This is a critical step in ensuring that doctors have every tool available to assist our seniors.

Medical innovations are moving too fast to wait for Medicare's coverage and payments. This is especially true for new laboratory tests, a field that has been rapidly advancing in innovations exponentially.

The quality of our health care system here in the United States depends on our ability to prevent, diagnose, and treat illnesses and diseases. Support this legislation so that our Nation's seniors will be able to access breakthrough tests that can help save their lives.

Mr. STARK. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Nevada (Ms. BERKLEY), who is one of the originators of this legislation.

Ms. BERKLEY. Mr. Speaker, I rise today in strong support of H.R. 3391, to provide long-awaited Medicare regulatory relief to health care providers. I would like to particularly thank my colleagues who have worked so hard to make this piece of legislation a reality, the gentlewoman from Connecticut (Mrs. JOHNSON); the gentleman from California (Mr. STARK), especially for his very generous praise, I appreciate that; the gentleman from Ohio (Mr. BROWN); the gentleman from Florida (Mr. BILIRAKIS); the gentleman from New York (Mr. RANGEL); the gentleman from California (Mr. THOMAS); the gentleman from Louisiana (Mr. TAUZIN); and the gentleman from Michigan (Mr. DINGELL) for their hard work on this legislation. I would especially like to thank the gentleman from Pennsylvania (Mr. TOOMEY) for his leadership on this issue.

I became involved with this legislation when doctor after doctor in the Las Vegas area came to me with horror stories of how they had been treated by HCFA and how it had inhibited their ability to care for their patients. The cornerstone of health care in this country is the doctor-patient relationship, and many of us have fought consistently to maintain the integrity of this fundamental and very personal relationship.

Over the years, excessive paperwork and overburdensome government regulation have interfered with that relationship. This legislation will help cut red tape and bureaucratic excesses so doctors can spend more time with their patients and less time on paperwork.

Reform is important to the doctors, important to our seniors, and vital to the health of Medicare. While this bill, as the gentleman from California (Mr. STARK) says, does not include everything I had hoped for, it is a very significant step in the right direction. I am proud that my name is associated with this bill, and I urge all of my colleagues to support it.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentlewoman from Nevada (Ms. BERKLEY) and the gentleman from Pennsylvania (Mr. TOOMEY), who is going to speak later, for their hard work on behalf of physicians, most of which is reflected in this legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 3391. This legislation makes extensive changes and modifications in the regulatory and contracting systems within Medicare, and I commend the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from California (Mr. STARK) for their work on this measure.

Along with many of our colleagues, I have heard in recent years that increasing drumbeat of criticism, from health care providers and patients in my own district, over a cumbersome Medicare system that was slow to adapt to rapid changes in health care, cumbersome in its management of existing benefits, and required far too much time spent in processing paperwork for claims reimbursements.

Moreover, there is also a widespread perception that the Centers for Medicare and Medicaid Services, formerly known as HCFA, has in the past issued new regulations in an arbitrary and capricious manner, with little regard for the interests and situations of those health care providers who would be impacted by a regulatory change. The fact that many of these changes came without sufficient accompanying explanations further exacerbated problems for providers and patients who often have difficulty divining the arcane and often confusing world of Medicare regulations.

There is also the issue of the Medicare contracting program which, in this age of open government, remains a closed system. This has fostered inefficiency and prevented the Medicare contracting program from keeping up with rapid developments in the delivery of health care in the private sector.

H.R. 3391 is a bipartisan solution to address these problems and to serve as the first step in modernizing overhaul of the Medicare system, which streamlines the regulatory process, reforms the contracting system to make it more open and accountable, expanding outreach and education to better inform both providers and patients of their rights and responsibilities, and makes important improvements to the appeals and recovery process.

Mr. Speaker, Medicare, along with the Social Security system, represents the most popular and successful program for seniors ever enacted. This bill will ensure the continued success of the system by making it easier for Medicare health care providers to operate within the system, as well as to offer relief through the reduction of paperwork burdens.

This measure will both reform the Medicare system and improve confidence in its future on the part of both providers and patients. Accordingly, I urge my colleagues to fully join in supporting this measure.

Mr. STARK. Mr. Speaker, I am pleased to yield 2½ minutes to the gentlewoman from Florida (Mrs. THURMAN), who has worked diligently on this legislation in behalf of all the seniors, most of whom I think reside in her district in Florida, but for all of the rest of us seniors who do not.

Mrs. THURMAN. Mr. Speaker, I want to thank the gentleman from California (Mr. STARK) for yielding me this time and those nice remarks, but I also want to thank the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN). Without their diligence and all of the committees working together, this piece of legislation would not have been brought forward to this floor.

People sometimes do not realize how complicated Medicare can be at times; and when one is trying to balance beneficiaries and the doctors and the contractors, sometimes we have to work through some very difficult situations.

I will tell my colleagues that in talking with my doctors in the fifth district, one of the things that I heard over and over again was the sheer volume and complexity of the Medicare regulations and what it has meant to them. Most of what it means to them is they do not have the time to spend with their patients because they are spending so much time on the complexities.

Another issue that I think is very important about this is that these doctors also tell me, in talking with their staffs and their offices, that their administrative expenses can represent as much as 25 percent of their cost. That means, again, the cost to Medicare and the dollars that we have available is not being spent on the patient, but on administrative costs. So hiring an extra person, doing something more for the patient can sometimes cause a problem.

In seeing that in this piece of legislation, one of the things that we fought very hard for and I think is going to be a wonderful opportunity for us to look at in the future is the demonstration program that we provided to on-site technical assistance for doctors to help with the complexity of Medicare coding.

□ 1715

We heard an awful lot about that. So this was an issue we thought put them on site, they get the opportunity to really sit down with folks and figure out where their problems might be.

Then I also want to thank the gentleman from Minnesota (Mr. RAMSTAD) for his leadership on a piece of legislation that he and I introduced for a couple of years in a row dealing with technology. And so what we have done in this bill is we have actually set up a Council for Technology and Innovation within CMS. This council will have an executive coordinator who acts as a single point of contact between CMS and outside entities to help explain coverage, coding, and payment questions about new and innovative technologies.

We are all very proud of what happens in this country with innovation. So I would just like to take this opportunity to thank all, and our staffs, that were involved in this, and ask for my colleagues' support for this bill.

Mr. STARK. Mr. Speaker, I yield back the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I conclude by thanking the gentleman from California for his cooperation throughout this long process, and our joint efforts, and also his staff, as I did earlier. They have worked very, very long hours on this.

And I would like to say that this bill is only the beginning of strengthening Medicare. The administration is organizing task forces with real-world providers on them to rethink the most time consuming forms that health care providers have to fill out. If we can collect only the data we need, streamline and simplify billing systems and administrative processes, we can literally free millions of hours of caregiver time for the benefit of our seniors. It will take the leadership of Secretary Thompson and Administrator Scully, and it will take long hearings and attention to detail next year and the year after, working together, our committee and the Committee on Energy and Commerce.

Together, we can make Medicare a model of smart, responsive government and reverse the belief expressed by so many in our hearings, but summed up by a doctor who said, "Medicare has lost a sense of fairness, due process and common sense." We intend to restore those qualities to the most beloved and important program in our Nation not just for seniors but for their children and grandchildren as well.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume, and I rise today in strong support of H.R. 3391, the Medicare Regulatory Contracting Reform Act of 2001.

The bill captures the best of two bills. The legislation reported out of the Committee on Ways and Means, and H.R. 3046, the Medicare RACER Act, which was reported from the Committee on Energy and Commerce. It represents the diligent work of the many Members of Congress to make the Medicare program more flexible and less bureaucratic. It is also a shining example of what can be achieved when we have true bipartisan cooperation.

Earlier this year, the Committee on Energy and Commerce began a project we called "patients first." The idea was indeed to try to see if we could not reform the regulations and the burdens at CMS to indeed put patients first; to make sure that physicians and health care providers, who are forced to spend too much time filling out forms and trying to learn the rules of the road and the changing rules of the road, might in fact get some relief.

Our committee held a number of hearings and we disseminated surveys to elicit input from beneficiaries and health care providers about the complexities of the Medicare program and its rules. We also brought together beneficiary groups, provider associations, and government officials to talk about regulatory relief.

Because of the leadership particularly of the gentleman from Pennsylvania (Mr. TOOMEY) and the gentlewoman from Nevada (Ms. BERKLEY), we are standing here today with an opportunity to vote on legislation that will enable doctors to spend more of their time caring for patients, putting patients first, and putting in less time completing paperwork for the government and bureaucrats.

The Toomey-Berkley Medicare RACER Act was successfully reported from the Subcommittee on Health, thanks to the dedication and commitment of the chairman, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Georgia (Mr. NORWOOD). It was also successfully reported out of the full Committee on Energy and Commerce. It requires contractors to provide general written responses to written inquiries from beneficiaries and health care providers within 45 business days, and it requires Medicare contractors to notify health care providers of problems that have been identified in a probe sample, and to alert providers as to the steps they should take to resolve the problems.

Each of these improvements is significant and each of them has been included in the bill we are about to vote on today. And I wish to thank my colleagues from the Committee on Ways and Means for working so well with the gentleman from Florida (Mr. BILIRAKIS), the gentleman from Ohio (Mr.

BROWN), the gentleman from Michigan (Mr. DINGELL), and myself to consolidate the work of our two committees. Lord knows, we need to thank the staff who put in hours and hours and hours, late nights and weekends, to bring all this together.

We worked to strike an appropriate balance between the need for regulatory relief and the government's obligation to protect taxpayer funds from waste, fraud, and abuse. This captures the hard work of both committees. It has broad support with the beneficiary groups, the health care community and, by the way, the administration.

I urge my colleagues to join us in full support of the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to join my colleagues both on the Committee on Ways and Means and the Committee on Energy and Commerce in support of H.R. 3391. I want to thank my colleagues, the gentleman from Pennsylvania (Mr. TOOMEY) and the gentlewoman from Nevada (Ms. BERKLEY) for taking on this daunting task. In a resource-limited environment, they were determined to identify reforms in Medicare operations that serve the best interests of beneficiaries and respond to a host of legitimate issues raised by providers, while making sure to in no way compromise the program's efforts to fight fraud, waste and abuse. It is a tall order and the gentleman from Pennsylvania and the gentlewoman from Nevada did an excellent job.

This bipartisan legislation was a collective effort, to say the least. It was written and rewritten and rewritten with the input of the health care community, consumer advocates, the committees of jurisdiction, and the administration. It took months, it took difficult compromises, but the final product will make a tangible, positive difference for beneficiaries and providers alike.

Key provisions of the bill bolster communications between and among the Medicare program and its beneficiaries and providers, improve the Medicare appeals process, and establish new performance standards for Medicare contractors.

No one is well served when providers either cannot get the information they need or coverage policies are unclear, or anti-fraud and abuse measures elicit such mistrust that providers second-guess every treatment decision. This legislation takes those issues seriously and does something about them. Importantly, the bill also provides and improves Medicare responsiveness to its 39 million beneficiaries.

I want to thank my colleagues, the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Florida (Mr. BILIRAKIS), and the gentleman from Michigan (Mr. DINGELL) especially, and staff members Bridgett Taylor, Karen Folk, Amy Hall, and on my staff, Katie Porter and Ellie Dehoney for fighting tooth and nail to ensure this legislation, in effect, keeps our eye on the ball. They made sure the bill contains provisions that relate directly to Medicare's fundamental mission, to make sure seniors and disabled individuals receive the care that they need.

Thanks largely to their resolve and hard work, this legislation ensures that seniors know definitively and up front whether Medicare covers the health care their doctor recommends. Especially for low-income seniors, that is a crucial and overdue change in Medicare rules, and I appreciate the negotiated work that we all could do on that issue.

The Medicare fee-for-service program is the largest insurance program in the United States, serving 36 million Americans, contracting with almost 1 million providers. Recent surveys document what most of us know from speaking with our constituents; that is, an overwhelming majority of Medicare beneficiaries trust in and are very satisfied with their coverage under fee-for-service Medicare.

Americans overwhelmingly oppose Republican efforts to privatize this system, Americans overwhelmingly reject Republican efforts to allow more insurance company intrusion into fee-for-service Medicare, and Americans overwhelmingly want prescription drug coverage, an area where this Congress and the Bush administration have so far failed miserably to achieve. But since that level of trust and satisfaction the people in this country have for Medicare is a fundamental measure of this program's success, changing the Medicare rules was a high-stakes exercise that we, bipartisanly, were able to achieve.

I am confident that the changes encompassed in this bill are in the best interest of beneficiaries, most importantly; also to providers and taxpayers, and I encourage my colleagues to support it.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. BILIRAKIS), the distinguished chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Mr. Speaker, I too rise today in support of patients. The legislation before us is good for patients. By reducing regulatory burdens and easing paperwork requirements, this legislation allows doctors to spend more of their time providing health care and less of their time wading through pages over rules and regulations.

At the beginning of this session, the Committee on Energy and Commerce launched an ambitious bipartisan initiative to reform the Centers for Medicare and Medicaid Services and to put patients first. This initiative became known as the "patients first" project. Much of the legislation before us today stems from the committee's work on this project, which was led by my colleague, the gentleman from Georgia (Mr. NORWOOD). Foundational to this work was the prior work of the gentleman from Pennsylvania (Mr. TOOMEY) and the gentlewoman from Nevada (Ms. BERKLEY).

The bill we will vote on today includes many of the provisions of the Medicare RACER Act, which was favorably reported out of my Subcommittee on Health as well as the full Committee on Energy and Commerce last month. It includes improvements focused on the Emergency Medical Treatment and Labor Act. Also included in the legislation is important language regarding advanced beneficiary notices. This language allows physicians to find out whether a specific physician service they are providing will be covered by Medicare before delivering the care.

Mr. Speaker, I would like to thank all of the staff who put so much time into this legislation, especially Erin Kuhls, Julie Corcoran, Nandan Kenkeremath, Pat Morriset, Anne Esposito, Steve Tilton, Karen Folk, Amy Hall, and, of course, last but not least, Karen Taylor.

H.R. 3391 is good for patients and providers alike, and I encourage my fellow colleagues to vote in favor of this legislation today.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL), the ranking Democrat on the Committee on Energy and Commerce that was here and presided over this House when Medicare was passed in 1965.

Mr. DINGELL. Mr. Speaker, I thank my good friend for yielding me this time, and I rise today to speak in favor of H.R. 3391, the Medicare Regulatory and Contracting Reform Act of 2001. I rise also to praise my colleagues on the committee, the distinguished chairman of the committee, the distinguished chairman of the subcommittee, and my good friend, the gentleman from Ohio, Mr. BROWN and others, including the very fine staffs on both sides of the aisle that worked so hard.

The legislation is a product of bipartisan collaboration between two great committees, the Committee on Energy and Commerce and the Committee on Ways and Means, and also with seniors' groups, providers, and others. This is a bill which is fair. It strikes a balance between addressing the program administration concerns of beneficiaries and providers and ensuring integrity of the program itself.

This legislation makes a number of wise improvements in the Medicare program. It gives the Centers for Medicare and Medicaid Services, CMS, additional flexibility with claims processors. It also strengthens the independent standards for appeals. It entitles the beneficiaries and the reviewers to ensure independent appeals are really independent, are fair, and in fact take place.

I do wish again to commend my friend, the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Florida (Mr. BILIRAKIS), the staff at CMS, as well as my good friend the gentleman from Ohio, for their work on this, and also our friends on the Committee on Ways and Means and the majority and minority staff of both committees for the work they have done.

In addition to strengthening the requirements for organizations that will be reviewing appeals, we have improved upon notices that beneficiaries receive when a service is denied, making this situation more user friendly and understandable to beneficiaries who are most often in their later years. More importantly, we have developed a process where seniors can learn whether or not a particular item and service is covered under Medicare before they are financially committed to that service, something which is not presently the case and which creates immense hardship either by denying benefits or imposing unanticipated costs on senior citizens on fixed and limited incomes.

Currently the only way a senior can find out if Medicare covers an item or a service is to potentially risk thousands of his or her dollars by getting the service and then pray Medicare will pay the claim. Obviously, this is unfair, and many seniors choose not to get a service rather than take a chance that Medicare will not cover it. This legislation fixes this, a situation which is clearly unjust. And while the provision as it stands now is limited only to physician service in order to meet scoring requirements, I hope, and I intend that in the future we will give the beneficiaries this right for all Medicare services.

□ 1730

Mr. Speaker, I urge my colleagues to support the bill. Medicare is the most socially successful and valuable program of this day. The program works for beneficiaries and providers alike, but we must ensure that it continues to be a success. The Medicare Regulatory and Contracting Reform Act will do just that.

More remains to be done, and I look forward to working with the same fine colleagues that I did to bring this about. The Medicare legislation that we have before us ensures that Medicare fee for services will continue to serve beneficiaries, and it will cause further approval and satisfaction with one of our great legislative accomplishments, Medicare.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY), the author of this legislation, who, together with the gentlewoman from Nevada (Ms. BERKLEY), put together 240 co-sponsors.

Mr. TOOMEY. Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN) for yielding me the time and also thank the gentleman for recognizing my efforts in the area of Medicare regulatory reform and for inviting me to join in with the Committee on Energy and Commerce in developing this terrific compromise legislation.

Since my first term in Congress, I have been working on Medicare regulatory reform to help alleviate some of the burdens that the health care providers carry when dealing with Medicare's bureaucracy. We need to give health care providers due process rights so they are not treated like criminals when they make honest mistakes. We need to make billing procedures easier for providers to understand and comply with and reduce the huge volume of paperwork that staff have to contend with.

This is important so health care providers can spend more time caring for their patients and less time dealing with bureaucracy. This bill addresses these problems. It is a step in the right direction, but it is a modest step. We need to do more. For instance, we need profound Medicare reform. As long as we have a Medicare bureaucracy that enumerates, regulates, and prices every conceivable medical procedure, we will continue to have enormous costs and inefficiencies in complying with these staggering regulations. But we cannot wait until we fully overhaul Medicare to provide the significant regulatory relief of this bill.

Mr. Speaker, I thank my colleagues who made this bill possible: the gentlewoman from Nevada (Ms. BERKLEY), the gentlewoman from Connecticut (Mrs. JOHNSON), the gentleman from California (Mr. STARK), the gentleman from California (Chairman THOMAS), the gentleman from New York (Mr. RANGEL), the gentleman from Michigan (Mr. DINGELL), the gentleman from Florida (Mr. BILIRAKIS), and the gentleman from Ohio (Mr. BROWN).

I also thank some staff members, Gary Blank, formerly of my staff, Kelly Weiss, currently with my staff, and Pat Morrisey of the commerce staff, in particular.

Mr. Speaker, we take a big step forward today. I hope the same combination of the bipartisan group that worked on this bill can come back next year and do more work for health care providers and for their patients; but in the meantime, I urge my colleagues to pass H.R. 3391 and give the health care community some of the regulatory relief that they need and deserve.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I rise today in support of the Medicare Regulatory and Contracting Reform Act. The legislation makes a number of important changes to the way that Medicare does business, and it comes not a second too late.

For years we have been hearing from doctors and providers who complain that they are spending more time dealing with Medicare paperwork than they are treating patients. They express frustration where simple mistakes escalated into full-fledged investigations, where well-intentioned providers were penalized and accused of defrauding the system, and insufficient appeals process made it difficult for providers to make their case. Many are ready to stop treating Medicare patients altogether.

The Committee on Energy and Commerce passed legislation earlier this year that addresses many of these issues and would have made improvements in the Medicare system. Working with the Committee on Ways and Means, we were able to come up with a consensus bill that addressed the problem and makes the Medicare program more navigable for our Medicare providers. This legislation streamlines key Medicare processes so that providers are not trapped in a maze of confusing regulations.

It improves provider information and education so that doctors know who to call and what to do when they have trouble with a claim. The legislation also reforms the contracting system by giving the Secretary greater flexibility in selecting contractors, assigning contractor functions, and permitting competitive contracting.

There are many significant changes in the bill that will improve the Medicare system for providers and beneficiaries alike, and I support the legislation. I urge my colleagues to support this legislation.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I rise today in strong support of H.R. 3391. I commend it to all Members of this body, and I hope every Member will vote for this bill. No doubt the outcome of this vote will be noted by the body across the way, and it is important that we vote for something that is needed so badly.

Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN). And a great deal of credit and thanks should go to the Committee on Ways and Means, especially to the gentlewoman from Connecticut (Mrs. JOHNSON). On the commerce staff, I thank Pat Morrisey. He put up with a lot to get us here, and Erin Kuhls, Julie Corcoran, and

Bridgett Taylor. They worked so hard to get us to where we are today.

Many Members have mentioned the good things that are in this bill. There are a lot of good things. I particularly would like to highlight the benefit that will be made available to patients for them to actually know if Medicare will cover a benefit that is a covered benefit. That is called preauthorization or predetermination, and probably in the end there is not much more in this bill that will be more important to the quality of care for Medicare patients to actually get treated.

But I note, as the gentlewoman from Connecticut (Mrs. JOHNSON) has said, that this is a first step. I hope we will all recognize that, and I would like to have a colloquy with the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Florida (Mr. BILIRAKIS); and I will ask both the question at the same time.

Although many good things have been done in this bill, this is a first step and I want to be part of working these two committees together next year and I would like to hear from both Members. Can we plan to move forward next year?

Mrs. JOHNSON of Connecticut. Mr. Speaker, will the gentleman yield?

Mr. NORWOOD. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I can guarantee the gentleman that we will work together next year. We learned a lot this year. We solved some problems that we can understand. We laid aside what we could not understand. There is lots more work to be done to make Medicare a smart and efficient program.

Mr. BILIRAKIS. Mr. Speaker, will the gentleman yield?

Mr. NORWOOD. I yield to the gentleman from Florida.

Mr. BILIRAKIS. Mr. Speaker, as the gentleman knows because he was in the room last week, I put my life on the line in terms of a question that was asked, and the gentleman from Louisiana (Chairman TAUZIN) did, too; not the chairman's life, my life, on the line.

I will not go quite that far this time around, but I feel very strongly that this is a first step. There is a tremendous amount of work to be done.

Mr. BROWN of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there is a provision that many have spoken of already that actually was something that I brought up and proved to be one of the more difficult things to work out between the two committees and that was on the predetermination of benefits.

As a physician in the earlier 1990s when I was taking care of Medicare patients, sometimes we would do a procedure where it might or might not be considered medically necessary by Medicare. All that we wanted was to know whether Medicare would cover this or not. So at that time the data could be gathered together, send in the physical exam and tests, and Medicare would give their opinion. Then they stopped doing that. I think it scared a lot of patients from not having medically necessary procedures.

Mr. Speaker, that has been worked out in this bill. I thank the members of both committees and both parties for working on this. I think this will be a big improvement for patients.

Mr. TAUZIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I rise in support of the Medicare Regulatory and Contracting Reform Act. I would like to express my appreciation to the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Florida (Mr. BILIRAKIS), the gentlewoman from Connecticut (Mrs. JOHNSON), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Ohio (Mr. BROWN) for their assistance in working on the concern of dentists who often file Medicare claims even though the dental services are not covered by Medicare.

The provision in the bill seeks to help reduce the paperwork burden on dentists and expedite payment for services from appropriate sources of that payment. In addition, I am grateful that language can be worked out that will assist the medical device manufacturing community, enhancing the communications and cooperation between the Food and Drug Administration and the Centers for Medicare and Medicaid Services. This is an excellent bill, and I urge its passage.

Mr. CRANE. Mr. Speaker, I rise today in support of the Medicare Regulatory and Contracting Reform Act of 2001. This bipartisan legislation is the product of months of negotiations with the Center for Medicare and Medicaid Services (CMS), Medicare providers, beneficiaries, and the House Committees on Ways and Means and Energy and Commerce.

This legislation is a first step in ensuring that the Medicare program delivers quality care to Medicare beneficiaries. Today, the Medicare program has more that 110,000 pages of regulations governing it. This bill begins to finally address how to hold CMS accountable for its regulations and the costs they impose.

The Medicare Regulatory and Contracting Reform Act creates a more collaborative, less confrontational relationship between providers and CMS. It takes steps to decrease the amount of complex and technical paperwork that is currently required so that providers will be able to spend more time delivering care to patients rather than filling out and filing federal forms. Finally, H.R. 3391 streamlines the regulatory process, enhances education and technical assistance for Medicare providers.

I was also pleased to see inclusion of a provision to prohibit group health plans from requiring a Medicare claims determination for dental benefits that are specifically excluded from Medicare coverage as a condition of making a determination for coverage under the group health plan. This requirement to me does not serve any purpose other than the filing of needless paperwork and further delay payment to the dental provider. This provision ensures that dentists do not have to submit claims to the Medicare program (and thus enroll in the Medicare program) when the services they are providing are clearly those that are categorically excluded from coverage.

I urge my colleagues to join me in support of this legislation.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of H.R. 3391, the Medicare Regulatory and Contracting Reform Act. As a physician in private practice for more than 20 years, I wholeheartedly applaud the work of the Ways and Means Committee and the Energy and Commerce Committee in moving legislation which lifts many of the burdens placed on physicians by the Medicare program and allow us to put our patients first.

Mr. Speaker, I can't tell you the number of times over the four and a half years that I have been a member of this body that I have heard horror stories from providers in my district regarding the cumbersome and burdensome Medicare billing process. They only serve to remind me of my personal experience in over 21 years of practice. Whether it is undue delays in receiving payments or repeatedly questioning information that was already provided, the current Medicare system treats physicians as suspects and requires that we spend nearly half of our time on needless paper work. It further makes hard working providers the first targets for fee reductions, repudiating their long years of training and hard work.

I applaud the authors of this legislation, Congresswoman NANCY JOHNSON and PETE STARK of the Ways and Means Committee, as well as Representatives BILIRAKIS, SHERROD BROWN, BILLY TAUZIN and my friend JOHN DINGELL for their support of doctors and the patients that they serve. Indeed, Mr. Speaker, no less than the General Accounting Office documented the statements that I can personally attest to regarding the difficulties of dealing with the Medicare program, pointing out that Medicare is a complicated program requiring endless directives and long explanations and articles which are necessary to explain facet after facet.

I urge my colleagues to support this badly needed bill which is but a first step in addressing what are myriad problems with this important health insurance program.

Mr. SHADEGG. Mr. Speaker, I rise today to support the Medicare Regulatory and Contracting Reform Act. Since I have been in Congress, I have constantly heard from hospitals and physicians about the guessing game they must play in order to be compliant with Medicare regulations. The paperwork that providers must complete both for private insurance and for Medicare is overwhelming them. Where twenty years ago, it was uncommon to have more than one administrative person working in a physician's office, today it seems to be the norm to have multiple employees handling claims. Like a punch-drunk fighter, our nation's health care providers are dizzy from the barrage of notices, guidance, and issuances from Medicare describing ever-changing policies and regulations. Worse yet, many of these providers approach the billing process with trepidation. Fearful that they may be audited or have payments withheld, many physicians downcode so as to reduce their potential exposure even though they legitimately deserve reimbursement for a higher code. Moreover, a simple, honest mistake, providers fear, will result in harsh penalties and send them into a regulatory spiral, thus taking them away from their patients. This is one of the reasons I was a cosponsor of the Medicare Education and Regulatory Fairness Act and support the bill on the floor today. H.R. 3391 provides important reforms of the Medicare system to streamline Medicare's regulatory process, ease paperwork burdens, and improve Medicare's responsiveness to beneficiaries and health care providers.

I am particularly pleased that H.R. 3391 includes provisions aimed at improving the functioning of the Emergency Medical Treatment and Active Labor Act, better known as EMTALA. While a well-intended provision to ensure that patients coming to hospital emergency departments are not shipped from hospital to hospital or "dumped," EMTALA is now serving as an impediment to hospital emergency department access, the exact opposite of what the original legislation was intended to do. The provisions I included at the Full Committee markup include recreating the EMTALA task force, something suggested not only in the January 2001 Inspector General's report, but also in the June 2001 GAO report. Physicians and providers are crying out for clarification and guidance on how to comply with the myriad, confusing EMTALA regulations and this task force will be charged to work synergistically to make the regulations manageable. In addition, the bill on the floor today implements another suggestion from the Inspector General, mandatory peer review organization. Under current law, a peer review organization must review any EMTALA deficiency or violation involving medical treatment before a civil monetary penalty can be levied, but the same does not apply to those providers facing removal from the Medicare program. The Medicare Regulatory and Contracting Reform Act will restore equity by requiring PRO review in the Medicare conditions of participation. Last, the bill will require the Centers for Medicare and Medicaid Services to notify providers directly when an EMTALA investigation is closed.

Mr. Speaker, these are important provisions to address a complex situation—emergency department overcrowding—and I thank Chairman TAUZIN for working with me in Committee as well as members of the Ways and Means Committee as we merged the two committee bills.

Mr. UPTON. Mr. Speaker, on behalf of all of the physicians and other health professionals in my District who provide care to Medicare beneficiaries and on behalf of the beneficiaries themselves, I rise to express my strong support for H.R. 3391, the Medicare Regulatory and Contracting Reform Act of 2001. I am honored to be an original cosponsor of this bipartisan, common-sense bill that will provide much-needed regulatory relief and greater program fairness, clarity, and transparency.

From what I have been hearing for years now in my meetings with Medicare beneficiaries and health care providers across my District, the current program is simply not working well. Beneficiaries and health professionals often don't know if services will be covered, leading some beneficiaries to forgo needed care. It can take months—and mounds of paperwork—just to get paid for health care services. I've seen the inch-thick paperwork that can be required just to document one claim.

Doctors and other health professionals feel that they are practicing with a sword over their heads. The rules and regulations are so complex that the Medicare intermediaries and carriers all too often give conflicting advice and guidance. Regulations and guidance change so frequently that it is difficult to know what the rules are at any one time, and what they will be tomorrow. Making a simple mistake in coding or misunderstanding a program requirement, health professionals fear, could well open to a fraud charge. If a claim is denied, it can take several years to go through the current process for appealing that denial. Doctors are so frustrated with the program that they are retiring early, and some beneficiaries are having a hard time finding doctors willing to take them as patients once they turn 65.

The Medicare Regulatory and Contracting Reform Act will give the Centers for Medicare and Medicaid Services the direction and flexibility needed to streamline the regulatory and contracting processes. It will provide strong incentives for intermediaries and carriers to be responsive to beneficiaries and health professionals. It will provide additional resources for provider education. One provision that could be particularly helpful for both beneficiaries and providers will test the effectiveness of placing Medicare experts in local Social Security offices so that questions and concerns can be addressed in a timely, accurate way. And when disputes do arise, Administrative Law Judges specifically trained in Medicare law and regulation will hear the cases.

These are just a few of the reforms in this comprehensive, much-needed bill.

Mr. BENTSEN. Mr. Speaker, I rise today in strong support of the Medicare Regulatory and Contracting Reform Act (H.R. 3391), legislation which would reform our Medicare regulatory and contracting system. For too long, Medicare providers have encountered problems in resolving claims under the Medicare program. Today, many Medicare providers submit claims to their Medicare contractor who do not provide timely resolution for these claims. In addition, many Medicare providers face lengthy appeals which result in delayed reimbursements. This legislation would not only provide necessary regulatory relief to Medicare providers, but it would also ensure that Medicare contracts are competitively bid so that taxpayers are paying the lowest price for these services.

In order to help with better compliance by Medicare providers, this legislation would require that Medicare regulations should be promulgated only once a month. This bill requires the Department of Health and Human Services (HHS) to develop time lines for Center for Medicare and Medicaid Services (CMS) rules. As a result, Medicare providers would know when to expect changes in the Medicare system and would be able to plan for such changes. This measure prohibits regulations from being applied retroactively and requires that any substantive change in regulations from being applied retroactively and requires that any substantive change in regulations should not become effective until 30 days after the change has been announced. The bill also protects providers by ensuring that they cannot be sanctioned if they followed written guidance provide by HHS or by a contractor. Providers would also be eligible to call a new Medicare Ombudsman to assist Medicare providers with advice about Medicare regulations and rules.

To ensure that contractors are more accountable to Medicare providers, this bill encourages HHS to competitively bid contracts for Medicare claims. This new procedure would eliminate the current system where health care providers can nominate entities to become Medicare contractors. We should eliminate this conflict of interest and would ensure that taxpayers receive the best value for this program.

This bill allows providers to seek a hardship designation if they have received overpayments. Under this program, Medicare providers and suppliers could request to make repayments over a period of six months to three years if their obligation exceeds 10 percent of their annual payments from Medicare. In extreme circumstances, Medicare providers could apply for a five-year repayment schedule. Many medical small businesses which depend on Medicare for payments have requested this flexibility so that they continue to provide services to Medicare beneficiaries.

This measure also includes several provisions related to physician payment fees. Under current law, these Medicare physician fees will be reduced by 5.9 percent effective January 1, 2001. For many physicians, this significant drop in Medicare payments will impose a financial burden and may result in fewer physicians being willing to participate in this program. This bill requires the General Accounting Office (GAO) to report of Congress on the conversion factor used to calculate physician payments and to make recommendations on how to reform it within 12 months. This GAO report would also examine whether the current sustainable growth formula for physician fees should be reformed I have been contacted by many physicians in my district who would be adversely impacted by this new fee schedule and I am committed to working to change these payments in a timely manner so that Medicare payments more accurately reflect the true cost of providing care for Medicare patients.

As the representative for the Texas Medical Center, where many Medicare providers work, I urge my colleagues to support H.R. 3391 that will reform the Medicare program.

Mr. CARDIN. Mr. Speaker, I rise today in strong support of the Medicare Regulatory and Contracting Reform Act of 2001. This bill is the result of months of collaborative efforts between Democrats and Republicans, between the ways and means and the Energy and Commerce Committees. In other words, it was developed the way that responsible Medicare legislation should be-in a bipartisan and deliberative manner.

For too long, Congress has ignored the valid concerns of one of Medicare's most important assets—its health care providers. By easing regulatory burdens on physicians and allied health professionals, and by modifying the provider appeals process, this legislation speaks to some of the foremost concerns that have been brought to Congress by the dedicated health care professionals who participate in the Medicare program.

This bill also provides important patient protections for beneficiaries—it guarantees them access to a truly independent external review process; it improves the advance beneficiary notice (ABN) process so that seniors may know in advance of receiving care whether the services will be reimbursed by Medicare; and it establishes a Beneficiary Ombudsman to assist seniors in navigating the Medicare program.

As the Medicare+Choice program enters its fifth year, and enrollees across the country are witnessing their benefits reduced and their premiums increased, this bill contains an important beneficiary protection. It delays by one year the implementation of the enrollee "lock-in" period, which will enable many seniors to move between HMOs as efforts are made to stabilize this program.

The 1997 Balanced Budget Act imposed $1500 caps on physical, speech-language, and occupational therapy. I have long supported replacing these caps with a rational payment mechanism. Congress has acted each year to delay these caps, which discriminate against the most frail beneficiaries. However, it is a waste of energy and resources for providers to return to Congress annually to seek a one-year moratorium on these caps. Medicare should implement a rational payment system that provides seniors with the level of care they need. We passed a law requiring the Secretary of Health and Human Services to establish a mechanism for assuring appropriate use of services and to study use of these services by last June. This bill directs the Secretary to produce these overdue reports so that Congress can enact sound reimbursement policy for outpatient therapy.

Mr. Speaker, H.R. 3391 is a shining example of how Congress can act to greatly improve the Medicare program for beneficiaries and providers. I am pleased to be an original cosponsor of this legislation and I urge my colleagues to support it this evening.

Mr. ENGLISH. Mr. Speaker, I rise in strong support of H.R. 3391, The Medicare Regulatory Reform Act of 2001. I urge my colleagues to vote in favor of this important legislation.

The Occupational Safety and Health Administration (OSHA) estimates that each year 5.6 million workers in the health care industry are exposed to blood-borne diseases because of needlesticks. OSHA studies have shown that nurses sustain the majority of these injuries and that as many as one-third of all sharps injuries have been reported to be related to the disposal process.

In addition, the Centers for Disease Control estimates that 62 to 88 percent of sharps injuries can potentially be prevented by the use of safer medical devices. However, needlestick injuries and other sharps-related injuries, that result in occupational blood-borne pathogens exposure, continue to be an important public health concern.

H.R. 3391, The Medicare Regulatory Reform Act of 2001, includes a provision that will reduce needlestick injuries. This provision requires public hospitals, not otherwise covered by the OSHA rules, to meet the administration's standards which require employers to implement the use of safety-designed needles and sharps. The requirements will be established under Medicare statute and enforced through monetary fines similar to fines under OSHA. Violations would not cause hospitals to lose Medicare their eligibility.

I also would like to take this opportunity to thank Subcommittee Chairwoman NANCY JOHNSON for not only including this provision to reduce needlestick injuries in the Medicare regulatory reform bill, but also for her many years of hard work on this issue. She has long been a champion of requiring public hospitals to use safety-designed needles and sharps. I was pleased to join her and Mr. STARK in this important effort.

We have the technology to provide better protections for our healthcare workers. A vote in favor of this legislation ensures that hospitals are using state-of-the-art equipment while significantly reducing the risk to healthcare workers.

Mr. KLECZKA. Mr. Speaker, I am pleased that the House of Representatives is considering the Medicare Regulatory and Contractor Reform Act of 2001 (H.R. 3391) on the suspension calendar today.

This important, bipartisan legislation will address the very real and practical regulatory concerns health care providers, contractors, and beneficiaries are currently facing with the Medicare program. H.R. 3391 helps providers and beneficiaries better understand the complexities of Medicare, while at the same time protecting the Federal Claims Act and maintaining strong efforts to eliminate waste, fraud and abuse. It is my hope that this legislation will allow providers to focus their attention on patients, and not bureaucracy.

Of particular importance to me was the inclusion of language I offered during the Ways and Means Health Subcommittee markup that would establish a new Medicare Beneficiary Ombudsman. H.R. 2768, as originally introduced by the Ways and Means Committee, had included language requiring the U.S. Department of Health and Human Services (HHS) Secretary to appoint a Medicare Provider Ombudsman to provide confidential assistance to physicians and practitioners regarding complaints and grievances. I believed this point-of-contact should be extended to Medicare beneficiaries, who also have complex questions and receive conflicting guidance. I am pleased that my suggestion to create a comparable Beneficiary Ombudsman to serve as a voice for beneficiaries within the Centers of Medicare and Medicaid Services (CMS) was included. This provision should enable the Agency to better anticipate and address beneficiary needs.

Furthermore, I requested language in Title II of the Act that would eliminate the provider nomination provisions for contracting purposes. This provision effectively waives the prime contracts that the Centers of Medicare and Medicaid Services (CMS) currently has with national organizations and permits CMS to contract directly with entities during the transition period prior to the October 1, 2003 effective date without regard to competitive bidding procedures.

I would like to express my sincere appreciation to both Ways and Means Health Subcommittee Chairwoman JOHNSON and Ranking Member STARK, and their respective staffs, for being so accommodating and working together to create responsible, well-targeted regulatory legislation.

I urge my colleagues to support H.R. 3391, and I hope the Senate will work quickly to pass this legislation prior to the end of this Congressional Session.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentlewoman from Connecticut (Mrs. JOHNSON) that the House suspend the rules and pass the bill, H.R. 3391.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TAUZIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

AMENDING INTERNAL REVENUE CODE TO SIMPLIFY REPORTING REQUIREMENTS

Mr. HULSHOF. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3346) to amend the Internal Revenue Code of 1986 to simplify the reporting requirements relating to higher education tuition and related expenses.

The Clerk read as follows:

H.R. 3346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SIMPLIFICATION OF REPORTING REQUIREMENTS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.

(a) Amendment Relating to Persons Required To Make Return.—Paragraph (1) of section 6050S(a) of the Internal Revenue Code of 1986 (relating to returns relating to higher education tuition and related expenses) is amended to read as follows:

"(1) which is an eligible educational institution which enrolls any individual for any academic period;".

(b) Amendments Relating to Form and Manner of Returns.—Subsection (b) of section 6050S of such Code is amended as follows:

(1) Paragraph (1) is amended by inserting "and" after the comma at the end.

(2) Subparagraph (A) of paragraph (2) is amended to read as follows:

"(A) the name, address, and TIN of any individual—

"(i) who is or has been enrolled at the institution and with respect to whom transactions described in subparagraph (B) are made during the calendar year, or

"(ii) with respect to whom payments described in subsection (a)(2) or (a)(3) were made or received,".

(3) Paragraph (2) of section 6050S(b) of such Code is amended by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(4) Subparagraph (B) of section 6050S(b)(2) of such Code, as redesignated by paragraph (3), is amended to read as follows:

"(B) the—

"(i) aggregate amount of payments received or the aggregate amount billed for qualified tuition and related expenses with respect to the individual described in subparagraph (A) during the calendar year,

"(ii) aggregate amount of grants received by such individual for payment of costs of attendance that are administered and processed by the institution during such calendar year,

"(iii) amount of any adjustments to the aggregate amounts reported by the institution pursuant to clause (i) or (ii) with respect to such individual for a prior calendar year,

"(iv) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year by a person engaged in a trade or business described in subsection (a)(2), and

"(v) aggregate amount of interest received for the calendar year from such individual, and".

(c) CONFORMING AMENDMENTS.—Subsection (d) of section 6050S of such Code is amended—

(1) by striking "or (B)", and

(2) in paragraph (2), by striking "subparagraph (C)" and inserting "subparagraph (B)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or assessed after December 31, 2002 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. HULSHOF) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri (Mr. HULSHOF).

GENERAL LEAVE

Mr. HULSHOF. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3346.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HULSHOF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, education is the great equalizer, and getting a college education remains a part of the American dream. Yet affording that education at an institution of higher learning can be a nightmare for a prospective student or that student's family.

According to a 1997 GAO report, since the early 1980s college tuition has increased by 234 percent, which of course far outpaces the cost of living or any rise in family income. Some students balance their class work with part-time jobs, others rely on financial aid packages or scholarships. This body, Mr. Speaker, has attempted in the past to ease the financial burden. Back in 1997 Congress passed and former President Clinton signed into law the Taxpayer Relief Act of 1997. This legislation created the Hope Tax Credit as well as the Lifetime Learning Tax Credit to help families afford the cost of sending a child to college.

Since then we have built on our work. We have added to the success of the 1997 bill. We have expanded education savings account. We have made prepaid tuition plans more attractive, and we have expanded the student loan interest deduction.

When the merits of the Hope Credit and the Lifetime Learning Credit were being considered back in 1997, the potential compliance costs for colleges and universities were raised as a potential drawback. In fact, I recall and probably the gentleman from Maryland (Mr. CARDIN) may recall the particular hearing we had in front of the Committee on Ways and Means and the former Treasury Secretary was appearing before us, and I asked Mr. Rubin about the compliance cost. We had been alerted to some potential substantial administrative burdens that colleges and universities were going to have to undertake, even while implementing this worthwhile legislation. I recall the answer that Mr. Rubin gave; he felt it would be a small, insignificant cost.

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In fact, I think he said it would be the cost of a pencil and a piece of paper. Well, as C-SPAN was covering that hearing live that day, the phone lines in our congressional office began to light up as school administrators from around the country began to call, again with this concern about this burden, this compliance cost that they would have to undertake if, in fact, we enacted the HOPE scholarship or the HOPE tax credit, as well as the lifetime learning credit and, unfortunately, their premonition has been borne out. It has been clear that our Nation's institutions of higher learning have faced significant increased administrative burdens, which brings us today.

The bill before us, H.R. 3346 that has been introduced by the gentleman from Illinois (Mr. MANZULLO), accomplishes the goal of reducing administrative burdens on schools, while retaining the integrity of the HOPE and lifetime learning credits. We accomplish this by modifying how tuition amounts are reported and also eliminating an unneeded reporting requirement in current law that colleges and universities provide the Internal Revenue Service with the name, address, and taxpayer identification number of taxpayers who could claim students attending the school as dependents. While these changes may seem minor, I can assure my colleagues that they will greatly reduce the administrative burdens on our colleges and universities. I urge this body to be supportive of H.R. 3346.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

First let me thank the gentleman from Missouri (Mr. HULSHOF) for bringing forward this legislation. I agree with him that this is an important bill that helps us move forward on making it easier for families to afford college education and reducing the administrative burden of tax laws. I also want to congratulate the gentleman from Illinois (Mr. MANZULLO) for bringing forward this bill. It is his legislation. I thank him for putting together a sensible bill that will reduce the costs of compliance without raising the level of potential abuse. That is what we all try to do.

First, Mr. Speaker, this bill makes it easier for families to be able to have the HOPE scholarship and lifetime learning tax credit which this body, this Congress, passed in 1997, that allows up to a $1,500 tax credit for higher education expenses. The gentleman from Missouri (Mr. HULSHOF) is correct. Education is a very important part of the American dream. We want to make it easier for American families to afford higher education. We want all Americans who can benefit from higher education to be able to afford higher education for their children, and the HOPE scholarship and lifetime learning tax credit carries out that commitment.

Mr. Speaker, many times Congress, in well-intended legislation, causes burdens to the private sector that are not really necessary. We are well intended in what we think is necessary in order for compliance. I remember working with the gentleman from Cincinnati, Ohio (Mr. PORTMAN), on IRS reform, and one of our principal objectives was to make the Tax Code easier to understand and to make it simpler for people to comply with the laws that we passed. This bill does that. This bill makes it easier for compliance.

The first part on reporting, the current law makes it difficult for some colleges to be able to report the dollar amount that is impacted by the credit. We make it a little bit easier by allowing the college to report the amount of expenses or the amount that is paid. It is a simple change, but it allows a lot of colleges to allow their current computer program to be adequate to deal with the reporting needs of the Federal Government, rather than requiring them to change their entire system in order to meet the needs of the tax credit. That is common sense.

The second is the reporting of the taxpayer identification number. We already have the taxpayer identification number of the student, and that is all we really need because we can match that, and the IRS has indicated they can match that, rather than requiring a reporting number of the person who claims the child, adding to the complexity again, and adding to information that is not readily available by the college and university that is reporting the information to the government.

So the changes that are made in the legislation are common sense. They make it easier for the colleges and universities to comply with reporting requirements. It does not add to the potential abuse of tax law and it makes it easier for the law that Congress passed in 1997 to be utilized by American families. It is a bipartisan bill. It is a bill that I hope every Member of this body will support.

Mr. Speaker, I reserve the balance of my time.

Mr. HULSHOF. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. MANZULLO), the author and original sponsor of this legislation.

Mr. MANZULLO. Mr. Speaker, of the many Federal regulations with which colleges and universities are required to comply, one of the most onerous is that associated with the HOPE scholarship and lifetime learning tax credit. Originally enacted as part of the Taxpayer Relief Act of 1997, the tax credits were intended to give parents back more of their hard-earned money, up to $1,500 for the first 2 years of college, so that they could better afford to send their children to school.

While we were successful in providing this tax relief for students and families, we discovered an unintended consequence: an unfunded mandate burdening colleges, trade schools, community colleges, and universities in the form of a reporting requirement administered by the IRS.

I became aware of this regulatory issue during the fall of 1997. I was discussing several concerns with Dr. La Tourette, president of Northern Illinois University. While talking about the merits of the HOPE scholarship, he dropped the bombshell on me and informed us of the new Federal requirements forcing all 6,000 institutions of higher education in this country to collect unprecedented information on their students and disseminate that information to the IRS.

I knew compliance with the reporting requirement would be expansive and expensive and would ultimately be borne by the very families that they were trying to help with the HOPE scholarship program. Both large and small institutions have been hit hard by the reporting requirement. The cost to schools to implement and abide by these regulations will soar into the hundreds of millions of dollars. And, of course, they will be passed on to the consumers of education, which are the parents and the students.

Since my conversation with Dr. La Tourette, I have worked with members of the higher education community and with Commissioner Charles Rossotti of the IRS to simplify the reporting requirements and ease the burden of the regulations on the colleges and universities of this country. Today, I am proud to say that H.R. 3346 is the product of a partnership that evolved between the IRS, the Treasury Department, the higher education community, and myself, and this can serve as a model for how we can positively impact higher education in the future by working together.

Specifically, while H.R. 3346 maintains the reporting requirement, the bill eliminates certain elements of the law such as reporting a third party's Social Security number, and changes others, such as allowing schools to report the amount students are billed or the amount they are paid. It is my hope that the simplifications instituted as part of H.R. 3346 will make the reporting significantly easier on colleges and universities.

Early estimates from Northern Illinois University predict that as a result of the passage of this bill, this school could avoid a one-time cost of approximately $90,000. This includes the costs of program computer systems to accommodate requirements included in the original legislation that are not included in the pending legislation, as well as what it would cost initially to implement Social Security number reporting of the taxpayer claiming the student as a dependent.

Additionally, the university would have incurred ongoing costs on an annual basis for solicitation and data entry of the student-reported information, and those costs are estimated at $30,000 a year. The University of California's system expects to save $1 million in the first year alone as a result of H.R. 3346. Overall, the savings the schools will attain as a result of this legislation are very significant. When we consider that most institutions of higher education would incur costs of similar proportion, the impact is particularly traumatic.

I would be remiss if I did not take a moment to heartily thank Commissioner Rossotti with whom we met on no less than three different occasions in order to fashion this legislation. I also want to thank Curt Wilson and Beverly Babers of the staff. I would like to thank Northern Illinois University, both former president Dr. La Tourette and current president Dr. John Peters and Kathe Shineham from the school for their insights and efforts as we have worked to craft this legislation. This bill is a memorial to Dr. Ruth Mercedes-Smith, former president of Highland Community College, who was killed in a car accident several months ago. Her support for our work was invaluable. Also, Dr. Chapdelaine of Rock Valley Community College and Dr. LaVista of McHenry Community College, and the National Association of Colleges and Universities Business Offices. All of these groups worked tirelessly together in order to craft the legislation. It took us 4 years to do it. During that period of time, the IRS worked with us, they withheld the implementation of these regulations because they knew that the goal was worthy. Lastly, I want to thank Sarah Giddens of our staff who, for 4 years, tirelessly worked on this legislation, dogging it dot by dot, i by i, in the hundreds of meetings, literally, that she had and the hours that she poured into this piece of legislation.

Mr. Speaker, it is a great piece of legislation. Instead of spending money on regulatory compliance, the schools can spend that money doing what they do best, and that is educating the kids.

Mr. CARDIN. Mr. Speaker, it is my pleasure to yield 5 minutes to the gentlewoman from Florida (Mrs. THURMAN), a distinguished member of the Committee on Ways and Means.

Mrs. THURMAN. Mr. Speaker, I thank the gentleman for yielding me this time, who may have to watch my university play in the Orange Bowl. We were just discussing that over here. But I want to say to the gentleman from Illinois (Mr. MANZULLO) how welcome this piece of legislation is. I do not know if my colleagues are reading what is happening in Florida right now, but the legislature is in a special session specifically for the purpose of cutting their budgets. The headline news in Florida is that the State universities were hit with cuts in excess of $100 million, while community colleges must deal with $33 million.

As the gentleman from Missouri (Mr. HULSHOF) has said, one of the things that makes our country great is the ability for us to have an educated population. What we did in 1997 in providing the $1,500 tax credit for the HOPE scholarship and the lifetime learning tax credits I was hoping would not be taken away from by the administrative nightmares that they might be facing, as my colleagues can imagine, also based on the numbers that we heard of the increased tuition. I do not know where those monies are going to come from when they cut them, but certainly we did not want them to have to be raised in tuition. With the gentleman's help, we are going to be able to see this $1,500 and the bureaucracy cut so that our universities and our community colleges are not going to have to be hiring new staff and setting up new computer programs, so this might help them in looking at their overall budgets if we get this passed and through over in the Senate.

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I just want to say that, in conclusion, because of the work and the people that the gentleman has recognized, this is a work that the higher education community has asked for. They have asked for the greater flexibility in reporting information to the IRS about the education tax credits. I believe that H.R. 3346 provides that requested flexibility through the simplification of the Tax Code.

I might just say, for all of us who serve on the Committee on Ways and Means, that it is always a pleasure for us to be able to come to the floor and talk about the idea that we are simplifying, and not adding to, the tax codes in this country.

I think it is something that the American people want us to be doing, have suggested that we do; and as we can see, as we work in a bipartisan manner, in fact we can provide not only the dream for our students and to help our universities, but we can also help the taxpayers of this country. So we thank the gentleman for his leadership.

Mr. HULSHOF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have a few concluding remarks.

First, I want to amplify a point that my friend, the gentleman from Maryland (Mr. CARDIN), made regarding the situation regarding the computer systems.

The point is that as educational institutions begin to raise some concerns that these new reporting requirements would require their schools to completely revamp their computer systems at a substantial cost, these institutions noted that complying with the law's requirement to report tuition payments received would be difficult, and that because schools keep a running total of the payments that they receive from students, in other words, payments are not applied separately to tuition, but instead are applied to a student's total outstanding balance that may include room and board, books, student fees for recreational activities, or other costs, and, moreover, payments are not applied to any particular academic year. As a result, these institutions would have had to change their accounting and computer systems dramatically to make them compatible with reporting requirements. We have undertaken, instead, a change in those reporting requirements so those colleges and universities will not have to undertake that substantial cost.

As a final comment, I would just advise my colleagues that in the 1999 calendar year, the Hope scholarship credit was claimed by 3,334,000 students; the lifetime learning tax credit was claimed for 3,575,000 college students.

Clearly, the work we have done here in Congress back in 1997 has taken a large step forward as far as making higher education more affordable. I think we are taking an additional step forward for the administrators of these colleges and universities by reducing their burden.

Mr. CARDIN. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, let me just concur with my friend, the gentleman from Missouri (Mr. HULSHOF).

Also, I would like to compliment the Internal Revenue Service. We do not often say that. But they have worked with us to implement, as the gentleman from Illinois (Mr. MANZULLO) has pointed out, this part of the code in a taxpayer-friendly way. If we look at the 1098–T form and 8863 form, I think we will find both of those forms are easy for the taxpayer to use.

They worked with us to modify the law in regard to the unnecessary burden upon the institutions of higher education. As a result, we have had, I think, the right spirit in simplifying the Tax Code to carry out the purposes of Congress.

This legislation is important legislation, and I urge my colleagues to support it.

Mr. HULSHOF. Madam Speaker, I urge adoption of H.R. 3346, and I yield back the balance of my time.

Mr. CARDIN. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and pass the bill, H.R. 3346.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GERALD B.H. SOLOMON SARATOGA NATIONAL CEMETERY

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3392) to name the national cemetery in Saratoga, New York, as the Gerald B.H. Solomon Saratoga National Cemetery, and for other purposes.

The Clerk read as follows:

H.R. 3392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) Gerald Brooks Hunt "Jerry" Solomon of Glens Falls, New York, served in the House of Representatives for 10 terms, from January 3, 1979, to January 3, 1999, and during that service gained a reputation for being outspoken and tenacious in presenting his views on a wide range of issues.

(2) Congressman Solomon was born in Okeechobee, Florida, and grew up there during the Great Depression before moving to New York in 1945.

(3) Congressman Solomon enlisted in the United States Marine Corps at the onset of the Korean War and served in the Marine Corps for 8½ years on active and reserve duty.

(4) Before being elected to Congress in 1978, Congressman Solomon was a businessman in Glens Falls, New York.

(5) During his 20-year congressional career, Congressman Solomon served as the ranking Republican on the Committee on Veterans' Affairs, where he was recognized by the veterans community as one of its strongest advocates. Among his other accomplishments for veterans, Congressman Solomon spearheaded the effort to create the Cabinet-level Department of Veterans Affairs and successfully led a 15-year drive to establish the Saratoga National Cemetery in Saratoga, New York, where he is now interred.

(6) Congressman Solomon was also recognized for his efforts to promote pride, patriotism, and volunteerism, and when the Supreme Court ruled that laws prohibiting the burning of the United States flag were unconstitutional, Congressman Solomon was given the assignment to pass a constitutional amendment to prohibit desecration of the flag. The Solomon Amendment passed overwhelmingly in the House, but failed by one vote in the Senate.

(7) As chairman of the Committee on Rules of the House of Representatives, Congressman Solomon revamped the rules under which the House operates, abolishing proxy voting, opening all meetings to the media and the public, and making Congress subject to the same laws that the American people live under.

(8) During his congressional career, Congressman Solomon was the recipient of dozens of major awards from many national veterans organizations, including the coveted "Iron Mike Award", presented to him by the Marine Corps and Marine Corps League, and the Distinguished Citizen Award, presented to him by the National Congressional Medal of Honor Society for his legislative successes on behalf of the United States military and veterans issues.

SEC. 2. NAME OF THE NATIONAL CEMETERY IN SARATOGA, NEW YORK.

(a) NAME.—The national cemetery located in Saratoga, New York, shall after the date of the enactment of this Act be known and designated as the "Gerald B.H. Solomon Saratoga National Cemetery". Any reference to such national cemetery in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Gerald B.H. Solomon Saratoga National Cemetery.

(b) MEMORIAL.—The Secretary of Veterans Affairs shall provide for the placement in the national cemetery referred to in subsection (a) of a suitable memorial to honor the memory of Gerald B.H. Solomon and his service to the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in very strong support of H.R. 3392, a bill to name the National Cemetery in Saratoga, New York, after Gerald B.H. Solomon, who we all knew and loved as Jerry. This is a fitting honor and memorial to our former colleague, the distinguished chairman of the Committee on Rules.

I want to commend and thank the gentleman from Illinois (Speaker HASTERT) for introducing this important bill. I know how highly the Speaker thought of Jerry Solomon and valued his service to the House of Representatives. So it is a tribute in itself that the gentleman from Illinois (Mr. HASTERT), who, as Speaker, does not normally introduce legislation, has taken this very extraordinary step. I am grateful to have been afforded the opportunity to be an original cosponsor of H.R. 3392.

In addition to naming the cemetery for Jerry Solomon, this bill will also authorize the Secretary of Veterans Affairs to place a suitable memorial in the cemetery to honor his memory.

It is highly fitting that our distinguished colleague was laid to rest in the Saratoga National Cemetery because the cemetery itself owes its existence to Jerry Solomon. He worked tirelessly for this cemetery for 15 years to overcome obstacle after obstacle to its establishment. He promoted it in his town meetings, he pushed for timely completion of the environmental impact studies, he worked with members of the Committee on Appropriations to ensure that the money was appropriated for it, and overcame official indifference in the executive branch.

His unwavering determination, no matter how difficult an objective, manifested itself time and time again. I think it probably had much to do with his service in the U.S. Marine Corps; but also it reflected the kind of man that he was: he was tenacious, he was tough, and he was fair.

He enlisted, as I think many of my colleagues know, in the Marine Corps at the beginning of the Korean War and served for 8½ years on active duty and in the reserve. He is one of the few who was good enough to be a Marine; and of the many awards he received during his public service, among his most cherished were the Iron Mike Award from the Marine Corps League, and the Distinguished Citizen Award from the National Congressional Medal of Honor Society.

All of us, Madam Speaker, learned from the example of Jerry Solomon. I recall so well when he was the ranking Republican member of the Committee on Veterans' Affairs, again, he always put veterans first. He was always fighting to ensure that there was an adequate veterans budget, particularly in the area of health care. He believed that the VA was one of those commitments that, once we make it, that they had first dibs for every dollar that we would spend.

He was also one of the prime leaders in making sure that we had a cabinet level for the VA, so when it came to allocating scarce resources, that they would be there, the Secretary of Veterans Affairs would be there at the table fighting and fighting hard for veterans' benefits and for veterans' health care.

More recently, following his retirement after 20 years in Congress, President George Bush recognized Jerry Solomon's leadership and wisdom by appointing him to co-chair the Presidential Task Force to Improve Health Care Delivery for our Nation's Veterans.

Like everything else, he launched himself into this new endeavor with enthusiasm and commitment and actively served on that issue and on that commission until his final illness.

Madam Speaker, I had the honor of serving many years in the House with Jerry Solomon and in every case found him to be one of the most outspoken, straightforward, tenacious, and patriotic Members of Congress that this body has ever produced. He was a great man; and we honor him in a very modest way, much more could be done for this great man, by naming this important cemetery in his honor.

Madam Speaker, I reserve the balance of my time.

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in remembrance of our distinguished colleague, Jerry Solomon, and in strong support of renaming the Saratoga New York National Cemetery as the Gerald B.H. Solomon Saratoga National Cemetery. It is a well-deserved honor for an outstanding public servant.

I want to thank the Speaker of the House, the gentleman from Illinois (Mr. HASTERT), and the chairman of the Committee on Veterans' Affairs, the gentleman from New Jersey (Mr. SMITH), for bringing this bill to the floor today. I also want to recognize my colleague, the gentleman from New York (Mr. MCNULTY), for introducing a similar bill in the 105th Congress. I am sure he will be pleased by the bill, and I look forward to his remarks.

Throughout his 20-year term in this Chamber, Jerry Solomon demonstrated an unyielding commitment to the men and women who risked their lives for the safety and welfare of this Nation. As a strong advocate of America's military veterans, I appreciate his efforts over the years to improve their benefits and health care through substantive and proactive legislation.

Jerry grew up in New York State and attended Siena College and St. Lawrence University before serving in the United States Marine Corps from 1951 to 1952, and I very much appreciate the chairman's remarks about his affiliation with the Marine Corps. I had some disagreements with the gentleman from New York, and we never took it out in the committee room. So he was a gentleman, and he worked hard to leave a great impression on the people that he met on a day-to-day basis.

Earlier this year, the President appointed Jerry to lead the President's Task Force to Improve Health Care Delivery for our Nation's Veterans.

As an original cosponsor of this measure, I can think of nothing more appropriate than to rename this cemetery. Jerry was interested in this cemetery, which was in large part due to his 15-year personal commitment to establish this cemetery.

It was a privilege to work with Jerry Solomon on the Committee on Veterans' Affairs and on committee issues. I am proud that I am able to join my colleagues in offering this measure in tribute to a great American, Jerry Solomon.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. GILMAN), the distinguished dean of the New York delegation and chairman emeritus of the Committee on International Relations.

Mr. GILMAN. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I want to thank our Speaker, the gentleman from Illinois (Mr. HASTERT), for introducing this legislation designating the Saratoga National Cemetery after our good friend and former colleague, Jerry Solomon, and the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from New Jersey (Mr. SMITH), and the ranking minority member, the gentleman from Illinois (Mr. EVANS), for pursuing this measure and bringing it to the floor at this time.

H.R. 3392 is a fitting tribute to Mr. Solomon. It was due to his efforts on behalf of our veterans that the veterans cemetery at Saratoga was created and that the administration was granted cabinet-level status. As a Marine veteran, it is appropriate that we honor Jerry in this manner. Jerry fully knew the sacrifices our men and women in the Armed Forces face each and every day in defending our Nation from aggressors.

Madam Speaker, throughout the House, in the Senate, in New York State, around our Nation, overseas, many of us were deeply saddened last month to learn of the loss of our former colleague and good friend, Jerry Solomon. In New York State's capitol in Albany, Jerry was an assemblyman noted for his energy, determination, and commitment. It was, therefore, no surprise to those of us who knew him when he subsequently brought those same dedicated traits to bear as a member of this body.

Jerry came to the House of Representatives in January of 1979, serving here for 2 decades diligently, meritoriously representing the constituents of the 22nd district in upstate New York. When Jerry came to the floor of this House, he was always ready to stand up vociferously for what he believed, especially when it came to our Nation's defense and our Nation's veterans.

Last month, upon learning of the passing of our former colleague, President Bush said that "Jerry Solomon was a true patriot who will always be remembered as true to his creed, duty, honor, and country." The President's words remind us that as our military goes into battle against those who perpetrated the atrocities of the barbaric September 11 attack, our troops are relying on advanced weapons systems and technologies that Jerry Solomon fought so hard to obtain for them.

Congressman Solomon was proud to be labeled a hawk on defense, always arguing that our Nation had to be fully prepared and strong for the new challenges in the post-Cold War world. Today we fully recognize the wisdom of his policy as we pay tribute to this great American by honoring both him and all our veterans by designating the Veterans' Cemetery at Saratoga Springs as the Gerald B.H. Solomon Saratoga National Cemetery.

Accordingly, in honoring our good colleague, Jerry Solomon, I urge our colleagues to fully support this legislation. Semper fi, Jerry.

Mr. EVANS. Madam Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. SWEENEY).

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Mr. SWEENEY. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, as the one who succeeded Jerry Solomon in Congress, I am proud today to stand and speak on behalf of this important piece of legislation.

As it has been pointed out, Jerry Solomon served in this body for over 20 years since 1978. He has many friends in this House and I count myself among them. I doubt there is one among us who did not respect him. He was an American's American, a Marine's Marine, a veteran's veteran.

Devoted to his wife, Freda, his 5 children, and his 6 grandchildren, Jerry Solomon became a great statesman, but always remained a loving husband, father and grandfather.

He was a man who called them as he saw them, Madam Speaker. Over his career he led the way on veterans' issues, culminating in the establishment of a Cabinet post for veterans' affairs.

He led the way in fighting to cure an amendment to our Constitution to protect our flag.

He brought a national cemetery to Saratoga, New York, which happens to be my home county as well, where he himself has been laid to rest. Thanks to this legislation, it will now bear his name.

It is the right thing, an honorable gesture by this body to remember a patriot and his work.

In his final years in this House, Jerry Solomon served as chairman of the Committee on Rules. That achievement speaks volumes about the man, the leader, and the legislator.

What I learned about Congressman Solomon many among us know. If he cared enough to tell someone something, they had better listen.

Madam Speaker, Jerry Solomon has left us, but neither he nor his achievements will ever be forgotten. It is with great pleasure that I support this legislation to rename the Saratoga National Cemetery to the Gerald B.H. Solomon Saratoga National Cemetery.

Mr. EVANS. Madam Speaker, I yield such time as he may consume to the gentleman from New York (Mr. McNULTY).

Mr. McNULTY. Madam Speaker, I thank my colleague for yielding me time.

Madam Speaker, as he pointed out earlier, this is not the first time a bill has been introduced to accomplish this purpose. On August 3, 1998, I introduced H.R. 4385 to name the Saratoga National Cemetery in honor of my friend and late colleague, Jerry Solomon.

We quickly rounded up 88 cosponsors to that bill, very enthusiastically supporting it. We were moving forward with the bill and then some very small-minded people, bureaucrats in the Department of Veterans Affairs, raised an objection. Their objection, Madam Speaker, was simply this: Something like this has never been done before.

Imagine the kind of world we would live in if we all had that attitude. We cannot do it because it was never done before. I said, well, it ought to be done now.

The next day Jerry Solomon called me over to his side of the aisle, and we sat in that seat right over there, and he asked me to withdraw my bill. Jerry Solomon and I were a team for 10 years, and he was always the one that was a little bit more, let us say, excitable. But on that day I was the one who was agitated, and I said, Jerry, I want to fight this. And he very calmly said to me, very characteristically because of his love for veterans, I do not want any controversy associated with that cemetery, and if one person in the bureaucracy objects, I want you to withdraw the bill.

I acceded to the request of my friend and colleague. But today I thank the gentleman from Illinois (Mr. HASTERT). I thank the Speaker of the House for using the power and influence of his office to do the right thing and to name this cemetery for this soldier and patriot.

I am just so happy that Jerry lived to see the day when Communism fell apart in Eastern Europe; to see Lech Walesa and the Solidarity movement succeed; to see the downfall of Eric Honneker and Egon Krenz; to see the people out there tearing down the Berlin Wall piece by piece; to subsequently see the dismantling of the Soviet Union, devolving into 15 individual democratic republics; to see the people of Armenia, one of those former republics, standing up in September of 1991 and voting 98 percent for independence and shouting the next day, "Ketze azat ankakh hayastan," long live free and independent Armenia; and then pointing to the United States of America as their example of what they wanted to be as a democracy.

Yes, we live in the freest and most open democracy on the face of the Earth, but Jerry Solomon understood that freedom is not free. We have paid a tremendous price for it. And he did not let a day go by without remembering with gratitude all of those who made the supreme sacrifice and all of those who served, put their lives on the line, came back home, rendered outstanding service to our country—veterans of our country—and raised beautiful families to carry on in their fine traditions.

That was Jerry Solomon, and he spent 15 years of his life to make sure that that cemetery came to Saratoga. And I can say without any fear of anybody positing anything to the contrary, that cemetery would not be in Saratoga if it were not for Jerry Solomon. That is just a fact.

So today I ask my colleagues to support this bill, to support the Speaker, and to pay tribute to the memory of Jerry Solomon and, in doing that, to say thank you to Freda and Jerry's children and, yes, to all veterans.

Mr. SMITH of New Jersey. Madam Speaker, I yield myself 10 seconds to thank my good friend and colleague, the gentleman from New York (Mr. McNULTY) for his powerful statement on behalf of Jerry Solomon and for introducing, as he pointed out, a resolution earlier that would have named this important asset, this cemetery, in honor of Jerry Solomon. And customary and just so characteristic of Jerry, he wanted to be self-effacing and did not want any fuss being made about him. It does not surprise me that he approached the gentleman and said, hey, do not push it. That is just so typical of Jerry Solomon.

I want to thank the gentleman for his leadership. I think that epitomizes the best of bipartisanship. That this is what it is all about. We care for each other. The gentleman cared for Jerry, and he showed it while he was alive in trying to get this cemetery named in his honor. I want to congratulate and thank the gentleman for that.

Madam Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Madam Speaker, I would also like to thank the gentleman from New York (Mr. MCNULTY) because I do not have the words to follow the articulation.

Each of us individually have our own memories of our dear friend, Jerry Solomon. And I compliment the gentleman for his statement.

I rise and encourage all Members to support H.R. 3392. It is fitting that a national veterans' cemetery in Saratoga, New York be named after our colleague, Jerry Solomon. It honors not just the person but the contributions to our country.

I know Marines are proud of their military service but it is much more. It is the cohesion of the brotherhood that only combat Marines understand and it survives beyond the distant battlefield. It becomes a way of life, led by the attributes of honor, integrity, courage, and commitment. Jerry Solomon emulated these virtues and values during his life and left a distinct impression upon our country, his constituents, friends and family.

I am quite sure the comrades who he lies with are equally proud to have their remains rest in perpetuity in a national veterans' cemetery that bears the name of Jerry Solomon. We miss you, Jerry.

Mr. EVANS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Madam Speaker, I rise in strong support of this resolution and, as has been said by many of my colleagues, we all have our memories of Jerry Solomon. I have to stand here and say that I miss him. I miss the fact that we are no longer able to talk regularly on the phone. I miss his service here in this institution.

I believe that this is an appropriate action that we can take here because of his extraordinary service not only here in the Congress, but his service as a proud Marine.

My late father and Jerry became good friends. My father was a drill instructor in the United States Marine Corps and my father regularly encouraged Jerry to crack the whip on me. And Jerry followed my father's direction extremely well.

On more than a few occasions I was taken to the woodshed by Jerry Solomon. I was encouraged to step outside, and I will say that it was good for me. And while at the time I may have been a little miffed with some of the things that Jerry said, as are many experiences in life, it was a great growing experience for me.

I appreciate the leadership that Jerry Solomon showed in so many areas. He was a Korean War hero veteran, and there was no one in this institution who fought harder for, as the gentleman from New York (Mr. MCNULTY) said, the demise of the Soviet Union than Jerry Solomon.

I had the opportunity to travel with him throughout the world. We traveled in the Mideast. We traveled to Asia. He took me on my first trip to Vietnam on February 14 1986. I remember being there on Valentine's Day. We traveled numerous times to Central America.

I thought a lot about Jerry as we just saw a few weeks ago the successful election of a democratic, small "d," leader in Nicaragua, because we all know through the 1980s we had this amazing struggle providing assistance to the democratic resistance in Nicaragua so that we could encourage the kind of freedom and political pluralism and recognition of human rights and encouragement of the rule of law that Jerry had fought for through his entire life.

So to be able to name the Saratoga National Cemetery the Gerald B.H. Solomon Saratoga National Cemetery is a very fitting tribute.

Madam Speaker, I would like to thank the Speaker of the House, the gentleman from Illinois (Mr. HASTERT) for moving this resolution forward and the gentleman from New Jersey (Mr. SMITH) and the distinguished ranking member, the gentleman from Illinois (Mr. EVANS) for moving this as expeditiously as they have. And I want to say once again to Mr. Solomon and his wonderful family, to the members of his family, that our thoughts and prayers continue to be with all of them during this very difficult and challenging time.

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

I want to thank the distinguished chairman of the Committee on Rules for his very eloquent remarks. We all have very fond memories. I know my first trip to Vietnam along with the gentleman from New York (Mr. GILMAN) on behalf of POWs was in 1984.

Mr. Solomon was again tenacious in trying to ensure that there was an absolutely thorough accounting and that any live sightings be followed up as aggressively as possible to ensure that nobody was left behind.

Mrs. KELLY. Madam Speaker, I rise in support of this measure honoring my friend and colleague Jerry Solomon.

As the rest of my colleagues, I was deeply saddened by his passing in October. Jerry Solomon was my friend. His gruff exterior belied the thoughtful and kind man's interior.

Jerry fought for his Nation, his family, and his district like the admirable Marine he was. If the Hudson Valley had a need, Jerry was there to help, either with legislation of his own or by supporting legislation of those of us representing the Hudson Valley.

To meet Jerry was to fall under this great driving strength and to be offered an invitation to join him in whatever battle he was engaged in, and the Saratoga National Cemetery was a battle he fought for and won.

He was a great man, and we remember and honor him with this action today.

Mr. HASTERT. Madam Speaker, I rise today in support of this legislation which would name the national cemetery in Saratoga, NY, the "Gerald B.H. Solomon Saratoga National Cemetery." This is a fitting tribute for my friend and our former colleague.

I would like to thank Chairman SMITH, my colleague from Illinois Mr. EVANS, and the Veterans Affairs Committee for allowing this important legislation to move so quickly. As the sponsor of this legislation, I would also like to thank the numerous cosponsors, especially Mr. GILMAN and all the members of the New York Congressional Delegation.

I had the honor and privilege of serving with Jerry Solomon during many of his 20 years of service in the House. We all remember Jerry as someone who fought for what he believed in. He was your most tenacious advocate when he was on your side and a "pit bull" of an opponent when he wasn't. He was truly a man of principle, and you always knew where he stood.

Before being elected to Congress in 1978, Jerry Solomon had an impressive career of public service. He was, among other things, a U.S. Marine, successful businessman, volunteer fireman, scoutmaster, and a member of numerous organizations such as the National Rifle Association, the American Legion, Marine Corps League, Disabled American Veterans, and the Korean War Veterans Association.

When Jerry was elected to Congress, he took on several important issues. For starters, Jerry Solomon spent many years devoted to ending the scourge of drugs, where I had the opportunity to work closely with him. In this capacity, he successfully championed many pieces of legislation requiring random drug testing and penalizing users and sellers of illegal drugs. He was a strong believer that illegal drug use is one of the most pressing issues facing our Nation's youth and fought it wherever and whenever he could.

In addition, when Republicans took control of the House, Jerry Solomon served as the Rules Committee chairman, where he presided over sweeping reforms in the way the House operates. Among other things, his committee abolished proxy voting, opened all meetings to the media and the public, and made Congress subject to the same laws that the American people live under. These were important reforms that fundamentally changed the way this House conducts its business.

In addition to this important work, Jerry served as ranking member on the Veterans Affairs Committee, where, as a veteran of the Korean war, he understood firsthand the importance of meeting the needs of our military veterans to the fullest extent possible. In this capacity, Jerry made sure that veterans were heard and represented when he sponsored the bill that created a cabinet level Department of Veterans Affairs. And, of course, he made certain that we remembered our country's military veterans when he fought for 15 years to see that the Saratoga National Cemetery was established.

I urge my colleagues to support this important legislation. This country cannot and should not forget the efforts of those like Jerry Solomon who by word and deed made this country a better place.

Mr. SMITH of New Jersey. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 3392.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of New Jersey. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3392.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

☐ 1830

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES THAT VETERANS DAY CONTINUE TO BE OBSERVED ON NOVEMBER 11

Mrs. MORELLA. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 298) expressing the sense of the House of Representatives that Veterans Day should continue to be observed on November 11 and separate from any other Federal holiday or day for Federal elections or national observances.

The Clerk read as follows:

Whereas the veterans of the Armed Forces are owed a tremendous debt of gratitude for their service and bravery;

Whereas veterans play important roles in communities throughout the United States;

Whereas maintaining Veterans Day as a legal public holiday separate from all other Federal holidays and days for elections or national observances is the least that a grateful Nation should do in recognition of its veterans; and

Whereas November 11 is a solemn commemoration of the contributions of those who have served and defended the Nation, especially those who gave their lives securing the freedoms enjoyed by all citizens of the United States: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that Veterans Day should continue to be observed on November 11 and separate from any other Federal holiday or day for Federal elections or national observances.

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to the rule, the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. MORELLA).

GENERAL LEAVE

Mrs. MORELLA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 298.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. MORELLA. Madam Speaker, I yield myself such time as I may consume.

I rise in strong support of House Resolution 298. The message of this resolution is simple and straightforward. It is the sense of the House of Representatives that Veterans Day should be observed on November 11. It should be observed separate from any other Federal holiday, election day, or any other national observance.

Madam Speaker, Veterans Day is the one day on which America honors all of those who have served in our Armed Forces. Its roots trace back to Armistice Day, which established November 11 as the day to honor veterans of World War I; but in 1954, after World War II and the Korean War, the name of the holiday was changed to Veterans Day.

For a brief period, from 1968 to 1975, Veterans Day was not observed on November 11. By law it was observed on a Monday in order to provide Federal employees with 3-day weekends, but in 1975 President Ford signed legislation to return the observance of Veterans Day on November 11, where it remains to this day.

President Ford's action supported the expressed will of the overwhelming majority of State legislatures, veterans service organizations and the American people. Yet today, there are those who would alter this distinct opportunity to honor our veterans by merging Veterans Day with other public activities such as election day.

This would be wrong, Madam Speaker. Since our Nation's founding, some 48 million men and women have stepped forward to defend our way of life. There are more than 25 million living veterans who have served in peace and war. More than a million died in service to America; and more than a million and a half have been wounded, and some very seriously.

As we debate this resolution today, America's servicemen and women are fighting in Afghanistan to defend us and our way of life from the terrorists who attacked us on September 11. As President Bush said in his Veterans Day proclamation this year: "Our Nation will always be grateful for the noble sacrifices made by these veterans. We can never adequately repay them, but we can honor and respect them for their service."

It would be a shame and a travesty, Madam Speaker, to allow the special meaning of Veterans Day to be submerged amid a welter of campaign activities. Election campaigns focus on issues that divide us. That is how our democratic system works. We engage in a great national debate over a variety of serious issues. Campaign ads flood television and radio. Campaign activities dominate the news, and then the American people vote and determine who will represent them.

This is a great process, Madam Speaker; but we would lose something very special if it were combined with Veterans Day. We would lose the opportunity to pause and honor our veterans as a Nation united in gratitude for their service. Maintaining Veterans Day as a legal public holiday, separate from all other Federal holidays, is the least that a grateful Nation should do.

I want to congratulate and thank the gentleman from Nebraska (Mr. TERRY) for introducing this legislation; and, Madam Speaker, I urge all Members to support this important resolution.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as we just listened to the debate and tributes being paid to Representative Solomon, I think that gives us one of the reasons why this bill is so important; and so I rise in strong support for H. Res. 298, a bill expressing the sense of the House of Representatives that Veterans Day should be observed on November 11 and separate from any other holiday or day for Federal elections or national observances.

Madam Speaker, in 1921 an unknown World War I American soldier was buried in Arlington National Cemetery. This site, on a hillside overlooking the Potomac River and the city of Washington, became the focal point of reference for American veterans.

On Sunday November 23, 1921, Miriam Felt, then 23 years old, wrote a letter to her family describing the events in Washington, DC., during the time of that first burial, now known as the Tomb of the Unknown Soldier, in Arlington National Cemetery.

Miriam wrote: "Well, this last week has been quite an event in history, and I certainly do wish you all could have been in Washington. It certainly is something I shall never forget. Somehow, you can talk about it and think about it, but the realization of the whole thing struck me so much more by seeing it all, and it was so impressive. Of course, Washington is alive with foreigners of all sorts, and I am turning around all the time to see something else for fear that I will miss something.

"Thursday night after work, Gertie and I went up to the Capitol to see the body in state there. We went up about six o'clock, thinking the crowd would not be so large. But at that time, the line four breast extended over two blocks, and by the time we had reached the Capitol steps and could look back at the crowd, it extended up on one side of the park, down another side, then the third side of it and on beyond the Capitol Building where we could see no farther, so I don't know how much longer it was. It was perfectly beautifully managed, and there was no crowding, and everyone, strangely enough, acted as though they really were there to pay respect to the memory which that body was to represent to the country."

As a postscript, Miriam Felt wrote: "Give my love to Grandpa. Sorry he isn't feeling up to par. Tell him to be a good boy. Tell him too that some of his old 'cronies' marched to Arlington Friday and they looked mighty fine, I'll tell you, and I thought a lot about what he did for his country."

November 11 is a time for us to reflect on what the men and women of the United States military have and continue to do for the country. The feeling of pride and patriotism expressed in Miriam Felt's letter should be felt by all of us. No longer can we take the freedoms that we enjoy today for granted, and no longer can we take the men and women who fought for those freedoms for granted.

Yes, Madam Speaker, I encourage that we hold aside this day for this purpose only and for no other purpose, except to honor and pay tribute to the men and women of this country who have given and continue to give the last measure of devotion that one might have so that we can continue to enjoy the freedoms that we so rightly deserve.

Madam Speaker, I reserve the balance of my time.

Mrs. MORELLA. Madam Speaker, I yield 4 minutes to the gentleman from Nebraska (Mr. TERRY), who is a prime sponsor of the legislation.

Mr. TERRY. Madam Speaker, certainly as Americans, especially now, we owe the men and women who served our country in times of war a tremendous debt of gratitude. Simply put, we cannot do enough to thank them for their contributions to our great Nation. We cannot do enough to honor them for their dedication to the principles of freedom and liberty which our families enjoy.

To that end, we set aside one day each year, November 11, to recognize the contributions of American war veterans to this great Nation. We keep one day to be mindful of their sacrifices and the sacrifice of their families. Veterans Day is for them, and now the sanctity of that day is in jeopardy.

Just to tell my colleagues a story, last Veterans Day, just a few weeks ago, I attended several ceremonies; and one of the speakers got up at the ceremony in our memorial park in Omaha, Nebraska, and said to the attendees, If Congress has their way, this will be the last time we meet.

He went on to say that combining Veterans Day with election day is a little bit like combining Christmas and Halloween. I do not necessarily agree with his analogy, but the point was well taken.

Whenever I would attend the VFW groups, American Legion clubs at home, this issue was always brought up about protecting the sanctity of the one day a year that we put aside to thank these folks; but somehow some folks here in Washington have been sidetracked. There was an election commission that perhaps one of their recommendations was combining Veterans Day with election day to increase voter turnout. Some people up here on Capitol Hill endorsed that idea. It was a balloon that was floated, and somehow then that became what Congress was going to do to these folks who sacrificed their time and their lives for America.

Today, we have the opportunity then to take something that has just grown way out of proportion and set the record straight, that we in this body wish to see a day of reflection for our veterans who triumphed, who sacrificed; that we will pay tribute to them on that one day a year that we have set aside, the 11th day of the 11th month of each year.

I do not, Madam Speaker, nor do the proud veterans and the proud Americans of the second district, wish to see this date moved or blended in with some other holiday or event. The fact is that Veterans Day holds a patriotic duty for Americans to recognize the commitment of American veterans to duty, honor, freedom and liberty.

Election day is a day of civic obligation, dedicated to separate purposes, and combining this day with others would simply be to disrespect what they have done for us.

I urge my colleagues to vote yes on this resolution.

Mr. DAVIS of Illinois. Madam Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished gentleman from Illinois (Mr. DAVIS) for yielding me the time, and I thank the distinguished gentlewoman from Maryland (Mrs. MORELLA), as well the sponsor of this legislation; and I rise enthusiastically to support this legislation.

I come from a family of veterans, particularly having served in World War II; and every Veterans Day I look forward to embracing and celebrating with my community, with Houston and Houstonians, the veterans that have offered themselves for service so that I might live in freedom.

It is true that veterans everywhere deserve our honor and appreciation. They deserve the parades and the accolades. Now more than ever, as we live in the shadow of September 11 and realize that we collectively must fight terrorism, Veterans Day must be promoted and celebrated because even today we have young men and women going forth to protect our rights.

I have legislation, H.R. 934, which specifically indicates that the possibility of an election day holiday should not be on Veterans Day, and I rise enthusiastically to confirm the importance of voting, but likewise to ensure that no election holiday would take Veterans Day and that we would work to ensure that the sacrifice of our veterans is singularly honored on November 11 every year and that as we fight to ensure that there is opportunity for access to the voting booth that we can do that side by side.

Just this past weekend, Houston, Texas, experienced a very tough election; and that election was that of our city leader, Mayor Lee P. Brown. Many of us are well aware of his leadership in Washington. We base the success of his victory on simply encouraging people to express their viewpoint in getting out to vote.

□ 1845

That is all we want to do, to ensure that the improprieties and the injustices that eliminated people's rights to vote are corrected. We can do that side by side as we protect the veterans' holiday of November 11. So I also ask my colleagues to consider 934. H.R. 934 protects Veterans Day, November 11, as a singular holiday, and it promotes the idea of an election holiday separate and apart from November 11.

I am very gratified for the sponsor of this legislation, and I rise in enthusiastic support of this legislation. I believe that the causes and the purposes of H. Res. 298 are those that this body can collectively support as we pay tribute to our veterans yesterday, today and tomorrow, and then that we also acknowledge the privilege of voting and ensuring that people have the right to vote, and a special day to vote separate, but a day apart from any day we would honor our veterans.

To our veterans I say: You are, in fact, our first responders of freedom and justice and equality.

Mrs. MORELLA. Madam Speaker, I am pleased to yield 3 minutes to the gentleman from New Jersey (Mr.

FRELINGHUYSEN), who has sponsored such legislation.

Mr. FRELINGHUYSEN. Madam Speaker, I thank the gentlewoman for yielding me this time, and I rise today, along with my colleague, the gentleman from Nebraska (Mr. TERRY), to offer House Resolution 298, a resolution expressing the sense of this body that Veterans Day should be observed as a separate, distinct national holiday, and I thank the gentleman from Nebraska for all of his work in the interest of so many Members.

Madam Speaker, after the turmoil of last year's national election, President Bush rightly called for the creation of a National Commission on Federal Election Reform, chaired by two of his esteemed predecessors, President Ford and President Carter. Under their able leadership, this commission studied the lessons of that election and formulated a 13-point plan for reform. While they raised many valid points, I respectfully disagree with their third recommendation: that this Congress enact legislation to combine Election Day with Veterans Day.

As we know in this House, held on the 11th day of the 11th month, a date which marks the armistice which ended the Great War of 1918, Veterans Day began as a day to honor those who fought for freedom with the allies in Europe during World War I. It was later expanded after America's participation in World War II to include those veterans. But it was not until after the Korean War in 1954 that November 11 became a day set aside to honor all those who have worn our Nation's uniform and who have fought and died to preserve the ideals and values we hold most dear.

Now, as a way to increase voter participation and enable more public spaces to be used as polling sites, this commission and others have seized upon the idea of merging Election Day with Veterans Day. This idea is well intentioned but dead wrong. As a New Jersey resident and former national commander of the Veterans of Foreign Wars, Bob Wallace, wrote to me in September, "We believe that any suggestion or consideration of Veterans Day serving as Election Day would significantly diminish Congress' original intent to honor the men and women who served in the Armed Forces." As a fellow veteran, I agree.

Bob also said, and I quote, "The historical significance of Veterans Day should remain just that, a day to solemnly honor America's veterans for their patriotism and willingness to sacrifice all for freedom." It could not be said better. This is the reason we have sponsored this legislation, and I urge the Members of this House to support it.

Mr. DAVIS of Illinois. Madam Speaker, I continue to reserve the balance of my time.

Mrs. MORELLA. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Madam Speaker, I thank the gentlewoman for yielding me this time, and I rise in strong support of this legislation expressing the sense of the House that Veterans Day should be observed on November 11 and be separate from any other Federal holiday. I urge my colleagues to lend their strong support to this bill.

I thank the gentlewoman from Maryland (Mrs. MORELLA) for her leadership in bringing the measure to the floor at this time, as well as the ranking minority member, the gentlewoman from the District of Columbia (Ms. NORTON), for her work. I also commend the sponsors, the gentleman from Nebraska (Mr. TERRY) and the gentleman from New Jersey (Mr. FRELINGHUYSEN), for their work on this legislation.

In recent years, there have been a number of proposals to merge Veterans Day with Election Day as one Federal holiday in order to encourage the maximum number of voters to go to the polls. While I support increasing voter participation in elections, I believe that proposals along those lines would be an insult and disrespectful to the contributions and service performed by our Nation's veterans.

For many years, we have had a unique, separate holiday for those who gave the ultimate sacrifice in the service of their Nation during our Nation's many military conflicts. It is only fitting that we continue to have a separate holiday for the living who served their country in military service.

Madam Speaker, those who want to encourage election reform by establishing a new Federal holiday can be heard on that subject. However, the service of our veterans should not be diminished in any manner by having Veterans Day share its honor with another Federal holiday observance. November 11, the day honoring our veterans of our Armed Forces, should remain solely a day to honor their contributions and their loyalty to our Nation.

Accordingly, I urge my colleagues to join in supporting this timely and appropriate measure.

Mr. DAVIS of Illinois. Madam Speaker, I continue to reserve the balance of my time.

Mrs. MORELLA. Madam Speaker, I am pleased to yield 3 minutes to the gentleman from New Jersey (Mr. SMITH), who chairs the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. Madam Speaker, I rise today in very strong support of this resolution, H. Res. 298, calling for Veterans Day to remain a distinct Federal holiday observed every year on November 11.

Eighty-three years ago, in a forest northeast of Paris, an armistice was signed that ended the fighting in World War I commencing on the 11th hour of the 11th day of the 11th month of 1918. The war to end all wars was over. It had been won through the selfless service and sacrifice of tens of thousands of American men and women, joining together with millions of our British, French, and other allies.

To commemorate this historic event, the following year, President Woodrow Wilson, who I would note parenthetically was a former New Jersey Governor, issued a proclamation declaring November 11 Armistice Day, saying that, and I quote, "The reflections of Armistice Day will be filled with solemn pride in the heroism of those who died in the country's service and with the gratitude for the victory." Following World War II, Armistice Day was renamed Veterans Day to honor all those men and women who served a grateful Nation.

Madam Speaker, as chairman of the House Committee on Veterans' Affairs, I am unalterably opposed to any proposal that would alter or in any way diminish Veterans Day. In particular, I stand in opposition to the recommendation of the National Commission on Federal Election Reform that Federal elections be held concurrently with Veterans Day.

While I, like every other Member of this House, want citizens to fully exercise their franchise and to vote, I do not believe diluting Veterans Day is a way to achieve that end. Such a change would defeat the purpose of reserving a day in the year to honor all men and women, living and deceased, who have risked their lives to defend our Nation.

Veterans Day, especially when it is coupled with Memorial Day, the day we honor our war dead and those who have died who served honorably, are 2 days, and it is the least we can do, I would say, Madam Speaker. And, again, to diminish it would be wrong.

In 1987, Madam Speaker, Congress made a similar mistake when legislation was approved to change the national Veterans Day observance from November 11 to the fourth Monday in October to create a 3-day weekend for Federal employees. This misguided policy was quickly abandoned following a national outcry from millions of Americans, veterans and nonveterans alike.

Madam Speaker, Veterans Day is more than just a holiday. It is a continuing history lesson for all Americans. It is a reminder that freedom is not free; that our liberties, which are endowed by our Creator, must be defended against all who would remove them.

This is a very good resolution and I urge strong support for it.

Mrs. MORELLA. Madam Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. JEFF MILLER), one of our newest Members of this august body.

Mr. JEFF MILLER of Florida. Madam Speaker, I thank the gentlewoman for yielding me this time, and I rise today in support of H.R. 298.

In respect and recognition of the contributions our servicemen and women have made to the cause of peace and freedom around this world, the laws of the United States make November 11 a Federal holiday in honor of every American who has served this country. While we always appreciate the men and women of the military, it is altogether fitting that we set a time aside to do so publicly. Veterans Day was established for this reason, and November 11 should be set aside for this reason alone.

Throughout the course of American history, nearly 48 million men and women have stepped forward to defend our land, our people, and our principles. Today, there are more than 25 million living veterans who served our Nation, many of them willingly entering harm's way to preserve, protect, and defend our freedom. The strength of the United States is a direct result of their courageous, patriotic, and dedicated service for which we can never fully thank them.

Because of their service to the United States in the cause of freedom and liberty, we are citizens of the greatest Nation in the history of the world. I thank our veterans for their dedicated service to our country, and I also thank their families for sharing their loved ones throughout the years. The excellence of our veterans is a model for men and women everywhere who are asked to defend our country. At this moment, men and women of the Army, the Navy, the Air Force, Marines, and Coast Guard are serving around the world, and they could have no better example to follow or tradition to live up to.

I urge my colleagues to vote in favor of this resolution and to retain this fitting honor for all of our veterans.

Mrs. MORELLA. Madam Speaker, I yield myself the balance of my time.

The 3 million members of the American Legion and the 100,000 members of the Noncommissioned Officers Association support this resolution. It is also supported by the 370,000 members of the Retired Officers Association, the 1 million members of the Disabled American Veterans, the 2 million members of the Veterans of Foreign Wars, the members of the Vietnam Veterans Association, the members of the Retired Enlisted Association, and the members of AMVETS.

I do again want to thank the gentleman from Nebraska (Mr. TERRY) and the gentleman from New Jersey (Mr. FRELINGHUYSEN) for introducing this resolution, as well as the gentleman from Indiana (Mr. BURTON), who chairs the Committee on Government Reform, as well as the gentleman from California (Mr. WAXMAN), the ranking member, for having this resolution come to the floor so promptly.

I urge all Members to stand with our Nation's veterans and their organizations in support of House Resolution 298.

Ms. JACKSON-LEE of Texas. Thank you, Madam Speaker and Congressman TERRY, for this important resolution which expresses the sense of the House that Veterans Day should continue to be observed on November 11.

Under current law, November 11 of each year is designated as Veterans Day, a federal holiday honoring veterans of the U.S. Armed Forces. This important tradition began in honor of November 11, 1918—the 11th hour of the 11th day of the 11th month in which Americans began laying down their arms. In 1921, this day marked the burial of an unknown World War I American soldier who was buried in Arlington National Cemetery. Historically, similar ceremonies occurred in England and France where an unknown soldier was buried in each nation's highest place of honor. These memorial gestures all took place on November 11.

Armistic Day officially received its name in America in 1926 through a Congressional resolution (44 Stat. 1982). In 1938 it became a national holiday by an Act (52 Stat. 351; 5 U.S. Code, Sec. 87a) as "a day to be dedicated to the cause of world peace and to be hereafter celebrated and known as 'Armistice Day.'" Initially, set aside to honor veterans of World War I, in 1954, after World War II, the 83rd Congress amended the Act of 1938 by striking out the world "Armistice" and inserting the word "Veterans" in order to honor American veterans of all wars.

Just this past Veterans Day, I honored America's veterans and those who gave their lives for America's freedom and democracy at the Veterans Memorial National Cemetery in Houston, Texas. There, I expressed our gratitude to the men and women who have given themselves to national service. Their sacrifice, particularly in light of the September 11 attacks and the ongoing war on terror, reminds us that we cannot take our freedoms and democracy for granted. This important day should be preserved and honored at all costs.

I am a product of America's veterans and have several members of my own family who were veterans of World War II. For them and for all the veterans of this great Nation, I oppose any holiday or Election Day on Veterans Day. That's why, on March 7, 2001 I introduced H.R. 934 which ensures that Election Day never interferes with Veterans Day.

It is because of the sacrifices made by our veterans for freedom, the flag, and the American people that we are today able to vote, and that I was able to introduce this legislation which provides a greatly needed federal Election Day. It establishes Presidential Election Day on the Tuesday next after the first Monday in November in 2004 and each fourth year thereafter, as a legal public holiday.

This resolution before us today, H. Res. 298 expresses the sense of the House that Veterans Day should continue to be observed on November 11, as under current law, and separate from any other federal holiday. This is an important message, needed to express to our Nation's veterans and those across this great Nation that we will forever remember and honor those who have served in our Armed Forces.

I strongly urge my colleagues to support it.

Mrs. CHRISTENSEN. Madam Speaker, November 11th is Veterans Day period.

On behalf of the veterans of the U.S. Virgin Islands, who have fought in every one of this country's wars from the Revolutionary War forward, I support H. Res. 298, and commend our colleagues for introducing this resolution expressing the sense of the House, that this day would forever be set aside as the day we honor those who have so nobly served this country and all of us. That is as those from my district would have it.

What a small concession from the country to those who have sacrificed and been willing to fight unto death—willing to make the ultimate sacrifice. But it is of great importance and significance to them.

November 11th is Veterans Day, period. Let's not fix what ain't broke.

Mrs. KELLY. Madam Speaker, I want to rise in support of this measure which reminds us of the importance of honoring our nation's veterans.

In light of our current circumstances, with American soldiers now on hostile ground, we ought to be especially mindful of our efforts to acknowledge and honor those who have served our country.

While I understand that some may see this annual day of honor also as a day of convenience, an already-established holiday that can be used for other purposes, I believe that any effort to place any other designations on this day is unacceptable. These are our veterans. These are the men and women who have put the well-being of their country ahead of their own. It is not asking too much to have one day a year dedicated solely to their efforts.

Our veterans deserve it.

Mrs. MINK of Hawaii. Madam Speaker, I rise today in support of House Resolution 298, expressing the sense of the House that Veterans Day should be observed on November 11th and separate from any other federal holiday.

Veterans Day originated in 1920 and was originally named Armistice Day to mark the end of World War I on the 11th month, the 11th day, and the 11th hour of 1918. In 1954 Congress broadened the holiday by renaming it Veterans Day to honor American veterans of all wars.

In Presidential Proclamation 3071, President Dwight D. Eisenhower called on the nation to set aside Veterans Day to "solemnly remember the sacrifices of all those who fought so valiantly, on the seas, in the air, and on foreign shores, to preserve our heritage of freedom." He challenged the nation to "reconsecrate ourselves to the task of promoting an enduring peace so that their efforts shall not have been in vain."

On Veterans Day we meet that challenge and honor the 405,399 Americans that lost their lives in World War II, the 58,198 that lost their lives in Vietnam, and thousands of others that lost their lives in all other conflicts. Despite the need to protect the purposes of Veterans Day, the National Commission on Federal Election Reform recommended that Congress enact legislation to conduct federal elections on Veterans Day. We must not diminish the importance of Veterans Day by sharing Veterans Day with any other even which distract our attention from the veterans who have served this country.

Veterans Day is a sacred day to honor veterans for their patriotism, love of country and willingness to make sacrifice for our nation.

I urge my colleagues to vote for House Resolution 298 and maintain the integrity of the day set aside to focus the nation's attention on the important sacrifices made by Veterans.

Mr. EVANS. Madam Speaker, I rise in strong support of House Resolution 298 and urge all of my colleagues to support this important measure. Mr. Speaker the purpose of House Resolution 298 is simple, but it is as profound as it is simple.

House Resolution 298 expresses the sense of the House of Representatives that Veterans Day should continue to be observed on November 11. In addition, Veterans Day should be observed separate and apart from any other Federal holiday or day for Federal elections or national observances. Our nation has a long-standing tradition of honoring our veterans on November 11. As many know, the observance of Veterans Day on November 11 has historic significance. On the 11th hour of the 11th day of the 11th month, the guns used to wage World War I were officially silenced. This day, Armistice Day, became known as Veterans Day as our nation recognized the sacrifice and service of all our Nation's veterans.

Veterans Day should be preserved and continue to be the day our nation pauses to recognize all veterans. Let us retain November 11 as Veterans Day and honor all those who have served our nation in uniform.

Mrs. MORELLA. Madam Speaker, I yield back the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and agree to the resolution, H. Res. 298.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TERRY. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CRIMINAL JUSTICE COORDINATING COUNCIL RESTRUCTURING ACT OF 2001

Mrs. MORELLA. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2305) to require certain Federal officials with responsibility for the administration of the criminal justice system of the District of Columbia to serve on and participate in the activities of the District of Columbia Criminal Justice Coordinating Council, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Justice Coordinating Council Restructuring Act of 2001".

SEC. 2. AUTHORIZING FEDERAL OFFICIALS ADMINISTERING CRIMINAL JUSTICE SYSTEM OF DISTRICT OF COLUMBIA TO PARTICIPATE IN CRIMINAL JUSTICE COORDINATING COUNCIL.

(a) IN GENERAL.—Each of the individuals described in subsection (b) is authorized to serve on the District of Columbia Criminal Justice Coordinating Council, participate in the Council's activities, and take such other actions as may be necessary to carry out the individual's duties as a member of the Council.

(b) INDIVIDUALS DESCRIBED.—The individuals described in this subsection are as follows:

(1) The Director of the Court Services and Offender Supervision Agency for the District of Columbia.

(2) The Director of the District of Columbia Pretrial Services Agency.

(3) The United States Attorney for the District of Columbia.

(4) The Director of the Bureau of Prisons.

(5) The chair of the United States Parole Commission.

(6) The Director of the United States Marshals Service.

SEC. 3. ANNUAL REPORTING REQUIREMENT FOR CRIMINAL JUSTICE COORDINATING COUNCIL.

Not later than 60 days after the end of each calendar year, the District of Columbia Criminal Justice Coordinating Council shall prepare and submit to the President, Congress, and each of the entities of the District of Columbia government and Federal government whose representatives serve on the Council a report describing the activities carried out by the Council during the year.

SEC. 4. FEDERAL CONTRIBUTION FOR COORDINATING COUNCIL.

There are authorized to be appropriated for fiscal year 2002 and each succeeding fiscal year such sums as may be necessary for a Federal contribution to the District of Columbia to cover the costs incurred by the District of Columbia Criminal Justice Coordinating Council.

SEC. 5. DISTRICT OF COLUMBIA CRIMINAL JUSTICE COORDINATING COUNCIL DEFINED.

In this Act, the "District of Columbia Criminal Justice Coordinating Council" means the entity established by the Council of the District of Columbia under the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. MORELLA).

GENERAL LEAVE

Mrs. MORELLA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation under consideration, H.R. 2305.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

□ 1900

Mrs. MORELLA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2305, as amended, formally establishes the Criminal Justice Coordinating Council, a joint Federal-local effort designed to foster cooperation among the various agencies that have law enforcement responsibility in our Nation's capital. I introduced this measure in June of this year, was joined by the gentlewoman from the District of Columbia (Ms. NORTON) as the original cosponsor of H.R. 2305. The bill was amended in subcommittee, and that is the version that we are now considering.

The amended bill authorizes the heads of six Federal agencies, the Court Services and Offender Supervision Agency for the District of Columbia, the District of Columbia Pretrial Services Agency, the U.S. Attorney for the District, the Bureau of Prisons, and the U.S. Parole Commission, as well as the U.S. Marshal Service, to meet regularly with District law enforcement officials. It also requires the CJCC to submit an annual report detailing its activities to the President, Congress and the appropriate Federal and local agencies.

The District of Columbia Financial Responsibility and Management Assistance Authority, known as the Control Board, originally established the CJCC 3 years ago through a memorandum of agreement. Cooperation between Federal and local law enforcement agencies has become even more critical in recent years because the Federal Government has assumed the responsibility of the District of Columbia courts and corrections functions under the 1997 Revitalization Act.

The CJCC is important because it brings the leaders of all participating agencies to the same table. They will work at getting rid of the interagency obstacles that are hindering attainment of the District of Columbia's criminal justice objectives. There are more than 30 law enforcement agencies with a presence in the Nation's Capital. There are 13 governmental agencies that have a direct role in the criminal justice activities in the District from arrest and booking to trial and correctional supervision. Four of these are city agencies such as the Metropolitan Police Department, six are Federal agencies such as the Office of the U.S. Attorney for the District of Columbia. And, finally, there are three agencies, Superior Court, Defender Services, and

Office of the Corrections Trustee that are local in nature but are funded by the Federal Government.

There is plenty of evidence, including recent reports from the GAO and the Council for Court Excellence, that shows that these individual agencies of the District of Columbia's criminal justice system are not always working in concert; and as a result, efforts at reform have sometimes stalled.

Some prime examples of the lack of coordination have been in the area of police overtime. According to the General Accounting Office the Metropolitan Police Department continues to lose millions of dollars each year because officers are waiting for court appearances or to consult with the U.S. Attorney's Office. The agencies use 70 different information technology systems that are not linked to one another. And most tragically, miscommunication among agencies have led to mistakes in correctional supervision, sometimes with fatal consequences. For instance, the killing of Bettina Pruckmayr, who was robbed and stabbed 38 times in 1995 by a convicted murderer who should have had his parole revoked on a drug charge but for the failures of the criminal justice system. This shows a terrible waste of human and monetary resources which I hope will be corrected by the CJCC.

With proper funding and structure, I believe the Criminal Justice Coordinating Council can be a very useful tool in fostering interagency cooperation. Not only can it assist in making day-to-day operations of the various criminal justice agencies more efficient, but in doing so the CJCC can help ensure that broader policy goals such as reducing violent crime and meting out justice more swiftly are also accomplished.

The language of H.R. 2305, as amended, reflects the input received from the Department of Justice. I thank the Department for its suggestions.

I recognize the gentlewoman from the District of Columbia (Ms. NORTON) for her support of this legislation; and I would particularly like to thank the chairman of the Committee on Government Reform, the gentleman from Indiana (Mr. BURTON), for his interest in issues affecting the District of Columbia and his help in bringing this important legislation affecting our Nation's capital expeditiously to the floor. I also thank the gentleman from California (Mr. WAXMAN) of the full committee. I urge all Members to support H.R. 2305.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H.R. 2305, the Criminal Justice Coordinating Council Restructuring Act of 2001, a bill to strengthen the District of Columbia's Criminal Justice Coordinating Council by ensuring Federal participation and funds.

I also thank the Chair of the D.C. subcommittee, the gentlewoman from Maryland (Mrs. MORELLA), for working closely with the ranking member, the gentlewoman from the District of Columbia (Ms. NORTON), to develop this measure.

In 1998, the District of Columbia's financial authority created the D.C. Criminal Justice Coordinating Council. The goal of the CJCC was to coordinate criminal justice activities between the various Federal and D.C. agencies that have responsibility for different aspects of the criminal justice system in the District of Columbia. This coordination is essential because following the passage of the District of Columbia Revitalization and Self-Government Improvement Act in 1997, most of the District's criminal justice entities were either Federal agencies or D.C. agencies funded by the Federal Government.

Currently, there are 13 agencies with responsibility for some aspect of D.C.'s criminal justice system. All of these agencies are members of the CJCC, in addition to the Mayor's office and the Council of the District of Columbia. The goal of the CJCC is to provide a forum to identify and resolve coordination issues that arise in the District of Columbia's criminal justice system and to help implement critical justice reforms.

The Criminal Justice Coordinating Council Restructuring Act meets the legitimate concerns by District actors and the CJCC not to become a super agency while at the same time ensuring that supremacy clauses and federalism notions are respected. Specifically, the bill recognizes the Criminal Justice Coordinating Council as the appropriate entity set up by District legislation, the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001 to coordinate criminal justice activities in the District.

In addition, the bill requires that Federal agencies with a role in criminal justice matters in the District, including Court Services and Offender Supervision, Pretrial Services Agency, Office of the U.S. Attorney, the Bureau of Prisons and the United States Patrol Commission, serve on the CJCC, participate in its activities, and take such action as may be necessary to fulfill their duties on the CJCC.

However, in keeping with the mandates, no District official can compel a Federal official to take any action. The bill also authorizes Federal funds to carry out the duties of the CJCC. This measure will strengthen and enhance the CJCC as a vital coordination entity for the District's multi-jurisdictional criminal justice system.

Madam Speaker, I again thank the gentlewoman from Maryland (Mrs. MORELLA) for her work in bringing this important legislation to the floor. I urge its passage.

Madam Speaker, I include for the RECORD the statement of the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Madam Speaker, I rise in strong support of H.R. 2305, the Criminal Justice Coordinating Council Restructuring Act of 2001, a bill to strengthen the District of Columbia Criminal Justice Coordinating Council by ensuring federal participation and funds. I want to thank the Chair of the D.C. Subcommittee, Representative CONNIE MORELLA, for working closely with me to develop this measure.

In 1998, the District of Columbia Financial Authority (control board) created the D.C. Criminal Justice Coordinating Council (CJCC). The goal of the CJCC was to coordinate criminal justice activities between the various federal and D.C. agencies that have responsibility for different aspects of the criminal justice system in D.C. This coordination is essential because following the passage of the District of Columbia Revitalization and Self Government Improvement Act (Revitalization Act) in 1997, most of the District's criminal justice entities are either federal agencies, or D.C. agencies funded by the federal government. In the Revitalization Act, the District exchanged its traditional static federal payment for the federal funding of several functions normally funded by states. These functions included such criminal justice matters as prisons, offender supervision, public defender service, and courts.

Currently, there are 13 agencies with responsibilities for some aspect of D.C.'s criminal justice system. These agencies can be broken down into three categories: (1) D.C. agencies that are D.C. funded: the Metropolitan Police Department, Office of the Corporation Counsel, Department of Corrections, and Office of the Chief Medical Examiner; (2) federal agencies that are federally funded: the Office of the U.S. Attorney, the Bureau of Prisons, the U.S. Marshals Service, the U.S. Parole Commission, Court Services and Offender Supervision Agency, D.C. Pretrial Services Agency; and (3) D.C. agencies that are federally funded: the Superior Court, the Public Defender Service and the Office of the Corrections Trustee.

All of these agencies are members of the CJCC in addition to the Mayor's Office and the Council of the District of Columbia. The goal of the CJCC is to provide a forum to identify and resolve coordination issues that arise in the D.C. criminal justice system and to help implement criminal justice reforms.

The Fiscal Year 2000 District of Columbia Appropriations Act mandated that the General Accounting Office (GAO) perform a study to examine the effectiveness of coordination among the various entities charged with the operation of the District's criminal justice system. GAO released its report, entitled D.C. Criminal Justice System: Better Coordination Needed Among Participating Agencies in March 2001.

On May 11, 2001, the D.C. Subcommittee held an oversight hearing to examine the coordination of criminal justice activities in the District of Columbia and the GAO report.

GAO found that the CJCC is the "primary venue in which D.C. criminal justice agencies can identify and address interagency coordination issues." The CJCC has worked on many such issues, including positive identification of arrestees, halfway house operations, and drug treatment of defendants. GAO praised the CJCC for its work on coordination projects where all participants stood to gain, such as data sharing and technology issues among agencies. However, GAO found that the CJCC was less successful on projects where one agency stood to gain at the expense of another, because the CJCC operates by the consent of the members and does not contain an enforcement mechanism.

GAO cited numerous projects where poor coordination led to inefficient operations and poor program performance. One example discussed at length in GAO report is case processing. In the District of Columbia, as many as six agencies are responsible for processing a case before a court appearance on a felony charge can occur. Unlike many jurisdictions, the U.S. Attorney's office requires officers to meet with prosecutors personally before they determine whether to charge an arrestee with a felony or misdemeanor. GAO found that during 1999, the equivalent of 23 full time officers were devoted to these appearances, reducing the number of officers on patrol.

GAO cautioned that although the CJCC had been funded by the D.C. control board, the board did not include funding for the CJCC in the District's Fiscal Year 2001 budget. The last remaining staff person, working almost exclusively on technology issues, was funded by a grant. GAO recommended that "Congress . . . consider funding CJCC—with its own director and staff—to help coordinate the D.C. criminal justice system, and to require CJCC to report annually to Congress, the Attorney General, and the D.C. Mayor."

In addition, GAO found that as of November 2000, the CJCC and other agencies reported "93 initiatives for improving the operation of the [D.C. criminal justice] system." Although GAO stipulated that many of these coordination projects are ongoing and therefore cannot yet be fully evaluated, it found that of the 93 current projects there were 62 instances where participating agencies did not agree on the initiative's goals (11 instances), status (10 instances), starting date (1 instance), participating agencies (22 instances), or results to date (18 instances).

Several of the CJCC members disputed these findings, explaining that GAO did not examine closely enough the actual work performed on these projects and merely relied on summaries provided by the participants that may have appeared inconsistent. However, GAO found that "this lack of agreement underscores a lack of coordination among the participating agencies that could reduce the effectiveness of these initiatives." GAO therefore recommended that Congress require all D.C. criminal justices agencies to report multi-agency activities to the CJCC, which would serve as a "clearinghouse" for these initiatives.

Although members of the CJCC agree that coordination among the various agencies that have responsibility for the District's criminal justice system needs to be improved, several members disagreed with GAO's recommendation for a congressionally created and funded entity to oversee coordination and reform initiatives.

For example, Deputy Mayor Margaret Nedelkoff Kellems, formerly the Executive Director of the CJCC, wrote in response to the GAO report, "It has been my experience [however] that to the extent that reforms have taken root in the District through the CJCC, it has been not only because of coordination resources, but equally because the member agencies have felt ownership over the body. As reporting to the new entity you describe becomes a requirement, criminal justice agencies might perceive it to be threatening and respond on a perfunctory basis. Nevertheless, I concur in your basic premise that there must be a coordinating organization and it must have dedicated resources."

Similarly, Superior Court Chief Judge Rufus King wrote, "it is important that any successor [to the CJCC] not become a "superagency" which dictates to the different criminal justice agencies what the agenda should be or how problems which involve more than one agency should be approached . . . The most important thing to preserve in any newly constituted council is that it remain a council of independent agencies who are able to recognize their responsibilities to different funding authorities."

Finally, former U.S. Attorney Wilma Lewis offered the following criticism of GAO's recommendation: "I have some concern about your proposal that Congress 'consider requiring that all D.C. criminal justice initiatives that could potentially involve more than one agency be coordinated through the new independent entity' . . . I question whether such review is necessary for all initiatives that could potentially involve more than one agency. Given the interrelatedness of agencies in our system, it is difficult to think of any initiative—no matter how limited in scope or application—that would not fit that definition and require review by that entity. As such, I am concerned that such a requirement would be counterproductive, as it would hamstring each agency's ability to implement policies and practices within its appropriate sphere of activity."

The Criminal Justice Coordinating Council Restructuring Act meets these concerns of District actors while at the same time ensuring that supremacy clause and federalism notions are respected. Specifically, the bill recognizes the Criminal Justice Coordinating Council (CJCC) as the appropriate entity set up by District legislation (the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001) to coordinate criminal justice activities in the District. In addition, the bill requires that federal agencies with a role in criminal justice matters in the District, including Court Services and Offender Supervision (CSOSA), Pretrial Services Agency, Office of the U.S. Attorney, the Bureau of Prisons, and the United States Parole Commission, serve on the CJCC, to participate in its activities and take such action as may be necessary to fulfill their duties on the CJCC. However, no District official can compel a federal official to take any action. The bill also authorizes federal funds to carry out the duties of the CJCC.

This measure will strengthen and enhance the CJCC as a vital coordination entity for the District's multi-jurisdictional criminal justice system. I once again thank Chairwoman MORELLA for her leadership in bringing this important legislation to the floor. I urge its passage.

Mr. DAVIS of Illinois. Madam Speaker, I yield back the balance of my time.

Mrs. MORELLA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I commend the gentlewoman from the District of Columbia (Ms. NORTON) for joining with me in this important act, and I thank the gentleman from Illinois (Mr. DAVIS) for being a floor manager and for being so supportive of this legislation. I urge this body to endorse this bill by its vote.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and pass the bill, H.R. 2305, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize certain Federal officials with responsibility for the administration of the criminal justice system of the District of Columbia to serve on and participate in the activities of the District of Columbia Criminal Justice Coordinating Council, and for other purposes.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on three motions to suspend the rules on which further proceedings were postponed earlier today. The remaining questions postponed earlier today will be taken tomorrow.

Votes will be taken in the following order:

H.R. 3323, by the yeas and nays;

H.R. 3391, by the yeas and nays;

S. 494, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

ADMINISTRATIVE SIMPLIFICATION COMPLIANCE ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3323, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 3323, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 410, nays 0, not voting 23, as follows:

[Roll No. 466]

YEAS—410

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—23

Barr
Berman
Blagojevich
Brady (TX)
Brown (FL)
Cubin
DeFazio
Engel
Houghton
Istook
Jones (OH)
Kucinich
LaTourette
McKinney
Meehan
Pelosi
Quinn
Radanovich
Reyes
Riley
Roukema
Rush
Waxman

□ 1935

Mr. PAUL changed his vote from "nay" to "yea".

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr BRADY of Texas. Mr. Speaker, on rollcall No. 466, I was inadvertedly detained. Had I been present, I would have voted "yea."

MEDICARE REGULATORY AND CONTRACTING REFORM ACT OF 2001

The SPEAKER pro tempore (Mr. CULBERSON). The pending business is the question of suspending the rules and passing the bill, H.R. 3391.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Connecticut (Mrs. JOHNSON) that the House suspend the rules and pass the bill, H.R. 3391, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 25, as follows:

[Roll No. 467]

YEAS—408

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo

Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—25

Barr
Berman
Blagojevich
Brown (FL)
Cubin
DeFazio
Engel
Houghton
Istook
Jones (OH)
Kucinich
LaTourette
McKinney
Meehan
Nussle
Pelosi
Quinn
Radanovich
Reyes
Riley
Roukema
Rush
Shaw
Waxman
Weller

□ 1946

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. WELLER. Mr. Speaker on rollcall No. 467 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. NUSSLE. Mr. Speaker, on rollcall No. 467 I was unavoidably detained. Had I been present, I would have voted "yea."

ZIMBABWE DEMOCRACY AND ECONOMIC RECOVERY ACT OF 2001

The SPEAKER pro tempore (Mrs. BIGGERT). The pending business is the question of suspending the rules and passing the Senate bill, S. 494, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and pass the Senate bill, S. 494, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 396, nays 11, not voting 26, as follows:

[Roll No. 468]

YEAS—396

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shadegg
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—11

Akin
Berry
Coble
Collins
Deal
Goode
Hostettler
Paul
Schaffer
Sensenbrenner
Taylor (MS)

NOT VOTING—26

Barr
Berman
Blagojevich
Brown (FL)
Buyer
Cubin
DeFazio
Engel
Houghton
Istook
Jones (OH)
Kilpatrick
Kucinich
LaTourette
McKinney
Meehan
Pelosi
Pomeroy
Quinn
Radanovich
Reyes
Riley
Roukema
Rush
Shaw
Waxman

□ 1954

Mr. BERRY changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, DECEMBER 5, 2001

Mr. NUSSLE. Madam Speaker, I ask unanimous consent that it be in order at any time on the legislative day of Wednesday, December 5, 2001, for the Speaker to entertain motions that the House suspend the rules relating to the following measures: H. Con. Res. 232, H.R. 3248, H. Con. Res. 280, H.R. 3322, H.R. 2238, H.R. 2115 and H.R. 2538.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

ELECTION OF MEMBER TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. NUSSLE. Madam Speaker, I offer a resolution (H. Res. 301) and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 301

Resolved, That the following Member be and is hereby elected to the following standing committees of the House of Representatives:

Transportation and Infrastructure: Mr. Boozman.

Veterans' Affairs: Mr. Boozman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBER OF ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

The SPEAKER pro tempore. Without objection, pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)), and upon the recommendation of the majority leader, the Chair announces the Speaker's appointment of the following Member on the part of the House to the Advisory Committee on Student Financial Assistance for a 3-year term to fill the existing vacancy thereon:

Ms. Norine Fuller, Arlington, Virginia.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MIAMI WELCOMES DOLE FRESH FLOWERS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Madam Speaker, on December 9 of this year, approximately 300 employees will move into the newly-built world headquarters of Dole Fresh Flowers in Miami's International Corporate Park.

Miami has historically been the U.S. gateway for the floral industry, since the majority of flowers for commercial use are grown just south of us in South America.

Dole entered the flower business just 2 years ago, bringing to this industry 150 years' experience in growing, shipping, and marketing fresh produce around the world.

Dole consolidated four companies into a single entity, to be housed on 17 acres of land in a state-of-the-art facility measuring 328,000 square feet. Nearly 3 million stems of flowers will pass through the facility every day during this holiday season alone.

Employees have been eagerly awaiting the move to this efficient and beautiful new home since its groundbreaking last April.

□ 2000

Miami, and indeed all of our State of Florida, is enthusiastic about having this worldwide brand Dole in our community.

Welcome home, felicidades.

PASSAGE OF FAST TRACK LEGISLATION

The SPEAKER pro tempore (Mrs. BIGGERT). Under a previous order of the House, the gentleman from Michigan (Mr. BONIOR) is recognized for 5 minutes.

Mr. BONIOR. Madam Speaker, I congratulate the flower company for locating in Miami, but I would like to tell my friends that the bloom is off the rose here on Fast Track coming up this Thursday.

Madam Speaker, this Thursday's vote on Fast Track is an ill-timed attempt to force a divisive issue on our Nation when we least can afford it. Last week, the United States was officially declared in recession. Job losses are skyrocketing as a result of the faltering economy and the September 11 attacks. Workers are unsure of their jobs and unsure of their futures.

Meanwhile, nothing, absolutely nothing, has been done to help these workers. The Republican leadership has blocked effort after effort to address these most important questions that affect working men and women in this country. A meaningful improvement of unemployment compensation laws, any attempt to help expand health care for those who are out of work, and any other assistance that these worker desperately need, we have tried repeatedly month after month to get the leadership on the other side of the aisle to address these questions; and nothing has come from our efforts.

What the Republican leadership has done is use every opportunity available to spend billions of dollars in corporate tax benefits at the expense of working men and women in this country. We are waging war abroad, and we are united in that; but what is happening in this country is that the leadership of the Republican Party is waging war on the workers of this country.

This push for Fast Track is no different. Our flawed trade policies of the last decade have had a devastating toll on American workers. Since 1994, three million U.S. jobs have evaporated as a direct result of our failed trade policies.

In my home State of Michigan, over 150,000 jobs have been lost. Thousands of workers around the country are struggling to keep their jobs right now. They are in danger of becoming tomorrow's job-loss statistics.

It is time we reversed this trend. It is time we woke up and dealt with the crisis that is affecting millions of American workers and their families today. No money and unemployment comp to pay for the rent, to pay for the mortgage, to pay for education, to pay for food. No resources for health care, for members of the workforce or their families.

We do not need more job losses. We do not need more corporate giveaways, and we certainly do not need Fast Track.

I want to thank my colleague, the gentleman from Ohio (Mr. BROWN), for organizing this important discussion which we will have a little later on this floor tonight and for his work to highlight the efforts of Fast Track will have on all of our workers, including our farmers. Madam Speaker, many farmers are already reeling from bad trade deals. It is the same tune; it is the same song every time we get one of these things. Whether it is NAFTA or WTO or China, they come and they will offer the world, they will tell people they will fix this and they will fix that; and then the farmers, they get taken in every time on these things, not all of them. Some of them have figured it out, but the numbers prove what we have been saying all along: these trade policies are not good for our agriculture community.

I say to my colleagues, the timing of the Fast Track bill puts many U.S. farm bills in jeopardy once again, and the administration's willingness to put our trade laws on the table after the recent WTO ministerial shows our farmers have just as much to lose as every other worker in this country.

Madam Speaker, I ask that my colleagues look seriously at the proposal that the gentleman from California (Mr. THOMAS) is bringing to the floor. It is flawed. It does not deal with worker rights, environmental rights, farmer rights; and the upshot of all of this is that we will give away much of our authority and power in the United States House of Representatives and in the other body to deal fairly and adequately and substantively with trade laws that will affect not only those areas, labor, environment, agriculture, but a whole host of other areas that affect the American public.

I ask my colleagues to stand with us as we fight this ill-conceived idea of Fast Track.

OPPOSE FAST TRACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. LYNCH) is recognized for 5 minutes.

Mr. LYNCH. Mr. Speaker, I am indeed new to this body; but I am by no means new to this issue. Prior to the great honor of serving in this body as the elected representative of the 9th Congressional District, I served as an iron worker for 18 years. I worked in the Quincy shipyard just outside of Boston. I worked in the steel mills in Michigan and Illinois, worked in United Auto Workers plants in Framingham, Massachusetts, and again in Michigan.

I have seen a lot of those jobs and a lot of those plants where I worked at one time disappear. I have seen them relocated. Good, highly skilled, well-paying jobs moved mostly to Mexico, but to other countries as well, in a race to find the lowest-paid worker and the least-strong labor standards and environmental standards.

First of all, I want to congratulate the gentleman from Michigan (Mr. BONIOR), as well as the gentleman from Missouri (Mr. GEPHARDT) and my own predecessor, John Joseph Moakley from Massachusetts, for their great work in fighting against this so-called Fast Track and also against NAFTA, which has served to really lower the working standards in some foreign countries that we are now dealing with as a result of NAFTA and which we seek to expand through this Fast Track legislation.

The proponents of this bill say that this is dearly tied to our fight against terrorism, but that cannot be further from the truth. The truth is, however, that Fast Track would do nothing to address America's security and economic needs in the wake of September 11. It neither rebuilds, nor does it restore the healing that is necessary to occur in this country.

What this does do is create what is in effect a silent auction, and what is being auctioned off here is first of all Congress' responsibility to deal with foreign trade. The United States Constitution says that it requires that Congress shall have the power to regulate commerce with foreign Nations, and it also says that it shall have the power to make all necessary laws proffered for carrying out those powers.

Fast Track changes all that. We give away our rights. We auction off the right to have a lively and open debate and choose instead to allow the U.S. Trade Representative to negotiate these deals in secret. It should be no surprise that this country has not been well served by secret negotiations, and we have proof positive that this is not the way to conduct our trade policy. Look at NAFTA. Look at the recent round of discussions and the latest ministerial pronouncements as a result of the WTO conferences.

There are no guarantees, no enforcement mechanisms for enforcing our labor laws or human rights. There are no mechanisms, no enforcement devices that allow us to enforce safety standards for food and for the environment.

What one does see is great protections for multinational corporations, no protections for American jobs, and this is simply a pattern that we should not follow; we should expand for the sake of following what some describe as free trade, which is not free trade at all, but it is trade that is dictated by unelected bureaucrats who sit in Geneva, Switzerland.

This bill would cut the Congress out of the process. It would eliminate the constitutional obligation that Congress has right now to serve the people.

The American worker should not be forced to compete with auto workers making 67 cents an hour in the maquiladoras just over the Mexican border. The sons and daughters of America should not be forced to compete with slave labor, which Fast Track would allow. The sons and daughters of America, our workers, should not have to compete with child labor, which Fast Track allows.

Tonight, as we have our armed services personnel, our proud sons, fighting on the ground in Afghanistan to restore and to preserve peace at home, we are seeing through this Fast Track legislation the derogation of the very powers that they seek to protect. I ask my colleagues to join me in opposing this Fast Track.

Now, this body stands to turn its back again on the American working men and women by engaging in this Fast-Track procedure.

I am new to public service, prior to the privilege of my office now, I was an ironworker for 18 years; I worked at the Quincy shipyard just outside of Boston, Steel Mills in Indiana, and GM plants in Framingham, and in Michigan. I've seen those jobs disappear with thousands of others because companies could exploit low-wage labor through unfair foreign competition. So, as you can see, I am not new to this issue.

The proponents of this bill, the President, Trade Representative Bob Zoellick, and others, seek to link Fast Track to our Nation's antiterrorism efforts. At times, claiming that not to support this bill is to be less than patriotic.

The truth is, however, Fast Track would do nothing to address America's security and economic needs in the wake of September 11. Fast Track neither rebuilds, nor does it restore, it does not heal and it will not bring America together. Instead it will work to continue to drive America apart—starting with the denial of an open and honest debate on this very floor.

The United States Constitution says Congress shall have the power to regulate commerce with foreign nations; and it shall have the power to make all necessary laws proper for carrying out those powers.

Fast Track is a procedural rule that would obligate us to resign our responsibilities on behalf of our constituents. It makes us give up our rights and responsibilities to the people who sent us here.

Mr. Speaker, I can without a doubt affirm that my constituents did not send me here to give away their rights or allow their voices to be silenced.

And in silence and secret is exactly how these trade negotiations will be carried out under Fast Track. U.S. Trade Representatives, who are not elected by the people, will be deciding and negotiating in closed-door backroom sessions.

It is a troublesome process we endorse by engaging in this Fast-Track procedure and we do not have to look far to see the example of failure in that process. We can look to NAFTA.

We see it in the fact that there are no enforceable labor and environmental standards in NAFTA or in the proposed expansion of NAFTA to 34 other countries under the Free Trade Area of the Americas Act.

While the bill raises the issue of labor standards and raises the issue of environmental protections, enforcement of these issues is recklessly absent.

It is easy to see, Mr. Speaker, exactly who benefits from an extension of NAFTA just by examining the juxtaposition of enforceable worker and environmental rights with the rights of investors.

Most troublesome are the protections that allow corporations to impose rules on the global economy that effectively mute competing voices and values, while undermining the sovereign capacity of a nation to defend its own citizens' broader interests by overriding established rights in domestic law.

We have seen the United States has lost millions of dollars to corporations who have successfully sued States under NAFTA's Chapter 11 bylaws claiming that government efforts to improve environmental standards impeded company rights. These are cases not decided in Federal court but in a NAFTA tribunal—again—behind closed doors. The State of California stands to lose $1 billion to the Methanex Company for trying to enforce laws that keep poisonous carcinogens out of gasoline.

In contrast we have seen what NAFTA has done for families, workers and the environment.

The impact of NAFTA on American jobs and worker's rights in member nations is astounding. In the 8 years of its existence, Trade Adjustment Assistance has tallied 800,000 American workers who have lost skilled, well-paid jobs to import competition under NAFTA, the threat of factory relocations holds down wages for tens of thousands more.

Those who have lost their jobs are working, however—making a fraction of what they used to earn. And their jobs? They're held by workers in Maquiladora earning pennies on the dollar with no breaks, no rights to organize and no laws to keep children in school and out of slave labor. This bill is completely absent of any enforceable standard.

The sons and daughters of America's Greatest Generation should not have to compete with child labor and American workers should not have to compete with slave labor.

The American public should not be faced with the risk posed by the safety hazards and the emissions impacts of the 4 and half million Mexican trucks that travel over the border every year. Not to mention the contents of those trucks.

Less than 2 percent of those trucks—roughly 90,000 are ever inspected. Meaning many enter without the proper safety codes and emissions standards required by all 50 states.

Worse yet, the lack of accountability allows produce and meats to come into this country that do not meet the regulatory standards of the FDA—giving families the unfortunate prospect of not knowing if they're eating off the NAFTA diet.

We have seen examples of that, with the outbreak of Cyclosporiasis in seven States—California, Nevada, Maryland, Nebraska, New York, Rhode Island, and Texas (FDA source)—from the consumption of Guatemalan Raspberries contaminated with parasites. A virus that was allowed into this country because the produce did not undergo the FDA process and the sanitation process that is given to U.S.-grown produce.

It's accountability that is missing from these types of trade agreements. And without it, we are unable to guarantee protections and safeguards for the American worker and the American public.

At issue is not whether America should be part of the global economy but how it should be a part of the global economy. Before riding the fast track to more trade agreements, we ought to address the failures and pitfalls of prior ones.

Putting working families first ought to be a major priority especially in the wake of thousands of lost jobs during this recession. Congress has made bipartisan progress on a whole range of issues since then. What we now need to do is to take advantage of this high spirit of bipartisanship and put America's trade agreements on the right track by preserving Congress's legislative role; require negotiators to install provisions that will promote workers' rights, and require negotiators to develop trade rules that cannot undercut environmental laws.

We must do whatever we can to recapture the accountability entitled to the American people. The first step in doing that is to defeat fast track. I urge all of my collogues on both sides of the aisle to vote down this bill.

COMMEMORATING 25TH ANNIVERSARY OF ALLIANCE FOR COMMUNITY MEDIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise to help celebrate the 25th anniversary of the Alliance for Community Media. This is a nonprofit organization which was founded in 1976 to provide access to voices and opinions that otherwise would not be heard. The alliance promotes this idea through public education, progressive legislation, regulatory outreach, coalition building, and grassroots organizing.

The alliance's primary goal is to educate and advocate on behalf of the community at large. It works with the Federal Communication Commission, Congress, State legislatures, State regulatory agencies, and other partners to ensure that all people, regardless of race, gender, disability, religion or economic status, have access to available technology to express their opinions, to express their views.

In my congressional district back in Chicago and in the western suburbs, I use extensively this media to reach out to my constituents. We do a program called Hotline 21, where citizens can call in and voice their opinions and get answers to their questions. That is a 30-minute one. We do another one that is an hour where individuals come in and talk about public issues, public policy directors, notions, concepts and ideas. As a matter of fact, the group of community producers, individuals who have their own shows, who have learned how to use technology, how to use cameras, as a matter of fact, they have built up quite a following; and everybody knows that whatever it is that they want to get out, they can get it out through this media.

So I again commend the Alliance for Community Media, congratulate them on their 25th year anniversary; and I also congratulate their executive director, Bunnie Riedel, and her associates for having done an outstanding job and for having helped to keep alive the notion that as people talk and interact, share notions, ideas and concepts that really binds us closer together as a Nation, it helps to promote the concepts of democracy and it helps to make America a stronger, more open, more productive Nation.

SUPPORTING THE BIPARTISAN TRADE PROMOTION ACT OF 2001

The SPEAKER pro tempore (Mr. OTTER). Under the Speaker's announced policy of January 3, 2001, the gentleman from Virginia (Mr. CANTOR) is recognized for 60 minutes as the designee of the majority leader.

Mr. CANTOR. Mr. Speaker, I rise today in support of the bipartisan trade promotion Act of 2001 and encourage my colleagues in the House to support its passage when we take that crucial vote this week.

Mr. Speaker, I yield 10 minutes to my colleague, the gentleman from Virginia (Mr. SCHROCK).

Mr. SCHROCK. Mr. Speaker, I thank the gentleman for yielding, and I come to the floor this evening with a plea for the people of the district I represent. When the House votes Thursday to grant the President Trade Promotion Authority, I urge my colleagues to support this important measure.

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The district I represent sits on the shores of the Atlantic Ocean at the mouth of the Chesapeake Bay. Millions of dollars' worth of goods pass through these waters every day, both from domestic sources and from our trading partners abroad.

The Commonwealth of Virginia is home to four State-owned ports, the Newport News Marine Terminal, the Norfolk International Terminals, the Portsmouth Marine Terminal and the Virginia Inland Port in Warren County, Virginia. At these ports, importers and exporters find an intricate transportation network, bringing maritime commerce together with road and rail transport. This network allows the goods brought into the ports to reach two-thirds of the American population within 24 hours. If a country or foreign company wants to do business with Americans, they will no doubt deal with the ports of Virginia at some point.

For this reason, the upcoming vote on Presidential Trade Promotion Authority is vital to the people of Virginia's Second District and for all Americans. On Thursday, we will consider granting the President Trade Promotion Authority to negotiate new trade agreements with foreign nations. It is the first step in gaining access to foreign markets for our economy and to open doors to other countries for similar access. This measure has a great impact on the residents of the district I represent because we live where the effects of trade are most evident.

When trade increases, more ships and barges come into these ports, packed with containers and creating the need for more people to handle these goods and ensure their safe transport to communities across the country.

Equally important is the impact that the trade has on the rest of the country. Increasing trade by removing trade and investment barriers benefits all Americans in the checkout line, giving them a wider choice of goods at better prices. Thousands of U.S. manufacturing jobs depend on exports, and TPA will open more foreign markets for these products, and American farmers will benefit as more markets open for their goods.

When the lack of free trade agreements makes our wages lower and makes goods cost more, this is a tax.

The fact that America is party to only a few trade agreements amounts to an invisible tax on the American people and holds back American prosperity. American exports are burdened by harsh tariffs, making those goods less competitive in foreign markets and hindering the success of American companies. Similarly, the lack of imports gives Americans access to fewer competitive choices, forcing them to pay higher prices at the checkout register.

The free trade agreements that America has entered into have been shown to benefit the economy and workers. Exports to Canada and Mexico have more than doubled since NAFTA was enacted in 1974. Higher exports translate directly into more business for American companies and more jobs for American workers.

The last time trade promotion authority for America was in place was in 1994. Since that time, the United States has not enacted a single free trade agreement with any Nation. This sends a signal to our potential trading partners that when TPA is not in effect, America is either not able to negotiate effective agreements or simply is not willing.

But we can send an equally strong signal to our potential trading partners on Thursday by telling them that we are ready to broker trade deals and we have the tools to do so efficiently. This vote will help us reaffirm America's role as the leader in international trade in order to bring better jobs and more business to America.

Naysayers will argue that Trade Promotion Authority should not be granted until it is guaranteed that we will impose labor and environmental standards on the countries with which we deal. We must remind ourselves that these agreements are with nations as sovereign as our own. We would disapprove of a country who required our Nation's factories to meet environmental standards or pay employees particular wages. Environmental and labor concerns are certainly causes worthy of our efforts, but attaching unnecessarily strict regulations to trade agreements only breaks down agreements and blocks access for American companies and consumers.

Experience has proven that free and fair trade gives way to higher environmental and labor standards abroad. As foreign economics grows as a result of trade liberalization, governments have a greater desire and greater means to enforce labor laws and environmental protection initiatives from within.

Perhaps the most important result of Trade Promotion Authority is that America will be able to increase its most valuable export, the ideals of freedom and democracy. Free and open trade allows other countries to see the benefits of capitalism and democracy. As President Bush has said, ``Economic freedom creates habits of liberty. And habits of liberty create expectations of democracy.''

Our vote on Thursday will send a message to our potential trading partners. I hope we do not send the message that Congress does not stand behind our President and that Congress wants to build up barriers to free trade. Rather, I hope that we can pass Trade Promotion Authority and send the message that America stands united, ready to do business, and ready to trade.

Our economy is now at a crossroads. We can take the road that leads to increased isolationism and give up hope of creating new global trade alliances, or we can choose to take the road that leads to increased trade, better American jobs, and a better standard of living for America and our trading partners.

I hope my colleagues will join me in ensuring that we travel down the path that leads to more opportunities and economic freedom for all of our citizens by supporting Presidential Trade Promotion Authority.

Mr. CANTOR. Mr. Speaker, it is now my pleasure to yield to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman from Virginia for yielding to me and for bringing this forum together for the discussion of an issue truly vital to Indian farmers, and congratulate the gentleman from Virginia for his leadership on behalf of agriculture and trade.

Mr. Speaker, I rise today on behalf of America's farmers and ranchers, particularly those serving eastern Indiana. Every evening they leave their sweat in the fields to ensure the good health and well-being of their fellow Hoosiers. They do so much for Indiana, and this Congress can do so much for them by simply granting the President desperately needed trade negotiating power.

Mr. Speaker, trade already benefits Indiana. Hoosiers exported an estimated $1.5 billion in agricultural goods in the year 2000. These exports helped boost farm prices and income while supporting 24,000 jobs on and off the farm in food processing, storage, and transportation. The numbers are truly staggering in Indiana alone: Soybeans and products, $543 million; feed grains and products, $470 million; live animals and red meats, $107 million; wheat and products, $69 million; and poultry and products, $55 million. An estimated $1.5 billion just from the 92 counties of Indiana.

Mr. Speaker, world demand for these products is increasing, but so is competition among our various and diverse trading partners. The reality is if Indiana's farmers and food processors are to compete successfully for opportunities ushered in by the 21st century, they need free trade and open access to growing global markets.

Let us quickly examine previous trade agreements and how they have assisted my home State. As the Nation's sixth largest corn producer, Indiana benefited directly under the North American Free Trade Agreement when Mexico converted its import licensing system for corn to a transitional tariff rate quota. Under this system, the volume of U.S. corn exports to Mexico has nearly tripled since 1994, reaching 197 bushels valued at $486 million in the year 2000. Additionally, under NAFTA, Mexico eliminated import licensing and is phasing out tariffs for wheat all together. Wheat exports to Mexico have doubled from Indiana since 1994.

Mr. Speaker, the Uruguay Round agreement has also benefited Indiana in its capacity as America's fourth largest soybean producer. South Korea continues to reduce its tariffs on soybean oil, a process that has already supported a threefold increase in our export volume. The Philippines is doing the same for soybean meal.

So, Mr. Speaker, you can see that our existing trade agreements have truly benefited Indiana and the entire United States. So why do we need additional trade agreements in the form of TPA to help our Nation's farmers and ranchers? Let me offer a few reasons.

Number one, exports are the lifeblood of American agriculture. Without Presidential Trade Promotion Authority, we risk losing our existing share of foreign markets to other competitors.

Second, with TPA, we can begin in earnest with a round of WTO talks where the greatest gains will be made in agricultural trade.

Third, the only way to fix the problems that have emerged under existing agreements is to use the credibility of Trade Promotion Authority with the President of the United States at the negotiating table.

Additionally, growth in purchases of U.S. food and agricultural products is most likely to come from the 5.9 billion people who live outside of the United States of America. If we do not supply their needs, Mr. Speaker, someone else will.

Fifth, economic studies show that the most significant growth in demand for agricultural products is in societies with emerging middle classes. Middle-class families spend an increasing portion of discretionary income on food. The next decade is expected to usher in 250 million Indians and 200 million Chinese to the level of middle class. These markets will be the strongest for growth in commercial food demand.

Also, some of the highest growth in food demand is occurring in Asia. Only with Presidential Trade Promotion Authority can we tear down the barriers and eliminate tariffs in that region to maximize our economic opportunities.

Additionally, other countries are moving forward without us. The European Union, Mexico, Canada, and Latin

America are negotiating new free trade agreements that do not include the United States. There are 130 agreements that exist today, and only two of them include the United States of America.

Allow me to repeat that again, Mr. Speaker. There have been, over the last decade, been negotiated worldwide with our competitors in agriculture and elsewhere, 130 trade agreements, of which the United States is party to 2.

Also, world agriculture tariffs today average about 62 percent, while U.S. tariffs average 12 percent. Trade Promotion Authority and other trade agreements can only eliminate foreign barriers such as this.

Ninth, other countries are more likely to agree to WTO negotiations pertaining to strengthening world prices if the President is armed with Presidential Trade Promotion Authority.

And last, Mr. Speaker, this Congress can no longer afford to stand idly by while other nations' governments improve trading opportunities for their citizens and their industries and their agricultural sector. Leadership and action by Congress must no longer be delayed. Congressional passage of Presidential Trade Promotion Authority is absolutely essential, and I hope that Congress will do so this week.

And let me say I support Trade Promotion Authority to assist Hoosier farmers. I urge my colleagues to help their farmers as well. But also, Mr. Speaker, and I say this somewhat in jest but in a great deal of seriousness, I believe that this President has earned the confidence of the American people in the days of the fall of 2001. Trade Promotion Authority for the President of the United States asks one simple question: Do you trust the President of the United States at the trade negotiating table to put American agriculture, to put American interests, to put American jobs first?

Well, I, Mr. Speaker, today do not believe I am in the minority when I say that I trust the President of the United States of America to put American jobs, American interests, and American agriculture first. I trust President George W. Bush, and I hope that all of my colleagues will join those many millions of Americans who have found this President truly trustworthy and give him the authority he needs to advance our interest in agriculture and for our entire economy by adopting Trade Promotion Authority.

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Mr. CANTOR. Mr. Speaker, I thank the gentleman for his eloquent remarks.

Mr. Speaker, I yield to the gentleman from Idaho (Mr. OTTER).

Mr. OTTER. Mr. Speaker, I thank the gentleman from Virginia for putting together this opportunity tonight for us to talk about Trade Promotion Authority. We know that is going to be coming up later this week; and so the information, and there has been a lot of disinformation. I think we heard some of that during the 5-minute Special Orders tonight, disinformation that is being put out into the idea marketplace.

Trade Promotion Authority has been much discussed over the last few weeks, anticipating this vote that we are going to have later this week; and I would like to share a little information about how Trade Promotion Authority will benefit not only Idaho, but our 49 sister States as well.

Let me start with something I know best. Idaho is the world's foremost producer and processor of potatoes. We plant over 380,000 acres a year, and we yield well over 100 million hundred weight as a result of those plantings. Most of those potatoes are processed into products which find themselves into the marketplace and restaurants throughout the world.

Idaho potatoes dominate almost every market they have ever gone into. I traveled to some 80 foreign countries and opened many McDonald's throughout the world with the JR Simplot Company because we had the best potatoes in the world, and those best potatoes came from Idaho.

One of those markets that I was part of opening up was in Chile. Today, as a result of our inability to get a seat at that negotiating table, Canada and Chile came together and put together a trade agreement. Idaho no longer shares in that market because that agreement, when we did not have a seat at that table, pushed the Idaho potatoes out of the market.

What concerns me even more than the fact that we are losing some of these markets to some of our foreign competitors is the fact that we are now starting to lose situs for some of our best processors, some of the best processors in the world, some of them historically proven since Birds Eye first discovered how to freeze and then reconstitute products, adding portability and shelf life to some of the best vegetable products throughout the world, and that happened in the early part of the last century.

Some of these best products and their processors are now reducing the size of their plants in the United States south of the Canadian border and are actually expanding some of their potential to be in these foreign markets in plants in Canada, and the result is because Canada has Trade Promotion Authority and they have a seat at the table that they can go to the markets throughout the world and negotiate trade agreements.

Idaho's wheat producers is another example. They are also suffering from our inability to enter into new agreements. The Idaho National Wheat Growers for that purpose and that purpose only are supporting the passage of Trade Promotion Authority. We have documented evidence of how trade has benefited our farmers.

Since the passage of NAFTA, U.S. farm exports to Mexico have doubled. The more trade agreements we enter into, the more food we can sell, because 90 percent of the world's people live outside of the United States. Ninety percent of the mouths that sit down to that plate every night, three times a day, 90 percent of those plates are served in other parts of the world, not the United States. If we are not going to be part of those agreements, if we are not going to have a seat at that table, to whom are we going to be able to sell the increased production that we have from our farms?

The U.S. only consumes about two-thirds of what American farmers always produce because they are the best and most prolific in the world. Without our foreign markets, already depressed prices could be much lower. We need foreign markets to maintain our current production and to increase our market potential in the future. Because the United States has more productive farmers in the world, other nations maintain extensive subsidies and trade barriers and trade walls. The average American agriculture tariff is 3 percent, whereas in Europe it is 15 percent; and worldwide the average is well over 40 percent.

In addition, the European Union maintains export subsidies of up to 75 percent greater than those that we have in America. Passing the Trade Promotion Authority, giving our President the opportunity to sell our wares, to strut our stuff throughout the world will help further our national goals by allowing the President to sit down and negotiate these deals. We will be able then to eliminate trade barriers, and our products will increase our exports and be able to reduce the export subsidies throughout the world.

Let me share some of the state barriers that our farmers all over the United States currently face. In Australia, a monopoly wheat board now sets the price of wheat. American farmers are therefore priced out of one of the most important markets in the world. In Canada, a monopoly wheat board also competes against the United States in world markets.

Mr. Speaker, passing the Trade Promotion Authority would speed the negotiations to remove these wheat boards from their position of power and monopolistic predatory practices in the world marketplace. Idaho is the fifth largest spring wheat producer in the country, and I would not promote Trade Promotion Authority if I were not certain it would benefit our farmers.

China currently imposes restrictions on which varieties of apples, of which Idaho is one of the best producers, that they can import into their country. Currently only three varieties can be imported into China, and the two versions that are actually favored by the Chinese consumer cannot be brought in because of trade barriers. With Trade Promotion Authority, we could negotiate an end to these barriers and benefit our apple farmers.

Similarly, Taiwan maintains a 40 percent tariff on apples and that needs to be reduced and could be through the passage of Trade Promotion Authority.

Mr. Speaker, I could go on and on; but I would simply like to demonstrate for this House and for those who are listening, Idaho's director of agriculture, Mr. Takasugi, has prepared "Idaho Trade Issues: An Action Plan." This was produced earlier this year. As the Lieutenant Governor of Idaho, I led trade missions throughout the world. I visited some 80 foreign country. Mr. Takasugi went with me to many of those. We were able to break down barriers because we were sitting at the table when we had the opportunity to overcome some of the differences we had with some of these foreign countries.

Mr. Speaker, this is a 54-page booklet that itemizes every trade barrier that Idaho and Idaho's farmers face in every country of this world, and I would like to provide this booklet to any Members who do not believe that passing Trade Promotion Authority to the President would not be a valuable asset for this country and its economy and the producers.

Some may say Idaho is a small State and we have nothing to gain from Trade Promotion Authority and that it is actually a coastal issue; and I am saying nothing could be further from the truth. Last year, Idaho's exports alone were $826 million. That may not sound like an awful lot to a lot of folks; but my 1,285,000 people thought that $826 million in sales to foreign countries was terribly important. A lot of families are able to provide for themselves and provide for their future because of that $826 million.

Let me break it down: $303 million was potatoes and other vegetables; $151 million in wheat products, $98 million in livestock; $54 million in dairy products; and $51 million in feed products.

More than 12,000 Idaho jobs depend upon exports. As I said earlier, our ability to process this food into a portable and into a storable product is one of the things that has got us into these foreign markets.

I am also aware of the concerns of those who are afraid of H.R. 3005 because it means an end of our anti-dumping and countervailing duty legislation. If I thought that was the case, I would be opposing this instead of here helping the gentleman from Virginia (Mr. CANTOR) and our other folks champion this effort. I know firsthand the effects of illegal dumping and the value of our anti-dumping laws. Voting for the Trade Promotion Authority is neither an endorsement of repealing anti-dumping laws, nor a repudiation of the English resolution that this House passed with such an overwhelming majority just last month.

Mr. Speaker, earlier in the last century a fellow by the name of Hans J. Morgantheau said when food does not cross borders, troops will. When we look at most of the problems of the world that have been associated with folks who have something and it is desired by folks who do not, those troops cross the border.

I have said twice now and at the risk of repeating myself, I have been in 80 foreign countries, and I have negotiated with every manner of government in every way that I possibly could for every kind of product; and having a seat at that table and being right there, face to face with the potential buyer, is the most important thing we can do.

Trade Promotion Authority, Mr. Speaker, gives us a seat at that table. Trade Promotion Authority will indeed manifest the value that Hans J. Morgantheau put into his idea that when we are trading with people, we are building a relationship, and that relationship then leads to an exchange of values and an exchange of goals and eventually an exchange of ideas and peace.

For those Members who may doubt the value of trade, I direct them to a book called "The Lexus and The Olive Branch," Chapter 6, and it is called "The Golden Arches Theory of Peace." No two countries that ever received a McDonald's franchise since they received that franchise have gone to war because they understand the value of a relationship and a trade consumer and a provider and supplier-consumer relationship.

Mr. Speaker, I urge my colleagues to join me and all of those who are speaking on it tonight in passage of H.R. 3005, and assure that we can unleash the power and the potential of the American farmer and the American trader.

Mr. CANTOR. Mr. Speaker, I thank the gentleman from Idaho (Mr. OTTER) for that very well thought out and impassioned plea for the passage of the President's Trade Promotion Authority.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I thank the gentleman from Virginia (Mr. CANTOR) for organizing this Special Order and rise in support of Trade Promotion Authority.

One-third of all American families depend directly or indirectly on foreign trade for their income, and America is the number one exporting nation in the world. But unless we act to promote fair and free trade, this leadership will fade. Trade Promotion Authority ensures that the United States will have better access to foreign markets while strengthening domestic industries.

An increasingly important force behind our Nation's economic growth is the high-tech sector. In the past 5 years, high-tech industry accounted for one-third of the growth of our gross domestic product. It lowered our inflation rate and created 1.5 million new high-paying jobs. Overall, the world market for IT products rose steadily to $1.3 trillion in 2000 and is expected to grow as companies take further advantage of the Internet and e-commerce.

In the United States, the information sector employment rose by 15 percent from 1997 to over 2 million jobs last year. Additionally, more than half of the 2.6 percent increase in U.S. labor productivity between 1996 and 1999 was directly related to increasing investment in IT. What may not be known is that U.S. high-tech companies exported $223 billion in merchandise last year. In Illinois, the number of companies exporting increased by 50 percent from 1992 to 1998.

Mr. Speaker, Motorola, which is based in Chicago's northern suburbs, is one of our Nation's leading exporters of high-tech goods. In the past several years, their exports have increased steadily. Last year almost two-thirds of Motorola's sales were exported. Additionally, thanks to the innovation of the Internet and e-commerce, health care companies such as Allegiance and Medline, based in northern Illinois, greatly contributed to overall Internet sales transactions worldwide, providing critical health care supplies for hospitals both here and abroad.

Allegiance alone provides goods to over 80 countries and has 20 subsidiaries worldwide. These companies support incomes of thousands of families in Deerfield, Vernon Hills, and Libertyville.

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If we grant the President Trade Promotion Authority and these employees continue to take advantage of the Internet, more jobs will be created in Illinois's high-tech sector.

New markets represent an enormous opportunity for high-tech industry to maintain our global leadership. With 500 million people living south of our border and Latin America with only 18 million personal computers on hand, now is the time to open new markets to America's high-tech goods.

While the Information Technology Agreement eliminated duties in the IT sector in some major markets, the larger markets of Latin America are not a party to this agreement. Tariffs on IT products in key Latin American countries remains as high as 30 percent. Beyond tariffs, IT products also face nontariff restrictions such as redundant testing and certification requirements. U.S. suppliers, including those in Illinois, will see a rise in job creation if these barriers are lifted. And if we act now and give trade promotion to the President, we can accomplish this.

Opportunity is a two-way street. Opening markets in Latin America to computers and the Internet will help modernize their economies while, at the same time, promoting free markets, competition, and improved quality of life. As computer and new technologies bring opportunity for economic growth in Latin America, U.S. jobs will be created.

Since NAFTA was enacted, the United States exports to Canada and Mexico have increased 104 percent. Every day, America transacts an estimated $1.8 billion in trade with our NAFTA partners at a rate of $1,200,000 a minute. In 2000, America's exports to our NAFTA partners grew 30 percent faster than to exports to the rest of the world. Since 1992, open markets with Mexico and Canada created more than 20 million new jobs in the U.S., with wages and workers supported at incomes 13 to 18 percent higher than the national average. NAFTA is a proven trade agreement that has led to success for American business.

If we fail the President on Trade Promotion Authority, we will fall behind the curve and the cost will be American jobs. Already, nations worldwide have entered into an estimated 130 preferential trade agreements, while the United States is just party to two, one being NAFTA and the other with our allies in Israel. Only 11 percent of the world exports are covered by American trade agreements, compared to 33 percent for European Union free trade agreements and Customs arrangements. We must act now, and every day America delays, America loses. Communities, families, businesses, and workers lose opportunities and income that could come with expanded markets for American goods and services. During this time of economic uncertainty, it is crucial that we grant the President Trade Promotion Authority to open new opportunities for American businesses and to preserve American jobs.

Past trade agreements have benefited the typical family of four in Illinois by $1,300 per year. Illinois exports totaled over $2,500 for every man, woman, and child in our State. Over 350,000 Illinois families depend on exports for their income, with another 150,000 indirectly depending on export business. Since 1993 and the conclusion of the Free Trade Agreement with Mexico and Canada, Illinois increased our exports to those two countries by 73 percent.

Let me look at one key industry: environmental technology, which grew its exports to Mexico by 385 percent. Exports from the city of Chicago alone totaled $21 billion last year. Over 1,400 businesses in Illinois exported last year, and 86 percent of them were small- and medium-sized companies.

Take the case of Fluid Management in Wheeling. Over 60 percent of the company's business depends on exports. Mr. Speaker, 360 jobs alone. And Fluid's skilled engineering force grew from 6 in 1989 to over 100 by 1996. The firm has expanded here, at home, and in Australia, Europe, and Latin America. After NAFTA, Fluid opened offices in Latin America. The total number of exporting companies in Illinois grew from 9,400 to 14,200 and, in sum, Illinois exported over $32 billion last year to 208 foreign markets.

That is why we need to pass Trade Promotion Authority in this Congress, and, once passed, we will lower tariffs against American goods and enable exports to lead our country out of recession.

Mr. Speaker, I want to thank the gentleman from Virginia (Mr. CANTOR) for organizing this Special Order on the need to boost exports in America. They are important for Virginia, and they are important for my State of Illinois.

Mr. CANTOR. Mr. Speaker, I thank the gentleman from Illinois (Mr. KIRK), my good friend, and join with him in that heartfelt statement of support for the Trade Promotion Act of 2001, which we are poised to vote on here in this House this week, on Thursday.

Mr. Speaker, the economists have announced what many Americans have known for months. America is officially in recession, and granting the President Trade Promotion Authority will allow him to negotiate trade treaties that will create jobs and deliver a much-needed boost to our economy. The real cost to American business of not granting the President Trade Promotion Authority is that other countries will continue to negotiate free trade agreements to the exclusion of the United States and its interests, putting American businesses at a competitive disadvantage.

Two vital sectors of America's economy that have suffered greatly during the recent economic downturn here in this country will benefit most from Trade Promotion Authority, and those are the sectors that we are focusing on tonight and that have been spoken to on the part of my colleagues, and they are the agricultural and high-tech sectors.

Mr. Speaker, I would like for a minute to focus on the Commonwealth of Virginia and how it benefits from increased trade. My district, the southern district, and the Commonwealth of Virginia as a whole, strongly benefit from America's current trade activity. We, like America, benefit from a vibrant international trade environment. Last year, Virginia sold more than $10.5 billion of exports to nearly 200 overseas markets. Virginia exported more than $9.2 billion of manufactured items such as machinery, transportation equipment, computers, and electronics, fabricated metal products, and beverage and tobacco products. The number of Virginia companies exporting increased 62 percent from 1992 to 1998. Demand is growing for the top five agricultural products exported from Virginia, including tobacco leaf, poultry products, live animals and red meats, wheat products and soybean products.

Here are some of the benefits that we stand to gain from increased trade in Virginia. Nearly 60,000 manufacturing jobs are tied to exports. Roughly 6,000 Virginia citizens hold jobs related to agricultural exporters. Jobs supported by exports in Virginia are 13 to 18 percent better paying than the national average. In 1997, an estimated 42,000 Virginia jobs depended on or were indirectly related to manufactured exports, and 1 in every 7 of the manufacturing jobs in Virginia is tied to exports.

Mr. Speaker, no doubt that one of the tremendous engines for the Commonwealth of Virginia and the Nation as a whole and our economy has been the high technology sector. This industry is particularly affected by the absence of Presidential Trade Promotion Authority, and it is this industry which also will stand to benefit most in terms of job creation and increased productivity across this land.

Firms in the United States face many obstacles in the global market such as high tariffs and regulatory burdens. These facts inhibit the competitiveness of American firms. Such obstacles, if not removed, will ultimately lead to the loss of American jobs to our foreign competitors, adding fuel to the fire of the already stalled American economy and associated job layoffs.

Obstacles exist such as the soaring tariffs. These tariffs on American information technology products, scientific instruments, and medical equipment being sold in countries with which the United States does not have trade agreements reduces American competitiveness with the indigenous goods produced in that target country and our foreign competitors. Second, American companies face regulatory barriers on trade of information technology and communications products that are in place without trade agreements. Absence of Trade Promotion Authority, make no mistake, results in countries being unwilling to negotiate trade agreements with the United States. And why would they agree to negotiate with us if a deal as struck is not really a deal? As was stated before by the gentleman from Indiana (Mr. PENCE), I think our President, Mr. Bush, has earned the confidence of the American people and we must confer upon him Trade Promotion Authority to make sure that our American businesses stay competitive in the global marketplace.

Mr. Speaker, to give my colleagues an example of a free trade agreement, most trade between Brazil and Argentina is now tariff free, while U.S. firms still face an average tariff of more than 14 percent on exports to those Western Hemisphere countries and neighbors of ours. Foreign Ministers from both Brazil and Argentina have suggested that they cannot negotiate trade agreements with the United States until the President has Fast Track authority.

Granting the President Trade Promotion Authority will allow him to negotiate trade treaties that create access to new markets for the high-tech industry. Access to new markets will be a major force behind the success of our technological community and the job growth therein. This success will be obtained by allowing companies to expand their markets and their sales in developing countries in order to continue the rapid expansion of the high-tech industries here at home.

As an example of how important opening up foreign markets is to American companies, this is a staggering statistic: 58 percent, that is, nearly 60 percent of Microsoft's revenues, is derived from international sales. Passage of TPA will allow companies like Microsoft to continue to increase their revenues in the global marketplace, and at the same time we are opening up new markets we are growing the job base here in America.

Trade agreements could also help establish the framework for additional e-commerce by American firms between those businesses and their customers abroad. High-tech products from America will be available at lower costs as these markets continue to open. If we have the ability to enter into more bilateral trade agreements, American goods and equipment will begin to show up in more countries and more markets, in much greater numbers and at much more competitive prices.

Recently, President George W. Bush addressed a meeting of leaders in the high-tech industry. The President expressed his vision of a world with increased free trade and described trade's benefits for the U.S. economy. And he said, "Ours is an administration dedicated to free trade. I hope that Congress gives me Trade Promotion Authority as soon as possible so I can negotiate free trade agreements. We should not try to build a wall around our Nation and encourage others not to do so. We ought to be tearing these walls down. Free trade is good for America and it will be good for your industry as well."

Mr. Speaker, another aspect within the international trade environment which is providing obstacles, especially in the area of the high-tech sector, is the issue of piracy. Piracy is currently costing the high-tech sector in America a tremendous amount of revenues. The protection of American know-how is another benefit and an essential part of TPA.

For example, 58 percent of business software applications used in Latin America were pirated in the year 2000, costing the software industry in our country nearly $869 million in licensing revenues. In 1998, Latin America's software market generated approximately $3.5 billion and is expected to grow by 18 percent annually.

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Latin America is currently considered a region where a free trade agreement could occur fairly quickly with the United States. This is a region that provides a huge opportunity for the U.S. software industry. TPA will allow the President to negotiate trade treaties that will combat piracy by making intellectual property protection a fundamental condition of membership in multilateral and bilateral trade alliances. It will also open wide this natural growth market to the south for all American businesses, thereby increasing the job base in America.

Singapore is also a natural destination for the President and his team of negotiators to engage in talks and produce a bilateral trade agreement to open up markets to United States business. Intellectual property reforms in Singapore and cooperation in that country with policymakers have created an environment prepared for increased high-tech trade. We must allow President Bush to take advantage of this conducive environment and lock in the opportunities for American businesses in that country with a bilateral trade agreement with Singapore.

The issue of privacy is certainly linked and has as its pillar the protection of intellectual property owned by American businesses. If America's copyright industries are to continue to be successful in the world markets, the President must be able to effectively negotiate trade agreements that reduce barriers to creative works in America. Trade agreements are the vehicle to license and insure the continued growth of the industry in America. That is why the International Intellectual Property Alliance supports Trade Promotion Authority.

A recent report indicates that the copyright industries, including computer software makers, music, computer hardware, and many more, they employed more than 7.6 million Americans in 1999. Mr. Speaker, my colleagues before me have stated the many benefits that NAFTA has conferred upon this country.

Eight years ago last month, the House of Representatives debated and passed the North American Free Trade Agreement. It has produced a tremendous growth in trade for the United States and our two partners, Mexico and Canada. Trade with our NAFTA partners is growing twice as fast as U.S. trade with the rest of the world and accounts for approximately one-third of all U.S. merchandise trade.

NAFTA trade exceeds trade with both the European Union and Japan combined, approximately $1.8 billion a day, as was pointed out earlier. NAFTA has kept Mexico on track to sustain internal economic reform, which in turn has helped the United States. NAFTA has resulted in reduced tariffs for American goods, benefiting American companies and American workers.

Under NAFTA, Mexico eliminated its 15 percent tariff on live slaughter cattle, its 20 percent tariff on chilled beef, and its 25 percent tariff on frozen beef. Mexico has been the fastest-growing market for U.S. beef. U.S. beef exports to Mexico rose from the 1993 pre-NAFTA level of 39,000 tons valued at $116 million, to 179,000 tons valued at $531 million in 2000.

In the year 2000, 73 percent of Mexican imports were products from the United States: capital goods, from road-building equipment to hospital instruments; consumer goods from Mexico's emergent middle class; everything from blue jeans to compact disks and food. NAFTA led to a stronger economy, which led to improved living standards for Americans.

Examples in my home State of Virginia: the Jones Group International, based in Fairfax, illustrates how an increasing number of American small service companies are competing in world markets. This firm provides consulting services for developing countries.

The Regional African Satellite Communications Organization contacted the company in 1999 to develop two detailed documents, one for technology transfer and the other for know-how and an assistance program.

Millicom International Cellular. This Arlington, Virginia-based telecommunications company announced in 1998 that SENTELgsm, a 75 percent Millicom-owned company, has been awarded a nationwide global systems for a mobile communications license for the Republic of Senegal.

The company plans to embark on a rapid development program to build and launch a GSM mobile network to initially launch service in Dakar, with plans to expand coverage to all the regional capitals.

The license award is for a period of 20 years, renewable every 5 years thereafter. The firm reports that this significant investment will result in nearly $10 million in U.S. exports and will create or retain more than 100 U.S. jobs.

In a recent speech, Commerce Secretary Don Evans summed up the benefits of Trade Promotion Authority: "The President is also committed to keeping electronic commerce free of roadblocks, ensuring the protection of intellectual property rights, and the strict enforcement of our trade agreements. But to achieve these goals in a successful trade policy that serves the interests of American business and American workers, the President needs Trade Promotion Authority."

Without TPA, other nations will continue to refuse to negotiate treaties with the United States.

Mr. Speaker, it is vital for our economic interest and security that the United States set the trade agenda for the world market.

HONORING LEW RUDIN

The SPEAKER pro tempore (Mr. SCHROCK). Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, if anyone watching tonight has ever called New York "the Big Apple" or uttered the words "I love New York," I hope they will join me tonight in remembering the man who brought those phrases into the public domain. His name was Lewis Rudin, but he was better known as "Mr. New York."

On September 20, at the end of his 74th summer, Lew Rudin died of cancer. We all know what happened in New York 9 days earlier. As we look to rebuild and renew New York after the tragic events of September 11, we must do so with Lew Rudin's vigor, vision, imagination, spirit, and wholehearted love for our great city.

At a time when the city's skyline has two gigantic cavities, I take heart in knowing that it is populated with so many buildings developed by Lew and his family. The Rudin family has never sold a building it developed, embodying a virtue that too few people value and practice today, and that is loyalty. Lew was fiercely loyal to his family, his friends, his city, and his father's commitment to rewarding New York because New York had rewarded his family.

Lew was a tireless booster and advocate for New York City. He co-founded the Association for a Better New York, which has lived up to its title time and time again. It has also brought us better schools, improved transportation, and cleaner and safer streets. The association became a watchdog, rewarding those who enhanced our city with Polished Apple Awards.

Lew Rudin bet on the city, even in its darkest hours; and he bet right every time, in part because he helped solve the city's biggest problems. In the mid-1970s he helped rescue New York from the brink of bankruptcy by convincing corporations to prepay their property taxes.

He beat back an effort by the President of the United States to abolish deductions for State and local taxes, which could have caused an exodus of businesses operating in the city.

He persuaded the U.S. Tennis Association to move within Queens, rather than outside of New York. He gained landing rights for the Concorde, enhancing our stature as the business capital of the world. He helped expand the New York City Marathon to the five boroughs. Today, 30,000 athletes participate and millions watch around the world.

Lew worked with me recently to transform the dream of a Second Avenue subway into a reality, and he championed the cause of bringing the Olympics to New York in 2012.

Serving in various roles, Lew was a leader and member of a broad array of New York institutions, from North General and Lenox Hill Hospitals to Central Synagogue and Ford's Theater to Meals on Wheels and New York University. His enormous contributions to so many institutions made Lew Rudin an institution unto himself, and prompted the New York City Landmarks Conservancy to designate him a living legend landmark.

Anything Lew Rudin loved, he also served. An avid golfer, Lew founded First Tee, which was dedicated to bringing the game to the inner city. He knew how to get things done.

But as a third-generation American whose grandfather immigrated from Poland with only the change in his pocket, Lew did what he did mostly for ordinary New Yorkers: he fought to improve their quality of life, enhance the resources available to them, and to make a very special city all the more unique.

Lew Rudin left behind a tremendous legacy of visible accomplishments, but he is also responsible for all sorts of contingencies that never came true, crimes that did not happen, companies that did not leave, criticisms of New York that were not uttered because Lew's efforts made them invalid.

Tonight we honor Lew Rudin with kind words, but tomorrow we must honor his memory with good deeds. Mr. New York, we thank you, we miss you. May you sleep in heavenly peace.

Mr. Speaker, I include for the RECORD other eulogies and statements regarding Lew Rudin:

EULOGY BY DAVID N. DINKINS—FUNERAL SERVICES FOR LEWIS RUDIN CENTRAL SYNAGOGUE, NEW YORK CITY—SUNDAY, SEPTEMBER 23, 2001; 10:00 A.M.

Rabbi Rubinstein; Cantor Franzel; Rachel; Jack and Susan; Beth and Clift, Billy and Ophelia; Carlton and Kyle, Samantha and Michael; Eric and Fiona, Madeline and Bruce Grant, Kathy and Nancy; President Clinton; Governor Pataki; Senator Schumer, Senator Clinton; Mayor Giuliani; Governor Cuomo; and the many other family and friends here today to remember Lewis Rudin.

I have always looked upon Lew as a brother, and I am feeling an unspeakable sorrow at his passing. I ask your forbearance as I attempt to share my thoughts.

I am reminded this morning of two others who regarded each other as brothers—the great theologians and activists, Rabbi Abraham Heschel and Dr. Martin Luther King, Jr. It was Rabbi Heschel, author of the definitive text "What Manner of Man is the Prophet?," who was called upon by Coretta Scott King to eulogize her husband who, parenthetically, was later the subject of a fine biography by Lerone Bennett, entitled "What Manner of Man."

As the biblical reference that moved both Heschel and Bennett told us, the world is yet in awe of that manner of man who "even the wind and the sea obeyed" upon his command "Peace, be still." Rabbi Heschel and Dr. King have long since found their answers to the question, "What manner of man?" And today, we each have our own answers . . . with respect to the man, Lewis Rudin.

What manner of man is this that even the wind and the sea obey? Well, we know that our dear friend was a powerful man, though not perhaps so powerful that he could literally calm the wind and the sea. He did, however, have the power to calm an entire city in its times of storm and crisis. He not only had such power, he used it on every occasion that threatened his city's future. And he used it well. We will hear the truth of this often this morning, and rightfully so, for we are thankful for the strength, the wisdom, and the love that guided him in his mission here on earth.

What manner of man was Lew Rudin. Lew Rudin was a man whose name became known to every New Yorker. He was, as many have said and will always say, "Mr. New York." He earned that title. His extraordinary passion for his City and his spirit of public service will live on in our hearts as long as there is a New York. To Lew Rudin, New York City was more than a place . . . it was a people—a people whose struggles and joys, uniqueness and oneness, touched his heart and moved him to take on our burdens as his own.

What manner of man? Many knew what manner of man he was by his deeds. He was a moving force and guiding light behind so many of the things that have become part of the fabric of New York—the many buildings of the most famous skyline in the world; the New York City Marathon and its Rudin Trophy, born of a collaboration of Percy Sutton, George Spitz and Fred LeBow (it was Percy Sutton who introduced me to Lew); the USTA National Tennis Center (a result of the hard work done with then USTA President Slew Hester) and later the realization of Arthur Ashe Stadium (when David Markin and Judy Levering were President); the "Big Apple" and campaigns; and so many other things that make New York, New York.

Lew Rudin was always there, in times of joy and times of triumph, leading the cheers for this City and making things happen. But, as we know now too well, all is not joy and triumph. And it was during times like these—the toughest of times—when Lew Rudin's "polished apple" shone brightest. He knew, as did Dr. King, that: "The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy."

It was Lew Rudin who stood with Abe Beame on the deck of what was then considered a sinking ship, and brought us in to a safe port. They refused to deliver up New York City to default. Instead, with the help of other faithful New Yorkers—Governor Hugh Carey, Victor Gotbaum, Felix Rohatyn, Barry Feinstein, Jack Bigel, among them—they weathered the storm of the most severe fiscal crisis this city has ever seen.

And, with a national coalition in which Senators Moynihan and D'Amato, Cardinal O'Connor, Jay Kriegel, and my other brother Charlie Rangel played pivotal roles, Lew went toe-to-toe with the President of the United States to fight off an attempt to abolish deductions of state and local taxes—a move that would have caused corporations to flee our City. It couldn't have been done without Lew Rudin. This City is, indeed, in his debt.

Lew Rudin was the heart of what has been called the "Naked City", a phrase all the more poignant in light of the events of September 11th. And he gave us so much more than magnificent structures and symbols. He gave us an unparalleled example of civic responsibility and commitment. And, man, do we need him now! In his final days, he was so proud of his fellow New Yorkers . . . of his City's spirit and resilience. He was proud of our resolve to rebuild our structures and reclaim our lives. He applauded the heroic efforts to rescue the missing, honor the dead and restore order to the City he helped to build, helped to save, and loved so dearly.

Lew Rudin was, indeed, a true friend to this City. And he remained a true friend to his dying day. And this he did because he had a deep and abiding commitment and caring for the people of New York. For all of the people of New York. So many times, Lew Rudin was the only white person in a sea of black and brown faces, whether occasioned by a time of conflict or a time of celebration. Without fail, the annual gathering of the One Hundred Black Men and the Association for a Better New York found Lew and Jack, Howard Rubenstein, Bob Tisch, Alan Tishman, Al Marshal, Burt Roberts and others in brotherhood with Bruce Llewellyn, Arthur Barnes, Roscoe Brown, Luther Gatling and Paul Williams. Lew always welcomed, and was always welcomed by all the communities of this City.

Lew Rudin lived his life according to very basic principles. He was heir to a family philosophy taught by his beloved parents, Samuel and May, that giving is its own reward . . . and giving of self is glorious. He shared that philosophy with Jack, and passed it on to his son Billy and daughter Beth. He gave his all to this City and its people, and gave of himself to many of us as individuals.

Those of us who had the great good fortune to know him as a friend and brother have been blessed to know intimately . . . what manner of man he was. Joyce and I will miss you, Lew. Our lives are so much fuller for having known you. You gave us the gift of your wisdom and humor, your counsel and your support . . . you gave us the gift of your friendship. And there is no greater gift. The City of New York is a better place because you were here. And we promise you, Lew, that we will not permit your City to remain buried in ashes. We will rebuild, we will restore, we will reclaim.

The death of Lew Rudin gives us reason to mourn. But his life gives us so much to celebrate. Lew Rudin has left us with more than memories—he has left us a rich legacy of his friendship, a legacy of caring, and a legacy of doing for others. It is said that service to others is the rent we pay for our space on earth. Lew Rudin departed us paid in full. Let him not look down and find any of us in arrears.

EULOGY BY IRA HARRIS—FUNERAL SERVICES FOR LEWIS RUDIN

Louie . . . when Rachel & Bill called Monday and said you wanted to see all your friends I cried as I realized there was going to be no more golf games or early morning or late night phone calls. When you asked me to speak today I felt like I had just been given the greatest honor one could receive.

I want to talk about Lew Rudin, the friend that so many of us were so privileged to have. The guy with whom I spend so many good times on the golf course. The guy who had that great sense of humor. I remember the gleam in your eye when we found out the first time I played the Nabisco-Dinah Shore, that my celebrity partner was not one of the great sports heroes like Frank Gifford or Bobbie Orr, or a movie star like Kevin Costner, but you, "Mister New York". I gave you the needle when I told you that I was going to ask for my money back, but you then reminded me that I was a guest of RJR.

President Ford reminded me yesterday, when we were telling "Lew" stories, how Phil Waterman and I got even by telling everybody at the Ford tournament in Vail that Rachel had made a "hole in one" that day. Bob Barrett got you to pick up the whole bill in her honor at the party that night at the saloon in Vail. You never complained even when Rachel announced that she had now conquered the game and was going to retire from golf. President Ford said playing golf with you was always a treat. He said to say thanks again for all your support over the years to both his and Betty's tournaments, and for being such a good friend to both of them.

It wasn't just presidents who loved and admired you, but it was all the pros and caddies too. Whatever tournament you arrived at it was always the same, the caddies crying out "Mr. Lew, Mr. Lew". They all loved you and it wasn't because they were impressed with your swing, but because you were you. . . . Then there was the time we were playing a tournament and you missed three shots in a row in the sand. You threw your club down, took out your cell phone and called your favorite pro at Deepdale, Darrel Kestner, to find out what you were doing wrong. Yes, Lew, I could go on all day telling Lew Rudin stories.

You loved to brag about your kids and grandchildren. They were so important to you. You left them the highest crown of life—a good name.

You never let your failing eyesight interfere with golf or anything else. Helen Keller was once asked if there was anything worse than losing your eyesight, she said, "yes, losing your vision." Louie, you never lost your vision.

Lew, I knew when you got to the first tee up in Heaven, Gray Morton was waiting for you. Just remember he's a lousy cart driver and don't give him any gimmes, he chokes on the short ones.

Until we tee it up again . . . I'll miss you.

EULOGY BY WILLIAM RUDIN—FUNERAL SERVICES FOR LEWIS RUDIN

Good Morning,

On behalf of Rachel, Jack, Susan, Beth, Cliff, Carlton, Kyle, Ophelia, Samantha, Michael, myself and the entire Rudin Family we thank you all for coming. My dad would be upset that we are holding his funeral on Sunday, as he knows many of you have sacrificed your golf games to be here; he did not like to inconvenience people. But I know everyone here is very happy to make that sacrifice and be a part of the celebration of his wonderful life.

Dad, deciding where to seat people today was tougher than seating an ABNY breakfast. If you were here today, you would be looking out at this incredible audience made up your family, friends, co-workers, and the many leaders of business, politics, labor, media, not-for-profit and sports world, and the working men and women, like Alex his caddy and Jose his doorman, that gave as you used to call New York "Your Town" its energy and vitality.

It always amazed me how my father referred to a city of 8 million people, a melting pot of every race, nationality, creed and religion as just "a town". He beautifully and poetically synthesized the capital of the world into a small town where everyone knows each other and works together to make "his town" a better place.

If my father was standing here today he would ask Mayor Giuliani, Governor Pataki, and members of New York's Finest and Bravest to stand up and receive our thanks and gratitude for what an incredible job they have done to pull this city together during these trying times. He would tell us, just like he did with Governor Mario Cuomo the day after bombing, what strategies we should be using to rebuild Lower Manhattan and then give us a pep talk on how that if we work together we can accomplish anything.

This morning you will hear from the other speakers about how my father and his brother, Jack, carried on the tradition, established by their parents, May and Sam, of building major office and apartment buildings in New York City. And then using that position and power to help his town.

You will hear how he helped save New York City several times from the brink of bankruptcy.

How he formed ABNY in 1971.

How he saved the United States Tennis Association from moving out of New York and How he and Jack helped start one of the world's premier sporting events. The New York city Marathon in 1976.

You will hear of Dad's golf exploits and how at The Bing Crosby Pebble Beach Pro-Am he was on TV for a half an hour having his famous golf swing analyzed by Ken Venturi.

How he loved his many calm, relaxing, quiet games of golf at his favorite clubs, Deepdale and The Palm Beach Country Club with his buddies, especially Burt Roberts, Ira Harris, Gene Goldfarb, Jack Callahan, and Jimmy Peters. Guys, he loved taking your money. For a man "almost" blind he could sure hit those 40 foot putts.

You will hear about his wonderful medical team at New York Hospital and his excellent private nursing staff who cared for him while he was ill and helped prolonged his life.

And I am sure you will hear about many other aspects of a very successful, powerful but caring man.

To his friends he was Lew, Lewis, Luigi, or Mr. New York. But to Rachel, Ophelia, Samantha, Michael, Kyle, Carlton, Beth and myself, he was just Pops. A man who would stop whatever he was doing, even when talking to a Mayor, Governor, major tenant or banker and stop to take our call to us give directions because we were stuck in traffic on the LIE and wanted to know a short-cut around it. He was a frustrated commissioner of transportation. His door was always open and he was always available to offer sage advice whether it be a lease negotiation, refinancing, personal problem or a putt on the 7th hole of Deepdale. "Four inches outside the cup on the right and do not hit it too hard or else you will knock it off the green". Of course many times. I hit it off the green but the times I did sink the putt he would flash me one of those grins that a father has for a son he is very proud of. For Pops family came first and foremost. He loved and cherished his family and was very happy when we were all together.

Pops we will miss those impromptu visits to the apartment as you were heading between 3 cocktail parties and 2 charity, black-tie dinners you were going to that evening just to give your grandkids a kiss hello. Michael and I will miss our rounds of golf particularly with you and Burt. Well, maybe not with Burt. Even when tired from the chemo treatment, you were always there for your grandchildren, attending a performance by Samantha or going out to dinner just so you could be with all of us.

Rach, Mom, thank you for providing Pops with his only ever true home. He loved what you had created in Palm Beach, he truly relaxed down there. We will continue to cherish the memories of all the wonderful vacations and holidays we spent together. Thank you for sharing it with all of us.

Pops, know that we will take care of Rachel and the rest of yours and her family. Rach, or as he lovingly called you Dr. Gotsmacher, Pops was not the easiest patient but he knew you were always taking good care of him and trying to get him back on the golf course. Mom, we love you very much and we will never forget the joy and happiness you brought to Pops.

Fifi, that was Pops' nickname for my beautiful wife Ophelia. He loved you and knew you were always there for him for the last 25 years, as he was always there for you. He knew what an important part you played in my life, always giving me support and encouragement and giving me true happiness. Your love and dedication particularly during his illness and making him feel at peace with his decisions is truly remarkable. You helped him fight an incredible fight with will and determination, strength and guts that is a role model for us all. Fifi, as he would say looking up from behind his desk in the den at Palm Beach, with his glasses partially down on his nose, "Would you mind coming over and read the paper to me?" "Sure Popsical", she would respond, "What section would you like me to start with?" He loved you very much.

Beth, the other night as Dad's breaths were slowing, you hugged me and said I had big shoes to fill, I hugged you back and said and I know you will help me fill them. Pops relied on you and your wonderful sense of philanthropy, your special sensitivity for finding and getting involved in causes not necessarily popular but very important such as AIDS, homelessness, child advocacy and substance abuse. He was very proud of you and loved you very much. He was especially glad to get to know Cliff and see you happy.

Samantha, Michael, Kyle and Carlton, Pops was very proud of you. Each very special in your own unique way, but connected by the same instincts inherited from Pops—compassion, caring, giving back, and each are blessed with the rare ability to bring people together and make them feel important and special—just as Pops did.

You Kids, are his true legacy.

Thank you Uncle Jack for always being there for Dad and us. Your brother loved you very much. Dad cherished your relationship for it was a truly unique partnership. He knows that he has left behind an awesome responsibility and weight on your shoulders; but know that I speak for your kids, our cousins, and Beth, John, Dave, Sidney and myself and the rest of the Rudin Management team, we will all help you carry on the Rudin tradition. The two of you were true role models on how a family business should be run—we will make you proud.

Thank you all at Rudin Management Company and at ABNY for all your support, dedication and love. Lewis cared for all of you and wanted to know he appreciated everything you did for him and his family. Last week I told him what happened downtown and how brave and heroic our men and women performed under unbearable circumstances. He was very proud of each and every one of you. He loved you all. He also wanted me to especially thank his personal staff and express words of gratitude to each of you. Saundra, Lori, Chris, Tammy, Antoinette, Horace, Mary, Maggie, Krista, Doris and Isabel, he could not have gotten through his busy day and accomplished so much without all of you.

Several people have asked me what will happen to ABNY now that Lewis is not here, the answer is simple, with the wisdom and experience of my father's generation, the energy and drive of my generation, the enthusiasm and optimism of our children's generation and the love and power that fills this sanctuary, we commit to you, Pops, that the ABNY legacy will continue and we will fulfill your vision for a better New York. I asked everyone here and throughout this great city, to help us fulfill Pops' mission and help us rebuild and renew Pops' town.

One of the reasons I believe my dad fought so long was so that he could see his beloved synagogue re-open. Two weeks ago today he participated in the rededication. This synagogue and its leadership is a role model for downtown. Thank you Rabbi Rubinstein for being such a good friend and leader.

For a man with limited vision, Pops had true vision. He was always looking to the future, whether it was the 2nd Avenue subway, new baseball stadiums, or bringing the Olympics to NY in 2012; his vision stretched throughout his town. For a man who talked to Presidents, Governors, Mayors and world leaders and pinned Big Apples on all of them, he related to every person of his town, black or white, rich or poor the same, with dignity and respect. Pops saw no color, he loved everyone. Although he ate at The Four Seasons and "21" he preferred a Sabrett hot dog with kraut and mustard and a cream soda from the hot dog stand on 51st Street.

Dad was the scientific model for multi-tasking. He was not truly happy unless he was in his office simultaneously in a meeting, signing leases, barking out to Lori to get the Mayor on line 1; while screaming on line 2 to Burt Roberts to be quiet and "So what if you were in the papers more than me today!"

He has gone in peace and left behind his "town" not just a little better but a great deal better than he found it—This is all he wanted people to remember him by.

Pops, I know right now you are already meeting with God to organize the Association for a Better Heaven, probably telling him to be brief because you have a tee-off time with your friend Gary Morton in an hour.

Moments after Pops made the transition to the next world the other morning, surrounded by his loving family, the phone started to ring. I looked around to everyone and said, "It must be Pops. he borrowed God's cell phone to let us know he got to Heaven safely."

We love and miss you Pops.

THE HISTORY OF NAFTA AND TRADE PROMOTION AUTHORITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Ohio. Mr. Speaker, I was a little disappointed a moment ago when my colleague, the gentleman from Virginia (Mr. CANTOR), spoke on this floor in support of the Trade Promotion Authority.

We all, including viewers of these proceedings, Members of Congress in their offices, Members of Congress that stop by and watch these proceedings, and others that tune into C-SPAN, see often Members of Congress simply talking about issues. They tell their side for an hour or 30 minutes, and the other side tells the other side, sometimes by party, sometimes by issue.

It is too bad that we did not get a chance today, as I would have liked to, to engage in a discussion as my colleague from Virginia began on his side a discussion of NAFTA and what the North American Free Trade Agreement has meant to this country.

There is so much to talk about with the North American Free Trade Agreement. While that passed back in November of 1993, my first year in this institution, and took effect in January of 1994, a couple of months later, what has happened with the North American Free Trade Agreement is very, very significant in this body today. That is because on Thursday the issue my friend, the gentleman from Virginia, was just talking about, the Trade Promotion Authority, which used to be called Fast Track until Fast Track became so singularly unpopular a term, after this body had defeated Fast Track not once but twice, in fact, in the late nineties, nonetheless, President Bush is bringing back Fast Track in a new cloak, only a new name, not much different, called Trade Promotion Authority. Trade Promotion Authority mostly is simply about taking NAFTA and all of its pluses and minuses and extending NAFTA to the rest of Latin America. I think that most people in this country, if NAFTA came to a vote, would say, I do not think we really want to expand NAFTA to the rest of Latin America, the President's flowery words notwithstanding and the flowery words of my friend, the gentleman from Virginia (Mr. CANTOR), notwithstanding.

Mr. Speaker, the issue of NAFTA can be encapsulated in a story that I would like to tell. Back when Congress in the late nineties considered expanding NAFTA to the rest of Latin America, considered what was then called Fast Track, now granting Trade Promotion Authority to this President, I, at my own expense, flew to McAllen, Texas, rented a car with a couple of friends, and went to Reynosa, Mexico, to see what the face of the free trade future looked like; how was NAFTA working, since it had been 5 years or so; and how were people in Mexico doing under NAFTA.

I went to the home of two people who worked at General Electric, one of America's and one of the world's largest corporations. They were a husband and wife, and lived in a shack not much bigger than 20 feet by 20 feet. This shack had no running water, no electricity, a dirt floor. When it rained hard, this floor turned to mud.

Now, these were two people who worked at General Electric at 90 cents an hour, they each made, 3 miles from the United States of America. Behind their shack was a ditch about 3 feet wide. Across that ditch was a 2-by-4 people could walk across to get to shacks on sort of the next block, if you will.

This ditch, flowing through this ditch was some kind of effluent. It could have been human waste, it could have been industrial waste, and likely it was both. Children were playing in this ditch. The American Medical Association, the Nation's doctors, called the border along the United States-Mexican border a cesspool of infectious diseases. They claimed that this area is perhaps probably the worst place for infectious diseases in the western hemisphere.

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Now, when you visit the colonias where these Mexican workers, almost all of whom work for major American corporations, where in this country those workers are paid $15, $10, often $20 an hour working under generally safe working conditions protected by government regulation that keeps these workplaces safe, generally those companies dispose of their industrial waste into the air or into the water properly, so it does not pollute in the neighborhood very much. All of those companies in Mexico tend not to follow these rules. They tend not to install worker safety regulations and worker safety protections in the workplace. They tend not to dispose of their waste properly for the healthy well-being of their employees and the neighbors. Of course, the wages are one-tenth, one-fifteenth, one-twentieth as much, 3 miles from the United States.

As you walk through these neighborhoods, these colonias, you usually can tell where the worker works because their homes are constructed, the roofs and walls, the homes are constructed of packing materials that come from the companies where they work. They unload equipment. They unload supplies. They unload components from a supplier and they take those boxes home. They might take boxes from General Electric or General Motors, wherever these companies are, wherever these employees work, they might take those boxes home. They might be wood crates, whatever, and they construct their homes with these crates and boxes and packing material.

As you walk through the colonias in these neighborhoods where the husband and wife are both working 10 hours a day, 6 six days a week for big American corporations, making 90 cents an hour, they live in shacks with dirt floors, no electricity, with no running water, shacks made of packing materials coming from the company where they work.

This is the picture of the free trade. This is the picture of the future under NAFTA and a picture of the future under extension or expansion of NAFTA to Latin America through the Trade Promotion Authority proposal.

FOOD SAFETY

Mr. BROWN of Ohio. I would like to talk a little bit about food safety tonight, because one of the things I learned as Congress has passed NAFTA in 1993, I think not a good reflection on this body, but nonetheless Congress passed NAFTA in 1993, what I found interesting about food safety is under NAFTA one of the things that has happened with food safety and with trade law is that pesticides that we have banned in this country, a chemical company might make something like DDT; it is still legal to make the pesticide in our country, it is simply illegal to apply those pesticides to fields in our country or to gardens or to lawns or anything.

Certain pesticides that are banned are banned for use in this country, but American companies still make pesticides and they export some of them to Mexico. So when we buy strawberries and raspberries from Mexico, in many cases those strawberries and raspberries would have had applied to them pesticides that are illegal in this country to use, but were made in this country and exported to those countries for their farmers to use.

Many of those farms are owned by large companies where there is not high regard for the workers' health, where there is not high regard, frankly, for the end product in terms of its safety for consumers' dining room, breakfast room tables.

So what happens, Mr. Speaker, is so often a pesticide will end up sold to Mexico, made by an American company, applied by dirt-poor, underpaid farmers, barely making a living, jeopardizing their health, because putting these pesticides on the land is every bit as dangerous, if not more so, because of the amounts they use, the volume they use, perhaps more dangerous than the ultimate consumption of those fruits and vegetables.

Mr. Speaker, after the pesticides are produced in the United States, sold to Mexico, applied on food, to strawberries and raspberries in Mexico, those fruits and vegetables are then sold back into the United States. And, frankly, it is pretty certain that pesticide residues are still on those vegetables or strawberries and raspberries and other fruits. So rest assured, in some cases as these fruit and vegetables come across the border, generally dismantled by the Gingrich years in this congressional body, our food safety and food inspection measures at the border are so weakened or so unsubstantial, if you will, that this creates some danger for American consumers.

In fact, it is three times more likely that fruits and vegetables in the United States, imported fruits and vegetables are contaminated, three times more likely contaminated than those grown in the United States.

Instead of our passing trade laws that say we do not allow these pesticides in our country, we will buy your fruits and vegetables but you are not going to allow those pesticides to be used either, we do not do that. We simply say come on in, bring them in.

Let me talk about food safety and what is happening. In 1993, 8 percent of fruits and vegetables coming into the United States were inspected at the border. Today that figure has dropped to one-tenth that amount. Seven-tenths of 1 percent of fruits and vegetables coming into the United States are inspected at the border. That means, if my math is right, that means for every 140 truckloads of broccoli, one truckload is inspected. For every 140 crates of broccoli, 1 crate is inspected. For every 140 bunches of broccoli, 1 bunch is inspected.

That does not bring a lot of confidence to the American public, the consuming public, the eating public, if you will, as we eat the fruits and vegetables coming from these countries.

When I went to the border, and I am joined by my friend, the gentlewoman from Ohio (Ms. KAPTUR) who is one of the premier experts in this Congress and in this country in agriculture. She is the ranking Democrat on the agriculture Committee on Appropriations. She knows food safety in and out.

Before I yield to her, I want to tell another story about that same visit to Mexico where I stood at the border and watched the inspection of broccoli. I mentioned broccoli earlier because it is so in my mind from watching this inspection.

The FDA inspector who was doing his job, doing his best, he in those days was inspecting 2 percent of vegetables coming in. Since then, because of budget cuts that this Congress continues to do on public health issues and public safety issues, and nothing is more important to public health and public safety than a clean food supply, he was inspecting 2 percent then, it is one-third that amount now, about .7 percent.

He took a crate of broccoli off a truck, put it down next to him, took broccoli in his hand, took a bunch in each hand and slammed it down on a steel grate and was looking for pests, for insects to fall out of that broccoli, presumably dead or alive insects. If there had been insects that were alive that fell out, he would have put the whole truckload into a machine that would have sprayed the broccoli to make sure any of the pests were dead. If the pests were already dead, I am not sure what he would have done.

The FDA has only 750 inspectors, spends $260 million to scrutinize 60,000 food plants, inspect 4½ million imported food items each year.

As I said, in 1993 when NAFTA was passed, 8 percent of fruits and vegetables were inspected. Today that number is down to .7 percent, seven-tenths of 1 percent of fruits and vegetables are inspected.

We do not have the equipment on the border to check for E. coli. We do not have the equipment on the border to check for microbial contaminants. We do not have the equipment on the border to check for pesticide residues. You cannot hold broccoli and you cannot hold strawberries at the border for 2 weeks until the lab tests come back. So basically our food inspections at the border simply do not work right.

Now, Mr. Speaker, today we had a news conference to discuss this, and I want to mention one more thing before I yield to my friend, the gentlewoman from Ohio (Ms. KAPTUR).

The executive director, Mohammed Akhter, a physician, is the executive director of the American Public Health Association. He said in no uncertain words that fast track Trade Promotion Authority will undoubtedly mean more fruits and vegetables into the United States and a smaller and smaller and smaller percentage of those fruits and vegetables inspected. There is no doubt, because we have passed NAFTA on the cheap. We did nothing for truck safety, nothing for food safety, nothing for drug interdiction when we passed NAFTA. As traffic and congested increased 4 times, 400 percent along the border, we did nothing to prepare. There is nothing to prepare in the Trade Promotion Authority that the President is asking for to prepare for food safety inspections. We still are not doing our job. Especially the director of the American Public Health Association, the highest-ranking public health official in the country is saying that passage of Trade Promotion Authority, in his words, will mean more unsafe food in the United States, more outbreaks of disease, more infectious disease in the American people.

Last year 5,000 Americans died from food-borne illnesses, not all of them from imports to be sure, but it is three times more likely imports cause disease than locally grown produce. Not that we do not need to do better in both; 5,000 people died of food-borne illnesses, 80,000 people went to the hospital from food-borne illnesses; 300,000 people were sick from food-borne illnesses.

That is something we should not be proud of. Those numbers are going up more every single year. Those numbers will keep going up. In the words of the executive director of American Public Health Association, those numbers will just sky rocket if we pass Trade Promotion Authority, simply because we are not prepared at the border to do what we need to do to preserve food safety for the American public.

Mr. Speaker, I yield to the gentlewoman from Toledo, Ohio (Ms. KAPTUR), who has been to Mexico, who has seen all of these food safety issues. She, I believe, will talk about some other things with Fast Track also. I yield to my friend from Lucas County, Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. BROWN), the very able Member from the Lorain, Ohio region, for asking me to join him in this Special Order this evening. I do not want to consume an undue amount of his time, and want to say that we are a better country and world because of his involvement and leadership on this issue in the area of trade, jobs, the betterment of the working conditions of America's workers and workers around the world. It is my great pleasure to join him this evening.

I am reminded of the former Governor of Texas, Ann Richards, who used to always say, "You can put lipstick on a pig and call it Monique, but it is still a pig."

In thinking about what is called Trade Promotion Authority, I am reminded of the trade debates we have had here in the Congress where the administration always changes the name. We know it is Fast Track. They tried to do that to us before where they bring a trade measure before the Congress and we have no opportunity to amend it. Through the Committee on Rules, they take away the constitutional rights of this Congress to amend and to involve itself in trade-making. It is right in the Constitution. Pick up a copy of it and read it.

So Fast Track basically handcuffs the Congress of the United States and takes away our constitutional power to make the trade laws for this Nation, because it says any president can negotiate an agreement with 59 other countries and not have to negotiate with us. Just bring it up here and try to fast track it through.

So when that ran into trouble, and the gentleman might recall this, when we became involved with China, they could not call it Fast Track. They had something called Most-Favored Nation. They could not use Most Favored Nation, so then they changed the name. They said we will call it Normal Trade Relations with China. Well, no relations with China are normal. We are not dealing with a country that even recognizes any democratic rights, no worker rights, no religious rights, corruption at every level, state-owned companies, prison labor. And they want to have normal trade relations. So they changed the name.

Now we are back to, we had the North American Free Trade Agreement, NAFTA; like a treaty, and we were not allowed to amend. It was either up or down inside here, and I will talk about that in a second. Now they are talking about this Fast Track agreement for all of Latin America, not just Mexico, but adding Brazil and Argentina and a lot of other countries; but they do not want to call it Fast Track. No, we cannot call it what it really is. No amendment by Congress to a trade agreement negotiated by the President. We are going to call it Trade Promotion Authority. That sounds like homogenized milk. Who can be against that?

Mr. BROWN of Ohio. Reclaiming my time, it is interesting that they have done that, because even though almost every newspaper editor, most of the large newspapers have supported all of these free trade agreements, because they are very conservative and very close to many corporations, and all the reasons newspaper editors do. And even with all of that and the President being for it and the business leaders being for this trade agreement, even with all of that, the American public clearly oppose NAFTA, clearly oppose Most Favored Nation status with China, clearly oppose what we do in the World Trade Organization, clearly oppose Fast Track.

Each one of these issues the public opposes. So as the public builds its understanding of these issues, they always, as my friend from Toledo points out, they always change the name. So Most Favored Nation status became PNTR. What is that? Fast Track Authority became Trade Promotion Authority. What is that? So they continue to try to confuse the public, and the public always catches up and understands it. You can bet 3 years from now when they are trying this again after we defeat it on Thursday, they will try it next year and the year after. They will come up with a new name because Trade Promotion Authority will not be a very acceptable name to the public.

Mr. Speaker, I yield to the gentlewoman from Ohio (Ms. KAPTUR).

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Ms. KAPTUR. Mr. Speaker, that is correct and the reason that the public does not support any of these is because they have been hit directly. That means they have lost their jobs.

In this country, ask the Brachs Candy workers in Chicago where their jobs are moving, already to Argentina, because of the way in which sugar is produced in Argentina, and Brachs uses a lot of sugar. So they cannot have farmers producing sugar, and the gentleman from Ohio (Mr. BROWN) talked a lot about foreign policy in agriculture; but because they can have plantation style sugar production, where workers earn nothing, where there are no environmental standards, where one does not have to dispose of field waste in an environmentally responsible way, and then companies like Wal-Mart, the largest purchaser of Brachs Candy, can set the price it wants.

That is what is going on in the world. Ask the workers at Phillip's Electronics in Ottawa, Ohio, whose jobs are being moved to Mexico; ask the workers at Fruit of the Loom in Mississippi. One can go State by State, region by region; and one can see the outsourcing of manufacturing and of agricultural jobs in this country, and it is the reason that the census bureau and all the income statistics that have just come out have shown that the wages of ordinary Americans for the last 10 years have not risen. When one discounts for inflation, people have been running in place and falling behind and losing their benefits, as the workers at Enron just did as it went bankrupt this week and they lost their 401(k) plans and lost everything that they had worked for.

This trade regime that has been set in place, that disempowers this Congress to represent our constituents has produced an economic policy that is drumming down the middle class in this country and forcing people around the world to work for almost nothing.

I would be pleased to yield.

Mr. BROWN of Ohio. As my friend, the gentlewoman from Ohio (Ms. KAPTUR), says, the biggest reason that wages have been stagnant in this country, understand for the 10 or 20 percent on top, salaries have gone up, but for most of the public, in the last 10 years, at a time of supposed economic growth, wages have not risen; and one of the major reasons for that is that company after company after company simply threatens to go to Mexico or threatens to go to Haiti or threatens to go to Honduras or threatens to go to China; and workers then are much less likely to demand wage increases, and in many times, many cases will give due wage give-backs so the company will stay there.

York Manufacturing in O'Leary, Ohio, was faced with threat after threat after threat of moving production to Mexico. Their wages stagnated for several years. Even then finally the company closed, moved part of its production to another place in the United States and most of its production to Mexico. So those wages were stagnant for several years, then the factory was closed and the wages became zero.

Ms. KAPTUR. Mr. Speaker, I hope that every worker in America who has lost their job because of one of these trade agreements will write the gentleman from Ohio (Mr. BROWN) or myself, will tell us who they are because we are going to keep a list of who they are because there are now millions and millions of Americans who have been hurt by these misguided trade agreements.

I heard some of the prior speakers saying how great this would be for trade and it is going to create all these great exports and cheap imports, and the truth of the matter is that is not happening either way.

First of all, in terms of exports, take Argentina and beef. Argentina now exports more beef before this authority even voted on, and wait until after it is passed, than we export to them. We are already a net importer of beef from Argentina.

Mr. BROWN of Ohio. In China, during the PNTR, remember, the Most Favored Nation Status that we talked about, they changed it to Permanent Normal Trade Relations to confuse as many people as possible, during that debate the administration promised, the supporters and the Republican leadership and others here promised, that American farmers would sell grain to China. They said China only had, if I recall, some 12 or 13 million metric tons of grain in their storage facilities in China; they would be importing grain.

What happened? Well, they actually had 50-some million metric tons of grain stored in China, and China since PNTR passed is now known to be a grain exporter. So every time we have a trade agreement, the agriculture community, family farmers like the Snyder family in Richland County where I used to work as a kid on a family farm, family farmers like that are promised that they are going to be able to export more grain, they are going to be able to export more fruits and vegetables all over the world because these trade agreements create all kinds of new markets.

The fact is, rarely, if ever, does American agriculture benefit. Some of the big American grain companies benefit, but almost never do family farmers benefit, whether they are corn farmers, whether they are tomato farmers, especially if they are tomato farmers, winter vegetable farmers, fruit and vegetable farmers in Florida where the price of tomatoes went up and Mexico has increased their tomato production exports to the United States and American farmers have gone out of business and Americans are paying more for tomatoes.

So we get it three ways: we lose jobs, prices often go up, and small farmers, even in Mexico, are put out of business, also.

Ms. KAPTUR. The gentleman raises an excellent point; and if there are farmers listening to us this evening, this Member of Congress' opinion is that the answer for increasing income to America's farmers does not lie in the export market. Rather, it lies in recapturing the market that we have lost here at home and moving our production to higher value-added products, including the production of new fuels.

If one looks at what is going on in Minnesota, with the corn growers in Minnesota, they have raised the price they are getting per bushel by the production of ethanol in southeastern, southwestern Minnesota by one dollar. In other words, they are at a low per bushel cost, about a $1.65, which is lower than we have in Ohio. They have actually added a dollar, not through exports, but through producing for the people in their own State; and we have to look toward new uses of agricultural product by our consumers here in this country; and we here at the Federal level, including our Department of Agriculture, our Department of Energy, have to help our farmer reposition in an international marketplace in which they have been forced to become the low-price producers, and they are not able to make ends meet.

They have got it backwards. We ought to be helping our farmers here at home invest here in order to recapture new markets in value-added markets here at home. And I wondered if I just might put some facts on the record because they are so staggering they often get lost in the debate, but they are important to talk about.

Let us talk about Mexico, and a lot of us were here and fought against NAFTA. It actually broke my heart because I knew how many people would be displaced here at home, and in Mexico; the wages had been cut in half. They had been cut in half. So one can ask who is making the money off a system where workers like Phillips workers in Ohio, thousands of them, lose their jobs and those jobs are moved to Mexico and the people down there, their wages have been cut in half. So who is making the money off this? That is the real invisible hand. That is the invisible hand that we need to identify.

If one looks at the U.S. trade balances with Mexico, prior to NAFTA's passage, the black bars represent trade balances, we had a trade surplus with Mexico. That means we sent them, sold them, more than they sold us. The minute NAFTA was signed, our trade balance began to turn into trade deficits. That means they are selling us more than we are selling them. That is a negative on the international trade ledger; and it is a very, very serious one.

I wanted to point out a couple of other points. It is not only a deficit. It is a growing huge deficit. Prior to NAFTA's passage in 1993, we had a $51.7 billion surplus with Mexico. That has now turned into a $24 billion annual record deficit. With Canada, which was also a party to NAFTA, we had before NAFTA a problem already. We had a $10 billion trade deficit with Canada. Guess what, since NAFTA passed we have a $50 billion trade deficit with Canada, the worst in the history of this continent.

So NAFTA has really had a reversal of fortune for our country and in one very important sector, and I just want to look at the automotive industry for a second. They said this would be just terrific for jobs in America; we would create all these jobs. What we are doing is parts are being sent down to Mexico from this country, things are being done to them, they are being stamped, they are being bent, they are being this and that. They are put in cars that are sent then from Mexico to the United States. So prior to NAFTA's passage, we already had a stream of production where production was being relocated from our country not to sell cars to Mexico's consumers, because they do not earn enough to buy them, but they back-doored the production into Mexico in order to pay the workers almost nothing and then send those cars up here.

In fact, the most popular car, the PT Cruiser, PT Cruiser costs about $10,000 to make. Not a single one of those PT Cruisers is made in the United States of America. Every single one of them is made in Mexico, and when one goes down to Mexico, how many Mexicans do we see driving PT Cruisers? We do not see any. Why? They cannot afford them. They are sent up here, and the amount of automotive trade has just tripled between Mexico and the United States. Those are jobs that used to be here. They are now being made in Mexico, and our trade deficit in automotive has just exploded.

What it is, it is the relocation of production. So that is NAFTA, that is Mexico, and Trade Promotion Authority. We are going to see the same with Brazil, the same with Argentina, any country simply because they do not have systems of governance, and their economic systems are not developed in a way that ordinary working people can benefit from this kind of investment.

Mr. BROWN of Ohio. Mr. Speaker, would the gentlewoman yield about autos for one second?

Ms. KAPTUR. I would be pleased to yield to the gentleman.

Mr. BROWN of Ohio. Mr. Speaker, I heard the gentlewoman say many years ago, before I made my first trip to Mexico to look at sort of what was happening in these industrial plants, that when one goes to Mexico and went to an auto plant where Mexican workers are making 90 cents an hour, roughly, that when one visited a Mexican auto plant it looked a lot like an American auto plant.

I remember the gentlewoman from Ohio (Ms. KAPTUR) said this years ago, that for the first time, that its technology was up to date; the plant sometimes was even more modern than American plants, they are newer; the workers were productive, they were working hard and the floors were clean. Everything looked just like an American auto plant except for one thing: the Mexican auto plant did not have a parking lot because the workers could not afford to buy the cars.

One can go all the way around the world to Malaysia and go to the Motorola plant, and the workers cannot afford to buy the cell phones. One can come back to the New World, to Haiti and go to a Disney plant and the workers cannot afford to buy the toys or one can go back to China into a Nike plant and the workers cannot afford to buy the shoes.

The tragedy of these trade agreements is that workers are creating wealth for large corporations, and they are not sharing in the wealth they create. They are paid barely enough to live on. They will never be in the middle class, and as the gentlewoman from Ohio (Ms. KAPTUR) said, they will never be able to buy American products. That is why the arrow always goes one way.

We send industrial components to Mexico. As a friend of ours, Harley Shaken, an economist in California, pointed out, they are industrial tourists. These components go from the United States to Mexico, almost like a San Diego teenager going to Tijuana for the weekend. The components go to Mexico for a couple of days; they are industrial tourists. They get assembled into cars and they come back into the United States. Everybody except for the large company loses. American workers lose their jobs; Mexican workers are paid subsistence wages and can never get off the bottom.

Ms. KAPTUR. The gentleman raises an excellent point because those are not real exports. They are U-turn goods. The gentleman is right. They are industrial tourists. They do not really create real wealth. They are merely there to try to exploit cheap labor, and this is happening all over the world, and the American people know it intuitively because when they go shop, it does not matter what one buys, it is all made someplace else.

In fact, trying to find something made in America is now an exception, rather than the rule; and that is draining out of our economy in a very invisible way to the ordinary person's experience the money that should be there for health benefits, the money that should be there for retirement benefits, the money that should be available in local regions to support the construction of schools, all these tax abatements that are being handed out left and right in all the 50 States to try to attract some of this investment that is moving to other locales around the world. They are not paying their fair share of property taxes and of taxes for education and all of the sudden education is being Federalized simply because local regions do not have the money to pay for the schools.

There are lots of costs for what we are seeing; and one of the biggest costs is America's image abroad, and let me give one example. Recently, I had a most compelling set of visitors in my district from the nation of Bangladesh, one of the poorest nations in the world, with over a hundred million people; and these were women workers. They did not speak English, but they came with a translator, and what did they do? Every hour, each of them makes 320 hats, ball caps and T-shirts, for places like Ohio State, the University of Michigan, all of our Big 10 schools, all these football teams and all around our country. For each hat that these women make, they are paid one and a half cents.

When those hats land in the United States, according to U.S. customs forms, the total cost of the material, the labor and the transportation is $1.

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The average cost of one of those caps at any one of our universities is over $17. So you ask yourself, who is making the money?

And what is going on with this kind of system is that the very big investors around the world, and they have always been there, it was true for women in the textile industry from the time of the Lancashire Mills in England, investment moves to an area where they can access cheap labor, and it is up to those in political life to hold them accountable for the communities in which they exist. They have no automatic right to be here. We allow them in our system to be here, and they had best respect the political system we have created because it is not continued by magic. It is continued because of the set of values and beliefs that we hold as a people.

With a nation like China with over $1.250 billion people, and we only have 270 million people in this country, when there is this kind of trade deficit, and that is what this chart represents, U.S. imports from China exceed our exports there by 6 times, by 6 times, the amount of trade deficit in any 1 year that we are amassing with China is over $50 billion annually. That is $50 billion that is escaping communities in this country, workers' paychecks, workers' benefit checks, the taxes that would go into supporting our educational system, and it is getting worse.

The trade agreement that was signed with China has not made our trade accounts improve. They have only gotten worse every single year. So whether it is Mexico, whether it is China, whether it is Bangladesh, whether it is Argentina, it does not matter. The system is the same system.

I hear President Bush talk a whole lot about evildoers. People can be evildoers, but also economic systems and political systems can be evildoers. They can do harm in a very, very real way. Those women from Bangladesh came to my community and told me that they had to work 7 days a week, these young girls, 18, 19, and 20 years old. They would work 12–15 hours a day, sometimes 20 hours a day, sometimes 48 hours straight because they had to meet their production quota or their company would lose its contract. They would literally curl up and sleep under their sewing machine for 2 or 3 hours, and then they would get up and sew again. None of them were beyond the age of 29, and one girl was fired because she got a gray hair and they said, she is getting old, get rid of her. They are treated like dirt.

This is not the image that I want our country to portray internationally. And to most Americans, these are hidden activities that they never get a chance to see. But I hope retailers, some of whom are listening tonight, please, develop some conscience. Your actions have consequence. There is a moral order here that we ought to uphold. And the economic system that you are a party to does not treat people with respect. It is not just commodities you are buying, you are buying a chain of production, and there are people at every juncture along the chain, and the invisible hand should not be invisible any more.

If I might, I wanted to share again a chart here that shows the long history of our country and what has been happening with these trade deficits year after year after year, lopping probably about 25 percent off of our economic prowess in any given year because of the extent of it, over $300 billion. And back in, oh, 1974, and then moving into the 1980s, we began to move into deficit cumulatively with all these countries, and it has gotten worse and worse and worse every single year.

Now, some people talk about the budget deficit, where the amount of tax revenue that we take in as a country is not enough to pay for all our bills, our defense expenditures, our Social Security, and all the other things we have to pay for. Well, there is another deficit, and that is the trade deficit. It is not talked about a whole lot, and people often confuse the two, but the trade deficit is another number that is terribly important. Because when we have this deficit, how do we finance it? When other countries and companies make money off this marketplace, where do they put those earnings? They have been buying the U.S. Government debt.

When I first came to Congress, 12 percent of our debt was owned by foreign interests. In other words, every year we would have to pay them interest on the loans that they would make to us. Today, that has gone up to 42 percent of our Federal debt is owned by foreign interests. And every year we have to pay those interests, over $300 billion a year now, to pay for their loans to us.

So for the younger generation, this is not a stable situation in which to leave the Republic. If anything goes wrong in the international marketplace, collapse in Japan, collapse in Germany, whatever might happen in terms of the economy, the question becomes: Where are other investors going to be putting their money? How secure is the United States? Politically, yes, we are very secure; but economically we have some pretty big gaping holes in our hull and we best take care of it.

I think that people like my colleague, the gentleman from Ohio (Mr. BROWN), and myself, those who will oppose us this week will say, well, you are not for trade. That is absolutely wrong. That is not even the issue. Those people who do not want to talk about the real issue will say that against us. But, in fact, we represent the northern part of Ohio. There is no part of America that trades more and is more dependent on free enterprise and the free market than northern Ohio, because we are heavily automotive, we are heavily agricultural, we have major ports, seaports, we have 24-hour-a-day air service out of our communities. We are the major spine of industrial America and also the crossroads of the Midwest.

Seventy-four percent of the American population is within a day's drive from my district alone. We are centrally located in our country. We must trade. But we want to trade in a system that respects democratic rights and freedom and the right of ordinary people to better themselves by the work that they do.

Mr. BROWN of Ohio. I thank my friend from Toledo. What she said about trading with democracies is so very important.

Last year, during the debate on Most Favored Nation status with China, what was euphemistically relabeled PNTR, executives and CEOs who normally do not bother with workaday Members of Congress, they normally only go to the leaders in each party, the Speaker, the minority leader, whatever; but CEOs were roaming the halls of Congress and repeating the mantra, we want access to China's 1 billion consumers; we want to sell our products to China's 1 billion consumers. But what they really cared about was access to China's 1 billion workers, who could work and sew those Ohio State baseball caps and those T-shirts from the University of Toledo or from Oberlin College or wherever. They wanted access to those workers who would work, had no choice really, would work for a few cents an hour.

In the last 10 years, and the gentlewoman from Ohio (Ms. KAPTUR) mentioned buying products, trading with democracies, what has happened in the last 10 years is western investors, investors from France and England and Germany and the United States and Canada, they are not very interested anymore in investing in democratic developing countries, countries that are struggling but that are democratic and developing, still pretty poor but democratic; they are interested in trading and investing in developing authoritarian countries.

In other words, they are not all that interested in Taiwan anymore, because Taiwan, again on Saturday, had a free election, perhaps the third free election in Chinese history. So Taiwan is clearly a working democracy. It is successful. They have done all kinds of great things. One of the great success stories in the world in the last two decades. They are not so interested in investing in Taiwan, but they are much more interested in investing in Singapore because they have a totalitarian government there.

They are not much interested in investing in India, but they are very much interested in investing in China. Why? Because China's workforce is docile, it does not talk back, it is an authoritarian country with no democratic elections, with no ability to speak out, with no ability to change jobs, and with no ability to organize a trade union.

And that is really why the World Trade Organization, which once met in Seattle in 1999 and had all kinds of demonstrations and all kinds of people speaking out in opposition to these policies, that is why they went to a city called Doha, the capital of a country called Qatar. The trade ministers decided enough of this openness, enough of this freedom, enough of this people assembling and protesting and speaking out and having elections. They went to a country where they like to practice their business. They went to a country with no free elections; a country without the freedom of religion, unless you are publicly a Muslim, you are not allowed to worship any other religion; with no freedom of assembly; with no freedom of speech; with no free elections; with no freedoms at all that we are used to.

That is really what our trade policy has turned into. Our investors want to go to China where they have slave labor, where they have child labor, where there are no elections, where their workers are docile and do not talk back, rather than going to a free country where workers organize, where the environment might be protected, where worker rights are protected.

That is why many of these countries leave the United States to go to China. In this country, they pay a Social Security tax. That money is gone when they go to China. They pay into Medicare. That money is gone when these jobs go to China. They have to keep the environment clean in their businesses here. Do not have to do that in China. They have to pay living wages in this country. They do not have to do that in China. They have to have worker protections in the workplace. They do not have to do that in China.

Why are companies investing in China rather than staying in the United States? Why are they investing in China rather than India? Because India is a democracy, China is not. Why not in Taiwan? Because it is a democracy, Singapore is not. That is why it is so important that we in fact support trade.

My colleague and I both support trade, the gentlewoman from Ohio (Ms. KAPTUR) and myself, and so do all of us that are against Trade Promotion Authority. We promote trade, we support trade, we advocate trade, but we want to see trade with democratic countries where workers can share in the wealth they create. Not a place like China, where the workers at Nike cannot afford to buy shoes; not a place like Haiti where the workers at Disney cannot afford to buy the toys they make; not a place like Malaysia, where the workers for Motorola cannot afford to buy the cell phones they make.

We want workers to share in the wealth they create. They will then join the middle class and buy American products, and we will see both countries raise their living standards. That is what trade is all about.

Ms. KAPTUR. While the gentleman was talking about democracy and about trying to have a trade regime that uses the power of the democratic republics of the world and the free enterprise systems with the rule of law that have developed over two centuries, and then invite in the nations that would wish to advance, to have a system that would use the strength of the democratic republics and bring the others forward rather than pit them against one another, which is what is happening now, I could not help but think of one of the opponents who often comes to the floor and speaks against the gentleman from Ohio (Mr. BROWN) and myself, who usually says, well, we have got to trade because trade brings freedom. Trade brings freedom.

They use that phony argument. And I say, yes, we can have free trade among free people, but if we look at what is happening in the Middle East right now, there is not any set of nations that we have traded more with as a country than Saudi Arabia, Kuwait, and the United Arab Emirates. Why? Because we are totally and stupidly dependent on imported petroleum.

Now, if trade had brought freedom, they would have the most lively democracies in the world. But trillions and trillions of our oil dollars, every time we go to the gas pump and we buy petroleum, we buy gasoline, half of the money we spend goes offshore to places like Saudi Arabia and Nigeria. And now they are drilling in Sudan.

Mr. BROWN of Ohio. Right. Trade and economic activity did not bring freedom to Nazi Germany, to Fascist Italy. It has not brought freedom in any way, all the trade and supposed prosperity, to Communist China. And, as my colleague points out, it has not brought freedom to the Middle East, where we have all kinds of economic exchanges back and forth with Saudi Arabia.

Ms. KAPTUR. I have a story I want to put on the record. I know President Bush is very high in the polls, and I suppose one would be struck by lightning if they were to try to say anything that presents a different truth, but I have to present that truth because I personally experienced it.

As my colleague knows, a few months ago, before the terrorist attacks here in our country, President

Bush brought the President of Mexico to my district, the Ninth District of Ohio. And one of the reasons he was brought in there was because, I am sure, President Bush would like to learn more about why people in our region, just like people in every region of America, oppose these trade agreements. So he brought in President Fox, and I had a chance to ride out there on Air Force One with both Presidents and had a chance to talk to them.

I had asked the White House, and I presented President Bush with a letter on the airplane confirming what I had called about, saying, you know, Mr. President, you and I do not agree on NAFTA, and many, many, millions of people have been hurt by NAFTA.

□ 2200

But we have to figure out a way to improve it and to make it better. I would be willing to travel with you from any point in America where jobs have been lost to the places in Mexico where those jobs have been transplanted, and to talk to the workers in both locations with both Presidents and with Members of Congress and to try to figure out how do we work together as a continent in order to treat workers with the respect they deserve, whether in the industrial workplace or the agriculture hinterlands.

When we got on the airplane and he talked to us, I said, Mr. President, I proposed the trip and that we amend NAFTA to create an organization on an inter-continental basis for working life in the Americas. I said we could have a forum to deal with some of these poignant and deeply difficult and complex labor and environmental issues.

He said, no, he did not have a chance to read the letter I sent his staff a week before. I said, Mr. President, here is another copy of the letter. And I handed another copy to President Fox, and I had sent it to the Mexican embassy. President Bush said, It looks kind of thick. Is it single spaced? That is what he said to me.

I said it is single spaced, but the paper is folded. That may be why it looks a little thick. I said, I would appreciate if you would read it. He said it is single spaced, I have to use my glasses, and I cannot do it now.

I said, Mr. President, I appreciate an answer because I do not think anything that I am proposing is very radical. I did not get an answer from the White House. I can say September 11 happened and the world shifted, but I did receive a reply from President Fox.

Last night at the White House Christmas party, I occasioned to talk to President Bush, wishing him and his wife and all those who are involved in the war God's blessing.

I said, Mr. President, I do have to mention one item: you never did answer me on the letter from the airplane; remember we talked about it? He said oh, yes, and he kind of winked and smirked a little bit, and he said it must have gotten lost in the shuffle. It was not even said with seriousness, and it really hurt me because that is how workers are being treated. They are being lost in the shuffle, in this country, in Mexico, in places like Bangladesh. We are not fully conscious; we are not paying attention. We do not want to pay attention to the economic system that is hurting so many and not treating them with the human dignity that they deserve.

So much of world history is related to economics. I would say most wars, 74 percent, 75 percent of the reason we get in wars relates to economics. The history of this country, the Civil War, the pains of which and the scars of which we are still healing today, what did it have to do with? It had to do with whether or not we would extend the plantation system of the South to the West, and the plantation system with the slave labor with the kind of indentured servitude that characterized economic activity up until that point. It was about economics.

Even now to a great extent, in my opinion, the unrest and the hatred of so many in the Middle East toward us is due to the fact that because we have been trading with undemocratic systems that have not shared that vast wealth with the ordinary people of those countries, figured out some more representative system of government where all parts of the country could have roads and hospitals and children would have the ability to go to school, not just because you are the king's cousin or because you are Sunni as opposed to a Shiite, that there are divisions that do not get full representation, economics underpins so much of the trouble in the world today.

Mr. Speaker, I guess that is the reason we fight so hard because we know if we do not do it right in the first place, we are going to get a reaction down the road that will be like a boomerang.

Mr. BROWN of Ohio. Mr. Speaker, one of the joys of this job, serving as one of 435 Members of this body that we call the House of Representatives, is that we are at an interesting time in our history. We are clearly the wealthiest Nation on Earth, the most powerful militarily. We clearly are a country that has the most opportunity to do good in the world. One of the ways we do that is using our economic prowess in trade agreements; we could do this, to lift up standards around the world.

Mr. Speaker, that means when we trade with Mexico, for instance, and I think we should trade with Mexico and do a lot of trading with Mexico, rather than pulling our truck safety standards down to Mexico's level or pulling our food safety standards down to Mexico's level, or pulling our safe drinking water and clean air and anti-pollution standards down to Mexico's level, that we can instead pull their standards up. We have the ability to do that. We can write trade agreements that say when an American company invests in Mexico, they have to dispose of their waste in the same way there that the Environmental Protection Agency makes them do in this country.

These companies, the chemical companies, the steel companies, the automobile companies, they do not do the right things in the environment in the United States because they are being kind, they are doing the right things because it is Federal and State law, and local public health department regulation that they dispose of their wastes in a certain way that keeps the environment cleaner and healthier.

We could say to American companies in Mexico that they have to follow the same environmental standards. Pesticides that we banned here are not made and sold to other countries by American companies. We could say in China, sure, we will trade with you in China. We will be glad to buy and sell and trade with the People's Republic of China; but in return no more slave labor, no more child labor, no more selling nuclear technology to Pakistan, no more shooting missiles at Taiwan because they are holding a free election.

We are a wealthy enough country to say if you want access to us, you cannot behave certain ways. If China wants to sell their products into the United States, and clearly they do because the U.S. buys 40 percent of China's export, and they cannot say we will sell it somewhere else, because they are already trying to sell as much as they can everywhere else. If we say we are not going to buy your goods anymore if you keep using child labor and if you exploit 15- and 16- and 17-year-old girls and break their spirits and bodies and souls, and throw them out on the streets when they are 22 and make them work in the sex trade and give them no other choice, we could do that; and that is why it is so disappointing that we pass trade agreements that do exactly the opposite.

Instead of lifting up environmental standards around the world, lifting up wages around the world and lifting up food and drug safety and auto safety, instead of doing that we are bringing our own standards down. As wages stagnate in this country because of threats to move abroad, as jobs are lost, as we weaken public health laws in this country closer to what they are in other countries, we are giving away so much that we fought for in this country for 100 years.

I have a pin that I wear that is a depiction of a canary in a bird cage. One hundred years ago mine workers used to take a canary down into the mines and if the canary died, workers got out of the mines. In those days, a baby boy born in the United States could live to be about 46; a girl could live to be about 48, the average life expectancy. Those workers had no protection from the government. Their only protection was the canary they took down in the mines.

But because of progressive government fighting against the gold mining companies, the coal companies, against other wealthy, rich advantaged interests in this country, we were able to pass minimum wages laws, worker safety laws, pure food laws, automobile safety laws, and all of the things that enabled people to live 30 years longer, enabled people to live better, longer lives through Medicare, through Social Security, all of the things that we in this body and in State legislatures and public groups and citizens' organizations have done to make the standard of living better in this country.

Mr. Speaker, I do not want to give that up as a Nation. That is why we need to defeat Trade Promotion Authority and write trade agreements that lift people up, not pull people down. That is the American way.

When U.S. Trade Representative Bob Zoellick, appointed by the President, when he says those of us like the gentlewoman from Ohio (Ms. KAPTUR) and the gentleman from Michigan (Mr. BONIOR) and the gentleman from Michigan (Mr. STUPAK), when we oppose these trade promotion authorities, we are not helping them in the war against terrorism, implying that people like myself and the gentlewoman from Ohio (Ms. KAPTUR) are soft on terrorism, implying that people like the gentleman from Ohio (Mr. BROWN) and the gentlewoman from Ohio (Ms. KAPTUR) are a little less patriotic because we are not supporting the administration on these agreements. The fact is the right side of American values is to lift people up around the world, not pull people down.

Mr. Speaker, it is important, as the gentlewoman from Ohio (Ms. KAPTUR) and I discussed, that Members vote against trade promotion authority.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for allowing me to join him this evening in our great efforts to defeat Trade Promotion Authority and move toward more democratic trade agreements for the world.

HISTORY OF THE CIVIL WAR, MILITARY TRIBUNALS AND DETENTION

The SPEAKER pro tempore (Mr. REHBERG). Under a previous order of the House, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

Mr. MCINNIS. Mr. Speaker, obviously the last hour of conversation was very one-sided, and clearly no opportunity to rebut it; so I intend to address a couple of comments by the gentlewoman from Ohio (Ms. KAPTUR) and the gentleman from Ohio (Mr. BROWN) because I think clearly they were either confused or there was some confusion in the research that they did for their comments.

Then I intend to move on from that and address my primary subject this evening, military tribunals, the question of treason against the individual who claims that he is an American, apparently is an American, and has been captured by the Northern Alliance and now turned over to American troops.

I would also like to talk about what is called detention of certain individuals in the country under this investigation and protection of the security of the Nation.

First of all, let me address a few comments made by the gentlewoman from Ohio (Ms. KAPTUR). First of all, it would be some benefit to her to study history of the Civil War. She would find, probably to her surprise, that the Civil War was not driven by economics; the Civil War was driven by the principle of slavery.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield on that point?

Mr. MCINNIS. Mr. Speaker, if the gentlewoman will not interrupt me.

Ms. KAPTUR. Mr. Speaker, the gentleman from Colorado (Mr. MCINNIS) mentioned my name.

Mr. MCINNIS. Mr. Speaker, I have the floor and I ask the courtesy that that rule be respected, and say to the gentlewoman from Ohio (Ms. KAPTUR), I would be happy to yield to the gentlewoman on another occasion. However, they had 1 hour of uninterrupted time. Perhaps at the end of my hour, I would be happy to have that conversation with the gentlewoman. Prior to that, I have no intention of yielding.

Mr. Speaker, let me go back to the Civil War. The comment made about the Civil War was driven by economics, come on, give me a break. It was not economics; it was slavery.

Let us go on to another comment. The Middle East problems are because of trade. Jimminy Christmas, somebody has to study some history here before those kinds of comments are made to our colleagues.

Clearly there are economic issues anywhere in the world; but the economic issues, contrary to what the gentlewoman from Ohio has said, they are not the driving problem in the Middle East. What I would suggest to the gentlewoman, with all due respect, is to take a look at the religious history of those countries, and I think she will find more of the fundamental problem in the Middle East has to do with the religious differences and the religious histories of those regions of the world than it does whether or not America allows their President to have authority on Fast Track.

I think it is a little unfair for any of us, and this includes the gentlewoman from Ohio, and I say this with due respect, nobody else is here to rebut it, and I think the gentlewoman before she carries on about a personal conversation between she and the President of the United States, especially a conversation that was not intended to be of kindness towards the President of the United States, that those conversations also allow for a response from the executive branch so we hear both sides of the story. It is not to question the accuracy of what the gentlewoman from Ohio said. Maybe she was accurate in her comments about what the President said, but I think the President or a representative of the executive branch ought to be included in this debate so we hear both sides of it.

□ 2215

Finally, let me stress, and then I will move on to the comments of the gentleman from Ohio (Mr. BROWN) and the comments of the gentlewoman from Ohio (Ms. KAPTUR), let me tell my colleagues, an isolationist view is not going to cut it. If we had adopted the type of view that is proposed by the gentlewoman, how would we ever build a coalition, for example, to help us in our war against terrorism? Trade has to be fair trade. There is no question about it. I do not know one of my colleagues, I do not know a Democrat, I do not know a Republican, I do not know either one of them, that proposes that the United States enter into an agreement that puts the United States at a disadvantage. I know none of my colleagues that want the United States at a disadvantage in a trade agreement. Maybe I am wrong, and I stand corrected. By the way, I will yield time to any one of my colleagues that wants to come up and say they are willing to agree to an agreement that puts the United States at a disadvantage. None of us agree to that. Of course not. That is pretty fundamental. The only reason people are supporting trade is because they think in the long run it benefits the United States of America. It is not because of, as some have suggested, corporate greed for an effort to revolutionize the Middle East or some of these other things that have been mentioned, I think somewhat recklessly. It is not that.

Mr. Speaker, all of us in our own heart of hearts have differing views on this floor, but I can tell my colleagues that the view of just saying that look, the only time we are ever going to agree with trade with other countries or to trade agreements with other countries is the idealistic view that everything the United States wants is everything the United States gets or we are going to take our ball and go home. I think an agreement ought to benefit the United States of America, but I do not think we are ever going to reach many agreements, including with many constituents who I think are benefited in the State of Ohio, I do not think we are going to reach many agreements if it has to be 100 percent for the United States and zero for the other side.

Take a look at our agreements with Canada. They are critical about the free trade agreements we have. Look at the Canadian trade. Sure, we have disagreements with them on beef, we have disagreements with them on some of the fisheries and so on. But take a look at all of the products that go back and forth across those borders. That border is probably the most traded border in the world. It has been a pretty darn good relationship, and the United States has benefited from it over the years.

Now let me comment about the comments of the gentleman from Ohio (Mr. BROWN) which I think were most unfortunate. The gentleman made a comment, and I am quoting to the best of my ability here: We should not pull our standards down to Mexico, our environmental standards, our labor standards, et cetera. Remember what was just said. We should not in these trade agreements pull our standards down to Mexico. I challenge the gentleman on that. I challenge that gentleman to show me one trade agreement, one trade agreement that requires the United States to reduce its environmental protections within the boundaries of the United States of America. I challenge the gentleman from Ohio, contrary to what he has said, but I am asking him to show that he is correct. I am asking him to buttress his argument with facts, show me where the air quality of the United States is required to be reduced or made more dangerous because of some kind of trade agreement where we agree with some other country that our air standards, our water standards, our sewer standards, our hazardous waste standards, should be lowered because the other country wants to trade with us. That, in my opinion, is flat wrong. The facts do not support it. Yet the statement is made.

If I were not here, this statement would have gone unrebutted. The statement is freely made on this House floor to all of my colleagues that when the United States, when they asked the United States to give the President fast track authority, what they are doing is asking the United States to lower its environmental standards for the United States. That is not correct. That is inaccurate. I would hope that the gentleman tomorrow makes a corrective statement.

Now, I give the gentleman credit. The gentleman is a very bright man, very capable, obviously. So perhaps the gentleman misspoke, and I would hope that tomorrow he has the opportunity with the RECORD to correct that kind of statement because, frankly, it is now a part of the RECORD, and I think we have to be very careful about those statements that continue as a part of the RECORD and may later on be introduced in some type of proceeding.

My comments were not intended this evening to center on a rebuttal of the previous 1 hour. Let me make it clear to my colleagues out here, my purpose in rebuttal was simply that no one else was responding to these charges and, under the rules, the previous speakers did not violate any rules, they spoke in the time that was allotted to them. They were allotted an hour and they gave their side. Well, I did not intend to speak on their specific subject. I do feel that sometimes it is a little unfortunate up here that one side speaks and the other side is not heard, so that is exactly why I spent the first 10 minutes of my comments this evening at least giving somewhat of a perspective of the other side, so we can have a little bit more of an open debate based on facts versus emotional charges of which, in my opinion, the previous hour was full of.

Let me move on. We have seen in the news in the last couple of days something that I guess we should have expected would happen but, nonetheless, we were all taken back a little bit by it. None of us really envisioned that an American, an American young man would go over to Afghanistan and join the Taliban. None of us suspected that a young man would take on the cause of atrocities against the people that a government represents. Take a look at the abuse of the women, the abuse of the people of that society. Well, it happened. A young man, 20 years old, I guess his name is Richard Walker, Mr. Walker. He has changed his name legally. I do not know what the new name is, but at one point he was known as Mr. Walker, 20 years old.

Let me give some facts, the facts as they have been presented to us, we will have to determine, these are subject to change, but as of right now this is apparently what happened. The young man dropped out of school, decided to convert to Islam and, at some point in his conversion to Islam, decided to take or adhere to a very radical interpretation of Islam, which most of the people of Islam that I know of say is not a part of Islam, that this radical approach by the Taliban and by bin Laden is an incorrect interpretation of the Koran. But this gentleman, this 20-year-old man, decided to take the study and decided to affiliate with the radical aspect or the radical interpretation, especially when it came to Jihad. So he took up arms apparently with the al Qaeda in support of bin Laden, fighting, fighting his brothers and sisters in the United States of America. In other words, the facts show that in an earlier e-mail to his father; now, I just heard "father," I would assume to his parents, let us just say to his parents at this point, e-mailed arguments in support of the right to blow up the USS *Cole*. Remember, that is the ship, I say to my colleagues, that a few months ago a boat full of explosives blew up the side, I think it killed 18 sailors. Also, at the time of his detention when he was captured in Afghanistan a few days ago, his comments were such that he supported the fighting action and the acts of terrorism taken against the United States on September 11. On top of this, this American citizen was also found with an AK–47.

So those are facts. Now, each of those facts on their own, well, with the exception of maybe the AK–47, but the fact that an American citizen agreed that the USS *Cole* should have been bombed, that in itself is not a charge. I mean we do have freedom of speech in our country, although certainly that is a very, very small, small minority of opinion from this country. Certainly he is entitled as an American to make those kinds of statements. A person saying that they support actions, the terrorism actions against this country on September 11, those statements made by an American citizen, while clearly wrong, it is a right of freedom of speech to make them.

But it is the accumulation of these that begin to outline exactly what I think this individual should be charged with. When we take those comments and we add them with the fact that this young man was captured in a battle when the opposing troops who fired upon American soldiers with the intent of killing American soldiers, who fired upon American aircraft and allied aircraft with the intent of bringing down those aircraft, who was involved with an organization that we know has savagely killed people in that country and, of course, was also the organization responsible for the attacks on September 11, when we combine it with that and the fact that he was arrested with an AK–47, we begin to say, wait a minute; this is an American who has turned as a trader against his country, he has betrayed his country, he has left America, maybe not formally by denouncing his citizenship, but the fact is, there may be an automatic denouncement of one's citizenship if, in fact, one takes up arms with the enemy and fights against the United States of America and attempts to kill citizens of the United States of America in an action, in a war against the United States.

That is a question that I am not really prepared to answer tonight, but I was interested in what would we charge this young man with, or should we charge him with anything? We have heard some argument come out in the last couple of days that oh, the poor little kid, the poor young boy, he is confused. We ought to do what some of the Afghans are allowed to do. The Taliban that are Afghans of nationality, some of them have been allowed to surrender their arms and go home. There is some argument that this young man should be allowed to drop his arms and come back to the United States and go home.

That is a hard one for me to swallow. I do not think we have that case at all. I think what we have is a clear-cut case of treason. I say this carefully. I have been spending the last several hours in my office doing a lot of research. I listened to, frankly, Jonathan Turley, an expert in constitutional law. I should let my colleagues know I was a lawyer, I am legally educated, I am not a constitutional lawyer, do not pretend to be; but Mr. Turley is, and I listened to his arguments this evening on the Bill O'Riley Show, and both of those individuals spoke with some eloquence on this issue.

I want to look at the Constitution itself. Treason is such a serious crime. In our Constitution, we do not describe within the four corners of our Constitution homicide, we do not talk about burglaries, we do not talk about speeding or any of these other acts. There are a couple of acts that we talk about, but the first crime of this Nation, and probably the most egregious crime against this Nation is addressed in the Constitution, and I have it right here in front of me. That is the crime of treason. So I am asking my colleagues tonight, because we might, and I hope we do not, but we might discover there are some other Americans who have betrayed this Nation who have committed treason, in my opinion, against this country, and we really ought to assess, should we just turn our cheek in the other direction simply because the gentleman had an American citizenship card? Or should we look at how horrible the act of treason is against this country, so significant that the drafters of our Constitution included it within the Constitution, the definition and the description of treason against this country.

Let me refer my colleagues here to Article III under the Judicial Department, section 3, Treason against the United States. "Treason against the United States shall consist only in levying war against them," them refers to the United States, "or in adhering to their enemies." In other words, they are going to join the enemies, giving them aid and comfort.

□ 2230

Giving them aid and comfort: "No person," and this is interesting in the crime of treason, "no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or a confession in open court."

There are a number of issues presented by this paragraph. Let us go section by section. Let us go in reverse order.

First of all, a confession in open court. Where will this case be tried? Is this the type of case we would try in a military tribunal? I think there is wide agreement this would not be tried in a military tribunal. He is an American citizen. The military tribunals were not intended for American citizens. So because of the fact that he is an American citizen, it probably will be tried in the Federal courts, not a military tribunal nor in the military courts.

Two witnesses to an overt act. Why is it important? Our forefathers saw treason as such a horrible crime against the Nation, as a crime of such significance against this Nation, that they said we could not build it on circumstantial evidence alone, we actually had to have two witnesses to the act of treason.

We do not want to convict someone of treason, was the thought of the drafters of the Constitution, unless we know and have witness to the treasonal acts carried out by these individuals. So that is stated very clearly.

Now, let us jump, here. Giving them aid and comfort. There is no question that the facts as we know them so far are that this individual gave aid and comfort to the Taliban. He considered himself a member of the Taliban. He probably had dual citizenship, and there is actually some point about dual citizenship.

This is a further interpretation of treason:

"An American citizen owes allegiance to the United States of America," wherever they may reside. So in our interpretation, under our Constitution, it is clearly the intent of the Constitution that an American citizen owes allegiance to the United States, owes allegiance to our Nation, wherever they may reside. It does not matter whether one lives in Japan, whether one lives in Afghanistan, whether one lives in Europe, that as a citizen of the United States of America, one owes allegiance to the United States of America. Dual nationality does not alter that situation.

So some might say, wait a minute, he was a citizen of the Taliban government and he was a citizen of the United States of America, so he had a dual citizenship. He has a conflict. He had an obligation to carry out the wishes of bin Laden and the Taliban government and the al Qaeda.

But we have already addressed that situation. This is not a new factual situation. It is very clear: wait a minute, it does not matter what other countries one has a citizenship to, but if one is a citizen of the United States of America one must have allegiance to the United States of America.

That standard of allegiance is not in any fashion diluted by the fact that one also has citizenship of another country. So keep that in mind, because I am sure as the defense attorneys start to put this together, that will be an argument as brought up initially. It will be quickly squashed by the courts, because it is clear under our law that one's allegiance to the United States of America is not diluted, that the standard of allegiance is not diluted because one has dual citizenship.

Now, we are already beginning to see the old defense tricks starting to bubble up in some of these interviews that I have seen just in the last 24 hours. I do not practice law anymore under the ethics of the House, but when I practiced law, I was able to observe a lot of criminal defense work. I was not a criminal defense attorney. In fact, I need to be fair and give a little disclosure: I used to be a police officer. I served in a squad car on the street before I went on to law school.

I was not a prosecuting attorney, either; but I did like to observe, out of interest, a defense attorney work. There is kind of a basic rule, a fundamental rule if one is going to defend somebody.

Number one, if they are innocent, that is the best defense one can get. If one's client is innocent, you could not ask for a better defense, because the facts will play it out. It is a strong weapon to go into the courtroom with, that is, that the client is innocent.

But a lot of times one does not get that benefit. A lot of times the client is not innocent. Then what one tries to do is to divert from the lack of innocence of the client and divert attention to the people who are accusing the client.

For example, they might allege sloppy police work or that the witness was having an affair or is a known liar or has some incentive to turn witness against the client; do anything you can to divert from your client's lack of innocence to some kind of vendetta or sloppy work, and therefore your client has been unjustly charged.

If those two steps do not work, then go to the traditional, and probably as long as this country has been around, probably as long as defense law has been around, but certainly much more prevalent in this country in the last 10 or 15 years, go to that old standard, "My client was a victim." That is exactly what we are beginning to see here in the last 24 hours with this young man who I allege committed treason against the United States of America.

By the way, I have sympathy, but that is about the extent of it, for the parents of this child. I am a parent, about the same age as the father. I would be horrified if one of my children was doing the same thing. But the fact is that it does not forgive it.

What we are beginning to see is that this young man was a victim; that somehow, as the father said yesterday, he was brainwashed; or he was a victim of the Taliban; or they put pressure on him; or, you know, he was such a young man.

Let me tell the Members, the people he was shooting at were young men and women, too; young men and women who were not brainwashed, so to speak; young men and women who obeyed the allegiance to the Constitution of their Nation; young men and women out there who this young man was trying to aid and comfort the enemy of, and joined the enemy in attempting to wipe out the United States.

Those thousands and thousands of citizens killed on September 11 were innocent. And by the way, there was the most fundamental violation of wartime moral ethics, and that is, one does not attack innocent citizens; one attacks a military target under a situation like this.

But what we are beginning to see is some kind of sympathy buildup for this young man, because he was young and, oh, my gosh, the parents are horrified. I understand the parents, by the way; I feel for them. But that is all the further it can go. Our Nation cannot allow, cannot allow us to turn our cheek on the Constitution, on an act like treason; an act, as I said earlier in my comments, that was taken so seriously it was put in the Constitution.

It is right here. It was put in the four corners of that Constitution to tell us that treason is probably not only the first crime recognized by this Nation, but one of the most serious crimes recognized by this Nation.

So I am going to look with interest to see exactly how this is handled. And obviously, from my statements, Mr. Speaker, this evening, Members know that my thoughts are that this gentleman should be tried in the Federal courts for treason against the United States of America and that he should be prosecuted to the fullest extent of the law.

Let us move on. We have had a busy evening so far. I want to talk about another issue that is very important, that is, military tribunals.

There has been a lot of talk. The talk radios are full of it, the newspapers, lots of editorializing on both sides of the issue. So I wanted to lay out some of the facts.

I have spent a lot of time. I have been on several shows talking about military tribunals. I think I am somewhat knowledgeable on the subject; I do not claim to be an expert in much of anything. But the fact is, I do want to share my views on these military tribunals. I think there are some legitimate, good reasons to support military tribunals.

I know some of my colleagues are dead set against this kind of thing and that somehow they have bought the ticket that this is a violation of civil liberties, that this is unconstitutional, et cetera. I will address those points. All I am asking is that for a few minutes Members give me consideration of presenting the other side of the issue, the side that supports the need for military tribunals.

First of all, Members should remember that the actual rules of the military tribunal have not been laid out specifically; but I think we can feel very confident, and I think they will be required by the standards set for military tribunals throughout the history of this country, that the defendant obviously will have the right to counsel; the defendant obviously will have the right to testify; the defendant will have a full and a fair trial; the defendant can be assured that they will not be prejudiced against because of race, gender, or status; that they can freely exercise their religion while in captivity; that they will be given food and shelter and the other things that are provided for people, citizens that are alleged of a crime.

So do not let people tell us that for some reason they are not going to get legal counsel. I will talk about the secrecy issue a little later on, but the secrecy is not going to apply to the extent that it denies the defendants in these cases a full and a fair trial. If it did, they would be unconstitutional.

Now, the constitutionality of military tribunals has twice been addressed by the United States Supreme Court. Twice the United States Supreme Court has upheld the constitutionality of military tribunals. So as we hear people say, well, it is unconstitutional, I think we need to say, wait a minute, be a little more specific. If the military tribunals follow the same standards or the same course of conduct as previous military tribunals have, they have been found constitutional. So on what basis can people say they are unconstitutional?

The fact is, they are constitutional. There is a lot of history to military tribunals. They did not just start with President Bush. Remember, President Bush's priority is not to get the defendants, not to create some type of new Constitution in this country, not to usurp the current Constitution. President Bush's primary drive here is to protect the security of U.S. citizens.

When we have to decide, okay, which way do we lean, in favor of protection, home security, homeland security for the citizens of the United States, or should we sacrifice homeland security for the citizens of the United States to go out and quell the concerns of a few civil libertarians, who, by the way, do not have the law on their side? The law is not on the side of those who are saying it is unconstitutional; the law is on the other side, saying it is constitutional.

The President I think very accurately and very correctly has made his point clear. His number one priority is the security of the United States of America. The people of the United States of America come first. The security of those people is an inherent obligation not only of the President of the United States as Commander in Chief, but the security of this Nation and the security of the people of this Nation is an inherent obligation of everyone sitting in the United States Congress or the United States Senate or in any public office, or working for the government. Their number one priority is the citizens of the United States and the protection of the citizens of the United States.

Let me give just a little history. Many people are surprised by the history of these tribunals. This history started in the Revolutionary War. Military tribunals were held at the very beginning of this country in the Revolutionary War. There were spies that were caught behind U.S. lines during the Revolutionary War, military tribunals in 1776. President Lincoln's assassination, 1865, a military tribunal; military tribunals right there under the assassination under President Lincoln, or because of President Lincoln's assassination.

World War II, Japanese officers who failed to prevent their troops from committing atrocities during World War II, those Japanese officers were subject to a military tribunal. That tribunal was taken to the United States Supreme Court, and it was found constitutional.

Nazi saboteurs who landed on the coast of the United States in 1942 with the intent to destroy industrial facilities. Those military tribunals also had as part of the punishment death penalties which were carried out against these saboteurs. The United States Supreme Court also found that military tribunal was constitutional.

There is history in this country. This is not a precedent-setting event. Military tribunals are a necessity.

Now let us talk about why are they necessary. What are some of the reasons that we have to have them? I think today, I have to tell the Members, I have to give credit to the editorial today in the Wall Street Journal. In one editorial, I think the Wall Street Journal set out probably as clear a picture as I have seen in this debate as to the justification for the military tribunals.

I am not going to read the editorial to Members, but I will talk about and discuss certain elements of that editorial.

They talk about, of course, the recent cases that have pertained to acts of terrorism: the first attack on the World Trade Center, the bombings of the U.S. embassies in Africa. The Wall Street Journal talks about the good news about these trials; and by the way, they were held in Federal courts. The good news about these trials was they managed to get convictions. The bad news was that they were protracted, long trials, expensive trials, and very dangerous trials to the participants, meaning the jurors, the judges, the court reporters.

Everyone that had everything to do with the government side of the business was under a threat of danger. In fact, it says, some of those judges involved in those cases still have security measures taken on their behalf to protect them as a result of holding those trials.

Now, think for a moment, and this is not in the Wall Street Journal editorial, but think for a moment on these military tribunals. Let us just take out of the air, let us say we capture some al Qaeda members. Say we capture 100 of them. That is not unreasonable. There are thousands of them.

Let us say 100 of them are captured and brought to the United States. Where are Members going to find 100 additional Federal judges, 100 Federal courthouses, that can be cordoned off, blocked off, checked every day for anthrax, checked for bombs? Where are we going to find a courthouse where we can get a jury that is willing to sit, a jury deciding on al Qaeda, when we know we do not have every one in our custody; when they are constantly reminded in this trial of what happened in New York City on the acts of terrorism?

Where are we going to find, without hampering and deadlocking the rest of the Federal court system, where are we going to get all of these judges to decide on this? Then what do you do, provide those judges with lifetime round-the-clock security for the rest of their lives?

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That is why an option of a military tribunal which is constitutional, which allows the defendant a fair and full trial, which allows the defendant legal counsel, which allows the defendant the same rights of food and shelter and a nondiscrimination allowed to any other prisoner in the United States, that is one of the reasons these military tribunals make sense.

Let us go on, because the issue you have heard a lot of, "secret," and, boy, do they play up on the word "secret." Oh, my gosh. Secret. You cannot have a secret hearing. Well, wait a minute. Sometimes it is necessary to have a secret hearing because there are a lot of people that would like to find out exactly what we know about their organizations, their terrorist organizations.

For example, they say in here in the Wall Street Journal, they talk about that the World Trade Center trial, remember that trial a few months ago, in fact, the defendants were sentenced I think the day or 2 days after the September 11 bombing or act of terror. They talk about what was revealed in the first trial which was held in open court, not in a secret hearing.

This testimony that was open to the public including the al Qaeda network, the testimony in the first World Trade Center trial included lengthy testimony about the structure and the stability of the twin towers.

So, in other words, these twin towers, the World Trade Centers, the stability and the structural makeup of those towers was discussed in open court in the first World Trade Center, so that the people that were interested in taking down the towers could figure out why a bomb in the basement did not bring it down, but what would in fact be able to bring it down based on the structure weaknesses and the stability. That was in open court.

Do you think that is something we ought to be discussing in an open court? In other words, daring them to try it again and providing them, as the Wall Street Journal says, it is almost like giving out your troop movement. You are engaged in a war. We do not want to hold it secret from the enemy where our troops are going to be, so we better disclose our troop movements before we go into it. That is exactly what we are concerned about. The confidential information. How we found out about these al Qaeda. How we arrested them. What are our resources? Who are our sources of information? What kind of satellite intervention, what kind of interception did we use?

All of those secrets could be forced to be revealed in an open court setting. So what we have proposed is a military tribunal. And while a tribunal would allow facts like that to be held in secret, it would not deny the defendant a fair and full trial. It would fall within the bounds of constitutionality, and we can bet that any conviction taken out there will certainly go to the United States Supreme Court on the question of constitutionality. And I can assure you that the prosecutors, the United States of America, the people of the United States of America, do not want a trial that is going to be found unconstitutional. They do want to stay within the bounds of the Constitution. But they also want the priority, while staying within those bounds, that the priority should be homeland security, that we need to install just a little common sense.

Do not buy into some of the defense bar on this thing. Let me proceed.

In the embassy bombing, remember our embassies that got bombed? Government Exhibit 1677-T was al Qaeda terror manual. By entering the manual into evidence, the United States was telling al Qaeda that it knew its operating procedures and inviting it to change course. That was bad enough during peacetime, but in the middle of the war against terrorism it is akin to disclosing troop movements.

Speedy justice. Talk about the speed of these trials. Can you have a trial that is held on a faster basis without it being declared unconstitutional? Yes, you have to take certain precautions. You have to make sure the defendant is assured the right of counsel. You have to make sure the trial is held so it gives a full and fair trial to the defendant. But once you meet those standards of the Constitution, there is nothing in the Constitution that requires these trials be prolonged month after month after month, and that is exactly what happened. With the experiment we had in trying the first bombing of the World Trade Center, that is exactly what happened in that trial and the subsequent bombings of the embassies. Let us talk about it.

Speedy justice is also not a hallmark of civilian courts. The first World Trade Center trial took 6 months, in 1993 to 1994. Six months of locking off that courthouse. Six months of trying to keep secret who the jurors were, who the judges were, who the court clerks were, who the security guards were. As I said before, the security for the judges especially continues to this date on many of these cases.

A second trial lasted 4 months in 1997, a second trial dealing with the World Trade Center. A third trial, the blind sheik, took 8 months in 1995, 8 months of daily trial in the Federal Court Center. And the embassy bombing trial last spring lasted 3 months. That is the one where the sentencing took place September 12 in a Federal courthouse a few blocks north of the World Trade Centers.

Now, the Wall Street Journal says, it brings it to the fact that all these trials were held under heavy security and great risk to the participants. Federal courthouses are heavily trafficked public buildings in dense urban areas, and thus difficult to protect. Effective security requires more than installing metal detectors or closing off adjacent streets.

A military base is the safest venue for terrorist trials, but even that security is not a simple matter. It took a year to prepare a camp in the Netherlands for a trial of those accused of bringing down Pan Am Flight 103.

So the Wall Street Journal goes on further and says, look, from a practical viewpoint it does not make sense to hold these trials or tribunals or have trials in Federal courts in the middle of a populated center. It makes sense for the protection of the population around that courthouse, for the protection of the people working in that courthouse, it makes sense to have these trials, considering the backgrounds of these individuals and the allegations against them, to have these trials on a military base.

Now the military base does not prevent legal counsel from representing their client, does not prevent them from going on the base. The defendant will be able to have military counsel. But it does protect society. Again, some people are confused. Some people are beginning to adopt the politically correct thinking of whatever the liberal defense bar, in some cases, not all members of the defense bar, whatever they want we better satisfy them. Even though we know it is constitutional, even though we know the jeopardy that we are placing other American citizens in, we better have it down at the Federal courthouse. You know why they will push hard on that, some defense attorneys, especially the defense attorneys that will represent the members of the al Qaeda, because they know under pressure the United States will probably fold and make a plea bargain for their clients.

The more you can force the government to disclose military secrets like satellites, who the names of their spies are, the more you can force the United States to hold a trial in a publicly populated area, the more pressure you are putting on the government to do a plea bargain. That is exactly why you will see these points pushed with such vengeance by the defending attorneys.

Same thing with the juror safety. The usual rules in civilian terrorist trials is anonymity for the jurors. But it is hard to believe that the jurors are going to consider that adequate protection after September 11. Judges are even more at risk.

Two Federal judges, as I mentioned earlier, two Federal judges in New York remain under tight security to this day, long after the end of those terror trials.

The larger point here, and I think this is very, very important for our discussion this evening, the larger point here is that military tribunals are not some "Big Brother" invasion past the normal rules of justice. In other words, what is being said, this is not an invasion of the rules of the Constitution, this is not a violation of the civil liberties of American citizens. In fact, it protects the civil liberties of American citizens. In fact, it is about the home security of the United States of America, about the security for every man, woman and child within this country that are American citizens, or even visitors who are not American citizens but residing in this country.

This is not an invasion of rights. This is not an effort by the President of the United States to somehow abscond with the Constitution of the United States. It is his inherent obligation and our inherent obligation to conduct these in such a way that we protect the home security of this Nation while still giving a fair and full trial to the defendant, which can be realized under a military tribal.

Let me go back to the Wall Street Journal. The larger point here is that military tribunals are not some Big Brother invasion across the normal rules of justice. They are a commonsense and historically well-established way to cope with the unusual demands of war against terrorism. As recently as 1996, the Clinton administration rejected Sudan's offer to turn over bin Laden because it did not think it had enough evidence to convict him in a military court. A military tribunal would have been very handy at that point in time because of the pressures that would have been applied by, frankly, the defense attorneys working in this case.

Now, the Defense Department, we would expect here in the next few days, would have probably many more specifics in regard to these military tribunals. What I am saying to my colleagues tonight is before you jump on the bandwagon of criticizing these military tribunals, do a couple of things. Number one, use common sense. And when you are thinking about common sense, think about, number one, are we protecting the Constitution? Common sense would say, well, is there some history to it? The answer would be yes. We have had military tribunals throughout the history of this country, starting with the Revolutionary War, as a result of the Lincoln assassination, as a result of two or three acts in World War II. We have a history of military tribunals.

Common sense says, okay, there is a history. The facts points out there is a history. Is it constitutional? Common sense again says look at the facts. The Supreme Court on two separate occasions has answered that very direct question and the answer has been yes, they are constitutional. Use some common sense about the security of the people that will be involved in the trial. How can you guarantee the security of some regular Joe or regular Jane down there and say, hey, we want you to serve on the jury against one of these people that we think was connected with the terrorism acts of September 11, do not worry about your security?

What are you going to do with these judges? Protect them for the rest of their lives, or jury for the rest of their lives? Think about the logistics. Think about common sense.

Does it make a lot of sense to have these trials at the Federal courthouse in downtown Denver or in New York City, in downtown New York City, around populated centers? Or does it make more common sense because it is constitutional to do it, to hold it out on a military base where you allow the defendant still a fair and full trial and the right to counsel?

I think it is so important as we discuss there that you not sign on to this argument that on its face military tribunals make no sense; that it is a move by the Bush administration to somehow subvert the Constitution.

In fact, it is my belief that a lot of the arguments against military tribunals today are in fact not based on real objection to military tribunals, but instead designed as a political weapon against the Attorney General. That in fact they are designed to try, and somehow because President Bush is so popular today, that somehow the way to try and dent Bush's popularity is to go after his Attorney General. And so military tribunals use the sensitive words like secretive and lack of rights and unconstitutional. I think my comments showed you tonight, one, the reason for secrecy and it does not deny a fair trial to the defendant. Two, the fact it is constitutional. Three, the common sense needs to have it at a military base. Those all point out that the arguments being used by the other side really in most cases are being fictitious and more directed at trying to ruin the credibility of an Attorney General in an effort to get at the President.

Because when you sit down with most Americans and you say let us talk about security, let us talk about the Constitution, let us talk about the fairness of these trials, let us talk about the history of these trials, you will find agreement. Most Americans are concerned about the security of this Nation. Every American is concerned because it may be them someday.

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Every American is concerned that a fair trial be held there, including our United States Supreme Court; and do not believe for one minute that the United States Supreme Court is going to look the other way on a trial that does not allow the defendant a fair trial. That is not going to happen. They would throw it out in a heartbeat, and this is not what we want. We want a fair trial, but we want security for America. Homeland security has to be our number one policy here while staying within the bounds of the Constitution, which we do with military tribunals.

Let me spend my last few minutes on some other facts, and that is, we have heard about these detentions across the country. Once again, a wide distortion of the facts. Currently in the United States of America, remember that these deportations, these are people in violation of some law.

I heard a lawyer tonight on TV who was representing a student whose visa was expired, and he was deeply offended by the fact that this person was detained and questioned by immigration. He is in violation. He should have not been here. He should have gone back to his own country. He was invited as a guest, as a student of this country. His student visa expires, he gets caught, and his lawyer shows up saying, oh my, the wolves are picking on my client.

I do not know why his client is still in the United States of America. I do not know why they do not send him back. Once he is released, they should kick him out of the country. His visa has expired. We have got to enforce our border policies. I am not saying lock down the borders. I never have, but the laws we have, we have got to enforce.

These detentions, there are 20,000 people as we speak, 20,000 plus people as I speak this evening, in immigration detention across this country. We have heard that we have got, oh, probably 5 percent, 600 or 1,000, people in detention for various violations of the law as a result of the September 11 incident, and those people are being questioned.

The distortion of facts is they would have us believe that these people's names cannot be revealed. The government's not going to give out their names. Why should we? We should not give out their names. All we do is provide the al Qaeda network and other people who do not hold the best interests of the United States of America in their heart, we provide them information of exactly what we are doing.

We cannot deny one of the detainees, one of the people who is being held in detention. They have every right to tell their attorney or to disclose their own name. So their name can be disclosed. We are not just going to do it for them. They can do it if they wish. Their attorney can come out tomorrow morning, have a press conference and say John Jones right here is being detained; he wants everybody to know his name. They are allowed to do that. Do not buy into this distortion that people are being detained and nobody will ever know their names. They will, if those people choose to have their names known.

I think it is important to remember of those 600-and-some-odd people that are being detained, over a hundred of them are being detained on serious Federal charges. We cannot play games here. This is a very serious threat to the United States of America, and I do not have to say it twice because everybody in this room, everybody in this room saw what happened on September 11. We witnessed it. I do not have to play games here.

We better be serious about the investigation of these people. We better not let a few threats, oh, my gosh, you are hurting their feelings, we better put that aside. We have got the security of the United States of America to worry about, and we can count on the fact that these terrorists will strike again. With good investigative work that I would add is constitutional, with good investigative work that I would add is fair, with good investigative work that has common sense to it, we can prevent a lot of these future terrorist acts.

Do not buy into this politically correct theory that any kind of aggressive action by the investigative agencies is somehow a violation of privacy or somehow unconstitutional. All we are doing is asking for it. It is like getting in a fistfight and putting your fists down and saying maybe it is unfair for me to defend myself because you do not hit as fast as I do, so maybe I ought to put my fist down.

That is an analogy. We should not put our guard down. This is a time when we ought to have our guard up, and we ought to use every tool that is constitutional and every tool that allows common sense, frankly; and that is a lot of what this is about, to protect the security of the people of this Nation. We cannot allow these acts of aggression to occur again, if at all we can stop it ahead of time. That is what we need to do in this country.

I ask my colleagues, listen to these detentions; and by the way, as they listen to these interviews that are being requested, they are not required and we have heard people say, well, it is race profiling because the government has asked people who are visiting this country, they are not asking citizens of this country, they are asking people who are visiting from foreign countries who are visiting, who are guests of the United States of America, they are asking them to voluntarily, not mandatory, they are not being arrested, they are not being detained. The government, the President, our leadership has said, look, you are from the Middle East, you are from these countries, you are visiting our country, could you help us, do you have anything you could tell us, would you come down and talk to us. And you never know, what may not seem important to you is very important to us to try and prevent future acts of terrorism.

These people are not being detained against their will. They are asked voluntarily to come in. Somebody said the other day we are race profiling; all you are doing is asking people of Afghan descent or people from Afghanistan or Arab people or people of Middle East descent to come in.

Well, geez, let me tell my colleagues something. I mentioned earlier I used to be a cop, and once in a while we would be called to the high school for a fight, and guess who we asked questions of when we got to the high school, the students. Now, some would say, well, now wait a minute you better ask the other people, you are just picking on the students. I heard that a lot. You are just picking on the students. Who do you think knows about the fight? It is a student fight. Maybe, maybe the students know the most about it. So we always would ask the students questions.

It is the same thing here. I am just concerned as I have heard the news in the last few days that the further away we get from September 11 the more some people are buying into this argument that some how the United States should continue to proceed with its hands handcuffed behind it; that the United States should not have an advantage, not an unfair advantage, but any kind of advantage.

We had one person suggest at the beginning of the war that maybe we were a bully because we had high-tech weapons. We do not need to pile guilt upon ourselves. We are not the party that started this fight. We are the party that is going to end it, but we are not the party that started this.

As a party, we have a fundamental responsibility not to handcuff our hands behind our back, not to intentionally disadvantage ourselves so that we poke our chin out at the enemy so they can pop it once again.

So I ask all of my colleagues, please give this consideration. My colleagues should always ask if it is constitutional, but the moment they find out it is and there is precedent for it, which there is in all of the cases which I have mentioned this evening, then proceed to the next point: Does it make common sense? Does it defend the interests of the people of the United States? Does it help prevent future terrorist actions?

It is time to get tough. It is time to roll up our shirt sleeves and say we have had enough of this. We are going to go out, and we are going to stop terrorism once and for all, and that is exactly what our President and his administration is intending on doing, and that is exactly what we should do as Members of the United States Congress. We should support our President, and we should support the Attorney General and our Vice President and Condoleezza Rice and the team and we should go out and do everything we can to do our part in stopping terrorism against the citizens of the United States and against all people of the world.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DEFAZIO (at the request of Mr. GEPHARDT) for today on account of personal business.

Mrs. ROUKEMA (at the request of Mr. ARMEY) for today and the balance of the week on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LYNCH) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. LYNCH, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

(The following Members (at the request of Mr. CANTOR) to revise and extend their remarks and include extraneous material:)

Mr. GANSKE, for 5 minutes, December 5.

Mr. PENCE, for 5 minutes, today.

Mr. GEKAS, for 5 minutes, December 5 and 6.

Mrs. JO ANN DAVIS of Virginia, for 5 minutes, December 5.

Mrs. MORELLA, for 5 minutes, December 5.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 717. An act to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and Emery-Dreifuss muscular dystrophies.

H.R. 1766. An act to designate the facility of the United states Postal Service located at 4270 John Marr Drive in Annandale, Virginia, as the "Stan Parris Post Office building".

H.R. 2261. An act to designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the "Earl T. Shinhoster Post Office".

H.R. 2291. An act to extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

H.R. 2299. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

H.R. 2454. An act to designate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, California, as the "Congressman Julian C. Dixon Post Office".

H.J. Res. 71. Joint resolution, amending title 36, United States Code, to designate September 11 as Patriot Day.

ADJOURNMENT

Mr. McINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 8 minutes p.m.), the House adjourned until tomorrow, Wednesday, December 5, 2001, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4689. A communication from the President of the United States, transmitting authorization of transfers from the Emergency Response Fund for emergency recovery and response and national security activities; (H. Doc. No. 107-153); to the Committee on Appropriations and ordered to be printed.

4690. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-187, "Impacted Resident Economic Assistance Temporary Act of 2001" received December 3, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4691. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-184, "Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2001" received December 3, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4692. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-183, "Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Temporary Act of 2001" received December 3, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4693. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-182, "Public Disclosure of Findings and Information in Cases of Child Fatality or Near Fatality Amendment Act of 2001" received December 3, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4694. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-177, "Parking Meter Fee Moratorium Temporary Act of 2001" received December 3, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4695. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-174, "Chief Financial Officer Establishment Reprogramming During Non-Control Years Technical Temporary Amendment Act of 2001" received December 3, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4696. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-173, "Sentencing Reform Technical Amendment Temporary Act of 2001" received December 3, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4697. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-172, "Redevelopment Land Agency-RLA Revitalization Corporation Transfer Temporary Act of 2001" received December 3, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4698. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-169, "Citizens with Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2001" received December 3, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4699. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-170, "Closing of a Portion of F Street, N.W., S.O. 99-70, Act of 2001" received December 3, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4700. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operating Regulation; Bayou Lafourche, LA [CGD08-01-032] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4701. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: New Rochelle Harbor, NY [CGD01-01-195] (RIN: 2115-AE47) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4702. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Hutchinson River, Eastchester Creek, NY [CGD01-01-182] (RIN: 2115-AE47) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4703. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operating Regulation; Inner Harbor Navigation Canal, LA [CGD08-01-037] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4704. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills and their tributaries, NY [CGD01-01-176] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4705. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Southern Branch of the Elizabeth River, Atlantic Intracoastal Waterway, Chesapeake, Virginia [CGD05-01-065] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4706. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; SR 84 Bridge, South Fork of the New River, mile 4.4, Ft Lauderdale, Broward County, Florida [CGD07-01-127] (RIN: 2115-AE47) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4707. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Certification of Navigation Lights for Uninspected Commercial Vessels and Recreational Vessels [USCG-1999-6580] (RIN: 2115-AF70) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4708. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes [Docket No. 2001-NM-298-AD; Amendment 39-12465; AD 2001-20-17] (RIN: 2120-AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4709. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and EMB-145 Series Airplanes [Docket No. 2000-NM-321-AD; Amendment 39-12436; AD 2001-18-10] (RIN: 2120-AA64) received November 16, 2001, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4710. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9 Series Airplanes and MD–88 Airplanes [Docket No. 2001–NM–264–AD; Amendment 39–12463; AD 2001–20–15] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4711. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Model Beech 400A Series Airplanes [Docket No. 99–NM–157–AD; Amendment 39–12455; AD 2001–20–07] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4712. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fairchild Aircraft, Inc. Models SA226 and SA227 Series Airplanes [Docket No. 2000–CE–28–AD; Amendment 39–12462; AD 2001–20–14] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4713. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Gulfstream Model G–V Series Airplanes [Docket No. 2001–NM–305–AD; Amendment 39–12477; AD 2001–21–06] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4714. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company T58 and CT58 Series Turboshaft Engines [Docket No. 99–NE–13–AD; Amendment 39–12432; AD 2001–18–06] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4715. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Enstrom Helicopter Corporation Model F–28, F–28A, F–28C, F–28F, 280, 280C, 280F, and 280FX Helicopters [Docket No. 2001–SW–28–AD; Amendment 39–12479; AD 2001–22–01] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4716. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments [Docket No. 30271; Amdt. No. 431] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4717. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Time of Designation for Restricted Area R–4403; Gainesville, MS [Docket No. FAA 2001–10527, Airspace Docket No. 01–ASW–10] (RIN: 2120–AA66) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4718. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters [Docket No. 2000–SW–67–AD; Amendment 39–12466; AD 2001–20–18] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4719. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model SA.315B, SA.316C, SA 3180, SA 318B, SA 318C, SA.319B, SE.3160, and SA.316B Helicopters [Docket No. 2001–SW–36–AD; Amendment 39–12467; AD 2001–18–51] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4720. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76B and S–76C Helicopters [Docket No. 2001–SW–01–AD; Amendment 39–12134; AD 2001–03–51] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4721. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Agusta Model AB412 Helicopters [Docket No. 2001–SW–22–AD; Amendment 39–12425; AD 2001–17–33] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4722. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model AS350B, B1, B2, B3, BA, D, D1 and AS355E, F, F1, F2, and N Helicopters [Docket No. 2000–SW–47–AD; Amendment 39–12424; AD 2001–17–32] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on International Relations. S. 494. An act to provide for a transition to democracy and to promote economic recovery in Zimbabwe; with an amendment (Rept. 107–312 Pt. 1). Ordered to be printed.

Mr. TAUZIN: Committee on Energy Commerce. H.R. 3046. A bill to amend title XVIII of the Social Security Act to provide regulatory relief, appeals process reforms, contracting flexibility, and education improvements under the Medicare Program, and for other purposes; with an amendment, (Rept. 107–313 Pt. 1). Ordered to be printed.

Mr. HANSEN: Committee on Resources. H.R. 2238. A bill to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes; with an amendment (Rept. 107–314). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3322. A bill to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County, Utah (Rept. 107–315). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Financial Services discharged from further consideration. S. 494 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

S. 494. Referral to the Committee on Financial Services extended for a period ending not later than December 4, 2001.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

[Omitted from the Record of November 29, 2001]

By Mr. SHADEGG (for himself and Mr. MCINNIS):

H.R. 3385. A bill to direct the Consumer Product Safety Commission to issue rules that set safety standards for marine internal combustion engines, including in regard to the emissions of toxic fumes, and for other purposes; referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

[Submitted December 4, 2001]

By Mrs. JOHNSON of Connecticut (for herself, Mr. STARK, Mr. TOOMEY, Ms. BERKLEY, Mr. THOMAS, Mr. RANGEL, Mr. BILIRAKIS, Mr. BROWN of Ohio, Mr. TAUZIN,, Mr. DINGELL, Mr. ABERCROMBIE, Mr. BARRETT, Mr. BARTON of Texas, Mr. BRADY of Texas, Mr. BRYANT, Mr. BURR of North Carolina, Mr. BUYER, Mr. CAMP, Mrs. CAPPS, Mr. CARDIN, Mr. CRANE, Mr. DEAL of Georgia, Mr. DEUTSCH, Ms. DUNN, Mr. EHRLICH, Mr. ENGLISH, Mr. FOLEY, Mr. GANSKE, Mr. GREEN of Texas, Mr. GREENWOOD, Mr. HALL of Texas, Mr. HAYWORTH, Mr. SAM JOHNSON of Texas, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. LEWIS of Kentucky, Mr. LUTHER, Mr. MALONEY of Connecticut, Ms. MCCARTHY of Missouri, Mr. MCCRERY, Mr. MCDERMOTT, Mr. MCNULTY, Mr. NORWOOD, Mr. NUSSLE, Mr. PALLONE, Mr. PICKERING, Mr. PORTMAN, Mr. RAMSTAD, Mr. RUSH, Mr. SHADEGG, Mr. SHAW, Mr. SHIMKUS, Mr. STENHOLM, Mr. STRICKLAND, Mrs. THURMAN, Mr. TOWNS, Mr. UPTON, Mr. WAXMAN, Mr. WELLER, and Mr. WHITFIELD):

H.R. 3391. A bill to amend title XVIII of the Social Security Act to provide regulatory relief and contracting flexibility under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the

Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTERT (for himself, Mr. Ackerman, Mr. Armey, Mr. Boehlert, Mr. Crowley, Mr. Diaz-Balart, Mr. Dreier, Mr. Engel, Mr. Evans, Mr. Fossella, Mr. Frost, Mr. Gilman, Mr. Goss, Mr. Grucci, Mr. Hall of Ohio, Mr. Hastings of Florida, Mr. Hastings of Washington, Mr. Hinchey, Mr. Houghton, Mr. Israel, Mrs. Kelly, Mr. King, Mr. LaFalce, Mr. Linder, Mrs. Lowey, Mrs. Maloney of New York, Mrs. McCarthy of New York, Mr. McHugh, Mr. McNulty, Mr. Meeks of New York, Mrs. Myrick, Mr. Nadler, Mr. Owens, Ms. Pryce of Ohio, Mr. Quinn, Mr. Rangel, Mr. Reynolds, Mr. Serrano, Mr. Sessions, Ms. Slaughter, Mr. Smith of New Jersey, Mr. Sweeney, Mr. Towns, Ms. Velázquez, Mr. Walsh, and Mr. Weiner):

H.R. 3392. A bill to name the national cemetery in Saratoga, New York, as the Gerald B.H. Solomon Saratoga National Cemetery, and for other purposes; to the Committee on Veterans' Affairs. considered and passed.

By Mr. MURTHA:

H.R. 3393. A bill to make additional emergency supplemental appropriations for fiscal year 2002 for urgent counter-terrorism activities; to the Committee on Appropriations.

By Mr. BOEHLERT (for himself, Mr. Hall of Texas, Mr. Smith of Texas, Mr. Baird, Mr. Smith of Michigan, and Ms. Eddie Bernice Johnson of Texas):

H.R. 3394. A bill to authorize funding for computer and network security research and development and research fellowship programs, and for other purposes; to the Committee on Science, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CHRISTENSEN (for herself, Mr. Underwood, and Mr. Acevedo-Vila):

H.R. 3395. A bill to amend the Tariff Act of 1930 to permit duty drawback for articles shipped to the insular possessions of the United States; to the Committee on Ways and Means.

By Mr. GREEN of Wisconsin:

H.R. 3396. A bill to amend title 18, United States Code, to prohibit aiding terrorists; to the Committee on the Judiciary.

By Ms. HARMAN (for herself, Mr. Weldon of Pennsylvania, Mr. Moran of Virginia, Mr. Gilman, Mr. McIntyre, Mr. Frelinghuysen, and Mr. Ballenger):

H.R. 3397. A bill to provide for the expedited and increased assignment of spectrum for public safety purposes; to the Committee on Energy and Commerce.

By Mr. ISRAEL:

H.R. 3398. A bill to provide Federal reimbursement to State and local governments for a 30-day sales, use, and retailers' occupation tax holiday; to the Committee on Ways and Means.

By Mr. MATSUI:

H.R. 3399. A bill to authorize the Secretary of the Army to carry out a project for flood protection and ecosystem restoration for Sacramento, California, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of Michigan (for himself, Ms. Eddie Bernice Johnson of Texas, Mr. Boehlert, and Mr. Hall of Texas):

H.R. 3400. A bill to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 2003 through 2007 for the coordinated Federal program on networking and information technology research and development, and for other purposes; to the Committee on Science.

By Mr. RADANOVICH:

H.R. 3401. A bill to provide for the conveyance of Forest Service facilities and lands comprising the Five Mile Regional Learning Center in the State of California to the Clovis Unified School District, to authorize a new special use permit regarding the continued use of unconveyed lands comprising the Center, and for other purposes; to the Committee on Resources.

By Mr. RANGEL (for himself, Mr. Nadler, Mrs. Maloney of New York, Mr. Serrano, Mr. Towns, Mr. Hinchey, Mrs. McCarthy of New York, and Mr. McNulty):

H.R. 3402. A bill to provide tax incentives for the recovery of businesses in the City of New York which were impacted by the September 11, 2001, terrorist attacks; to the Committee on Ways and Means.

By Mr. WEINER:

H.R. 3403. A bill to direct the Secretary of Transportation to issue a final regulation prohibiting certain aircraft departing from John F. Kennedy Airport in Queens County, New York, from flying over the Rockaway Peninsula in Queens County, New York; to the Committee on Transportation and Infrastructure.

By Mr. GRAHAM (for himself, Mr. Goss, and Mr. Hyde):

H.J. Res. 75. A joint resolution regarding the monitoring of weapons development in Iraq, as required by United Nations Security Council Resolution 687 (April 3, 1991); to the Committee on International Relations.

By Mr. HYDE (for himself, Mr. Lantos, Mr. Gilman, Mr. Ackerman, Mr. Watts of Oklahoma, Mr. Wynn, Mr. McNulty, Mr. Deutsch, Ms. Berkley, Mr. Weiner, Mr. Berman, Mr. Engel, Mr. Hastings of Florida, Mr. Waxman, Mr. Nadler, Mr. Crowley, Ms. Ros-Lehtinen, Mr. Cantor, Mr. Flake, Mr. Leach, Ms. Schakowsky, Mr. King, Mr. Rothman, Mr. Wexler, Mr. Sherman, Mrs. Lowey, Mr. Smith of New Jersey, Mr. Cardin, Mr. Reynolds, Mr. Kirk, Mr. Grucci, Mr. Walsh, Mr. Blunt, Mr. Chabot, Mr. Souder, Mr. Burton of Indiana, Mr. Horn, Mrs. Kelly, Mrs. Wilson, Ms. Harman, Mr. Bass, Mr. Dan Miller of Florida, Mr. Filner, Mrs. Jo Ann Davis of Virginia, Mr. Boehlert, Mr. Stearns, Mr. Ferguson, Mr. Deal of Georgia, Mr. Cox, Mr. Weldon of Pennsylvania, Mr. Rangel, Mrs. Napolitano, Mr. Diaz-Balart, Mr. Foley, and Mr. Frelinghuysen):

H. Con. Res. 280. Concurrent resolution expressing solidarity with Israel in the fight against terrorism; to the Committee on International Relations.

By Mr. ADERHOLT (for himself, Mr. Goss, Mr. Wolf, Mr. Simmons, Mr. Bachus, Mr. Callahan, Mr. Cramer, Mr. Everett, Mr. Hilliard, and Mr. Riley):

H. Con. Res. 281. Concurrent resolution honoring the ultimate sacrifice made by Johnny Micheal Spann, the first American killed in combat during the war against terrorism in Afghanistan, and pledging continued support for members of the Armed Forces; to the Committee on Intelligence (Permanent Select).

By Mr. NUSSLE:

H. Res. 301. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 184: Mr. Hastings of Florida.

H.R. 218: Mr. Gutknecht, Mr. Borski, Mr. DeMint, and Mr. Shuster.

H.R. 280: Mr. Crane and Mr. Ney.

H.R. 488: Mr. Cardin, Mr. Rush, Mrs. Meek of Florida, and Mr. Schiff.

H.R. 563: Mr. Frost and Mr. Shadegg.

H.R. 709: Mr. Quinn.

H.R. 765: Mr. Filner.

H.R. 831: Mr. Snyder.

H.R. 902: Mr. Udall of New Mexico.

H.R. 950: Mr. Bilirakis, Mr. Stearns, and Mrs. Cubin.

H.R. 997: Mr. Sanders.

H.R. 1011: Mr. Wynn.

H.R. 1178: Mr. McGovern.

H.R. 1198: Mr. Akin.

H.R. 1211: Mr. Kennedy of Rhode Island and Mr. Shadegg.

H.R. 1212: Mr. Doolittle.

H.R. 1265: Mr. Smith of Washington.

H.R. 1273: Mr. Largent.

H.R. 1343: Mr. Ross and Ms. Ros-Lehtinen.

H.R. 1377: Mr. Osborne, Ms. Hart, and Mr. Forbes.

H.R. 1400: Ms. Solis.

H.R. 1433: Mr. Serrano, Mr. Hinchey, and Mr. Rangel.

H.R. 1436: Mr. Walsh and Mr. Grucci.

H.R. 1556: Mr. Payne.

H.R. 1586: Mr. Houghton and Mr. Faleomavaega.

H.R. 1793: Mr. Osborne.

H.R. 1819: Mr. Fletcher.

H.R. 1839: Mr. Lipinski.

H.R. 1949: Mr. Filner.

H.R. 1975: Mr. Etheridge.

H.R. 1984: Mr. Schaffer.

H.R. 2012: Mr. Filner.

H.R. 2037: Mr. Combest, Mr. Rohrabacher, Mr. Platts, Mrs. Thurman, Mr. Turner, and Mr. Greenwood.

H.R. 2074: Ms. McCarthy of Missouri.

H.R. 2118: Mrs. Kelly.

H.R. 2148: Mr. Spratt.

H.R. 2162: Mr. Rodriguez and Mr. Hinojosa.

H.R. 2220: Mr. Clement, Ms. Solis, and Mr. Lipinski.

H.R. 2235: Mr. Turner.

H.R. 2258: Ms. McCollum.

H.R. 2348: Mr. Becerra, Mr. Scott, Mr. Gibbons, and Mr. Jackson of Illinois.

H.R. 2349: Mr. Rahall and Mr. Baca.

H.R. 2363: Mr. Udall of New Mexico.

H.R. 2374: Mr. Watkins and Mr. Ryan of Wisconsin.

H.R. 2419: Mr. Clay and Ms. DeLauro.

H.R. 2423: Mr. Bartlett of Maryland.

H.R. 2439: Mr. Bonior.

H.R. 2573: Mr. Hinchey.

H.R. 2574: Mr. Schaffer and Mr. Souder.

H.R. 2588: Mr. Shays, Mr. Doyle, and Mr. Terry.

H.R. 2623: Mr. Tierney and Ms. Schakowsky.

H.R. 2638: Mr. LaHood, Mr. Strickland, Ms. Schakowsky, Mr. Maloney of Connecticut, and Ms. DeLauro.

H.R. 2670: Mr. Stupak.

H.R. 2690: Mr. Kennedy of Rhode Island.

H.R. 2726: Mr. Green of Wisconsin.

H.R. 2733: Mr. Smith of Michigan.

H.R. 2749: Mr. Hastings of Washington.

H.R. 2775: Mr. Kucinich.

H.R. 2901: Mr. Smith of New Jersey and Mr. Capuano.

H.R. 2917: Mr. Hastert, Mr. Armey, Mr. DeLay, Mr. Watts of Oklahoma, Ms. Pelosi, Mr. Langevin, Mrs. Tauscher, Mr. McInnis, Mr. Rogers of Kentucky, Mr. Pitts, Mr. Wicker, Mr. Cantor, Mr. Jenkins, Mr. Ryun of Kansas, Mr. Grucci, Mr. Nussle, Mr. LaHood, Mr. Baker, Mr. Brady of Texas, Mr. Burton of Indiana, Mr. Chabot, Mr. Green of Wisconsin, Mr. Cannon, Mr. Brown of South Carolina, Mrs. Capito, Mr. Ehlers, Mr. Culberson, Mrs. Emerson, Mr. Goss, Mr. Hayes, Mr. Horn, Mrs. Johnson of Connecticut, Mr. Manzullo, Mr. Mica, Mr. Gary G. Miller of California, Mrs. Northup, Mr. Ose, Mr. Shadegg, Mr. Sherwood, Mr. Shuster, Mr. Simpson, Mr. Toomey, Mr. Watkins, Mrs. Wilson, Mr. Akin, Mr. Bilirakis, Mrs. Bono, Mr. Burr of North Carolina, Mr. Tom Davis of Virginia, Mr. Flake, Mr. Gibbons, Mr. Gilchrest, Mr. Gilman, Mr. Greenwood, Mr. Hayworth, Mr. Issa, Mrs. Morella, Mr. Petri, Mr. Pickering, Mr. Reynolds, Ms. Ros-Lehtinen, Mr. Sessions, Mr. Smith of Michigan, Mr. Weldon of Pennsylvania, Mr. Allen, Ms. Baldwin, Mrs. Capps, Mrs. Davis of California, Mr. McDermott, Ms. Rivers, Mr. Sandlin, Mr. Sawyer, Ms. Schakowsky, Mr. Waxman, Mr. Callahan, Mr. Barr or Georgia, Mr. Bereuter, Mrs. Biggert, Mr. Blunt, Mr. Boehlert, Mr. Boehner, Mr. Castle, Mr. Collins, Mr. Cunningham, Mrs. Jo Ann Davis of Virginia, Mr. Deal of Georgia, Ms. Dunn, Mr. Fossella, Mr. Goode, Mr. Goodlatte, Mr. Green of Texas, Mr. Gutknecht, Mr. Hefley, Mr. Hulshof, Mr. Istook, Mr. Kerns, Mr. Kingston, Mr. McKeon, Mr. Nethercutt, Mr. Norwood, Mr. Osborne, Mr. Pence, Mr. Rehberg, Mr. Riley, Mr. Shays, Mr. Smith of New Jersey, Mr. Smith of Texas, Mr. Simmons, Mr. Terry, Mr. Young of Alaska, Mr. Abercrombie, Mr. Andrews, Mr. Bass, Mr. Bryant, Mr. Clay, Mr. Crane, Mr. Crowley, Mr. Cummings, Mr. Boozman, Ms. DeGette, Ms. DeLauro, Mr. Doggett, Mr. Doolittle, Mr. Herger, Mr. Hill, Mr. Hilleary, Ms. Hooley of Oregon, Mr. Houghton, Mr. John, Mr. Kildee, Mr. King, Mr. Largent, Mr. Lewis of Kentucky, Ms. Lofgren, Mr. Dan Miller of Florida, Mrs. Napolitano, Mr. Ramstad, Mr. Royce, Mr. Ryan of Wisconsin, Mr. Schaffer, Mr. Stenholm, Mr. Stump, Mr. Sweeney, Mr. Thune, Mr. Traficant, Mr. Upton, Mr. Vitter, Mr. Wamp, Mr. Wolf, Mr. Diaz-Balart, Mr. Pomeroy, and Mrs. Jones of Ohio.

H.R. 2953: Mr. Weiner and Mr. Towns.

H.R. 2954: Ms. Eddie Bernice Johnson of Texas.

H.R. 3019: Mr. Sawyer.

H.R. 3020: Mr. Grucci.

H.R. 3054: Mr. Baca, Mr. Norwood, Mr. Markey, Mr. John, Ms. Brown of Florida, Ms. Roybal-Allard, Mr. Olver, Ms. Hooley of Oregon, Ms. McCollum, and Mr. Walden of Oregon.

H.R. 3077: Mr. Faleomavaega and Mr. Terry.

H.R. 3131: Mr. Sherman.

H.R. 3149: Mrs. Meek of Florida and Mr. Price of North Carolina.

H.R. 3166: Mr. Acevedo-Vila and Mr. Bonior.

H.R. 3175: Mr. Brown of Ohio, Mr. Hastings of Florida, and Mr. Tierney.

H.R. 3178: Mr. McGovern.

H.R. 3192: Mr. Underwood, Mr. Faleomavaega, Mr. Walsh, and Mr. Filner.

H.R. 3219: Mr. Bereuter, Mr. Bonior, and Mrs. Thurman.

H.R. 3229: Mr. Kerns.

H.R. 3230: Mr. Shays.

H.R. 3239: Mr. Culberson.

H.R. 3248: Mr. Burton of Indiana.

H.R. 3254: Mr. Kirk.

H.R. 3255: Ms. DeGette, Mrs. Mink of Hawaii, Ms. McKinney, Mr. McDermott, Mr. Cummings, Mr. Frank, Mrs. Napolitano, Mr. Hoyer, Mr. McNulty, Mr. Abercrombie, and Mr. Jackson of Illinois.

H.R. 3274: Mrs. Mink of Hawaii.

H.R. 3277: Mr. McGovern.

H.R. 3278: Mr. Price of North Carolina and Mrs. Capps.

H.R. 3290: Mr. Baird.

H.R. 3295: Mr. Gillmor, Mr. Ose, Mr. Pallone, Mr. Luther, Ms. Harman, Mr. Tiahrt, Mr. Sawyer, Mr. Ross, Mr. Turner, and Mr. Kanjorski.

H.R. 3298: Mr. Grucci and Mr. Hinchey.

H.R. 3303: Mr. Stump.

H.R. 3306: Mr. Smith of Texas.

H.R. 3310: Mr. Frost, Mr. Tierney, Mr. Carson of Oklahoma, and Mr. Baird.

H.R. 3318: Mr. Costello, Mr. Pastor, and Mr. Thune.

H.R. 3323: Mr. Rogers of Michigan, Mr. Cardin, Ms. Dunn, Mr. Shadegg, Mr. Brown of Ohio, Mr. Dingell, Mr. Bilirakis, Mr. Simmons, and Mr. Tauzin.

H.R. 3331: Mr. Carson of Oklahoma.

H.R. 3337: Ms. Norton, Mr. Schrock, Mr. McGovern, Mrs. Roukema, Mrs. Christensen, and Mrs. Mink of Hawaii.

H.R. 3339: Mr. Frost.

H.R. 3341: Ms. Watson, Mr. Borski, Mrs. Maloney of New York, Mr. Stupak, and Mr. Rangel.

H.R. 3351: Mr. Sherwood, Mr. Stump, Mr. Peterson of Pennsylvania, Mr. Visclosky, Mr. Bonior, Mr. Larsen of Washington, Mr. Wicker, Mr. Allen, Mrs. McCarthy of New York, Mr. Sawyer, Mr. Ackerman, Mr. Ramstad, Mrs. Wilson, Mr. Tancredo, Ms. McCollum, Ms. Pelosi, Mr. Pomeroy, Mr. Sandlin, Mr. Sweeney, Mr. Evans, Mr. Osborne, Ms. Baldwin, Mr. Weldon of Florida, Mr. Edwards, Mr. Gonzales, Mr. Stenholm, Ms. DeLauro, Mrs. Lowey, Mr. Hinchey, Mr. Reyes, Mr. Jones of North Carolina, Mr. Rahall, Mr. McGovern, Mr. Hall of Ohio, Mr. Bonilla, Mr. Blumenauer, Ms. Kilpatrick, Ms. Brown of Florida, Mr. Tiberi, Mr. Clement, Mr. Acevedo-Vila, Mr. Jenkins, Mr. Oxley, Mr. McIntyre, Mr. Thornberry, Mr. King, Mr. Ferguson, Mr. Diaz-Balart, and Mrs. Jo Ann Davis of Virginia.

H.R. 3353: Mr. Platts.

H.R. 3367: Mr. Smith of New Jersey, Mr. Ferguson, and Mr. Grucci.

H.R. 3368: Ms. Lee, Ms. Hooley of Oregon, Mr. Jones of North Carolina, Mr. Sherman, Mr. Kennedy of Rhode Island, Mr. George Miller of California, and Mr. Frank.

H.R. 3376: Mr. Terry.

H.R. 3389: Mr. Underwood, Mr. Saxton, Mr. Young of Alaska, and Mr. Faleomavaega.

H. J. Res. 16: Mr. Calvert.

H. J. Res. 54: Mr. Tiahrt.

H. Con. Res. 173: Mr. Hinchey, Mr. Sherman, Mr. Farr of California, Mr. Towns, and Mr. Gutierrez.

H. Con. Res. 222: Mr. Deutsch and Mr. Burton of Indiana.

H. Con. Res. 230: Ms. McCollum and Ms. DeLauro.

H. Con. Res. 232: Mr. Baird, Mr. Borski, Ms. Harman, and Mr. Lewis of Kentucky.

H. Con. Res. 249: Mr. Fattah, Mr. Conyers, Mr. Bishop, Mr. Frelinghuysen, and Mr. Jackson of Illinois.

H. Con. Res. 265: Mr. Wexler, Mr. Burton of Indiana, Mr. Whitfield, Mr. Skelton, Mr. Clement, Mr. Jefferson, Mr. Ramstad, Mr. Moran of Virginia, Mr. Engel, Mr. Rohrabacher, Mr. Berman, Mr. Pitts, Mr. Gillmor, and Mr. Lantos.

H. Con. Res. 267: Mr. Baird.

H. Con. Res. 271: Ms. Dunn and Mr. Doyle.

H. Con. Res. 279: Mr. Goode, Ms. Hart, Mr. Tom Davis of Virginia, Mr. Grucci, and Mr. Gilchrest.

H. Res. 281: Mr. Allen and Mr. Wolf.

H. Res. 295: Mr. Forbes.

H. Res. 298: Mr. Kerns, Mr. Jeff Miller of Florida, Mr. Saxton, Mr. Sessions, Mr. Goode, Mr. LaHood, and Mr. McGovern.

H. Res. 300: Mrs. Roukema, Mr. Hinchey, Mr. Delahunt, Ms. Berkley, Mr. Platts, Mr. Cardin, Mr. Reyes, and Mr. Acevedo-Vila.

AMENDMENTS

Under Clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 3005

Offered By: Mr. Manzullo

Amendment No. 1: Page 55, insert the following after line 2 and redesignate succeeding sections accordingly:

SEC. 9. ASSISTANT USTR FOR SMALL BUSINESS.

(a) Establishment of Position.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following new paragraph:

"(6)(A) There is established in the Office the position of Assistant United States Trade Representative for Small Business. The Assistant United States Trade Representative for Small Business shall be appointed by the United States Trade Representative.

"(B) The primary function of the Assistant United States Trade Representative for Small Business shall be to promote the trade interests of small businesses, to remove foreign trade barriers that impede small business exporters, and to enforce existing trade agreements beneficial to small businesses. The Assistant United States Trade Representative for Small Business shall be a vigorous advocate on behalf of small businesses. In carrying out that advocacy function, the Assistant United States Trade Representative for Small Business shall conduct meetings throughout the United States on a regular basis in order to solicit views and recommendations from small business exporters in the formulation of trade policy. The Assistant United States Trade Representative for Small Business shall perform such other functions as the United States Trade Representative may direct.

"(C) The Assistant United States Trade Representative for Small Business shall be paid at the level of a member of the Senior Executive Service with equivalent time and service.".

Page 4, line 17, strike "10(2)" and insert "11(2)".

Page 19, line 2, strike "10(2)" and insert "11(2)".

Page 22, line 10, strike "10(2)" and insert "11(2)".

EXTENSIONS OF REMARKS

TRIBUTE TO TRAVIS HAYWARD

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SCHAFFER. Mr. Speaker, I rise to recognize Mr. Travis Hayward of Ft. Collins, Colorado. Travis looked to the needs of our nation's children by organizing a toy and book drive to benefit those affected by the September 11th terrorist attacks. For this, Mr. Speaker, the United States Congress should commend him.

Travis donated toys and books to the East Harlem Tutorial Program after his elementary school teacher asked her students to donate one stuffed animal to the program. Travis thought this was a good start, but wanted Colorado students to give more. Through a valiant effort, Travis organized his peers to participate in this program. Travis believes a simple stuffed animal could make a difference to a suffering child because it gives them something to hug when they are upset. With the help of his family, Travis hopes to collect 220 stuffed animals and books.

In a recent edition of *The Coloradoan,* Travis' mother, Pat Hayward, said, "We know there are many ways that the community is getting involved, but this is just one of our ways of connecting. We wanted to do a kid-to-kid thing." Travis' dedication and empathy toward children in need epitomizes the compassion of America's youth.

As a citizen of Colorado's Fourth Congressional District, Travis Hayward is truly an amazing, young role model. He not only makes his community proud, but also his state and country. I ask the House to join me in extending its warmest congratulations to Mr. Travis Hayward.

IN HONOR OF SERGEANT SAMUEL JEFFERSON

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to honor and acknowledge the many accomplishments of Sergeant Samuel Jefferson of the Jersey City Police Department. Throughout his career, he worked tirelessly to enhance the safety and well-being of the residents of Jersey City, New Jersey.

A 22-year veterans of the Jersey City Police Department, Sergeant Jefferson has enjoyed a dynamic and extensive law enforcement career. Sergeant Jefferson joined the Jersey City Police Department 1979, and was quickly promoted to the rank of Detective after assignments in the North District Division and the Radio Room. As a Detective, he spent countless hours working on cases in the Hudson County Prosecutors Homicide Division, the Welfare Investigation Unit, and the Warrant Squad. In 1990, he assumed the rank of Sergeant and was assigned to the Patrol Division. From 1991 until his retirement, Sergeant Jefferson worked in the Jersey City Policy Department's Internal Affairs Division.

Prior to his law enforcement career, Sergeant Jefferson was a decorated United States Marine. While in the Marines, he was the recipient of the Purple Heart, the Vietnam Combat Cross, the Combat Infantry Badge, and the South Vietnam Medal.

A Jersey City native, Sergeant Jefferson graduated from Lincoln High School. Currently, he enrolled at New Jersey City University and completing requirements for a BA in Criminal Justice.

Sergeant Jefferson and his wife Denise have three children and two grandchildren.

Today, I ask my colleagues to join me in honoring Sergeant Samuel Jefferson for his dedicated service on behalf of the residents of Jersey City.

TRIBUTE TO ST. LOUIS CATHOLIC CHURCH 75TH ANNIVERSARY CELEBRATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. BONIOR. Mr. Speaker, today I rise to recognize the St. Louis Catholic Church, which celebrated its 75th Anniversary on Sunday, September 16, 2001. Truly a milestone occasion, this celebration gives testament to the outstanding dedication and commitment of the entire church and community.

Established with the generous donation of four and a half acres by Louis and Mathilda Charbeneau in 1926, the parish of St. Louis began humbly with worship services in a temporary church and a Gym-Church until its final move to Crocker Boulevard. Decades later, with much prayer, sacrifice and hard work, the parish of the St. Louis Catholic Church continues to provide love, care and concern for the entire community.

Active with many organizations, including the Parish Council, Men's Club, Ladies Circle, Senior Club and the Music Ministry, members demonstrate outstanding dedication to community involvement. With Stewardship and Worship Commissions, a Youth Group, and Religious Education for all ages, St. Louis Catholic Church is committed to building sound religious education and service for all its members. Additionally, parishioners have worked hard through the years to reach out to the entire community with charitable services under MCREST and the St. Vincent de Paul Society, as well as serving meals at the Salvation Army. With a devotion to religious education, church activities, and official services, this community will continue to move forward in the mission to improve the lives of people through faith and God.

Although history and time have changed the parish, the spirit of the church has remained strong. I would like to personally congratulate the St. Louis Catholic Church on their 75th Anniversary, and I urge my colleagues to join me in recognizing them on this landmark occasion.

NATIONAL PEARL HARBOR REMEMBRANCE DAY (S. CON. RES. 44)

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 2001

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in strong support of S. Con. Res. 44, which calls for a National Pearl Harbor Remembrance Day in celebration of the 60th anniversary of the December 7, 1941 attack on Pearl Harbor. S. Con. Res. 44 reminds us of the thousands of lives lost that bleak December morning when the Japanese Imperial Navy launched a sneak attack on America. S. Con. Res. 44 is a fitting tribute in remembrance of the lives lost that day and of the more than 12,000 members of the Pearl Harbor Survivors Association to whom this Day is also dedicated.

President Franklin Delano Roosevelt said December 7, 1941 was "A day that will live in infamy" and to this very day we remember Pearl Harbor for the thousands of lives that were lost tragically that morning.

Today, Americans old and young find themselves united by the two tragic attacks against this country, 60 years apart. The events of September 11 have presented many with first hand experience of the shocking and frightening realities of a terrorist attack. December 7, 1941 was no less an act of terror and treachery as was September 11, 2001.

Each year on December 7 thousands of people journey to Pearl Harbor, to pay tribute to those who lost their lives on that day. The USS Arizona Memorial sits in Pearl Harbor as a final resting place for more than 900 of the 1,177 men who lost their lives that fateful day in Pearl Harbor. Twelve ships were sunk or beached and nine others were damaged,

Families of deceased members of the crews of the ships lost on December 7, 1941, come to Pearl Harbor to place ashes in the hull of the Arizona memorial or have them scattered in the harbor, tightening the bond of valor and sacrifice for all time.

But December 7, 1941, is much more than just a tragic day in American history. The

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

bombing of Pearl Harbor thrust the United States into World War II, galvanizing our country to fight for freedom in two continents from which America emerged as an international leader.

In the end 16,112,566 went to fight in WWII and 405,399 lost their lives in battle.

The bombing of Pearl Harbor on December 7, 1941, brought war to the doorsteps of America and drastically challenged our resolve as a nation. It is fitting that we commemorate the 60th anniversary by declaring December 7, 2001, as National Pearl Harbor Remembrance Day, not only as a reminder of the sacrifices thousands made that this Nation could triumph, but to reflect upon the spirit that continues to sustain us as we face new challenges today in a very dangerous world.

TRIBUTE TO CLIFFORD E. LAMPMAN

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. GARY G. MILLER of California. Mr. Speaker, it is with deep regret that I rise to pay tribute to Clifford Erle Lampman, who passed away on October 28, 2001, leaving the cities that he served in California to mourn the loss of a respected business associate and friend.

After his honorable discharge from the United States Marine Corps, he graduated from the University of North Dakota and Denver University with civil engineering degrees. He obtained his Master's degree in Structural Engineering at the University of Southern California and attended Loyola Law School in Los Angeles, California. With the support of his wife, Gwen, he eventually established his own business, Lampman and Associates. Mr. Lampman's expertise in consulting and engineering soon opened doors to contracts with many California cities. Major projects that he successfully completed include the Alameda Corridor Railroad Lowering for Huntington Park and a massive three bridge project for the city of Corona. At the time of his passing, he was working for the city of Placentia as an executive advisor to the first railroad-lowering project in Orange County, known as the Orange Gateway Railroad Lowering Project.

Family, friends and business associates described Mr. Lampman as a visionary, charismatic leader, an inspirational optimist and a devout Christian who opened his heart and home to those in need of support, guidance and prayer. Four brothers and sisters, his wife, Gwen, seven children, nine grandchildren and one great-grandchild survive him, all who will experience a void that was once filled by his loving personality.

Mr. Speaker, I ask that this 107th Congress join me in celebrating the life and legacy of Mr. Clifford Erle Lampman.

IN HONOR OF AUTHUR EDWARD UNZUETA

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mrs. NAPOLITANO. Mr. Speaker, I rise today to honor and salute a heroic WWII Navy veteran and a forty-six year resident of the 34th district, Authur Edward Unzueta. Arthur represents the best of what it means to be an American; an individual devoted to both family and country. He served his country courageously and it is because of countless veterans like him that we are able to enjoy the freedoms we do today.

Arthur has had a distinguished naval career in service to his country achieving the rank of Gunner's Mate Third Class UNSR. His awards include, the Navy Good Conduct Medal for exhibiting outstanding performance and conduct during three years of continuous active enlisted service. He was also awarded the Asiatic-Pacific Campaign Medal with one silver and four bronze campaign stars for service in the Asiatic-Pacific Theatre and the World War II Victory Medal for service in the United States Armed Forces during the period 1941–1946. In addition, he earned the Philippine Liberation Ribbon, the Philippine Presidential Unit Citation and the American Campaign Medal for service in the American Theatre during WWII. After three years, two months and six days of dedicated service, Arthur was honorably discharged from the United States Navy in January 19, 1946.

The selfless attitude that characterized Arthur during his time in the military is evident in his devotion to his family and home. A resident of the 34th district since 1955, Aurthur is the proud parent of three, Gary, Sally and Paula and devoted husband of fifty-three years to Patricia. Today Aurthur takes pleasure in his retirement from a long employment at Owen's Illinois, a glass and china manufacturing company, surrounded by his four grandchildren, five great-grandchildren and his two beloved boxers.

Arthur is a model American citizen and one I am proud and honored to represent. His bravery and courage have earned him our most heartfelt appreciation and respect. Please join me in thanking Arthur for his service to our country, dedication to the community and devotion to family and home. He remains an example to us all of a true American.

TRIBUTE TO ADVENTIST CHURCH SCHOOLS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize the children of the Adventist Church Schools of Colorado. These children are donating two dollars each to support the children in Afghanistan and victims of the September 11th terrorist attacks. For this, Mr. Speaker, the United States Congress should commend them.

The children in the Colorado division of the Adventist Church Schools have responded to President Bush's call to have America's youth donate one dollar to the children of Afghanistan. Moreover, they are giving an additional dollar to support the children of New York City. There are twenty-one schools in Colorado participating in this program. The money raised will significantly help those in need.

In recognizing these children, Pat Chapman, of the Rocky Mountain Conference of Seventh-day Adventists, said, "The program will benefit a lot of children in Afghanistan, as well, as many children in New York." These exemplary children are excellent role models for our country.

The children in the Colorado division of the Adventist Church Schools are committed to helping in this time of tragedy. They are an example of the dedication and piety of America's youth. I ask the House to join me in extending our warmest congratulations to the children of the Adventist Church Schools of Colorado for their honorable efforts.

IN HONOR OF DEPUTY CHIEF ROBERT MARTIN OF THE JERSEY CITY POLICE DEPARTMENT

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Deputy Chief Robert Martin of the Jersey City Police Department, for his outstanding law enforcement career and years of dedicated service on behalf of the residents of Jersey City.

A veteran of the Jersey City Police Department, Robert Martin excelled as a law enforcement officer. He joined the force in 1973 and was assigned to the 5th Precinct and South District Divisions. In 1979, he was promoted to the rank of Sergeant and worked in the Bureau of Supervision. As Sergeant, Robert Martin assumed responsibilities that included heading up the Investigation Division's Street Crime Unit and the Special Investigations Unit. In overseeing the operations of these two units, Robert Martin was responsible for police investigations related to robbery, organized crime, and narcotics. While heading up the Special Investigations Unit, Mr. Martin was promoted to the rank of Lieutenant and eventually assumed the rank of Captain. As a result of his unyielding work ethic, in 1991, Robert Martin was appointed as Chief of Investigations for the Hudson County Prosecutors Office. Upon returning to the Jersey City Police Department in 1997, he was promoted to Deputy Chief.

A graduate of Bergen Community College and Jersey City State College, Deputy Chief Martin also attended the F.B.I. National Academy in Quantico, Virginia, and has a Master's Degree from Seton Hall University.

I would like to extend my gratitude to Chief Deputy Robert Martin for all he has done to ensure the safety and well-being of those individuals residing in New Jersey's 13th Congressional District.

Today, I ask my colleagues to join me in honoring Deputy Chief Robert Martin for keeping our communities safe and for being an excellent role model and civic leader for the residents of Jersey City.

TRIBUTE TO INDUSTRIAL OFFICE WORKERS LOCAL UNION 889 60TH ANNIVERSARY CELEBRATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. BONIOR. Mr. Speaker, today I rise to recognize the Industrial Office Workers Local Union 889, who will celebrate its 60th Anniversary on Friday, September 21, 2001. Truly a milestone occasion, 2001 marks 60 years of outstanding dedication and commitment of the organization and its members.

Established in 1941, Local 889 was the first office and clerical amalgamated local in the United Auto Workers. Located in the city of Warren since 1957, the offices of Local 889 have spanned from Mound Road to Dequindre Road, and decades later, with hard work, sacrifice and dedication, Local 889 continues to provide a center of solidarity and activism for the entire community.

With 1,600 active members and more than 2,300 retired workers, Local 889's expansive membership includes Daimler Chrysler office and clerical workers of all Chrysler plants in the metropolitan area, units at Delta Dental, Detroit Marriott, Detroit Medical Center, as well as Union Friendly Systems, Washington Township, M.C.C.S.E. Family Court, Juvenile Court, Specialized Offices, and Animal Control of Macomb County. With Local 889 International Representatives serving at the International Union and Region I of the U.A.W., the loyalty and outstanding leadership members have truly brought this organization to new heights.

Active with many organizations, Local 889 has worked hard through the years to reach out to its surrounding community with Community Action Programs, the Women's Committee, and so many recreational activities for all ages. With its Educational Session, Civil Rights, and Leadership Development programs, Local 889 has proven its commitment to promoting civic education and service for its entire community. Additionally, Local 889 has truly led the way in press and publication, as award winners from the Labor Union Press Association for quarterly issues of the Local 889 White Collar Newspaper as well as winners of 13 Marshall Recipient Awards since 1994 from the joint Chrysler-UAW National Training Center.

Although history and time have changed the Local, the spirit of Local 889 has remained strong. I would like to personally congratulate Local 889 on their 60th Anniversary, and I urge my colleagues to join me in recognizing them on this landmark occasion.

CONGRATULATIONS TO CAPTAIN JEROME BALIUKAS

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. GARY G. MILLER of California. Mr. Speaker, I rise today to congratulate Captain Jerome Baliukas for his untiring service to the United States Naval Reserve. On 8 December 2001, he will end a successful two year tour as Commanding Officer of the Naval Strike and Air Warfare Center (NSAWC 0194) at Naval Air Station (NAS) Fallon, Nevada.

Captain Baliukas was born 31 March 1952 in Miami Beach, Florida. He attended Florida International University and the University of Miami in Coral Gables, Florida where he graduated in 1974 with a Bachelor Degree in Forensic Science and a degree in Criminal Juris Prudence. He reported to Pensacola, Florida for Aviation Officer Candidate School and was commissioned an Ensign in June of 1975. Captain Baliukas was designated a Naval Aviator in Beeville, Texas in July 1976.

Orders followed to F–4 transition training at VF–121 in NAS Miramar, California. He then reported for Fleet Operational Training with Fighter Squadron One Fifty Four (VF–154), as a "Black Knight." He was then designated for Landing Signal Officer Training and completed LSO School in Pensacola, Florida. In addition, he held the positions of Power Plants Branch Officer, Aircraft Division Officer, Assistant Safety Officer, and Assistant Operations Officer, in addition to completing Naval Fighter Weapons School.

Following his fleet tour, Captain Baliukas was assigned to Fighter Squadron One Hundred Twenty-One Fleet Replacement Training Squadron as an F–4 instructor and Training Landing Signal Officer. In addition, he was designated to head the Tactics Training Department and the Weapons Training Department. While attached to VF–121 he was also assigned to the Aircraft Acceptance and Carrier Suitability of the F–4S, where he assisted in the fleet transition from F–4J/N to F–4S while delivering 26 fleet ready aircraft to NAF Atsugi, Japan. Captain Baliukas was then assigned to Fighter Squadron One Hundred Twenty-Four for F–14 transition and assignment as an instructor and Training Landing Signal Officer. He then rotated back to the fleet as a Airwing Landing Signal Officer with Carrier Airwing Two at NAS Miramar where he made two more additional Westpac Tours.

Captain Baliukas affiliated with VF–302 in 1984, as a "Stallion." He held numerous positions of responsibility including Department Head tours as Maintenance and Operations Officer. He served as the Squadron Executive Officer from 1991 to 1993. After the disestablishment of Carrier Air Wing Thirty, he was selected to become the Executive Officer and Commanding Officer of the "Hunters" of VF–201 at NAS Dallas and NAS Ft. Worth, Texas from 1994 to 1997. In 1997 Captain Baliukas was selected to join the staff of NSAWC 0287 as a Tactics Instructor and Evaluator. He became Executive Officer of the NSAWC unit in October 1999. During his career, he has accumulated over 3,700 flight hours in tactical jet aircraft and has completed over 680 day and night aircraft carrier landings.

Captain Baliukas is a captain and flight instructor for American Airlines and currently flies the Boeing B737–800 series aircraft. He and his wife Kelley reside in Yuma, Arizona.

Again, Mr. Speaker, I congratulate Captain Baliukas for his dedicated service to the United States Naval Reserves and sincerely wish him well in his future naval career.

CHESANING HIGH SCHOOL VARSITY FOOTBALL TEAM

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. CAMP. Mr. Speaker, I rise today to pay tribute to the Chesaning High School Varsity Football Team, who recently won the 2001 Michigan Division 4 state title. In their heart-stopping championship game played at the Silverdome, located in Pontiac, Michigan, the Chesaning Indians defeated the Orchard Lake St. Mary's Eaglets 14-7 in overtime.

Led by Head Coach Jim Szappan and Assistant Coaches Steve Tithof, Dan Yates, Scott Menard, Gary Gerken, Mike McGough, and Joe Bogar, members of the 2001 Chesaning Indians include: Jacob Smith (1), Steve Korf (2), Tyler Alden (3), Justin Schneider (5), AJ Guerrero (6), Matt Breier (7), Jason Strachota (8), Tracey Baryo (9), Chris Anderson (11), Matt Ferry (12), Brent Bassham (17), Jacob Righi (20), Gordon McKinnon (22), Mark Jungerheld (24), Craig Welsenberger (32), Chris Barancik (33), Jason Lentz (40), Paul Tithof (41), Jason Croucher (42), Andrew Hasse (50), Joshua Gosselin (52), Brent Conklin (53), D. Shawn Plonsky (54), Jarod Hughes (55), Dan Reed (56), Juanito Escamilla (57), Jonathan Bishop (58), Nicholas D. Weigold (59), Jacob Devereaux (61), Adam Orth (62), Jacob Henige (63), Scott Schneider (68), Randy Coole (70), Justin Maxa (71), R. Michael Adelberg (75), Brandon Brainerd (80), Blake Cottrill (84), and Dennis Winkelman (99).

The dedication that these players put forth throughout the entire season is one of which the entire district can be proud. Their victory not only brought the team together in great spirit, but their family, friends, and community as well.

Once again, on behalf of the 4th Congressional District of Michigan, I would like to congratulate the coaches and members of the Chesaning High School Varsity Team on their achievement. I wish them the best in their future football seasons.

CONFERENCE REPORT ON H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. MATSUI. Mr. Speaker, I rise today to express my most sincere appreciation to the Transportation Appropriations conferees for their outstanding work in preparing the FY 2002 Transportation Conference report. In recent years, Sacramento has become one of the fastest growing regions in the country. This sudden surge in population has led to massive traffic congestion and severe air quality problems. Ensuring that Sacramento's infrastructure can simultaneously accommodate this growth and improve the region's air quality is absolutely essential.

I am grateful for Chairman ROGER's and Ranking Member SABO's commitment to providing appropriate funding levels for several ongoing programs that are of vital importance to maximizing efficiency in the greater Sacramento region. These funds will provide much needed transportation options to lower-income individuals, improve the region's air quality and improve traffic flow in impacted corridors.

In addition, the inclusion of first time funding for the Interstate 5 Freeway Decking Project represents a tremendous boost for the Sacramento Riverfront Redevelopment Master Plan. Once complete, this decking project will allow the downtown Capitol Mall area to be reconnected with the waterfront, helping Sacramento to realize its long-term goal of linking its major recreational, entertainment and cultural districts with its major employment center.

The beneficial effects of these projects are endless. I could not be more pleased with the outcome of this conference report and remain grateful for the unwavering support of this committee.

CONDEMNATION OF HUMAN CLONING

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SCHAFFER. Mr. Speaker, I rise today to express in the most serious terms my opposition to the recent acts of Advanced Cell Technology in Massachusetts to create the first cloned human embryo. Most scientific discoveries are a step forward for human kind, but ACT's announcement over the Thanksgiving holiday does not pose such promise. Instead, it signifies a sick and perverted experiment that will result in the destruction of hundreds of lives and the devaluing of all human life.

We all remember Dolly the sheep, the first cloned animal in the world. Well, Mr. Speaker, Dolly was the result of 277 attempts at creating a cloned sheep. Sheep numbers 1–276 didn't make it. They all died in different stages of development and were discarded. Do we want to allow such experimentation to be conducted on the human race? If we allow such a mad science to occur, we will be permitting the same kind of immoral practices as the human eugenics experiments in Nazi Germany.

Mr. Speaker, Congress must act now to ban human cloning before America becomes host to another holocaust. In July of this year, our colleagues in House acted in a timely and responsible manner to pass legislation banning human cloning. The bill passed in a bipartisan manner by more than 100 votes.

Since that time, Majority Leader of the opposing house has demonstrated an utter disregard for human life by preventing the bill from going forward at the other end of the Capitol. I now urge the majority leader of the other body to follow this House, the President and the will of the American people to bring H.R. 2505 to an immediate vote. The time is short as groups like ACT are pushing forward to create the first cloned human being. We must stop these crimes against humanity before it is too late.

IN HONOR OF TAMMY BLANCHARD

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to honor and pay tribute to Tammy Blanchard for winning an Emmy in her portrayal of the young Judy Garland in "Me and My Shadow: Life with Judy Garland." The Bayonne Public School System will recognize her outstanding accomplishments by declaring Wednesday, December 5, 2001, as "Tammy Blanchard Day." On December 5th, Ms. Blanchard will be honored during a fundraising party at Chandelier Restaurant in Bayonne, New Jersey. Proceeds from this event will benefit the Bayonne High School Vocal Music Program.

Tammy Blanchard has enjoyed an extensive and successful acting and modeling career that has included many awards and acclamations. She has appeared in numerous television commercials and has modeled for several teen magazines and catalogues. In addition to her acting role in "Me and My Shadow: Life with Judy Garland," Tammy Blanchard has also appeared in episodes of "Guiding Light" and "Law and Order." Future projects include acting parts in "The Promise," scheduled to be in movie theaters April, 2002, and the upcoming Lifetime television movie, "We Were the Mulvaneys."

A native of Bayonne, New Jersey, Tammy Blanchard is a 1994 graduate of Bayonne High School. She continues to reside in Bayonne, sharing a house with her mother, Ms. Patricia Rettig, and her brothers, William Blanchard III and Thomas Walters.

In light of her many accomplishments, I would like to extend my personal congratulations and my warmest regards to Tammy Blanchard for her many achievements.

Today, I ask my colleagues to join me in honoring Tammy Blanchard for her magnificent acting career and commitment to helping assist students in the Bayonne Public School System.

TRIBUTE TO DR. GENNARO J. DIMASO "2001 MAN OF THE YEAR" COLUMBUS DAY CELEBRATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. BONIOR. Mr. Speaker, each year the Italian American community celebrates Columbus Day, with festivities including a weekend of food, music, and fun, as well as an annual Columbus Day Parade and Banquet. With organizations and committees dedicated to promoting and preserving the Italian-American heritage through language, culture, music, and social events, the Columbus Day Committee is no exception. Honoring distinguished Italian-Americans who have shown outstanding service in their local communites, each year the Columbus Day Committee selects individuals who demonstrate these qualities. On Sunday, October 7, as the families and friends gathered together at their annual Columbus Day Banquet, they recognized Dr. Gennaro J. DiMaso as their "2001 Man of the Year".

As past president of the St. John Guild and recipient of the Guild's Lifetime Achievement Award, Dr. Gennaro J. DiMaso has demonstrated outstanding dedication and commitment to both the Italian and American communities. Dr. DiMaso has truly dedicated his time and efforts to the care of generations of children. With an unconventional, but warm-hearted approach, Dr. DiMaso, "the doctor in blue jeans" has devoted his life and profession to providing patients with the highest standards of quality health care. Understanding that the "only treasure on Earth we have are kids", he has worked tirelessly for 44 years to meet the needs of his young patients, and never refused care to an impoverished child.

Dr. DiMaso instilled in his young eastside patients the importance of hard work and commitment to the community. As a young boy, he dreamed of becoming a doctor and helping others while he worked with his father to sell vegetables in their Brooklyn neighborhood, growing up in an area where going to high school, let alone medical school, was unheard of. He has passed along this tradition of perseverance and community service to his four children and six grandchildren.

I applaud the 2001 Columbus Day Committee and Dr. DiMaso for their leadership, commitment, and service, and I urge my colleagues to join me in saluting them for their exemplary years of leadership and service.

TRIBUTE TO SUE ELLEN PANITCH

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. OLVER. Mr. Speaker, I rise to pay tribute to Sue Ellen Panitch of Holyoke, Massachusetts for her outstanding contributions to her community. Since 1965, Ms. Panitch has been somewhat of a "super-volunteer" in Holyoke, having served on numerous boards and commissions, including the Conservation Commission, the Holyoke Community College Foundation, The Therapeutic Equestrian Center, The Future Begins Here, the Council of Human Understanding and the Holyoke Taxpayers Association.

Sue Ellen began her long career as a volunteer at the gift shop at Providence Hospital, and continues to this day to be one of Holyoke's greatest civic champions. Just last month, through Sue Ellen's efforts, the "911 Fund," created by the Holyoke Firefighters union—Local 1693, became eligible to receive a portion of the proceeds raised at the 2002 The Future Begins Here charity event. The 911 Fund benefits victims of the September 11 terrorist attacks and their families.

Ms. Panitch's dedication to creating a better community has been so remarkable that the Holyoke Rotary Club recently honored her with its prestigious William G. Dwight Award. I can't think of a more deserving recipient of this award, and I hope that Sue Ellen will continue to contribute so selflessly to her city. Holyoke is a much better place due to her life's work. Thank you Sue Ellen Panitch.

INTRODUCTION OF THE CALIFORNIA FIVE MILE REGIONAL LEARNING CENTER TRANSFER ACT

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. RADANOVICH. Mr. Speaker, today I am pleased to introduce legislation to transfer 27.1 acres of National Forest Service property from the Stanislaus Forest to the Clovis Unified School District. By so doing, this legislation will permit the school district to continue to operate the Five Mile Regional Learning Center on this National Forest land and, more to the point, it will now allow the school district to fund vitally necessary capital improvements to the Learning Center facilities. Without this legislation, these improvements and non-federal expenditures would not be allowed and the Learning Center could not continue due to dilapidation.

This legislation, therefore, should be considered non-controversial and an exercise in cooperative and effective local, state and federal government relations.

The Five Mile Regional Learning Center is an Outdoor Environmental Education School that benefits youth from all over the state of California. Classes range from forest to raptor studies with an emphasis on natural resource conservation. In addition to the environmental education program the school district offers course work on character development, team building, and individualized challenge activities such as high ropes. During the summer the site is used by a variety of groups, including Educators, DeMolay, Girl Scouts, basketball camps and school leadership students. In addition, a number of counties in conjunction with local and state agencies bring "At risk kids" to the program's Life's Alternatives Involving Risks (LAIR) Adventure Academy.

The Regional Learning Center serves 138 schools from approximately 60 school districts in California. Approximately 14,000 students participated in this educational program last year. Counties served include: Contra Costa, El Dorado, Fresno, Madera, Marin, Merced, Sacramento, San Francisco, San Joaquin, San Luis Obispo, Stanislaus, Toulumne, and Tulare. It operated three basketball camps that reached nearly 1,000 boys and girls. DeMolay, Fresno North LDS, and Four Square Church account for another 400 people using the facility. A project is in development that would utilize the LAIR area as an Elderhostel site focusing on living during the Gold Rush days.

The Five Mile Regional Learning Center is a Forest Service Administrative site located in the Mi Wok Ranger District, Stanislaus Forest. The site includes bartacks, a mess hall, classrooms, a gymnasium and shop buildings. This site is 27.1 acres.

Approximately 100 additional acres adjacent to the National Forest are used as part of the comprehensive conservation/education program for trails, campsites, ballfields, bird mew sites, bird blinds, and a tree nursery.

The 120 acre Five Mile Regional Learning Center has been operated by the Clovis Unified School District since 1989. Prior to that the Fresno County Office of Education starting in 1969 operated the project.

While the Five Mile Regional Learning Center is located on National Forest Land, the federal government plays no role in the operation or maintenance of the facilities used by the program or in delivery of the educational program. The National Forest Service merely permits the use of these facilities and lands to the Clovis Unified School District, and monitors the program to ensure that permit requirements are adhered to.

The buildings and structures that are located on the 27.1 acres of main property have been in existence since the early 1960's. However, the Forest Service has not funded or appropriated monies to maintain or operate these buildings. According to Forest Service documents the "Regional Learning Center facility has outlived its life by years and if it were not for the efforts of the Clovis Unified School District, the buildings would be in a state of disrepair useable to no one."

In addition, Stanislaus National Forest Supervisor Ben Del Villar has stated to the Clovis Unified School District, in correspondence, "We believe that your acquisition of the learning center would be in the best interest of the public and the Forest Service."

Without transfer of ownership the Clovis Unified School District is prohibited from spending its money on capital improvements to ensure that these facilities do not fall into disrepair to the extent that they would be unusable.

The Clovis Unified School District has on average spent more that $1 million per year over the last 12 years on operation and maintenance.

In addition to the ongoing commitment of more than $1 million per year in operation costs, the Clovis Unified School District is willing to invest $5 million over 5 years in capital improvements and renovations to the existing facilities.

The legislation authorizes a new Special Use permit that would essentially continue the authorization for Clovis to use the adjacent 100 or so acres presently used but on which no structures in need of capital improvement exist.

The federal costs of this transfer are administrative-only and negligible to the value that the school district will be spending to increase the value of the property and run this important educational program for the children of California.

RECOGNITION OF NATALIE AURAND OF MIFFLIN, PENNSYLVANIA

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SHUSTER. Mr. Speaker, I rise today to recognize Ms. Natalie Aurand, a resident of my district from Mifflin County, Pennsylvania. The Future Farmers of America recently awarded Natalie the American Degree, their highest honor, at the organization's 74th National Convention in Louisville, Kentucky. Natalie, the daughter of Mr. & Mrs. Edwin Aurand, is a fourth generation Mifflin County Farmer and a very active member of the Big Valley FFA Chapter. She is the first person from her chapter to receive an American Degree in 17 years.

Prior to receiving her American Degree, Natalie earned her Greenhand, Chapter, and Keystone degrees by completing supervised agriculture experience projects in Beef, Swine, and Sheep finishing, Farm Hand Worker, and Home Garden. She is an extremely industrious and involved individual, having held several offices within her FFA Chapter. She continues to be active in FFA and participates in the organization's various county, state, and national events. She is currently attending Delaware Valley College where she is majoring in Agricultural Education.

Mr. Speaker, I am sure you will join me in congratulating Natalie on her accomplishment and her extraordinary service to the FFA. She is truly an outstanding individual and I wish her well in her future endeavors.

TRIBUTE TO FIRST NATIONAL BANK OF LAS ANIMAS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize the First National Bank of Las

Animas, Colorado. Last month, First Bank celebrated its 100th year of business.

First National received its original charter on November 26, 1901, by the U.S. Comptroller of Currency. The history of First National can be traced to 1875 when it was then named Bent County Bank. At the time, it was the only bank between Pueblo, Colorado and Garden City, Kansas. Mr. Speaker, I congratulate the bank for its longstanding presence and exemplary service to the community of eastern Colorado.

First National Bank has long been a foundation of capitalism and commerce in Bent County. Opening with only $50,000 in capital, the bank has grown to over $102 million in assets. First National Bank has been a fixture in the community and is a key reason why Las Animas continues to be one of the strongest economic centers in eastern Colorado.

As a company located in Colorado's Fourth Congressional District, First National Bank is a source of pride for the community of Bent County and all people of Colorado. Throughout the course of history the bank has helped many Coloradans. It is with honor and pride I wish First National a happy 100th Birthday. I ask the House to join me in extending wholehearted congratulations to First National Bank of Las Animas, Colorado.

IN HONOR OF CATHERINE E. TODD

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Catherine Todd for her years of service on behalf of public housing residents in Hudson County, New Jersey. On Friday, December 7, 2001, the Jersey City Tenant Affairs Board will honor Ms. Todd at their December Board Meeting. This tribute will take place at the Montgomery Gardens housing complex in Jersey City, New Jersey.

For nearly 50 years, Catherine Todd has worked to improve the standard of living for public housing residents in Hudson County. Since 1978, she has served as the Chairperson of the Montgomery Gardens Tenant Management Corporation in Jersey City. As Chairperson, she supervises the entire Montgomery Gardens Tenant Management staff and manages their operating budget. During her tenure as Chairperson, she has initiated a day care center service and developed an afterschool program for neighborhood children.

As a result of her extensive experience in the public housing sector, Catherine Todd has served as a consultant to the U.S. Department of Housing and Urban Development and numerous other resident management associations. Currently, she serves as the Resident Management Coordinator for the Newark Housing Authority and continues to offer advice and guidance to various resident management firms.

A graduate of Ferris High School, Catherine Todd is also an alumnus of Hudson County Community College.

Today, I ask my colleagues to join me in honoring Catherine Todd for her years of distinguished service on behalf of public housing residents in Hudson County, New Jersey.

HONORING FREDERICK P. AQUIRRE

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Ms. SANCHEZ. Mr. Speaker, today I rise to honor an outstanding citizen of Orange County, Mr. Frederick P. Aguirre who has recently been honored by Orange County's United Way for his outstanding service in education to the Latino community. Mr. Aguirre has a strong sense of civic duty and is dedicated to the Latino community, to our country's veterans, and to education.

A graduate of UCLA Law School, he is a co-founder of the Hispanic Bar Association of Orange County. Currently, he serves on the Hispanic Advisory Committee of the Orange County District Attorney's office.

His support for education spans across all levels. He was a mentor through the "Stay in School Program" that provides tutoring to at-risk students in the Santa Ana Unified School District. He has been a speaker at elementary schools, middle schools, high schools, and at several colleges. He re-established the Placentia chapter of the League of United Latin American Citizens (LULAC), a group that provides scholarships for Hispanic youth and encourages civic participation through citizenship classes and voting. In 1994, he became a member of the Corporate Development committee of the Hispanic Education Endowment Fund. In addition, he organized and re-incorporated Latino Advocates for Education, Inc. a nonprofit organization that promotes educational excellence among our Latino students and increases quality instruction and administration in schools.

His exemplary achievements in the community are also noteworthy. As a member of the Board of Directors of the Alzheimer's Association of Orange County, he founded the Multi Ethnic Community Advisory Board. He was also a member and Chairman of the Board of the Community Advisory Board of Placentia Linda Hospital. In 1994, he organized a program offering free legal services at the Cathy Torrez Learning Center in Placentia.

In addition, he has been active in recognizing U.S. veterans. Since 1998, he has organized a Veteran's Day conference at Santa Ana College in Santa Ana, CA. These events have grown in scope each year. The most recent, the 5th Annual Veteran's Day Celebration and Scholarship Program, honored over 100 living Mexican-American World War II veterans and their families. Over 3,000 people attended, including Governor Gray Davis.

I am proud to recognize Mr. Frederick P. Aguirre for his outstanding service to the Orange County community, to education and to the Latino community. His efforts have truly touched people's lives and have had a positive impact on our community.

RECOGNIZING THE PHYSICIANS, NURSES, AND HEALTH CARE PROVIDERS OF INOVA FAIRFAX HOSPITAL

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to recognize the fine work of the physicians, nurses and other health care providers at Inova Fairfax Hospital in response to the recent cases of inhalation anthrax that befell workers at the Brentwood postal facility. Two employees of this facility, Mr. Leroy Richmond and an unnamed colleague, sought treatment at Inova Fairfax for what ultimately proved to be inhalation anthrax. For both gentlemen, the close attention and astute diagnoses of Drs. Cecele Murphy and Susan Bersoff-Matcha were literally the difference between life and death.

Physicians, nurses and other health care providers represent the difference between life and death for many, many patients with myriad conditions every day. What was special about this instance was that both doctors were dealing with a rare disease that affords little, if any, room for error. Early diagnosis of anthrax is essential in giving a patient the chance to survive—a task made all the more difficult because early symptoms of anthrax are not easily distinguishable from the flu or other common maladies. In addition, at the point when Mr. Richmond presented at the emergency room, the extent to which postal workers were at risk for exposure was not fully understood. Cast against a backdrop of profound public fear, with numerous worried patients believing they displayed signs of anthrax, the actions of Drs. Murphy and Bersoff-Matcha are all the more impressive.

Quick and accurate decisions such as those made by Dr. Murphy, Dr. Bersoff-Matcha, the nurses and staff of Inova Fairfax Hospital will be required to minimize casualties in any future bioterrorism attacks. In the anthrax attacks—the first biological assault of our new war on terrorism—these individuals have provided an outstanding example for others to follow.

TRIBUTE TO FLAGLER FFA AGRONOMY TEAM

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize the Flagler, Colorado chapter of the Future Farmers of America. The Flagler team recently attended the 74th National FFA Convention and placed fifth in the Agronomy Career Development competition.

The members of the team—Jake Michal, Nathan McCaffrey, Kyle Einspahr, BJ New, and David Wieser—were the first representatives from Colorado to compete in this event. Despite being newcomers to the competition, the team was able to persevere with an outstanding finish at this year's convention.

The FFA is dedicated to making a positive difference in the lives of young people by developing their potential for premier leadership, personal growth and career success through agricultural education. With a 74-year history, the FFA has been an integral part in continuing America's great tradition as a leader in agriculture production.

The Flagler chapter of the Future Farmers of America is a source of pride for the community of Flagler and all people of Colorado. The team has shown great strength and fortitude by placing in the top five of all teams competing. I ask the House to join me in extending wholehearted congratulations to the Flagler chapter of the Future Farmers of America team.

TRIBUTE TO DR. ROSE BELLANCA "2001 WOMAN OF THE YEAR" COLUMBUS DAY CELEBRATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. BONIOR. Mr. Speaker, each year the Italian American community celebrates Columbus Day, with festivities including a weekend of food, music, and fun, as well as an annual Columbus Day Parade and Banquet. With organizations and committees dedicated to promoting and preserving the Italian-American heritage through language, culture, music, and social events, the Columbus Day Committee is no exception. Honoring distinguished Italian-Americans who have shown outstanding service in their local communities, each year the Columbus Day Committee selects individuals who demonstrate these qualities. On Sunday, October 7, as the families and friends gathered together at their annual Columbus Day Banquet, they recognized Dr. Rose Bellanca their "2001 Woman of the Year".

Demonstrating outstanding dedication and commitment to her students, her colleagues, and her community, Dr. Rose Bellanca has always been an active and enthusiastic supporter of education and advancement. Beginning her teaching career in 1973 at Fitzgerald High School in Macomb County, a short nine years later she was the first woman serving as the Director of Vocational-Technical Education in Macomb County while working for the Chippewa Valley School District. Her hard work and relentless pursuit for excellence in education led her to become Assistant to the President of Macomb Community College, where she served as Interim Vice President for Student and Community Relations and later Vice President for Planning and Development. Today, as Provost of Macomb Community College, her strong focus on students continues to be her priority, and her hard work and innovative ideas continue to make her a leader in educational advancement.

Faithfully committed to promoting her Italian American heritage as well, Dr. Bellanca is also an active member of the American Italian Professional and Business Women's Club and the Americans of Italian Origin Society. She has received the Macomb County Woman of Distinction Award by the Girl Scouts of Macomb County, as she is truly a role model for young women and young Italian American women. A devoted mother and wife of 30 years, a professional, and a friend, Dr. Bellanca truly is this year's "Woman of the Year".

I applaud the 2001 Columbus Day Committee and Dr. Bellanca for their leadership, commitment, and service, and I urge my colleagues to join me in saluting them for their exemplary years, of leadership and service.

CONFERENCE REPORT ON H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. BEREUTER. Mr. Speaker, this Member rises in support of the conference report for H.R. 2299, the Transportation appropriations bill for fiscal year 2002.

This Member would like to commend the distinguished gentleman from Kentucky (Mr. ROGERS), the Chairman of the Transportation Appropriations Subcommittee, and the distinguished gentleman from Minnesota (Mr. SABO), the ranking member of the Subcommittee for their hard work in bringing this conference report to the Floor.

Mr. Speaker, this Member certainly recognizes the severe budget constraints under which the full Appropriations Committee and the Transportation Appropriations Subcommittee operated. In light of these constraints, this Member is grateful and pleased that this legislation includes funding for several important projects of interest to the State of Nebraska.

This Member is particularly pleased that this appropriations bill includes $1.5 million for preliminary work leading to the construction of bridges in Plattsmouth and Sarpy County to replace two obsolete and deteriorating bridges. The request for these funds was made by this Member as well as the distinguished gentleman from Nebraska (Mr. TERRY) and the distinguished gentlemen from Iowa (Mr. GANSKE and Mr. BOSWELL).

The agreement leading to the funding was the result of intensive discussions and represents the consensus of city, county and state officials as well as the affected Members of Congress. The construction of these replacement bridges (a Plattsmouth U.S. 34 bridge and State Highway 370 bridge in Bellevue) will result in increased safety and improved economic development in the area. Clearly, the bridge projects would benefit both counties and the surrounding region.

This Member is also pleased that the conference report includes $4 million for Nebraska's Intelligent Transportation System (ITS). This funding, which was requested by this Member and the distinguished gentleman from Nebraska (Mr. OSBORNE), is to be used to facilitate travel efficiencies and increased safety within the state.

The Nebraska Department of Roads has identified numerous opportunities where ITS could be used to assist urban and rural transportation. For instance, the proposed Statewide Joint Operations Center would provide a unifying element allowing ITS components to share information and function as an intermodal transportation system. Among its many functions, the Joint Operations Center will facilitate rural and statewide maintenance vehicle fleet management, roadway management and roadway maintenance conditions. Overall, the practical effect will be to save lives, time and money.

This Member is also pleased that the conference report includes $1 million for a Highway 66 bypass south of Louisville, Nebraska. This project, which has the support of the Louisville mayor and city council as well as the Cass County commissioners, would provide significant safety and economic development benefits for the area.

The conference report also includes $325,000 requested by this Member for the construction of the 1.7-mile Lewis & Clark bicycle and pedestrian trail on State Spur 26E right-of-way, which connects Ponca State Park and the Missouri National Recreational River Corridor to the City of Ponca. This trail will play an especially important role as the area prepares for the bicentennial of the Lewis and Clark Corps of Discovery expedition and the significant increase in tourism which it will help generate. The approaching bicentennial represents a significant national opportunity and it is crucial that communities such as Ponca have the resources necessary to prepare for this significant commemoration.

The trail will provide the infrastructure necessary to improve the quality of life by providing pedestrian and bicycle access between Ponca and the Ponca State Park and increases the potential for economic benefits in the surrounding region. The trail addresses serious safety issues by providing a separate off-road facility for bicyclists and pedestrians.

It is certainly important to note that this conference report includes $1.6 million for the Antelope Valley Overpass in Lincoln, Nebraska. This bridge is an integral piece of a comprehensive plan to revitalize downtown Lincoln that has emerged from a partnership between the City, the State of Nebraska, and the University of Nebraska-Lincoln. The funds would assist with the design and right-of-way phase of a bridge that would span railroad tracks. This funding will supplement the $5,625,000 which this Member had successfully sought in the 1998 TEA–21 legislation.

In addition, the conference report includes $200,000 to study the feasibility and fiscal impact of the passenger rail project between Lincoln and Omaha, Nebraska. The metropolitan areas of Omaha and Lincoln are becoming increasingly integrated. The fringes get closer together every year and the inter-city highway commuter traffic is increasing significantly. The growing congestion will only get worse in the coming years. A far-sighted approach is necessary to address the needs of commuters and others using the corridor. The proposed study is a necessary component in this process. It would examine such important issues as travel patterns, ridership potential for rail service and cost evaluations.

Adequate funding is clearly needed to make this study and the overall project a reality. A feasible transportation alternative for the corridor would hold the promise of increased economic development, improved air quality and safety and decreased congestion.

The conference report also includes $1 million for preliminary engineering for the replacement of U.S. Highway 81 bridge at Yankton between Nebraska and South Dakota. This funding will be helpful in replacing an important bridge across the Missouri River. This funding supplements the $1.125 million this Member successfully sought in the 1998 TEA–21 legislation.

Finally, this conference includes $1.1 million for rail research to be performed jointly by UN–L and Marshall University in West Virginia. The funding will be used for safety research projects in the areas of human factors, equipment defects, and train control methods.

The University of Nebraska-Lincoln is well qualified to conduct this research. It has the necessary expertise in the area of transportation safety to provide meaningful research which will improve railroad safety. In addition, the nation's two largest railroads have a significant presence in Nebraska (one has its corporate and working headquarters in Omaha) and the state currently is traversed by the busiest railroad corridor in the world which move vast amounts of western coal to much of the rest of the nation. This funding will greatly contribute to safer rail operations throughout the country.

Mr. Speaker, in conclusion, this Member supports the conference report for H.R. 2299 and urges his colleagues to approve it.

THE INTRODUCTION OF THE NEW YORK RECOVERY FROM TERRORISM ACT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. RANGEL. Mr. Speaker, today I introduce legislation to provide tax incentives for the revitalization of New York City, and in particular, Lower Manhattan.

We all know of the terrible events of September 11, 2001, the awful loss of life, the heroism in the face of adversity, and the physical devastation. This was an attack not solely on New York, but on America. In the weeks following the tragedy, Lower Manhattan has suffered greatly and the economy of New York City has been struck hard, it really is America that has been struck.

I cannot begin to say how much New Yorkers are grateful for the heartfelt response of their fellow Americans and people from all over the world. The prayers, the charity, and the promises of government support have all made an enormous difference in the ability of New York to begin to respond to and recover from the crisis. As one America we have responded to this dastardly attack in Afghanistan; across America; and, in New York.

Through this unity I believe that Congress should provide the tools necessary for New York to fully recover from the attacks and assure that the vitality of Lower Manhattan be sustained.

Lower Manhattan in 1624 was the first part of then New Amsterdam settled by Europeans. It has always been the heart of New York. It has been the entry point for millions of immigrants. Beginning in the 18th century and into the 21st century it has been the heart of finance in America and today the financial center of the world.

Unfortunately, the impact of the attack on the World Trade Center has altered the character of Lower Manhattan. Many businesses have had to temporarily move out of the area. It is unclear if they will return. Many businesses depending on the traffic in the area are suffering. Many other businesses are contemplating a move out of Lower Manhattan.

The City across the five boroughs has suffered as well. Revenues for the city and state governments are down significantly. Public institutions such as hospitals are suffering financially. Projects once thought possible are now on hold.

Funds provided through FEMA will help considerably. The appropriations Congress will provide in the supplemental bill enacted after the attacks will also help. Nevertheless, there are still unmet needs and uncertainty that must be resolved.

That is why I have introduced this legislation to provide tax incentives for New York's recovery. I am very pleased that my colleague from New York, Mr. HOUGHTON, has introduced H.R. 3373, which also provides tax incentives for New York's recovery. I have cosponsored the bill. I am introducing this bill because it offers alternatives to H.R. 3373 and will allow New York Members to support varying means to speed the City's recovery. It will also allow Congress to chose the most effective and efficient provisions for the recovery.

The provisions of this bill, are for the most part, included in the Stimulus Bill reported by the Senate Finance Committee. Two of the provisions would have been amendments to the Finance Committee bill had it been considered on the Senate floor.

The bill proposes the following:

A 20 percent wage credit to employers for the first $6,000 paid per year to employees working in Lower Manhattan from September 11, 2001 to December 31, 2004. The credit is also available for wages paid employees by companies who were operating in Lower Manhattan on September 11, 2001, and have subsequently moved to another part of New York City.

An increase in the state cap for tax exempt private purpose bonds to $12.5 billion for projects in New York City. The first $7 billion of the increased cap must be used in Lower Manhattan.

A limited liberalization of the ability of issuers of tax exempt debt to advance refund existing debt. New York City, the Port Authority, the Metropolitan Transit Authority, the Municipal Water Authority and nonprofit hospitals would be able to advance refund bonds that had previously been issued to advance refund bonds where the original bonds had bee redeemed.

A special provision to allow taxpayers who lost property in Lower Manhattan as a result of the attacks to be able to expense the remaining basis in the lost property carried over to replacement property as the result of insurance payments where the replacement property is located in New York City.

A one time $5,000 nonrefundable tax credit for residents of Lower Manhattan (with no more than $5,000 credit per residence). The credit would be phased out for those residents with incomes in excess of $150,000.

I urge my colleagues, both from New York and the remainder of the nation to join together and help New York recover.

The nation will never be the same as it was before September 11. The relationship between New York and the rest of the nation will forever be altered by the attack on the World Trade Center. We are bound together as never before. Together we will rebuild.

PRICE-ANDERSON REAUTHORIZATION ACT OF 2001

SPEECH OF

HON. W.J. "BILLY" TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. TAUZIN. Mr. Speaker, in my previous remarks on this important legislation, I failed to note the important role that the Bush Administration has played in helping us get H.R. 2983 to the House floor. In particular, the Department of Energy's constructive guidance has been a real asset to us. In the course of our discussions with DOE, we have been told that the Administration has a number of concerns about the legislation, as reflected in the statement of Administration position. We will of course work closely with the Department to ensure that these concerns are addressed as the process moves forward.

TRIBUTE TO THE POETRY OF MISS SHEILA BRIDGES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. TRAFICANT. Mr. Speaker, the following was written by one of my constituents, Miss Sheila Bridges. Her poetry is a tribute to our nation, which is still standing strong and proud.

STILL STANDING

(By Sheila L. Bridges)

America, America, Young and shy, growing oh so high, yet not too high, but still standing!
America, America, they hit You once, they hit You twice, but You are still standing!
America, America, they used their words of anger, hate and pain and did not forget their sticks and stones, but You are still standing!
America, America, some called and asked You to fight, live, stay, finance and/or on their shores with one hand and they ordered, told You to get out with the other hand, but You are still standing!
America, America, help me please; so You called and ask American's to stand and/or fight; each in their own way for

a better land and safer, brighter future, but You are still standing!

America, America, Red, White and Blue; They tore You, They burned You, They spit on You, and They stepped on You too; but You are still standing!

America, America, the Young Little Eagle of the sky; put one wing on Her children and Their other wing on Your children; oh so quiet and shy, yet do not think, You can and will push Her around; because through it all, not too bold and not too high; She is still standing!

America, America, they threaten to germ, gas and bomb You while They work to destroy You; but You are still standing!

America, America, ever great nation fell due to internal problems, We have more than our share, yet united We stand, divided We fall; but Thank GOD, ABOVE, You are still Standing!

America, America, let the world stand and think; Whom will They turn and/or run to, when They need aid and help if You are not there;" and then wake up and say "Thank-you" to the HIGHEST, HIGHER POWER: That ever Nation of the world has His blood and seed in this, our, their nation called the United States of America; whose still standing!

America, America, "Thank-You for being there for Us and Oh yes, for the Them around the world too and for still standing!"

America, America, young and shy; "Please do not die and through it all Thank GOD and then You for still standing!"

America, America, not just standing by; war or peace what shall it be; fight today, in order that We will and can stand tomorrow; but for now, still standing!

America, America, Standing oh so high; with her Mommy, Her Daddy, Her Aunt and Uncle Nations saying, Yelling; "let Me help protect My Brothers, Sisters and Cousins too. * * * Mom, Dad, Aunt and Uncle Nations; You taught Me well and now We All are still standing!"

America, America, still standing, strong, tiered, afraid, concerned, kind, gentle and extended, yet not alone; thus, I first Thank Our GOD; then My lucky star; My Fairy Godmother and all that is fair, honest, just, clean and right; that I, We can still say "America, America, You are still standing!"

H.R. 2983, THE PRICE-ANDERSON REAUTHORIZATION ACT OF 2001

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. BARTON of Texas. Mr. Speaker, in my previous remarks on H.R. 2983, the Price-Anderson Reauthorization Act of 2001, I stated that $187 million had been paid out in response to the accident at Three Mile Island. In fact, approximately $70 million has been paid out to date, and this amount is well within the plant's primary insurance policy required by the Price-Anderson Act.

TRADE PROMOTION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. OXLEY. Mr. Speaker, this week, the House is scheduled to vote on Trade Promotion Authority legislation. Granting the President this authority once again is one of the most important actions that we can take to strengthen the U.S. economy and promote global prosperity. The attack on the World Trade Center was a symbolic assault on the free and open capital markets that underpin development throughout the world. By approving TPA, we can reaffirm our commitment to a free and open international global economy that will lift living standards across the world. I commend to your attention this Wall Street Journal article of November 29 by the Chairman and Chief Executive Officer of Goldman Sachs, Henry Paulson, Jr., entitled "Congress Should Put Trade on the Fast Track."

CONGRESS SHOULD PUT TRADE ON THE FAST TRACK

(By Henry M. Paulson, Jr.)

The House of Representatives will soon vote on the question of granting the president Trade Promotion Authority, also known as fast-track approval. Some in Congress have argued that now is not the time to take up legislation that has encountered such fierce protectionist opposition in recent years. But in the wake of the terrorist attacks of Sept. 11 and the current economic slowdown, it is all the more important that Congress move quickly to approve this vital measure.

This bipartisan action would inspire confidence in global capital markets. It would allow America to be seen as continuing to lead the open trade and globalization that has been so vital to the prosperity of both developed and developing countries. And it would send a powerful message that the president and Congress speak with one voice, and are committed to advancing freer trade as part of the war on terror. Indeed, approval of TPA would signal that the U.S. is not only seeking a military coalition, but an economic one.

The benefits of trade hardly need illuminating. America's exports accounted for approximately one-third of our extraordinary economic growth over the past decade, and exports now support over 12 million American jobs (nearly three million more than a decade ago). Jobs supported by exports typically pay 13% to 18% more than comparable employment.

Trade brings real economic benefits to the U.S. The North American Free Trade Agreement, and the completion of the previous round of trade negotiations (the Uruguay Round), now generate annual income gains of $1,300 to $2,000 for the average American family of four. Trade is also fundamental to economic growth in the developing world. A recent World Bank study shows that nations open to trade grow 3.5 times faster than nations closed to trade. The recent experience of countries such as South Korea, China and Chile underscore that trade is a pathway to prosperity.

Trade is a two-way street, and imports also benefit the U.S. They provide consumers with more choices and lower prices on a wide variety of goods. Imports also force our industries to constantly improve and innovate in order to remain competitive with foreign exporters.

I confess to being a bit mystified by all of the controversy about extending such a common-sense power to the president. TPA simply says that when the executive branch completes negotiations on a trade agreement and submits it to Congress for approval, that Congress cannot amend the agreement. It must simply vote yes or no.

This is standard procedure in other types of negotiations. Union negotiators don't reach agreements with management and then allow all their members to amend and debate. And as I know from 27 years in investment banking, mergers and acquisitions would never be consummated if, once negotiated, rather than being sent to a corporate board of directors for approval, they were sent to be restructured.

The most obvious aspect of the war on terror is clearly military action. But we can't forget the economic component, and primarily the gains we reap from globalization. Let's not forget that it continues to be those countries most closed to trade that are prime breeding grounds for terrorists. Moreover, to truly wage and win this war, our political unity and military power must be fortified by the strength of our economies.

Those economies are increasingly at risk. Global prosperity is threatened not only by the specter of terrorism itself, but by the slump that was deepending before the Sept. 11. Worse, it is during periods of economic distress that pressure to revert to economic nationalism and protectionism are the greatest. This is a recipe for disaster, and it must be resisted through bold and decisive action.

The two necessary actions are clear; a fiscal, consumer-oriented stimulus package and TPA. Congress is well on its way to passing a stimulus package, and should take care to keep it directed at consumers. Although trade won't provide the sort of immediate boost to the economy that a stimulus package will, trade will have greater long-term impact.

While each of the previous five presidents has been granted this authority, it lapsed in 1994. During the seven years the U.S. has been without this trade authority, other countries have moved ahead without us. Since 1990, the European Union completed negotiations on 20 free trade agreements, and is currently negotiating 15 more. Mexico now has eight agreements with 32 countries. Today out of 130 preferential trade agreements and investment agreements in the world, the U.S. is a party to only three.

This means our exporters encounter higher tariffs—if not closed markets—in other countries. Our own consumers face higher prices and fewer choices. And the U.S. sits on the sidelines as the rules of the game are set on everything from e-commerce to agriculture.

Passing TPA is the first, all-important step to restoring U.S. leadership. It will allow us to move quickly on several fronts. We can complete negotiations for free trade agreements with Chile and Singapore, build vital support for the proposed Free Trade Area of the Americas and, most important, lead a drive for a new round of global trade negotiations.

The stakes are enormous and there has never been a time in our recent history when American leadership has been needed more. TPA can be a key part of that leadership, building confidence in the global marketplace by clearly signaling that the process of globalization will continue with renewed vigor. It will enhance our economic position in the world and strengthen our national security. The time for Congress to act is now.

PAYING TRIBUTE TO RUSTY CRICK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to congratulate Rusty Crick for his outstanding accomplishments at Mesa State College in Grand Junction, CO—a prestigious college in my District. Rusty has recently reached the impressive total of five hundred wins as the head volleyball team coach. He has coached the Mavericks for over twenty years and his accomplishment is testimony to his fine coaching abilities.

Rusty began playing volleyball while serving in the Air Force. After playing for several years, he moved on to coaching the base's men's and women's teams. In 1976, Rusty moved to Grand Junction, Colorado where he was stationed as an Air force recruiter. It was then that Rusty began coaching the Mesa State women's volleyball team. In 1982, he was promoted to the coveted head coach position, a title he has held since that time.

His accomplishments as coach are impressive. He has amassed eight RMAC championships, is second in overall victories for Colorado college volleyball coaches, and the team is ninth in overall state victories. His latest goal is for the sport of college volleyball is to obtain similar national recognition that other popular sports enjoy in the country.

Mr. Speaker, it is a great privilege to recognize Rusty Crick and congratulate him on his accomplishments. His dedication to Mesa State and the sport of volleyball has brought great credit to himself, Mesa State, and the community of Grand Junction. Keep up the good work Rusty and we look forward to watching the Mavericks in another winning season.

TRIBUTE TO ALAN BRAND: CEO OF NARCO FREEDOM, INC.

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Narco Freedom, Inc. and to its Chief Executive Officer, Mr. Alan Brand, an innovative leader and steadfast humanitarian. Narco Freedom, Inc. is a Bronx-based organization that for 30 years has provided New Yorkers with a network of first-rate drug treatment and health related services. I am honored to acknowledge them on their 30th anniversary.

As CEO of Narco Freedom, Inc., Alan Brand developed a revolutionary comprehensive continuum of care that supports the recovery of thousands of drug addicts. Programs developed and reared under Mr. Brand's leadership not only aid recovery from drug addictions, but foster successful daily living skills, social skills, and mental health. Once an individual has overcome an addiction with the help of Narco Freedom, Inc., he or she will receive continued support through after-addiction treatment in order to gain or regain a higher quality of life. These addicts' families also receive support from Narco Freedom's extensive programs because often they too must rebuild their lives during and after recovery. Mr. Brand's dedication to the advancement of substance abuse treatment and to providing health services to other groups in great need led him to spearhead the only HIV Social Needs managed care plan in New York State. Mr. Brand has developed a variety of treatment plans that are geared towards specific groups of individuals. Some aid women and their children, while others focus on people who are suffering from HIV or AIDS in conjunction with a drug abuse problem. His foresight and determination allow him to set new standards when devising treatment plans.

For three decades, Narco Freedom, Inc. has helped people get off and stay off drugs and supported recovering addicts and their families with a network of programs dealing with various mental and physical health issues. The majority of Narco Freedom's clients have two major strikes against them; they are addicted to drugs and they are poor. People with the financial means to undergo the best drug treatment programs are often treated with more sympathy than poor addicts who society tends to view as "hopeless." Narco Freedom has hope for these individuals and instills hope in them via intense programs. Many of these programs were engineered or strengthened by the efforts of Mr. Alan Brand. However, the devotion and expertise of Narco Freedom's superb staff, make the great work that they do possible. A great deal of patience and an acute understanding of effective drug treatment have made this team so successful.

I ask my colleagues to join me today in honoring Narco Freedom, Inc. for 30 years of outstanding service and its CEO, Mr. Alan Brand, for expertly guiding this great organization to even more success. I would also like to thank the entire Narco Freedom team for saving and improving so many lives.

RACIAL PROFILING

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. TRAFICANT. Mr. Speaker, on Tuesday, June 6, I inserted the letter of Gerald Beulah, Jr., to the Boardman Police Department. This letter regarded "racial profiling" by the Boardman Police Department.

Today I would like to insert the response to Mr. Beulah's letter by the Boardman Police Department.

House of Representatives,
Washington, DC, June 14, 2001.

Mr. Jeffrey L. Patterson,
Chief of Police, Boardman Township Police Department, Youngstown, OH.

Dear Mr. Patterson: Thank you for your response to Mr. Gerald Beulah regarding his racial profiling case. I received a copy of your response, and it will be submitted into the Congressional Record.

Please understand that this problem will not be resolved simply by submitting your response into the Record. The fact still remains that Mr. Beulah was pulled over a total of four times, and was never issued a citation. As former Sheriff of Mahoning County, I am very well aware of the perceptions that the public has about officers of the law. I am also aware of the fact that racial profiling does, in fact, exist in many cities across the country. However, as Sheriff, I always demanded that my officers convey professionalism and respect to all the citizens of the Mahoning Valley, and as the Representative of the 17th Congressional District, I am demanding the same of you and your officers. Anything less is unacceptable and will not be tolerated.

Again, thank you for your letter, and I hope that you will continue to look into Mr. Beulah's case so that the same incident does not occur again. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,
James A. Traficant, Jr.,
Member of Congress.

Boardman Township
Police Department,
Boardman, OH, June 4, 2001.

Mr. Gerald Beulah, Jr.,
Youngstown, OH.

Dear Mr. Beulah: I received your letter last Tuesday afternoon and immediately initiated an inquiry into the issues you raised. I am writing to advise you of my preliminary findings and to invite you to meet with me or my staff to discuss your concerns in greater detail.

First, let me say that yours is the only allegation of "racial profiling" by Boardman police I have received in the nearly six months I have been chief of police here. From the portions of the Robert Mangino and Dan Ryan shows on WKBN-AM Radio 570 I heard, or that were relayed to me by others, there did not seem to be any widespread perception among the callers that African-Americans were particularly subject to unfair treatment by my officers. Nor have I received any complaints from citizens since these programs aired, nor have I been contacted by any other members of the media or by any community organizations on this issue.

Since receiving your letter, I have checked some of the more readily accessible statistics for indications of disproportionate representation of African-Americans among those cited by Boardman police for traffic violations. While I am aware that the data on citations issued does not represent all those persons who have been stopped by officers but not cited, nonetheless I believe the proportional representation is relevant to the issue. Last year, more than three-quarters (77 percent) of those cited were white, and less than one-quarter (23 percent) were African-American. To place those numbers in context, I refer you to the most recent Census data, which shows that Mahoning County as a whole is about 16 percent African-American, and the city of Youngstown-our nearest and largest neighboring community—is about 44 percent African-American. I have used those figures rather than the Census data for Boardman Township (2.4 percent African-American) because I believe they more closely represent the demographics of those who travel our streets and highways, due to the presence of several heavily-utilized routes as well as the high-density retail and commercial development within our jurisdiction.

However, I don't dispute that the perception of "racial profiling" exists within both the minority community and society at large, not only here in Boardman and the Mahoning Valley, but throughout the U.S. And this perception has been given credence from anecdotal evidence in reports of systematic race-based enforcement by the New Jersey State Police, among others, although valid statistical data on the problem has proven difficult to gather and analyze. We, as law enforcement professionals, are truly troubled by both the perception and—to the extent it exists—the practice of racial profiling. In response, both the International Association of Chiefs of Police (IACP) and the Ohio Association of Chiefs of Police (OACP), as well as chiefs' and sheriffs' organizations in other states, have developed model policies and training curricula to address the issue. State legislatures have proposed or adopted laws requiring policies and data collection, and the U.S. Department of Justice has taken action against not only the Los Angeles Police Department, but also, in our area, Pittsburgh and Steubenville police.

I assure you, as Boardman's police chief, I have been—and will continue to be-alert for any indications of discriminatory practices by my organization or any of its members. I believe I have an experienced, educated, and enlightened management staff, and a corps of intelligent, well-trained, and highly motivated police officers, all of them professionals dedicated to serving their community. Nonetheless, I routinely monitor statistical data, read arrest reports, review official transactions of all kinds, and pay attention to informal conversations and offhand remarks for indicators of discriminatory conduct. I also receive frequent feedback from the public on the performance of my agency and individual officers through correspondence, phone calls, and personal contacts. Thus far—other than your letter—I have had no cause for concern.

However, prior to your letter, we had already undertaken some proactive steps to further ensure that discriminatory conduct is neither practiced nor condoned by Boardman police. In March of this year, every Boardman police officer was required to watch a 16-minute training video jointly produced by the OACP, the Buckeye Sheriffs Association, and the Ohio State Highway Patrol, to reinforce the unacceptability of racial profiling. We have also been reviewing and revising our policies to explicitly prohibit discriminatory profiling of any kind. Among the draft provisions are the following policy statements:

Racial or bias-based profiling of any kind is totally unacceptable and will not be condoned. The department will utilize various management tools to ensure that racial or other prejudice is not used by officers in deciding whether to take official action.

Officers are expected to enforce the traffic laws when violations are observed, and to stop and detain motorists or pedestrians when there is reasonable suspicion that they have committed, are committing, or are about to commit a criminal act.

Officers are prohibited from stopping, detaining, searching, or arresting anyone on the basis of discriminatory profiling. This policy does not prohibit officers from stopping or detaining individuals who reasonably match the description of a specific suspect in connection with a specific crime, when race, gender, ethnic origin, or age are among the identifying attributes in the suspect's description.

I am sorry your contacts with Boardman police have not all been positive ones, but I am pleased you have had positive experiences as well. I sincerely hope I have adequately addressed your overall concerns. If you would like an investigation into any specific incident, please don't hesitate to contact me for an appointment. By law, such investigations must be handled through the proper procedures, and are not made public until they are concluded.

As Mr. Mangino read your letter aloud on his Friday program, and Congressman Traficant has taken it for inclusion in the Congressional Record and distribution to other law enforcement agencies in the 17th Congressional District, I have taken the liberty of sharing a copy of this response with them.

Sincerely,

JEFFREY L. PATTERSON,
Chief of Police.

PAYING TRIBUTE TO JOAN SINDLER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. McINNIS. Mr. Speaker I would like to take this opportunity to recognize Joan Sindler and thank her for her dedication to our educational system. She has contributed much of her time and effort to the Skyline Elementary Parent Teacher Organization as well as to other educational programs. She was recently named the Parent of the Year by the Coloado Association of Gifted and Talented and her efforts certainly deserve the praise and admiration of this body.

In addition to serving on the PTO, Joan has also been a member of the Accountability committee and the School Improvement committee. Perhaps the majority of her time is consumed by contributing a great deal of effort to the Colorado Gifted and Talented Enrichment (GATE) program in Canon City. As a member of GATE, Joan is involved in attending monthly meetings and assists with district events and special projects that ensure the continuing operation of the program.

Mr. Speaker, it is a great privilege to honor Joan Sindler and recognize her contributions to the educational system. Through people like Joan, children can rely on a quality education that focuses on their special needs and desires to excel in their education. Joan's dedication has brought great credit to herself, her family and her community and I would like to congratulate her for being named Parent of the Year.

PARMA HEIGHTS CHRISTIAN ACADEMY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor Parma Heights Christian Academy, which has been named a 2000–2001 Blue Ribbon School of Excellence by the U.S. Department of Education.

Parma Heights Christian Academy is the only private Christian school in the nation to receive the Blue Ribbon School of Excellence Award this year. In all, only 264 schools in the country earned this prestigious award this year. Blue Ribbon Schools are considered to be models of both excellence and equity where educational excellence for all students is a high priority. Parma Heights Christian Academy had to demonstrate its effectiveness in meeting local, state and national educational goals and had to successfully complete a rigorous application process. Blue Ribbon Schools must offer instructional programs that meet the highest academic standards, have supportive and learning-centered school environments, and demonstrate student outcome results that are significantly above average.

Parma Heights Christian Academy is an outstanding school that is well deserving of this national recognition. Its academic programs and environment will serve as a model for schools across the country. My fellow colleagues, please Join me In congratulating the students, teachers and administration of Parma Heights Christian Academy for their commitment to excellence.

HONORING MR. CHESTER WILLIAMS OF STATESBORO UPON HIS 90TH BIRTHDAY

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. KINGSTON. Mr. Speaker, I am pleased to honor Mr. Chester Williams of Statesboro, GA on the occasion of his 90th birthday. Chester has truly led a remarkable life, and I am proud to be able to celebrate his accomplishments with you today.

Chester Williams was born on December 4, 1911 in Stapleton, GA. He earned a bachelors degree in education from Georgia Teachers College in 1935 and a masters from the University of Georgia in 1950. Throughout his career, he has served as headmaster at four Georgia high schools; they include Reidsville High School, Folkston High School, North Habersham High School, and Metter High School. In addition he served as president of the District High School Principal's Association. Through his life as an educator, Chester has been able to expose young people to the benefits of a strong system of values and a well-rounded life. He continues to maintain daily interactions with the students from Georgia Southern University.

Mr. Williams was also a Lieutenant in the US Naval Reserve, seeing active duty in the Atlantic and Pacific War theaters. During this time he was a recognition and gunnery officer on the USS General W.G. Hann. Williams was a four-sport athlete and letterman at South Georgia Teacher's College, which is now Georgia Southern University. He is best know for earning all conference honors as a basketball guard in 1931 and 1932. He was also a member of the track team for three years, competing in the vault, high jump, and high hurdle events. In 1991 Mr. Williams was inducted into the Georgia Southern University Sports Hall of Fame.

Mr. Williams served as Speaker of the House in the Georgia Silver Haired Legislature from 1978 to 1981 and four years as a Small Claims Court magistrate judge. He and his wife currently reside in Statesboro, Georgia where he continues to serve on the city's zoning board. He is also a charter member of the Snooky's Restaurant Political Action Committee. Snooky's is Mr. Williams favorite place to eat breakfast, which is evidenced by the fact that he eats their sausage biscuit and grits every morning he is in Statesboro. He has his own special table in the restaurant. Friends come by every morning to tell him hello and receive one of his world famous hugs. Snooky's is located directly across the street from Georgia Southern University and was the location of Mr. Williams 90th birthday party today.

Certainly, Mr. Chester Williams has been a wonderful leader and role model to the many individuals he has touched throughout his life. He has demonstrated the enduring principles of education, health, patriotism, service, and leadership. It is my honor to commend the outstanding life of model citizen Chester Williams and thank him for all that he has done for the State of Georgia.

CLEAN DIAMOND TRADE ACT

SPEECH OF

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 2001

Mrs. CLAYTON. Mr. Speaker, I am pleased to rise in support of H.R. 2722. This is good legislation whose time is long past due.

I want to recognize the leadership of the gentleman from Ohio (Mr. HALL) and that of the gentleman from Virginia (Mr. WOLF), and also to compliment the gentleman from New York (Mr. HOUGHTON) for his leadership in the Committee on Ways and Means, and the gentleman from California (Mr. MATSUI) for his leadership in the Committee on Ways and Means.

I participated last April, along with five other Members, in a Congressional fact-finding trip to Botswana led by the gentleman from New Jersey (Mr. PAYNE) and the gentleman from Louisiana (Mr. JEFFERSON). Those who accompanied us on that particular delegation trip also included the gentlewoman from Indiana (Ms. CARSON) and the gentlewoman from Texas (Ms. JACKSON-LEE).

Today, I rise in support of this legislation to see how we can indeed rule out the conflict diamonds, the trade system that finances conflict, and the great devastation that is currently happening throughout regions of Africa. As part of our trip to Botswana, we examined first-hand the "secure" diamond industry in Africa and saw in this process how legitimate diamonds are being used in Botswana and other countries in that area. I was pleased to learn that Botswana, through a combination of democratic leadership and its seamless and secure diamond industry, is able to utilize clean diamonds to educate its people, to provide some of the African continent's strongest efforts in the fight against HIV–AIDS pandemic, and to undergird the country's overall economic and social development.

In Botswana, we met with President Mogae and members of his Cabinet. Since then, President Mogae has come to this country because he, too, wants a distinction to be made between clean diamonds and conflict diamonds. During his visit, President Mogae met with Congressional leaders in the House and Senate, Secretary Powell, and members of the Administration to express Botswana's commitment to keeping its diamond industry secure and its strong support for an international agreement on diamond certification through the Kimberley process. President Mogae has been part of the U.N., writing part of their resolution, and has made a statement to that effect that Botswana wants to be part of a clean diamond industry, and wants to be part of the force that makes this distinction.

I am pleased that this legislation is indeed focused on ending diamonds' financing of conflicts in Africa and other parts of the world. It is vitally important, Mr. Speaker, for well-intentioned legislation, such as H.R. 2722, to recognize and safeguard African nations, such as Botswana, which have secure and legitimate diamond industries, and which have no relationship to atrocities and conflicts in other nations on this continent.

I raise this point because it is important, Mr. Speaker. It is for this reason that through the leadership of Congressmen JEFFERSON, PAYNE, and RANGEL, we have worked with the distinguished author of H.R. 2722, Mr. HOUGHTON, to insert specific language recognizing that the provisions of this bill should not harm legitimate diamond-producing countries.

The good intention of this legislation also acknowledges those people who are following the law, and indeed, trying to do the right thing.

Again, I want to compliment everyone involved in this legislation. This legislation is long overdue and has been brought to bear at a time when we know that not only the conflict in Africa but now conflict in other parts of the world is being financed by diamonds. So hopefully this legislation would not only curtail, as the gentleman from Virginia (Mr. WOLF) said, the loss of lives, the lives of thousands of persons, not only killing them but killing in other parts of the country. I want to thank all the persons involved in this, and I urge my colleagues to pass this legislation that we all should be proud of.

CONFERENCE REPORT ON H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. JOSÉ SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. SERRANO Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 2299, a bill making appropriations for the Department of Transportation and related federal agencies for fiscal year 2002.

At the outset, I want to thank our Chairman, the gentleman from Kentucky, (Mr. ROGERS) and our Ranking Democrat, the gentleman from Minnesota (Mr. SABO) for bringing to the Floor a good conference report.

This legislation provides almost $59.6 billion for the Transportation Department and related agencies. Significant expenditures include $32.9 billion for the Federal Highway Administration; $13 billion for the Federal Aviation Administration; $6.7 billion for the Federal Transit Administration; and $5 billion for the Coast Guard.

This year's bill also includes $750,000 for one of my priorities, which is the eventual construction of a continuous greenway along the entire 23 miles of the Bronx River. It also includes $2 million for the Second Avenue Subway. I also would like to thank the Chairman and Ranking Member for reinstating the $20 million for the Pennsylvania Station Redevelopment Project. This money will be used to redevelop Pennsylvania Station, which involves renovating the James Farley Post Office building into a train station and commercial center.

Being a regular rider of Amtrak, I am glad that the conferees provided the requested funding level. Amtrak is an important system of transportation for the Bronx and New York City, especially after the horrendous events of September 11.

Finally, Mr. Speaker I am pleased that the conferees were able to work out a resolution regarding trucks from Mexico coming to this country in a manner that seems to satisfy all sides.

Mr. Speaker, I urge my colleagues to support the conference report.

KAZAKHSTAN'S DICTATOR MUST CLEAN UP HIS ACT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Ms. ROS-LEHTINEN. Mr. Speaker, I understand that the corrupt and repressive dictator of Kazakhstan, Nursultan Nzarbayev, plans to visit Washington early next year in search of U.S. approval and a dampening of the Administration's criticism of the Nazarbayev regime's deplorable human rights record. Following the tragic events of September 11th, Nazarbayev promised to "support action against terrorism by all available means." He made it clear to a reporter that this support would include military bases and the use of Kazakhstan's air space.

Yet, Russia's ITAR–TASS news agency reported that Kazakhstan's Minister of Defense, Sap Topakbayev, stated on November 8 that Kazakhstan was not planning to set up any airfields for the U.S. Air Force on its territory. ITAR–TASS went on to quote Topakbayev as saying that "after the tragic events in the United States, any contact with the Americans raises many questions." If Mr. Nazarbayev is to be granted meetings at the White House, he should at the very least be pressed to provide an unambiguous commitment to support the war on terrorism.

In addition, Moscow's Centre TV on February 17, 2001, accused the Nazarbayev regime of illegally selling weapons to "criminal regimes." Centre TV reported that among the sales were the advanced Russian-made S–300 air defense system and heavy tanks. Although Centre TV did not name the countries receiving arms from Kazakhstan, Britain's Guardian reported on August 14, 2001 that the S–300's may have ended up in Sudan. In any event, the United States has had many run-ins with the Nazarbayev regime over arms sales. Early last year, for example, Kazakhstan sold forty MIG fighters to North Korea. And on June 4, 1997, the Washington Times reported that the U.S. had protested plans by Kazakhstan to sell advanced air defense missiles to Iran. So there is a disturbing pattern of arms sales to rogue states and no known commitment by Nazarbayev to end them. He needs to make such a commitment, and now!

Finally, it has come to my attention that on September 14, 2001 the Swiss Federal Department of Justice made available to the U.S. Department of Justice the findings of a lengthy investigation of corruption involving President Nursultan Nazarbayev of Kazakhstan, a former director of Mobil Oil, Mr. J. Bryan Williams, and a senior official of the Geneva-based bank Credit Agricole Indosuez. According to Swiss press reports, the Swiss investigation into money laundering and other corrupt activities has established the existence of a bribery chain set up in the 1990's by James Giffen, a U.S. businessman who reportedly acted as a mediator between several oil companies and officials of the government of Kazakhstan, including President Nazarbayev. The U.S. Department of Justice has been investigating Giffen's activities since last year.

I would thus urge President Bush not to host someone whose regime has been condemned by leading human rights organizations, has trafficked in arms with rogue states, has been ambiguous in its support of the war on terrorism, and is under investigation by both Swiss and U.S. law enforcement agencies. Further, a priority objective of U.S. policy should be to insist that Mr. Nazarbayev clean up his act.

LET PRIVATEERS TROLL FOR BIN LADEN

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. PAUL. Mr. Speaker, I recommend my colleagues read the attached article "Let Privateers Troll for Bin Laden" by Larry Sechrest, a research fellow at the Independent Institute in Oakland, California, and a professor of economics at Sul Ross State University. Professor Sechrest documents the role privateers played in the war against pirates who plagued America in the early days of the Republic. These privateers often operated with letters of marque and reprisal granted by the United States Congress.

Professor Sechrest points out that privateers could be an effective tool in the war against terrorism. Today's terrorists have much in common with the pirates of days gone by. Like the pirates of old, today's terrorists are private groups seeking to attack the United States government and threaten the lives, liberty, and property of United States citizens. The only difference is that while pirates sought financial gains, terrorists seek to advance ideological and political agendas through violence.

Like the pirates who once terrorized the high seas, terrorists today are also difficult to apprehend using traditional military means. We have seen that bombs and missiles can effectively and efficiently knock out the military capability, economy and technological infrastructure of an enemy nation that harbors terrorists. However, recent events also seem to suggest that traditional military force is not as effective in bringing lawless terrorists to justice.

When a terrorist stronghold has been destroyed by military power, terrorists simply may move to another base before military forces locate them. It is for these reasons that I believe the drafters of the Constitution would counsel in favor of issuing letters of marque and reprisal against the terrorists responsible for the September 11 attacks.

Secretary of Defense Rumsfeld recently acknowledged the role that private parties, when provided sufficient incentives by government, can play in bringing terrorists to justice. Now is the time for Congress to ensure President Bush can take advantage of every effective and constitutional means of fighting the war on terrorism. This is why I have introduced the Air Piracy Reprisal and Capture Act of 2001 (HR 3074) and the September 11 Marque and Reprisal Act of 2001 (HR 3076). The Air Piracy Reprisal and Capture Act of 2001 updates the federal definition of "piracy" to include acts committed in the skies. The September 11 Marque and Reprisal Act of 2001 provides Congressional authorization for the President to issue letters of marque and reprisal to appropriate parties to seize the person and property of Osama bin Laden and any other individuals responsible for the terrorist attacks of September 11. I encourage my colleagues to read Professor Sechrest's article on the effectiveness of privateers, and to help ensure President Bush can take advantage of every available tool to capture and punish terrorists by cosponsoring my Air Piracy Reprisal and Capture Act and the September 11 Marque and Reprisal Act.

LET PRIVATEERS TROLL FOR BIN LADEN

(by Larry J. Sechrest)

In the wake of the Sept. 11th attacks, a group of American businessmen has decided to enlist the profit motive to bring the perpetrators to justice. Headed by Edward Lozzi of Beverly Hills, California, the group intends to offer a bounty of $1 billion—that's billion with a "b"—to any private citizens who will capture Osama bin Laden and his associates, dead or alive.

Paying private citizens to achieve military objectives seems novel but is hardly untried. Recall Ross Perot's successful use of private forces to retrieve his employees from the clutches of fundamentalist Muslims in Iran in 1979.

We are all familiar with bail bondsmen, who employ bounty hunters to catch bail-jumping fugitives. Less familiar are two U.S. companies, Military Professional Resources Inc. and Vinnell Corporation, which provide military services to governments and other organizations worldwide.

Historically, private citizens arming private ships, appropriately called "privateers," played an important role in the American Revolution. Eight hundred privateers aided the seceding colonists' cause, while the British employed 700, despite having a huge government navy.

During the War of 1812, 526 American vessels were commissioned as privateers. This was not piracy, because the privateers were licensed by their own governments and the ships were bonded to ensure that their captains followed the accepted laws of the sea, including the humane treatment of those who were taken prisoner. Congress granted privateers "letters of marque and reprisal," under the authority of Article I, Section 8 of the U.S. Constitution.

Originally, privateering was a method of restitution for merchants or shipowners who had been wronged by a citizen of a foreign country. Privateers captured the ships flying the flag of the wrongdoers' nation and sailed them to a friendly port, where a neutral admiralty court decided whether the seizure was just. Wrongful seizures resulted in the forfeiture of the privateers' bond to the owners of the seized ship.

If the seizure was, just, the ship and cargo were sold at auction, with the bulk of the proceeds going to the privateer's owners and crew. The crews were volunteers who shared in the profits, and the investors viewed the venture as remunerative—albeit risky.

Privateering soon evolved into a potent means of warfare. Self-interest encouraged privateers to capture as many enemy ships as possible, and to do it quickly. Were privateers successful in inflicting serious losses on the enemy? Emphatically, yes. Between 1793 and 1797, the British lost 2,266 vessels, the majority taken by French privateers.

During the War of the League of Augsburg (1689–1697) French privateers captured 3,384 English or Dutch merchant ships and 162 warships, and during the War of 1812, 1,750 British ships were subdued or destroyed by American privateers. Those American privateers struck so much fear in Britain that Lloyd's of London ceased offering maritime insurance except at ruinously high premiums. No wonder Thomas Jefferson said, "Every possible encouragement should be given to privateering in time of war."

If privateering was so successful, why has it disappeared? Precisely because it worked so well. Government naval officers resented the competitive advantage privateers possessed, and powerful nations with large government navies did not want to be challenged on the seas by smaller nations that opted for the less-costly alternative—private ships of war.

In sum, the armed forces of the U.S. government are not the only option for President Bush to defeat bin Laden, his al Qaeda network, and "every terrorist group with a global reach." The U.S. military is not necessarily even the best option.

Let's bring back the spirit of the privateers. By letting profits and justice once more go hand-in-hand, victims and their champions can have an abundance of both, rather than a paucity of either.

IN REMEMBRANCE OF NANCY FORD

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. DAVIS of Florida. Mr. Speaker, I rise in remembrance of Nancy Ford, a Tampa businesswoman whose legacy in promoting women's rights, supporting the arts and bringing our Tampa Bay community together will not soon be forgotten by the countless friends, family and admirers she has left behind.

Nancy's contributions to Tampa Bay women are immeasurable. After breaking through the glass ceiling herself, Nancy helped pave the way for other women. She helped start the Tower Club, Tampa's first private business group to admit women, and she founded the Athena Society and the Florida Women's Network-professional women's networking and leadership organizations.

Nancy's accomplishments do not end there. As Chairwoman of the Florida Gulf Symphony's board of directors, member of the Arts Council of Hillsborough County and head of the committee that negotiated a merger of the Tampa Philharmonic and the St. Petersburg Symphony, Nancy Ford played a pivotal role in shaping the development of Tampa's art society.

Nancy's devotion to her causes has left an indelible mark on Tampa Bay. Through her countless volunteer hours for local charities, her work with University of South Florida's Medical Center and her role as co-founder of the Children's Cancer Center, Nancy made a difference in our community. Nancy Ford's vision and wisdom inspire us not just to do great things but also to develop lasting institutions that will carry on her ideas and work for generations to come.

On behalf of the people of Tampa Bay, I would like to extend my heartfelt sympathies to Nancy's family.

TRIBUTE TO FERNANDO FERRER

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a great leader and political figure. Bronx Borough President Fernando Ferrer has dedicated his life to serving the community and has been recognized nationally for revitalizing the Bronx.

I have known Mr. Ferrer, or Freddy as I know him, for 30 years and have been continuously impressed by his vigor and political expertise. Freddy was elected to his first term as borough president in 1987 with an overwhelming 87 percent of the public vote. To illustrate Freddy's outstanding leadership and how much Bronxites trust him, ten years and three terms later, he was reelected yet again with 87 percent of the public vote.

Mr. Speaker, it has been a pleasure to work with Freddy Ferrer throughout the years to continue and intensify the restoration of the Bronx. From the moment he took office, Freddy began implementing a new, higher set of standards by which to run the borough. These changes, such as his strict code of ethics for his staff, have made it easier to make necessary changes throughout the Bronx.

Among Freddy's long list of accomplishments, he led the Bronx to winning the prestigious National Civic League's All-American City Award in 1997 and the Crown Community Award presented by American City and County magazine in 1999. The New York State Department of Health statistics show that between 1995 and 1999, 4,110 fewer individuals were unemployed. During that period, the number of AIDS cases in the Bronx dropped by nearly 50%, and homicides decreased by roughly 23 percent. Since 1990, the Bronx has received 2.5 billion dollars worth of new construction. From new businesses to new housing developments, Bronx residents have been able to witness their community grow before their very eyes. Freddy orchestrated the nation's most comprehensive housing revival when nearly 64,000 new and rehabilitated residences became available in the Bronx. This surge of structural progress and the resurgence of local businesses have been pivotal in rejuvenating the spirit of the Bronx. Along with the legendary Yankee Stadium, which Freddy and myself strove to keep in the Bronx, our borough president has become an undeniable part of Bronx history.

Mr. Speaker, Freddy's roots are in the Bronx and he has not strayed from the borough. He was born there, attended primary and secondary school there, and attended the New York University at its Bronx campus. He and his distinguished wife, Aramina, raised their daughter, Carlina, in the Bronx as well. This fall, Freddy ran for New York City mayor, and in doing so, brought a new vision for all of our communities. Freddy's entire campaign, especially when he eloquently expressed his visions for the city in debates and speeches, made us all very proud.

I ask my colleagues to join me in honoring Mr. Fernando Ferrer for over 20 years of remarkable and innovative service to the people of the Bronx.

H.R. 3280, TO LOWER THE TIME OF CONTINUOUS ACTIVE DUTY REQUIRED TO RECEIVE LEVEL I BASIC ALLOWANCE OF HOUSING

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mrs. MINK of Hawaii. Mr. Speaker, over 57,000 members of the Reserves and National Guard have been called to active duty. Each week the military calls up more soldiers to help in our struggle against terrorism. They leave their civilian jobs and families to help defend our country.

From the day they begin their active duty, members of the National Guard and Reserves must deal with the difficult challenge of paying their bills and extra living expenses while serving their country.

To help ease this burden, soldiers placed on active duty are entitled to a Basic Allowance of Housing, which pays for their housing costs. Soldiers receive it when they do not live on a military base. The exact amount depends on grade, dependency status, and geographic location.

If members of the National Guard and Reserves serve less than 140 days, they receive Level II Basic Allowance of Housing. If they serve more than 140 days, they receive Level I Basic Allowance of Housing.

Level II Basic Allowance of Housing is similar to the Level I Basic Allowance of Housing, but it does not include adjustments for expensive housing markets, such as Honolulu or New York City.

This policy hurts soldiers placed on short tours of duty in expensive housing markets. For example, an 0–1 officer in Honolulu will receive $410.70 per month under Level II. Under Level I, that same soldier would receive $953.00.

The current law costs soldiers hundreds of dollars every month. Soldiers should not have to wait 140 days before receiving the Level I Basic Allowance of Housing.

On November 13, 2001, I introduced H.R. 3280 to correct this. It will reduce the number of active duty days required for the Level I Basic Allowance of Housing from 140 to 60 days.

We ask members of the National Guard and Reserves to serve without hesitation to defend our nation. We must ensure that all soldiers in the military are paid enough money to cover their housing costs.

I urge my colleagues to join with me and support H.R. 3280.

TRIBUTE TO CATHY MAGUIRE

HON. BRAD SHERMAN

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. ADAM B. SCHIFF

OF CALIFORNIA

HON. ELTON GALLEGLY

OF CALIFORNIA

HON. XAVIER BECERRA

OF CALIFORNIA

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SHERMAN. Mr. Speaker, we rise today to pay tribute to Cathy Maguire as she completes her tenure as Chairman of the Valley Industry and Commerce Association (VICA).

Fifty-two years ago, when VICA was founded, the San Fernando Valley was a predominantly rural and agricultural area north of Los Angeles; today, the Valley is a vital part of our nation's second-largest metropolitan area—thanks in part to the leadership of VICA.

Since Cathy Maguire was elected Chairman of VICA in 1999, the Valley business community has benefitted from having a tenacious, committed and vocal advocate with representation at all levels of government from L.A. City Hall to Capitol Hill.

Cathy Maguire has led two delegations of business leaders to our nation's capitol to meet with United States Senators, Members of Congress, Cabinet Secretaries and senior staff of both the Clintons and Bush Administrations.

VICA has taken a leadership role on Social Security reform, small business development, aviation and airports, water quality and reliability, a patient's bill of rights and telecommunications issues under the keen leadership of Cathy Maguire.

As California faced an energy crisis this year, VICA played an important role in discussing solutions with the Administration as well as with our colleagues in Congress—working to ensure that California had reliable, affordable supplies of energy.

And while our nation mourned the losses of September 11, 2001, VICA and its Chairman have worked to minimize the impacts on Southern California's economy, convening the region's first Economic Impacts Summit and advocating in Washington on behalf of an economic stimulus for local businesses impacted by the tragic events.

Mr. Speaker and distinguished colleagues, please join us in honoring Cathy Maguire for her leadership and accomplishments as Chairman of the Valley Industry and Commerce Association.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. BECERRA. Mr. Speaker, on Friday, November 30, 2001, I was unable to cast my floor vote on roll call number 465, on Agreeing to the Conference Report for H.R. 2299, Transportation and Related Agencies Appropriations for FY 2002.

Had I been present for the vote, I would have voted "aye" on roll call vote 465.

A PROCLAMATION RECOGNIZING DAVID PEOPLES

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. NEY. Mr. Speaker, Whereas, David Peoples serves as a Police Officer in the state of Ohio; and

Whereas, Mr. Peoples has been named "Police Officer of the Month" by the National Law Enforcer's Memorial Fund for his unmatched service to his community; and;

Whereas, Mr. Peoples is helpful, honest, active, hardworking and dedicated to both his department and law enforcement; and,

Whereas, Mr. Peoples has received the "Exceptional Service Medal," the "Life Saving Medal" and the "Silver Torch" for his efforts in saving and protecting the citizens of Ohio;

Therefore, I ask that my colleagues join me in recognizing David Peoples for his commitment and dedication to making lives better in our area. I am honored to call him a constituent.

HOMELAND EMERGENCY RESPONSE OPERATIONS (HERO) ACT

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Ms. HARMAN. Mr. Speaker, five years ago, Tim Grimmond, the Police Chief of El Segundo, a small town in my district, came to me with a little problem called "public safety radio interoperability."

Basically, he explained, police departments are organized by city and county jurisdictions. Criminals are not.

And the radios carried by the police in El Segundo were not always compatible with the radios carried by the L.A. Country sheriffs or police departments in neighboring towns like Redondo and Manhattan Beach.

As a result, law enforcement agencies pursuing a suspect couldn't talk to each other on the radio. They sometimes resorted to hand signals out car windows to communicate. Or they used a jerry-rigged system of radio-patching and multiple radios to make it work.

The problem was not with the equipment. The problem was the shortage of spectrum—the airwaves used for radio and TV.

Police and fire departments had not been allocated enough of the spectrum for their radios to be interoperable.

In response to Chief Grimmond's concerns, I introduced legislation that directed the FCC to license unused frequencies to public safety agencies. This bill became law.

The same year, Congress took another major step towards interoperability. It directed the FCC to allocate to public safety users 24 megahertz of spectrum licensed to analog television stations. Congress set a deadline of 2006 for that transition.

Unfortunately, that law also left a big loophole. It said the TV stations don't have to move to new spectrum until 85 percent of the household have a TV that can receive digital TV signals.

Currently, only 1 percent of homes in the U.S. meet that criteria.

So unless we act now, public safety agencies will *never* be able to use the spectrum that Congress promised them back in 1997.

That means * * * fire departments will continue to have problems talking at the scenes of major fires. Police and sheriff's departments chasing a suspect across city and county jurisdictions will still not be able to communicate by radio. Police officers on the beat will still worry about hitting a "dead spot" where their radios don't work because of interference or poor signal penetration.

The HERO Act that I and my colleagues, Rep. WELDON of PA, Mr. GILMAN, Mr. MORAN of VA, Mr. MCINTYRE, BALLENGER, and Mr. FRELINGHUYSEN are introducing here today eliminates that 85 percent threshold requirement—but only for channels 63, 64, 68 and 69, which the FCC allocated to public safety at Congress' direction in 1997.

Our bill directs the FCC to assign the frequencies Congress promised to public safety agencies *by the end of 2006*.

This legislation is supported virtually every public safety and municipal organization, including * * *.

The International Association of Fire Chiefs, the International Association of Fire Fighters, and the Congressional Fire Services Institute; the International Association of Chiefs of Police and the Major County Sheriff's Association; the National League of Cities, the National Governors' Association and the National Association of Counties; the Association of Public-Safety Communications Officials-International (APCO) and the International Association of Arson Investigators.

Attached to this statement are letters of support for the legislation.

They all agree: Public safety needs this spectrum. And Congress should keep its commitment.

CONGRESSIONAL FIRE SERVICES INSTITUTE,
Washington, DC, November 28, 2001.

Hon. JANE HARMAN,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSWOMAN HARMAN: As Chair of the Congressional Fire Services Institute's National Advisory Committee, I extend to you the support of the committee for the Homeland Emergency Response Operations Network Act.

Composed of 40 national fire and emergency services organizations, the NAC provides counsel to CFSI on public safety issues. Among the organizations that serve on this committee are the International Association of Arson Investigators, International Association of Fire Chiefs, International Association of Fire Fighters, International Fire Service Training Association, International Society of Fire Service Instructors, National Fire Protection Association, National Volunteer Fire Council, and the North American Fire Training Directors. These are the associations that represent the interest of our 1.2 million first responders.

Following the release of the Public Safety Wireless Advisory Committee report in 1996, CFSI has worked aggressively in support of the report's recommendations. First and foremost is the set aside of 24 megahertz of broadcast spectrum for public safety use. This spectrum will address an immediate need of public safety, clearing the way for interoperable wireless communication systems.

Following the terrorists attacks on September 11th, the need for this spectrum has become a top priority for public safety. We can no longer afford to run the risk of responding to large-scale disasters without interoperable communication systems. Otherwise, we will jeopardize the lives of all first responders at the scene. Congress needs to remove the 85 percent exemption on penetration of digital television receivers and any other exemptions, and hold firm on the previously set 2006 deadline in the best interest of public safety!

I look forward to working with you, Congressman Curt Weldon and all other federal legislators who will offer their support for this legislation.

Sincerely,

DENNIS COMPTON,
Chair, National Advisory Committee.

ASSOCIATION OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS INTERNATIONAL, INC.,
December 3, 2001.

Hon. JANE HARMAN,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HARMAN: On behalf of the Association of Public-Safety Communication Officials-International, Inc and its

15,000 members, I want to thank you for introducing legislation to address the serious radio spectrum issues facing our nation's police, fire, EMS, and other public safety agencies. Your proposed legislation would establish a firm date for clearing television broadcast stations from spectrum allocated for public safety radio systems pursuant to a 1997 Congressional mandate.

The tragic events of September 11, 2001, demonstrated yet again that public safety personal all too often lack access to sufficient radio spectrum to provide effective and interoperable communications when responding to emergencies. On a day-to-day basis, public safety personnel from different agencies and jurisdictions are often unable to communicate at emergency scenes, usually because spectrum shortages have forced them to operate their radio systems over different, incompatible frequency bands. In many metropolitan areas, public safety personnel also confront dangerous radio frequency congestion, again due to the inadequacy of public safety spectrum allocations.

These problems, and proposed solutions, were documented by the Public Safety Wireless Advisory Committee (PSWAC) in a report dated September 11, 1996. Among PSWAC's recommendations was that approximately 25 MHz of new radio spectrum be made available for public safety within five years. Congress required such an allocation in the Balanced Budget Act of 1997, and the FCC responded with a specific spectrum allocation in 1998. However, when terrorists attacked the World Trade Center and the Pentagon exactly five years after the PSWAC report, public safety personnel responding to those horrific events were still unable to use the newly allocated spectrum. The difficulty is that the spectrum remains blocked by ongoing television broadcast operations in much of the nation (including New York and Washington).

The legislation that you are offering will establish a firm date for television stations to vacate spectrum already allocated for public safety. If adopted, the legislation will open the door for state and local governments to plan, fund, and even construct the new radio systems they need, confident that the necessary radio spectrum will be available for use on a specific date. We hope that your colleagues in Congress will give this matter immediate and favorable consideration.

Sincerely,

GLEN NASH,
President.

MAJOR COUNTY SHERIFFS' ASSOCIATION,
Minneapolis, MN, December 3, 2001.

Hon. JANE HARMAN,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN HARMAN: The members of the Major County Sheriffs' Association and other public safety organizations in the United States continue to be in urgent need of additional radio spectrum to safely perform their mission critical duties.

In response to that need, in 1997 the Congress directed the FCC to make 24 MHz of spectrum (currently TV Channels 63, 64, 68, 69) available for use by public safety. Unfortunately the legislation was linked to transition of TV stations in those channels from analog to digital signals and there is no date-certain deadline by which public safety will be able to use this spectrum.

We are in support of legislation to be known as "THE HOMELAND AND EMERGENCY RESPONSE OPERATIONS (H.E.R.O.) ACT" that would require current TV Broadcast Incumbents on those channels to vacate that spectrum for use by public safety no later than December 31, 2006.

We appreciate the efforts of you and your colleagues in Congress who will be introducing this legislation that is so urgently needed by law enforcement agencies throughout the United States.

Respectfully,

S/PATRICK D. MCGOWAN,
President.

INTERNATIONAL ASSOCIATION OF CHIEFS
OF POLICE,
Alexandria, VA, December 3, 2001.

Hon. JANE HARMAN,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE HARMAN: On behalf of the International Association of Chiefs of Police (IACP), I am writing to express our support for the Homeland and Emergency Response Operations (H.E.R.O) Act. As you know, the IACP is the world oldest and largest association of law enforcement executives with more than 18,000 members in 100 countries.

As you are aware, law enforcement and other public safety organizations in the United States are in critical need of additional radio spectrum to safely perform their mission critical duties. In response to that need, in 1997 Congress directed the Federal Communications Commission (FCC) to make 24 MHz of spectrum (currently used by television channels 63, 64, 68, 69) available for use by public safety. Unfortunately, the legislation was linked to the transition of television stations on those channels from analog to digital signal and there is no specific deadline by which this spectrum will be available for public safety use.

The public safety community, including the IACP, has repeatedly called on the FCC to assign this much needed spectrum to public safety in order to achieve critical interoperability in communications between agencies. For example, the agencies that responded to the terrorist attack on the Pentagon were unable to communicate with each other because they lacked the required spectrum for interoperable radio communications. Consequently, the IACP strongly supports the H.E.R.O. Act, which would require current television stations using those channels to vacate the spectrum for use by public safety no later than December 31, 2006.

We appreciate the efforts of you and your colleagues in Congress who will be introducing this legislation that is so urgently needed by law enforcement agencies throughout the United States.

Sincerely,

WILLIAM B. BERGER,
President.

INTERNATIONAL ASSOCIATION
OF FIRE CHIEFS,
Fairfax, VA, November 30, 2001.

Hon. JANE HARMAN,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HARMAN: The International Association of Fire Chiefs and, indeed, America's fire and emergency service, fully supports the Homeland Emergency Response Operations (HERO) Act to provide for the expected and increased assignment of spectrum for public safety.

In 1996 the Public Safety Wireless Advisory Committee reported to Congress on the needs for additional spectrum for public safety. In 1997 Congress responded to one of the recommendations by mandating that the Federal Communications Commission (FCC) allocate 24 MHz of spectrum for the exclusive use of public safety from the 700 MHz band occupied by television channels 60–69. The FCC complied; channels 63, 64, 68 and 69 have been reserved for use by public safety agencies. The FCC has promulgated rules for the 700 MHz public safety band which, when implemented, will provide much needed additional spectrum for both voice and data communication, and improve interoperability among 700 MHz band users.

These very positive developments are contingent on television stations vacating this spectrum by 2006—a provision in the 1997 Balanced Budget Act. The major barrier is a provision in that same law that allows stations to keep their analog channels beyond 2006 until at least 85% of the households in the relevant market have access to digital television signals. The problem, in short, is that there is no time certain for clearing the band for public safety. Neither public safety agencies nor radio equipment manufacturers can proceed until there is certainty. The benefits of this new spectrum will not be available to public safety until this current uncertainty is rectified.

The HERO Act addresses the issue of band clearing by providing a date certain that this spectrum will be available for public safety. This is consistent with the original intent of Congress to provide public safety with the key element of command and control—communications. Enhanced communications capability will clearly enable America's fire and emergency service to better deal with large scale incidents, natural disasters and acts of terrorism.

Very truly yours,

CHIEF JOHN M. BUCKMAN,
President.

NATIONAL ASSOCIATION OF COUNTIES,
December 3, 2001.

Hon. JANE HARMAN,
U.S. House of Representatives, Cannon House Office Bldg., Washington, DC.

DEAR REPRESENTATIVE HARMAN: On behalf of the National Association of Counties (NACo), I would like to commend you, and Representative Curt Weldon, for developing the, "Homeland Emergency Response Operations (HERO) Act."

The HERO Act is fully consistent with NACo's policy on releasing the 700 MHz band for public safety purposes, which reads as follows:

"Improve Public Safety and Emergency Management Communications: Increase interoperability for both voice and data, release additional spectrum in the 700 MHz band for public safety and emergency management use, and eliminate interference problems in public safety communications."

NACo believes it is critical that the 700 MHz band be made available at a date certain. This would facilitate counties making appropriate plans for utilization of the spectrum, develop solutions to the interoperability challenges for both voice and data, and allow the private sector to provide the technologies and equipment necessary to make for efficient utilization of the spectrum.

Clearly the events of September 11th bring into focus the important role interoperability has in disaster response and making this spectrum available will enhance our ability to carry out our role as "first responders".

Thank you for your leadership.

Sincerely,

JAVIER GONZALES,
President,
National Association of Counties
Commissioner, Santa Fe, NM.

INTERNATIONAL ASSOCIATION OF ARSON
INVESTIGATORS, INC.,
St. Louis, MO, November 30, 2001.

Hon. JANE HARMAN,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSWOMAN HARMAN: The International Association of Arson Investigators is pleased to endorse the "Homeland Emergency Response Operations Network Act".

This vital legislation is long overdue. Expedited assignment of the 761-776 and 794-806 megahertz to public safety use will provide much needed additional radio spectrum for America's emergency responders.

As one of the nation's major fire service groups we look forward to standing with you at next week's press conference. Following introduction we would be honored to work to seek passage of this important measure.

Sincerely,

STEPHEN P. AUSTIN,
Director of Governmental Relations.

SENATE—*Wednesday, December 5, 2001*

The Senate met at 9:30 a.m. and was called to order by the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of this Nation and Lord of our lives, in each period of history, You have blessed us with great leaders who have exemplified love for You and dedication to our country. Today we celebrate such a man. Thank You for Senator STROM THURMOND.

We join with all Americans in celebrating his 99th birthday. You have blessed him to be a blessing to his beloved South Carolina and to the Nation as a whole.

Thank You for the enrichment of our lives by this man. He has shown us the courage of firm convictions, the patriotism of love for this Nation, and devotion and true commitment to the Senate. We praise You for the personal ways he has inspired each of us. He is an affirmer who spurs us on with words of encouragement. Your Spirit of caring and concern for individuals shines through this remarkable man.

Gracious God, bless the Senator with the assurance of Your love and of our affirmation. Through our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HILLARY RODHAM CLINTON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, December 5, 2001.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mrs. CLINTON thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Madam President, this morning the Senate will resume consideration of the Railroad Retirement Act. Senator NICKLES will be recognized to make a point of order against the Daschle substitute amendment. Then Senator BAUCUS will be recognized to move to waive the Budget Act. There will be 30 minutes for debate on the motion to waive followed by a vote at approximately 10 a.m. If the Budget Act is waived, the Daschle substitute amendment will be agreed to and the Senate will vote on final passage of the act.

Following disposition of the Railroad Retirement Act, there will be 60 minutes of debate on the motion to proceed to the farm bill followed by a vote on the cloture motion to proceed to the bill.

MEASURE PLACED ON THE CALENDAR—S. 1765

Mr. REID. Madam President, I understand that S. 1765 is at the desk and is due for its second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. Madam President, I ask that S. 1765 be read for a second time, and I then will object to any further proceedings at this time on this legislation.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

> A bill (S. 1765) to improve the ability of the United States to prepare for and respond to biological threat or attack.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 10, which the clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 10) to provide for pension reform, and for other purposes.

Pending:

> Daschle (for Hatch/Baucus) amendment No. 2170, in the nature of a substitute

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. DASCHLE. Madam President, I will reserve some of my leader time to make a short statement as we wait to complete our work on the railroad retirement bill.

TERRORISM IN THE MIDDLE EAST

Mr. DASCHLE. Madam President, when our country was attacked on September 11, countless countries came forth to express condolences, to condemn those heinous attacks and to make clear that they stood with America in our time of trouble. The statements were a welcome reassurance from the family of nations that we would not be standing alone in the campaign against terror.

I come to the floor today to send my condolences to the families of the 26 Israelis killed in this weekend's attacks in Jerusalem and Haifa, to send my prayers to the scores more who were injured, to condemn in the strongest terms those attacks—and the attack that occurred just this morning, and to reassure our friends in Israel that just as they stood with us, we stand with them.

Like people all over the world, I went to bed on Saturday deeply shaken by the horrifying images from Jerusalem.

Not only were the attacks timed to occur during busiest time of the week in an area frequented by young people, but a second bomb was intended to maim and kill emergency response workers trying to assist the victims. It is some small measure of consolation that the second bomb didn't kill anyone. Still, it is hard to imagine a more inhumane plan; hard to imagine, that is, until I woke up Sunday morning, and heard reports of the second attack—in Haifa. In this case, a suicide bomber boarded a bus full of innocent people just starting their work week.

These coordinated bombings marked the deadliest terrorist attacks in the history of the State of Israel.

For the past 15 months, the United States, Europe, and moderate Arab states have called on Chairman Arafat to use his authority to put an end to this violence. At times we have heard helpful words, but we have not yet seen decisive action. Even this morning, after 2 days of international pressure to stop such violence, we hear of another suicide bombing in Jerusalem.

Terrorists have used the territories as a haven to plan and organize their murderous assaults, to build their bombs and recruit their suicide bombers. Instead of cracking down on this violence, Chairman Arafat has seemed all too willing to use it as a negotiating tool.

Such a strategy is more than cynical. It is dangerous, and it stands in stark contrast to the Oslo process that brought the region so close to a comprehensive peace just one year ago.

After Jerusalem and Haifa, Chairman Arafat's words alone are not enough. Symbolic actions—rounding up the usual suspects only to let them go again—is not enough.

Concrete steps to bring the planners of this weekend's attacks to justice are just a starting point. The world also expects—in fact, the world demands—that Chairman Arafat crack down on the organizations that harbor and support these terrorists.

We have already begun to hear a litany of reasons why it is difficult for Chairman Arafat to do what has to be done.

He is not responsible for the attacks, we are told.

He is not capable of controlling the terrorists. No one is, we are told.

We are also told that Israel's response hinders the Palestinian Authority's ability to move against the terrorists.

None of these excuses will stop the violence. And none is acceptable.

Time has run out. We are at the point where Chairman Arafat's lack of action against terrorists is a question not of capability, but of will. Only if he chooses to act decisively can he put this perception to rest.

If not, he will confirm the worst fears of the international—community that he is unable and unwilling to confront terror.

Without concrete action, Israel will be left with no choice but continue to defend itself.

The suicide bombings in Jerusalem in Haifa ended 26 innocent lives, but they also ended something else.

They ended any patience the world has for excuses and inaction on the part of Chairman Arafat and the Palestinian Authority.

It is time for them to prove that they have both the ability and the will to stop the bloodshed. It is time for them to join the family of nations and work to end the specter of global terrorism.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—Continued

AMENDMENT NO. 2170

Mr. NICKLES. Madam President, I make a point of order that the Daschle amendment No. 2170 violates section 302(f) of the Congressional Budget Act.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma is recognized to raise a point of order.

Under the previous order, the Senator from Montana is recognized to make a motion to waive the point of order.

Mr. BAUCUS. Madam President, I move to waive the relevant section of the Budget Act, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

Mr. BAUCUS. I withdraw the request, Madam President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Under the previous order, there will now be 30 minutes of debate to be equally divided between the Senator from Montana and the Senator from Oklahoma or their designees.

The Senator from Oklahoma.

Mr. NICKLES. Madam President, for the information of our colleagues, it is anticipated we will be voting at 10 o'clock. We may try to shorten that somewhat. It is anticipated we will have two votes, one on a motion to waive a Budget Act point of order, as entered by Senator BAUCUS, and also on final passage of the Railroad Retirement Act. I notify our colleagues that probably in the next 20 minutes or so we will be voting on these two measures, for them to plan accordingly.

I make a budget point of order because we didn't have any funding. The $15 billion in outlays we are getting ready to pass was not in the budget. Granted, this bill has a lot of support. It had a lot of support when we passed the budget, but it was not included. It was not included in the House budget. It was not included in the Senate budget.

We had a budget. The budget we agreed upon said we were going to have so much in spending. This was not part of it. So we have to waive the budget if we are going to pass it, or a budget point of order lies, or else we are just breaking the budget.

The reason I raise this point is that Congress in the last several months has been, in my opinion, pretty irresponsible. We have had spending grow dramatically, and yet many people are saying it is not enough. Some people are saying, because of the disaster on September 11, we need a lot more money for this and for that. Some of us need to kind of total it up. I don't think we have totaled it up. Spending is growing dramatically.

I looked at the amount of money we spent in fiscal year 2000, last year. It was $584 billion in total discretionary spending. In 2001, the year we just completed, it was 640. That was a 9.6-percent increase for domestic spending. For nondefense spending, that was 14-percent growth over the previous year.

That is a big increase. Nondefense spending last year, the year we just completed in September, grew at 14 percent.

President Bush's budget said let's have spending grow, total discretionary spending, up to $679 billion. That was a 6-percent increase. After the disaster of September 11, we had a bipartisan agreement to get the budget agreed to of $686 billion. In addition to that, President Bush agreed to the $40 billion, money for New York, for Virginia, for defense. That was an additional $40 billion. Add the $40 billion to the $686 billion; that is $726 billion. That is a growth in outlays of 13.3 percent. And that is still not enough. It doesn't include the $15.3 billion we are talking about that will be required outlays for railroad retirement. If you add that together, that is another 15.6 percent.

Somebody said that doesn't count because we have scorekeeping. We said we are going to put language in here: don't count it. The fact is, you are going to have outstanding publicly held debt that is going to grow by $15.3 billion as a result of this bill. The fact is, we will be borrowing that $15.3 billion; Treasury will borrow additional money. It is not coming out of the surplus. It is not even coming out of Social Security. It is coming out of publicly held debt. We are going to borrow more money, and we are paying about $1 billion per year every year, maybe every year forever, to pay for this bill.

The 10-year cost in interest expense is going to be about $10 billion. Our colleagues should know that. The amount of outstanding publicly held debt as a result of passage of this bill will be growing. I think people have not looked at that.

Then there are a few other items in the mill. When we take up the DOD appropriations bill, I understand Senator BYRD has an amendment to add an additional $15 billion for homeland defense and other things on top of it. We haven't considered that yet, but that is in the mill.

We have already passed airline assistance. I didn't add that. That had outlays of about $5 or $6 billion, loan guarantees for up to another 10. We don't know how that will score. It depends on how many will default. But there is additional exposure there as well.

We have a stimulus package that was reported out of the Finance Committee, two-thirds of which was spending, mostly outlays. Some of it was for unemployment compensation, some of it for cash payments to people who didn't pay taxes. But the net result of that stimulus bill that passed out of the Finance Committee and that we considered on the floor was about an additional $50 billion in outlays.

We have an agriculture bill we will be considering probably later today. It has additional outlays. And we have a victims compensation fund that was part of the airline bailout bill that no one knows, no one in the genius of this body who authorized and passed that legislation, how much it is going to cost. It could cost billions of dollars. We don't know how much the insurance companies are going to pay. We don't know what kinds of rewards are going to be made to the survivors and to the victims of the September 11 disaster. It could cost billions. Congress legislated that little package. I was part of the negotiations in the final hours. No one has a clue how much it is going to cost. It could be in the multibillions of dollars.

My point is, if you add all these numbers, we may be looking at spending growth in the 20- or 24-percent range. It is as if there is no budget whatsoever.

I raise a budget point of order. That is why we have a budget. A budget doesn't do any good if you are not going to use a point of order. Unfortunately, in many cases people in the Budget Committee haven't felt inclined to use it. We waive budgets in cases of national emergency. I supported the $40 billion that was included. We believed that was a national emergency. We were attacked. Let's give money for defense of our country to go after those persons who attacked the United States. I am all for that. Let's assist people who need the help in New York and Virginia and Pennsylvania. We supported that. We waived the budget to do it.

Maybe we will waive the budget to do railroad retirement. I expect we probably will. The special interest groups have everybody on board this bill regardless of how much it costs, regardless if it may bankrupt the fund. The railroad retirees and their own accountants say the trust fund balance goes down to almost 1 year of payments in several years, almost bankrupting the fund.

How does it do that? It greatly increases benefits, and it cuts payroll taxes. It leaves Uncle Sam as still guaranteeing the benefits. I would be all in favor of the railroads and the employees making whatever kind of deal they want to make for their benefits. If it is more generous than any other retirement plan in America, so be it, as long as they don't ask for taxpayers to guarantee it and pay it.

Unfortunately, they are asking for both. They want one of the most generous retirement benefits in the country: 100 percent retirement at age 60, 100 percent survivor benefits. That is great. But they also want us to pay for it if the fund goes broke, and even their own projections have it almost going broke. Then to say now, yes, and we want to waive the budget—the budget doesn't count?

If we are going to have a budget, let's use it. Let's abide by it. Let's have unanimous votes if we are going to waive it for cases of national emergency. This is not a national emergency. That is the reason I made the budget point of order. I urge my colleagues to support it.

I don't want to see our colleagues on the floor next year, or maybe even a month from now, saying: Where did the budget surplus go? We are now in deficits. Where did it go? It must have been those Republicans. They passed a tax cut. That tax cut, in the first year, was $37 billion.

Let's see, I totaled up $40 billion for emergency spending, $15 billion for airlines, $15 billion for railroads, and $15 billion that Senator BYRD is trying to pass. No telling how much spending will be in the so-called stimulus package. When you add it up, there is going to be much more of a spending problem than a tax cut problem.

My colleagues may say: Wait a minute, did I vote to waive the budget? Did I vote for that extra spending?

This is deficit spending. We are going to borrow an additional $15 billion. We are going to have to waive the budget to do so. I urge my colleagues to vote "no" on the motion to waive the budget point of order.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I yield such time as the Senator from Delaware desires.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized.

Mr. CARPER. Madam President, I agree with my friend from Oklahoma on several of the comments he just made. We can ill afford, even in the environment in which we live today, to forget about fiscal restraint and the responsibility to manage our finances, not only in the short term but in the long-term. But it is not just spending that we need to watch. It is also the nature of the tax cuts that we have adopted and the ones we are considering adopting as part of the economic stimulus package.

Let me take a somewhat different approach to the legislation before us, for which we are now considering the step of waiving the Budget Act. I thank Senator BAUCUS for bringing the measure to the floor. I thank our leader for bringing this measure to the floor. I salute Senator HATCH and others who have introduced the legislation, which I have cosponsored. I am not aware of anywhere in the Federal Government where we have a private sector type of pension plan. The railroad retirement is somewhat difficult to understand. Let me take a minute and contemplate what it is and what it is not.

The railroad retirement, which provides retirement benefits for hundreds of thousands of railroaders and their survivors, is a two-tier plan. Tier 1 deals with Social Security benefits, or reflects and mirrors Social Security benefits. We are not talking about addressing or dealing with those. Tier 2 is a pension plan that goes beyond Social Security benefits. Most people who work in the private sector in this country realize Social Security benefits. They also have a pension plan, in many cases, from their own employer. Those employers contribute to those plans. The employees contribute to their employer's pension plan established for them. Most employers, private sector employers and, frankly, most public sector employers around the country who have pension plans—the moneys that go into those plans are invested, but they are not invested exclusively in securities issued by the U.S. Treasury.

Tier 2 of the railroad retirement plan is different because the moneys that are contributed by the employers—the railroad companies—and moneys contributed by employees of those railroads to the pension fund, the trust fund, are invested only in securities issued by the U.S. Treasury. Many States and local governments have changed the way they invest their pension moneys. They have invested now in equities, corporate stocks, and other investment options because the yield there is greater and they are able to provide better benefits and reduce their contribution into their pension fund.

The question before us in this bill is, Should we provide the same kind of flexibility for railroad companies and railroad retirees when contributing to their tier 2 pension plans? Should we give them the same flexibility that is enjoyed by other employers throughout the country? I believe we should. The question also is, In doing that, does that somehow cause an outlay by the Federal Government? We still work in the Federal Government under a cash basis of accounting. Most companies and, in fact, almost all State and local governments use the accrual form of accounting. If we use an accrual form of accounting, my guess is we would not be debating whether or not this is actually a $15 billion cash outlay. I think the point would be moot. But we still use the cash basis, so that is the law under which we operate.

Having said that, we are not talking about the need to spend another $15 billion to build roads. We are not talking about another $15 billion to provide better health care. We are not talking about another $15 billion to provide better environmental protection. We are talking about a step here that says to the folks who oversee tier 2 pension funds contributed to by employers—the railroad companies—and the railroad employees: You don't have to just invest the money in your trust fund in U.S. Treasury obligations. You can invest in other kinds of investments, such as securities, which would provide a greater yield, and then that anticipated yield, which has been proven over history, that greater yield will enable that pension fund to provide better benefits to railroad retirees and to their survivors.

That anticipated greater yield—again, proven historically —would enable the railroad companies, the employers, and the employees—particularly the railroad employers—to reduce their contribution somewhat. That is what this is all about. And because of an anachronism, we are forced to go through this procedure of waiving the budget law and the extraordinary procedure yesterday of directing the spending.

This is a good measure. When we think it through and we look at the numbers and the requirement for the railroad companies, the employers, to increase their contribution, if the tier 2 fund does run out of money, this is a measure that is responsible. I want to say to those who brought it to the floor, on behalf of the hundreds of thousands of railroad employees and pensioners and survivors, thank you for taking this step for them and the companies for whom they work. I say to the chairman of the Finance Committee, thank you again for bringing the measure to the floor and for yielding this time to me today.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mr. GRAMM. How much time do we have on our side?

The ACTING PRESIDENT pro tempore. Six minutes.

Mr. GRAMM. Madam President, let me first congratulate the Senator from Oklahoma. I think what has happened basically is that we have seen a very impressive lobbying effort where the railroads have gotten together with the unions and divided up $15 billion, which is the only barrier between the taxpayer and massive injection of Federal funds into the railroad retirement program. And basically this has been lobbied as some movement toward private investment in railroad retirement.

The Senator from Oklahoma and I both support private investment, but the problem is that under the cloak of investing this $15 billion, as the actuaries of railroad retirement show very clearly, under this bill, $15 billion plus all the interest earned on all the investments made will be pillaged over the next 17 years as that money is taken out and miraculously divided exactly equally between the railroads and the railroad retirees.

The railroads have lobbied hard for the bill because they say they cannot pay 16.1-percent payroll taxes. They can't afford it. Yet under this bill, in 19 years, they are going to be moving toward paying 22-percent payroll taxes because they will have depleted the trust fund. Does anybody believe they can or will pay 22-percent payroll taxes in 19 years? Does anybody believe the railroads are not going to be before the Congress saying they will be driven into bankruptcy, and they will have to shut down every railroad in America if they are forced to pay a 22-percent payroll tax? But that is what is required to keep this program solvent, after you pillage $15 billion.

I thank the Senator from Oklahoma. This has been an uphill battle. Americans love bipartisanship and they love consensus. Those are wonderful things, but they are very dangerous things. What we have had is the railroads and the labor unions getting together, each having their affection attracted because they each get $7.5 billion, but what we have really seen is a consensus against the taxpayers' interest. The Senator from Oklahoma has been courageous in standing up and pointing out that this emperor has no clothing. I congratulate him for that. We are going to have one final vote before the bill is passed, and that is a point of order.

The telltale sign of the problem with this bill is not just that $15 billion is divided up between the railroads and the railway unions. It is that in making the transfer this year, we are going to increase the deficit by $15.3 billion. We have a budget that gives us some power in trying to prevent these things from happening. If we were offsetting the $15.3 billion in some other way, there would be no budget point of order, but there is a budget point of order because we are violating the budget.

The final vote we are going to have is the vote on whether or not we are going to enforce the budget. I have to say, we have already started to see a partisan debate where many of our colleagues are saying we have a deficit because of the tax cut. Today on this bill, we are going to raise the deficit by 40 percent of the impact of the entire tax cut for this year. In fact, we are approaching the point where we will have increased spending $100 billion above the budget this year.

If somebody votes to waive the budget point of order and says, we do not care about the budget, the sky is the limit, we can spend anything we want to spend and this is a popular thing to spend it on, then I hope they will not be out arguing that they are very concerned about the deficit.

You cannot have it both ways. You cannot be for adding $15 billion to the deficit and be concerned about the deficit. You cannot be for increasing the deficit on one day and blaming somebody else for it on the other.

I thank our colleague for his leadership. I intend to vote against waiving the budget point of order. I hope my colleagues will as well.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Montana.

Mr. BAUCUS. Mr. President, I will be brief. We have had these arguments and made our points many times. It is important to put all of this in perspective. There is a lot of arcane budget language discussion here. A lot of that is very important. There is an important reason for having budgets.

Cutting through all the technical budget arcane language and green eyeshade stuff, very simply the situation is this: The railroad retirement trust fund has built up a large balance. The question is what we should do about that.

We have decided in this legislation that the balance should be reduced by lowering the taxes the railroad companies have to pay—and they are extraordinarily high taxes today—and also increasing survivor benefits, for example, and the early retirement age which conforms with current practices in other industries.

The charge is made that the balance will be too low, and that is going to jeopardize the budget, it is going to jeopardize the trust fund.

The fact is this legislation provides for many safeguards; there are actuarial reports, financial statements, and reports to the contrary. The actuary himself has said at no time, even under this legislation, will the balance in the trust fund be at such a level that it jeopardizes the fund or payments to the beneficiaries or cause undue strain on the railroad companies. That is the actuary's projection. He makes that projection for the next 75 years.

Those of us in Congress have a hard time trying to predict what the economic situation is going to be 10 years from now. That is pretty hard to predict. What we are talking about with this legislation is at least 20 years from now, because that is when the trust fund is going to be dipping down to a lower level than is the case today. We have all kinds of oversight reports required by the legislation to make sure the trust fund is safe.

The Senator from Oklahoma says we have to borrow $15 billion. That is technically true, but that is a wash because the trust fund will receive $15 billion in assets. We have unified accounting in this case, so as a practical matter, that has virtually no effect on the budget.

Also, with respect to the trust fund, it is a wash, too, because some of those securities will be private securities as opposed to public securities.

Altogether, this is a bill that has been worked on for a long time. Seventy-four Members of the Senate cosponsored this legislation. We considered the bill last year in the Finance Committee. Over 20 amendments were offered. The House has passed this legislation twice, both times by very large margins. If this point of order is not waived, if this technicality is not waived, then there will be no bill passed and this bill is going to die.

Mr. REID. Will the Senator yield 2 minutes to the Senator from Nevada?

Mr. BAUCUS. Absolutely.

Mr. REID. Mr. President, this legislation is sponsored by Senators BAUCUS and HATCH. If there were ever two people who are fiscally conservative, it is Senators BAUCUS and HATCH. I do not need anything else other than to know they are the ones who are pushing this legislation to make me very comfortable with every vote I have taken.

I publicly commend and applaud Senators BAUCUS and HATCH for their leadership on this issue. We have gone a long way the last few days under their leadership. Everyone should feel very good about waiving the Budget Act. Remember, we are being asked to do this by two of the most fiscally conservative people we have in the Senate—Senators BAUCUS and HATCH.

Mr. BAUCUS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Fifty-three seconds.

Mr. NICKLES. Mr. President, I want to clarify a few points. This $15 billion transfer in the outstanding publicly held debt is not a wash. That is $15 billion added to the deficit, added to national debt. We are going to have to borrow about $1 billion a year, maybe forever, to pay for this. The Senator from Montana said this legislation makes benefits conform with the norm. It is not the norm in the private sector pension benefits to get a 100-percent pension benefit at age 60. That is not the norm. Nor is it the norm to have survivor benefits equal 100 percent. That is not the norm. They are very generous benefits.

I do not begrudge them having generous benefits. I just do not want to have taxpayers pay for them when and if the fund goes broke, and even under their projections it almost goes broke. Why? Because we increase benefits and cut the taxes and also we keep the Federal guarantee, and we have to waive the Budget Act to do it.

We did not put this money in the budget. We should have. I urge my colleagues not to waive the budget act provisions.

I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana has 4½ minutes remaining.

Mr. BAUCUS. Mr. President, I am not going to use all my time. We have had a very good debate on this bill. I strongly urge Members to vote to waive the point of order because this is a very sound, fiscally responsible bill. I know Senators will be very proud in voting for this legislation.

The PRESIDING OFFICER. The Senator yields back his time.

All time having expired, the question is on agreeing to the motion to waive section 302(f) of the Congressional Budget Act of 1974 in relation to amendment No. 2170. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent attending a funeral.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 80, nays 19, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—80

Akaka
Allen
Baucus
Bayh
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Burns
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Graham
Grassley
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lincoln
McCain
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—19

Allard
Bennett
Bunning
Campbell
Cochran
Ensign
Frist
Gramm
Gregg
Helms
Kyl
Lott
Lugar
McConnell
Nickles
Smith (NH)
Thomas
Thompson
Thurmond

NOT VOTING—1

Lieberman

The PRESIDING OFFICER. On this vote, the yeas are 80, the nays are 19. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to. The point of order falls.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order the amendment No. 2170 is agreed to.

Mr. SMITH of Oregon. Mr. President, I rise today in strong support of legislation to reform the Railroad Retirement system. Reform legislation has 75 cosponsors in the Senate and I am proud to be one of them. Over the past 65 years, Railroad Retirement has provided a safe guarantee of benefits to railworkers and their families. In order to keep these benefits secure, both management and labor have endeavored to come up with an agreement that would strengthen the Railroad Retirement system, and I believe that this legislation, The Railroad Retirement and Survivors' Improvement Act has done just that.

This legislation represents a balanced benefits package that together with phased-in tax cuts can provide and ensure the financial integrity of the Railroad Trust fund. This bill introduces sound investment techniques into the effort to make better use of resources built up by railway employees many who live in my home State of Oregon.

The legislation relies upon a number of features to ensure the fund will meet its benefit obligations to retirees:

Fund Reserves. The legislation maintains four to six years worth of benefits in reserve as a safety margin.

Automatic Tax Adjustment. Tax rates on employers and employees will be adjusted automatically in an effort to maintain a fund balance sufficient to pay between four and six years of benefits.

Asset Management. Assets will be managed much like private pension funds, providing the opportunity to earn higher rates of return than the current 6 percent rate of return. Higher returns will provide additional funds for benefit payments and reduce the need for high payroll taxes.

I have been particularly worried about the plight of widows and widowers of retired railroad employees. Under current law, their monthly checks actually decline by two-thirds when a spouse dies. I believe this trust fund can do better by these widows and widowers and am happy that this legislation calls for the surviving spouse to receive 100 percent of what the retired employee was entitled to. Almost 50,000 retirees will be affected by this provision.

Further, this legislation allows the industry to reduce the burdensome payroll tax it now carries to provide benefits. A three percentage point drop in payroll taxes is phased in over three years. The payroll tax was a very real disincentive to hiring employees or replacing retirees and it frees up capital for other expenditures.

I am sure that the relatively swift passage of this reform legislation is welcome by those in the Railroad industry and urge all my colleagues, including the 75 cosponsors of this bill in the Senate, to continue to give it strong backing to ensure these needed improvements are enacted and beneficiaries see these desperately-needed changes.

CONGRATULATING SENATOR STROM THURMOND ON HIS BIRTHDAY

Mr. DASCHLE. Mr. President, this is a historic day in the Senate's history. Our colleague, the senior Senator from South Carolina, is celebrating his 99th birthday today. Bob Dole used to say that he followed STROM THURMOND very carefully; whatever he ate Bob Dole would eat. I have taken on that practice myself.

I congratulate Senator THURMOND on his 99th birthday today and wish him well. We are delighted to serve with him and honored that he is here with us today. We congratulate him on a very special occasion, not only in his life but in the life of the Senate as well.

(Applause, Senators rising.)

Mr. THURMOND. I love all of you men, but you women even more.

Mr. LOTT. Mr. President, I observe Senator THURMOND's microphone was not on at that moment. I do want to observe also on this very happy 99th birthday, he is looking rather dapper today. He asked if perhaps the tie was a little too bright, and I said, no, it was befitting of him on this special occasion.

We all extend our birthday wishes and very best wishes for the future to Senator THURMOND. He has been an example and an inspiration to all of us. He has been a tremendous servant for the people of South Carolina. I have known very few people in my life more dedicated to their job and to the people they represent. We are just so very proud of Senator THURMOND and extend him our very best wishes. Thank you, sir.

(Applause, Senators rising.)

Mr. THURMOND. Thank you very much. I want to thank all of you. I appreciate every one of you, especially you ladies. You're all good looking. God bless you.

(Applause, Senators rising.)

Mr. BYRD. Mr. President, with great pleasure, I wish the happiest of birthdays to the senior Senator from South Carolina. It was 99 years ago today that STROM THURMOND was born in Edgefield, SC.

Ninety-nine years old, what a feat. that makes him old enough to be my big brother!

When he was born, December 5, 1902, the Wright brothers had not yet made their historic flight at Kitty Hawk. He has lived to see men walking on the Moon and American space vessels exploring the far reaches of our galaxy.

When he was born, Theodore Roosevelt was President of the United States. Since then we have had 16 more Presidents.

When he was born, the Kaiser still ruled in Germany. Since then, that country has seen the rise and fall of the Weimar Republic, the rise and fall of Nazi Germany, a divided Germany, and now a united Germany.

When he was born, the Czar still ruled in Russia. Since then, that country has experienced the Russian Revolution, the Bolshevist government, the Communist government, the Soviet empire, and now Russia again.

Almost as intriguing has been the extraordinary career of our remarkable colleague. During the same time period, he has been a teacher, an athletic coach, an educational administrator, a lawyer, a state legislator, and a circuit court judge.

He won his first elective office, County Superintendent, the same year that Herbert Hoover won his first elective office, 1928. He was a soldier in World War II, where he took part in the D-Day invasion of Normandy. He was a presidential nominee in 1948 and the governor of his beloved State of South Carolina from 1947 to 1951. He has been a Democrat, a Dixiecrat, and a Republican. Most of all he is a great American.

All of this would have been more than enough experiences and achievements in one lifetime for most mortals. But, incredibly, STROM THURMOND's greatest days were still ahead of him.

In 1954, he won his first election to the U.S. Senate as a write-in candidate—making him the only person in history to be elected to the Senate as a write-in candidate. He has now become the longest-serving Senator in history, and the oldest person ever to have served in the Senate.

But it is more than longevity that has made STROM THURMOND an extraordinary Senator. As chairman of the Senate Armed Services Committee and chairman of the Senate Judiciary Committee, he has fought for a stronger military to keep our country free, and he has fought for tougher anti-crime laws to make our streets safer. As President pro tempore of the Senate, he brought dignity, style, and a southern refinement to this important position.

For these and other achievements, he has had high schools, state and federal buildings, as well as streets, dams, and town squares named in his honor. A few years ago (1991), the Senate designated room S–238 here in the U.S. Capitol as the "Strom Thurmond Room" "in recognition of the selfless and dedicated service" that he has "provided . . . to our Nation and its people."

On this, his 99th birthday, I wish to say what a privilege and an honor it has been to have served with this remarkable man for all these years.

He has always been an outstanding legislator, a Southern gentleman, and foremost, a good and dear friend.

Happy birthday, Senator. God Bless you.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—Continued

The PRESIDING OFFICER. The cloture motion is vitiated and the clerk will read the bill for the third time.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. Under the previous order, the bill having been read the third time, the question is, Shall the bill pass?

Mr. BAUCUS. Mr. President I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent attending a funeral.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 9, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—90

Akaka
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lincoln
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—9

Allard
Gramm
Gregg
Helms
Kyl
Lott
Nickles
Smith (NH)
Thomas

NOT VOTING—1

Lieberman

The bill (H.R. 10) was passed.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the title amendment be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The title amendment was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank all those who worked so assiduously, thoughtfully, and carefully on this bill. There are lots of people I could commend. Two people I particularly commend are on my staff: Tom Klouda and Alan Cohen, who are sitting at my left. They know this issue inside and out and have been of invaluable service to me personally. I just want them to know how much I appreciate their very fine work. They have done a great job.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to address the Chamber as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST— H.R. 1291

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 194, S. 1088; further, that the Rockefeller-Specter substitute amendment at the desk be agreed to, the committee-reported substitute amendment be agreed to, as amended, the bill be read a third time, that the Veterans Affairs Committee be discharged from further consideration of H.R. 1291, the Senate proceed to its immediate consideration, that all after the enacting clause be stricken, the text of S. 1088, as amended, be inserted in lieu thereof, the bill be read a third time and passed, the title amendment be agreed to, S. 1088 be returned to the calendar, and any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROCKEFELLER. Mr. President, I must say that I am mystified as to why there would be an objection to proceeding to consideration of this bill. I realize that the objecting Senator is not the one holding up passage of this important piece of veterans legislation. But as the hold is anonymous, I would ask whichever one of the Senators across the aisle is holding the bill to please come and speak to me to let me know the nature of the objection. As far as I know, the Committee's Ranking Member also has no idea who has objected to the bill. This bill was voted unanimously out of Committee and is completely lacking in controversy.

More specifically this bill makes significant enhancements to educational benefits for veterans and their families. The original GI Bill allowed a generation of soldiers returning from World War II to create the booming post-war economy, and, in fact, the prosperity that we enjoy today. Today's Montgomery GI Bill, MGIB, modeled after the original GI Bill, provides a valuable recruitment and retention tool for the Armed Services and begins to repay veterans for the service they have given to our Nation. As a transition benefit, it allows veterans to gain the skills they need to adjust productively to civilian life.

I am very pleased that the legislation would increase the MGIB basic monthly benefit by $50 per month this year, $100 in 2002, and $150 in 2003. I am even more proud that this bill also takes the next evolutionary step to keep pace with the careers and education that today's veterans require. As our colleagues know, many servicemembers leave the military with skills that place them in demand for careers in the technology sector. But even these veterans may require coursework to convert their military skills to civilian careers. The bill would allow veterans to use their Montgomery GI Bill educational benefits to pay for short-term, high technology courses that would allow veterans to earn the credentials they need to gain entry to today's civilian-sector careers.

Currently, the MGIB provides a basic monthly benefit of $672 for 36 months of education. This payment structure is designed to assist veterans pursuing traditional four-year degrees at universities. However, in today's fast paced, high-tech economy, traditional degrees may not always be the best option. Many veterans are pursuing forms of nontraditional training, such as short-term courses that lead to certification in a technical field. In certain fields, these certifications are a prerequisite to employment.

These courses often last just a few weeks or months, and can cost many thousands of dollars. The way MGIB is paid out in monthly disbursements is not suited to this course structure. For example, MGIB would pay only $1,344 for a two-month course that could cost as much as $10,000.

The percentage of veterans who actually use the MGIB benefits they have earned and paid for is startlingly low—45% of eligible veterans, according to VA's Program Evaluation of the Montgomery GI Bill published in April 2000—despite almost full enrollment in the program by servicemembers. By increasing the flexibility of the MGIB program, we will permit more veterans to take advantage of these benefits. We should give veterans the right to choose whatever kind of educational program will be best for them.

This legislation would modify the payment method to accommodate the compressed schedule of the courses. Specifically, it would allow veterans to receive an accelerated payment equal to 60 percent of the cost of the program. This is comparable to VA's MGIB benefit for flight training, for which VA reimburses 60 percent of the costs. The dollar value of the accelerated payment would then be deducted from the veteran's remaining entitlement. This provision would also allow courses offered by these providers to be covered by MGIB.

A provision that is extremely important right now would preserve educational benefits for those that must leave their studies to serve on active duty in support of the National Emergency declared in response to the events of September 11th. This provision would restore educational entitlements for recipients of the Montgomery GI Bill, Veterans Educational Assistance Program, VEAP, and Dependent's Educational Allowance, DEA, for regular servicemembers and reservists who are called up for active duty and who are forced to relocate or take on extra work because of their participation in support of the National Emergency. Their ability to complete their education should not be compromised because they were called up in our fight against terrorism.

The bill would also increase the Dependent's Educational Allowance for dependents and eligible spouses of veterans to $690 from $588. This program primarily provides for the children whose education would be impeded because of the disability or death of a parent due to a service-related condition. In addition, unremarried surviving spouses of veterans are generally eligible for the educational allowance in order to assist them in preparing to support themselves and their families at the standard-of-living level that the veteran could have been expected to provide for his or her family but for the service-connected disability or death. As we send troops into harm's way, it is entirely appropriate that we ensure that their families' futures are secure.

The bill also enhances home loan programs. VA provides a guaranty to mortgage lenders rather than a direct home loan to servicemembers and veterans. A VA guaranty allows a veteran to buy a home valued at up to four times the guaranty amount. The price of homes in major metropolitan areas has increased significantly in the last several years, yet the VA guaranty amount has not been increased since 1994.

This bill would increase the home loan guaranty amount to support a loan of up to $252,700, keeping pace with FHA loan guaranties. It would also extend for 4 years the authority for housing loan guaranties for members of the Selected Reserve, currently set to expire in 2007. Reservists must serve 6 years in order to become eligible for a VA-guaranteed loan. In order for the home loan to be used as a recruiting incentive now, the benefit must be authorized beyond 6 years.

Another provision of the bill would correct an unintended exclusion of certain Gulf War veterans from eligibility for service-connected benefits. Our efforts to explain symptoms reported by many troops returning from the 1991 Gulf War have been frustrated by inconclusive scientific data and by poor military record keeping during the conflict. In 1994, Congress passed the Persian Gulf War Veterans' Benefits Act to provide compensation to certain Gulf War veterans disabled by "undiagnosed illnesses" for which no other causes could be identified.

Since then, changes in medical terminology have led many Gulf War veterans to receive diagnoses for chronic conditions without known cause—such as chronic fatigue syndrome and fibromyalgia—which VA has interpreted as precluding them from eligibility for benefits. Section 202 of the Committee bill would correct this unintended exclusion by expanding service connection to "poorly defined chronic multisymptom illnesses of unknown etiology, regardless of diagnosis," characterized by the symptoms already listed in VA regulations.

Because scientific research has still determined neither the cause of veterans' symptoms nor the long-term health consequences of Gulf War-era exposures, and because the Department of Defense recently expanded its estimates of who might have been exposed to nerve agents, this section also extends the presumptive period for benefits for Gulf War veterans for 10 more years.

This bill would also remove the arbitrary 30-year limit for manifestation of Agent Orange-related respiratory cancers in Vietnam veterans. Current law only provides a presumption in Vietnam veterans for respiratory cancer if the disease manifested within 30 years of their service in Vietnam. The most recent National Academy of Sciences report confirmed that there is no scientific basis for assuming that cancers linked to dioxin exposure would occur with a specific window of time. This provision would eliminate the 30-year limit and allow future claims for Vietnam veterans' respiratory cancers, irrespective of the date of manifestation of the disease.

As you can tell, these are important provisions. But they are also not opposed by anyone, as far as I can see. So why would someone block their passage? What further adds to my confusion is that a very similar scenario played out just a few weeks ago, with the very delayed passage of legislation to improve programs to homeless veterans. As America honored its veterans on Veterans Day, a member of the Senate was blocking legislation to help those who have put their lives on the line defending this country but who have fallen on hard times.

How is it, at a time when our Nation is at war and the resounding call of patriotism rings in our ears a Senator or Senators is playing penny ante partisan politics with legislation to help veterans, servicemembers and their dependents? Everyone is now flying the American flag. It is time that we act to honor those who carried it into battle.

Again, I request that whomever has placed a hold on this bill please come to speak to me I look forward to working with this colleague to resolve whatever impediments there are to Senate passage of this bill.

UNANIMOUS CONSENT REQUEST—H.R. 2716

Mr. WELLSTONE. Mr. President, I thank my colleague, Senator ROCKEFELLER, who is chair of the Veterans' Committee for his work. As a member of the committee, I am very proud to support his request.

I say to the Senator from West Virginia, he has outlined, in this legislation passed out of the committee, a set of benefits that are so important to veterans. Yet it is being blocked by an anonymous hold.

I also now ask unanimous consent—this is another piece of legislation that I worked on together with Senator ROCKEFELLER—that the Senate proceed to the immediate consideration of Calendar No. 201, H.R. 2716; that the Rockefeller-Specter substitute amendment be agreed to; the act, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there an objection?

Mr. BURNS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, this is legislation that didn't just come up yesterday. It is something any number of us have worked on for the last year and a half, 2 years—LANE EVANS and CHRIS SMITH from the House, Senators ROCKEFELLER, SPECTER, myself. This is a passion for me, focusing on homeless veterans. I think about a third of the adult males of this country who are homeless are veterans.

It is a scandal what we do with this legislation, which passed out of our committee 21 to 0 or thereabouts, a unanimous vote. It may have been a voice vote but a unanimous vote by the committee. What this amendment does is it provides services for veterans who are struggling with PTSD, addiction. Many of these veterans are Vietnam veterans. I used to spend a lot of time organizing the street people. This was long before I ran for the Senate. Many of them were veterans. Many of them were Vietnam veterans.

This legislation provides job training assistance. It also enables veterans to try one-stop shop places where veterans can get the help they need and tries to move people into affordable housing.

There is an anonymous hold. I went through this on this veterans homeless bill four or five times before Thanksgiving. I know the Senator from Montana himself is not the one who objects. This is an anonymous hold.

My hold is not anonymous. I announced yesterday, I have a hold on every single piece of legislation, every resolution that is nonemergency. We do a lot by unanimous consent in the Senate. We have unlimited debate. I love the Senate for that reason. We have unlimited amendments. I love the Senate for that reason.

One of the ways we get a lot done is we work this through committees. We massage it. We get everybody together and get consensus and we pass bills by unanimous consent.

Since this is an anonymous hold, my hold is not anonymous. I have a public hold on every piece of legislation now from the other side until this passes. I had to do that before Thanksgiving. I have to do it again.

This did not come up just yesterday. We have been working on this matter for the last couple of years. Anybody who objects can come out here and object. We can debate it. I will say to my colleagues that this is truly reprehensible.

It is not just the playing games. I use my leverage to fight for what I believe. In this particular case I am going to fight for veterans. I am proud to do so. It has been among the most meaningful work I have ever done as a Senator.

I am not a veteran. I was very involved in the war against the Vietnam war. When I was elected to the Senate, I had some contact with veterans but not much. I was a college teacher in Northfield, MN. I knew some of the veterans but not well.

I especially didn't understand a lot of the World War II veterans. I didn't know them. The best thing that has ever happened to me—I am not being melodramatic—as a Senator is that I have learned a lot. I have grown as a person. I have had to be with a lot of people who don't see the world the same way I do, which is good. Veterans have been my teachers. There are so many issues I have worked with for veterans. This one I feel especially strongly about. It goes back to my community organizing days when a lot of poor people were homeless and many of them were veterans.

I know a lot of these veterans. They come to our office in Minnesota. You will be at a meeting with some of the veterans and guys who are struggling with PTSD. They can't sit that long. They will get up every 10 minutes. They will leave, and then they will come back. They are really struggling. So are a lot of other veterans.

Don't you think it is a scandal that so many homeless people today in our country are veterans and many of them Vietnam vets? Don't you think it is a scandal that there is an anonymous hold on its consideration on the floor of the Senate?

I was asked yesterday by a journalist whether or not the Senate's former majority leader, TRENT LOTT, violated his word. Absolutely not. We went through this before Thanksgiving. Everybody wanted to get this bill through dealing with the Internet and taxes or not taxes. The agreement was that the bill I had would go through and so then I took the hold off other legislation.

Now we have something that has come back from the House, we preconferenced it, and Representatives CHRIS SMITH and LANE EVANS worked hard on that. It is a better version. I love working with other people. Now we have this anonymous hold.

There are three issues here. No. 1, I thought we were doing some reform here on anonymous holds. I don't know what in the world is happening. Something has broken down because, obviously, people continue to do it. That is No. 1.

Second is the substance. I don't really know what the objection can be to this legislation. I don't know why a Senator would be opposed to getting more resources and providing more help to veterans who are homeless. I don't understand it, but I would like to see somebody come out and debate it.

Third, I was asked about the motivation. One more time, I have no idea what the motivation is. I don't know what is going on here politically. But I will say this. I can promise my colleagues that no other legislation is going to move unless it is an emergency. My hold is not anonymous. No resolutions, no other legislation. Pretty soon, I might even get to nominations in a day or two. That is what I will do until this passes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I ask unanimous consent to speak for no more than 5 minutes on the subject of a column I will talk about.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to follow Senator KYL.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT BUSH'S SECURITY MEASURES

Mr. KYL. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a column in the December 5 edition of the Arizona Republic, the primary newspaper in my hometown, Phoenix, written by Robert Robb.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CRITICS OF BUSH SECURITY MEASURES FORGET WE'RE AT WAR

A democracy at war remains a democracy. That means that the government's policies, including the conduct of the war, remain appropriate subjects for discussion and debate.

To underscore that point, and highlight the contrast with the fascist enemy, Winston Churchill continued the practice of the prime minister standing for questions before Parliament during World War II.

As Churchill put it in his war memoirs: "(A)t no time was the right of criticism impaired. Nearly always the critics respected the national interest."

Churchill's description connotes a higher standard of conduct than ordinarily pertains in a democracy for those who criticize war policies, to be careful about facts and fair about issues, to check the customary political hyperbole, grandstanding and posturing.

The critics of the Bush administration's war policies are beginning to fail this higher standard.

This is, in part, because President Bush failed to ask for a formal declaration of war against al-Qaida, the Taliban and other specified terrorist organizations.

The bombs falling in Afghanistan should have settled the question. But without a formal declaration, there are still those who want to treat this as a law-enforcement action, rather than as a war.

But a war it is, and it has a domestic as well as foreign front.

Enemies of the United States entered the country, stole airplanes and killed thousands of Americans. The government believes that there are other enemies still in the United States who plan to commit similar acts of violence.

One of the war fronts is finding and incapacitating those enemies living within.

Critics now casually and routinely depict the efforts of the Bush administration to do so as an assault on civil liberties.

There were reasons to object to certain provisions of the anti-terrorism legislation, and, indeed, I so objected.

But the actual powers granted the government by the legislation are routinely mischaracterized in the public debate. More importantly, the general charge that the Bush administration is trampling on civil liberties is irresponsible hyperbole not justified by the record to date.

The administration has detained a handful of people as material witnesses, as permitted by the grand jury laws. It is detaining a larger number on suspected immigration law violations.

Clearly, the administration is selectively enforcing long-neglected immigration laws. But enforcing a law isn't trampling on civil rights just because enforcement previously has been lax.

The Bush administration has been roundly criticized for wanting to ask questions of young men from Middle Eastern countries. Given that all of the hijackers were of a similar background, as are overwhelmingly the members of al-Qaida, that's a perfectly sensible desire.

These interviews are voluntary at a time of war. The adverse reaction to them is more revealing of the character of the critics than of the administration.

Then there are the potential military tribunals for foreign combatants. Under President Bush's executive order, he must personally designate someone for such a trial. A military tribunal would consider evidence with probative value, although classified information could be reviewed in camera, or in a judge's private office. Defendants would have procedural rights and an attorney.

We are at war. Having such a mechanism in place may be important to protect the security of the United States. Having the option poses no threat to civil liberties. Whether such tribunals adequately protect defendant rights and fairly administer justice can only be ascertained in practice.

Senate Judiciary Chairman Patrick Leahy, D-Vt., is going to bring Attorney General John Ashcroft before his committee to answer inflated civil rights concerns. This is supposedly part of Congress' vaunted oversight function, which receives no mention in the Constitution.

Meanwhile, Leahy is neglecting the clear constitutional duty to act on judicial nominations.

Leahy would better serve the nation by bringing some judges before his committee for confirmation, rather than trying to unfairly put Ashcroft in the dock.

Mr. KYL. Mr. President, I wanted to insert this column in the RECORD not only because the author is one of the best writers from my hometown newspaper, and frequently has very wise things to say, but also because his column is right on point for something that has been troubling me. The title is "Critics of Bush Security Measures Forget We Are at War."

The point he is trying to make is that in this question of deciding how we are going to make Americans more secure from terrorist attack, some people are getting carried away in the expression of concerns about the civil rights or due process rights of people who might be the subject of military commissions or other investigations by our law enforcement or military people in connection with this war on terrorism.

I think he makes a good point. His essential point is that it is not a zero sum game, that we can both provide for the security of our citizens on the one hand and, on the other hand, ensure that American citizens will always have their due process rights, and even for those who are not American citizens, who become the equivalent of prisoners of war, and that the United States, through procedures developed for the military commissions, will treat them fairly. I think that is a very legitimate point to make.

The Attorney General is going to be before the Judiciary Committee, and he will be asked to respond to a lot of questions about how he is handling his investigations and how the military commissions will work. I note that the President's order to the Defense Department to develop the procedures for military commissions has not yet resulted in the rules and regulations, and rules of evidence and procedures, and so on, at least as far as I know. So it is premature to criticize those rules.

In the Judiciary Committee yesterday we heard from two eminent law professors, who I am sure would be happy to be called liberal in their political ideology: Laurence Tribe, with whom I have worked and for whom I have a lot of respect; and Cass Sunstein; as well as two Republican witnesses, both with significant experience in this area. All four agreed this was the kind of circumstance that justified the creation of military commissions and, indeed, that such commissions were constitutional. The two more liberal professors said they would make some changes around the margins. But nobody questioned the authority of the United States of America to set up these tribunals in order to take care of those people who might be captured, particularly in the Afghanistan situation, or said it would not be appropriate to try to bring them to justice under our article III court system in the United States.

I point that out to ask my colleagues to look at this column. I think it is very well written. It makes the point of what we need to be considering when we characterize the issue as a zero sum game, which it is not. We don't need to deprive anybody of appropriate civil liberties at the same time we are ensuring the security of the United States and its citizens from terrorist attacks.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. REID. Will the Senator withhold for a unanimous consent request?

Mr. WELLSTONE. Yes.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the previous order with respect to the debate time prior to the cloture vote on the motion to proceed to S. 1731 be changed to reflect that the time begin at 11:45 a.m. today, and that the time until 11:45 a.m. be a period of morning business with Senators permitted to speak therein for up to 5 minutes each, with the remaining provisions of the previous order remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

MENTAL ILLNESS DISCRIMINATION

Mr. WELLSTONE. Mr. President, when I was speaking about the homeless veterans, many who struggled, I wanted to bring colleagues up to date about the whole issue of discrimination against people who are struggling with mental illness.

It is difficult to believe that in the year 2001 there is a whole class of citizens—probably well over 20 percent of the families in this country have a loved one who struggles with mental illness—certainly, all of us know someone who does—and they face discrimination. There still is a tremendous stigma attached to people who struggle with mental illness. I remember testimony from a doctor who said that when someone is in a hospital and they have had surgery for cancer and they have had chemotherapy or radiation treatments and they come home, neighbors gather around and give them support. Do you know what. That is exactly the way it should be.

Often, if it is somebody who struggles with mental illness and they get out of a hospital, you don't see neighbors gathering around and saying we want to support you. It is still considered by too many to be a moral failing, even though it is a brain disease.

There was an editorial today—and I will not read from it because I think Senator DOMENICI will—from the L.A. Times that is so powerful, calling for parity and ending the discrimination for this brain disease.

Unfortunately, this discrimination is reflected in the coverage. What we have right now in so many health care plans around the United States of America, if you or your loved one—and, again, I am so sorry I don't have the figures with me. Just take suicide among young people. Suicide kills more young people than cancer and about six, seven, or eight other terrible diseases we all hear about.

Suicide in Minnesota is the second leading cause of death in young people. Nationwide it is the third. Your son or daughter is severely depressed and you need help. You are told you have a few days in the hospital, and that is it. You can have some outpatient visits outside the hospital, but just a few days, and that is it. Also, the copays and deductibles are very high; in other words, what you have to pay before there is any coverage or the percentage you have to pay.

It is completely different if your child has diabetes or a heart condition or a broken ankle. We would not do that to people. We would not say: OK, you struggle with this disease, diabetes; you are in the hospital a few days and then you are out or you can only see your doctor so many times and there is no more coverage.

Even in our Medicare system, which I want us to change as well—by the way, the highest percentage population of suicide is with the elderly. People do not realize that. All too often we say: Oh, well, if I was 80 and I was having a hard time walking, I would be depressed, too. It is incredible the way we trivialize this illness and the way we discriminate.

Do my colleagues know that in our Medicare program, if one goes under part B to see a doctor for a physical illness, it is a 20-percent copay. If you struggle with depression and go to see someone for help, it is a 50-percent copay. That is blatant discrimination. That should end.

Senator DOMENICI and I—I thank him for his work; it has been an honor to work with him—bring this bill to the floor. There has never been a hearing in the House of Representatives on the problem of discrimination. We offered an amendment to the Labor-HHS appropriations bill. We had 66 Senators who signed on, and it passed out of the HELP Committee 21 to 0. We passed it. Then it went to the conference committee.

I am speaking for myself, not for Senator DOMENICI or any other Senator. It is clear what is going on. We are in a fierce fight, but it is one of these fights that is not as open and public as one would want. Robert Pear wrote an update about this issue in the New York Times today. Thank goodness.

Overall it is hard to get the public's attention on this issue. There is a fierce fight going on. The insurance industry has gone to a couple of people in the House and has basically said: Kill it. Thanks to the work of PATRICK KENNEDY, MARGE ROUKEMA, and others in the House, I believe there are around 250 House Members who have signed a letter saying: Keep this in the conference committee, pass it, end the discrimination.

If we ended the discrimination, it would be civil rights. We would end the discrimination in treatment for people who struggle with this illness. Believe me, I say to my colleagues, it is an illness. It is for real.

Second, if there is money in the plans, the care will follow the money, and a lot of kids will get help rather than winding up incarcerated. A lot of people will get help rather than winding up homeless. A lot of adults will get help rather than winding up in prison. A lot of people will not miss as many days at work and be more productive and families will be better off. There will be fewer problems. This is the thing to do. It is the right thing to do.

The CBO says it will cost 1 percent increase in premiums. That is it. Not to mention the $70 billion David Satcher, our Surgeon General, said we spend as a result of our failure to provide the treatment for people. Mr. President, $70 billion over 5 years is

$350 billion. It is not only morally the right thing to do, it is economically the right thing to do. It is 2001. We should have done this 100 years ago.

The insurance industry marches on Washington, DC, every day, and they put the word out, they put the fix in: Kill it in conference.

I have come to the Chamber of the Senate today to ask my colleagues to please be strong and hang in there. Senators HARKIN and SPECTER are our key leaders. Hold the line. I have come here to appeal to House Members to not kill this bill, and I have come to appeal to the White House: We need your help. This is the perfect example of compassionate conservatism. It is a matter of ending the discrimination.

Kay Jameson, who has written some brilliant books and just won a McArthur Foundation Genius Award—she deserves it—has written that the gap between what we know and what we do is lethal. The tragedy to all this is that these illnesses—I mentioned depression as one example; I could mention many others as well—are diagnosable and treatable, in fact, with a far greater success rate than many of the physical illnesses.

My wife Sheila and I started going to some gatherings with an organization called SAVE which was started by Al and Mary Ann Kluzner in Minnesota. Al Kluzner is a Republican. I hope Mary is not. I am teasing.

The point is, this illness does not know any political party boundaries. It does not know any economic boundaries. SAVE is an organization of family members who lost loved ones to suicide. One feels that it is their own fault where all the evidence shows this is a brain disease. It used to be it was maybe 50 people coming together, and sometimes now the gatherings are 300 and 400 people. This is all about making sure they get the help. This is all about making sure that the illness is treated. This is all about preventing suicide. This is all about dealing with a broad range of mental illnesses that affect adults and children throughout our country, and yet we have this discrimination. We do not even tell the plans they have to provide the coverage. I want to. We just say if you have mental health coverage, treat it the same as physical health. There should be no discrimination.

This insurance industry has tried to put the fix in and stop this in conference committee.

I am still hoping we can get the support from the White House. I am still hoping we can pass this legislation because the consequences are so tragic if we fail to pass it.

Mr. President, I will stop, otherwise I will go on for hours. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

COMPREHENSIVE ENERGY POLICY

Mr. MURKOWSKI. Mr. President, it is my understanding that the majority will be introducing a comprehensive energy bill this morning or perhaps early this afternoon. I want to make my views known on that because it represents a departure from tradition in the Senate of bipartisanship within the Energy and Natural Resources Committee.

I believe we can anticipate the Democratic leader and the chairman of the Committee on Energy and Natural Resources will be introducing their bill this afternoon. This will not have any input from the minority.

I am pleased, on the one hand, to see finally some acknowledgment by the other side of the aisle that energy is important to our Nation's security and it should be a priority of this Congress. I think it is also important to note—and I ask unanimous consent that the recent poll of the Ipsos-Reid Group be printed in the RECORD—76 percent of Americans have indicated energy should be taken up as the No. 1 priority of this body.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITIZENS FOR REAL ENERGY SOLUTIONS

ENERGY POLL SUMMARY—NOVEMBER 14, 2001

95 percent of Americans believe it is "very" or "somewhat important" for the government act on energy issues. Only "security" is a higher priority than energy among voters today.

72 percent believe that energy issues are a higher priority than before the September 11 attacks and the war on terrorism, including 70% of Democrats. This means 72 percent of people think energy is a higher priority than it was when the House passed HR 4 by a wide, bipartisan margin. (240–189, with 36 Democrats voting in favor)

86 percent think "decreasing dependence on foreign oil and gas is important to national security"

Two-thirds (67%) of those surveyed agree that opening ANWR can be done in an environmentally sensitive manner. 53% of Democrats believe it.

Of those who have "read, seen, or heard anything about the Bush Administration's National Energy Policy," supporters outnumber opponents by an overwhelming 60 percent to 26 percent.

And finally, 73 percent of those we polled—including a majority of Democrats—find President Bush's repeated calls for the Senate to pass energy legislation to be sufficient reason to act.

[The surveys were conducted by Ipsos-Reid, an international public opinion and market research firm, from Oct. 5—Nov. 10 and from Nov. 9–12, 2001. These polls were based on randomly selected samples of 532 and 733 adult Americans, respectively. With samples of these sizes, the results are considered accurate to within ± 4.3 percentage points and ± 3.7 percentage points respectively.

Mr. MURKOWSKI. While there is some satisfaction in seeing that the majority has agreed to prioritize energy, on the other hand I am absolutely dismayed at the partisan nature in which this bill was put together and the extraordinary means taken to remove the bill from the committee's jurisdiction.

I am going to spend my time today talking about the process rather than the substance since neither I nor most of the other members of the Committee on Energy and Natural Resources were afforded the opportunity to see this legislation until it was introduced. I find it rather disappointing and I guess somewhat humorous that so much fanfare has been linked to this bill's introduction when in fact it is the second time this year alone we have had a similar occurrence. The leadership has taken over the responsibility of the committees of jurisdiction and basically proposed to introduce legislation that does not reflect the input of the minority. This was done first in the Finance Committee on the stimulus bill.

I am a member of the Finance Committee, and I participated in the effort where the majority leader and the chairman of the committee basically introduced their version of stimulus and we found we had no input in it so we were at a stalemate. Now we see where we are on stimulus today. We are negotiating with basically the authority of the majority of two over the minority of one. We are not going to have opportunities to amend or even hardly be heard on our views, which I think is unreasonable, unhealthy, and undemocratic, but this is what was done as well in the Energy and Natural Resources Committee.

There is no question the need for a comprehensive energy policy is a critical and pressing issue for this Nation and for this institution. At the beginning of this Congress, I sought out my colleagues on the other side of the aisle and did what we could to get together to introduce comprehensive energy legislation. I think we tried to reflect their interests in the bipartisan and traditional way the committee worked. S. 388 and S. 389, which were the Murkowski-Breaux bipartisan bills, while not perfect, met the requirement and remain the only bipartisan comprehensive energy measure introduced in the Senate. I did not think and I still refuse to accept that the energy needs of this Nation should be a partisan issue, but evidently those on the other side believe they have a better energy bill and can do it better without us.

The PRESIDING OFFICER (Mr. NELSON of Florida). Under the previous order, the Senator from Alaska has only a few seconds remaining. Under the previous order, at 11:45 a.m., other business will intervene.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I be allowed 7 minutes to finish.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, energy should not be a partisan issue. For over 3 months, our Committee on Energy and Natural Resources has been effectively dissolved. The committee was closed while this document was put together behind closed doors, with no input from the minority.

The Democratic leader has selected his deputies and their special interests, whatever agreements were arrived at in deference to the Senate and the committee rules, blatantly bypassing the committee of jurisdiction.

I ask unanimous consent that a release from the chairman of the committee dated October 9 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

From: Jeff Bingaman, Chairman, Senate Committee on Energy and Natural Resources.

ENERGY COMMITTEE SUSPENDS MARK-UPS; WILL PROPOSE COMPREHENSIVE AND BALANCED ENERGY LEGISLATION TO MAJORITY LEADER

At the request of the Senate Majority Leader Tom Daschle, Senate Energy & Natural Resources Committee Chairman Jeff Bingaman today suspended any further mark-up of energy legislation for this session of Congress. Instead, the Chairman will propose comprehensive and balanced energy legislation that can be added by the Majority Leader to the Senate Calendar for potential action prior to adjournment.

Noted Bingaman, It has become increasingly clear to the Majority Leader and to me that much of what we are doing in our committee is starting to encroach on the jurisdictions of many other committees. Additionally, with the few weeks remaining in this session, it is now obvious to all how difficult it is going to be for these various committees to finish their work on energy-related provisions.

Finally, and perhaps most importantly, Bingaman said, the Senate's leadership sincerely wants to avoid quarrelsome, divisive votes in committee. At a time when Americans all over the world are pulling together with a sense of oneness and purpose, Congress has an obligation at the moment to avoid those contentious issues that divide, rather than unite, us.

Bingaman will continue to consult and build consensus with members of his committee, with other committee chairs and with other Senators as he finalizes a proposal to present to the Majority Leader.

Mr. MURKOWSKI. The letter says:

> At the request of Senate Majority Leader Tom Daschle, Senate Energy and Natural Resources Committee Chairman Jeff Bingaman today suspended any further markup of energy legislation for this session of Congress.

Now that is pretty blatant, in my opinion, taking the authority away from the committee. So much for the legislative process, the value of the committee process, or the interests of this Nation and our fellow citizens. So much for the majority leader and the chairman of the Energy Committee defending the Standing Rules of the Senate and the rules of the Committee on Energy and Natural Resources.

Why was this extraordinary action taken? According to a press release, as I have indicated, the Democratic leader made this decision because he wanted to avoid, "quarrelsome, divisive votes in the committee." The fact is we had the votes in the committee to pass it out, and it was generally known. It was known by the chairman, it was known by the majority leader, and it was known by the majority.

One of the purposes of the committee is to test various proposals to provide the Senate with consideration and a recommendation. Our distinguished President pro tempore, Senator BYRD, noted in his remarks on the history of the Senate that the use of committees in legislative bodies predated the first Congress. There are records of joint committees of the House of Lords and the House of Commons in the English Parliament in the 1340s. This history is especially instructive when he discusses the reforms that have occurred, especially those that opened the committee process and limited the autocratic power of committee chairs.

Senator BYRD's discussion of these reforms in the 1970 Legislative Reorganization Act is particularly relevant. He quoted William White's description in the Senate committee in the mid-1990s as "an imperious force. Its chairman, unless he is weak and irresolute, is, in effect, an emperor."

The 1970 reforms were intended to curb that power and open the process. The majority of the committee were given the power to call a meeting if the chairman refused, and I obviously have not gone to that extent.

Later reforms opened our business meetings, with a few exceptions, to the public. Rule 16-3: to fix regular biweekly or monthly meeting days for the transaction of business before the committee. Further, the committee shall meet on the third Wednesday of each month while Congress is in session for the purpose of conducting business. Neither the Standing Rules of the Senate nor the committee rules provide an exception for the Democratic leader to abolish committees or order them to cease activities whenever there is a likelihood that there may be a bipartisan action that would conflict with his particular agenda.

Those rules, according to the Democratic leader, now do not apply to the Committee on Energy and Natural Resources. I ask why. The reason is clear. We have the votes, so he is not going to let us vote. Apparently whenever it is convenient to the Democratic leader, the rules of the Senate can now be suspended and the rights of members of standing committees of the Senate can be abandoned. The majority of the members of the Committee on Energy and Natural Resources have been ready, willing, and able to complete action on a comprehensive bill.

Yes, there would be votes on amendments. What is wrong with that? Some would pass and some would fail. I have always been prepared to live with the results to bring a bill to the Senate, but at least there would be debate in public and an opportunity for all Members to participate. I believe virtually all the members of the committee share that view.

Since the Democratic leader closed the committee, there has not been a single business meeting on energy and, in fact, there have been no business meetings at all. It is a sad state of affairs when the authorizing committee is precluded.

This abuse of the legislative process is outrageous. This concentrated action by the leadership to deny the committee members the opportunity to advise the Senate is reprehensible. The majority leader has abolished one of the standing committees of the Senate and crafted partisan legislation behind closed doors with special interests without a whimper from the press. It is abundantly clear now this has been the strategy all along and that all rhetoric about national energy security and bipartisanship has been empty talk, devoid of any substance. We can write the Democratic speech now as the leader pleads with colleagues not to offer divisive amendments.

We hear the partisan calls: We wanted to move an energy bill, but some Members insisted on offering amendments that he did not like, amendments that should have been dealt with in committee. We can probably imagine the editorials now, castigating Republicans for not accepting whatever may be in the proposal that it is about to be unveiled.

We need an energy policy in this country. This Nation deserves better than this travesty. The American public deserves a fair, honest, and open debate on this critical issue. We need conservation, we need efficiencies. We need additional research. We need development. We need to deal with our infrastructure and our domestic supply for developing and refining transportation and transmission. We certainly need to provide for the security of our energy supplies.

Maybe we are now at the stage where the country will have to live with a take-it-or-leave-it package, cobbled together in some back room by the Democratic leader. But this Nation deserves better. The Members of both sides of the aisle who serve on the Energy and Natural Resources Committee deserve better. We deserve the opportunity to debate, discuss, and vote. This is an institution that did not fear and should not fear debate.

I brought the nuclear waste legislation to the floor in an open and fully transparent process last Congress. I don't think the distinguished Democratic whip, my good friend, the senator from Nevada, would accuse me of being other than up front and honest with him. Although we disagreed on the subject, I was always willing to talk openly. This is the way the Senate should work.

What has happened here is that not only have the views of the minority of the committee been silenced but the views of the Members, as well. I am certain the majority leader will take steps on the Senate floor to further restrict amendments.

One of the interesting things about this is the elastic bipartisanship on this, the comity of the Senate that normally would have Senators consult with their colleagues whose States are affected by a given measure are also falling victim to the Democratic leader's assault on the institution. I understand included in the legislation put forward by the Democratic leader are provisions dealing with the development and transportation of natural gas owned by the State of Alaska. These provisions were again developed behind closed doors without consultation to either the Senators or the Governor of our State.

Finally, make no mistake about it. While I support opening the gas line from Alaska, I am not here in the Chamber criticizing the companies, which is what many of our Democratic friends have done. As a consequence, I will have far more to say about the majority leader's proposal once we are given the courtesy of seeing it. Unfortunately, its introduction comes with a heavy price of the Senate and the Committee on Energy and Natural Resources.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, is the time running on the one-hour provided for debate on the agriculture bill?

The PRESIDING OFFICER. It has not yet begun to run.

Mr. CONRAD. When will that begin?

AGRICULTURAL, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, there is now 1 hour of debate, evenly divided between the leaders or their designees prior to a vote on the motion to invoke cloture on the motion to proceed to the consideration of S. 1731.

Who yields time?

Mr. CONRAD. Mr. President, I note the chairman of the Agriculture Committee is here. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa, the chairman of the Agriculture Committee.

Mr. HARKIN. Mr. President, we have 1 hour equally divided; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. Mr. President, I look forward to the vote on cloture. I hope it will be an overwhelming vote. I hope we can move on this bill right away, today. Time is wasting, as they say. The clock is ticking. We are here. We are in Washington. We are ready to do business. I believe we have a good bill. I believe we have a very good, well-balanced farm bill. It is a 5-year farm bill. We have reported it out of committee. We are ready to bring it to the floor and have it open for amendments that Senators might offer.

It is a 5-year bill. It is a comprehensive bill. I think it provides greater improvements to the farm commodity and income protection programs. We are strong on conservation, rural economic development. Agricultural trade and research has a good provision.

I will have more to say about my distinguished ranking member, Senator LUGAR, and the great work he has done on agricultural research.

We have nutrition assistance programs, we have a new title dealing with energy, and of course credit titles and forestry titles. It is a comprehensive farm bill. I know a lot of the press tends to focus only on commodities. Commodities, obviously, are an important part of the farm bill. However, this farm bill covers other areas across the United States which I will talk more about.

I thank the ranking Republican member of our committee, Senator LUGAR, former distinguished chairman of the Senate Agriculture Committee. I very much enjoyed working with him and his staff, developing this bill. I can say without any hesitation that we have had a very high level of cooperation and a bipartisan working relationship and collaboration in writing this bill. In fact, all but one of the titles of this bill represents a bipartisan agreement. All titles of this bill passed in our committee with bipartisan votes.

That shows we did, in fact, work closely together. We did have a vote on the commodity title and even there, there was a bipartisan vote. To be sure, it was not the same as on the other titles, but we voted to uphold the committee's commodity title.

Again, as an indication of the broad-based support that we had in the committee for the bill, even though there were some who may have wanted to change the commodity title we reported the bill out on a voice vote, which is in practical effect unanimous.

Let me point out the legislation is within our committee's budget limitations for the new farm bill. We were allowed by the Budget Committee $7.35 billion for fiscal 2002, and $73.5 billion for the 10 years, above the baseline. The bill has been scored within those limitations.

I hope we can move forward and work our way through this bill. As I said, we are ready to consider amendments. I am hopeful—and I say this with all due respect to Senators. I know people may want to have amendments to this that they feel strongly about. I myself in the past have felt strongly about amendments to farm bills when they have come to the floor. But the important point is to move the bill forward and not slow down the farm bill. We should have amendments, debate them in a timely fashion, vote on them, and move on.

I am hopeful we can reach meaningful time agreements on the amendments that will be offered to this bill. Of course, I believe it is a good bill as it came out of the committee. But I understand there will be some who may want to offer amendments.

Why act now? Why not wait until next year. We have heard some talk about waiting until next year for a farm bill. Frankly, farmers around the country need to know what the farm program is going to be, and they need to know soon.

A lot of farmers are going to be going to the bankers right after the first of the year to get the money they need for their crops, to put in their crops. What is the banker going to say? "What is the program going to be? What can you count on?"

How are the farmers going to fill out the paperwork to go into the banker to get the money they need to plant crops if they have no idea what the program is going to be?

That is why it is so important that we finish this legislation and give a clear signal to the agricultural community and the agricultural credit community just what we are going to have for next year.

The other reason is—and I will be repeating this data over and over again as we go through the debate on the farm bill—that there really is a crisis in rural America, since soon after the 1996 farm bill was passed.

In 1996, we had net farm income of $55 billion nationally. Since that time, net farm income has fallen to an average of $46.3 billion, a decline of nearly 16 percent.

Had it not been for the sizeable Government payments from the farm bill and the additional payments that we in the Congress have made in that period, which includes about $30 billion in additional emergency payments over those years, if we had not had those payments, net farm income would have fallen to less than $30 billion on average.

Thus, had it not been for the Congress coming in every year on an ad hoc basis, the market-generated net returns to farmers would have been only 54 percent of what we had in 1996. That is why it is so critical we move ahead and get this legislation passed.

Commodity programs are only part of the reason to move ahead. Several of USDA's critical conservation programs are simply out of money. The Wetlands Reserve Program, the Farmland Protection Program, and the Wildlife Habitat Incentives Program are all out of money. I say to those who are interested in conservation and want to promote and provide for conservation, we need the money now, not next year. That is because many of these programs have to be funded on a continual basis.

Take the Wildlife Habitat Incentives Program, for example. That is not something that should be just stopped and then started. The Wetlands Reserve Program is not a program that can be kept in abeyance for 9 or 12 months, and then just be started again without real negative consequences. These are conservation programs that need continual infusions of money for the protection of our endangered lands and endangered species.

The Environmental Quality Incentives Program—the EQIP—to defray conservation cost of crop and livestock producers, is far short of the resources needed. It is not out of money just now, but the funding is inadequate for the need out there. This bill substantially increases funding.

However, if we do not pass the legislation soon, the USDA will not be able to carry out the conservation programs adequately during the present fiscal year. Also, the bill will help provide very important and much needed new help in the areas of rural economic development, agricultural trade, research, credit, nutrition, and renewable energy. So we need to move ahead without delay.

At some point later on I will take the time to go through the bill and talk about the different commodity and other programs covered in the bill, all the various aspects that are in the bill, but I do not believe that is necessary right now. We are coming up to a cloture vote. I basically wanted to take the floor to say why it is so necessary we move ahead and not delay this bill any longer. We have a huge decrease in net farm income. We have to address that.

We have to let the bankers and the farmers know what kind of program they can count on next year. But, again, if we do not move this bill soon, farmers will be going to the banks and seeking credit for the crops they are going to be putting in without knowing what to expect in the farm program. That is why we need to move on this legislation right now.

In addition, we need to move on the bill to make sure we keep the funding stream going for our necessary conservation programs.

Mr. President, I want to again publicly thank my good friend and ranking member of the Senate Committee on Agriculture, Nutrition and Forestry, Senator LUGAR. He was chairman for more than six years. He was a great steward of the committee. He did a great job guiding, directing, and leading the Agriculture Committee. I am proud to follow in his footsteps as chairman of the Agriculture Committee.

I again thank him and his staff for all the working relationships that we have had in developing this farm bill and in all the other work we have been doing on the Agriculture Committee. I want to thank Senator LUGAR for that great working relationship.

With that, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I yield myself as many minutes as are required.

I deeply appreciate the thoughtful comments of my colleague, the chairman of our committee. Let me reiterate the importance of what he has said on the bipartisan cooperation on major titles. He has touched upon them. I shall do so again because each represents superb staff work and work by Senators to achieve virtually unanimous results: The rural development title, the research title, the energy title, the forestry title, the trade title, the credit title, and the conservation title.

With regard to research and nutrition, during the course of the debate and events and the will of the Senate to continue with this bill, I would want to say more. I believe we can improve both of those areas very substantially. We can do so through substantial change in the commodity section. So there will be an offset to do that.

But giving credit where credit is due, a substantial number of titles are reasonably settled and I think will meet with the favor of the vast majority of Senators.

The debate we are having during this hour is on a motion to invoke cloture so that we can proceed to the Agriculture bill today. Therefore, that is the issue on which the Senate needs to focus. The question is, Why today? What is the compelling need to proceed to this legislation?

First of all, most Americans who are presently watching television, if they are not on the C-SPAN channel watching this debate, are watching developments on the war in Afghanistan. They are watching a gripping drama in which Americans are at risk.

There is, in my judgment, a compelling need for us to be discussing the defense budget and issues that are involved with terrorism, whether they involve a continuation of the insurance industry, for example, or other aspects of the war. We are in a war.

This has been the case really throughout this strange preoccupation with the Agriculture bill. I say "strange" because the Agriculture legislation we now have on the books does not expire until next September 30—over 9 months from now. During that period of time, so-called AMTA payments—fixed payments—will be made to all the farmers who are in the program. A seventh year of payments will occur automatically. So will loan deficiency payments to farmers who have the row crops that are covered by the loan deficiency program. In short, the stable safety net that has been sought remains, plus very large, fixed payments. None of that changes during the coming months.

Parenthetically, there is a need, I suppose, to discuss the defense budget and to do so in line with things which have occurred in our American economy since the first thoughts about a new farm bill began.

For example, at the time the Senate and House Budget Committees began to formulate the resolution last year, I note from the chart that was prepared by OMB that the surplus was estimated at $313 billion for the fiscal year commencing October 1. As a matter of fact, I recall that the President of the United States, during the State of the Union Address, discussed surpluses in the future that might approximate $3 trillion—if one extrapolated further, as much as $5 trillion—and suggested how responsibly the Congress might allocate that money. That was February. But by May, there were at least some signs of a weakening economy seen by the same persons who prepared the chart.

I look at it here. We now know officially that a recession occurred, or started, in March. But this was being picked up by the budget officials. They then estimated in May that the surplus would be only $304 billion, only incrementally down from the estimate of $313 billion. But we went on recess in August. Things had changed abruptly by the time we returned on Labor Day. By then it was $176 billion for the fiscal year commencing October 1.

Then, in the post-September 11 period, the first time the authorities had another chance to take a look at this, $176 billion had evaporated, and it was down to $52 billion—just double digits—some distance from $313 billion barely 8 months before.

The head of OMB in an address to the Press Club last week gave the very bleak news that for the next 3 years—

not just for the year immediately ahead of us—there will be deficits in the Federal accounts—not $313 billion of surplus, or the $176 billion, or even the $52 billion, but red figures.

The entire farm bill debate in Congress has proceeded almost as if we were in a different world from the one in which there is war, recession, and deficits.

Senators with a straight face have said: We were told in the Budget Committee a long time ago that there was $73.5 billion above the current baseline—$100 billion—allocated to agriculture over a 10-year period of time. By golly, we are going to claim it. You can have a war, you can have a recession, and you can have deficits, but that additional $73.5 billion remains inviolate above any other priorities of the country.

Post-September 11, some Senators who held that point of view became nervous. They said: At some point people may begin to make estimates that it is gone and that there is no money. But harking back to the budget resolution, there is the additional $73.5 billion, and ignoring reality, or whatever may transpire now, not for just the next year but for 3 years down the trail, if we do not pass a farm bill—and in a hurry—somebody may question whether the $73.5 billion is there.

Indeed, most Americans question it. We have an extraordinary "Alice in Wonderland" quality about the agriculture debate in which people with blinders on ignore the rest of the world, but I think at their peril.

One reason all of this has accelerated is that my distinguished colleague, the majority leader, the distinguished member of our committee, Senator DASCHLE—seemed to want to accelerate the farm bill, and wanted to see a bill on the floor. He was not alone. It was suggested by others that Senators who are moving into reelection phases in various farm States did not want to go home without not only discussing it but passing it, nailing down that additional $73.5 billion whether it is there or not. Furthermore, their political judgment was there would be liabilities if they did not succeed in that quest.

Each Senator has to be the best judge of his reelection prospects. I don't fault anybody who believes they need to proceed to a farm bill and spend as much money as the law will allow. And maybe that will help that Senator. But I doubt it. I doubt it simply because the political facts of life are that this time the American people are looking in on the debate. One reason they usually don't look in on these debates is they are very complex issues. Most Senators would be hard pressed to go through a glossary of agriculture terms that are a part of these bills. So they do not try. They do not want to be embarrassed by indicating they really do not understand what this is all about. But I think they will by the time this debate and the discussion of it is concluded.

If I were a Senator running for reelection, I would not want to vote for cloture today. I would not want to put any stamp on a bill coming out of the Agriculture Committee. It contains, in its commodities section, bad policy, which will be harmful to agriculture, not helpful.

I think the exception, perhaps, is my distinguished friend from Iowa, Senator GRASSLEY. I understand the distinguished Senator from Arkansas, Mrs. LINCOLN's family may collect some payments from these programs. But I receive payments from the programs. The Lugar stock farm ranks No. 22 in Marion County in terms of the payments received. How do I know? Because the Environmental Working Group has a Web site. The Wall Street Journal introduced the country to this just last week. If you are curious, you can go into that Web site and find out, down to the dollar, how much every farmer in your State has received during the period of 1996 to 2000. It will be a revelation.

Let me just discuss the politics that seems to drive the issue today. One prominent farmer in my State, who was named in an article that the Associated Press picked up, having taken a look at this Web site, was found to have received almost $2.9 million in farm payments in the last 5 years. That came as a shock to my constituents in Indiana who are not farmers. Worse still, this farmer criticized my stand. He said: LUGAR is way off base; he wants to limit these payments.

At the time, he had it wrong. He thought I wanted to limit the payments to $1 million, say. He said that $1 million does not go as far as it used to go. This was shocking. People wrote in to the papers, and they had no idea that farmers were receiving subsidies, farm payments—these very programs we are discussing—to the tune of, say, an average of $500,000 or $600,000 a year in our State. We do not have farms that are that large. This particular farmer was identified as having only 12,000 acres, dwarfed by many farms farther to the west of us.

So this started an interesting debate. The Indianapolis Star has written very strong editorials in favor of the comprehensive bill that I prepared for the Agriculture Committee debate. The other papers in Indiana have, by and large, chimed in. This is not a lonely quest. I think I have the majority behind me. I certainly do of those who favor conservation and who are deeply interested in the environment and those resources, of people who are poor and want to make certain the Food Stamp Program works at a time of recession and unemployment, of people who are interested in research, not only at Purdue University but anywhere else where they know the cutting edge of agriculture is not more payments to farmers but research that gives us some hope of feeding the world as well as ourselves.

In the course of all of this discussion of who is getting subsidies, some unusual figures have come up. If it is the will of the Senate that we must discuss this for a long time, I will have a lot of those. It will be exciting, I think, for friends and neighbors to know who is receiving what. But let me just give you a capsule summary.

Eight percent of the farmers of this country identified as having commercial farms—single digit 8—receive 47 percent of all the payments. It is a very concentrated sort of payment schedule. There is another group known as intermediate farmers. These are farmers who have roughly 300 to 800 acres—a harder time on that amount of acreage. These folks receive about 35 percent of the payments. So you add that to the 47 percent, and that takes care of over four-fifths of the payments. We have accounted for, say, only 20 percent of the farms in this country.

I never heard one of these debates before without many Senators rising to address the Chair and pointing out that farmers in their States are desperate, the weather has failed again, the floods, the rains, a lack of any trade initiative that seems to make any difference, and rock-bottom prices, about the lowest that one has ever seen.

In due course, if necessary, I will cite chapter and verse from USDA's very fine publication in which they explain why prices are low and why they remain low. I will explain why the bill that Senators may or may not wish to debate will drive them lower still. The bill the Senate will have passed will stomp down prices. They will have no hope of ever getting up. This may not concern Senators who will say, after all, the bill provides for fixed payments anyway. It does not matter how low the price goes. That is irrelevant, although it is useful in a debate to point out that agricultural policy has failed and prices go low. Of course, they go low because the very policies give incentives, strong incentives, to plant and produce more every year.

We have very efficient farmers in this country who produce, say, an incremental bushel of corn for much less than the loan rate of $1.89. I point this out just for the sake of the debate. Every bushel of corn I produce on my farm this year—and it would be true of anybody else—is going to get at least $1.89. That is not the market price. That is irrelevant to the argument except in terms of the Federal payments that have to be made. The taxpayers pick up the difference between that $1.89 and wherever the market price went.

Yet these policies are going to drive the market price down further. The taxpayer exposure is higher, thus the need for the additional $73.5 billion for 10 years—a perpetual price crisis for agriculture without relief predicted by the very definition of the bill.

Let me just point out that if, in fact, we were in an income crisis situation, that might temper my remarks. But quite to the contrary, the Secretary of Agriculture pointed out for our last agriculture debate in August—and this is coming to pass—that net cash income to farmers this year, 2001, will be $60.8 billion. That compares to $57.5 billion last year, $55.7 the year before, $54.8 billion the year before that, and even in the record year of 1996, that the chairman has cited, net cash income of $57.6 billion, about $3 billion less than this year.

This is the all-time high. We never had such large net cash income as this year. The skeptics will say: Aha, but $20 billion of that comes from Federal payments, not the market. You bet. Given the policies we have that drive down prices every year, more loan deficiency payments are almost bound to come, plus the fact we took action, as the Presiding Officer will recall, in August to send another $5.5 billion as an emergency tranche, as we have the previous 3 years.

Some farmers will say we need to have certainty with this bill because each year the Senate votes for more money. Do you believe for a moment, given the political competition in this body, there will not be somebody on the floor of the Senate next June, July, August, suggesting we have a crisis at hand and, by golly, we ought to send more money on top of the fixed payments as we have done the previous 3 years? That is the nature of the debate we are having today.

The fact is, farm income is at a record level. We have a situation in which we are at war, and we have need for money to pay for the war. We have a recession in which we have deficits around us. A prudent person, seeing we have a farm bill on the books that is going to pay fixed payments plus loan deficiencies, would say: This is not the time for the debate. That is what I say.

I hope Senators will not move to proceed to this bill and will not vote for cloture on the motion to proceed. I think it would be a mistake.

Having said that, if that mistake is made, let me mention to the distinguished chairman that, indeed, we will try to remedy the bill in a big way. I have a comprehensive commodity title, a lot to say about enhancing nutrition, a lot to say about conservation and research. Furthermore, finally, we will get to reform of the sugar program and reform of the peanut program and big reform of the dairy program. This bill has an egregious dairy section, and Senators are already quoted as being dismayed to proceed. It creates in a big way a consumer problem throughout America. But this time something very sensitive, the price of milk, goes up for everybody. That really is unacceptable.

Other Senators may also have amendments. This is a list of those we already prepared on the bill I gave to the Agriculture Committee. These are not figments of the imagination. The amendments are drafted and the talking points are ready. I hope it will be an educational experience Senators will enjoy and, furthermore, that they will vote with me and reform this bill.

Let me conclude by saying I do hope we will get to the defense bill quickly. I take the time I have on the floor to say that I noted with some concern—perhaps there will be an explanation for this—in the release coming from the Defense Appropriations Subcommittee, a note that it provides $357 million for former Soviet Union threat reduction, the Nunn-Lugar program, a cut of $46 million from the budget request.

I find that to be inexplicable. At a time in which our President and President Putin are talking about reduction of nuclear weapons, in which the fundamental thrust of the war is to keep weapons and materials of mass destruction from terrorist cells, I am dismayed. I want to get to that debate. I think that is serious with regard to the world, with regard to our security. That is a real issue.

In due course, we will discuss the subsidies. Senators will have parochial interests, I understand that. But I hope we can hold it to a dull roar. I hope there will be some proportion given the deficits of the next 3 years, not a 10-year program but a 5-year program which the Senate did adopt but which we still have to work on in conference, if we come to that point prematurely.

For all these reasons, I hope the Senate will vote no on cloture, that we will get on to the serious business that really faces the country in its defense, and that other issues such as this we may be able to work out more amicably in the Agriculture Committee or elsewhere in the ensuing weeks.

I yield the floor.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Texas.

Mr. GRAMM. Mr. President, I take this opportunity to congratulate the distinguished Senator from Indiana. It has been my privilege to serve with him now going into my 18th year. I have always admired him. I have always thought he was the one reasonable, sane leadership voice on agriculture in the Senate. I take a little bit of the time I have this morning to say that.

I am not going to get into the merits or demerits of the American farm program or this bill. I can sum up my own feelings by simply saying that America's farm program would make an old commissar from the Soviet Union puke.

It is a program which is an embarrassment to logic and reason. It chronically encourages overproduction. It hurts the best farmers the most. It has no socially redeeming value, and America would benefit greatly if we could eliminate the great bulk of the farm program.

I would say, in sort of the ultimate insult to everything that many Members of this body claim to believe in, we literally have a program in this bill that builds upon an idea where we drive up the price of milk consumed by children, many of whom are from poor families, to pay more subsidies to people in the dairy industry who on average have assets of over $800,000.

How that can be justified defies imagination. Yet we constantly are engaged in debating compacts which are really conspiracies against trade. In this bill, we solve the problem by just giving a whole bunch of money to everybody.

I don't want to debate the demerits of the farm program or this bill. I want to make several points.

First of all, it is December. In the last 25 years, we have not often been in session on December 5. We have work to do on serious issues. We are at war with terrorism. We have an economy that desperately needs attention. We have a handful of appropriations bills that have to be passed. Senator LUGAR raised the need to debate Defense appropriations. God knows, while we are still feeling the shock of the last terrorist attack, knowing there may be another, that is the business of the Senate.

The economy is in a recession, or at least we have had a negative quarter of economic growth, and almost certainly we will have another one. We ought to be debating a stimulus package. We have a very real problem with terrorist acts and their impact on insurance. We ought to be dealing with that issue.

Instead we are dealing with extraneous matters in what is a political agenda, sort of a political one-upmanship effort.

What are we doing talking about a farm bill that does not even expire for a few more months? What is this about on December 5? Does anybody really believe there is any possibility whatsoever, any chance that this bill could be finished before we adjourn? Does anybody really believe that?

If we were mean spirited—and, of course, we are not—but if we were mean spirited, we would let you get on this bill and make you stay on it awhile. But nobody has any intention of staying on it.

This is all a political one-upmanship to try to bring up a bunch of extraneous issues that supposedly have some political saliency. My own view is we need to get on with the pressing business of the country. We are going to get paid every day next year. This bill doesn't expire for a few more months. Let's set it aside, go to the Defense appropriations bill, finish these appropriations bills, and make a decision on if we can pass a decent stimulus package. If we can, we should; if we can't, we should forget about it.

Can we deal with terrorist threats and the insurance implications of them? We ought to do those things and finish our business.

But why are we bringing up a farm bill which is way over budget, which I think the President will veto? There is only one reason. It is political. I don't think it makes any sense.

We have some people on our side of the aisle who want to bring this up because they want to offer amendments to it. We don't have anybody, as far as I know, on our side of the aisle who is for the bill as it is now. The point is, we have all next year to offer amendments. I hope we can deny cloture on bringing this bill up and get on with the business of the country.

I am not getting mail here—none of my colleagues are—so I have probably 200,000 first class letters. And I will bet you not one of them says: Stop what you are doing; stop fighting this war; stop worrying about the economy, and raise the price of milk. I don't think America is concerned about the farm program right now. The current farm program is going to be in effect for a few more months. But they are concerned about a lot of work we have not done.

This is a political stall, in my opinion. We ought to get on with the business of the country.

I thank the Senator for yielding.

Mr. CONRAD. Mr. President, farmers would have been stunned to have heard the speech of the Senator from Texas, because in his world the economics of what happens to farmers just doesn't matter. But to hundreds of thousands of farm families, the economic downturn started for them 5 years ago. They have been in a constant recession. In some cases, they have been in a depression for 5 years.

The Senator from Texas says it doesn't matter, you don't need to do the bill now because the farm bill does not run out for 9 months. That is really not the case. Effectively, this farm bill expired 4 years ago because that is when we started writing disaster assistance packages for agriculture because prices were the lowest they had been in 50 years. So, effectively, the farm bill that is the underlying law was altered 4 years ago and each and every year since because of the disastrous conditions that exist for American farmers today.

When the Senator from Texas says this bill is over budget, that is false. This bill is not one penny over budget. If he really believes what he says, come out here and bring a budget point of order against this bill and let's see the ruling that will flow from that. He won't do it because the fact is that this bill is not over budget by one thin dime.

The reason we need to write a new farm bill, and do it now, is that American agriculture is in deep crisis. This says it very well. On this chart is the crop farm index: Prices received and prices paid by farmers from 1990 through 2002. The green line on the chart is the prices that farmers receive. The red line is what they pay to produce those commodities. Just looking at it, one can see there was a rough balance until the last farm bill was written. Then the commodity prices farmers received collapsed. The prices they paid to produce those commodities continued to increase—especially with the energy runup we experienced earlier this year. The result is an enormous gap between the prices that farmers are paid and what they pay to produce these commodities.

Again, we have the lowest prices in real terms in 50 years. On top of that, in the month of October, when the new price index came out, we saw the biggest 1-month decline in the prices that farmers receive in 91 years. The records have only been kept for 91 years. So what we have seen is the biggest monthly decline of the prices going to farmers in the entire history of the commodity index.

The harsh reality is that American agriculture is in deep trouble. When I talked to the farm group leader and I asked him what would happen if this farm bill did not pass with the additional resources that have been provided for in the budget, he said it would be a race to the auctioneer. He was right because that is what we confront in rural America today.

One key reason for that is our major competitors, the Europeans, are supporting their producers at levels much higher than ours. The most recent numbers show this. This is the European Union and the amount of support they provide per acre to their producers: $313 an acre of support. We provide $38 an acre of support. In other words, they are outgunning us nearly 10 to 1 in support for their producers. It is no wonder American agriculture is in crisis. It is no wonder that if they don't get a safety rope, if they don't get something to assist them through these difficult times, we will see literally tens of thousands of farm families forced off the land. That is the economic reality.

It doesn't stop there. When we look at the world agricultural export subsidies, this is what we find. This bar chart shows who accounts for world agricultural export subsidies. The blue part of this pie is Europe. They account for 84 percent of all the world's agricultural export subsidies. This little piece of the pie, this red chunk, is the United States, which is 3 percent. We are being outgunned here 28 to 1. The deck is stacked against our producers. The playing field is not level.

It is no wonder, therefore, that our producers are in deep financial trouble. They are saying to us: We need to know now what the rules are going to be before we plant the next crop. We need you to tell us of what the farm program is going to consist. That is why there is urgency today. It has nothing to do with political oneupsmanship, as claimed by the Senator from Texas. It has to do with urgent economic necessity.

The fact is, despite the budget increase, farm support funding is projected to decline under this bill. You will hear a lot of talk on the floor that there has been this big increase, there has been an increase over the so-called baseline. That is the red line on this chart. The baseline is the funding that would flow from current farm law. You can see that this bill provides more funding than that baseline. That is true. What is missing is not what Congress has been providing to American farmers the last 4 years. It hasn't been the baseline. No. We responded to the crisis by every year passing an economic disaster package to help our producers. And this farm bill will provide less assistance than farmers have been getting the last 4 years. That is a fact.

Over the life of this bill, you can see—that is the green line—the support will be in decline. As I said, it is less support than farmers have actually been getting in each of the last 4 years because of the economic disaster packages Congress has passed in response to the economic emergency that exists all across rural America.

When we look at the Senate bill versus the House bill on commodity program funding for the first 5 years of this bill, we see on this chart that the Senate bill is somewhat more than the House bill, about $2 billion more—$27.1 billion versus $25.1 billion. If we compare the Senate and House bill on conservation program funding, we see on this chart that the Senate bill is $8.4 billion versus $6.8 billion in the House bill. So there is more for conservation, which I think the overwhelming majority of the American people support.

On this chart, on nutrition programs, over the 10-year life of the legislation, again, the Senate bill has somewhat more—$5.6 billion over 10 years versus $3.6 billion in the House bill—money for the basic feeding programs of the Federal Government because we know in an economic downturn more people need food assistance. America is a compassionate nation and one that responds to the needs of its people.

I urge my colleagues to vote to allow us to proceed to this bill so the Senate can work its will on farm policy, so we have a chance for people to vote. There will be amendments, no doubt, to improve this bill. We will have a chance to fix the dairy policy that the Senator from Texas criticized. I don't think any of us wants the results he described. We are going to have a chance to fix that, and negotiations are underway to fix that, and it will be fixed. But it won't happen unless we get to the bill. It won't happen unless we have a chance to debate, discuss, and amend. That is what the cloture motion is all about—to give the Senate a chance to act. Rural America needs it. Our farmers need it. They are in a desperate struggle for economic survival. They are up against the European Union, our major competitors, who are spending $90 billion a year to support their producers—far more than the United States. It is no wonder we are in economic trouble. I urge our colleagues to vote to proceed to this bill.

I recognize the chairman of the Senate Agriculture Committee, who has done an absolutely superb job in getting this bill to the floor. There is no more difficult challenge than writing a farm bill. The Senator from Iowa has done a brilliant job. Let me also recognize the ranking member who, while we disagree on farm policy, is one of the most thoughtful Members of this body and somebody we all respect.

My hat is off to the chairman of this committee for what is I think one of the most productive performances of any member this year in getting this bill to the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, how much time do we have remaining on our side?

The PRESIDING OFFICER. Seven minutes and 40 seconds.

Mr. HARKIN. Mr. President, I thank my friend from North Dakota for his kind words, and I respond in kind by thanking our distinguished chairman of the Budget Committee for being not only a valuable member of the Agriculture Committee, but for his leadership. The Budget Committee allotted us $73.5 billion. I also thank him for continuing to point out the dire state of agriculture today.

When I first spoke, I pointed out that if you discount the added money the Congress is providing every year for agriculture, our net income right now to farmers is 54 percent of what it was in 1996.

The leader of the Budget Committee has continually brought to our attention that we have to make sure we get this bill done this year to provide for the farm economy of this country the amount of money that was allocated to us because our farmers and our rural communities need that money.

Rural America is in trouble. Thank God we have good advocates such as Senator CONRAD from North Dakota who fights for rural America, who understands we do not have as many people in rural America as in the big cities in California, New York, and other States. The work people do in rural America is what keeps this country going. We cannot afford any longer to have them on that downward track that the Senator from North Dakota pointed out on his chart.

I thank the Senator from North Dakota for being a great leader on our Budget Committee and for providing these funds and making sure we meet our obligations. I thank him very much.

I yield whatever time he may need to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I need only a few minutes. I am in the mood for thanking all three Senators. I, too, thank Senator CONRAD. Every time I talk to agriculture people in northwest Minnesota, I talk about Senator CONRAD's work and the fact we need to pass this bill now. We have the budget money. It is critically important.

Frankly, time is not neutral. As I have said before, I have seen more broken dreams, broken lives, and broken families in rural America than I ever wanted to. This is for real. I thank the Senator from North Dakota very much for his work.

I say to my colleague from Iowa, it is a modern miracle this bill came out of committee with strong support. The Senator from Iowa had to deal with a lot of different perspectives.

I forget the figures, but we received an announcement the other day that net farm income will be a couple billion dollars a year, a little over $3 billion a year if we pass this bill. I saw it somewhere. That is what it is about: Trying to get farmers leverage to get a price but focus on the environmental credits and CRP and focus on the energy section.

People are so excited about renewable energy, economic development, and nutrition. I thank both Senator LUGAR and Senator HARKIN for their leadership. Senator LUGAR has done a great job of being so outspoken and so tenacious about the importance of nutrition programs. This has made a safety net for many vulnerable families in this country and many children. This bill has the right balance. We have been doing an awful lot of negotiation on dairy, and I believe we are getting there.

If part of the importance of legislating is to bring people together, I think the Chair of this committee, Senator HARKIN, has done a masterful job. I cannot say I agree with every provision in this bill.

Mr. HARKIN. I have to say to my friend from Minnesota, I do not agree perhaps with every provision in this bill either. This is a balanced bill. We have to balance a lot of different interests in this bill.

I thank my friend from Minnesota for his service on the Agriculture Committee. Minnesota is very lucky to have both Senators on the Agriculture Committee. We appreciate that.

I point out to my friend from Minnesota, the factory study showed there would be an increased average of $3.2 billion annually.

Mr. WELLSTONE. That is what I was saying. That is net.

Mr. HARKIN. Net farm income.

Mr. WELLSTONE. That is important. I certainly hope Senators will vote to proceed to this bill. We need to move on and get this work done. I thank the Senator.

Mr. HARKIN. Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I understand I have 15 seconds remaining. I will be brief.

As Senators prepare for this vote, they must know that if they vote for cloture, we are stuck; we are on agriculture and that will continue indefinitely unless there is unanimous consent to leave it. I ask my colleagues to vote against cloture. The vote on this is no.

Mr. HARKIN. Mr. President, we should vote for cloture. Let us get on with the farm bill. Let us have the amendments. Let us have time agreements. Let us move on. Let us send a signal to rural America that we are going to be there for them in their hour of need. I ask Senators to vote for cloture.

I yield back the remainder of my time.

CLOTURE MOTION

The PRESIDING OFFICER. Time is yielded back. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 237, S. 1731, the farm bill:

Tom Harkin, Tim Johnson, Bill Nelson, Harry Reid, Byron Dorgan, Fritz Hollings, Richard J. Durbin, Paul Wellstone, Kent Conrad, Tom Daschle, Debbie Stabenow, Tom Carper, Barbara Mikulski, Evan Bayh, Ron Wyden, Ben Nelson, Jean Carnahan, Patty Murray.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that the debate on the motion to proceed to S. 1731, an act to strengthen the safety net for agricultural producers, to enhance resource conservation for rural development, provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent attending a funeral.

The PRESIDING OFFICER (Ms. STABENOW). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 73, nays 26, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—73

Akaka
Allard
Baucus
Bayh
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Grassley
Harkin
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lincoln
Lott
Mikulski
Miller
Murray
Nelson (NE)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Torricelli
Wellstone
Wyden

NAYS—26

Allen
Bennett
Bunning
Chafee
DeWine
Domenici
Ensign
Enzi
Frist
Graham
Gramm
Gregg
Hagel
Hatch
Kyl
Lugar
McCain
McConnell
Murkowski
Nelson (FL)
Nickles
Smith (NH)
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—1

Lieberman

The PRESIDING OFFICER. On this vote the ayes are 73, the nays are 26. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Iowa.

Mr. HARKIN. Madam President, I appreciate the overwhelming support that we had from the Senate for moving to the Agriculture bill. However, with the rules that we are operating under, that was just a vote on clôture on the motion to proceed. Now I understand that we have 30 hours, under the rules of the Senate, before we have a vote on the motion to proceed.

With that overwhelming vote on cloture, I hope we might collapse that 30 hours. There is no need for that 30 hours. We might as well have the vote on the motion to proceed and get to the bill and let's start having amendments and move this bill expeditiously. I see no reason we have to have 30 hours of debate right now. We ought to move to the bill and let's have the amendments.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold his quorum call request?

Mr. HARKIN. I withhold it.

The PRESIDING OFFICER. The Senator from Florida.

TERRORISM INSURANCE

Mr. NELSON of Florida. Madam President, I would like, while we have a lull on the farm bill, to take this opportunity to speak on a subject that is very near and dear to my heart: What we are going to be doing as a nation to address the fact that, as a result of terrorist acts, there may be a lack of terrorism insurance on January 1. That is not only for commercial lines of insurance, which would be businesses such as shopping centers and office buildings, but it could also affect homeowners and automobile owners. Since September 11, businesses and consumers have suffered great economic losses, and we are reading about those repercussions every day. So I would like to address this very sensitive topic as we come into the closing days of this session.

The insurance industry is now saying the clock is running out for those businesses that want terrorism insurance because 70 percent of reinsurance policies—that is, insurance on insurance, or, in industry terminology, reinsurance—70 percent of those reinsurance policies expire after December 31, and many insurance companies are threatening to cancel policies or to exclude terrorism coverage.

We simply can't let that happen. Congress must act to make sure that insurance is available and affordable. It is the responsible thing to do. The problem is that there are so many different ideas on how to do it.

I served for six years as Florida's elected Insurance Commissioner and State Treasurer. During that time, we experienced a major catastrophe—Hurricane Andrew. This natural disaster, with insurance losses totaling $16 billion, proved to be the most costliest in the history of this country. The private market was so paralyzed from this event that nurturing it back to life proved extremely daunting. Insurance companies were not offering new home owners policies; to the contrary, they were trying to flee the State of Florida and were cancelling policies for those who remained in the State of Florida. Fortunately, by establishing a private pooling mechanism, and carefully monitoring rate increases, we were able to reinvigorate and stabilize the market. Accordingly, in the waning days of this session, I would like to offer some of my experience as guidance as we proceed.

Let me give you an example of what is happening just to set the stage as to how serious this is right now.

The ISO, the Insurance Services Organization, which files policy provisions for many insurers, has announced that it is asking for terrorism exclusions in insurance policies across the nation.

That should be the first warning sign. But there are other warning signs.

For example, I will read from the Chicago Tribune of October 28. Listen to this:

> The world's leading insurers, led by Lloyd's of London, a collective name of 108 insurance-writing syndicates, said this month that commercial property premiums would rise by more than 80 percent.

That is the Chicago Tribune.

Then listen to a report that was sent out by Lloyd's of London. I quote from the investor newsletter of Lloyd's of London,

> Members of Lloyd's of London:
>
> Names may now have a historic opportunity for property underwriting following the sharp rise in premiums in the aftermath of the American catastrophe.

That newsletter added that premiums were at "a level where very large profits are possible."

If there is any doubt about some of the shock to the system right now because of what is happening with rate increases, let me point out that the Wall Street Journal reported that insurance companies are already raising premiums by 100 percent or more on some lines of commercial insurance coverage.

These accounts were presented by the Consumer Federation of America's insurance expert, Bob Hunter, at a press conference earlier today.

Bob Hunter also talked about a big reinsurance company, one of the giants in Germany, named Alliance. Alliance has announced increases of 20 to 50 percent, and in some cases increases may reach 200 percent.

Another example hits close to home for all of our Senators in the Northeast corridor:

It is reported that the cost of insuring Giants Stadium in New Jersey's Meadow Lands for terrorism is now being increased from $700,000 to $3.5 million.

That is a fivefold increase. That is a 500-percent increase.

If that were not enough, the CEO of Zurich Financial Services, which is another one of the major giants from Europe which does business through subsidiaries here in the United States, told a gathering of insurers, on November 27, with respect to the terrorist attacks of September 11:

> The industry needed it to operate efficiently. The players who are strong in a responsible manner and are aggressive will be the winners of the next 15 years.

What we saw in Florida with insurance rate increases after Hurricane Andrew seems to be occurring again this time on a national scale with huge increases in commercial insurance rates.

That is why we must act.

I understand that there are all kinds barriers to progress on this issue—people are trying to rewrite the tort laws of this country and thus you have a fight that has gone on almost as long as the Republic on this issue. If this continues, it is possible that we will not be able to pass anything in the next week. I am trying to understand what would be the consequence. Will the market respond? But I don't think that is the responsible thing. I think the responsible thing for us to do is enact a piece of legislation and get it signed into law.

But I want to say to my colleagues that from all of my experience with insurance, as we deal with terrorism insurance we must be ever-mindful of consumer safeguards:

Therefore, any bill that we would enact must have three fundamental protections for the consumer.

I think the bill has to have three protections for consumers: No. 1, commercial insurers must offer coverage for the risk of terrorism on all policies.

In other words, an insurance company could not clearly say they will cover your little two-story office building but not cover your 20-story office building. They cannot cherry-pick. There has to be mandatory coverage for all on terrorism risk. No. 2, the insurance company cannot cancel the terrorism insurance unless it is in the normal course of business, such as somebody did not pay their premiums. And No. 3, because we not only have to make terrorism insurance available, we have to make it affordable.

Commercial consumers cannot afford these kinds of price increases. They cannot afford a 500-percent increase. They cannot afford a 200-percent increase. They cannot afford what Lloyds of London was saying was an 80-percent increase, particularly not if the legislation we pass here is going to have the Federal Government picking up most of the terrorism risk.

So I clearly advise all my colleagues in the Senate, the third protection is that there has to be a reasonable amount of rate increase, and what it can be has to be limited. I have suggested it be in the range of about 3 percent, which would produce an additional $6 billion of premium, and that the $6 billion of premium associated with the terrorism risk not being mixed with all the other premiums like on fire and theft. Our legislation should require insurers to specify the price for terrorism coverage as a separate line item on the policy.

If we do not carefully monitor proposed rate increases, the insurance companies are going to file whatever they want in an increase with 50 State insurance departments. Then those insurance commissioners, who are trying to do a good job, are going to put their actuaries to work to see if this is a reasonable filing.

How do they determine if it is reasonable and not excessive and nondiscriminatory, which is usually the statutory standard for reviewing a rate increase? They have to have data and they have to have experience. We do not have any of that in our 50 State insurance departments. Thus, what will happen is, whatever the rate hike is that is filed, the insurance departments of the 50 States will not be able to say that it is excessive, and they will not be able to prevail in a court of law or in an administrative court of law. As a result, the practical effect will be that the insurance rate hike that is filed will, in fact, be in effect. And it would be 2 or 3 years before you could ever start to overturn it.

What is worse, there are 10 States whose law says that an insurance company cannot file a rate until it is approved by the insurance commissioner. The legislation that is being contemplated to be passed in this body would say, this Federal legislation will supersede the State law, so that, in effect, the rate hike takes effect immediately even though the State law says, in those 10 States, that the insurance commissioner has to approve it first.

That is a pretty high-stakes ball game. We simply cannot afford for this to go on. So what I am going to continue to urge, as I have privately—this is my first public statement on this, save for an interview I had last week with the Washington Post and save for the testimony I gave to the Banking Committee and as a member of the Commerce Committee when I had the opportunity to express my thoughts there—but so much more is known now as to see what is starting to happen in these last few days of this session. This is what we are confronting.

Simply, if we do not watch it, we are going to allow to pass through this Chamber, and be accepted by the House, a piece of legislation that, in order to take care of the problem of the lack of terrorism insurance, will then allow the rates to go sky-high, rates, I submit respectfully to all of my colleagues, that will not be able to be affordable, particularly by homeowners and by automobile owners.

Even though the bills being contemplated say this is primarily for commercial insurance, they also say, at the option of the insurance company, for personal lines of insurance, such as for automobiles and homes, they can opt into it. What homeowners' insurance company, if it has homes, for example, in the neighborhood of a nuclear power plant, is not going to opt in to this kind of protection?

So what I am saying is, you better watch out. We are about to vote for something that is about to mandate huge rate hikes. The Senate and the House of Representatives do not normally handle this stuff because ever since the 1940s in the McCarren-Ferguson Act, we transferred that ability to regulate insurance to the 50 States. Thus, we are not familiar with the facts of rate-making and the experience and data as to what is excessive in rate increases. We had better watch it.

From the insurance companies' standpoint, let me tell you, I do think they need protection. They cannot simply be asked to accept the terrorism risk. There is not an insurance company in the world that wants to accept that risk. So in this Senator's personal opinion, I believe there is a role for the Federal Government as a backstop for the insurance industry accepting this huge potential risk.

If we are fortunate, if our intelligence apparatus is working, then we will be fortunate not to have other significant terrorism losses. But there is that uncertainty on the basis of what we experienced on September the 11th, what we experienced back in the early 1990s when they tried to blow up the World Trade Center, what we have seen with regard to the Timothy McVeighs of the world and the Oklahoma Federal building, and so forth.

So there is that element of terrorist risk where I do believe insurance companies need to be partnered with the Federal Government in helping assume that risk.

We better watch out about the potential price hikes. We know the property and casualty insurers are going to be paying about $50 billion in claims from September 11. That is a huge payout. But let's remember that the companies are going to recover a lot of those insurance losses they have paid out in tax breaks where they can carry forward those losses and offset them against gains.

Remember, this is an insurance industry. This is an industry that has been very fortunate to be financially flush with cash. In the property and casualty field, there is a surplus to the tune of in excess of $300 billion. In the reinsurance world of just those companies that reinsure, there is a surplus in the range of $125 billion. Their problem is not a lack of cash; it is the uncertainty of the quantifying and the pricing and the spreading of the risk of future terrorist attacks.

In time, I believe, just as we have seen in Florida in the aftermath of that catastrophic hurricane that disrupted the entire homeowners marketplace, you will see the marketplace—along with the strengthened security that we are now imposing, fortunately, in this Nation, and our war against terrorism—I think in time that will solve the problem. In the interim, we are going to have legislation in the next few days in front of this body.

Remember the three items we ought to look for, for the protection of the consumer: No. 1, that there be mandatory coverage for terrorism, that they can't red-line and say, I will select your skyscraper but not your skyscraper; No. 2, that they cannot willynilly just cancel the terrorism coverage; and No. 3, that there be a reasonable amount of rate increases proportionate to the risk the insurance industry is picking up, given the fact that the Federal Government will be picking up most of the risk, and not let this be an excuse for rate hikes that ultimately will affect the economic engine of this country. If insurance becomes unaffordable, the economic engine of this country cannot operate because of the need to have the protection against these acts of terror.

I am grateful for the time to speak on a subject that is very important to this country. I thank the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF EUGENE SCALIA

Mr. BOND. Madam President, I rise today to express my very strong support for the embattled nomination of Eugene Scalia to be Solicitor of Labor. I am extremely frustrated, as many of us are on this side, by the other side's unwillingness to bring this nomination to the floor for a vote.

Mr. Scalia has been cleared by the HELP Committee and is now languishing in limbo with the session fast drawing to a conclusion and the window for acting starting to close. There are no good reasons for holding up this nomination, for refusing to bring it to the floor.

May I be permitted to state the obvious? The debate is not about Eugene Scalia's qualifications, experience, intelligence, dedication, compassion, or any other attribute we would normally consider to determine if a candidate should be confirmed. He meets everyone's definition of what this position requires. Even those who have opposed his nomination are quick to admit he possesses the skills and the experience that Solicitors of Labor typically have.

It seems to me the only basis on which Mr. Scalia is being blocked is that those on the other side did not agree with the results of last year's election on two levels and with some of the actions this Senate has already taken. First they do not like the fact that George Bush emerged as the new President, and some are trying to do anything in their power to frustrate and impede his administration from pursuing its agenda.

Secondly, because Mr. Scalia's father is one of the Justices of the Supreme Court who was in the majority decision which found for George Bush in Florida, they are using their disagreement with Justice Scalia as a reason to block the confirmation of his son.

Both of these reasons are shameful, and they should have no place in this consideration.

The opponents of Mr. Scalia have raised other arguments which are equally without merit and specious. One of these is that Mr. Scalia is not qualified for this role because the Solicitor of Labor must serve as the people's lawyer and take up the cause of those whom the labor laws and regulations are intended to protect and, because Mr. Scalia has represented employers, he is on the wrong side of the equation. That argument fails on a number of grounds.

First, the Solicitor of Labor answers to the Secretary of Labor. The Solicitor's role is to advise the Secretary about the arguments surrounding the Department's actions and her decisions. This is the role this position has played regardless of the administration or party in power. While it is an important position, it is not at all the policy-oriented position that Mr. Scalia's opponents make it out to be. The notion that the Solicitor of Labor is the people's lawyer is a straw man argument invented for the sole reason of creating a fictional standard that Mr. Scalia's opponents think he fails to meet because he has spent his career representing employers in labor issues.

The second reason this argument fails is that it does not recognize the substance of Mr. Scalia's work. Even under this fictional standard, Mr. Scalia would qualify. A large part of Mr. Scalia's career in labor law has been spent advising his clients, the employers, on how to comply with the law and steering them away from mistreating their employees under the law. In other words, his career has been focused on helping employers treat their employees better in accordance with the laws passed by this body. Thus, he has indeed taken up the cause of those whom the labor laws are intended to protect.

Another unsupportable argument against Mr. Scalia has to do with his involvement in the OSHA ergonomics regulation debacle. I know something about that matter. We in the Small Business Committee spent a good deal of time working on that issue. Mr. Scalia represented employers on this issue and thus was on the side that ultimately prevailed when both Houses of Congress, by bipartisan margins, invalidated that regulation last March. May I remind fellow Senators that the vote was 56 to 44, with every single Republican and 6 Democrats supporting the resolution of disapproval. Why should this be held against him, when he agreed with the position we took by a 56-to-44 vote margin? This was a resounding victory, perhaps one of the biggest for those of us on this side of the aisle on the labor issue.

The fact that Mr. Scalia was right in his arguments should be to his credit. It should be an indication that he understands what the limits of government are, what the limits on government should be, and if the Department goes too far, it should be reined in.

I don't need to go through the long list of reasons we won that vote. It should be clear that we would not have won with such an impressive margin if that rule had not been so horribly flawed. Are we willing to say that because the Clinton administration OSHA put an egregiously flawed regulation forward, we are not going to confirm Eugene Scalia to be Solicitor of Labor because he agreed with the majority in both Houses and the President that it should be repealed?

While all these arguments and discussions about Mr. Scalia's merits unequivocably support confirming him, they obscure one of the hidden truths about him. He genuinely cares for the people whom he represents and will approach the position of Solicitor of Labor ever mindful of those who rely on the Department of Labor for protection.

Since his confirmation hearing and the subsequent vote approving him in committee, we have received a letter from a woman whose case he took pro bono—at no charge—which illustrates this point and conclusively demonstrates the caliber of person Eugene Scalia is. It is a short letter. I will read excerpts from it, and then ask unanimous consent that the full text be printed in the RECORD.

The letter is from Ms. Cecilia Madan. It begins: I am a deaf, Hispanic immigrant and a single mother, working full-time to support my daughter. And I have information about Eugene Scalia's handling of a labor employment matter involving me.

She describes how, in 1998, her work environment became increasingly hostile, abusive, and difficult for her to bear. In seeking legal assistance, she learned she could file an action under civil rights laws, the Americans with Disabilities Act, or the DC Human Rights Act. But every lawyer she consulted told her that even if they were willing to take the case on a contingent fee basis, she would have to pay a substantial retainer upfront. She simply did not have it. She could only afford their consultation fees.

Then she writes:

> Then a friend of mine recommended that I try the "pro-bono" program at Gibson, Dunn & Crutcher, and Mr. Scalia in particular. My brother called for me, to see if I could have an appointment. I was so worried that Mr. Scalia might be too busy and turn me away (after all, I had never heard of him before)! But he agreed to an appointment immediately. At our meeting, Mr. Scalia was so kind, and thoughtful, and patient; he even asked to see a picture of my daughter! I fear I must have rambled a great deal when I told my story, but he didn't seem to mind at all. Our meeting lasted a long time, but he didn't ask for a consultation fee or a retainer, and he told me that he and his law firm would take my case "pro bono." He said that he didn't think a lawsuit (which could take a long time) would be necessary, because often

these matters could be resolved through "firm negotiations," which he was fully willing to undertake for me. He made every effort to reassure me, saying that he and his associate would do everything they could to "resolve this." He seemed to sense my extreme anxiety and tried his best to calm my fears. I was able to walk away with confidence and hope.

The negotiations went on for several weeks, but they were tremendously successful--much more than I had even hoped for. "Firm negotiations" is right: The employer agreed to just about everything I had asked for, and "my lawyers(!)" got the employer to agree to things I hadn't even thought to ask for!

Not only did he and his associate negotiate around the employment problems I was facing right then, they took great care to look ahead and watch out for my future interests.

A few months later, when I was able to get a new job, with a different employer (as a result of the settlement Mr. Scalia got for me), I was impressed to receive brief word from him saying that he had heard of my new job and hoped that my daughter and I were well. . . ."

She concludes her letter this way:

Throughout my ordeal, Mr. Scalia went out of his way to help. He seemed especially . . . concerned about not making things worse for me on the job, while he was vigorously defending my rights with my employer. Even though he had never seen me before and even though I could never pay him, simple justice is what he wanted for this employee and worked hard to get, and that is what he got for me. I am so grateful to him for his efforts as my lawyer. . . .

I ask unanimous consent that the full text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 9, 2001.

[Re nomination of Mr. Eugene Scalia to be Solicitor of Labor.]

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Health, Education, Labor and Pensions, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am a deaf, Hispanic immigrant and a single mother, working full-time to support my young daughter, and I have information (which I hope will be helpful in considering Mr. Eugene Scalia's nomination to be Solicitor of Labor) about his handling of a labor/employment matter involving me.

I began full-time work in 1991 for a local employer. By 1998, the work environment there had become increasingly hostile towards me, abusive, and difficult for me to bear, and I was terrified that I would lose my job. In desperation (I was heavily in debt and living from paycheck to paycheck, just to make ends meet), I went to several labor-lawyers in the area, who advised that me I could file lawsuits under the 1964 Civil Rights Act, the D.C. Human Rights Act, and the Americans with Disabilities Act, based on the facts of my employment situation, on the grounds of my ethnicity/race, my sex, my hearing disability, a medically-diagnosed chronic condition I was suffering from and under treatment for at the time, and my marital/family status. Unfortunately, all of these lawyers—even those who said that they could take the case on a contingency-fee basis— insisted on my paying them a substantial retainer up front, and I had no money to pay them any more than their consultation fees.

Then a friend of mine recommended that I try the "pro-bono" program at Gibson Dunn & Crutcher, and Mr. Scalia in particular. My brother called for me, to see if I could have an appointment. I was so worried that Mr. Scalia might be too busy and turn me away (after all, I had never heard of him before)! But he agreed to an appointment immediately. At our meeting, Mr. Scalia was so kind, and thoughtful, and patient; he even asked to see a picture of my daughter! I fear I must have rambled a great deal when I told my story, but he didn't seem to mind at all. Our meeting lasted a long time, but he didn't ask for a consultation fee or a retainer, and he told me that he and his law firm would take my case "pro bono." He said that he didn't think a lawsuit (which could take a long time) would be necessary, because often these matters could be resolved through "firm negotiations," which he was fully willing to undertake for me. He made every effort to reassure me, saying that he and his associate would do everything they could to "resolve this." He seemed to sense my extreme anxiety and tried his best to calm my fears. I was able to walk away with confidence and hope.

The negotiations went on for several weeks, but they were tremendously successful—much more than I had even hoped for. "Firm negotiations" is right: The employer agreed to just about everything I had asked for, and "my lawyers(!)" got the employer to agree to things I hadn't even thought to ask for! Not only did he and his associate negotiate around the employment problems that I was facing right then, they took great care to look ahead and watch out for my future interests.

A few months later, when I was able to get a new job, with a different employer (as a result of the settlement Mr. Scalia got for me), I was impressed to receive brief word from him saying that he had heard of my new job and hoped that my daughter and I were well. We sure are . . . thanks in such great part to him!

Throughout my ordeal, Mr. Scalia went out of his way to help. He seemed especially to be concerned about not making things worse for me on the job, while he was vigorously defending my rights with my employer. Even though he had never seen me before and even though he knew I could never pay him, simple justice is what he wanted for this employee and worked hard to get, and that is what he got for me. I am so very grateful to him for his efforts as my lawyer. And I hope you soon will give other people in the workforce the opportunity to have him as their lawyer, as Solicitor of Labor.

Please let me know if you need more information or if I may help Mr. Scalia's nomination in any way.

Sincerely,

CECILIA MADAN.

Mr. BOND. I think this simple letter speaks volumes about Mr. Scalia and the type of person and the type of lawyer he is. It is a clear statement of the values he upholds and the positive impact he believes he can have as a lawyer. This is the person President Bush has chosen to be his Solicitor of Labor. I truly and honestly believe the President could not have found a better candidate, or one who is better qualified, better trained, and better motivated. I am thrilled that Mr. Scalia is willing to accept the responsibilities of public service, and I implore the majority leader to bring this nomination to the floor for a vote before we adjourn.

Every shameful day he remains unconfirmed is another day the Secretary of Labor and America's employees do not benefit from his abilities and compassion.

I yield the floor.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EDWARDS). The clerk will call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, as we are in preparation for a debate on farm legislation, I want to call to the attention of the Senate a very useful and, in fact, remarkable publication called "Food and Agricultural Policy, Taking Stock for the New Century," published by the U.S. Department of Agriculture this summer to state the views of the Department, and to offer data for Senators and members of the public as we began the farm debate.

I want to quote extensively from chapter 3, entitled "Farm Sector Policy" because I believe it gives a very good outline of USDA's opinions on farm policy as it has progressed in our country, and as we hope it may progress through constructive debate on this bill.

Mr. President, the chapter begins by saying that:

If farmers and farm families all across the country share the same goals and face the same challenges and opportunities, fashioning farm policy today would be straightforward. And, indeed, that is the way it must have seemed in the 1930s, when farm families depended mainly on farm earnings and grew crops and livestock on much the same acreage as their neighbors. Then, policy had a more focused objective—helping to reduce the wide income disparity between farm families and their urban counterparts—and a "one-size-fits-all" approach was more appropriate. Supporting field crop prices provided widespread assistance, since most farmers grew some field crops, and helped stabilize the entire sector. The farm sector and all of agriculture are vastly different today, as is much of rural America. Yet our farm policy retains vestiges of the New Deal programs and reflects a time of greater homogeneity across American farms and farm households.

Today, the farm sector is diverse beyond the imagination of those who framed the New Deal legislation. On average, farm family incomes no longer lag, but rather surpass those of other U.S. households.

That, I found, Mr. President, to be a remarkable statement, counterintuitive to much of the debate we have on the subject. I will mention again:

On average, farm family incomes no longer lag, but rather surpass those of U.S. households. Most farms are run by people whose principal occupation is not farming. Markets have changed, too. Domestic demand alone is no longer sufficient to absorb what American farmers can produce. Demand by well-fed Americans grows slowly, with population growth. The promise of new, much-faster growing markets lies overseas, in countries where economic prosperity is emerging for larger numbers of people.

As a result, the United States must consider its farm policy in an international setting, helping farmers stay competitive while pressing for unfettered access to global markets. At the same time, Americans' expectations with respect to food have moved well beyond assurance of adequate quantities to include quality, safety, convenience, and many more attributes. And expectations now extend to environmental preservation and enhancement.

More than seven decades of farm policy have provided a rich, full experience upon which to draw as we contemplate appropriate 21st century policies for our industry. The view of policies and programs across their history has proved very instructive, providing invaluable lessons which, at very minimum, can help us avoid the obvious mistakes of the past. History shows us that growth in farm household income was largely due to rapid improvements in productivity, supported by a strong research base, along with better opportunities to market products, including export markets and off-farm employment opportunities.

Many of the program approaches since the 1930s proved not to work well, or not at all, produced unexpected and unwanted consequences, became far costlier than expected, and have been continually modified over time in the long succession of farm laws. Some major and still highly relevant lessons learned include: History has shown that supporting prices is self-defeating. Supporting prices is self defeating. Government attempts to hold prices above those determined by commercial markets have simply made matters worse time after time. Artificially higher prices encourage even more unneeded output from the most efficient producers. At the same time, they discourage utilization, consequently pushing surpluses higher and prices lower. Costs to taxpayers grew until the point was reached where something had to be done. All too often, that turned out to be finding ways to restrict output.

The second lesson, Mr. President, of the USDA book is supply controls proved unworkable, too.

These usually involved restricting the amount of land farmed in attempts to reduce output. But the remaining land was farmed more intensively, and supply rarely was cut enough to boost prices to politically satisfactory levels. The programs were costly to taxpayers and consumers and the unused resources were a drag on overall economic performance. But, perhaps the most important of all, limiting our acreage was a signal to our competitors in other countries to expand theirs, and we lost market share that is always difficult to recapture.

The third lesson of the farm bill is stock holding and reserve plans distort markets enormously.

Isolating commodity stocks from the market when supplies are abundant is attractive for its short-term price stimulus. But, because such stocks eventually must be returned to the market, they limit the recovery of prices in the future. Moreover, time after time, stocks have proved costly to maintain, distorted normal marketing patterns, ceded advantage to competitors, and prove tempting targets for political tampering.

The fourth lesson is:

Program benefits invariably prove to be disparate, providing unintended (and unwanted) consequences. The rapidly changing farm sector structure produced a wide array of farm sizes and efficiencies. Many farms were low cost and the programs were of enormous benefit, enabling them to expand their operations. Others did not receive enough benefits to remain viable and thus were absorbed along the way. That situation still maintains to some extent today, even though we now have fewer farms.

The clarity of these lessons provided several emphatic turning points in national policy. The 1985 farm law proved to be one such point when, after long debate on fundamental philosophy, a more market-oriented approach was adopted. That market orientation was extended in the 1990 farm law, making a less intrusive and expensive role for government in farmer decisionmaking and in the operation of the markets.

The Federal Agricultural Improvement and Reform Act of 1996—

A law that currently we have in place—

proved to be historic in that it removed much of the decades-old program structure, provided unparalleled farmer decisionmaking, flexibility through "decoupled" benefits, and set a new example throughout the world for providing domestic farm sector support.

While that approach is arguably still the least distorting of markets and resource use, its direct payments—

These are the so-called AMTA payments, Mr. President—

do share some unintended effects with price support programs, namely the artificial inflation of farmland prices. The effect clearly has been exacerbated by the size of payments in recent years, some $28 billion in the last 4 years above the amount provided in the 1996 law.

While the rise in land prices creates wealth for some, it works to the disadvantage of others, Direct government transfers distort real estate markets, keeping land prices artificially high when commodity prices are low, as we are seeing today. Higher land prices for consecutive years of large program support make it more difficult for beginning farmers by increasing capital requirements. This inflation also makes it more costly for existing farms to expand to achieve size economies, either by purchasing or renting additional acres (since land rents move in tandem with prices). Higher land values do benefit local tax authorities and the collateral base of farm lenders, but add directly to production expenses through higher interest and rental costs. Since the land charge is such an important component of a farmers' total cost, sustained increases in land prices and rents have a decidedly adverse effect on the competitiveness of our farmers in the marketplace compared with those in other exporting countries, a cause of growing concern in recent years.

To come to the nub of the problem, the farm sector chapter says:

Squaring Today's Realities With Policies. Because of their historical evolution, current program benefits still are largely directed to specific commodity producers, resulting in only 40 percent of farms being recipients.

That is a remarkable figure. After all is said and done and the payments are made, only 40 percent of farmers receive anything; 60 percent receive nothing, a fairly large majority.

And, there still is no direct relationship between receiving benefits and the financial status of the farm. The most financially disadvantaged segment of farmers today is the low-income, low-wealth group.

And this is defined in appendix 1 of this book. Essentially, the book points out that there are commercial farms, intermediate farms, rural residence farms, and then they are distributed by size and income.

In any event, the most low-income, low-wealth group comprises 6 percent of farms, had an average household income of $9,500, and received less than 1 percent of the direct payments in 1999.

In contrast, 47 percent of payments went to large commercial farms, which contributed nearly half of program commodity production and had household incomes of $135,000.

These are families, obviously, that are middle class, upper middle class, and they received half of the payments.

Our current broad-scale, commodity-oriented approach to farm support does not recognize existing wide differences in production costs, marketing approaches, or overall management capabilities that delineate competitive and noncompetitive operations. It thus is impossible to provide enough income support for intermediate farms without overly stimulating production by the lower cost, large-scale commercial producers. Even though many intermediate farms and rural residence farms receive some program benefits, only one in four generated enough revenue to cover economic costs. Even more problematic is the inability of these farms to improve their cost efficiency at the same pace as larger commercial operations, whose investment in new technologies and ability to expand are aided by program benefits.

Another unintended consequence of current programs stems from the increasing disconnect between land ownership and farm operation. While program benefits were intended to help farm operators, most support eventually accrues mainly to landowners in the shortrun through rising rental rates and, in the longer term, through capitalization and to land values.

Land prices in recent years have been relatively robust, especially in areas producing program commodities, despite concerns about low commodity prices and the future direction of farm programs.

For many farm operators, renting land is a key strategy to expand the size of business in order to capture the size economics, as evidenced by the fact that 42 percent of farmers rented land in 1999.

Clearly, operators farming mostly rented acreage may receive little benefit from the program. The impact of income from any source, including program benefits on land values, depends on whether that income is viewed as permanent or transitory. The degree of certainty that the income will continue in the future and even though production flexibility contract payments were intended as transitory when authorized by the 1996 farm bill, subsequent emergency assistance and a 70-year history of Government involvement in agriculture have reaffirmed expectation that support will continue in the future.

Indeed, Mr. President, in both the bills offered by the House of Representatives and by the Agriculture Committee of the Senate, the so-called AMTA payments continue throughout the entirety of the bills.

There was no expectation that they would be phased out as in the 1996 farm bill, no anticipation that they would be transitory. As a matter of fact, in both bills they are larger, and therefore the impact, which has been found in the chapter I am reading, the difficulty for farming, is likely to be exacerbated. The 1996 FAIR Act also continued the marketing loan program, another evolution of the old price support idea, but importantly modified to avoid government stockholding which proved so burdensome in times past.

Marketing loan payments effectively provide a large countercyclical component to farm income but distort markets by limiting the production response to falling market prices. The program guarantees a price for traditional program commodities: Food grains, feed grains, cotton, and oil seeds. As market prices have fallen below this guaranteed price, total marketing loan benefits have risen less than $200 million in the 1997 crop to $8 billion for the 1999 and $7.3 billion to date for the 2000 year crops.

Since 1996, countercyclical marketing loan benefits have totaled about $20 billion. While the current policy made large strides toward greater market orientation, a careful evaluation in the context of today's diverse farm structure and increasingly consumer-driven marketplace still reveals several misalignments among policy goals, program mechanisms, and outcome. Improvement could support more sustainable prosperity for farmers, agriculture, and rural communities without engendering long-term dependence on direct government support.

I will translate that in many ways to the debate we are now having. Essentially, the bill that is before the Senate as reported by the Agriculture Committee attempts not only to continue fixed payments for 10 years without accuracy, thus implying a perpetual agricultural crisis the last farm bill in 1996 had in mind, that essentially we would move toward more of a market economy and transition payments would go to certain farmers who have been in the business.

This has led to substantial debate in the last 5 years because essentially, as many have said, there are landowners receiving payments who are no longer farming at all. They literally are not in the business. The contract we made with farmers in the 1996 farm bill was that if one had a history of planting corn or wheat or cotton or rice—and eventually soybeans have entered in through a marketing loan situation—they receive money on the basis of that history. Thus a part of the distortion that the USDA now points out: The payments are heavily loaded toward people who own land, but 42 percent of those who are actually in the fields this year rent land. They do not own it. Their rents are higher. As a result, their net income is lower.

The policy we have adopted essentially of the fixed payments plus the other aspects, the marketing loans, the other countercyclical situation, increase essentially the land values. If someone is a landholder, that is helpful. As the USDA publication points out, if one is a mortgage banker holding a note, the value of that land increasing is useful. But for young farmers coming into the business, this is potentially disastrous. There is very little entry. For those renting, 42 percent, certainly they have higher costs year by year.

Furthermore, as the USDA publication points out, all of this is occurring to the benefit of only 40 percent of farmers to begin with. The other three-fifths are out of the picture.

One of the interesting facets of farm debates is many farmers must surely believe they are benefiting from this. It is apparent that, really, for time immemorial, a minority of farmers have received any benefit. A substantial majority are not touched by this, certainly in terms of their income.

In addition, the farm policies, whatever their intent, have stimulated overproduction. As USDA points out, essentially the most efficient farmers, using the very best of research, using the best of machinery and equipment and seed, are able to produce a bushel of corn or a bushel of wheat for substantially less than their domestic competitors, fortunately for much less than almost all of their foreign competitors. Therein lies the advantage of the United States in terms of exports.

The problem comes, to take a very specific example of corn, as I mentioned earlier in the afternoon, the loan deficiency payment for a bushel of corn in Indiana and in many other locations is $1.89. That figure was meant to be a floor. It was anticipated the price of corn would be more than $1.89 and seldom would it reach $1.89, but in the event that it did, a farmer could be certain of receiving $1.89 regardless of what the market price might be. The taxpayers generally picked up the difference between the market price and the loan deficiency payment level, the loan rate at $1.89.

But what if corn farmers who were very efficient find that they can produce additional bushels for much less than $1.89 per bushel? The incentive obviously is to produce as much as possible because $1.89 is guaranteed for every bushel, and if one is producing for less than that, it is a profit on every single additional bushel. That does not escape the attention of many of our most efficient farmers, and they have increased their production. By and large, they have grown. Other competitors have not grown and, as the USDA points out, in many cases have either sold their properties or rented them to others who are able to obtain better results, I suspect.

This has led to a certain amount of decline in the number of farmers in the country. But as many farm statisticians have pointed out, in recent years the numbers of farms have grown in various sectors of our society, in large part because many Americans who are professionals in the city, or who simply wanted a rural life-style, purchased small farms or at least some acreage. They qualify under USDA standards as a farm situation if they have $1,000 of sales. That is the cutoff point. Many do have $1,000, and many maybe have $10,000 worth of sales, but increasingly large numbers, hundreds of thousands of persons, have qualified as operating farms on that basis.

Seventy years ago, no one would have considered attempting to think through a farm bill that would be of assistance to all of these additional farmers. But as USDA points out, a majority of persons now obtain more of their income from something other than farming, even as they are classified as one of the 2.1 million farm situations in our country.

I mention that simply because in rhetoric in this debate, or at other times, about farm bills, a great deal is said about the plight of the small family farmer and saving that person. In fact, I would contend most of our farm bills have done a pretty good job of that. There literally is a pretty broad safety net but only if you are in certain types of farming; namely, the row crops—corn, wheat, soybeans, cotton, and rice. For instance, if you are a livestock farmer—hogs, cattle, sheep—these programs do not pertain to you at all.

Increasingly in our farm debates, we have been hearing Senators describe strawberries, cherries, peaches, nuts, and cranberries. These are sometimes known as niche crops, specialty crops, but clearly are not crops contemplated by farm bills. No money in these farm bills goes for these crops. That has not been very satisfying to most Senators who come from States with these constituents.

The situation now with the specialty crops is, Senators come to the floor and ask quite candidly: What is in this farm bill for us? We understand from the New Deal days onward, people in cotton, rice, corn, and wheat were taken care of; a safety net was there for them. But no one thought about us in those days. We are thinking about "us" now.

As a result, the Senate fields annually a large number of disaster bills. Somewhere in the United States of America, the weather is not good for whoever is doing whatever they are doing. They point out that although corn growers or cotton growers are having their problems, the strawberry growers and others are also having a very tough time in other areas. Or the cranberry situation is a disaster.

As a result, the plea comes for disaster assistance payments to these farmers. The USDA, as a rule, has not been geared up to make these payments because there is no particular crop history or there is not a tradition of making the payments. As a result, the payments don't occur for a while because USDA must establish regulations as to who is eligible, how to verify this, and how to audit these situations. Nevertheless, as we have had the disaster bills or supplemental bills, each summer more and more Senators are finding the focus of these disaster bills is not very wide. This is also the case with the farm bill. The 40 percent who get the money are not 100 percent; the Senators who represent the other 60 percent say: What about us?

We have had hearings before the Agriculture Committee, and there are debates among people in the so-called specialty crops—fruits and vegetable and so forth. Some say: Leave us alone. You have pretty well mangled other markets. Supply and demand still pertains in what we are doing without government supports, without subsidies. As a result, there is risk but there is also reward. The market works for us. Don't gum it up.

On the other hand, many well-meaning Senators trying to help constituents are not prepared to take that for an answer. They visit with many farmers who have had genuine disasters caused by the weather or other problems, and they want relief for these constituents. Again and again, the disaster bills try to address all of these localized problems.

The so-called stimulus package offered to the Senate—which we are not considering for a variety of reasons, and which I gather is now grist for the mill, with the overall group discussing this in a bicameral way—had about $6 billion worth of agricultural provisions in it. Many of them duplicate items in the farm bill we are now considering. Perhaps Senators were nervous that the farm bill would never get to them, and the urgency, at least as they saw it, was that the money in the stimulus package might be spent sooner. Perhaps so.

We found these same ideas popping up in the debate we had in August, when the Senate sent $5.5 billion to farmers in the country, mostly to row crop producers, but with a debate on specialty crops and other things that ought to be covered to address their particular problems.

This simply reinforces what USDA has started in chapter 3 of its recent policy book; namely, one size doesn't fit all. As a matter of fact, the number of farming operations in terms of size, scope, altogether the things they are doing, is so diverse, it is very difficult for any farm bill to encompass a majority, or even a small minority of operations, for that matter.

This is why, as we have this debate on the farm bill, I look forward to the opportunity to offer an amendment to the commodity section. I tried to look realistically as to what is occurring on American farms today. I am saying that in Federal policy, strawberries and cattle should be treated no differently than wheat.

In essence, we should take a look at the whole farm income. Each farmer must file with the Internal Revenue Service the proper returns that indicate all income generated on the farm. For many farms that are fairly diversified, that have income from cattle, from hogs, perhaps some from timber, perhaps some corn and soybeans, sometimes some wheat. In the South, more likely it is from cotton or rice, along with the livestock. In essence, we are saying, income earned from all agricultural production should be treated equally in federal farm policy.

Take the example of a farmer who receives $100,000 a year in agricultural sales from all sources. Under the bill I presented to the Agriculture Committee, that farmer would declare that income, and he would receive a $6,000 credit from the Federal Government (or 6 percent of that $100,000) to be utilized in one of three ways. The $6,000 could be used to purchase whole farm revenue insurance, guaranteeing 80 percent of the 5-year income to that farm; in other words, a genuine safety net created on the basis of the history of that operation. If the farmer has had $100,000 of income 5 years in a row, obviously, the average is $100,000, and the farmer would receive a $6,000 government credit. This would buy an 80 percent whole farm revenue insurance policy, which means that in a case of a disaster or a downturn of income, that farmer is guaranteed at least $80,000 of income. That premium would be paid for by the $6,000.

Say the farmer has some money left over. He could utilize that then for a so-called farm savings account. A farmer puts the money from the Federal Government into this account and he matches it with an equivalent amount. At that point, that account remains for a rainy day purpose—once again, to stabilize farm income and to offer a genuine safety net. Or the farmer may use more sophisticated means of risk management. He also has the option to use the $6,000 to purchase other risk management or marketing tools that are of equivalent value.

In essence, we recognize all of agriculture, all of America, all the diverse ways in which people make money. We offer a genuine market-oriented program through a variety of risk management options (including whole farm revenue insurance) so that essentially no farmer could do worse than 80 percent of his annual income in any kind of disastrous year. We encourage savings accounts with a matching Government contribution, to increase the farmer's financial reserves and enhance the financial viability of the family farm. This has the virtue of being relatively inexpensive. That particular virtue has escaped the debate thus far altogether, in large part because Senators have competed with each other to provide more subsidies for more constituents. I understand that urge. But I have also suggested that this debate is occurring at a time in which it is prophesied by the Office of Management and Budget that we will have 3 years of Federal deficits.

One can say, after all, if we are doing deficit spending into deficits for all sorts of other things, the farmers ought to have their share of the deficit spending, too. But that is not the way this debate began. It began with the thought that we were going to have a $300 trillion surplus for the coming year and, for that matter, for most of the years in the coming decade. I have argued earlier on that the outlays, in my judgment, lead to overproduction and lower prices, distorted land values, and make it tougher for young farmers, tenent farmers, and farmers that rent land.

But leaving aside that argument, I make the argument now that we do not have the money. We have not had the money for some time. It is obvious to everybody who has common sense outside the agricultural debate. But sometime it will dawn upon most Americans, and they will wonder what we are doing here.

Senators who rush back to their constituents and say, "I got $173.5 billion in farm subsidies for you," may find some skeptics who will say, "Where was the money? Where did you find the money?"

The Senator may say, after all, the farmers deserve the same benefits as everybody else. There was not any money, but there will be someday. Surely, this thing will turn around. Maybe so, maybe not. My constituents in Indiana are wondering about this.

Two percent of us, and I include myself among this group in Indiana, actually are in the farming business. That is a declining number. But 98 percent are not. Maybe those of us who are in the 2 percent count upon the 98 percent never looking into this picture and wondering how in the world it is all formulated and why we are receiving money. But more and more of the 98 percent are looking into it.

What is occurring is not a mystery to editorial writers in Indiana. They write about it all the time. So do people in the Associated Press. So do people who are local reporters. They are reporting how much money farmers are receiving in Indiana, county by county, by dollar.

This comes as a revolutionary surprise. Many farmers are able to explain—I try to do so, too—that these payments come because we have a farm program which was supposed to be a transition program. We were going to move from heavy subsidies to the market in a 7-year period of time in the last farm bill. These were transition payments. Other payments come, likewise, because of the loan deficiency payment business that I just explained. There is a floor price, really, for every bushel of corn, every bushel of soybeans.

Some payments come because of conservation and cooperation by farmers to do things that are very helpful as stewards of land and water. So there are good reasons for some of these payments. Most constituents understand that.

But they do find it difficult to understand why persons on Indiana farms that appear to be very prosperous receive hundreds of thousands of dollars from the Federal Government. They are wondering, have we missed something here? Was it the argument about the devastation of rural America, the loss of income of people, the loss of farms, young farmers coming in, and so on? And they wonder how are any of these persons helped in the process?

I am saying that these folks whom we intend to make beneficiaries are not in fact helped and have not been for some time.

Let me conclude this explanation with some principle that I found to be useful in an USDA publication, and I commend it to the attention of Senators because I think it offers a fairly good foundation for this debate on farm policy. As the debate continues, I want to return to other aspects that I found especially illuminating in the same publication, but I offer this, at least as some basis for an amendment I intend to offer in due course in the commodity section, which I believe will be constructive, which will be more fair, and which will clearly be less expensive, and which has at least some semblance of reality, considering the times we are in, fighting a war and recession and attempting to do common sense things as Senators.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent the Senator from North Dakota, Mr. DORGAN, be recognized immediately upon the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I rise to talk about the farm bill as it is presented to this Senate, and specifically the dairy part of that bill. I rise with the knowledge that some negotiations are going on to see if that particular dairy program cannot be improved, at least improved from the position of California. The present bill, as drafted, before this body, is one, frankly, I cannot support. I cannot support it largely because of the dairy provisions.

I thought it might be helpful if I related my experiences. The problem is that some States have many small farms, 60 to 80 cows, and other States have larger farms. That is where the subsidies intermesh to really create a very difficult playing field for California. Essentially the provisions in the agriculture bill that is on the floor now would force consumers across the United States to pay $1.8 billion more for milk each year. It would drive down essential income to dairy farmers who produce the milk contained in most of our Nation's dairy products.

California is the largest dairy State in the Nation. Last year, dairy farmers produced 32.2 billion pounds of milk. Over 19 percent plus of the Nation's supply comes from California. The industry is a $4.3 billion industry in the State, and dairy is the largest part—most people do not know that—of what is a $30 billion agricultural industry. We have 2,000 dairy farms in the State—2,100 to be exact. We lead the Nation in the total number of milk cows at 1.5 million. I often joke I wish they could vote. The California industry produces 122,000 jobs and contributes $17.5 billion overall in the economy each year.

These are full-time, year-round jobs in agricultural counties that make up the heart of the great California central valley. Dairies provide jobs for farmers who grow and ship feed, for farmhands who milk the cows, for workers in the processing plants who make our famous California cheeses, and for packers, marketers, and many others. In fact, in the great San Joachin Valley, one in every five jobs is dependent on the dairy industry. If California were a separate nation—I think most people do not know this—it would rank eighth in the world in milk production, fifth in the world in cheese production, and ninth in the world in butter production.

I want to make it clear that we are talking about California more than any other State when you talk dairy. So it is simply not possible to leave California out of any dairy equation.

I am aware that the dairy industry, particularly in the Northeast, needs government help. I want to make it clear that I can't support that help if it greatly disadvantages the dairy farmers in California.

I think the California Secretary of Agriculture put it best. I would like to quote from a letter dated December 3:

> Consumers will see higher prices for fluid milk. In the Senate bill, it is 40 cents more a gallon for milk.
>
> State law and economics dictate that California's dairy prices must bear a reasonable relationship to milk prices in neighboring regions.

California law, like it or not, ties us into any pooling agreement that might be made.

> As fluid milk prices in surrounding states rise, California fluid milk prices would be increased in a corresponding manner. Unfortunately, the higher milk prices will force some consumers to switch to less expensive—and less nutritious—non-dairy alternatives. Dairy processors would be negatively impacted by this loss of fluid milk sales.
>
> At the same time, California's dairy farmers will also lose under the Senate plan. Increases in fluid milk prices will undoubtedly lead to increased milk production. Once an area covers its needs for fluid milk, the additional milk goes for manufactured product such as cheese, milk powder, and butter. California is the leading producer of both milk powder and butter. California is the second largest producer of cheese, and in fact only 19 percent of California's milk production goes for fluid milk. By simultaneously stimulating production while dampening demand, the Senate plan strikes at the heart of California's dairy economy by severely depressing prices for manufactured dairy products.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CALIFORNIA DEPARTMENT OF FOOD
& AGRICULTURE,
Sacramento, CA, December 3, 2001.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: I recently wrote to you expressing concern about the proposed changes to the federal dairy system and its impact on California. While this proposal has changed since that letter, its impact remains negative for California's consumers and dairy producers.

The new plan, contained in S. 1731 as of this writing, would apply to only the federal order program. However, it would have enormous consequences to this state.

Consumers will see higher prices for fluid (drinking) milk. State law and economics dictate, that California's dairy prices must bear a reasonable relationship to milk prices in neighboring regions. As fluid milk prices in surrounding states rise, California fluid milk prices would be increased in a corresponding manner. Unfortunately, the higher milk prices will force some consumers to switch to less expensive—and less nutritious—non-dairy alternatives. Dairy processors would be negatively impacted by this loss of fluid milk sales.

At the same time, California's dairy farmers will also lose under the Senate plan. Increases in fluid milk prices will undoubtedly lead to increased milk production. Once an area covers its needs for fluid milk, the additional milk goes for manufactured product such as cheese, milk powder, and butter. California is the leading producer of both milk powder and butter. California is the second largest producer of cheese, and in fact only 19 percent of California's milk production goes for fluid milk. By simultaneously stimulating production while dampening demand, the Senate plan strikes at the heart of California's dairy economy by severely depressing prices for manufactured dairy products.

This is the case even though the Senate plan will primarily increase production in other parts of the country. Manufactured dairy products may be easily stored and transported. Accordingly, the markets for these products are nationwide so that even if increased production were limited to other regions, California's prices for its manufactured products will drop significantly.

The Alliance of Western Milk Producers estimate that over 9 years the bill would have the impact of reducing California dairy farmer's revenue by approximately $1.5 billion. At the same time, California consumers would pay an additional $1.5 billion in higher retail milk prices. The Alliance estimate seems reasonable using the analysis completed earlier by the University of Missouri's Food and Policy Research Institute. Our economists concur with these estimates.

Without question, dairy policy offers some of the most contentious issues in agriculture. The sole positive attribute of the Senate plan is that it has united California's dairy consumers, producers, and processors in opposition to the proposal. Whatever it does for the rest of the country, it is bad for our state.

I thank you and your staff for all of your efforts on behalf of Californians. If I may be of any assistance to you on this or any other matter, please do not hesitate to contact me.

Sincerely,

WILLIAM (BILL) J. LYONS, JR.,
Secretary.

Mrs. FEINSTEIN. Mr. President, I said that California families under the Senate bill will pay 40 cents more per gallon of milk. That is according to the California Department of Food and Agriculture. That represents a net cost to the industry of $1.5 billion over the 9 years of this bill.

Do we really want to make it more expensive for parents to provide calcium to their children? Do we want to deprive the elderly of nutrition that strengthens bones, fights cancers, stops osteoporosis? Do we want to make families cross milk off their grocery list because it costs too much? I don't think so.

For Californians, the legislation is a double-edged sword. Not only will a mother in Los Angeles be paying more every week at the grocery store, but a father who runs a dairy farm in Modesto will see his income slashed, if this bill becomes law. For one co-op, this represents a loss of $71,000 per dairy farm.

The payment formula may be complicated and crafty, but the winners and losers are clear. California is targeted by this bill to be a loser.

Like other goods, a higher price established for fluid milk by law—not the market—will cause families to buy less, as I said, and cause suppliers to get an improper price signal to produce more. If there is too much drinking milk in the marketplace, it spills over to compete against milk used to produce cheese, butter, milk powder, and other dairy products.

Prices for milk are based on how the milk is used, which is referred to as "ultimate utilization." Since over 80 percent of the milk in California is used to produce these dairy products, any excess milk will drive down the prices received by California dairy producers. Other States with small dairies can take advantage of government subsidies no matter what the milk goes for. But States such as California are excluded under their proposal because dairy farms have large herds. The average size of the 2,100 herds in California is 656 cows.

Again, this is an attempt to take money from California to give it to other States.

Dairy producers estimate they are going to lose $1.5 billion over the next 9 years if the provisions in the Senate farm bill are enacted into law.

Let me read a couple of letters from California's dairyland.

Jim Tillison, Chief Operating Officer of The Alliance of Western Milk Producers, writes that the dairy program in the Farm Bill "is bad for California's consumers and it is bad for California's dairy farm families." He estimates, "the net loss of revenue from manufactured milk will decrease California dairy farm family income by $1.5 billion over the next 9 years." The Alliance of Western Milk Producers is a trade association that represents California dairy cooperatives. Together, Alliance member cooperatives market approximately 50 percent of the milk produced in California both as raw milk and as processed dairy products.

Rachel Kaldor, Executive Director of the Dairy Institute of California, a state trade association representing the manufacturers of over 70 percent of the fluid, frozen, and cultured dairy products in California, writes, "any legislation which creates federal price floors, production limits and income redistribution—national pooling—is bad news for California."

In another letter, Gary Korsmeier, Chief Executive Officer of California Dairies Incorporated reports, "the milk prices for California farm milk used in cheese, butter, nonfat milk powder and other dairy products, would drop by $2.9 billion dollars." Korsmeier predicts the average dairy farmer in the cooperative would lose $71,000 per year. California Dairies Incorporated is a member of the Alliance of Western Milk Producers. Formed from the merger last year of three California dairy cooperatives, California Dairies' 700 members account for about 40 percent of California's milk production.

I could go on and on. I can talk about lower milk consumption, increased milk production, and dramatically increased government expenditures on the dairy program. I can talk about another layer of bureaucracy and exacerbation of regional disparities. I can talk about providing another chance to pit big producers against small producers and reduction in the percentage of producer income that is derived from the market. I can talk about contradicting congressional intent for the current program, setting up regional supply management boards, and increases in assessments on dairy producers.

The dairy program is a bad part of this farm bill.

I would like to read into the RECORD the agricultural groups that oppose the dairy provisions currently in this bill: California Farm Bureau Federation, Alliance of Western Milk Producers, Western United Dairymen, California Dairies Incorporated, Milk Producers Council of California, Montana Dairy Association, Dairy Producers of New Mexico, Idaho Dairymen's Association, Oregon Dairy Farmers Association, Texas Association of Dairymen, Utah Dairymen's Association, and the Washington State Dairy Federation.

It is not only California, it is a number of Western States that would be seriously impacted by the dairy provisions of this bill.

Let me say in conclusion that a national dairy policy that strikes at the heart of California's dairy industry and other Western State dairy farmers is not an option. I cannot support a farm bill that harms California. I hope the negotiations going on to try to come up with another formula to meet this concern are successful.

I thank the Chair, and I yield the floor.

Mr. President, I appreciate the unanimous consent agreement to recognize the Senator from North Dakota. But I also notice that he is not present at this time. I ask that the unanimous consent agreement be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I rise today to voice my strong support for the consideration of the passage of a farm bill this year. We have been discussing and debating and moving forward with a number of pieces of legislation, but, in my home State of Arkansas, there is no piece of legislation more important than the pending farm bill.

Two major issues that have been discussed are biosecurity and economic stimulus. For my State, the farm bill addresses both of these issues. I urge my colleagues to move forward with this legislation expeditiously.

I commend Chairman HARKIN for holding a markup this year and not bowing to those voices that said we should delay this.

While I do not claim that the Harkin bill is my preference on a number of issues, I am pleased that the Agriculture Committee worked so hard and so diligently in getting a bill out of committee this year. I hope the full Senate will now act expeditiously.

For rural America and for most of Arkansas, an economic stimulus package must be tied to agriculture. To talk about passing an economic stimulus package and not doing a farm bill, for the State of Arkansas simply does not make sense. For Arkansas, the two complement one another and are intricately related.

The agriculture industry in Arkansas has been in distress over the last few years due to a combination of high energy prices, low commodity prices and difficulties in opening up foreign markets to American goods.

Agriculture and agriculture-related activities account for a full 25 percent of my State's economy and provide $5 billion in farm income. It is Arkansas's single largest industry. Farming is, in many ways, the lifeblood of my State. It is imperative that a new farm bill be passed this year, which is why many of us have worked so hard to push for the completion and passage of a farm bill while we are still in session this year.

Fewer and fewer farmers in my State are able to continue farming due to, not a recession, but a depression that the agricultural sector has experienced over the last few years. While the rest of the economy grew and benefitted during the late 1990s, agriculture was one of the very few industries that actually suffered during this time.

Let me share with my colleagues just a few of the statistical facts regarding the farm economy in my State over the last few years. These are Arkansas-specific numbers from the USDA.

In 1996, the price for rice was $10.20 per hundredweight. For the year 2000, that price was $5.70 per hundredweight. In 1996, for the entire rice crop production in Arkansas, the value was $733 million. In the year 2000, the value of production had dropped to $490 million.

Next, let me share the statistics on cotton. In 1996, the price was 71 cents a pound. In the year 2000, the price had dropped to 56 cents per pound. In 1996, the cotton crop value of production was $555 million. By the year 2000, that had dropped to $388 million.

In 1996, for wheat, the price was $4.38 per bushel, but, in the year 2000, the price had dropped to $2.40 per bushel. In terms of the value of production, in 1996, the wheat crop was valued at $293 million; by the year 2000, it had dropped by more than half to $142 million.

For soybeans, a major commodity crop in Arkansas, the price was $7.34 per bushel in 1996; in the year 2000, the price had dropped to $4.90 per bushel. In 1996, the value of production was $824 million; in the year 2000, the value of production dropped to $407 million.

Overall, the net farm income for agricultural production in my State has gone from about $2 billion in 1996 to just over $1.5 billion in the year 2000. That is a decline of nearly half a billion dollars. In a small rural State such as Arkansas, that impact is devastating.

It is my sincere hope that we can get a farm bill into conference, get it passed, and signed by the President this year.

There are few issues that are followed as closely or scrutinized as completely as agriculture policy. The Agriculture Committee was given the very great responsibility of creating a farm bill that will determine the direction of agriculture policy and the assistance available for farmers and rural communities over the next 5 years.

In committee, there were a lot of compromises that were reached. In a bill of this scope, with the impact it will have on rural America, it is never possible to please everyone. The goal of this farm bill, from the beginning, was to re-craft a failing policy and provide the assistance and certainty that our producers must have.

This policy is extremely important. In many cases, it will determine whether or not farmers in the State of Arkansas will be able to plant next year, and, in an even broader sense, it will determine if many of the hardworking farm families in Arkansas will be able to continue to work their land and make a living.

Over the past 4 years, rescuing the farm economy has cost over $30 billion in emergency Federal farm aid. It is quite clear that our current farm policy is not working. It has been an ad hoc policy. We have been forced to address short-comings annually. The current policy has been devoid of certainty—creating instability in the farm economy across this country. It has resulted in farmers never really being sure of what Congress is going to do, and it has resulted in Congress having make ad hoc emergency assistance as needed from year to year.

It is imperative that we end the annual struggle where Congress must find money and make available large numbers of emergency funds to support our nation's farmers due to insufficient agricultural policies. We must recognize the needs of our farmers and address them.

My views, and the views of a few other Members, were made quite clear with the introduction of S. 1673. I still believe that the bipartisan compromises we came to in that bill would provide the type of assistance our farmers need while providing a healthy framework for agriculture policy in the future.

This is indeed a unique time in our Nation's history. Now, more than ever, our country is looking to its leaders for guidance and support. Our national security has been tested, and our economy is in need of a stimulus. Throughout all of this is the need for strong, comprehensive policies that reflect the needs and priorities of our country.

I do not need to tell this body that agriculture is one of these priorities and that a strong, responsible, and well-crafted farm bill will ensure the assistance our farmers and rural communities need while providing the stability and certainty they must have to continue over the next 5 to 10 years.

While I have been pleased with the steady progress we have made with the farm bill over the last few weeks, I urge my colleagues to push hard to complete the consideration of the bill so we can provide for the needs of our nation's farmers.

Over the last few weeks there have been reports criticizing farm policy and criticizing the various farm bills. Despite these reports, I would argue that strong farm policies are absolutely essential to assure the safe, abundant, and affordable food supply we enjoy in this country. The farm policy of the past may not have been perfect, but it is that which has given the American people the safest, most abundant, and most affordable food supply in the world. Our farmers are, in fact, the best in the world. This is a testament to their hard work and their commitment to advancing agriculture. But their hard work must be joined by sound agriculture policy.

I realize the diversity of agriculture in different parts of this country. However, I also realize a farm bill is just that, it is a farm bill meant to reflect and address the needs of our agricultural communities. Numerous titles of this bill address key issues of rural America, but if farmers are not farming, what will happen to those communities then? What will happen to the seed dealers, the bankers, the car dealers, and a whole host of industries directly reliant upon the farm economy?

As you are all aware, there are numerous proposals out there to address the farm sector's needs. While I worry that the best possible policy might not emerge, I do believe we will make improvements to our current policy. I am firmly behind moving forward and completing a farm bill this year. It is a must for our farmers. I believe that, in the end, we will work to provide for the needs of our nation's producers.

In terms of trade, I agree with the Secretary of Agriculture, in her testimony before the Agriculture Committee, that expanding trade is an essential part of agriculture policy. I believe that aggressive action on this front will greatly benefit our producers and allow the United States to fully participate in the proliferation of trade agreements that are now emerging out of Latin America, Asia, and with our allies in the Middle East.

Agriculture trade can open up whole new markets and provide our country with new friends abroad who will be able to share in our wealth during prosperous times and come to our aid in times of need or tragedy.

However, trade also requires compliance with international agreements. While I have been critical of some of the provisions in past trade agreements, and will likely have misgivings about some future agreements, I understand the importance of the United States keeping its word.

As Senator CONRAD has pointed out in committee and on the floor with numerous charts, we don't support our producers at nearly as high a level as our European competitors. Our farmers are at a strategic and competitive disadvantage. The way to fix this problem is with green box payments. Senator COCHRAN and Senator ROBERTS are to be commended. They have crafted a proposal in committee—and I assume will be offering it on the floor as well—providing the support our farmers need while remaining true to our obligations abroad. While there may be other proposals that are WTO compliant, few would provide the level and assurance of support that the Cochran-Roberts proposal would.

The greatest fear of many farmers and their lenders in my State is replicating a system where a farmer is not certain of the level of support they will receive from year to year. This has been the fatal flaw with our current policy. The rapid phase-out of the fixed, AMTA-style payments in the Senate version of the farm bill that came out of committee is very troubling. That style payment is one of the only true green box payments in the bill. If the WTO calls for lowering allowable amber box payments, these payments may be the only money allowable for safety net purposes.

While I support moving forward, I believe the assured levels of assistance in S. 1673, the House bill, and the Cochran-Roberts approach are, by far, more favorable than some of the other proposals circulating that would diminish these payments.

In addition to trade, conservation is a key component of the farm bill, as it should be. Our farmers and ranchers are stewards of our nation's natural resources. It is important that incentives be available that encourage and reward environmental stewardship. It is my belief that this is an important component of farm policy, but it is a component that must be balanced with other titles in the bill.

I strongly support the increased acreage for WRP in all of the proposals we have seen. CRP has also been an important program for Arkansas. In addition, the Wildlife Habitat Incentives Program has also been successful in promoting the health of wildlife in Arkansas. These are all good programs.

While I support these programs, I believe a balance must be struck. I agree with many of my colleagues that this is done by strengthening programs we know are successful, where we know our funding can be maximized to the benefit of the environment and the agricultural sector.

As we have learned from the last few years, a farm bill must provide a safety net for producers through a good commodity title. A sufficient commodity title is absolutely essential in providing the support needed by our country's farmers. Without these programs, our farmers would be at an incredible competitive disadvantage with our European counterparts. Many of our farmers would simply be put out of business.

The farm bill must reflect the needs of our country's producers. It must also allow the Congress to avoid the costly ad hoc emergency spending that has characterized farm policy for a number of years.

Proper funding and allocation of these funds is essential in allowing our farmers to remain on their farms. Without farmers working the land, without the type of technical expertise present in our country's agricultural sector, we would not have the abundance of nutritious food we enjoy in this land.

Our farmers are indeed the best in the world. They are early adopters of new technology and enhanced growing techniques that allow them to increase production while reducing the environmental impact of agricultural activities. Much of these great strides forward have been the direct result of this nation's commitment to its farmers.

This Nation has its roots in its fertile soil. It is important that we remember that agriculture has been, and will continue to be, a source of great strength and security for our country.

I conclude by emphasizing to my colleagues just how important the farm bill this year is. It is an absolute must-have for our nation's farmers and rural communities. I hope we will move forward quickly and responsibly.

I yield the floor.

The PRESIDING OFFICER (Mr. REED). The Senator from North Dakota.

Mr. DORGAN. Mr. President, are we in the postcloture period for debate?

The PRESIDING OFFICER. Yes, we are.

Mr. DORGAN. Mr. President, we are now, as I understand it, in a 30-hour postcloture period following the cloture vote on whether we should proceed to consider the farm bill.

I don't quite understand this, frankly. We ought not to have had a vote on whether we should proceed to the farm bill. Of course, we should proceed to the farm bill. Who on Earth thinks we should not proceed to write a farm bill.

The current farm bill is a miserable failure. Not many people in the Senate have farmed under that farm bill, as a matter of fact. Those who have had to try to raise a family and operate a family farm under this current farm bill, Freedom to Farm, understand it is a miserable failure. The whole premise of the current farm bill was a failure.

The premise was, whatever happens in the marketplace, that is all fine and that is all farmers need to know. And if the marketplace collapses and farmers don't have support for their products and they go broke, God bless them; the country doesn't care. America will be farmed from California to Maine, and we will have giant agrifactories. We will still get food on the grocery store counters. Under the philosophy of Freedom to Farm, family farmers are kind of like the little old diner left behind when the interstate highway comes through—kind of nice to talk about, nice to think about, nice to remember, but they are not part of today.

People who think that way couldn't be more wrong. The seed bed of family values in America has always come from family farms. It is the road to small towns and big cities and has nurtured and refreshed this country in many ways. Family farming ought not be out of fashion. It ought not be yesterday's policies. It ought to be what we aspire for tomorrow's food supply. Family farming ought to be an important part of this country.

Why do we need some special help for farmers? Why do we have a farm bill? That is a good question. In fact, the U.S. Department of Agriculture was created in the 1860s by Abraham Lincoln with nine employees. My feeling is we don't need a Department of Agriculture if the sole purpose is not to foster a network of families that farm this country. If our goal is not to foster a network of family producers for America's food supply, then I say put a padlock on USDA, turn the key, and get rid of it. We don't need it.

If the goal, however, is to foster a network of family food producers because we believe, both for social and economic purposes, it strengthens and enhances this country, then let's write a farm bill that does that. Let's write a farm bill that supports that. The current one does not. We haven't had one that supports that for a long while.

It is interesting, I come from western North Dakota, a very sparsely populated part of the country. We had a little dispute recently in western North Dakota with prairie dogs. I got right in the middle of the dispute. I can't stay out of a dispute like that, I guess, much to my detriment.

Here is the situation. It relates to what is happening in western North Dakota. We are in western North Dakota becoming a wilderness area. There is no Federal designation. We don't need one. We are fast losing people. My home county was 5,000 people when I left it. It is now 3,000 people. I left a small county in southwestern North Dakota. It is actually pretty big in geographic size. I left to go off to college. It was 5,000 people; now it is 3,000 people.

The adjoining county just south of the badlands in western North Dakota is Slope County, about the same size. Actually, it is almost as big as one of the small eastern States. It has 900 people; seven babies were born in that county last year. So I come from a part of the country that is losing population hand over fist. People are moving out, not in.

Family farmers and ranchers are not able to make a living so they leave. Their dreams are broken. All that they aspired to do to live on the land and make a living with their family, all those dreams are gone.

Then this past spring, the U.S. Park Service, which is also in western North Dakota, had a problem. Out in the badlands of North Dakota we had a little picnic area, and it belonged to the taxpayers and the Federal Government. It was our picnic area. The prairie dogs, fury little creatures, took over this picnic area. Prairie dogs are very much like rats except they have a button nose and furry on the tail, and they multiply quickly.

So the prairie dogs took over the picnic area. Our Federal Government sprang into action. They just sprang into action and did an environmental assessment—an "EA," they called it. They did a finding of no significant impact—some sort of SNIFF; there are acronyms for these major things they do. They jumped right into action. You know what the conclusion was? If the prairie dogs have taken over the picnic area, then move the picnic area. It is a quarter of a million dollars to move the picnic area.

That doesn't make much sense to me. I said: Why don't you move the prairie dogs? We are not short of prairie dogs, we are short of people in western North Dakota. We are not short of prairie dogs; move them.

They said: We can't do that.

I said: When I was a kid, 14 years old, the rats took over our barn and my dad asked if we could have a program to get rid of the rats. And myself and two other 14-year-old boys very quickly pointed out to the rats that the dumping grounds for our town was about a mile away, and lo and behold we got rid of the rats.

I said: Hire three 14-year-old boys from western North Dakota to get rid of the prairie dogs, and it won't cost you very much. We will reclaim our picnic grounds.

I said: The point is, I am really interested that you are going through this machination with respect to prairie dogs and picnic areas, when I can't get anybody interested in the fact that our State in the western part and in most rural counties is systematically being depopulated. Family farmers are going broke, ranchers are going broke, people are moving out. We can't get anybody interested in what all that means and the consequences of it, but you have a few prairie dogs move into a picnic area and, by God, the whole Government has studies going on and they are going to spend money to move picnic grounds.

I said that is a strange set of priorities, in my judgment. I have gone off a bit, but in fact it is hard to get people interested in the real issues. The real issues in western North Dakota are that family farms are losing their shirts. Ranchers have had a big struggle there and people are moving and nobody seems to care much. But they care about a few prairie dogs.

As an aside, I lost the issue. They moved the picnic grounds. Then, about a month later, after all this big controversy, I read in the newspaper that a guy from Oklahoma had invented a truck—he created a truck with a hose on the truck that had a vacuum attached to the hose, and he would stick the hose in prairie dog holes and suck them out of the holes. And it threw them into the back of this truck, which he had padded with mattresses so they didn't get hurt.

I said: That is an interesting approach—to suck the prairie dogs out of the holes and then throw them into this truck with mattresses and they don't get hurt.

Then 2 weeks later, on the national news I saw that in Japan they were selling prairie dogs for $250 apiece as pets. I am thinking to myself that here is a solution to a problem. Hire that guy from Oklahoma, suck those prairie dogs out of the holes, ship them to Japan, reduce our Federal trade deficit, save the taxpayers a quarter million dollars, and reclaim our picnic grounds. Of course, that was way too simple for the Park Service.

I digress a bit only to say this: When you get a prairie dog problem, you have the whole darn Government running to see what they can do about it. But when you have a problem with family farmers making a living, who invest all they have in the spring to plant a seed and get on the tractor to plant that seed, and then they hope beyond hope that the insects won't come, that it will rain enough—but not too much—so they won't have crop disease, that they won't have hail, and that if they are lucky, in the fall they will be able to get out there with a combine and harvest the grain and put it in a 2-ton truck, only to find out when they drive that truck with a load of wheat to the elevator, the elevator and grain trade will tell them: This food you produced doesn't have any value. This food you produced on your farm doesn't have value.

That family farmer on that farm scratches his head and says: What is this about? Our food has no value?

We have a world in which a half billion people go to bed every night with an ache in their belly because it hurts to be hungry, and we are told the food we produce in abundance has no value. Are we not connecting the dots somehow? Is something missing here? The farmer who is told his food has no value goes to the grocery store on the way home and picks up a box of puffed wheat, or puffed rice, or Rice Crispies, or shredded wheat. What they discover is that someone discovered that grain had value. It wasn't the person who produced it, who risked their money to produce it. It was the person that puffed it, crisped it, crackled it, popped it, put it in the box, and sells it for 100 times what family farmers are getting who took all the risks to produce it. There is something fundamentally wrong there.

My point is this: We have struggled to write a farm policy that recognizes the value and the worth of family farmers to this country. Some say: Why are farmers different? Why don't you recognize the value and the worth of the person on Main Street who runs the hardware store, or the barber shop, for that matter? Well, the family farm is the only enterprise in our country that has the risks I have just described—planting a seed, borrowing all the money they can to plant the seed, and hope beyond hope that all the other circumstances that could completely wipe them out financially do not do that between when they plant the seed and when they harvest it; and then they go to the grain elevator with no understanding that their product is going to have any value at all. They are the only small enterprise that has all of those concurrent risks at the same time.

The question for this country about its security and about the nature of its economy is: Do we want to maintain a network of family producers producing our food or not? It is very simple. Europe has made that decision. Long ago, Europe decided it wants family producers to be producing food for Europe. Why? Because Europe has been hungry in its past and doesn't want to be hungry again. It believes food production by family units is a matter of national security for Europe. We ought to believe the same for the United States.

I grew up in a town of 300 people. When I was a boy, in my hometown, I would go on Saturday night to my hometown and it was full of cars. The barber shop was open until midnight. The barber was cutting hair there at all hours of the night on Saturday night. It was like a festival on Saturday evening in my hometown. That is not the case anymore. Family after family after family have gone broke—forced to leave the family farm because they could not make a living raising their grain and the livestock and selling them at prices that the grain trade and the exchanges provided.

Now, one might say that is just the way things are and there is really nothing you can do about that. Europe didn't decide that. They said: We want to maintain a network of family producers for our national security. We believe food security is critically important, and we want to maintain a network of family farm producers for that purpose. Go to Europe and to a small town in rural Europe on a Saturday night and see what you find. You will find that those small towns are alive, as I described my small town was many decades ago. They are alive and thriving. Why? Because the blood vessels that create the economy of a small town come from family farms to these small communities and nourish those small communities.

In many ways, this debate is about values. What kind of an economy do we want? What do we cherish? What do we think is valuable about this country? It is always interesting to me that if you are big enough, strong enough, powerful enough, have enough resources, and you come to this Congress, I am telling you, people stand at attention and say, yes, sir; no, sir; what do you want, sir. I could give a lot of examples of that.

Tom Paxton wrote a song a long time ago, many decades ago when the Congress gave Chrysler Motors a bailout. Mr. Paxton, a great folk artist, wrote, "I Am Changing My Name to Chrysler." It is interesting, even as we now are struggling to get through a motion to proceed on a postcloture, 30-hour discussion, just to get to the farm bill to try to help those families out there, even as we do that, we have a package to try to stimulate the economy that comes over from the House of Representatives that says: Do you know how we do that? We give Ford a $1 billion rebate check for the alternative minimum taxes they paid in the last 13 years. We give IBM a $1.4 billion tax rebate check for the last 13 years. Maybe Mr. Paxton should write a new song called "I Am Changing My Name to Ford."

The point is this: The individual family farmers around this country don't have the kind of clout and power and opportunity to access their Government that some of the largest enterprises in this country do.

Family farms play an important role in our economy and in our culture. For social and economic reasons, I believe this country ought to want to foster and nurture a network of family farmers across this country producing America's food.

We can do it another way, and in some areas we do. In California, they have areas where one company milks 3,500 cows every day three times a day. God bless them, in my judgment. They have every right to do that.

I suggest we have a price support under the milk produced from about 100 cows and say: If you want to milk 120 or 3,020 cows, God bless you, but that is at your risk, not ours. We will provide a price support of the milk on the first 100 cows you milk. That is what we ought to do with respect to providing a safety net for family farmers.

Let me speak for a moment about the farm bill that was written in the Senate Agriculture Committee. Certainly it is not perfect. It is not exactly the bill I would write. I would prefer more targeting in the bill to be more helpful to family-size farms.

This bill is sure a whole lot better than the underlying farm law. I was here when we debated Freedom to Farm, which I thought was a catastrophe and I voted against it, and I am pleased I did. I want to see somebody stand up in this Chamber and say how well Freedom to Farm has worked. It almost bankrupted a lot of family farmers except for the fact every single year we had to pass emergency legislation to fill the gaps between Freedom to Farm which was such a miserable Swiss cheese piece of legislation that really did not help family farmers at all.

When the Freedom to Farm bill was passed, we had high grain prices, and we had people around here thinking that it was going to last forever; we are always going to have high grain prices, so we will just give these farmers declining payments over 7 years, not with respect to what the current market prices are; we will just pay them, and things will be great.

It was an absurd proposition. The fact is, prices collapsed almost immediately, and they stayed down and they are down today.

The current, underlying farm law does not work at all. It is a miserable piece of public policy that should never have been enacted but was, and we have had to make the best of it by the end of each year passing some emergency legislation to respond to the needs that were unmet in Freedom to Farm.

The Senate Agriculture Committee has passed legislation that does a policy U-turn, and that policy U-turn says: Let us go back to at least some form of countercyclical help, getting help only when you need it. That makes good sense to me. That countercyclical help is the help that I hope will give family farmers a message from the U.S. Congress that says: You matter; you count; we want you as part of America's future.

Those Senators who come from farm country have had the same kind of calls I have had and the same experience as I have had. Some say: Those are anecdotes that are emotional but do not mean very much. They mean everything.

Arlo Schmidt was doing an auction sale in North Dakota. He was auctioning a farm that had gone broke. A little boy came up to Arlo at the end of the auction sale. He was about 8 or 9 years old, Arlo told me. The little boy was angry. He had tears in his eyes. He grabbed Arlo Schmidt around the leg, looked up at him and said accusingly: You sold my dad's tractor.

Arlo patted him on the shoulder to comfort him some, and the kid would have none of it. He said: I wanted to drive that tractor when I got big.

The point is, that little boy felt that he, too, wanted a chance to farm, but his family lost their dream, and the result was an auction sale. Those auction sales all around the country, those poster sales of those broken farms reflect a failure of farm policy.

This is a hungry world. It is an enormously hungry world, and we produce food in such great abundance. The economic all-stars of food production are family farmers. There is something fundamentally wrong when we cannot make the connections between what we produce in great abundance and what the world needs.

As I speak today, there are tens of thousands of children who will die from hunger and hunger-related causes every hour, and nobody thinks much about that. I had a friend who was a singer many years ago who died in 1981. His name was Harry Chapin. He was a wonderful singer. He devoted one-half of the proceeds of his concerts every year to fight world hunger.

Harry Chapin used to say if every day 45,000 children die of hunger and hunger-related causes, it is not even in the newspaper; there is not even a news story about it. But if in New Jersey, 45,000 people died in one day, it would be headlines. The winds of hunger blow every minute, every hour, and every day, and it is not even newsworthy. We have family farmers with hopes and dreams to produce America's food and to produce food for the world only to be told that which they produce has no value. There is something dramatically wrong with that.

I will finish by saying this: I regret we are here today dealing with this bill. We should have been on this bill long ago. I especially regret we had to have a vote on a motion to proceed. We are having a debate on whether we are going to proceed to the agriculture bill.

I have the deepest respect for Senator LUGAR of Indiana. I listened to his speech. I could not disagree with him more. He knows I have spoken many times about the Nunn-Lugar program, for which I will have admiration forever for Senator LUGAR. What he has done in some areas is so wonderful and so important to this world. But in agriculture policy, I could not disagree with him more.

It is important for us to have aggressive debate about this so that the country gets the best of what all of us have to offer. I am hopeful at the end of the day that we will get past this postcloture debate, get on the bill, offer amendments, and get this bill done.

Today is Wednesday. We ought to finish this bill this week. We ought to have a final passage vote on Friday, go to conference next week, finish the conference report, and put it on President Bush's desk for signature at the end of next week. That is what we ought to do. I commit myself to doing that. I hope others will as well.

Today, let us make that commitment to America's families who are desperately trying to make a living and hold on to that dream of making the family farm work.

In this hungry world, especially at this time when we talk about security, food security, and contributing to the world's food supply by our country's economic all-stars, the family farmers, it is something that merits the attention and merits the writing of a good farm bill by the Congress, and it merits us doing that now, this week, and next week, and finishing that product so we can have the President sign it before the end of this year.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, are we on the farm bill?

The PRESIDING OFFICER. We are on the motion to proceed to the farm bill.

Mr. THOMAS. Mr. President, I want to talk about the farm bill for a moment. I have been listening to my friend from North Dakota talk in general terms of where we ought to be and what we want to do for the world, but we have not talked about how we get there.

There ought to be some target, instead of talking about having food. That is great. The fact is, we are talking about a policy. Look at this bill. It was brought up to the Chamber this morning. There is a lot of detail in this legislation. What we need to be talking about and have been talking about but have not completed is a vision of where we want to go, what do we want agriculture and our food system to be in 10 or 15 years.

My colleagues talk about the politics of it, of course, and that is great. They can talk about distributing funds to everyone, and that is great. All of us want some safety net in agriculture, and we will work to do that, but we have to go beyond that and take a look at how we get there and what is the best way to do that.

Quite frankly, I have been involved in agriculture. My friend was talking about coming from a town of 300. I come from Wapiti, WY. That is not even a town; it is a post office.

I know a little about agriculture. That has been my life as well, a different kind of agriculture to be sure, and that is one of the issues. There are all kinds of agriculture with which we have to deal. The Bush administration took a look at it and they had a statement I thought was good. They believe farm policy should ensure compatibility between domestic and trade objectives.

Have we talked about that? No, we have not. Support open markets. Did we talk about markets? No, we did not. Provide market-oriented farm safety net? I think all of us want to do that, not create undue uncertainty. These are the principles we ought to have as we move forward.

I am a member of the Agriculture Committee. I am a new member of the Agriculture Committee this year, as a matter of fact. The idea of finishing on Friday bothers me a little bit because this bill was jammed through the committee in time that most of us did not even have a chance to take a look at what was being proposed. It was brought up when we, quite frankly, ought to have been dealing with our economic stimulus package.

We ought to be dealing with doing the appropriations and those matters that really have impact. The farm bill does not expire until next August. I am one who thinks, yes, we ought to go for it after we get back in January so farmers will have some idea, before planting time, as to what they look forward to in the future. But the idea that we take something like this that hardly anyone in this whole place has looked at and pass it in 2 days is criminal, and I hope that does not happen.

I objected as we went through this bill a time or two simply because we have not had an opportunity to look at various complicated titles, and they are complicated. We were asked to deal with titles such as conservation, for example, in a markup in the morning when we did not even get the language until some of the staff got it at midnight the night before. I do not think that is a very responsible way to deal with a bill that is as important as this Agriculture bill. It is my opinion the committee moved much too quickly. We did not have an opportunity to find out what was in the particular title, whether it be marketing titles, competition titles, conservation titles, or commodity titles.

Did we have a chance to talk a little bit about the projected ideas and the proposals with people at home in the business? No, we did not. We did not even receive the language until midnight the night before the markup.

So I think we need to take a little time and look at all the aspects. Agriculture is a complicated industry everywhere. In every State, it is a little different. I am from Wyoming. Our largest activity, of course, is livestock, mostly cattle, some sheep, but we also have crops. Interestingly enough, our largest cash crop in Wyoming is sugar beets. So each of us is different. As we went through this in the committee, people were talking about cranberries, about cherries, about apples. That is okay, but it takes a little time to put together a responsible kind of policy to deal with those issues.

During the time the committee was working on the bill, we never did get overall scoring. We never did get a real look at what it was going to cost. Indeed, after the committee was directly forced to deal with it before it was brought to the Senate, changes had to be made which we did not even have anything to do with. That is not the system I believe ought to be used in this place, especially when we are talking about something as complicated and far-reaching that impacts as many people as does a policy for farming.

As we went through the bill, the chairman would talk about a reconciliation process, that after we have waded through the first part of it we could come back and do it. We did not even get a chance to look at the reconciliation until it is now being considered. So I have to say that as interested as I am—and as I said, my own background is in agriculture. I have always been involved with agriculture, so I am very much interested in it, not only because of whom I represent in Wyoming but because I am personally very interested in a successful agriculture that has some opportunity to be market-oriented so we are producing those commodities that the market requests, so that we can build new markets overseas, which we have to do in order to have a program of that kind. So it is a complicated matter, and we really need to move on with that.

As I have said repeatedly, I asked for a little more time in the committee, but we did not get it so we will deal with it as we are, and there will be amendments we can take a look at. Quite frankly, we may be dealing with Defense appropriations before this is completed. We may be dealing with economic stimulus. In any event, we ought to be taking a look at where we want to be over time. We ought to promote the idea of family farms instead of the big corporate farms, of course, so that families can afford to stay on those farms and be effective. We need to find additional markets.

We produce more than we are going to consume. So in order to be an effective industry, we have to find markets and move there. I think we have to be very careful, as we are in this trade business, that the things we do will fit into trade, the so-called green box, the WTO, or the amber box. If we find we do not have these payments that fit into the WTO rules, then we have some difficulties in being able to do that.

I happen to think one of the most important issues we ought to look at is conservation. In my part of the world—and I think it may be even more important other places—people would like to see open space remain. One of the best ways to do that is to have successful agriculture, of course. We need to do that.

There are a great many things we must do and I think we can do. I think there is more emphasis on conservation, whether it is grasslands or whether it is timber or whether it is crop lands itself. These are the kinds of things we need to think about. We need to have a thoughtful bill which we have time to discuss and not jam through because of the political expediency of getting it done before this year is over. I do not think that is the best reason to come up with something that has not had the kind of consideration and thought we look forward to having.

Mr. President, how much time do I have?

The PRESIDING OFFICER. Under cloture, each Senator may speak up to 1 hour.

Mr. THOMPSON. Very well. I am not going to take up the 1 hour. I yield to my friend from Indiana.

Mr. LUGAR. May I respond to the distinguish Senator? In the event the Senator does not use his hour, if he were to yield the balance of that time to me, that would be helpful in the expedition of the debate. But the Senator should be prepared to utilize his full hour.

Mr. THOMPSON. No, I am not going to utilize the full hour.

The PRESIDING OFFICER. The Senator from Wyoming has yielded time to the Senator from Indiana.

Mr. LUGAR. Mr. President, the forum we are attempting to adopt is one in which a Senator yields time to me as manager of the bill as sort of a time bank. I will explain for all Members I am allotted only 1 hour under the rule. I can accumulate as much as 2 more hours by such allocation from Senators, which I seek to do simply to expedite the debate during those times when there are no other Senators present to speak.

In that event, will the Senator yield whatever time he has remaining when he completes his speech?

Mr. THOMPSON. I yield the remainder of my time to the Senator from Indiana.

Mr. LUGAR. I thank the Senator.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. Mr. President, I rise in support of the committee-passed farm bill and to express my hope that we can complete action on it quickly.

First, let me commend Chairman HARKIN and the majority leader for their fine work in meeting the needs of the Senators from different regions of this great and diverse country. We all have unique needs. It is not easy to address all of them and to bring them together. I thank the chairman, again, for his efforts to do so.

I think we have come up with a good farm bill, worthy of passage. This legislation provides a critical income safety net for American farmers. It includes an unprecedented $20 billion increase in conservation spending. It substantially increases allocations for nutrition, for rural development, and forestry programs. This bill meets the needs of our rural communities while remaining within the budget authority.

I am also pleased that the chairman has included an energy title in the legislation that provides incentives for alternative fuel technologies. The energy debate over the past few days only solidifies the need for further advancements in alternative fuels.

Let me take a moment to focus on a major reform that is in this bill, a major reform of the peanut program. In a place such as Washington, where talk of eliminating a program is as rare as spotting a whooping crane, we are now ready to eliminate the Depression-era peanut quota program from our Nation's $4 billion peanut industry. That is worth repeating. Some may think they heard me incorrectly.

There is a provision in this bill to eliminate the old peanut quota system. For decades this system served the South well. For decades it provided economic security to some of our country's poorest areas and it guaranteed the domestic market a safe, high-quality source of peanuts.

But all of that changed when NAFTA and GATT were passed. These agreements effectively ended the peanut program as we know it. Trade protections for peanuts were ratcheted down. Imports gradually increased and farmers' quotas were reduced. In the 1996 farm bill, Congress had decided to require farmers to cover peanut program losses, making it a no-net-cost to the Government. That sounded good politically, but it failed to make peanuts more competitive on the world market and it certainly did not quell imports.

Peanut producers have faced up to this competitive reality. The vast majority are willing to finally give up a program that has served them well for more than 60 years. Yes, it is going to cost some money to compensate quota holders for their losses, but it would be unthinkable for the Government not to compensate farm families for their property. There has to be a bridge between the old system and the new system, and this bill gives us one. It makes that necessary transition and it does it in a fair way.

At a time when we are searching for the best ways to stimulate our economy, this farm bill is the greatest stimulus we can provide to rural America. It will give that economy an instant boost.

If we do not act, I can tell you what the scenario will be in Georgia and in other parts of this country. If we do not pass a farm bill now, local banks will make a fraction of their traditional farm loans. Farmers without financing will either get out of farming or declare bankruptcy. Who will suffer then? I will tell you who. Those farmers, those families in fragile rural areas where the economy is driven by the feedstore and the family restaurant and the local car dealership.

With many textile plants and other industries leaving the rural South, these farmers have fewer and fewer places to turn. In rural Georgia, the challenge today is just to stay afloat. It is becoming tougher by the day. Our Nation's great prosperity over the past decade, unfortunately, has not always filtered down to these rural areas. We have failed to bring many of these communities along economically, and it shows.

We have spent a lot of time looking out for Wall Street, and well we should. Now it is time we look out for Main Street. We need to help places such as Moultrie, GA, and Driver, AR, and Seagraves, TX. Our Nation is focused on the September 11 attacks, and rightly so. But let us not forget that agriculture has been mired in a 5-year disaster, devastated by bad weather and bad prices. Almost every year in this body we have had to provide supplemental appropriations. We need this new farm bill to stop the cycle.

The time is now for a new farm bill. We must act before adjourning for the year. We cannot go home for Christmas with generous, bountiful gifts for certain segments of our economy but only ashes and switches for our farmers.

Mr. SANTORUM. Will the Senator yield for 1 minute?

Mr. MILLER. Yes.

Mr. SANTORUM. I just want to say to the Senator from Georgia, I congratulate you and commend you. For many years we have had battles in the peanut program between those who are peanut consumers in large consumption States and those who are producers, but you have stepped in and provided great leadership for your growers through this transition process. I am very privileged and pleased to join you in a truly unique situation. I think it has not been seen here since the peanut program was instituted. Those who are the consumers of peanuts and those who are the growers of peanuts have found common ground to work on a piece of legislation that will transition us into a whole new era in peanut production.

I commend the Senator for his great leadership from a great peanut-producing State, to help shepherd his growers into a much more market-oriented approach to growing peanuts. I commend the Senator for his great effort.

Mr. MILLER. I thank the Senator for his remarks. He is one who has studied this program closely in the past.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise today to offer my concerns over the action of the Senate in proceeding to the

Farm Bill, notwithstanding the nice dialog between the Senator from Pennsylvania and my good friend from a fellow peanut-growing State, the Senator from Georgia, Mr. MILLER.

I understand the desire to make improvements in the existing farm bill. There should be improvements made. From what I can tell, the House-passed bill and the Senate-Agriculture-Committee-reported bill have several very worthy provisions.

No one can argue against the need for a strong farm bill. Indeed, it is a high priority, and I certainly will not disagree with that. In my home State, the Commonwealth of Virginia, agriculture accounts for a significant part of our diverse economy. Agriculture creates approximately 388,000 jobs in Virginia, which is about 10 percent of the total jobs statewide.

Virginia agriculture contributes about $19.5 billion to Virginia's gross State product, or 11.2 percent of the total GSP.

Farms cover 8.8 million acres, or 34 percent of Virginia's total land area. There are 49,000 farms in Virginia. Most farms in Virginia are smaller farms, but there are 49,000 of them. Again, a strong farm bill is very important to Virginia.

I do applaud the work of the committee in drafting this bill. However, I have several concerns and I cannot agree with moving forward on this bill right now. Let me elaborate on these several concerns.

Number one, this is not the right time to deal with this bill. The current farm bill, with whatever flaws it may have and whatever improvements need to be made to that bill, does not expire until the end of fiscal year 2002, which is September 30 of next year. We are already several months into the fiscal year 2002. It is simply unfair to our hard-working men and women to make any changes to this legislation that may harm their income in the middle of the current year. They just finished the fall harvest and are now involved in planning, buying, and leasing for the next planting. It would be like lining up to kick a field goal and having the goalpost moved after you kick the ball. After you kick it, nobody is allowed to move the goalpost back. That simply would not be fair. It is a terrible way to make changes, whether it is in the peanut program in particular in Virginia or any other sort of program when farmers are making these decisions.

The second problem I have with this measure being brought up now is that Americans have much more pressing problems to deal with rather than changing a law that doesn't expire for another 10 or 11 months. We are at war. Financing this war is important, and making sure that the men and women in uniform have adequate compensation is important. It is important that they have the armaments and the most technologically advanced equipment for protecting our interests at home and abroad. We need to be worrying about that and dealing with the crisis of terrorism. That must be dealt with now.

The Defense appropriations bill: We need to be dealing with proper funding for our Defense Department.

Overall appropriations: The Senate and the House have not completed work on all the fiscal year 2002 appropriations bills, yet we are considering a bill and a law that has not expired and will not expire until the end of fiscal year 2002.

Sometimes I may have a hard time getting used to the logic of the Federal Government—trying to change a bill that has 10 months of validity to it while not even taking care of bills that should have been financing our military or schools since the first of October. These are supposed to be 5-year farm bills. There is a logic to making this a four-year bill. There is a predictability that allows farmers to plan ahead and make investments so that they will grow the best crop possible to provide for their families. That bill doesn't expire until late next year, and here we are arguing that issue.

Meanwhile, we are in a war, and we are not dealing with the Defense Appropriations bill or the Labor-HHS Appropriations Bill. As far as I am concerned, these appropriations bills are some of the primary functions we serve as Members of Congress. The one thing we have to do each and every year is fund the government. We haven't completed that task yet. Those bills should have been completed before October of this year. Here we are fiddling around and debating a very important measure with important implications, but again not taking care of the things that are most timely.

We have emergency appropriations, and $20 billion in appropriations still has to be finalized by Congress concerning response to the September 11 terrorist attacks. Congress has yet to spend the $20 billion appropriated portion of the war on terrorism for emergency security, response, and recovery efforts This issue should be on our plate right now for action rather than the farm bill.

Economic stimulus: We realize our economy has a great deal of consternation. Consumer confidence is low. Businesses are not investing. Jobs are being lost. An economic stimulus package, something that will help spur consumer spending and business investment and thereby the creation of more jobs rather than the loss of jobs—that should be a priority. That is a clear and pressing need for the people of America right now, not a law that expires in October of next year.

Getting hard-working Americans back to work is a priority. Our economy has lost thousands and thousands of jobs and these job losses are not unique to the airline or tourism industry, or even to New York or Virginia. They are felt in every corner of the country and in every industry. As the Senator from Georgia mentioned, we have lost a lot of textile jobs in the South. In Southside, VA, 2,300 jobs were just lost at VF Imagewear in the Henry County area—in the heart of Virginia.

The President's back-to-work package is a way to help those folks who are out of work—hopefully temporarily—with their health care as well as with their unemployment benefits. We need to help these people through tough times and most importantly, strengthen the economy to enable them to get back to work. That is a part of the stimulus package that I wish we were arguing, debating, and acting upon at this moment. But we are fiddling with this bill that doesn't expire until next year.

Nominees: The President ought to have his team in place. I know the Senator from Georgia at one time was an executive. They need their own team in place to respond and to effectuate their philosophy, to act upon the principles, promises and policies that they enunciated to the American people. Yet the President has not gotten the deserved attention to have his nominees for key administration positions—whether it is in the State Department, judicial arena, or in other areas.

I think the Government needs to have capable people to do the work of the Government. Senator BOND spoke on this matter earlier and I agree with his remarks.

Energy legislation: I very much agree on the need to pass comprehensive energy legislation that deals with both supply and demand issues. That is a positive aspect of this farm bill that the Senator from Georgia, Mr. MILLER, brought up. Fuel cells and new technologies are very important. We can't keep doing things the same old way. We need to have a diversity of fuels and not be so dependent on foreign oil. I would like to see us become more energy independent in this country so that we are not jerked around by monarchs or others in the Middle East for our reliance on oil, which matters a great deal for our economy, and clearly it matters to farmers. When diesel prices or gas prices are skyrocketing, they are put in quite a bind.

An energy bill, which has consisted been advocated by Senator MURKOWSKI of Alaska, is something we have been trying to deal with for this entire year. It is an important issue that has been dealt with in the House and deserves the Senates attention.

We are at war in Afghanistan. We also have a war on the homefront as well. We have become the target of domestic terrorism that is accurately described as war. We need to make sure that in our homeland we have the right safety and security—not just abroad but here at home as well.

The farm bill, in my view, is not a piece of legislation that should be rushed into. I believe Senator CONRAD accurately portrayed why we may be pushing this legislation forward. He explained that issue very well. He said: "The money is in the budget now. If we do not use the money, it will very likely not be available next year." While what the Senate Budget Committee says may be true, it is not a good reason to rush through floor consideration on a piece of legislation as important as this one. The farm bill is an important matter. It merits time, consideration, and full debate on the floor. With all of the other priorities that the Senate really must consider prior to recess, it doesn't make sense to hold them up for the farm bill.

I am not a member of the Agriculture Committee and was therefore not able to offer amendments in the committee. I look forward to the opportunity to work with committee members and potentially offer amendments on the floor.

I also understand that the committee markup was not very open to amendments. While I am sure there was a significant amount of wonderful work done by the chairman on the bill, I know there are significant differences even within the Agriculture Committee. These differences are obvious even to someone who is not on the committee. Especially when you look at the number of competing bills introduced by committee members themselves. First there is the Harkin bill which was passed by the committee. There is a Lugar substitute, and the Cochran-Roberts substitute is a third measure. There is a fourth measure being considered, the House-passed bill, and the fifth is the Lincoln-Hutchinson bill.

I heard from people all across Virginia about many of the positive changes that several of these bills would make. However, I also heard from Virginia peanut farmers who have a different view than peanut farmers maybe in Oklahoma, or New Mexico, or Texas, or even the Empire State of the South, Georgia. That is my third concern. The peanut farmers in Virginia may very well go out of business with this measure as written. This new peanut program will hurt the income of hard-working Virginia peanut farmers.

In 1996, when the Federal Government last debated the farm bill, the target price was lowered from $670 per ton down to the current level of $610 per ton. This $610-per-ton level is not due to expire until the end of fiscal year 2002—September 30, 2002.

These peanut-growing farmers in Virginia have sense and practicality. They have already entered into agreements for land. They have entered into agreements for equipment leases as well as renting quota for the upcoming growing season. They will be planting in Virginia only about 5 to 6 months from now. That is simply the planting, and these farmers are certainly in the midst of preparation prior to planting right now.

This farm bill will change their revenue stream after they have already entered into contracts based upon the provisions in the current farm bill. People in the real world think that law doesn't expire until September 30 of 2002. They think that law is going to be there. They make decisions based on that law. Here we are debating changing the rules on them.

The bottom line is that it is simply not fair. It is not fair to our hard-working farmers who have to be dealing with a moving target.

I have been working on these issues with members of the committee and other concerned Senators and look forward to the opportunity to make some changes that will benefit the hard-working family of peanut growers in Virginia and, indeed, every farmer, regardless of crop throughout our country.

Virginia's peanut farms cannot withstand another 10-percent reduction in the price of peanuts as we saw back in 1996. This current farm bill, as proposed, will do just that and then some. Virginia has about 76,000 acres of peanuts and 4,000 peanut growing farmers. The crop brought in $60 million to the State's economy last year. While these numbers may not look large to some Senators who have large corporate farms in their States, these peanut farms are the basis of many local rural communities, particularly in southeastern Virginia. And there are different types of peanuts. I am not going to name every one, but in Virginia we grow the jumbo—the nice, big peanuts. You may see the brands Whitley's or the Virginia Diner peanuts, the Hancock peanuts, the blanched peanuts. Those are Virginia-style or sometimes called Virginia-Carolina style peanuts—the jumbos, the big peanuts, not the small, little redskin peanuts or the Spanish peanuts, goobers, or runters. Those are all fine peanuts as well. You just have to eat two of them for every one of a Virginia peanut. They are probably just as great for peanut butter and candies.

Most of the States are different. Virginia grows this different type of peanut. While it is larger, it does get a lower yield per acre than you would with the smaller peanuts, and they also have a higher cost per acre. Our peanut farmers in Virginia risk having their revenue cut to a point where they will lose money on each pound that is produced. Again, it is a different peanut than is grown in other regions of the country. And while that raises our costs, it unfortunately does not often equally raise the price that the farmer receives. So a tough situation now would just become disastrous if this measure became law in the middle of this year, or, for that matter, even after 2002.

The situation here is one where our economy would be affected. The farmers, in particular, who have purchased equipment, who have made leases on equipment, on implements, on fertilizer—I know the Presiding Officer understands because in his State they have a lot of good rural communities—if there is a good crop that brings in a good yield, sure, that helps the farmer, the implement dealer, those who sell feed or seed or fertilizer, but it also has an impact on the entire community with the money that comes into the businesses there, such as grocery stores and restaurants. It has a big impact on that economy through both direct and indirect means.

Having met this summer with a great deal of peanut growers in southeastern Virginia, it reminded me of when I saw the tobacco farmers just a few years ago, where they were trying to get the best yield per acre they could get and they were under attack by officious nannies from Washington, who are looking to reform somebody else's habit, and here are these communities wondering how they are going to survive. They are simply hard-working law abiding men and women trying to provide for their families. And these proposed changes don't only affect them—it affects their whole community. It is not a matter of humor nor to be taken lightly. Their livelihoods are at stake.

So I say, number one, this is not the right time to change the law before it expires. Let the law expire before you change these laws affecting these peanut farmers. Number two, we have much more pressing issues on which to be focusing our current attention and our brainpower, whether it is supporting our war effort, addressing our economy, getting people back to work or gaining energy independence. And number three, I think this would have a terrible impact on Virginia's peanut farmers and their communities.

I find it completely wrong for the Federal Government to change, at this time, a law that many good, decent, hard-working, law-abiding citizens have relied on. To do that would put a lot of people out of business. And any new law should take effect after the end of the current farm bill.

So with that, Mr. President, I thank you for your attention. I thank my colleagues for their attention. And I hope to be able to work with all of you in the months ahead to come up with a peanut program that is good for the taxpayers, and also one that allows Americans to enjoy the benefits of good, wholesome, nutritious peanuts as well, and takes into account fair practices as far as legislating up here. And we should not change laws before they expire, especially when so many people have relied on those laws. I especially hope that Virginia peanuts will always be around for all of us to enjoy.

With that, under the provisions of rule XXII, I yield my remaining time to the ranking member of the committee, Senator LUGAR.

The PRESIDING OFFICER. The Senator has that right.

The Senator from Colorado.

Mr. ALLARD. Who controls the time?

The PRESIDING OFFICER. Under cloture, there is no control of time. Each Senator has a maximum of 1 hour.

Mr. ALLARD. One hour.

The PRESIDING OFFICER. One hour.

Mr. ALLARD. Mr. President, I thank you for recognizing me and giving me an opportunity to rise today to talk about the farm bill which the Senate is debating. I would also like to thank and commend the Ranking Member of the Agriculture Committee Senator LUGAR for his leadership during this debate. As a member of the Senate Agriculture Committee, I participated in the drafting of the bill which we are now about to consider. Also, when I was in the House of Representatives, some 5 years back, with the passage of the freedom to farm bill, I was on the Agriculture Committee on the House side.

I think this is a great opportunity for us to do some good things to help agriculture in this country. However, it is an opportunity to do the wrong thing. I do think we have to be careful about moving forward too quickly on some of this legislation without giving our farmers and our ranchers and the agricultural interests in our various States an opportunity to study what is in the bill to give us a full assessment of how it is going to impact businesses in their various States.

In the State of Colorado, agriculture is very important. We have always worked on trying to have a broad, diversified economy. So we have other industries and other sources that broaden out our economic base in the State.

For example, in Weld County, this is a county frequently recognized as one of the largest agricultural producing counties in the country, usually rated in the top 5, based on gross agricultural dollars that are brought in.

I have another county in northeastern Colorado that produces a lot of corn. It is one of the largest corn-producing counties in the country. Again, this varies a little bit depending on weather and how yields come out year to year. So certainly agriculture is important to the State of Colorado.

As a member of the State senate—I also served on the agriculture committee in that body—we continually worked to have a broad base.

In the State of Colorado, not only do we have some counties that contribute considerably to agriculture in the country, but they also add a lot of opportunity for other businesses in the State of Colorado to develop added value to those agricultural products.

We all want to do the right thing and help the agricultural economy. But everyone needs to have the opportunity to review the legislation to understand how it effects them. This is not the bill that was reported out of committee, however, nor the one which was introduced on November 27. So it has been a little difficult to determine what is exactly contained in this particular bill. Farmers in Colorado, as best I can figure out, would probably do best under the Cochran-Roberts proposal. But, again, we need more time, more opportunity to talk with farmers in the State of Colorado.

We certainly have different types of operations. Some of them that we have in Colorado are strictly ranching operations. We have a lot of wheat operations, irrigated agriculture—vegetables. We need time in our office to begin to assess how these various agricultural operations are going to be impacted by a bill as complicated as the farm bill that we are about to consider on the floor of the Senate.

This has been an interesting process to go through this past couple of months as we have attempted to draft a bill. I have been somewhat skeptical, as we drew to a conclusion to get a bill here to the floor. The current farm bill, the Freedom to Farm bill, does not expire until September 2002. Again, I do not fully understand why it is so important we push forward so quickly because I think input from our agricultural interests in our respective States is very important. If this goes through too quickly, they will be divorced of that opportunity to have their input to their Representatives so they can have an impact on the agricultural legislation.

I was a member of the House Agriculture Committee and supported the provisions contained within Freedom to Farm. I did not think it was necessary to rewrite the bill a year earlier. But here we are, ready to rewrite the farm bill.

It is complicated. As I stated, I have some problems and concerns about the legislation and how this bill moved forward. This has been a trying time for the Senate, for example, with the anthrax problems we have had in the Hart Building which has impacted some 50 of our colleagues. It has been difficult for them to get in touch with their records that are embargoed within the building. It has made it difficult for colleagues who have been on the Agriculture Committee—and I suspect it would have an impact on Members here on the floor—to evaluate what their positions are, as far as a major piece of legislation such as the agriculture bill, without full access to their office resources and files.

So as we move forward in an expeditious manner, we put certain Members of this body at a disadvantage. We have to be sensitive to their needs and their desire to do the best job and represent their constituents.

In my office, we have been hosting several staffers of Senator CRAIG THOMAS. I am sure it has been difficult to continue to operate throughout this process. It is an unfortunate situation, and I am sure it has not helped the drafting of sound legislation.

As for the process with which the farm bill moved through the Senate Agriculture Committee, we were not receiving legislative language until about 1 to 2 a.m. in the morning on the same day of the bill markup. It was hardly sufficient time to fully analyze and assess its impacts.

Generally speaking, most of the titles were agreed to on a bipartisan basis. As the Chair knows, so many of these issues break out on a commodity basis and not on a partisan basis.

During the committee markup, I did support an alternative commodity title offered by my colleagues, Senators ROBERTS and COCHRAN. The fundamental component was the establishment of farm savings accounts.

Rather than continue to rely on Federal subsidies during bad times for farmers, many in Congress believe farmers and ranchers should have the opportunity to set up accounts to set aside income during the years in which their income is high so that they could then withdraw funds in years when their incomes are low. Unfortunately, this alternative was defeated in committee.

I see this provision becoming more important as we see the price of implements used in farming, for example, get more expensive. If you have a large farm operation, it is not unusual to see somebody spend $100,000 for a tractor. I remember when I was a young lad working in the hay field, we had a large tractor. We spent $4,000 or $5,000 on it. When you have high costs on your implements, that means you have to accumulate savings over the years in order to be able to afford that tractor.

If you have a year when you have a good return on your commodity prices and the farm does well, you may end up with a considerable amount of income. But you find yourself as a farmer getting kicked into higher income tax brackets. So instead of being able to set that aside for investments that will help you be a better farmer and produce better in future years, you find you have to hand the dollars over to the Federal Government. So the idea of the farm savings accounts is, during those years when you have a lot of revenues coming in, you can set that aside for future years.

Then when you get into years when you don't have as much return on your crops, then you can carry those profits forward and distribute them out over the years. That has profound impact on farm operations today and is something that should be implemented.

I indicate my strong support for an upcoming amendment to be offered by Senators ROBERTS and COCHRAN. When putting a farm bill together, my philosophy is to let farmers do what they do best, and get the Government out of the farm. Unfortunately, the farm bill that came out of committee and which is now being considered does not do that. It moves us back towards more Government intervention and less towards free markets and free enterprise.

Senators ROBERTS and COCHRAN are to be commended for developing a sound alternative to that which came through the committee. This is a solid proposal they are going to introduce. It needs serious consideration by the Senate.

An important component of the farm bill is the research title. As a veterinarian, this is an area in which I believe strongly. If we are going to continue to have an abundant and safe food supply, we need to continue to fund our Nation's research priorities. I was able to include two provisions which I believe are extremely important.

The first allows for research on infectious animal disease research and extension to allow grants for developing programs for prevention and control methodologies for animal infectious diseases that impact trade, including vesicular stomatitis, bovine tuberculosis, transmissible spongiform encephalopathy, brucellosis and E. coli 0157:H7 infection, which is the pathogenic form of E. coli infections.

It also set aside laboratory tests for quicker detection of infected animals and the presence of diseases among herds, and prevention strategies, including vaccination programs.

This is becoming a smaller world. Not only do we need to be concerned about diseases that are naturally occurring, but we need to be aware and cognizant of the potential impact of diseases that don't occur. For example, we saw the profound impact of hoof and mouth disease in countries such as England and the devastating impact on the livestock industry in that country. We need to make sure that we have the research in place in this country where we can develop modern technologies and that will help protect the livestock industry.

The second provision I had put in the bill establishes research and extension grants for beef cattle genetics evaluation research. It provides that the USDA shall give priority to proposals to establish and coordinate priorities for genetic evaluation of domestic beef cattle.

It consolidates research efforts to reduce duplication of effort and maximize the return to the beef industry and also to streamline the process between the development and adoption of new genetic evaluation methodologies by the industry; and then to identify new traits and technologies for inclusion in genetic programs in order to reduce the cost of beef production to provide consumers with a high nutritional value, healthy and affordable protein source.

Research, in my view, is fundamental. It is extremely important that we have the research base there to continue to improve production in order to deal with infectious diseases that affect plants and animals and to help assure a high quality food supply.

I do think the people of this country have a great deal. They have the best quality food at the most reasonable price of any place in the world. That is something to be proud of. We need to do everything we possibly can to make sure that we maintain our position in the world.

A couple other provisions are in the bill. There are some attempts within the bill to deal with alternative fuels. It is something I have worked on. I established the renewable energy caucus. I believe that renewable fuels is certainly something we need to look at for energy independence instead of war dependence on energy sources particularly out of the Middle East. We need to look to agriculture to help us meet some of those energy needs.

I also have a provision in there to deal with cockfighting. It is an attempt to try and protect States rights. The State of Colorado, along with 46 other States, have all passed laws against cockfighting. We have three States that have not.

However, Mr. President, those states that have chosen to outlaw cockfighting have difficulty enforcing their own laws. As a result of a loophole in the Animal Welfare Act, which specifically excludes live birds from the interstate transport ban, individuals who are caught with fighting birds can avoid being detained by law enforcement by claiming that they are transporting the birds to a state in which cockfighting is legal. Game birds are the only animal for which this loophole exists and this is unfair to the states that have chosen not to allow cockfighting.

My attempt is just to make sure that we don't preempt the States in a way through this Federal loophole that they can't enforce the law they passed. This is an important provision—something I have worked on for almost 3 years. It was passed by a strong majority in the House Farm Bill and has been passed previously by the Senate. It is my hope that we are able to retain this language in the final version of the Farm Bill.

Mr. President, agriculture is important to this country. It is important to States such as mine and certainly important to the Senator who is presiding over the Senate at this particular time. I think we all have a common interest. We want to see our farmers and ranchers be able to stay in business, and we want them to be able to compete in a world market. We need to work to expand not only our international markets, but also our domestic markets. Sometimes that requires thinking beyond the box. It is a challenge for those of us who are looking at establishing the proper public policy that would allow our agricultural sector to continue to grow and prosper.

This is an important piece of legislation. I hope we don't rush it through to the point where we haven't given the various agricultural interests an opportunity to have their input as to what the final outcome of this bill will be.

I hope that we allow enough time for them to participate in the process. It is important that we do the right thing. We can do that if we allow plenty of opportunity for everybody to participate.

Mr. President, I yield the remaining time to the ranking member of the committee and look forward to working with him on this legislation.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Colorado for yielding that time. I thank him even more for his message. It has been a genuine pleasure to work with him on the Agriculture Committee in trying to formulate good legislation. I look forward to supporting the ideas he has presented this afternoon.

Mr. President, as a part of the background for our debate, we ought to consider carefully the status of the farm economy presently. Many views have been given, and they are earnest views of Senators and their States' particular agricultural interests.

Let me review a summary of where we stand at this particular point in the year 2001. Current USDA forecasts suggest that the underlying farm economy, exclusive of Government payments, is stronger this year than last. While U.S. agriculture continues to face the prospects of somewhat reduced income and outgoing structural change, many indicators remain favorable. The indicators that remain favorable are: Exports are up; asset values for agriculture throughout the country are up in the aggregate; debt levels are down; the rate of inflation for the overall economy, of course, has been down; interest rates are down; productivity and prices appear to be strengthening.

Clearly, in the soybean and corn markets, which I know the occupant of the chair watches, as I do, we have seen mercifully an upturn, after bottoming out. In any event, the price levels across the board for all crops appear to be slightly stronger than last year. World markets are extremely important to us, and this is why we are all encouraged that export sales apparently will finally come in somewhere close to $53.5 billion in 2001, as compared to $49 billion a year ago, an increase of $4.5 billion. They could grow to as much as $54.5 billion in 2002, according to USDA's best projections. These levels are still below the record levels of 1996, often cited primarily in response to continuing problems in Asia, and production increases by competing exporters—many of them in Latin America.

Nevertheless, the sales appear to be increasing significantly. Year over year, forecasts of grain, poultry, and horticultural exports in 2002 will exceed 2001, largely due to increased volume. Exports to major U.S. markets in Asia and the Western Hemisphere are projected above 2001, even in spite of slowing economic growth or, in some cases, recession in those areas.

Overall farm income has this projection: The intermediate term economic outlook for agriculture is uncertain, as always. It is clear that many underlying farm economic conditions are stronger this year than last. Farm cash receipts could be near high record levels for 2001, and, indeed, earlier this morning I discussed this subject. We found figures from USDA that showed roughly $60 billion of net cash income. This would be, in fact, a new all-time record for any year, including 1996.

Farm cash receipts have been driven largely by a 9-percent increase in livestock sales. Overall crop sales appear to be up about 3.1 percent. Gross cash income is up 4 percent and net cash income is up 5.7 percent over last year. The $20 billion in payments from the Federal Government, including the AMTA payments, which we voted on in the summertime, come to $20 billion less, in fact, than the $23 billion that the Congress allocated last year. That is significant because the net cash income record was received, even though Government payments have come down this year by, apparently, something close to $3 billion.

The projected increase in sales in 2001 will more than offset the modest decline in the Government payments and could boost cash income to $239.3 billion, up significantly by $9.2 billion from last year.

I mention all of this, Mr. President, not that these are figures that are likely to lead anyone to a false impression about agricultural prosperity but it seems to me important because this debate thus far has been about a necessity of having the farm bill passed during this calendar year. One of the reasons offered by some Members has been the gravity of the situation for many farmers. Each one of us has many such farms in our States that are not working well. But the overall picture is important. The overall picture is one of higher net cash income.

I found it to be extremely important to study the USDA tables on farm balance sheets. One of the factors of obvious debate that always seems counterintuitive to many who listen to them is that, each year, I and others have made the point that the total value of farms in America has been growing. By that I mean the estimates of the total value of farms, the equity, after all liabilities, real estate debt, or any other farm debt have been subtracted, is $1.36 trillion. That is up from $1.4 trillion last year.

In other words, the equity in farms in this country—the bottom line is there has been an increase of 3.2 percent. That is not unusual. Simply tracing back over the course of time, USDA points out that in 1995, the net equity in farms in America was $815 billion.

In 1996, often cited as the high water mark in terms of farm prices and prosperity, farm values were $848 billion, but in 1997, this went to $887 billion, in 1998, to $912 billion, and in 1999, to $964 billion. Last year, it went to $1.4 trillion, and this year it went to $1.36 trillion.

Throughout this time, however—Senators wish to argue the ups and downs of agricultural prosperity or difficulty—the value of their farms went up every single year without exception. Many have asked: How can this be? I have tried to answer that question in earlier statements.

The programs we have adopted, for better or for worse, finally add up to more land value. They go essentially to landowners. That is capitalized in the land. They are able to borrow more on it, and they become more prosperous. The market value is higher because a stream of payments guaranteed by the Federal Government appears to be behind those values.

Some, without being spoiled sports, have raised the question of whether these land values have a reality to them that is solid for the future. They have not suggested a so-called bubble effect that land values, much like communication or telecommunications firms in our economy in the last 2 years, simply exceeded the potential for income streams that might come from them.

Nevertheless, it is difficult to argue that these land values, increasing each year, do not have built into them certain expectations of Federal policies that are very generous.

Perhaps over the course of the next 5 years, or in the case of the House bill the next 10 years, the general public in the United States; that is, taxpayers, everyone who is not a farmer, are prepared to make very large transfer payments of their moneys to those who are farmers and to do so in such a predictable way that anyone who owns land can anticipate that kind of flow. It would have no relationship to whether or not there was an emergency. It simply is a guaranteed transfer of payment with the same certainty as a pension right or some other property right involved.

That is a judgment for Senators, Members of the House, and the President to make, and we all have our different views on this issue.

I have always wondered whether those who are not farmers understood the transfer that was occurring and the seeming permanence of that, as opposed to payments that came in emergencies.

Senators have risen throughout this debate and condemned the farm bill of 1996 as a terrible failure, pointing out that it is so bad that we are compelled as Senators to meet almost every summer and vote to send more money to farmers.

With some degree of political realism, I would say the compulsion for us to meet every summer to do this is probably being propelled much more by our own desires. To a certain degree, I have noted an amount of political competition in this—some persons purporting to be stronger friends of farmers than others, all believing we ought to be able to help out by sending more money in that direction. There has been no reticence on the part of Senators on both sides of the aisle to vote this money.

I predict, I think without being too far off the mark, that whatever kind of a farm bill we finally enact this time, there may be those among our number who will ask us each summer to come to the Chamber to vote more money, to supplement whatever it is we have done. In other words, I have never found in my experience in the Senate that the issue is ever settled. The emergencies occur every year and in many parts of the country and sometimes vary widely. Let me offer a reason why that is so. This is not a cynical reason. This is a reason rooted in the reality of my own experience.

One of the questions I frequently ask witnesses before the Agriculture Committee when we are having debates on programs or incomes is to give me an estimate of the return on invested capital that they obtained from their farm operation.

Most witnesses, even those who are fairly sophisticated, do not know. They really have not thought that problem through. They say that is almost irrelevant: My problem is keeping the farm alive, keeping the dairy operation alive. I do not know what the return on investment is; the problem is paying the banker and having enough capital to buy new equipment to be competitive.

I understand that, but it illustrates part of the problem. When I have had discussions with very prosperous farmers in Indiana, whom I respect for their abilities and have learned a lot from them, their answer to that question is usually a 3 to 5-percent return on invested capital over several years. Some years it is much better, but some years it is close to a wash.

Some suggest, of course, that depends on how leveraged the farm is. If, in fact, a very valuable property has an almost equally valuable mortgage on it, the amount of equity that the farmer has in play is fairly small; therefore, any income fluctuation makes the return on income either go up or down very rapidly.

Let us say for the sake of argument that the farm has no debt. That has been essentially my case for many years, and my own experience has been roughly 4 percent on invested capital. When that figure arises in a forum that is not a farm meeting, many people raise the question: That is pretty low for a large enterprise over a long period of time. For example, many people who are skeptics about this would say you could have gotten a 6-percent return just by investing in U.S. Treasury bonds for 30 years during many recent periods. For that matter, prior to this lower interest rate period we are in now, you probably could have bought the bonds maybe even for 7, 8, or 9 percent at different times during this decade, with absolutely no risk economically, no risk from markets drying up abroad, no risk from the weather.

This raises the question: Why is $1 trillion of American capital tied up in farms—which, indeed, it is—2 million such entities, at least with the definition of $1,000 in sales?

The reason ultimately, in my case, as well with most people, is that we like what we are doing. Frequently, it is a family tradition. That is my case. My dad bought the farm 70 years ago. It is something very important to me as a person. It is more than simply a business enterprise. But I have to recognize there are alternative things I could do with the capital and probably do better than 4 percent. This 4 percent is anecdotal in a sense but not entirely.

If, in fact, as the distinguished chairman of the committee pointed out this morning, net farm income in this country for 2001 is 49.4 percent, and you factor that with a divisor of $1.36 trillion for the value of real estate and so forth, you come to something like 4.8 percent. Taking a look at all of American agriculture, that net was earned on this amount.

So my experience is not too far away from the mainstream, which is comforting to know, but not for farmers generally because there is not much leeway.

I suggest the reason we have debates almost every year is a good number of farmers do not have any leeway. If farms that are fairly large and well managed do no better than 4 percent on average, and in some years 3 percent or 2 percent, situations that are not so well managed, do not have modern equipment, the research into seeds or planting processes, or have not done conservation work that has proper drainage, they are going to have problems meeting it at all every year; there is so little leeway.

Intuitively, we have known it even if we could not quantify it, and our policy has generally been, regardless of which farm bill I have been involved in, to save every family farmer. We have tried, in fact, to think through how there could be a safety net and ad hoc emergency payments and whatever was required. We have not succeeded, although, as I mentioned in an earlier debate today, we have stimulated a lot of people to come into farming, many of them in a small way. It is not a major income. So the numbers of farmers do not trail off as rapidly as they did at the turn of the century, 100 years ago, or all the way through the 1930s. Nevertheless, the concentration into about 170,000 large farms in this country is pronounced. These farms are doing the majority of the business, and about 600,000 farms in America plus or minus a few do about four-fifths of all we do.

Trying to fashion a farm policy, therefore, that fits these situations, these diverse situations, is virtually impossible. At the same time, we have tried—all of us have tried. The bottom line has been we have succeeded in good part, but the debate continues because farms that do not make very much on invested capital are in trouble every year.

I do not know the answer to that question. My guess is, in part, it is being answered by age. The average age of people who are farming increases. The people who come to the distinguished occupant of the chair and to me, who have, say, a 30-, 40-, 50-herd dairy situation, say: What are we going to do? I am 65, one farmer will say. I would like to retire. I would like to get a pension or my money out of this. The son who is about 40, it is very doubtful whether he wants to continue, whether there is enough for a livelihood at a middle-class level in our society, and they come to us and ask for counsel as to what to do. There is no good answer. It finally has to be a gut feeling on the part of that farmer.

The farm bill on which we are about to embark, if we adopt the bill passed by the Senate Agriculture Committee, in my judgment, makes the situation substantially worse. I do not paint this in disastrous hues. My own judgment is, regardless of what we do, this will not be an irrevocable disaster for the country, but I think some people will get hurt. Among those who will get hurt are probably the small, simply because most of the payments will go to the large. The payments will be much larger than they were before, so the large will be even more consolidated and confirmed in their situations. Land values will continue to increase, maybe not to a bubble situation but clearly rising on the basis of not much behind them.

The return on capital is still pretty sketchy. If one were to take a look at this, such as the people at the stock market, it would be seen as a pretty precarious kind of investment, and based largely upon the general mood of the public as a whole. Since this prosperity would not have been based on the market necessarily but really on the basis of our political debate and public policy, that which is given can be taken away.

I have no idea what the mood of the Congress will be 2 or 3 years from now, if in fact we have sustained deficits for 3 years as the Director of OMB has prophesied we will. There is no farm program that is engraved forever. We can pass a bill that has 5 years' duration or 10, but each Congress can amend that very substantially and change it materially and must have the right to do so on the basis of whatever the crisis the country faces or its priorities then.

That is why I fear the idea of 5 or 10 years of very large fixed payments to 40 percent of farmers who are in the program as opposed to 60 percent who are not, based on nothing more than the fact that one has been a farmer in the past, whether they are farming now or not. It has some problems to it. They are not being glossed over. I think Senators must understand what they are doing.

Having heard a lot of criticism about fixed payments in the past, these so-called AMTA payments, I am astonished so many Senators are fully prepared to do more of it now really without any limitation. The bill I presented does have limitations. The 6 percent credit that one receives on the basis of all the total whole farm income is finally limited to only $30,000 a farmer. The Senate Agriculture bill we are now considering could pay as much as $500,000 to a single farm entity. In fairness to my chairman, Senator HARKIN, who has long believed there were problems in having such distortions, he readily admits in order to obtain a majority support in the committee, he acquiesced to those who wanted more. For all I know, those limits are still being raised, even as we speak, to accommodate the situations of particular crops.

This does not bode very well for the small family farm situation, or the saving of everyone, or the general ethic of the bill that is often presented that way, or even those particular cases of distress in the midst of the overall increasing prosperity I described in the overall report.

These are concerns that have led me and others to suggest alternatives. In the event the debate proceeds, we will have that opportunity. I utilize this time of deliberate and thoughtful debate on the farm bill to bring forward some of these facts and some of this information.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to use up to the hour of time postcloture that I am entitled to and that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY POLICY ACT OF 2002

Mr. BINGAMAN. Mr. President, today I joined Senator DASCHLE in introducing the Energy Policy Act of 2002. This bill is a culmination of a great deal of work involving several committees in the Senate. In the Committee on Energy and Natural Resources alone, we had over 50 hearings in the 106th and 107th Congresses that relate to this bill.

The staff of the committee, particularly the majority staff, who have worked on drafting the legislation we introduced today, did yeoman's work. I will mention the individuals who worked so hard on this: Of course, Bob Simon, who is our staff director. This list is in no particular order except perhaps alphabetical, although I am not sure that is exactly right. Patty Beneke worked hard on various provisions; Jonathan Black; Shelley Brown helped us with the bill; Mike Connor; Deborah Estes; Sam Fowler, who was the principal draftsman on the bill; Jennifer Michael; Leon Lowery; Shirley Neff made tremendous contributions. Malini Sekhar, Vicki Thorne, John Watts, Bill Wicker, and Mary Katherine Ishee also made great contributions.

So I want to publicly state my appreciation to them for the good work they did.

Although the bill that we introduced today is the culmination of a great deal of work, it is also in many ways just a beginning. It is a starting point for the next phase of the Senate's consideration of energy policy. Senator DASCHLE has indicated he desires for us to bring it up and debate this legislation and the entire subject area during the first period of the next session.

One obvious question is why we invested so much time on this topic of energy in developing this bill. There are two basic answers to that question. First, energy is central to our present and future economic prosperity. Any of us who lived in the last few decades of this country know we depend upon foreign sources for much of our energy. Our economy is vitally dependent upon reasonable prices for energy.

Second, there has been significant changes in energy markets since the last time Congress considered comprehensive energy legislation. The last major energy bill we passed was the Energy Policy Act of 1992. Since that time, as a nation we have moved further away from command and control regulation of energy toward a system that relies much more on market forces to set the price of energy. In the process, our energy markets have become more competitive, more dynamic, and there have been some significant bumps in the road which we have all observed.

Consumers are now more vulnerable to the vagaries of energy markets and the volatile prices for energy. The structures to regulate these emerging market forces are not fully developed, as we could see very clearly in the last few weeks with regard to the circumstances of Enron Corporation.

Gasoline supplies nationwide have become increasingly subject to local crises and to price spikes due to the proliferation of inflexible local fuel specifications and tight capacity in refining and in pipelines.

Of course, the events of September 11 have caused many of us to reflect on the inherent vulnerabilities of our energy transmission system. The time may be right for us to rethink how we site energy infrastructure, the balance between central and distributed generation of power in our electricity system.

So Congress needs to respond to these changes and challenges and opportunities. If we do so in a balanced and comprehensive and forward-looking way, then we can develop an energy policy that will lead to a new economic prosperity for the country and for the world. But we will not get there simply by perpetuating the energy policy approaches of the past. New ideas and approaches are needed as well as greater investment to move into the future.

That is what this bill we have introduced today tries to do. The bill has three overarching goals. This chart specifies what those are.

First, we try to ensure adequate and affordable supplies of energy from a variety of sources—from renewable sources as well as from oil and gas and coal and nuclear. I emphasize renewables because, as I will indicate in a few moments, that is an area to which we have given too little attention.

Second, the bill improves the efficiency and productivity of our energy use, including energy reliability and the productivity of our electric transmission system and energy use in industry, in vehicles and appliances, and in buildings.

The third overarching goal of this legislation is to keep other important policy goals in addition to our energy policies, goals such as protection of the environment and global-climate-change-related issues—keep those goals in mind as we sort through our energy policy choices.

I think we can achieve these three goals if we accelerate the introduction of new technologies and if we create flexible market conditions that empower energy consumers so they can make choices that will benefit both them and our society more generally.

This combination of new technology and policy innovation in pursuit of a diverse and robust national energy system can be seen in the provisions of this bill as they relate to the first major goal. This is obtaining an adequate and affordable supply of energy. So let me start the discussion by speaking first about this important subject of renewable energy that I referred to a minute ago.

Our Senate bill contains numerous provisions enhancing the contribution of renewable forms of energy to our future energy mix. Under the "business as usual" approach of the House energy bill, H.R. 4, which has been proposed at various times on the Senate floor, the contribution to our energy mix from renewables will not substantially increase over the next 20 years. The result will be an energy system, particularly for the production of electricity, that will go from being about 68 percent based on coal and natural gas to being about 80 percent based on those two fuels. That overdependence would leave our country very vulnerable to shortfalls in the delivery of either of those commodities. Consumers would be exposed to severe risks of price spikes.

We clearly need more diversity in the ways that we produce electricity in this country, not less diversity. Our overdependence does not make sense in light of the commitments to renewable energy that have been made in other countries, particularly in Europe. This chart demonstrates that very graphically. This chart is entitled "Commitment to Renewable Generation." This is generation of electricity. The percentage increase in nonhydro renewable generation during the 5 years 1990–1995—a 6-year period, I guess—here you can see the percentage increase. In the case of Spain, it was a little over 300 percent. In the case of Germany, it was something over 150 percent—175 percent. In the case of Denmark, it was nearly 150 percent. Then it goes on down until you get to the United States, which is way down in the single digits.

There are countries that did less during that 5- or 6-year period than we did but not many. Even France, which is often held up as a model for its commitment to nuclear power, has outpaced the United States in recent years in its investment in renewable sources of electricity other than nuclear power. The United States needs to lead the world in renewable technologies.

We have abundant domestic renewable resources. The world market for such technologies is capable of strong growth in the future. Renewable technology leadership would help U.S.

firms achieve a strong position in winning those markets and thus creating new jobs in our own country.

If our country is to lead the world in renewable energy technologies, we need to do a better job of getting those technologies into the marketplace in this country.

Our bill that we have introduced today would boost future use of renewables in five major ways. Let me summarize those five ways.

First, the bill contains market incentives that would triple the amount of electricity produced from renewable energy over the next 20 years. Here is another chart that tries to show graphically where we are today, slightly after the year 2000, at less than 5 quadrillion Btus annually. This green wedge shows what we would anticipate as the growth in the production or generation of electricity from renewable sources between now and the year 2020 under this legislation that we have introduced.

These incentives include a renewable portfolio standard that creates a market for new renewable sources of electricity, whether they are wind or solar or biomass or incremental hydroelectric generation from existing dams.

A second market incentive is the Federal purchase requirement for renewables that would grow to 7.5 percent of all Federal electricity purchases by the year 2010. The renewable energy production incentive, which is an existing program to help rural electric co-ops and municipal utilities generate renewable energy, is also reauthorized in this bill and extended to include Indian lands which contain some prime renewable resources. So that is the first way in which this bill would make an effort to boost our future use of renewables.

The second is that the bill being introduced today greatly expands the contribution of renewable fuels such as ethanol and biodiesel-powered vehicles and transportation. By 2005, 75 percent of the Federal Government's vehicles that can burn alternative fuels would be required to do so, creating more market certainty for renewable fuels and their associated infrastructure.

By 2012, 5 billion gallons a year of renewable fuels would be blended into our gasoline, decreasing our import dependence on foreign oil.

The third way in which the bill helps renewables contribute more to our energy mix is by removing existing regulatory barriers that affect renewable energy. For example, wind and solar power can be effectively tapped by small distributed generation systems, but current practices and rules in the marketplace often discriminate against distributed generation. Our bill tries to deal with this problem by requiring electric utilities to offer their customers net metering, in which a customer can offset his electric bill by the amount of electricity that he generates and sells to that local utility.

The bill also requires fair transmission rules for intermittent generation such as wind and solar.

Finally, the bill mandates easier interconnection for distributed energy production into the interstate transmission grid and requires States to examine ways to facilitate that interconnection of distributed energy into local electric distribution systems as well.

A fourth major way in which our bill promotes renewables is by disseminating information about and facilitating access to areas of high resource potential, particularly on our public lands. There are many places in this Nation and my State that have untapped renewable energy potential. The bill creates a pilot program at the Department of Energy and in the Forest Service for development of wind and solar energy projects on Federal lands.

A fifth and final area in which the bill helps make renewable energy a bigger part of our energy picture in the future is through enhanced research and development programs. These research and development programs in our bill at the Department of Energy will grow from an authorized level of $500 million in fiscal year 2003 to $733 million by fiscal year 2006.

I would like to briefly talk about some of the other more traditional energy supply sources in addition to renewables that we try to promote and encourage in this legislation.

Natural gas is one of those in our Nation at a crossroads major policy decision with regard to energy security. U.S. natural gas demand is expected to increase from 23 trillion cubic feet per year. Demand is expected to be about 35 trillion cubic feet per year by 2020. Much of that demand is going to be driven by the use of natural gas for electricity generation because, as we build more powerplants to produce more electricity, virtually all of those new powerplants that are coming on line—not all, but many of those new powerplants that are coming on line—are expected to use natural gas.

As you can see from this chart, which goes from the period of 1970 through 2020, today there is more consumption of natural gas than there is production in the country. But it is not a very major gap. As we move forward for the next 20 years, that gap grows. Our consumption of natural gas is going to increase more quickly than the production of natural gas is expected to increase.

We tried to follow the developments in this field internationally to understand what is occurring. We have a very disturbing development of which I think the Senate needs to be aware and of which our entire country needs to be aware.

As a result of this gap that I have pointed out on this chart, as a nation we are at the risk of becoming dependent upon imported natural gas brought to our shores in tankers for a substantial portion of the gas that we consume.

The countries on which we would rely for much of that gas are prone to political instability. They are in the early stages of forming an OPEC-like organization for natural gas exporters.

There is a cover story in the June 2001 issue of OPEC's Bulletin that discusses Iran hosting an inaugural meeting of the Gas Exporting Counties Forum.

As a nation, we do not want to be in the position of having to deal with a cartel in natural gas in addition to the cartel we already deal with related to oil.

Our bill takes several steps to come up with a different policy for natural gas.

We increase funding for research to develop domestic natural gas deposits in deepwater areas in the Gulf of Mexico and in harder to tap geologic formulations on shore.

We provide research funds to explore the potential of methane hydrates that are trapped on the ocean floor at great depths.

The bill authorizes more funds to facilitate the permitting and leasing of Federal lands for natural gas production in places where that is environmentally acceptable.

The bill addresses a number of developing problems in natural gas production, such as conflicts over coal bed methane and hydraulic fractures and to bring these conflicts to resolution before they reach crisis proportions.

But even these steps, which I believe will be useful and important, will not be enough to close the gap that is reflected on this chart. The most significant step the bill tries to take for future natural gas supply is to provide enough financial incentives so that we see the construction of a pipeline to bring down from Alaska the vast reserves of natural gas that have been discovered and have already been developed in the Prudhoe Bay region.

The Presiding Officer and I had the opportunity to visit there earlier this year. The existing reserves are estimated to be over 30 trillion cubic feet of gas. It is estimated that the total natural gas resources on the North Slope of Alaska could be in the order of 100 trillion cubic feet. A natural gas pipeline from Alaska to the lower 48 States would provide at least 4 billion to 6 billion cubic feet of natural gas per day before the end of this decade.

Once the pipeline is constructed, it would provide gas to American consumers for at least 30 years. It would be a stabilizing force in natural gas prices as well.

The project makes a great deal of sense. But it has not happened because there is a lack of certainty about the investment risk of building such a major pipeline.

We are talking about an enormous undertaking. The pipeline would be one of the largest construction projects ever undertaken. It would create a massive number of jobs in Alaska, in Canada, and in the lower 48. The project would require the construction of the largest gas treatment plant in the world, and the laying of about 3,600 miles of pipe requiring 5 million to 6 million tons of steel.

The preliminary estimates are the cost would be in the range of $40 billion. But since natural gas prices vary from $2 to $10—which we have seen that just in the last 12 months—per mcf it is hard for the market to take on this challenge by itself. So we are proposing legislation that would expedite the process for permitting, for providing rights-of-way, and certifications that are needed for the U.S. segment of the pipeline.

The Government would step up and offer to underwrite loans for 80 percent of the cost of the line that is constructed within the United States.

There are various other provisions which we think would improve the likelihood that this pipeline would be built in the near future.

I believe it is important for the Senate to be proactive on this project—not simply to sit back, cross our fingers and hope that the various companies that are looking at this decide to go ahead.

If we do not act while there is substantial private sector interest in building this pipeline, we will lose an important opportunity to bolster our national energy security in natural gas.

As a consequence, we might well be hearing speeches 10 to 20 years from now about our dependence on foreign natural gas which would sound a lot like the speeches we have been hearing about our dependence on foreign oil.

Since I mentioned oil, let me say a few things about what we have in this bill related to oil, and the ways we are trying to increase domestic production of oil.

(Mr. DAYTON assumed the chair.)

Mr. BINGAMAN. When you hear all the rhetoric about drilling in the Arctic National Wildlife Refuge—and we have heard various speeches about that in this Chamber—one would think it is the only place in the United States where we could find more oil. That is far from true. There are 32 million acres of the outer continental shelf off the coast of Texas, Louisiana, and Mississippi that have already been leased by the Government to oil companies for exploration and production. They are shown on this map I show you by these yellow blocks.

There is no requirement that any legislation be passed in order for drilling to occur in these areas. These are areas that have been leased. They can be drilled. We need to do what we can to encourage the actual development of those leases.

In addition to the production off the Gulf of Mexico, there are outstanding prospects for increased production from the National Petroleum Reserve—Alaska.

Again, the Presiding Officer and I had the opportunity to see the promise that some of the oil companies obviously felt about the potential production there.

Under the Clinton administration, the previous administration, leasing was expanded in this area. Industry made some major finds. There is no law that needs to be passed in order for additional leasing to occur in that area. I, for one at least, believe that is an appropriate place for us to be pursuing additional oil production.

If the problem really is not finding areas to lease under current law, then why is there not more domestic production going on in the areas that are already leased for exploration and production? We need to look at that question. That is not a simple question to answer.

We need to look at the differences between our Federal and State royalty and tax policies and those of other countries with oil and gas resources. We have provisions in this bill to try to have that analysis done.

A second proposal to boost domestic production in the near future is to provide adequate funding for the Federal programs that actually issue new leases and new permits for oil and gas production. For all the rhetoric from the administration about the need to boost domestic production, in its last budget request, the administration did not ask for adequate funding to do this work properly. The result of inadequate funding for U.S. land management agencies is delay and frustration on the part of U.S. oil and gas producers. This bill calls for increased budget levels for those functions. The Federal Government can then take the necessary steps to make oil and gas leasing faster and more predictable where it is already permitted.

The bill also contains increased research and development funding to support domestic oil and gas production by smaller companies and independent producers. These entities account for the majority of on-shore U.S. production of oil. They do not have the resources to do their own exploration and production research and development.

Let me say a few words about coal. This is an important contributor to our current energy supply picture.

Fifty-nine percent of our electricity generation nationwide is based on coal. This chart I show you is a good background chart for anyone interested in how we produce electricity in this country. You can see this top line is coal. That represents the 59 percent to which I just referred. Fifty-nine percent of our electricity generation is based on coal. We have tremendous coal resources. We have been called the "Saudi Arabia of coal" by some.

But coal's place in our energy future needs to be clean and needs to be emission-free. Coal-based generation, as we all know, produces more greenhouse gas emissions per Btu of energy output than does natural gas-fired generation that I was talking about a few minutes ago. Other pollutants from coal-fired plants have been the source of regional tensions between States where coal-fired plants are located and States that are downwind from those plants.

Coal is too important a resource to write off. Technology holds a promise for dramatically lowering, even to zero, the emissions from coal-based plants. This bill takes a very forward-looking approach to the issue by authorizing a $200 million per year research and development demonstration program based on coal gasification, carbon sequestration, and related ultraclean technologies for burning coal.

The proposal was a result of a strong bipartisan push in our committee by Senator EVAN BAYH and Senator CRAIG THOMAS and is one more example of the crucial role that research and development is going to play—and needs to play—in shaping our energy future.

Research and development are also keys to the future of nuclear power in this country. Nuclear reactors emit no greenhouse gases, so on that basis one would think they are an option that we should be looking at for the future. But nuclear plants have other characteristics that are not as attractive. They have very high up-front capital costs compared to other generating options. That puts them at a disadvantage in the marketplace. The nuclear waste problem is not yet solved. Nuclear safety is a continuing concern for many in the public. Our cadre of nuclear scientists and engineers is growing older and dwindling, and we are not seeing a large supply of students being trained to help us deal with nuclear issues in the future.

This bill takes on these problems by focusing on research and development on new nuclear plant designs that might address these problems and on a program to strengthen university departments of nuclear science and technology.

The bill also contains a partial reauthorization of the basic nuclear liability statute; that is, the Price-Anderson Act. The part that is in the bill deals with liability of Department of Energy nuclear contractors, including the National Laboratories that are a significant source of our national nuclear expertise. The other main part of the Price-Anderson Act, dealing with the commercial nuclear power industry, is being developed by the Committee on

Environment and Public Works and is expected to be offered by them as an amendment when we get to the floor consideration of the bill.

Hydropower is another source of energy supply that this bill addresses related to electricity generation. Many hydroelectric facilities are reaching the age at which their original licenses under the Federal Power Act are about to expire. The process of relicensing these facilities needs to be protective of the environment, predictable for licensees, and efficient in the way it is administered.

We have been working for months with both the hydropower industry and the environmental groups to develop a consensus on how to achieve these goals. There is strong bipartisan interest in moving in that direction. We are committed to working toward this end. We have worked with Senator CRAIG extensively on this issue. We look forward to continuing that communication and hope that by the time this bill comes to debate on the floor we have a consensus on that issue.

A final way in which the bill focuses on increasing the supply of domestic energy is through a series of provisions facilitating the development of energy resources on Indian lands. Let me say that is an important new area we are trying to put some emphasis on in the bill.

The second of the major overarching goals that I mentioned at the beginning of my comments was this need to use energy supplies more efficiently and productively. So far, we have talked about how to increase supplies of energy through renewables, through oil, gas, coal, hydroelectric, and nuclear.

Let me refer now to parts of the bill that deal with this second overarching goal: how to use energy supplies more productively and efficiently.

As I have mentioned consistently throughout the past year, you cannot have a sound energy policy based only on production or only on conservation. We need to focus on both. Our energy policy needs to combine programs that boost supplies with programs that use those supplies more efficiently.

The first major way in which we can use our energy supply more efficiently is by having an electricity transmission system that is ready for the challenges of the next century. Electricity is essential to our modern way of life, yet our electric system largely operates on a design that is nearly a century old.

We have vulnerabilities in our current system. We just excerpted some of the headlines from national newspapers, and I have put those up here on a chart to remind people of what we were hearing in the news and on television earlier this year.

Let me just read a few of these: "Electricity crisis: The Grinch that stole Christmas." That was last Christmas.

"Happy holidays. Now turn off that Christmas tree." That was last Christmas.

"California declares power emergency." "Blackout threat remains as California scrambles." "California power woes affect entire west coast." "Energy chief moves to avert California blackouts." "Utilities seek immediate rate hike 'to avoid bankruptcy." Those are the types of headlines we were seeing at the end of last year and early this year.

We need to address the issue of electricity generation and transmission. The central challenge we face with electricity is to have two elements: First, to have market institutions that ensure reliable and affordable supplies of electricity and, second, to have policies that favor future investments in new technologies that give consumers real choices over their energy use. We have provisions in this bill to do just that.

I could go through those provisions in detail. Since I notice there are others wishing to speak, I will skip over some of these and move on to the highlights of the rest of the bill.

A second way in which we need to increase efficiency in the various uses of energy is in the fuel efficiency of vehicles. The bill contains two provisions in that regard: One that mandates higher fuel efficiency in the vehicles purchased by the Federal Government for civilian use, and a second that provides a framework for the Department of Energy to assist States in expanding scrappage programs to get old fuel inefficient vehicles off the roads. This is cash for clunkers, as it has been referred to by some.

I know Alan Binder has spoken eloquently about how important he thinks it is that we pursue that course both for our energy future and as a way to get cash into the hands of people to stimulate the economy at this point.

Let me move to one other chart to make the point that we do need to deal with this issue of transportation, if we are going to begin to deal with total oil demand in the country. This is a chart that shows U.S. oil consumption in millions of barrels per day. It goes from the year 1950 to the year 2020. This line, which is here at 2000, sort of shows where we are today. You can see that the total oil demand has been increasing and is expected to keep increasing. Total transportation demand has been increasing and is expected to keep increasing.

Domestic oil production has been declining since about 1970. That is not going to change. Domestic oil production is going to continue to decline.

We can affect it. Domestic oil production, if ANWR is opened, will be affected. It will increase it somewhat. That is reflected with this little red line. But when you look at what are the steps that can be taken that will have a major impact on this total oil demand, this top number, you can see that doing something about transportation demand is by far the largest action that we can take.

The Commerce Committee is having a hearing tomorrow on this very issue. They are intending to develop a proposal to bring to the Senate as an amendment to this bill to indicate a change in the requirements, the corporate average fuel efficiency requirements, the CAFE standards, fuel efficiency standards, and I look forward to seeing what they propose. I do believe it is important we take serious steps in this regard. The House-passed bill did not do that.

We as a Nation have to come to grips with this issue. The technology is there. This is not something we have to go out and speculate on as to whether the technology could be developed that will get us better fuel efficiency. We all know Senator BENNETT, our good friend from Utah, has a hybrid electric vehicle he parks right out here at the Senate steps. I complimented him on it. I asked him yesterday: What kind of fuel efficiency do you get on that car? He said: 53 miles per gallon in town. Now, that is a clear signal to me that the technology is there. We can produce more efficient vehicles. We should do that. We should provide incentives for people to use those.

There are other steps. The Federal Government can do a much better job of increasing efficiency in the energy it uses. We have included various provisions to encourage that. Industrial energy efficiency can be dramatically improved. We have various provisions to encourage that. Commercial and consumer products can be much more efficient than they are, and we have provisions in the bill to encourage that.

There is a new generation lighting initiative in this bill which I believe is a major step in the right direction. We are still using incandescent light bulbs, just as Thomas Edison taught us. There is no reason why we can't be using much more advanced technology which is much more efficient. About 25 percent of the power that goes into most lighting fixtures actually winds up being translated into light. The rest goes off in heat. We can do much better than that. This next generation lighting initiative we believe will help U.S. industry to meet that challenge and help our country to benefit from the development of those new technologies.

We also have a provision for substantially increasing the effort for energy efficiency assistance programs. This is the LIHEAP program, the Low-Income Home Energy Assistance Program. Many people depend upon that as we get into the winter months. You do not know it today by the temperature outside, but there are cold days coming. In the winter, this is an extremely important program. And also in the summer, when air conditioning is needed, this is an extremely important program for many of our citizens. We propose increases there.

A third and final overarching goal of the bill is to balance energy policy with other important societal considerations. Energy production and use comes associated with a host of consequences for the environment. We need to strike the right balance among energy, the environment, and the economy. That balance is what we are sent to Washington to try to find. This bill addresses the issues in a number of ways. Several provisions of the bill deal with the legacy of past problems posed by energy production and use for the environment.

We have major provisions to focus the attention of the country and the Government on dealing with the issue of global climate change, a proposal Senators BYRD and STEVENS made earlier this year that has been considered in the Governmental Affairs Committee, setting up an office to look at global climate change to come up with a policy and coordinate our governmental response to that issue. That is a proposal the bulk of which we have included in this legislation.

That is a very important part of the bill. I have said from the beginning of the discussion about an energy bill that we needed to have one that integrated energy policy with climate change policy, and we have tried very hard to do that.

We also have provisions in the bill to reconcile energy policy with the needs we have for security of our energy infrastructure. The events of September 11 have caused us to think about potential security vulnerabilities of the energy infrastructure. This is an area where there is a considerable amount of work that has been done, but more needs to be done. We have provisions to focus on the Strategic Petroleum Reserve, to direct the administration to fill the Strategic Petroleum Reserve. We also have provisions related to security of other parts of our energy infrastructure.

Let me say a couple of words about why we have not included a provision in this bill to open the Arctic National Wildlife Refuge to drilling. If you take all of the discussion about energy policy that has occurred in the Chamber over the last 10 or 11 months, you would think that this was the centerpiece, this is the main thing the country needs to be doing to solve its energy problems. I dissent from that view. I do not believe this is the centerpiece of our energy policy. This is a case of the tail wagging the dog.

I do believe that opening the wildlife refuge for drilling is not an essential or substantial part of solving our national energy needs in the future. As you can see from this chart, it does increase production domestically. It does not increase it to such an extent that our problems of growing dependence on foreign sources of oil are solved.

That debate is one that I am sure we will have, and we have had it already many times in the Senate Chamber. We will have an opportunity to have it again when this bill comes up, and each Senator has a strongly held view on the subject.

Let me put up one final chart and then I will conclude. Earlier this year, President Bush appointed a task force and asked Vice President CHENEY to head the task force and work up a so-called energy plan for the country, look at our long-term energy needs. Although that plan was severely criticized by some, I thought there were some constructive suggestions in it. I didn't agree with everything in it, but I thought there were constructive sections in it.

The administration recommended that the Congress act in 10 different policy areas. We have those on this chart. They range from electricity, to energy tax incentives, expedited Alaska gas pipeline construction, and on down through the list. The House-passed legislation, H.R. 4, which has been proposed here at various times on the Senate floor, addresses 5 of the 10 key areas that the administration proposed that we address.

The legislation we are introducing today addresses 9 of the 10 key issue areas. I am not saying the administration embraces every aspect of what we proposed in each of these nine areas, but in many respects we do believe we are making recommendations that are consistent with that energy plan that was earlier issued by the administration. We believe these issues should not be partisan. We believe there is a great deal of common ground that we can find on energy issues. I look forward to working with my colleagues on the Democratic side and the Republican side in identifying ways this bill can be improved, if there are suggestions out there. The bill is there for anyone to study and to suggest improvements. I think, in many ways, having it available for that kind of scrutiny over the next weeks, until we get into the new session after the first of the year, will be very good and will help us produce a better product for the American people.

I see this as a project that, hopefully, will set the course for our energy policy in this country perhaps for another decade, for some period. It was 1992 when we passed the last major energy bill in the Congress and had it signed into law. There is no reason to believe we are likely to try comprehensive energy legislation in the near term again. I hope very much that we can seriously consider this legislation in the new session of the Congress in February, as Senator DASCHLE has indicated, and that we can pass a bill on a bipartisan basis and go to conference with the House.

Mr. DORGAN. I wonder if the Senator will yield for a couple questions.

Mr. BINGAMAN. I am glad to yield to my colleague from North Dakota. I compliment him on the very major contributions he made in the development of this bill.

Mr. DORGAN. As a member of the Energy Committee, I am pleased to work with Senator BINGAMAN. He has done an extraordinary job. We have had many Members of the Senate come to the floor of the Senate talking about the urgency of having a new energy policy. I agree with that urgency and that the policy should be new, and I agree it ought to be a balanced, comprehensive policy. The other body, the House of Representatives, wrote an energy bill that I classified as kind of a dig-and-drill bill that is not changing anything very much. It is just trying to produce more of that which we have been using. This legislation enhances production of oil, natural gas, and coal in an environmentally acceptable way. We agree with that proposition. But it is also the case that we believe much more needs to be done.

I wonder if the Senator from New Mexico would describe again the components, other than enhanced production, which we have in this comprehensive plan—the components of conservation, efficiency, and renewable energy, which I think are so important to a balanced energy plan. I wonder if the Senator from New Mexico would especially talk about conservation because I think that is a significant portion of any energy policy that would work in the long term for this country.

Mr. BINGAMAN. Well, I am glad to briefly describe again the main things we are trying to do in the conservation area and increased efficiency area. We are trying to increase efficiency in all aspects of how we use energy—in appliances, residential construction, commercial construction, and increased efficiency with the Federal Government and State governments and schools, school buses, automobiles, and SUVs, and the whole range of places where we use energy in our society, in our economy. We are trying to say we can be much more efficient in the use of energy we produce. There is a great opportunity there.

When the President came out with his energy plan, and the Vice President came out with his plan, it had one statistic that was referred to repeatedly, and that is that we are going to have to build 1,300 new power generation plants in the next 20 years. Well, that is not our analysis. We don't believe that is the case. We think if we take some prudent steps to improve efficiency in conservation, we clearly will need new generation in the next 20 years, but not anything like the new generation to which the Vice President has referred.

So I think there is a great opportunity here. As the Senator from North Dakota says, we have tried very hard to balance the two—balance increased production with increased efficiency, and move us down the road in a way that is acceptable to the environment.

Mr. DORGAN. The Senator from New Mexico, the chairman, will remember that at a hearing we held with the Department of Energy, I asked the Deputy Secretary what our goals and aspirations were for the next 25 and 50 years, and what kind of energy plan do we have for 50 years from now? What do we aspire to do? What kind of national objectives do we have with respect to supply, and what kind of energy? The answer was, we are going to have to get back to you on that, because they don't have plans 25 and 50 years from now.

The reason I asked the questions, the Senator will recall, is when we debate, for example, Social Security, everybody talks about what will the balance be in the account 30 years from now or 50 years from now. When we talk about energy, nobody is thinking ahead.

That is the point of the bill that has been introduced today. I am proud to be a cosponsor of it. This bill says you have to have balance here and, yes, you have to produce more. But if that is all you do, is produce more natural gas, oil, and coal, then you are consigned to a policy that I call yesterday-forever. Yesterday-forever as an energy policy for this country is shortsighted and foolish. The legislation being introduced today under the leadership of the chairman of the committee is balanced. It includes production, yes, but significant conservation. Conserving a barrel of oil is the same as producing a barrel of oil, along with significant efficiencies and significant new emphasis on limitless energy and renewable energy.

I drove a car on the grounds of this Capitol Building that was run by a fuel cell. There are new technologies, new approaches, new kinds of fuel that are limitless and renewable year after year that we also ought to embrace. Federal policy ought to be the lead in embracing that as a matter of public interest in this country.

So let me again say to the Senator from New Mexico, it has been more than a decade since we have had a comprehensive policy change in energy in this country, one that is thoughtful and balanced and really provides initiative to move us in the direction that would be productive for this country. I think the Senator has provided leadership on a draft of something that is very comprehensive and remarkably refreshing, as compared to what the other body did. I think the other body is saying what we did yesterday, let's do more of tomorrow. That is not a very thoughtful policy. Let's do a lot of good things that work to move us in a new direction to meet our energy needs.

Again, I asked if he would yield for a question, and I guess I could ask a question, but I did want to say to him that this is good policy. It is not the case that the long-term energy needs of this country will be served in a very comprehensive way if we are able to pass this bill as-is tonight. We won't do that. But does the Senator not believe that this will really advance this country's energy policy in a significant way?

Mr. BINGAMAN. Obviously, I believe it would advance the interests of the country in a very substantial way. I appreciate very much the comments of the Senator from North Dakota. Again, I want to just acknowledge and compliment him on the great contributions he made to the development of this legislation. We have many of his ideas that are central to this legislation.

We look forward to the scrutiny by the rest of our colleagues in the Senate, and I hope very much when this bill comes up for consideration that we will have a good bipartisan vote in favor of it.

Mr. President, I yield the floor. I see there are other Senators wishing to speak.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, before the Senator from New Mexico leaves the floor, I wish to thank him for his leadership on the issue of energy policy for this Nation and thank him for the way he has worked with me and Senator BREAUX representing Louisiana, which is a producing State but also a State that is very interested in alternative energy sources, particularly from agricultural products, which we think holds a lot of promise.

Many of our universities are engaged in alternative fuel developments, as well as environmental cleanup. I thank the Senator particularly for his willingness to put in this bill significant authorization for the first time for $450 million for the seven producing States, much of that production being off our coastline. Because of current law, which has been in place for many years, as the Senator knows, Louisiana and other coastal States have been shortchanged because of the impacts that affect our States.

We will be able to use this money to help restore our wetlands which we are losing at an alarming rate. It will help us to provide the critical investments to protect our infrastructure—our pipelines and other facilities—that not only helps Louisiana but supports the whole Nation, which the Senator from New Mexico mentioned.

I thank the Senator on behalf of all the people of Louisiana and many people in the coastal parts of our Nation for his insight and leadership in including that provisions.

I wanted to go on record this afternoon about this bill and to thank the Senator from New Mexico. There are a number of other good provisions in this bill.

Mr. BINGAMAN. Madam President, may I respond briefly to the comments? The Senator from Louisiana has been a tireless and very effective advocate for her State and for coastal regions generally in this regard.

There are substantial impacts that oil and gas development in particular have had on those regions. We have tried in this legislation to include a provision at her urging that will help provide resources to deal with those impacts. I think it is good legislation. It will be good public policy.

I thank her for her many other contributions to this legislation as well. She is a very valued member of our committee and has made great contributions to various provisions in the bill since the beginning of consideration of it. I thank her very much.

Ms. LANDRIEU. I thank the Senator.

NATIONAL ADOPTION MONTH

Ms. LANDRIEU. Madam President, I want to speak to the Senate for a few minutes on a different subject, but one that is equally important and deserves our attention and focus.

I had hoped to get to the Chamber last week when it was actually November to speak about this subject because November is National Adoption Month. I want to spend a few minutes talking about what that means to us as a nation and what adoption has meant and continues to mean and will mean in the future to so many of our families in the United States and around the world.

I also want to talk about all the great successes and celebrations for us to be proud in a bipartisan way. This truly has been one of the issues on which there is unanimous consent and a truly deep commitment on the part of both the Democratic Party and the Republican Party.

I want to spend a few minutes, even though it is December 5, because the schedule was so hectic in the last week, talking about what National Adoption Month means.

Since 1993—so it has been almost 10 years—by Presidential proclamation, the 30 days in November have been declared to be a special recognition of National Adoption Month. During this month, communities, States, and local governments, not-for-profit organizations and adoptive families come together from the east coast, the west coast, the north, and the south to sponsor activities and events to help raise the awareness of the joys of adoption.

My husband and I do not have to attend any of these events necessarily because we live with this joy every day. Our two children are adopted. They are now 4 and 9 years old. It has been the greatest joy of our life. I know the specific stories of hundreds of families. I have held these children in my arms. I have read to them. I have played with them. I have seen them in so many different settings and at so many different ages and in many different physical, emotional, and mental health states: some very healthy, other children with great challenges that God has given them who now have loving parents and the great opportunities these children now have in homes where they can be provided and cared for.

We do not have to go far to these events, but I never tire speaking about it with our colleagues and sharing the importance of it and how proud we are of our success. We recommit our efforts in the month of November to make the way easier, to reduce the barriers that still exist, to recommit our energies to the fact that it should be a God-given right, I believe, and one that we should support for every child to have a family.

God did not create human beings to raise themselves. It just is not possible to do that. Every human being needs to be raised by another human being in a very loving and nurturing way.

For many years, unfortunately, we have had this idea that governments can raise children. Governments cannot raise children; families raise children. Or that some children are damaged goods and they can just raise themselves. No child is damaged goods. Or that children in some way can wake themselves up in the morning even at 3, 4, 5 years old, get themselves dressed, get themselves off to school, feed themselves, care for themselves, protect themselves. It does not happen without a nurturing adult.

Our idea is to talk about the fact that every child deserves a family on which they can count, a family with at least one loving adult, if not two, who will love them, nurture them, protect them, raise them, and give them the opportunities to which they are entitled. We recognize that while we have a lot of successes, we have a long way to go.

Let me share just a few successes. Last year, in 2000, nearly 50,000 children were adopted out of foster care, a record number. That success is built squarely on the shoulders of what President Clinton and Vice President Gore, and now what President Bush and Vice President CHENEY, have committed, which is to help invest resources and help write policies and laws that promote adoption in this Nation.

This represents a 78-percent increase over 1996. There are not many programs run by the Federal Government, the State governments, or, for that matter, private-sector initiatives or enterprises that can boast of a 78-percent increase. We are proud of our work at the Federal level working with our State governments and, in many instances, faith-based organizations and nonprofits promoting adoption.

Second, because of the work this Senate did, we passed the first international treaty on adoption last year called the Hague Treaty, which is now being ratified and signed by many nations in the world. I specifically thank Senators HELMS and BIDEN for their extraordinary leadership.

While many of the children who are adopted in the United States are born in the United States and then come to families through a domestic system, a growing number of children are coming into this country from other countries, such as China, Russia, countries in South America, and countries in the Mideast.

As this treaty is adopted and embraced by many countries, we are hoping the world—some developed nations, some underdeveloped nations, some nations that are Christian in their outlook, some that have other religious leanings—say with one voice: We believe the world community has a responsibility to see that every child in this world has a home. We wish that every child could stay with the parent to which they were born. That is our greatest hope. We wish we could fix every problem that a family has so those children can be raised in that home into which they were born.

There are terrible circumstances. There is alcoholism, drug addiction. There is abuse and neglect and mental illness and war and famine that separate children from their birth parents. So we cannot leave those children. We cannot say to them: Raise yourself. We have to have international laws in place and policies in place that help to heal that, to give those children, if they cannot stay with their own parent, to be able to have some kind of family to call their own.

I cannot imagine living without having a mother or a father, someone to pick up the phone, even at my age, at any age, to be able to not have someone you can rely on to give you a reference point and stability in your life.

Without this Hague treaty we passed, there are millions and millions of children who will never find a home. Our great hope is this treaty will be implemented with all haste. The State Department is, unfortunately, quite busy with the war effort now, but as soon as it can give its attention, Secretary Powell has assured me he is going to provide the resources necessary to the State Department to get this new system set up. I think it would be welcomed around the world.

The third success we have had, and on which we continue to work, is an adoption tax credit. If we can give tax credits to some major corporations in this world worth millions and hundreds of millions of dollars, we can most certainly provide tax credits to families who are not wealthy, who live paycheck to paycheck, whose paychecks might be small but their hearts are large, who have loving homes and they want to take a child in.

It is very expensive to raise a child. So the $10,000 tax credit we can give by doubling the current tax credit and making it permanent will say the Government believes if a private citizen or a family takes a child in through adoption, they are entitled to have some of those expenses written off and we thank them for the contribution they are making to that child's life and we thank them as taxpayers because the taxpayers have to pick up the tab for the raising of that child at higher rates of reimbursement, sometimes as much as $100 a day for emergency placement or extraordinary fees paid through government agencies. So we are saving ourselves money.

The Senator from Texas, Mr. GRAMM, was wonderful when he spoke about this. When I said the scoring mechanism made us say this tax credit would cost the taxpayers money, he and I entered into a colloquy and we rejected that notion, although technically we were not successful in that, by saying for every dollar we give out in a tax credit, it probably saves $10 to the taxpayer because these children come off the public roll, come into the loving arms of a family willing to spend the time and basically put sweat equity into the raising of this child, and we are forever grateful. Our tax credit is passed and we now need to make it work for foster care children.

Additionally, the Presidential candidates in this last election, I think for the first time—in my lifetime for pretty certain, and maybe in the history of the country—made adoption a central component of their Presidential platform. So this issue is gaining in strength and is becoming part of the American psyche and conscience, and we are very grateful for that success.

Secondly, while we are very excited and passionate about these successes, we also have a great challenge ahead of us. There are still today 570,000 children in foster care in the Nation, more than half a million children. These are children who have been taken away from their birth parents for many good reasons. Hopefully, many of them will return to their birth parents in an atmosphere of safety and security, but the parental rights of some of these children must be terminated because they are at risk, their life is at risk, unfortunately. There are about 130,000 of these children of all ages and shapes and sizes and colors who are waiting to be adopted today.

I want to share in a couple of weeks from now that we are going to host a major national event in New Orleans. We are pleased to host this event. We are excited about hosting it. I am going to be there, along with my senior Senator from Louisiana, at the Super Bowl. We are going to be in a stadium. It is called the Dome Stadium. We are proud of it. It is one of the finest stadiums in America. Eighty-five thousand people can fit into this stadium, and there is going to be a record crowd for that event. There will probably even be a few people standing in the aisles.

The only thing that would make it better is if the Saints were playing in the playoffs and the championship. Maybe that will happen. Anyway, this event is going to take place. When it does, I want people to hear this message and my colleagues to think about the fact there are more children waiting to be adopted in the United States than could fit in every seat in the Dome Stadium, in the aisles, and crowding around the concessions.

So when my colleagues see that panoramic, beautiful view of the Dome Stadium, I want them to think about the fact that in every seat there could be a child saying: All I want is a mother or a father or a family to call my own. I am alone in the world. I need someone to help me.

I want to show some pictures and tell some stories of two of these 130,000 children. This is Joshua and Tiffany. They are twins. They are fraternal twins. They are 5 years old. They are beautiful children. They were born premature, as many millions of children are born premature, some extremely so. They have some developmental delays, but they are generally healthy children. Their favorite cartoons are Barney and Teletubbies. I understand 5-year-olds. I have Mary Shannon who watches not too much television but enough to know who Barney and Teletubbies are.

They say in their bio their favorite snacks are cookies and they love ice cream, but what they really want is a mother and a father to adopt them. They are available for adoption. They would love a family. These children are born healthy and they would be two of the children sitting in those seats in the Dome Stadium. I hope somebody will want to take them in. The government has to do a better job of connecting these children to the waiting families who are out there, and I think we are on the track to do that.

Let me show another picture. This is a precious little girl, as are these two. Her name is Cheyenne. She is from Louisiana. Cheyenne is 6 years old. She was born in 1995. She is bright and charming. She wants to be part of a family. She has beautiful blue eyes. They say in her bio she is a little shy, but if I did not have parents, I might be a little shy, too, because it is your mother and your father who help you to learn how to communicate, learn how to talk to people.

She enjoys active sports. She does not have a family. So if we could be a little more enthusiastic and committed to helping in terms of all the things we are doing, we can help Cheyenne find a family perhaps in Louisiana.

I see my colleague from Arkansas who has done some beautiful work in this area, as well as my colleague from Virginia.

If we can find a family for Cheyenne so she has somebody to count on and depend on, that is what this is all about.

One of the things we are working on—and, again, there are 160 members of our coalition on adoption; that number is growing—one of the projects we hope to have funded this year is an extension of what we call Faces of Adoption. It is an Internet site. Anyone can log on the Internet at www.adopt.org. This site is funded by the Government in partnership with all of our State agencies, with a nonprofit organization out of Philadelphia, the National Adoption Foundation, which has been sort of the lead nonprofit. I thank the President for putting money in his budget so by the year 2005, if we fund it, we will have pictures and information about every child waiting, like Cheyenne, like the twins, like the other children, some of whom are perfectly healthy, some of whom have challenges. There is not one who would not be wanted by some family in this country.

I am very excited about new technologies that can help connect these children to families. We say there are no unwanted children, there are just unfound families. We should thank the Lord for the new technologies that enable us to tell these children's stories to families and to say that while everybody thinks they want to adopt an infant, and it is wonderful to adopt infants—and we did that in our situation—there are children of every age, every race, every background who could fit beautifully into a family.

I want to share one of the other great successes with my colleagues. It is called Angels in Adoption. So many in the Senate, and I think so many of the people in my State and around the Nation, are angels because they do help to find homes for children and take children into their homes. We call them angels. I don't know if the camera can show my angel pin was designed by an artist in Louisiana, Mignon Faget. We give this pin to the Members of Congress and to our award winners in our States. I will talk about Angels in Adoption.

We were scheduled to do this event on September 11. It was planned a year ahead of time. We had thousands of people in Washington that night for this event. We were going to present these awards to these people. I see my colleague from Idaho; he was going to be cohosting the event on September 11 with me. Of course, we know what happened on September 11. I spend just a moment to say what would have been said that day, but events prevented going forward with the event.

For the record, let me cite some of the people who would have received the angels award. The idea is for every Member of Congress to find one person in their district—it could be a parent who adopted a child; it could be a judge who works overtime and gets into the office early or stays late or takes a couple of cases extra to help make sure that child gets the home they deserve; it could be a local attorney who does it pro bono but really believes in adoption so he or she gives their time; it could be a church that has taken this as a special mission in their community. The Members of Congress give out these awards I cite for the record.

My award would have been given to Volunteers of America in north Louisiana, a nonprofit that has placed 2,500 children in homes in Louisiana and actually some in Arkansas and in our surrounding region. The reason I decided to give my award to the volunteers was that their board created a video which I saw. I was very moved. It was a story of a birth mother and father, a young couple who just were not quite ready, didn't have the resources or the maturity to raise a child. They made a courageous, selfless, and loving decision to give their child to a family who was desperately wanting a child, to provide a home. That video was so moving and would be such a good example for so many young people to see, I thought they should be given an award so we could distribute that video to communities around the country.

Second, Representative JIM McCRERY from Louisiana would have given his award to Lillie Gallagher who is an angel in the outfield in Baton Rouge, LA. She is director of St. Elizabeth's, a foundation that was created because an individual—a man—went on a retreat. He believes in prayer. God gave him a vision to create an agency. He did it with his own money and his friends. That agency, without government support, has helped place hundreds of children. Lillie contributes tremendously as the original founder and director of that agency. So she was presented an award. This is just an example.

Senator John Breaux would have presented his award to Linda Woods, a birth mother and an adoption advocate in Louisiana. She has been active on many boards and commissions. Linda is an Angel in Adoption.

And finally, one of my favorites, although it wasn't my award, was the award given by the Congressman from my State, CHRIS JOHN from Lafayette, to Kaaren Hebert. I want to talk a minute about Kaaren because she is an angel whom I hope others emulate.

Kaaren is a young woman. She works for the State of Louisiana. She is a government employee. She is fabulous. She worked in a small parish in Louisiana and was so recognized for her work that she was awarded and given a promotion to be a regional director. So she moved up to be the regional director in Lafayette, which is in south Louisiana. It is a beautiful city. About 250,000 to 350,000 people live in the region. Kaaren, under her leadership, had in 1997 35 adoptions in that region. In 1998, there were 43 completed adoptions. In 1999, there were 66 completed. Under her leadership, she has placed over 459 children out of the Louisiana foster care system into homes in Louisiana. Some of them were placed out of State.

If every government worker did the job that Kaaren did—just 85 percent of her work, not 100 percent—I would estimate there wouldn't be any children waiting in this country, if everyone were as conscientious and as gung ho and as wonderful as Kaaren. She most certainly deserved an award, and she got it, although not publicly because of what happened that day.

I wanted to share a few of the angel stories. But there are remarkable stories from every place in the Nation. We hope the press will write about the stories so it will encourage other people to join in and help.

Finally, several Saturdays ago was National Adoption Day. On that day, 1,000 adoptions were finalized in capitals all across the Nation because the judges and family courts have decided to come together and try to promote adoption on one day.

Finally, I end by thanking my colleagues for their work, acknowledging my wonderful partner, LARRY CRAIG, a Senator from Idaho, as we cochair the adoption caucus in the Senate, and I thank the Senator from Arkansas, the Senator from Virginia, and the Senator from Indiana for their good work and say as we celebrated Thanksgiving last week and as we celebrate Christmas, let us recommit ourselves to the idea that these celebrations aren't really worth having, if you think about it, if you don't have a family with whom to celebrate. Nothing, to me, would be sadder than to have no place to go on Thanksgiving or Christmas. I guess because I come from such a large and loving family, the thought of it is so alien to me, I cannot quite grasp it. But I know there are in this world millions of children who not only have no place to go on Thanksgiving and Christmas, but they have no place to go any day. They put themselves to bed and sleep at night by themselves. I hope we will remember them. Think about their pictures, like Cheyenne. Think about so many of them who just need our people and every government official in this Nation, at the Federal, State, and local level, to do more than we do, including myself. I recommit myself to do this work even harder during this next year.

I thank my colleagues for their work in this area and I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I wish to commend my distinguished colleague from Louisiana. I have been privileged to serve here many years in the Senate. In the 23 years I have been here I do not know of a single Senator who has ever taken the depth of interest and time and commitment to this ever growing, important subject in our land.

This is not politics. This is not partisanship. This is plainly, simply trying to help those who, for many reasons, are less fortunate than ourselves. I commend the distinguished colleague from Louisiana.

Madam President, I would like to address the Senate briefly on the question of the agriculture bill. The distinguished Senator from Indiana is managing this bill from our side. He and I have been discussing an issue with regard to the peanut section of the bill.

Throughout my career here in the Senate, I have worked with those Senators from the areas in which peanuts have been grown and hopefully will grow in the years to come. We have always been able to reach a meeting of the minds to try to provide, not a tremendous profit, but a reasonable profit for the arduous work of growing peanuts.

In my lifetime I had the opportunity to own and operate several farms. In many years we had a small peanut patch. It is not easy to grow those peanuts. It requires a lot of manual labor. There is a constant battle with disease. Now we see a bill before the Senate, indeed one was before the House, which fractures the coalition of States that for so many years have joined together to ensure that our respective peanut growers have a fair share, an opportunity to have the benefits provided by law for those who toil in the most respected profession of agriculture.

Somehow that fracture, in my judgment, seems to hurt Virginia very severely. Virginia prides itself in growing a specialty peanut. Small family farms in rural areas. I have always enjoyed traveling through those areas. You see the old silos, the old barns, in many parts of the State the old farm machinery. But they are very proud of their operations, whether it is a half acre or 500 acres—whatever it may be. Oftentimes, generations pass down to future generations the various plots of ground on which these peanuts have been grown through the years.

We recognize that as things have changed in this country, more and more we try to establish agriculture on its own two feet, independent from subsidization. We have done our best to preserve the ability of these families to continue to raise peanuts.

Virginia, again, grows a specialty peanut. There is not a Member of this Chamber who has not at sometime enjoyed that rather large peanut. It is anywhere from about three-eights an inch up to a little bigger than a half-inch. It is quite white after it is finally processed for consumption.

By and large, the specialty peanut is served in dishes and bowls where it can be seen. It is such an excellent peanut. But it is costly to grow this peanut. It has such extraordinary quality it really is not economical, in many ways, for them to break it up and put it into candy and cover it with chocolate. Very little goes into peanut butter. Because of the quality and flavor, and indeed the visual aspects of this peanut are so wonderful that it is served on the family table, particularly at festive times of the year. At Christmas, I would bet half the tables in America will have the quality-type peanut grown in this segment of our country, primarily Virginia, some in North Carolina, some in the other States.

Farmers in Virginia are the ones who are, in terms of the numbers of farmers in it, perhaps the most concentrated in this specialty peanut. This legislation, unfortunately, leaves them behind—and I think unfairly. That is the principal thrust of my comments—fairness. I want to see that our farmers are treated as fair as the other peanut farmers, and that they get a fair return for this particular peanut.

These rural areas are suffering from a loss of jobs. Young people are moving on to other areas of our State and elsewhere seeking jobs. If we do not correct this inequity with regard to the production of these specialty peanuts in Virginia, these rural areas are going to suffer an economic loss, one that on the horizon we do not see a recovery to provide the jobs that will be lost in this peanut industry if this bill is passed as it now stands goes through.

The particular farm bill on which farmers all across our country are operating today does not expire until next September. Yet, for some reason, those who drew up this peanut provision said once the Presidential signature is affixed to this piece of legislation and it becomes the law of the land, the programs under which our peanut farmers have operated since the 1930s are gone. And such support as they receive, really what we call the no-net-cost-to-the-Federal-taxpayer-program, is gone.

At a minimum, it would seem you would allow the peanut farmers in Virginia and elsewhere to finish out this growing cycle, a cycle that started first with the decision of the various farmers not to go for another crop, go to their bank, make their commitments for financial resources, and begin to till the ground and put the necessary fertilizer and other nutrients in that soil to raise next year's crop. Now all of a sudden, bang—the program stops. That is not the type of fairness our Congress wants to inflict on this very small number of farmers.

I will urge and continue to work with the managers of this bill in hopes that, at a minimum, we can have such effective date of the legislation to enable the farmers to continue this growing cycle under the existing farm bill until it expires next September.

I thank my colleague, the distinguished Senator from Virginia, Mr. ALLEN, who spoke on this earlier.

I yield the floor.

COMMENDING SENATOR LANDRIEU

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Madam President, before I begin my remarks I would, as the distinguished Senator from Virginia did, compliment my colleague from Louisiana who has tirelessly involved herself with the issue of adoption, making it more acceptable, more reasonable, and easier to work through in this Nation. She has done a fabulous job. She has provided leadership and compassion in this area, and I have been delighted to work with her, to learn from her, and to share in the experiences that she can bring back to us in this body to help us, in this great Nation, improve the laws of the land that can reach out to the smallest of our constituents to make their quality of life just that much better, providing a loving home and the support they need.

I wanted to compliment her on her work and encourage her as she has rededicated herself today. I, too, rededicate myself to the issue of adoption and working with our States and families across this Nation and other legislators to improve the approach this government takes on adoption, and to making it a much easier, simpler and encouraging process.

Madam President, I rise today to add my voice to those in support of this year's farm bill, and to encourage my colleagues to join me in bringing this bill to the floor as quickly as we can.

For the last 5 years, our farmers have worked to make ends meet under incredibly difficult circumstances. As prices for equipment, fertilizer, energy costs, and other inputs have skyrocketed, the returns have plummeted. Every year they have harvested their crops without knowing if they will be able to afford to plant another crop in the next growing season.

When I was in the House of Representatives, I opposed the 1996 Freedom to Farm bill because it did not provide adequate support for our farmers. It provided flexibility, and it provided policy—but policy that was dependent on other areas of government for which we did not have the wherewithal to provide the support.

Since that bill passed, farmers in Arkansas and around the country have been in limbo every year waiting for Congress to pass emergency spending bills because the existing farm policy was absolutely inadequate. The United States has the safest, most abundant and affordable food supply in the entire world. But if we are going to ensure that safety and abundance, we must invest in our farmers and rural communities, and we must do it immediately.

We desperately need a farm bill to provide a dependable safety net that ensures not only the financial viability of our farmers but also the viability of local bankers, merchants, and other rural and small town institutions that depend on a safe farm economy.

We need a farm bill that will improve and stabilize farm income by continuing fixed income payments and creating a countercyclical income protection system.

We need a farm bill that creates new conservation incentives and increases acreage for existing programs, such as the CRP, our Conservation Reserve Program; the WRP, the Wetlands Reserve Program; the Equip Program; and many other proven programs that allow us to take marginal lands out of production to use our own resources in our farming operations to be better stewards of the land, and to be more productive in our production.

Rural communities across the Nation will see the benefits of a new farm bill.

As we move forward, we need a farm bill that will spur rural development and expand broad-band access to our rural communities so they, too, can compete in this global economy, and so our producers can access the very Government programs that we want to provide them.

As we have tried to minimize Government in bringing it down and making it more efficient, we are dependent on technology. Yet many of our rural communities can't access the very technologies we are expecting them to use for the programs that the Government provides their producers.

We need to increase funding to land-grant colleges. And we desperately need to improve nutrition and food aid programs, energy conservation programs, and forestry initiatives.

We need a comprehensive package for our farm economy and for rural America. We have produced a good, solid, comprehensive package out of the Senate Agriculture Committee.

This past year, I begged my Senate colleagues to focus on our desperate need for new agriculture policy in this country.

This past year, I have also urged my colleagues on the Senate Agriculture Committee to work hard together to deliver a new farm bill this year—something on which producers can depend, something with which they can go to the financial institution to ask them for the ability to put next year's crop in the ground.

It is time for us to make that happen, and we can. In these few short days that we have left, we can bring about good, comprehensive, constructive agriculture policy that will help the producers of this country and that will allow them to continue to be the producers of the safest, most affordable and abundant food supply in the world.

But it is going to take us coming together, working hard, and focusing on what we need to complete before we break for the holiday.

I am proud to stand up today for American farmers. I am proud to stand up before my colleagues and beg them to come together and bring about a comprehensive policy that will allow the agricultural producers of my State and other States across this country once again to go back to doing what they do best; that is, producing that safe and abundant food supply in a way that they can be assured their Government is providing them the safety net they need to be competitive with other farmers, and particularly other governments across the globe.

As we look at the export assistance numbers across the globe, we can see that the European Union is consuming about 80-plus percent of the export subsidies worldwide. Our farmers are not competing with other farmers. They are competing with other governments, and it is now time for our Government to stand and say we are going to provide the safety net, and we are going to provide the Government assistance in working with our agricultural producers so they, too, can be competitive.

Today, I urge my colleagues to join me in supporting a farm policy that works for working farmers—a farm policy that we can conference with the House and get a good, solid, comprehensive bill to the desk of the President so we can once again have good, solid, agricultural policy on behalf of the many hard working men and women on family farms today and across this Nation.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Thank you, Madam President.

EXPIRATION OF ATPA

Mr. GRAHAM. Madam President, I am here this evening with a tinge of sadness. At midnight last night, one of the most important and successful efforts in the United States to build better relations with our neighbors in Latin America expired. After 10 years of successful service to the United States and the four countries of the Andean region—Bolivia, Peru, Ecuador, and Colombia—the Andean Trade Preference Act expired of its own accord last night, and the Congress has not allocated the time necessary for its extension.

This landmark trade agreement, which was passed in 1991, has helped the United States and these four countries to develop legitimate, strong, expanding commercial ties, and it has contributed substantially to the goal of stabilizing the economies and political systems of these four countries by encouraging a diversification of their economies.

To look backwards, in the last full year before the Andean Trade Preference Act was passed, the United States imported $12.7 billion from these four Andean countries, primarily in traditional agricultural commodities such as coffee and bananas.

In the year 2000, the United States imported $28.5 billion from these countries—a 125-percent increase. Much of this increase was in new and frequently nontraditional areas of economic activity for these four countries.

To mention one example, the cut-flower industry hardly existed in terms of its imports into the United States prior to the Andean Trade Preference Act. In 1991, the year before ATPA took effect, the United States imported $220 million in flowers from the four Andean countries. In the year 2000, the United States had more than doubled that amount to over $440 million worth in flowers.

The flower industry is particularly important because it is a very strong job generator. I have been told that, on average, for every hectare of land that is committed to flower production in the Andean region, there are between 5 and 10 persons employed to work those flowers and to bring them into full blossom and ready to be exported not only to the United States but increasingly to the world.

The United States has also been a significant direct beneficiary in that we have substantially increased our exports to the Andean region. Over the last 8 years, those exports have grown by 65 percent, to a total of $6.3 billion in 1999.

As one visits the Andean region, they are struck by the prevalence of U.S. products—everything from the yellow diesel equipment, Caterpillar, to telecommunications equipment made in the United States.

Given the clear value this program has had for the United States and our four neighbors in the Andean region, it is a sad commentary that after 10 years of success we have allowed this program to expire. It also ought to be a strong motivation for us to say we shall not conclude this session of Congress without extending this program and expanding the program so that it will yield even greater benefits to the United States and to our Andean neighbors.

I filed legislation in the last Congress and again in this one which has that objective. I am pleased to report that the Senate Finance Committee, last week, reported favorably the legislation which will extend and expand the Andean Trade Preference Act. The House of Representatives has already adopted a similar piece of legislation. I hope in the next few days the Senate will do likewise, and we can move quickly to resolve differences between the two Houses and send this legislation on to the President to be signed.

I also am very hopeful we will make this legislation retroactive to midnight of last night so there will not be a hiatus in the benefits which have been available for a decade.

Why is all of this important to the United States beyond the amount of direct economic benefit? It is important to the United States because the United States has a stake in what happens in this region of the world—a region that is so close to us.

If we are serious about halting the flow of illegal drugs into the United States, we must be concerned about the Andean region because over 80 percent of the cocaine that comes into the United States, and an increasing proportion of the heroin that comes into the United States, comes from this region. If we are interested in building strong democratic capitalist institutions, we should be concerned about this region.

Colombia has had one of the longest democracies in South America. It has been a role model to other countries in the hemisphere. But Colombia, as well as its neighbors, has faced unusually stressful and challenging situations over the last decade. The Andean Trade Preference Act has been a source of stability in a region which has frequently been in turmoil. If we are steadfast in our war against terrorism, then we must be concerned with what is happening in the Andean region.

Some of the most violent terrorists in the world are in our own hemisphere. The guerrillas and drug traffickers who are waging war on civil society in Colombia are some of the most vicious in the world. What many Americans fail to recognize is that the largest single source of terrorist attacks against Americans in the world is in the country of Colombia.

In the year 2000, over 40 percent of the incidents of terrorist attacks against U.S. citizens and U.S. interests were in the country of Colombia. Unfortunately, that violence in Colombia is spilling over to its neighbors, especially Ecuador.

I am concerned that we have already taken a step back from our commitment which the Congress made just a year ago through Plan Colombia, a commitment that was to galvanize the international community with Colombia in a major effort at rolling back drug trafficking, guerrillas, and terrorism. One year later, we in the Senate, by a 22-percent margin, have cut the funding for the Andean Regional Initiative.

I hope before we vote on the foreign operations conference report the negotiations between the Senate and the House will result in a significant restoration of those funds not only because the dollars are needed in order to accomplish their important objectives but also because of the symbol that those dollars represent in terms of our commitment to a long-term war against terrorism.

The Senate must act rapidly on this legislation so the people of this region will have confidence in our reliability as a neighbor and partner and that they will have incentives to develop legitimate economic alternatives to the production of drugs and other illicit activity.

It has been estimated that in Colombia alone, if we were to be fully successful in our efforts to rid that country of the scourge of drug production and trafficking, some 400,000 Colombians would be without a livelihood. It is important that we be a partner not only in the eradication of drugs but also in the provision of legitimate, lawful employment to replace those 400,000 illicit jobs.

I would point to the fact that the legislation I hope we will soon be considering is not just a replication of that which passed in 1991. There have been significant changes in the political and economic landscape of the Andean region since that initial enactment.

To mention one of the most significant of those changes was last year's passage by the Congress of the Caribbean Basin Trade Partnership Act of 2000. This was important to the Andean region because it changed the competitive playing field between the Andean region and the Caribbean Basin.

The 2000 legislation—the Caribbean Basin Trade Partnership Act—gave to the countries of Central America and the Caribbean, which participate in the Caribbean Basin Initiative, parity with the benefits that had earlier been offered to Mexico under the North American Free Trade Act. The effect of this has been to change the competitive position between the Caribbean Basin and the Andean Trade Pact.

In one of the most critical areas, which is apparel assembly, today most apparel in the Caribbean Basin will come into the United States duty-free, while the Andean region will still be paying, on average, a 14-percent duty for the same assembled items. There have been fears that that differential—zero from the Caribbean; 14 percent from the Andean region—could result in as much as 100,000 jobs lost in Colombia alone, lesser amounts in the other three Andean trade countries.

That would go in exactly the opposite direction of what we should be doing in terms of encouraging more legitimate jobs in the region as an alternative to the licit jobs in the drug trade. We are seeing the effects of that

14-percent differential. In May and August of this year, imports of apparel from Andean trade countries declined 6 percent over the same period just a year ago. Through that same period, imports from the CBI countries have increased over $47 million. We are already beginning to see some relocation of industrial activity out of the Andean region into the Caribbean.

I was the sponsor of the Caribbean Basin legislation in 2000 and have long been a supporter of our relations with that region of the world. We must not continue to help one region at the expense of the other. We must have a trade, economic, and foreign policy perspective that treats all of our neighbors with respect and equality.

I would like to point out that there is not only a past and a future in the United States relationship with the Andean trade region, but there is also going to be a past, a present, and a future. That future is that it is critical that we prepare for the year 2005.

What is the significance of the year 2005? The significance is that in the major area of job creation and promotion that we can influence in this region, which is primarily in the apparel assembly area, we are going to lose the protections we have had over the recent past.

A little background: For much of the past several decades, there has been an international agreement called the multifiber agreement. That agreement has restricted the number of specific apparel items which any individual country can ship into the United States. Under that agreement, for instance, the country of China is limited as to the number of shirts and blouses and other items it can import. Those numbers are substantially below what its capacity to produce is.

Because of that, the differential in the cost of production between Mexico and the Caribbean and the Andean region and the Far East has been kept within tolerable limits. The concern is that as soon as that multifiber agreement lapses, which will occur in the year 2005, there will be the potential that the United States will be swamped with apparel products from Asia with which our neighbors in Mexico and the Caribbean and the Andean region cannot compete.

Therefore, the next few years are critical in our urgency of developing a more efficient and productive industry and a partnership between the U.S. textile capability, because virtually all of those assembled items are assembled from U.S.-grown fiber and U.S.-spun textiles, which are then assembled in either Mexico or the Caribbean or the Andean region. We must make that partnership of American textiles and near-neighbor assembly sufficiently efficient that it can survive in a post-2005 economic environment.

We need to start that process as rapidly as possible in all areas. We have already done it with Mexico and the Caribbean. Now we must turn our attention to the Andean region.

One final point: Our office is receiving calls from a wide variety of businesses, both in the United States and in Latin America, complaining that they will be subject to increased duties starting today, December 5. Many of these companies deal with perishable goods, including cut flowers and vegetables, that cannot be held for days or weeks while Congress deliberates.

I would like to make it clear again that it is my intention and hope to work to assure that the current ATPA benefits will be retroactive from the date of enactment of any legislation to midnight of last night. That would mean that any duties collected in the coming days by the Customs Service would be refundable.

We recognize that the confusion and inconvenience this situation will create will result in some dislocations and some abrasions between our country and these four good neighbors. I wish it could have been avoided. What we can do today is commit that we will make this period as short as possible and we will make it as painless as possible to all involved.

The old cliche is "trade, not aid." That is not a cliche but a truth that has worked in the Andean region to our benefit and to the benefit of our four neighboring countries. The United States has been a powerful beacon for open markets and strong free trade and a capitalist economic system as a fundamental foundation under democracies. Now it is our challenge to rebuild that foundation in a deeper and expanded form for our relationship with these four neighbors in the Andean region. I hope we will get about that business of foundation building as soon as possible.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I appreciate very much the words of the distinguished Senator from Florida. I share his feelings completely. We had the privilege in the Foreign Relations Committee of having a meeting with the President of Bolivia just this morning. President Ramirez is in Washington to meet with President Bush tomorrow.

Obviously, the President of Bolivia, an extraordinarily talented person, a great leader in South America, expressed very considerable anxiety over the end of the Andean free trade situation. Bolivia has taken extraordinary steps against the drug trade at great cost but with great effectiveness. Our foreign policy really depends upon the support of extraordinary leaders such as the President of Bolivia.

The words of the Senator from Florida are timely, and his leadership on this issue really has been exemplary. I congratulate him and look forward to working with him.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE AND NEW YORK DISASTER NEEDS

Mrs. CLINTON. Mr. President, I appreciate the opportunity and thank the distinguished ranking member on the Agriculture Committee for the chance to come to the floor and speak about a matter of great concern and urgency to my State. I also commend the Senator from Indiana and the chairman of the Agriculture Committee for their very hard and diligent work on the bill we are considering.

I turn our attention, as I have on numerous occasions over the past weeks, to the situation in the State of New York following the attacks on September 11 and the extraordinary damage inflicted on the infrastructure, on the economy, and most especially on the lives of New Yorkers.

I commend Senator BYRD and the Appropriations Committee for the extraordinary job they have done in marking up the fiscal year 2002 Defense appropriations bill which addresses not only the pressing national security and defense needs of our Nation but also marks a significant step forward in addressing our homeland defense needs, as well as the specific needs related to the cleanup, rebuilding, and revitalization of the city of New York.

Just days after the horrific attack on September 11, just over 12 weeks ago, President Bush told a joint session of Congress: We will rebuild New York City. The President's Budget Director weeks later said: The President's pledge of $20 billion is an absolute guarantee, and it is likely to be more.

We have collected quotations from other leaders. It is very gratifying to me that Senator BYRD and the Appropriations Committee have moved forward to fulfill the promises and commitments made to the people of New York. I personally thank and commend Senator BYRD for balancing the needs of our country with the need to be prepared in the face of terrorism, to rebuild the financial capital of the world, New York City, and to be fiscally responsible—understanding if we don't get our economy going, if we don't proceed, it will cost more later. I also thank the Appropriations Committee staff, especially Terry Sauvain and Chuck Kieffer and Paul Carliner on Senator MIKULSKI's staff who have given my staff and myself so much assistance in the weeks since September 11.

The bill reported out of committee is just the first step. As we go to the floor, which could be as early as tomorrow, I hope my colleagues understand

and appreciate we are fighting a war on two fronts. We have to fully fund the important defense needs of our Nation, and we have to fully fund, beginning with the Appropriations recommendations, the homeland security needs and New York City's needs.

I will speak today particularly about the health care needs of New Yorkers and Americans in the aftermath of this disaster. The essential services that hospitals and health care workers provided throughout the World Trade Center disaster demonstrate how much we depend upon our health care system all the time, but particularly in a time of need. New York's hospitals and hospital workers pitched in heroically during the emergency, not only on the day of September 11 but on the days and weeks following. They worked around the clock. They operated on backup power systems, without phones and other utilities. Health care workers jeopardized their own lives to be at their stations. Hospital personnel provided supportive services to community members and hospitals that were right there at ground zero. St. Vincent's and NYU Downtown not only cared for the injured but provided meals for rescue workers, took meals to elderly residents who were trapped in their apartments. They served as the backbone of the care and support system we relied on during this crisis while suffering their own structural damage. NYU, for example, lost its data center, and therefore its billing capacity. In effect, that was a fitting metaphor for how these hospitals operated: According to their mission, not their bottom line. They did not begrudge the costs of clearing hospital beds. They did not count the costs of bringing staff in on highest alert on overtime pay. They did not stand at the door of the emergency room asking to see people's insurance cards and sending them to a line to get their applications filled out.

They incurred security expenses. They depleted stockpiles of emergency supplies, pharmaceuticals, and blood. They provided disaster counseling services as well as emergency food, housing, and transportation. They also incurred expenses on emergency telecommunications and backup generators. When they ran out, they had to purchase and rent equipment. They had to set up an emergency morgue. They incurred so many extraordinary costs, and it is in part to alleviate some of those costs that we have a special provision in the appropriations for hospital costs that were incurred during this disaster.

But the disaster has had a devastating impact, not only on providers but on health coverage as well. One of the most unfortunate consequences of the disaster, combined with the economic downturn, has been the impact on workers. Many workers in New York City saw their jobs just vanish in the rubble of the collapsed towers. Thousands more throughout the city and State lost their jobs because of the aftershocks of the disaster. Then it spread out around our country.

The unemployment rate nationally has gone up half of 1 percent—faster in 1 month than at any point in the last 20 years. In New York City, of course, the problem is exacerbated. In the span of 1 month, unemployment rose 1.3 percent, more than twice the national rate.

This is a picture of a recent job fair. Here you see people scrambling for their livelihoods, for their families' economic survival, but with limited opportunities in a recessionary economy.

The headline from the San Antonio Express News, October 18:

> New York job fair sends thousands away; Arena isn't big enough for crowd.

The New York Department of Labor has estimated that 250,000 New Yorkers will be out of work by year's end. Based on what we know about the rates of health insurance among the jobless, the majority will lose their health insurance.

While some may be able to rely on Medicaid, estimates show that 100,000 of these displaced workers will end up uninsured. This is true across the country. We know that more than two out of five Americans who lose their jobs lose health care as well. That inflicts a double blow. It is my hope that in the coming days we can address some of these pressing economic and health care needs, not only for New Yorkers but for all Americans, first through supplemental appropriations, then through the stimulus package.

The proposed Senate economic stimulus package reported to the Senate floor would provide additional help for displaced workers who are eligible for COBRA continuation but cannot afford to use up over half of their unemployment check each month just for health insurance. The proposal would cover 75 percent of the cost of COBRA, making it affordable for far more unemployed families. This would mean we would see that approximately 457,000 temporary unemployed workers and their families would be covered. Currently the COBRA premiums, which average over $7,700 for families in New York, are unaffordable without some additional help.

But we also know that many workers in small businesses are not COBRA eligible. In New York, 25 percent of workers are employed by small businesses not covered by COBRA. The stimulus proposal addresses that gap by offering health coverage through a temporary State Medicaid option with an enhanced match to encourage States to provide the coverage.

We will see not only an effect on individuals and their families but also on State budgets. States expect to see an additional 4 million individuals added to their Medicaid rolls. The number of children on Medicaid could rise as much as 11.3 percent.

Here you see on this chart the steady growth in Medicaid enrollments as unemployment rates grow. At a time when States are already reeling from reduced revenues, many of our States will not have the resources to meet this increased need. We already have heard troubling stories from our States. Tennessee is proposing to eliminate coverage for 180,000 Medicaid beneficiaries. Washington is considering cuts of 10 percent to 15 percent. California is talking about budget cuts of up to $1 billion in Medicaid. Florida may eliminate coverage of adults with catastrophic health care costs. And Indiana has appropriated $140 million less than is projected will be needed for Medicaid in that State alone.

So just when we have unemployment going up, revenues going down, many more people being thrown into the ranks of the unemployed, unable to keep their insurance, when we have 2.6 million more children having to rely on this safety net program, the States are in an impossible position, and it is a vicious circle because if they cannot provide at least some Medicaid funding, many hospitals will be forced to provide services the best they can, increasing their costs which will not be reimbursed. And we are into that vicious cycle where uncompensated costs create downward pressures on institutions such as hospitals that have to cut services even for the insured and have to turn away the uninsured.

Many States are going to be in that difficult position. I hope we are going to provide at least some temporary support through increased matching funds to help Governors be able to deal with the increasing health care costs.

I know in the State of New York we came up with a quite creative approach by creating something called the Disaster Relief Medicaid Program. It cut through all the bureaucratic redtape, cut the application process which many of us have been complaining about for years—cut it down to one page, allowed many needy people to skip over all those bureaucratic hurdles to be able to be eligible for Medicaid. It has been a lifesaver for a lot of our New York families.

We will not be able to continue that without some additional help. I think, actually, this program is a very good model we ought to look at in the future when we try to think of some permanent ways to provide more Medicaid assistance. But certainly this streamlined post-crisis process really did a tremendous job filling a breach that would have otherwise caused a tremendous amount of backlog and uninsured people not being given the health care they deserve to have.

Yesterday, Congressman PETER KING from New York, along with some House colleagues, introduced legislation on the House side to hold States harmless if they were slated for what is called an FMAP decrease—in other words, the match they get from the Federal Government—and provide an additional two point increase to all States, with an additional 2.5 percent available to States with unemployment rates higher than the average across States nationwide.

I think this is a good short-term solution. It is also a good stimulus, if you can get money into the hands of people who need to spend it, as people who have health care needs have to spend it. But it is the right thing to do as well.

I urge my colleagues to support the kind of cobbled together approach that would give COBRA premium subsidies, would provide an increase in the FMAP, at least temporarily, to help out our States that are facing such revenue shortfalls, provide a Medicaid option for non-COBRA-eligible workers which will be not only important for our States and for our economy and our health care system but absolutely essential to so many of the workers who, since September 11, have been not only out of work but out of health insurance as well.

I thank my colleague, the ranking member of the Agriculture Committee, for his indulgence, in being able to address this critical issue that will come before us sometime in the next few days. I appreciate greatly the attention that can be paid to making sure we provide the kind of health care support that is needed at this time.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. REID. Mr. President, I ask unanimous consent that at 12 noon, Thursday, December 6, the motion to proceed to S. 1731, the farm bill, be agreed to and the motion to reconsider be laid on the table; that the Senate then proceed to the consideration of Calendar No. 254, H.R. 3338, the Department of Defense appropriations bill, provided, further that no amendments be in order to S. 1731 prior to Tuesday, December 11.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, the two managers of the bill, Senators HARKIN and LUGAR, are two of the prizes we have in the Senate. The debate has been very civil, and they really look forward to going back to this bill. Debate on the bill should be one of the better debates we have had this year. I hope everyone who has concerns will get their amendments ready so we can finish this bill before the end of the year.

Mr. HARKIN. Mr. President, if the Senator will yield, I thank the Senator for working out this agreement and for getting us to cloture on this bill so we can proceed to the farm bill.

As my good friend from Nevada knows, people in rural America need this bill. They need it now.

The Presiding Officer also knows that his farmers in Georgia, and especially farmers around the South, are going to have to go to their banks pretty soon after the first of the year to get loans ready for planting their crops. Their bank is going to say: What are you looking at? What are you going to have next year? They will not know. Many farmers will be right behind them in about February and March. They will be going to their banks.

That is why it is so important to get this farm bill finished. As I said earlier today, and I say to my good friend from Nevada, right now we are facing over 54 percent less net farm income today than we had in 1995. We can't afford to wait any longer. We have a good bill. It is a balanced bill. We have worked out all of our agreements.

This is a good bill for all Americans. It is a good bill for farmers all over this country. It is a good bill for people who live in our small towns and communities.

I want to personally thank my good friend from Nevada, the assistant majority leader, for all of his help in getting this bill to the floor and for making sure we get this bill finished before we go home for Christmas. We are going to do that. We are going to finish this bill. We are going to have it out of here, and we are going to let the farmers of America know what they can count on for next year.

I thank my friend.

Mr. REID. Mr. President, the majority leader asked me to also announce that when we go to the Defense appropriations bill, we are going to complete it this week. He will certainly have more to say about this tomorrow. But this is something we have to do. People who serve in the Senate want to be out of here by a week from Friday, and we have to finish this bill so it can be taken to conference over the weekend and the conference report brought back prior to next Friday. I hope everyone will understand that.

As he said—I am speaking for the majority leader—we may have to work through the weekend. But if people have any hope of getting out of here by next Friday, they are going to have to really work with us and move this legislation.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 532; that the nomination be confirmed, the motion to reconsider be laid upon the table, any statements thereon be printed in the RECORD, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

John P. Walters, of Michigan, to be Director of National Drug Control Policy.

Mr. LEAHY. Mr. President, all of us have a strong desire to confront and conquer the scourge of drug abuse and the ways it ravages American lives, especially young American lives. The debate on how best to prevail in this struggle is well under way in communities and at kitchen tables across the nation. The President's nomination of John Walters to head the Office of National Drug Control Policy has been the most recent catalyst for this debate.

I voted against Mr. Walters' nomination in committee. In light of that, I would like to share some of my concerns about Mr. Walters in the hope that he will take them to heart, and that he will greatly exceed my expectations and the expectations of the other Senators who voted against him in committee.

I believe Mr. Walters was the wrong choice for this job, and that his sharply partisan approach to drug policy issues provides an imperfect fit for an era of growing bipartisan consensus about drugs. Indeed, his ideological bent is a hindrance when our efforts to prevent drug abuse call for cooperation and pragmatism. Until his confirmation hearings, most of the little he had said and written about drug treatment was deeply skeptical. He has focused primarily on the need to reduce the supply of drugs, too rarely focusing on the neglected demand side of the drug equation. He has also dismissed concerns about the racial impact of our current drug policies and the utility of mandatory minimum sentences. In short, Mr. Walters' public record does not inspire confidence in those of us who think Congress has occasionally made the wrong decisions in our attempts to prevent drug abuse.

I do not doubt Mr. Walters' intellect or the depth of his concern about our nation's drug problems. I simply believe that he is not the best person to coordinate our anti-drug efforts. We all agree that the fight against drug abuse is vitally important. We disagree only in the methods we choose to achieve our shared goal of a drug-free America.

We have worked hard on the Judiciary Committee to ensure a speedy and fair hearing for the Bush administration's executive branch nominees. Within days of the Senate's reorganization this summer and my becoming chairman, I noticed a hearing on Asa Hutchinson's nomination to head the Drug Enforcement Administration. After we had the hearing, I expedited the process to provide a quick committee vote, and then worked to secure a vote on the floor so that Mr. Hutchinson's nomination could be approved before the August recess. I similarly expedited the process for the nominations of Robert Mueller to head the Federal Bureau of Investigation and of James Ziglar to head the Immigration and Naturalization Service, among others.

I scheduled John Walters' nomination hearing for the first full week following our August recess. That hearing was set for the morning of September 11, and was, of course, postponed as a result of the terrorist attacks in New York and near Washington. I made every effort to reschedule the hearing as soon as possible, consistent with our obligations to consider the anti-terrorism legislation that the Administration proposed shortly after the attacks. I believed strongly that drug abuse was still a vital problem for this nation and that we needed to continue to pay attention to our domestic priorities even as we engaged in our necessary response to terrorism. The committee considered the nomination on October 10.

After that hearing, the work of the Judiciary Committee was made more difficult by the anthrax concerns that led to the closing of the Senate office buildings and the displacement of Members and their staffs. Considering these delays, and the controversy that Mr. Walters engendered, I think it is a tribute to the committee that we voted on his nomination as quickly as we did, within a month of his confirmation hearing.

Law enforcements is and will remain indispensable in reducing drug abuse. Indeed, we all agree that we must severely punish those who traffic in and sell drugs. More than anyone, however, law enforcement officers know that improving drug treatment and taking other measures to reduce the demand for drugs will greatly assist their efforts. The White House also understands this. President Bush has said that "[t]he most effective way to reduce the supply of drugs in America is to reduce the demand for drugs in America," and has promised that his administration will concentrate "unprecedented attention" on the demand for drugs. In the Senate, I have joined with Senator HATCH, Senator BIDEN, and others in introducing S. 304, the Drug Abuse Education, Prevention, and Treatment Act. That legislation would increase the federal focus on treatment programs, with targeted programs to increase the availability and effectiveness of drug treatment programs in rural areas, provide additional treatment opportunities for mothers who are addicted to drugs, and more.

Although Mr. Walters testified at his confirmation hearing and wrote in his responses to written questions that he supports drug treatment efforts, his previous record casts doubt on the strength of this support. Mr. Walters has criticized the concept that addiction is a disease, referring to that concept as an "ideology;" even though it is held widely, if not universally, by government and private experts. He has written that "the culture of victimhood lies at the core of the therapeutic worldview." He has said that he supports "good" treatment but sharply criticized existing treatment providers, aside from faith-based providers. These and other statements by Mr. Walters have caused great concern among many of these who care about treating drug addiction. For example, the president of the Betty Ford Center wrote to the Judiciary Committee on October 9 that: "Mrs. Ford and I are convinced that Mr. Walters may not have the confidence in the treatment and prevention strategies that we believe are necessary for the creation and implementation of a balanced and thoughtful approach to U.S. drug policy."

As I have said repeatedly, we cannot reduce drug abuse without punishing drug offenders, and in particular without ensuring that those who traffic in and sell drugs are incarcerated for substantial periods of time. At the same time, many of us—Democrats and Republicans—have come to question our reliance on mandatory minimum sentences for a wide variety of drug offenses, as well as the 100:1 disparity under current law between sentences for crack and powder cocaine. In his writings and statements, Mr. Walters has been hostile to reconsideration of these policy choices Congress made during the 1980s. For example, he wrote as recently as March that the arguments that we are imprisoning too many people for merely possessing illegal drugs and that criminal sentences are too long or harsh were "among the great urban myths of our time." This statement flies in the face of the widespread dissatisfaction with mandatory minimum sentences among policymakers and federal judges. Indeed, Chief Justice Rehnquist and the Judicial Conferences composed of representatives from all 12 U.S. circuits have called for the repeal of federal mandatory minimum sentences. Mr. Walters has said he would conduct a review of the current sentencing structure, but given his past views, I do not believe that he is the best person to undertake that task.

Between 1983 and 1998, drug admissions to State and Federal prisons increased almost 16-fold, from over 10,000 drug admissions in 1983 to almost 167,000 new prison entries for drug offenses in 1998. During this time, white drug admissions increased more than 7-fold, Hispanic drug admissions increased 18-fold, and black drug admissions increased more than 26-fold. The disparity in sentences for crack and powder cocaine has contributed significantly to this disproportionate imprisonment of African Americans. Under current law, it takes only 1 percent as much crack cocaine to trigger equal mandatory minimum penalties with powder cocaine. This disparity has a severe racial impact, as African Americans are much more likely than white Americans to be sentenced for crack offenses. For example, in FY 1999, blacks accounted for 84.7 percent of those sentenced for crack offenses and whites accounted for just 5.4 percent. There is also reason to doubt the logic of the crack-powder distinction on law enforcement grounds. Since cocaine is imported and distributed in powder form, and only manufactured into crack at the retail level, those persons at the highest end of the drug distribution chain are rarely affected by the increased crack penalties. In other words, the harshest sentences are reserved for less-culpable offenders.

Despite these troubling facts, Mr. Walters has referred to the racial impact of the sentencing disparity as a "perceived racial injustice" and urged Congress in 1996 testimony to "[b]lock lower crack sentences" and to strip the U.S. Sentencing Commission of authority even to propose changes in criminal penalties where Congress has adopted mandatory minimums. His position on this issue undoubtedly has played a role in the decision by 21 members of the Congressional Black Caucus, including the ranking Democratic member of the House Judiciary Committee, Mr. JOHN CONYERS, to oppose this nomination. Considering that Mr. CONYERS was such a strong supporter of Asa Hutchinson's nomination to head the Drug Enforcement Administration that he took the time to write me about it, I take his strong opposition to this nomination seriously.

Mr. Walters' reaction to popular and legislative judgments by various States to allow limited use of marijuana for medical purposes also concerns me. Numerous states have considered and passed medical marijuana initiatives, some by substantial majorities. Mr. Walters has responded to this trend by advocating that the federal government use the Controlled Substances Act to take away the federal licenses from any physician who prescribes marijuana to a patient in states that permit the practice. Such a step would prevent these doctors from prescribing or possessing any medication that is federally controlled, basically making the practice of medicine impossible. In addition to running roughshod over any federalism concerns whatsoever, Mr. Walters' draconian response raises questions about his sense of proportion. Although shutting down the process as he has suggested may be effective in rendering these State-passed initiatives meaningless, his proposal is a very blunt instrument, to say the least.

Mr. Walters' response to written questions on this issue did not alleviate my concerns. I asked him whether the Federal government should make it a priority to prosecute people who distribute marijuana to ill people in States that have approved medical marijuana initiatives. He answered that he supports "enforcing the law," and then briefly discussed the relatively small size of the DEA, without addressing whether medical marijuana cases should be a priority. I am all the more disappointed by the insufficiency of this answer in light of last month's DEA raid on a California center that provided marijuana to the ill in accordance with California law. It is absurd that such a matter has become a government priority, given our growing problems with heroin, methamphetamines, and other far more powerful and dangerous drugs. I asked Mr. Walters recently about this raid, but he said he believed it would be inappropriate to make any substantive comment prior to his confirmation.

Mr. Walters has been a prominent spokesman for active interdiction efforts in Latin America, and I fear he would seek to have the United States overextend its anti-drug role in Latin America. Prior to the development of Plan Colombia, he said that "we need to do more in Latin America" in "[f]ighting drugs at the source." He has also been a consistent supporter of increasing the U.S. military's role in preventing drugs from entering the United States. I agree that reducing the supply of drugs would have tremendous benefits for our nation. At the same time, I agree with President Bush that the reason that so many drugs find their way to our shores is because there is substantial demand for them. The costs—both financial and political—of our involvement in the internal affairs of Latin American nations require close scrutiny. I have been skeptical about many elements of the ill-considered Plan Colombia, and we should be extremely cautious of additional proposals of that nature.

In addition, Mr. Walters has been sharply critical of Mexico, calling it a "narco state" and a "safe haven" for the illegal drug industry. Although these comments were made about predecessor governments to the Fox administration, they cannot help Mr. Walters' efforts to implement the Bush administration's appropriate policy of strengthening our ties with Mexico.

Mr. Walters has forcefully expressed his positions on drug-related and other issues for the better part of two decades, both in and out of government. He is a staunch advocate for interdiction and punishment, but his record has not demonstrated a commitment to a comprehensive approach to our drug problems. When the Judiciary Committee held its confirmation hearing for this nominee, I said that I feared that Mr. Walters had a hard-line law enforcement answer to every question about drug policy, at the expense of the balanced approach that we need to succeed in the struggle against drug abuse. I still hold those fears, but I hope that Mr. Walters exceeds my expectations in office.

Mr. HATCH. Mr. President, on behalf of all parents and grandparents, teachers, clergy, mentors, agents of law enforcement, treatment and prevention professionals, and all the others who work every day to prevent illegal drug use from destroying the lives of our young people, I rise to support the nomination of John Walters, the President's nominee to be our nation's next Drug Czar. The confirmation of this important nominee is long overdue. Mr. Walters' nomination has languished in the Senate for almost six months, but with his confirmation, the President's cabinet will finally be complete.

Mr. Walters will begin his tenure as Drug Czar at a very precarious time, but I know he is the right person for this challenge. He will need to work closely with law enforcement, intelligence, and military authorities to prevent drugs from being trafficked into America from abroad and to prevent the manufacturing and sale of drugs for the purpose of funding terrorist activities. Mr. Walters is eminently qualified to carry out this task, and, as I have previously stated, I am confident that he will be a first-rate Director. After all, having served at the Office of National Drug Control Policy and the Department of Education with Bill Bennett, he learned from the person widely regarded—by Republicans and Democrats alike—as the most talented and effective drug czar we have had in this country.

I want to highlight once more how John Walters' career in public service has prepared him well for this office. He has worked tirelessly over the last two decades helping to formulate and improve comprehensive policies designed to keep drugs away from our children. By virtue of this experience, he truly has unparalleled knowledge and experience in all facets of drug control policy. Lest there be any doubt that Mr. Walters' past efforts were successful, let me point out that during his tenure at the Department of Education and ONDCP, drug use in America fell to its lowest level at any time in the past 25 years, and drug use by teens plunged over 50 percent. Even after leaving ONDCP in 1993, Mr. Walters has remained a vocal advocate for curbing illegal drug use. Tragically, as illegal drug use edged upward under the previous administration, his voice went unheeded.

John Walters enjoys widespread support from distinguished members of the law enforcement community, including the Fraternal Order of Police and the National Troopers Coalition. His nomination is also supported by some of the most prominent members of the prevention and treatment communities, including the National Association of Drug Court Professionals, the American Methadone Treatment Association, the Partnership for Drug Free America, National Families in Action, and the Community Anti-Drug Coalitions of America. All of these organizations agree that if we are to win the war on drugs in America, we need a comprehensive policy aimed at reducing both the demand for and supply of drugs. Mr. Walters' accomplished record demonstrates that he, too, has always believed in such a comprehensive approach. As he stated before Congress in 1993, an effective anti-drug strategy must "integrate efforts to reduce the supply of as well as the demand for illegal drugs."

Despite this groundswell of support, ever since Mr. Walters was first mentioned almost seven months ago to be the next Drug Czar, several interested individuals and groups have attacked his nomination with a barrage of unfounded criticisms. Because these untruths helped delay his confirmation until today, I feel compelled to respond once more to some of these gross distortions.

Some have charged that John Walters is hostile to drug treatment. Once again, I want to state for the record that this criticism is categorically false. He has a long, documented history of supporting drug treatment as an integral component of a balanced national drug control policy. You do not have to take my word on this. You need only look at the numbers.

During Mr. Walters' tenure at ONDCP, treatment funding increased 74 percent. This compares with an increase over eight years for the Clinton Administration of a mere 17 percent. This commitment to expanding treatment explains why John Walters has such broad support from the treatment community. It is simply inconceivable that the prominent groups supporting Mr. Walters would do so if they believed he was hostile to treatment.

Another recurring criticism is that Mr. Walters doesn't support a balanced drug control policy that incorporates both supply and demand reduction programs. This criticism, too, is flat wrong and again belied by his record. For example, in testimony given before this Committee in 1991, Mr. Walters, then acting Director of ONDCP, laid out a national drug control strategy that included the following guiding principles: educating our citizens about the dangers of drug use; placing more addicts in effective treatment programs; expanding the number and quality of treatment programs; reducing the supply and availability of drugs on our streets; and dismantling trafficking organizations through tough law enforcement and interdiction measures.

Mr. Walters' firm support of prevention programs is equally evident. His commitment to prevention became clear during his tenure at the Department of Education during the Reagan Administration. He drafted the Department's first drug prevention guide for parents and teachers—titled "Schools Without Drugs," created the Department's first prevention advertising campaign, and implemented the Drug-Free Schools grant program.

These are not the words or actions of an ideologue who is hostile to prevention and treatment, but rather, represent the firmly held beliefs of a man of conviction who has fought hard to include effective prevention and treatment programs in the fight against drug abuse.

Some have also criticized Mr. Walters because he doesn't buy into the oft-repeated liberal shibboleth that too many low-level, "non-violent" drug offenders are being arrested, prosecuted, and jailed. I, too, plead guilty to this charge, but the facts prove we are right. Data from the Bureau of Justice Statistics reveals that 67.4 percent of federal defendants convicted of simple possession had prior arrest records, and 54 percent had prior convictions. Moreover, prison sentences handed down for possession offenses amount to just 1 percent of Federal prison sentences. Thus, it is patently false that a significant proportion of our federal prison population consists of individuals who have done nothing other than possess illegal drugs for their personal consumption.

The drug legalization camp exaggerates the rate at which defendants are jailed solely for simple possession. This camp also wants us to view those who sell drugs as "nonviolent offenders." Mr. Walters, to his credit, has had the courage to publicly refute these misleading statistics and claims. I want to join him in making one point perfectly clear. Those who sell drugs, whatever type and whatever quantity, are not, to this father and grandfather, "nonviolent offenders." Not when each pill, each joint, each line, and each needle can and often does destroy a young person's life.

I am committed 100 percent to expanding and improving drug abuse education, prevention, and treatment programs, and I know that John Walters is my ally in this effort. Last week, the Judiciary Committee voted out S. 304, the "Drug Abuse Education, Prevention, and Treatment Act of 2001," a bipartisan bill I drafted with Senators LEAHY, BIDEN, DEWINE, THURMOND, FEINSTEIN, and GRASSLEY. This legislation will dramatically increase prevention and treatment efforts, and I remain confident that it will become law this Congress. As I have stated many times, I solicited Mr. Walters' expert advice in drafting S. 304. I know, and his record clearly reflects, that he agrees with me and my colleagues that prevention and treatment must remain integral components of our national drug control strategy.

We need to shore up our support for demand reduction programs if we are to reduce illegal drug use in America. This commitment is bipartisan. Our President believes in it. Our Attorney General believes in it. Our Democratic leader in the Senate believes in it. My Republican colleagues believe in it. And most importantly, John Walters believes in it.

Finally, Mr. President, now that Mr. Walters is about to be confirmed, I want to urge the Senate not to let this session end without holding hearings for and acting on the deputy positions at ONDCP. Mr. Walters needs his team in place. I look forward to working with my Senate Republican and Democratic colleagues and the Administration to carry forward our fight against drug trafficking and terrorism.

Mr. KENNEDY. Mr. President, I oppose this nomination. We have a real opportunity to strengthen the nation's efforts against substance abuse, and we ought to take advantage of it. We rely heavily today on police, prosecutors, and prisons to handle this problem. There's too little emphasis on prevention and treatment. Spending for prevention and treatment has never exceeded one-third of the federal drug-control budget.

This unacceptable situation continues, in spite of overwhelming evidence that drug treatment works.

In 1994, a landmark study, the California Drug and Alcohol Treatment Assessment, found that every dollar spent on treatment saves taxpayers $7 in future costs for crime and health care.

A 1997 study by the Rand Corporation found that treatment for heavy cocaine users is three times more effective at reducing cocaine consumption than mandatory minimum sentences, and 11 times more effective than interdiction.

A study by the Institute of Medicine showed that treatment was effective in reducing criminal activity and emergency-room visits, and in increasing rates of employment.

In 1997, the Department of Justice reported that offenders who complete drug-court programs are only one-third as likely to be arrested for new drug offenses or felonies compared to other offenders, and only one-fourth as likely to violate probation or parole.

Now more than ever, Americans support prevention and treatment. They understand that we cannot stop substance abuse without reducing the demand for drugs. In the nation's efforts against substance abuse, prevention and treatment must become equal partners with incarceration and interdiction.

To his credit, President Bush has called for closing the treatment gap. He has stated that "the most effective way to reduce the supply of drugs in America is to reduce the demand for drugs in America."

Thanks to the leadership of Senator LEAHY, Senator HATCH, and Senator BIDEN, the Judiciary Committee passed a bill last week to increase federal funding for drug education, prevention, and treatment. there is much more, however, that we must do to see that all Americans understand that drug use is harmful, and that effective treatment is available to every addict who wants it.

The nomination of John Walters sends exactly the opposite signal. As a longtime critic of drug treatment, he's the wrong man for the job. In 1996, he ridiculed President Clinton's proposal to provide drug treatment to chronic users as "the latest manifestation of the liberals' commitment to a 'therapeutic state' in which government serves as the agent of personal rehabilitation." Last March, Mr. Walters described the view that addiction is a disease of the brain as an "ideology" promulgated by the "therapy-only lobby."

Mr. Walters has emphasized punishment and prisons as the primary solution to the problem of drugs. He has criticized attempts to reform mandatory-minimum sentences for non-violent drug offenses. The United States now has the highest per capita incarceration rate in the world. Yet Mr. Walters recently declared that "[t]he war on crime and drugs is rapidly losing ground to the war on punishment and prisons."

In his response to the Judiciary Committee's questionnaire, Mr. Walters said that during the first Bush administration, he was "a principal author of a new drug strategy and federal spending plan that targeted more resources for treatment than any administration before or after." But as Mr. Walters has admitted, the Clinton administration spent substantially more—not less—on drug treatment. As for the increases that did occur during the Bush administration, Mr. Walters fought them all the way.

At his nomination hearing on October 10, I pressed Mr. Walters on whether he would try to balance federal spending for demand-reduction and supply-control efforts. Saying only that he was not "notionally" opposed to equal spending, he refused to give an answer.

Before the hearing, the president of the Betty Ford Center wrote that he and Mrs. Ford questioned whether Mr. Walters has "the confidence in the treatment and prevention strategies that . . . are necessary for the creation and implementation of a balanced and thoughtful approach to U.S. drug policy."

Mr. Walters' comments on race are also troubling. In 1997, he criticized General Barry McCaffrey for sending "the wrong message" when he expressed concern about the high percentage of African-Americans being imprisoned for drug offenses. Earlier this year, he categorically dismissed the view that the criminal justice system unjustly punishes African-American men as one of "the great urban myths of our time."

Racial discrimination is offensive and unacceptable in all its aspects. The need to eliminate it continues to be one of the nation's important challenges. It is undisputed that even though blacks and whites use illegal drugs at the same rate, blacks are incarcerated for drug offenses at a much higher rate. Mr. Walters was asked to justify his "urban myth" statement, but he only cited unrelated statistics on murder rates. We need a Drug Czar who has, at the very least, an open mind about the possibility of racial bias in drug sentencing.

Mr. Walters' supporters contend that despite his longstanding opposition to increased treatment funding, and his very recent criticism of drug therapy, he is the right choice to revitalize our drug-control efforts and close the country's treatment gap. I hope that they are right, and that those of us who oppose him are wrong. I am concerned, however, that by approving this nomination today, we are losing our best opportunity to develop a more balanced and more effective national strategy on drug abuse.

Mr. McCAIN. Madam President, I want to congratulate John Walters, the new Director of the Office of National Drug Control Policy, on his confirmation by the Senate last night. I have no doubt that the hard work and experience he brings to the Office will greatly benefit our efforts to reduce drug abuse in our nation.

I do wish he could have been confirmed much earlier, considering the challenges we face at home and overseas. In the last eight years alone, teenage drug use has almost doubled and, as I speak, terrorists, including those we are fighting in Afghanistan and across the globe, are using the drug trade to help finance their operations.

President Bush nominated John Walters in early June, but he was not granted a hearing until October 10. Finally, on November 8 and five months after his nomination, John Walters was favorably voted out of the Senate Judiciary Committee, 14 to 5, with five Democrats joining all the Republicans in support of his confirmation. Seven months to be confirmed is not a credit to the workings of the Senate.

It was disappointing that, of the small number of activists opposed to the nomination of John Walters, a few carried on a campaign to distort his public policy positions. Americans would not have known if they just listened to these activists that John Walters believes that many first-time, nonviolent offenders ought to be diverted into treatment. In fact, when he was deputy drug czar in the first Bush Administration under William Bennett, he helped secure increases in the drug treatment budget in four years that were double what the previous administration managed in eight. And it's also noteworthy that the previous administration enforced the very same antidrug laws that some of John Walters' opponents today criticize, and the same administration made no effort to change them.

I look forward to working with John Walters and hope his needlessly protracted nomination process will not discourage other outstanding Americans from considering public service to our Nation.

Mr. DURBIN. Mr. President, I join with several of my colleagues in opposing the nomination of John P. Walters to be Director of the Office of National Drug Control Policy—the Nation's Drug Czar.

As much as anyone here, I am mindful of the need to unify behind the President during these times. Let me emphasize that I share the President's goals in combating the problem of drug abuse, and I applaud his commitment of greater resources to drug treatment and prevention efforts. My fear, however, is that Mr. Walters is not the person to meet these goals.

John Walters is a seasoned veteran of the Drug War, someone with a long and established track record on many controversial issues. Too often in the past, he has adopted divisive stances on these issues. His views, and his certitude in advocating them, send a fair warning to this body as it debates his nomination. His controversial and often incendiary writings on drug-related issues have been red meat for the right-wing of the Republican Party.

Let me focus on a couple topics. Like many of my colleagues, I am very troubled by the considerable evidence that our prosecution of the drug war disproportionally targets racial and ethnic minorities. African-Americans represent 12 percent of the U.S. population, 11 percent of current drug users, but 35 percent of those arrested for drug violations, 53 percent of those convicted in state courts, and 58 percent of those currently incarcerated in state prisons. In my home State of Illinois, African-American men end up in State prisons on drug charges at a rate 57 times greater than white men. These disparities, whatever their cause, demand the attention of the Nation's Drug Czar. Aside from the injustice of this situation, there is stark evidence that drug offenders who are not minorities escape the same scrutiny and enforcement as those who are. Our war on drugs must be fair and balanced.

With the exception of the last few weeks, Mr. Walters has spent most of his career being dismissive of the subject of racial disparities in drug enforcement. As recently as this April, he characterized as "urban myth" the sincere concern of many, including myself, that young black men receive excessive prison terms under the current sentencing regime. He has accused the nonpartisan federal Sentencing Commission of being "irresponsible" for proposing adjustments to the 100–1 disparity between federal prison terms for crack cocaine and powder cocaine offenses, offenses which divide starkly along color lines.

It has become a cliche for public officials to lament racial profiling in law enforcement. What matters is action, not words. But even now, when Mr. Walters has experienced a "change of heart" on many issues, he will only concede that there is a "perception" of disparate treatment in the criminal justice system. As someone committed to using the Drug Czar's office to promote criminal law initiatives, he has exhibited little sensitivity for the role that race plays in the criminal justice system. Given the important law enforcement role filled by the Drug Czar, I cannot overlook this weakness.

Another source of real concern is the nominee's record on drug treatment and prevention. Early in my congressional career, I worked to pass legislation to improve substance abuse treatment programs for pregnant and postpartum women. We know that treatment programs can work. A study by the RAND Corporation a few years ago found that for every dollar that we invest in substance abuse treatment, the American taxpayers save $7.46 in miscellaneous societal costs.

The Nation's drug crisis demands that we supplement law enforcement efforts with effective treatment and prevention programs. While Mr. Walters has voiced his support for a balanced and coordinated approach, his long paper trail belies his real intentions. He has a long record of hostility towards, as he put it, the "notoriously under-performing drug treatment system," and towards those who implement it. He has criticized those who approach drug addiction as a disease as "ideologues." He has condemned the Drug-Free Schools Act, which created many of the same types of prevention programs he takes credit for now.

Let me say a few brief words about the John Walters who came to visit the

Senate Judiciary Committee. Judging by his answers to the Committee's questions, he has been doing a lot of reflection lately. He now believes that "the consideration of addiction as a disease has wide application." A man who once defended harsh mandatory minimum sentences today professes support for "second and third chances" and tempering justice with mercy. A harsh partisan critic of President Clinton now wishes to "transcend traditional political and party boundaries." The same person who wrote "[t]here is no question that supply fosters demand" stands beside President Bush's pledge that "[t]he most effective way to reduce the supply of drugs in America is to reduce the demand for drugs in America."

Mr. Walters assured the Committee that he has not undergone what we refer to as a "confirmation conversion." That is precisely what concerns me—that he has not moderated his views at all, but has merely rethought his public relations strategy. Over the course of his career, Mr. Walters has made a conscious choice to polarize rather than advance the public debate. Accordingly, I cannot provide my support for his nomination.

ADDITIONAL STATEMENTS

LIFE AS AN AMERICAN

• Mr. DURBIN. Mr. President, I rise today to share with you and the rest of my colleagues the thoughts of one of my younger constituents, for I think they are noteworthy for their insight, their honesty and their prescience.

Stephanie Kaplan, who lives in Highland Park, IL, is a junior at Highland Park High School. Stephanie recently submitted her writing to the Jewish Press in Omaha, NE, in response to their request for essays about patriotism. Out of all the responses that arrived at the newspaper, the editors deemed Stephanie's the best among them.

Perhaps most remarkable is that this essay, in which Stephanie explains what life as an American means to her, was written in August, before Osama bin Laden became a household name and when the top news stories did not mention Afghanistan.

Our enemies have attacked us for who we are and what we believe. The very freedoms we love inspire their hatred. As our freedoms are the source of this conflict, we cannot allow them to become its casualties.

Stephanie's writing is a timely reminder of what it is we value and what it is we are defending.

Her essay follows:

WHAT BEING AN AMERICAN MEANS TO ME

(by Stephanie Kaplan)

Ice cream for dinner. Sitting on the bleachers through a muggy afternoon, cheering heartily for a favored team or player. An early-morning walk, as the trees that line the street wave their green leaves in the wind, scintillating drops of dew falling down to join their brethren on the glistening grass. Air conditioning with the twist of a knob.

This is America!

But luxuries, the majority of which can be purchased by money, do not define what being an American means to me.

Freedom. Yes, there are rules and regulations, a moral code, and systems of punishment for those who infringe and sever them. They are in place to protect the people, however, and are not oppressing as some governments, which implement so many restrictions that the citizens are suffocated by the layers upon layers of laws.

I can keep my lights on through the night, if I so wish. No policies prohibit me from befriending a Jew, a Muslim, or a person of color. And only my own predilections will rule my summer afternoon activities, be it in-line pick-up hockey on the basketball court down the street, or a lazy afternoon perched before my computer, like a dog passing away the hours chewing on rawhide.

Being a United States resident, to me, translates into the simple joy that I can ride my bike to the places that defined my carefree youth, mainly the elementary school's playground. And if I so wish, I'll stray from the paved trail and take the long route, or cut across the grass.

Most importantly, I possess no fear when being out alone. For I feel safe, in this country, that I will not be a victim of hostility based on any outward appearance. And I'd never really noticed how wonderful and rare that is until I spent three weeks on a teen tour with students from 21 different countries.

My best friend became a girl from Hong Kong, and, as we were walking along one overcast afternoon, she stated, "I hate the Beijing government." Then, she added, "If I said that in Hong Kong, in a casual conversation, I might be okay. But if I was in Beijing, I could get shot. That's why I like America, it's free for opinions."

Never experiencing any sort of political oppression, it's difficult for me to grasp what she must feel, or the fear of a simple slip translating into death.

And this country is not perfect.

But as the anthem states, this is ". . . the land of the free." Sovereignty is a daily part of life. What may have seemed like a burden—all the decisions one must make, and the consequences that can only be blamed on an individual—now seems liberating.

Existing in America means much to me, but the most poignant example is that I can pray, out loud, in Hebrew, with the shades drawn up and the door gaping, invitingly open.

On the trip, while occupying a dorm room, I prayed every morning, just as I do at home. The glaring difference was that the people who passed by my open doorway were not all Jewish. Openly, I expressed my faith and reinforced my beliefs to myself, my dedication to the Hashem.

How far we've traveled, in place, time, and pure progression, since my grandmother hid below ground in Germany, with but one dress, and could not even talk, let alone pray aloud, for fear of SS men. And the advances since my grandfather fought for survival in the same foreign country, with outlandish limitations, are miraculous.

Could, I wonder, either of them imagined a time in which their granddaughter—yes, a family!—could be so audacious as to flaunt her prayer?

It's not the passing of years, though, but the changing of countries that made it possible.

America may never be able to be defined, as being American means so many different things to millions of unique people. For the country, when drawn, should not be its traditional shape, as seen on a map, but as a 3-D shape, with as many angles as it has citizens, for the people shape America as much as the land.

Being an American means choices, luxuries, decisions, freedoms, and a feeling of not importance, but responsibility, in illustrating the greatness of my country, and endeavoring to uphold the lofty ideals of the founders of this Nation, inhabitants who, like my grandparents, escaped tyranny and a role of inferiority to pull freedom to their chests and keep it there, chained 'til a death that does not come prematurely due to discrimination.

Being an American means I am an individual and have the independence to be just that—an American, because I believe in the country and the opportunity. While it may take a little digging, opportunity is available; even if found, one must clean off the dirt before pursuing it.

I am a living, breathing, original American, and that I can exist unscathed is what being a citizen of this realm is all about. Existing as a member of this free country means, to me, that if in 60 years my family can go from savoring every drop of water to survive to having a house with a mezuzah on each doorway, I can savor the prospects presented by freedom and find a way to take it a step farther.

After all, my door is always open.•

TRIBUTE TO MARY KAY ASH

• Mrs. HUTCHISON. Mr. President, I rise today to pay tribute to Mary Kay Ash.

On November 22, 2001, America and Texas lost a great person Mary Kay Ash.

Throughout Mary Kay Ash's life, her unswerving devotion to principles and to doing what is right enabled her to exert an influence unique in a society that was known for strict rules of hierarchy, specifically male hierarchy. She flourished where many fail, or simply remain in the shadows of obscurity. By doing so, she blazed the path for many women after her, we have all profited from her success.

Over her career, Mary Kay sacrificed a lot to fulfill her dream, do her duty to her family and her God, and to stand by her principles. It is women and men of that caliber who have made our country great.

Her savvy created an incredible business from a profit point of view, but, most important, she created a business that offers women the chance for personal and professional fulfillment and success. It is no wonder that Mary Kay Cosmetics is considered by Fortune Magazine as one of the top ten best companies for women, indeed, it is also recognized as one of The 100 Best Companies to Work for in America.

But Mary Kay never stopped with work, she did not even start with work.

Her priorities were always clear: God first, family second, and career third. It is why, when her husband died from cancer, she put her endless energies to work in that arena as well, creating the Mary Kay Ash Charitable Foundation in 1996. This nonprofit provides funding for research of cancers affecting women, and it has recently expanded its focus to address violence against women.

Since she was a fellow Texan, I was never surprised by her zest for life. E.B White once wrote, "I arise in the morning torn between a desire to save the world and a desire to savor the world. This makes it hard to plan the day." Not for people like Mary Kay, she knew how to accomplish both.

Mary Kay remembered what was important yet still reached for the stars—and all of us are the better for it. Thank you Mary Kay, I hope you are driving a beautiful pink Cadillac up in heaven.•

TRIBUTE TO KAREN NYSTROM MEYER

• Mr. JEFFORDS. Mr. President, Karen Nystrom Meyer was appointed to serve as the Executive Vice President of the Vermont Medical Society (VMS) in 1988. Throughout her tenure in office, Karen's work has been characterized by great integrity, compassion and a strong understanding of the critical role physicians play in improving the quality of life in the Green Mountain State. Many Vermonters shared my sense of loss when Karen Meyer recently announced her resignation in order to accept a new position in the field of higher education.

The fourteen years she led the society were years of great change and accomplishment for the organization. It was Karen's first job as an office assistant in a large internal medicine practice that gave her a real appreciation for the struggles and rewards of practicing medicine. The first woman executive of a State medical society in the country, she completely restructured the governance of the society moving from the traditional House of Delegates representative structure to an annual membership meeting format where each VMS member may participate in making Society policy. While Vermont was the first State to restructure its governance structure in this way, many other State societies have followed Vermont's lead.

During Karen's tenure at VMS, the society was able to achieve many of its policy initiatives at the State and Federal level. These include passing the "Clean Indoor Air Act," supporting lead screening for children, ensuring coverage of clinical trials, increasing access to health care for Vermonters, funding anti-tobacco programs, and developing a strong education program for physicians around end-of life care.

Karen was also instrumental in helping to establish the Vermont Program for Quality in Health Care (VPQHC). Over the years, VPQHC has achieved national recognition for its important work developing clinical guidelines, reporting on health care quality in Vermont and educating physicians and practitioners. Karen has also demonstrated outstanding leadership and gained national recognition for her work with the American Medical Association and the American Association of Medical Society Executives, where she has participated on many work groups and policy teams.

Prior to becoming Executive Vice President of the Vermont Medical Society, Karen was the Commissioner of Housing and Community Affairs for the State of Vermont. As Commissioner, she worked tirelessly to increase the availability of affordable housing in Vermont. However, I am sure she will say that her most enjoyable job was working for me as a legislative assistant in the 1970's when I represented Vermont in the House of Representatives. Based on our work together, I can personally attest to her grace, competency and sense of humor—all of which are the key characteristics of a successful public servant.

While Karen is leaving the medical society, she will continue to play an important role in improving the social fabric of Vermont. She has accepted a new position at the University of Vermont where she will work with the acting President to develop a renewed sense of mission for the University. I know that I speak for thousands of Vermonters in thanking her for extraordinary service to the Vermont Medical Society and conveying our best wishes in her future endeavors.•

TRIBUTE TO MONICA TENCATE

• Mr. GRASSLEY. Mr. President, I rise to pay tribute to a departing Senate Finance Committee staffer, Monica Tencate. She has served the Senate with great distinction, and it is with much sadness that I am bidding her goodbye. I'd like to take a few moments to describe her contribution.

Monica came to the Senate from California in 1998, and joined Chairman Roth's Finance Committee health team. After effective service there, she moved to Senator FRIST's Subcommittee on Public Health, making a tremendous contribution on a broad range of challenging HELP Committee issues. I know her years with Senator FRIST were very rewarding ones for her, so I was delighted that she was willing to return to the Finance Committee to work with me, as Director of the Finance Committee's health policy team.

As I look back at this year, Monica was a real leader in the Committee's effort to strengthen and improve Medicare for the 21st Century, including prescription drug coverage for Medicare beneficiaries. She did a stellar job in helping to assemble a Tripartisan group, which put forward a framework for future success in this area. Due to the September 11 terrorist attacks, making major improvements to Medicare will have to wait until 2002. I believe, however, that we've laid a solid foundation for next year's efforts, and Monica's contribution was indispensable.

Monica also played a key role in the Committee's efforts to help provide coverage to the uninsured, to streamline Medicare regulations for beneficiaries and providers, and to address potentially serious problems posed by the new hospital outpatient payment system. She's done all this while keeping in mind the reality that our federal health programs aren't free—it's hard-working Americans who pay for them. It's easy to lose sight of that fact here inside the Beltway, but Monica never has.

Monica's contribution to me and to the Senate, in fact, went beyond policy and politics. She was a true team player, earning the respect of everyone she worked with, and the affection of her fellow Finance Committee staffers. And she did all this during one of this body's most tumultuous years in recent history—a year we'll all remember for the 50-50 Senate, the change in party control, the September 11 attacks, and finally the anthrax attack that drove many of us out of our offices. She served in her extraordinarily challenging job under these difficult circumstances with grace, commitment, and good humor. She will be sorely missed.

Now Monica is heading home to San Diego, to rejoin her husband Mike, who's also serving the nation in the United States Marines. I wish her and Mike every blessing in this new phase of their life, and I extend to her my deepest thanks.•

200TH ANNIVERSARY OF THE CARLISLE FIRE COMPANY

• Mr. BIDEN. Mr. President, among the images of September 11th that we will never forget, are the pictures of the firefighters rushing into the buildings to help, as everyone else who was able was trying to get out to safety. At that moment, without discussion or explanation, an appreciation for the extraordinary service and leading citizenship of firefighters became a prominent and, I hope, permanent feature of our collective consciousness.

In my State of Delaware, we have a rich heritage of local fire companies serving our communities, a tradition of neighbors helping neighbors. And I rise today to honor one of those local departments, the Carlisle Fire Company, which serves the City of Milford, Delaware and which will celebrate its 200th anniversary in 2002.

Originally founded under charter from the State Legislature, as, simply, a "Fire Fighting Organization," the company began its service in the spring of 1802, a full 90 years before the first water mains and fire hydrants were installed in Milford. A hand drawn hook-and-ladder was acquired, and was stored along with other equipment at a building owned by Mrs. Angeline Marshall, appropriately, on Water Street.

In 1915, the department reincorporated as the Milford Fire Company, and that same year, there was a 10-day fund drive which raised money to purchase a triple combination fire truck Milford's Truck No. 1. A second name change followed in 1918, to honor Paris T. Carlisle, a Milford resident and member and officer of the Fire Company, who was killed in France during World War I. In 1921, the Company broke ground to build its first fire station, and in 1923, after another successful fundraising drive, Truck No. 2 was purchased and Truck No. 1 refitted to better serve the community. Ground was broken for the current fire hall on Northwest Front Street in 1977, and as the folks in Milford will tell you with well-earned pride, they paid off and burned the mortgage in 1990. At about the same time, ambulance service was added.

From that hall on Front Street, the Carlisle Fire Company responds to more than 1,800 calls per year. With an active Ladies Auxiliary, founded in 1963 with Peggy Jester as its first president, and a Junior Member program, created by then-Chief Marvin Hitch in 1973, the Company is truly a center of community life in Milford. And it also has a special place in our statewide firefighting community; the Delaware Volunteer Firemen's Association (DVFA) was organized in Milford in February of 1921, and the first president was Charles E. Varney, who was also president of the Carlisle Fire Company. The Company has continued its leadership in statewide programs ever since.

It is my privilege to share some of the history and hopefully some of the spirit of the Carlisle Fire Company with my colleagues and with our fellow citizens today. We honor the Company's 200th anniversary, and the extraordinary commitment and service that it represents, with gratitude to local firefighters, our neighbors who are there when we need them most. Congratulations to President Francis Morris and Fire Chief Kevin Twilley, and to all the officers, members and friends of the Carlisle Fire Company again, with great respect and with thanks.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:42 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, with an amendment:

S. 494. An act to provide for a transition to democracy and to promote economic recovery in Zimbabwe.

The message also announced that the House has disagreed to the amendment of the Senate to the bill (H.R. 2883) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Permanent Select Committee on Intelligence, for consideration of the house bill and the Senate amendment, and modifications committed to conference: Mr. GOSS, Mr. BEREUTER, Mr. CASTLE, Mr. BOEHLERT, Mr. GIBBONS, Mr. LAHOOD, Mr. CUNNINGHAM, Mr. HOEKSTRA, Mr. BURR of North Carolina, Mr. CHAMBLISS, Ms. PELOSI, Mr. BISHOP, Ms. HARMAN, Mr. CONDIT, Mr. ROEMER, Mr. HASTINGS of Florida, Mr. REYES, Mr. BOSWELL, and Mr. PETERSON of Minnesota.

From the Committee on Armed Services, for consideration of defense tactical intelligence and related activities: Mr. STUMP, Mr. HUNTER, and Mr. SKELTON.

The message further announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 90. An act to amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes.

H.R. 2305. An act to require certain Federal officials with responsibility for the administration of the criminal justice system of the District of Columbia to serve on and participate in the activities of the District of Columbia Criminal Justice Coordinating Council, and for other purposes.

H.R. 2441. An act to amend the Public Health Service Act to redesignate a facility as the National Hansen's Disease Programs Center, and for other purposes.

H.R. 3323. An act to ensure that covered entities comply with the standards for electronic health care transactions and code sets adopted under part C of title XI of the Social Security Act, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1766. A bill to provide for the energy security of the Nation, and for other purposes.

H.R. 3346. An act to amend the Internal Revenue Code of 1986 to simplify the reporting requirements relating to higher education tuition and related expenses.

H.R. 3391. An act to amend title XVIII of the Social Security Act to provide regulatory relief and contracting flexibility under the Medicare Program.

H.R. 3392. An act to name the national cemetery in Saratoga, New York as the Gerald B.H. Solomon Saratoga National Cemetery, and for other purposes.

H.J. Res. 60. A joint resolution honoring Maureen Reagan on the occasion of her death and expressing condolences to her family, including her husband Dennis Revell and her daughter Rita Revell.

H.J. Res. 76. A joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 25. Concurrent resolution expressing the sense of the Congress regarding tuberous sclerosis.

H. Con. Res. 277. Concurrent resolution recognizing the important contributions of the Hispanic Chamber of Commerce.

The message further announced that pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)), and upon the recommendation of the majority leader, the Speaker has appointed the following member on the part of the House of Representatives to the Advisory Committee on Student Financial Assistance for a 3-year term to fill the existing vacancy thereon: Ms. Norine Fuller of Arlington, Virginia.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1766. An act to designate the facility of the United States Postal Service located at 4270 John Marr Drive in Annandale, Virginia, as the "Stan Parris Post Office Building."

H.R. 2261. An act to designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the "Earl T. Shinhoster Post Office."

H.R. 2299. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

H.R. 2454. An act to redesignate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, California, as the "Congressman Julian C. Dixon Post Office Building."

H.J. Res. 71. A joint resolution amending title 36, United States Code, to designate September 11 as Patriot Day.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bills and joint resolution were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 90. An act to amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2305. An act to require certain Federal officials with responsibility for the administration of the criminal justice system of the District of Columbia to serve on and participate in the activities of the District of Columbia Criminal Justice Coordinating Council, and for other purposes; to the Committee on Governmental Affairs.

H.R. 2441. An act to amend the Pubic Health Service Act to redesignate a facility as the national Hansen's Disease Programs Center, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3392. An act to name the national cemetery in Saratoga, New York, as the Gerald B.H. Solomon Saratoga National Cemetery, and for other purposes; to the Committee on Veterans' Affairs.

H.J. Res. 60. Joint resolution honoring Maureen Reagan on the occasion of her death and expressing condolences to her family, including her husband Dennis Revell and her daughter Rita Revell; to the Committee on the Judiciary.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 25. Concurrent resolution expressing the sense of the Congress regarding tuberous sclerosis; to the Committee on Health, Education, labor, and Pensions.

H. Con. Res. 277. Concurrent resolution recognizing the important contributions of the Hispanic Chamber of Commerce; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1765. A bill to improve the ability of the United States to prepare for and respond to a biological threat or attack.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3323. An act to ensure that covered entities comply with the standards for electronic health care transactions and code sets adopted under part C of title XI of the Social Security Act, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1766. A bill to provide for the energy security of the Nation, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4831. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Emergency Extension of the Compliance Date for Standards for Hazardous Air Pollutants for Hazardous Waste Combustors" (FRL7114-6) received on December 3, 2001; to the Committee on Environment and Public Works.

EC-4832. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Authorization of State Hazardous Waste Management Program Revisions" (FRL7110-7) received on December 3, 2001; to the Committee on Environment and Public Works.

EC-4833. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Environmental Impact Assessment of Nongovernmental Activities in Antarctica" (FRL7114-3) received on December 3, 2001; to the Committee on Environment and Public Works.

EC-4834. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of Operating Permits Program; Oklahoma" (FRL7113-7) received on December 3, 2001; to the Committee on Environment and Public Works.

EC-4835. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of the Title V Operating Permit Programs for Thirty-Four California Air Pollution Control Districts" (FRL7113-5) received on December 3, 2001; to the Committee on Environment and Public Works.

EC-4836. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval; Operating Permit Programs for the State of Texas" (FRL7113-6) received on December 3, 2001; to the Committee on Environment and Public Works.

EC-4837. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of Operating Permit Program; New York" (FRL7113-3) received on December 3, 2001; to the Committee on Environment and Public Works.

EC-4838. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of Operating Permit Program; New Jersey" (FRL7113-1) received on December 3, 2001; to the Committee on Environment and Public Works.

EC-4839. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of the Operating Permits Program; Arizona Department of Environmental Quality, Maricopa County Environmental Services Department, Pima County Department of Environmental Quality, Arizona" (FRL7113-4) received on December 3, 2001; to the Committee on Environment and Public Works.

EC-4840. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of Title V Operating Permits Programs; Clark County Department of Air Quality Management, Washoe County District Health Department, and Nevada Division of Environmental Protection, Nevada" (FRL7113-8) received on December 3, 2001; to the Committee on Environment and Public Works.

EC-4841. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Promulgation of Air Quality Implementation Plans; Connecticut; Revisions to State Plan for Municipal Waste Combustors and Incorporation of Regulation into State Implementation Plan for Ozone" (FRL7106-4) received on December 3, 2001; to the Committee on Environment and Public Works.

EC-4842. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of the Operating Permits Program in Alaska" (FRL7113-9) received on December 3, 2001; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1382: A bill to amend title 11, District of Columbia Code, to redesignate the Family Division of the Superior Court of the District of Columbia as the Family Court of the Superior Court, to recruit and retain trained and experienced judges to serve in the Family Court, to promote consistency and efficiency in the assignment of judges to the Family Court and in the consideration of actions and proceedings in the Family Court, and for other purposes. (Rept. No. 107-107).

H.R. 2657: A bill to amend title 11, District of Columbia Code, to redesignate the Family Division of the Superior Court of the District of Columbia as the Family Court of the Superior Court, to recruit and retain trained and experienced judges to serve in the Family Court, to promote consistency and efficiency in the assignment of judges to the Family Court and in the consideration of actions and proceedings in the Family Court, and for other purposes. (Rept. No. 107-108).

By Mr. INOUYE, from the Committee on Appropriations:

Report to accompany H.R. 3338, A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes. (Rept. No. 107-109).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for himself and Mr. BINGAMAN):

S. 1766. A bill to provide for the energy security of the Nation , and for other purposes; read the first time.

By Mr. KENNEDY (for himself and Mr. MCCAIN):

S. 1767. A bill to amend title 38, United States Code, to provide that certain service in the American Field Service ambulance corps shall be considered active duty for the purposes of all laws administered by the Secretary of Veteran's Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1768. A bill to authorize the Secretary of the Interior to implement the Calfed Bay-Delta Program; to the Committee on Energy and Natural Resources.

By Mrs. BOXER:

S. 1769. A bill to authorize the Secretary of the Army to carry out a project for flood protection and ecosystem restoration for Sacramento, California, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LEAHY:

S. 1770. A bill to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes; to the Committee on the Judiciary.

By Mr. TORRICELLI (for himself and Mr. CORZINE):

S. 1771. A bill to designate the facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, as the "Todd Beamer Post Office Building"; to the Committee on Governmental Affairs.

By Mr. SMITH of New Hampshire:

S. 1772. A bill to ensure that American victims of terrorism have access to the blocked assets of terrorists, terrorist organizations, and state sponsors of terrorism; to the Committee on the Judiciary.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1773. A bill to designate the Richard J. Guadagno Headquarters and Visitors Center at Humboldt Bay National Wildlife Refuge, California; to the Committee on Environment and Public Works.

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 1774. A bill to accord honorary citizenship to the alien victims of September 11, 2001, terrorist attacks against the United States and to provide for the granting of citizenship to the alien spouses and children of certain victims of such attacks; to the Committee on the Judiciary.

By Mr. HUTCHINSON:

S. 1775. A bill to prevent plant enterprise terrorism; to the Committee on the Judiciary.

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 1776. A bill to provide for the naturalization of Deena Gilbey; to the Committee on the Judiciary.

By Mrs. CLINTON (for herself, Mr. LEAHY, and Mr. SPECTER):

S. 1777. A bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CLELAND (for himself, Mr. FEINGOLD, Mr. ALLEN, Mr. COCHRAN, Mr. MILLER, and Mr. AKAKA):

S. Res. 187. A resolution commending the staffs of Members of Congress, the Capitol Police, the Office of the Attending Physician and his health care staff, and other members of the Capitol Hill community for their courage and professionalism during the days and weeks following the release of anthrax in Senator Daschle's office; to the Committee on Governmental Affairs.

By Mr. BIDEN (for himself, Mr. DASCHLE, Mr. LOTT, Mr. BAYH, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mrs. CARNAHAN, Mr. CARPER, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. GRAHAM, Mr. HATCH, Mr. HUTCHINSON, Mr. KERRY, Mr. KOHL, Mr. LEVIN, Mr. LIEBERMAN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. SARBANES, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, and Mr. TORRICELLI):

S. Con. Res. 88. A concurrent resolution expressing solidarity with Israel in the fight against terrorism; considered and agreed to.

ADDITIONAL COSPONSORS

S. 321

At the request of Mr. GRASSLEY, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 321, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 556

At the request of Mr. JEFFORDS, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 556, a bill to amend the Clean Air Act to reduce emissions from electric powerplants, and for other purposes.

S. 697

At the request of Mr. HATCH, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 697, a bill to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.

S. 1067

At the request of Mr. GRASSLEY, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1067, a bill to amend the Internal Revenue Code of 1986 to expand the availability of Archer medical savings accounts.

S. 1119

At the request of Mr. LEAHY, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1119, a bill to require the Secretary of Defense to carry out a study of the extent to the coverage of members of the Selected Reserve of the Ready Reserve of the Armed Forces under health benefits plans and to submit a report on the study of Congress, and for other purposes.

S. 1379

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1379, a bill to amend the Public Health Service Act to establish an Office of Rare Diseases at the National Institutes of Health, and for other purposes.

S. 1578

At the request of Mr. DORGAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1578, a bill to preserve the continued viability of the United States travel industry.

S. 1663

At the request of Mrs. CLINTON, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1663, a bill to amend title 4, United States Code, to add National Korean War Veterans Armistice Day to the list of days on which the flag should especially be displayed.

S. 1678

At the request of Mr. MCCAIN, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1679

At the request of Mr. CONRAD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1679, a bill to amend title XVIII of the Social Security Act to accelerate the reduction on the amount of beneficiary copayment liability for medicare outpatient services.

S. 1707

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 1707, supra.

At the request of Mr. JEFFORDS, the names of the Senator from Utah (Mr. HATCH), the Senator from Illinois (Mr. FITZGERALD), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1707, supra.

S. 1738

At the request of Mr. KERRY, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1738, a bill to amend title XVIII of the Social Security Act to provide regulatory relief, appeals process reforms, contracting flexibility, and education improvements under the medicare program, and for other purposes.

S. 1745

At the request of Mrs. LINCOLN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S. 1752

At the request of Mr. CORZINE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1752, a bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other sexually transmitted diseases.

S. 1765

At the request of Mr. FRIST, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. LEVIN), and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 1765, a bill to improve the ability of the United States to prepare for and respond to a biological threat or attack.

S.J. RES. 29

At the request of Mr. HATCH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S.J. Res. 29, a joint resolution amending title 36, United States Code, to designate September 11 as Patriot Day.

AMENDMENT NO. 2157

At the request of Mr. MCCAIN, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of amendment No. 2157 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself and Mr. BINGAMAN):

S. 1766. A bill to provide for the energy security of the Nation, and for other purposes; read the first time.

Mr. JOHNSON. Mr. President, I rise in strong support of the comprehensive energy bill that is being introduced today.

As we all know, there has been a great deal of discussion this year about the nation's energy situation. The increasing volatility in gasoline and diesel prices and the growing tension in the world from the terrorist attacks have affected all of us. There is a clear need for energy policies that ensure long term planning, homeland security, fuel diversity and a focus on new technologies.

To this end, I am very pleased that a comprehensive energy bill has been introduced in the Senate by my South Dakota colleague, Senator TOM DASCHLE. The bill is the result of many months of hard work by the Majority Leader and the chairmen of the committees of jurisdiction, including Senator JEFF BINGAMAN, the chairman of the Energy Committee, of which I am a member. They have listened to the concerns of both those who run our energy systems and our constituents in crafting the legislation. The result is a balanced and thorough product that addresses most of the major segments of the energy system and looks ahead to the needs of future.

The bill covers a number of important areas, including incentives to increase oil and gas production and the nation's supplies of traditional fuels, streamlining of electricity systems and regulations, important environmental and conservation measures, and provisions to increase efficiency of vehicles and appliances.

One of the key provisions in the bill is the inclusion of a renewable fuels standard. Earlier this year, I introduced a bill with Senator CHUCK HAGEL of Nebraska, the Renewable Fuels for Energy Security Act of 2001 (S. 1006), to ensure future growth for ethanol and biodiesel through the creation of a new renewable fuels content standard in all motor fuel produced and used in the U.S. I am pleased the framework of this bill is included in the comprehensive energy legislation.

Today, ethanol and biodiesel comprise less than one percent of all transportation fuel in the United States. 1.8 billion gallons is currently produced in the U.S. The energy bill's language would require that five billions gallons of transportation fuel be comprised of renewable fuel by 2012—nearly a tripling of the current ethanol and renewable fuel production.

There are great benefits of ethanol and renewable fuels for the environment and the economies of rural communities. We have many ethanol plants in South Dakota and more are being planned. These farmer-owned ethanol plants in South Dakota, and in neighboring states, demonstrate the hard work and commitment to serve a growing market for clean domestic fuels.

Based on current projections, construction of new plants will generate $900 million in capital investment and tens of thousands of construction jobs to rural communities. For corn farmers, the price of corn is expected to rise between 20 and 30 cents per bushel. Farmers will have the opportunity to invest in these ethanol plants to capture a greater piece of the "value chain."

Combine this with the provisions of the energy bill and the potential economic impact for South Dakota is tremendous. Today, 3 ethanol plants in South Dakota (Broins in Scotland and Heartland Grain Fuels in Aberdeen and Huron) produce nearly 30 million gallons per year. With the enactment of a renewable fuels standard, the production in South Dakota could grow substantially, with at least 2000 farmers owning ethanol plants and producing 200 million gallons of ethanol per year or more.

An important but under-emphasized fuel is biodiesel, which is chiefly produced from excess soybean oil. We all know that soybean prices are hovering near historic lows. Biodiesel production is small but has been growing steadily. The renewable fuels standard would greatly increase the prospects for biodiesel production and benefit soybean farmers from South Dakota and other states.

Moreover, the enactment of a renewable fuels standards would greatly increase the nation's energy security. Greater usage of renewable fuels would displace the level of foreign oil that we currently use. During these difficult times, it is imperative that we find ways to improve the nation's energy security and reduce our dependence on foreign oil. A renewable fuels standard would go a long way towards achieving this goal.

The House passed an energy bill without any provisions for a renewable fuels standard. Moreover, the House looks backward by focusing too heavily on tax breaks for traditional fuel supplies without enough encouragement for new technologies and provisions that will reduce our dependency on foreign oil. The Senate bill achieves the right balance for the nation's future. I commend Senators DASCHLE and BINGAMAN for their efforts and look forward to enacting the bill.

Mr. HOLLINGS. Mr. President, I want to thank Senator BINGAMAN and Senator DASCHLE for their leadership on the introduction of a comprehensive energy bill today, the Energy Policy Act of 2001. This bill has many components, and it required a great deal of coordination and effort to compile pieces that address issues that cut across committee lines. I appreciate their efforts in this regard.

As chairman of the Committee on Commerce, Science, and Transportation, I am particularly pleased to see several areas of coverage in the bill. This bill incorporates many climate science and technology provisions from a bill Senators KERRY, STEVENS, INOUYE, AKAKA, and I recently introduced, S. 1716, the Global Climate Change Act of 2001. These provisions will improve our climate monitoring, measurement, research, and technology so that we are better able to discern climate change, understand its patterns, and manage its effects. In addition, it contains provisions that would establish a service to provide expert, unbiased technology advice to Congress, which we have sorely lacked since the Office of Technology Assessment was abolished in 1995.

In addition, there is a placeholder in the bill for a CAFE provision. In 1975, I co-sponsored the legislation that became the current CAFE law. I was also very involved in efforts during the 101st and 102nd Congresses to increase CAFE standards. I am pleased to report that the Commerce Committee is again taking up the issue of fuel economy standards. In fact, we will be holding a hearing on this topic tomorrow morning.

The Committee is embarking on a process to develop a strong and technically feasible CAFE proposal that will strengthen our domestic and economic security. Such a provision must achieve oil savings to reduce our petroleum consumption and dependence on imported oil. It also must ensure that our automotive industry remains technically competitive. This is quite a challenge, but it is an issue that must be addressed.

The CAFE measures originally arose out of concern for the nation's energy security following the oil crisis of the early 1970s. When the U.S. first pursued CAFE, imported oil accounted for 36 percent of the nation's oil use; today imported oil accounts for 56 percent of U.S. oil use. Twenty-eight percent of our nation's total oil consumption is used in the transportation sector.

Since CAFE was implemented in 1975, we have seen an approximate doubling in the fuel economy of the nation's vehicle fleet. In 2000 alone, we saved over 3 million barrels of oil per day because of the fuel economy gains made since the mid-1970s. Clearly, a comprehensive energy policy must incorporate provisions to reduce energy use in the transportation sector—a goal that I believe can best be achieved by using technological advances to boost the fuel economy of passenger vehicles.

I appreciate that Senator BINGAMAN and Senator DASCHLE recognized the complexity of CAFE issues. I look forward to reporting back in a few months with a solid piece of legislation, compiled through the entire Commerce Committee, to fill the current placeholder in the energy bill.

By Mr. KENNEDY (for himself and Mr. MCCAIN):

S. 1767. A bill to amend title 38, United States Code, to provide that certain service in the American Field Service ambulance corps shall be considered active duty for the purposes of all laws administered by the Secretary of Veterans' Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. KENNEDY. Mr. President, it's a privilege to join Senator MCCAIN in introducing the American Field Service Recognition Act to correct the longstanding injustice suffered by these courageous World War II veterans who saved the lives of so many American and Allied service members, but who have long been denied the veterans benefits that they need and deserve.

The American Field Service was a corps of nearly 2200 Americans, who drove ambulances into combat zones where American and Allied troops fought between 1939 and 1945. Twenty-seven were killed, seventy-one were wounded, and at least twenty-three were captured during that time.

The AFS members were volunteers who wanted to contribute to the war effort, but many were ineligible for service in the U.S. Armed Forces because of their age or their physical disability. The AFS received substantial support from the American government and its personnel were assigned in the theaters of North Africa, Western Europe, and India-Burma. During the war, the AFS evacuated approximately 700,000 wounded on these fronts.

Their application under a 1970's law for veterans' benefits was finally, but only partially, approved in 1990. The request for eligibility was that each AFS driver must have served under direct U.S. Army command during prescribed periods of time. The result was to exclude AFS drivers who served in France and North Africa before January 1943, half of the drivers who served in Italy, and all who served in the India-Burma Theater. Overall, because of this narrow interpretation of the law, fifty percent of the drivers who served under fire were denied benefits given to other drivers who served in other combat regions.

Sadly, AFS drivers are passing away at an increasingly rapid rate. There are currently 631 living drivers from World War II on the AFS roster, and 198 of them are still ineligible for benefits, including six who have recently passed away without access to VA medical care. Clearly, these courageous veterans, such as Clifford Bissler of Stuart, FL, who lost a leg and received two Purple Hearts for his service in the India-Burma Theater, deserve the help and recognition that this legislation will bring.

In 1943, President Roosevelt wrote to the leader of AFS and said of the drivers, "In serving our allies, they serve America." It is long, long past time for Congress to finally recognize the contributions of all of these dedicated Americans who served during World War II, granting them the veteran's benefits and assistance that they very much need and deserve. If you would like to cosponsor this bill, please contact us or have your staff contact Duane Seward at 224-2008.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1768. A bill to authorize the Secretary of the Interior to implement the Calfed Bay-Delta Program; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, today I am introducing a bill to authorize the CALFED Bay Delta Program. I am pleased that Senator BOXER has agreed to co-sponsor this bill with me. The bill that I am introducing today is also supported by Senator BINGAMAN, the chairman of the Senate Energy and Natural Resources Committee. He has committed to helping move this bill through his committee and hopefully through the Senate.

The most important thing about this new bill is that it fully authorizes the CALFED Record of Decision and all the projects associated with it with Federal costs of less than $10 million. Any projects of more than $10 million that are ready to be constructed will be reported to the authorizing committees in a package every 2 years.

This bill authorizes $2.4 billion to cover the one-third Federal share of the CALFED program. The State and water users will each be responsible for the other two-thirds.

California's population is 35 million today and could reach 50 million within the next 20 years. There simply is not enough water in the system to meet the future demand. CALFED is the best hope we have to increase our water supply, preserve the environment and protect against a water emergency. I don't believe we can wait any longer.

Mrs. BOXER. I am very pleased to be joining Senator FEINSTEIN today in the introduction of a bill that will help address California's water needs. We have worked closely together on this effort over the last year and I believe that this bill will help the CALFED program move forward in the right direction.

In California, as in many parts of the West, water is our lifeblood. For decades, water allocation was conducted through endless appeals and lawsuits, and divisive ballot initiatives. Such battles were painful and, they prevented us from finding real solutions to our state's very real water problems.

In 1994, a new state-federal partnership program called CALFED promised a better way—a plan to provide reliable, clean water, to farms, businesses, and millions of Californians while at the same time restoring our fish, wildlife and environment. What has made CALFED work is that it employs a consensus approach that balances the needs of these various interests.

This bill stays true to that balanced approach. It authorizes the continuation of the CALFED program over the next 5 years and provides for a federal contribution of $2.4 billion over that time period. The bill requires that the CALFED program goals of protecting drinking water quality, restoring ecological health, improving water supply reliability, and protecting Delta levees progress in a balanced manner. The bill describes a detailed set of reports that should be provided to Congress prior to approving any project costing over $10 million. This reporting process is designed to ensure that major projects are not approved until the environmental and economic impacts are clearly understood.

I believe CALFED offers the best hope for ending California's intractable water wars. This bill will ensure that the CALFED program can continue its good work.

By Mrs. BOXER:

S. 1769. A bill to authorize the Secretary of the Army to carry out a project for flood protection and ecosystem restoration for Sacramento, California, and for other purposes; to the Committee on Environment and Public Works.

Mrs. BOXER. S. 1769, Mr. President, I am introducing a bill to improve flood protection in Sacramento. This is a companion bill to one that Representative MATSUI is introducing today in the House.

Currently, Sacramento only has an 85-year flood protection. This bill would raise the existing walls of Folsom Dam by 7 feet, which would improve flood protection to 213 years. Without this improvement, $40 billion of property, including the California State Capitol, 6 major hospitals, 26 nursing home facilities, over 100 schools, three major freeway systems, and approximately 160,000 homes and apartments, are at risk of a devastating flood.

For a city of its size, Sacramento falls shockingly below the 400 year-level of flood protection enjoyed by other river cities such as St. Louis, Tacoma, Dallas, and Kansas City. The Folsom mini raise is the critical next step in providing Sacramento with an adequate level of flood protection.

Next year, the Environment and Public Works Committee, of which I am a member, will reauthorize the Water Resources and Development Act. I hope this bill will be included as part that legislation.

By Mr. LEAHY:

S. 1770. A bill to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise to introduce the Terrorist Bombing Convention Implementation Act of 2001 and the Suppression of the Financing of Terrorism Convention Implementation Act of 2001. This bill would bring the United States into indisputable and immediate compliance with two important international conventions, which were signed by the United States and transmitted to the U.S. Senate for ratification by President Clinton. Both Conventions were entered into after the terrorist bombings at the United States embassies in Kenya and Tanzania. The bill also contains a provision which would enhance the ability of law enforcement authorities to work with their foreign counterparts in fighting sophisticated international criminal organizations by sharing wiretap information when appropriate.

The International Convention for the Suppression of Terrorist Bombings, "Bombing Convention", was adopted by the United Nations General Assembly in December 1997 and signed by the United States in January 1998. In September 1999, it was transmitted to the Senate by President Clinton for ratification.

The International Convention for the Suppression of Financing Terrorism, "Financing Convention", was adopted by the United Nations General Assembly in December 1999 and signed by the United States in January 2000. In October 2000, it was transmitted to the Senate by President Clinton for ratification.

Under the chairmanship of Senator BIDEN, the Foreign Relations Committee has moved expeditiously to report these conventions to the full Senate. Once ratified, they should be swiftly implemented. The passage of the proposed implementing legislation which I introduce today would ensure that the United States is in immediate compliance with these international obligations relating to terrorism.

Both conventions require signatory nations to adopt criminal laws prohibiting specified terrorist activities in order to create a regime of universal jurisdiction over certain crimes. Articles 2 and 4 of the Bombing Convention require signatory countries to criminalize the delivery, placement, discharge or detonation of explosives and other lethal devices, "in, into, or against" various defined public places with the intent to kill, cause serious bodily injury, or extensively damage such public places. The Bombing Convention also requires that signatories criminalize aiding and abetting, attempting, or conspiring to commit such crimes.

Articles 2 and 4 of the Financing Convention require signatory countries to criminalize willfully "providing or collecting" funds, directly or indirectly, with knowledge that they are to be used to carry out acts which either 1. violate nine enumerated existing treaties, or 2. are aimed at killing or injuring civilians with the purpose of intimidating a population or compelling a government to do any act. The Financing Convention also requires that signatories criminalize aiding and abetting, attempting, or conspiring to commit such crimes. Signatories must criminalize such acts under Article 2 whether or not "the funds were actually used to carry out" such an offense.

Both conventions require that signatory nations exercise limited extraterritorial jurisdiction and extradite or prosecute those who commit such crimes when found inside their borders. The conventions also require that signatories ensure that, under their domestic laws, political, religious, ideological, racial or other similar considerations are not a justification for committing the enumerated crimes. Thus, signatory nations will not be able to assert such bases to deny an extradition request for a covered crime. Finally, Article 4 of each convention requires that signatory states make the covered offenses "punishable by appropriate penalties which take into account the grave nature of [the] offenses."

This proposed implementation legislation, consistent with the House version of this bill, H.R. 3275, creates two new crimes, one for bombings and another for financing terrorist acts, that would track precisely the language in the treaties, and bring the United States into undisputed compliance. The bill would also provide extraterritorial jurisdiction as required by the conventions. Furthermore the bill would create domestic jurisdiction for these crimes in limited situations where a national interest is implicated, while excluding jurisdiction over acts where the convention does not require such jurisdiction and there is no distinct federal interest served.

The bill, again consistent with the H.R. 3275, also contains "ancillary provisions" that would make the two new crimes predicates for money laundering charges, wiretaps, RICO charges, an 8-year statute of limitations, include them as "federal crimes of terrorism," and make civil asset forfeiture available for the new terrorism financing crime. Existing laws which relate to similar crimes are predicates for each of these tools, and providing law enforcement with these ancillary provisions is both consistent and appropriate.

Neither international convention requires a death penalty provision for any covered crime, and the Department of Justice has provided a memorandum to Congress, in response to a request for its views, that such a provision would not be required to bring the United States into compliance. This should come as no surprise, given international sentiment opposing the United States' use of the death penalty in other contexts. Indeed, the inclusion of a death penalty provision in the implementing legislation for these conventions could lead to complications in extraditing individuals to the United States from countries that do not employ the death penalty. Therefore, unlike the House version of the implementing legislation, the Senate version contains no new death penalty provision.

Unlike H.R. 3275, the bill does not contain a third crime for "concealment" of material support for terrorists. The Department of Justice has conceded in the memorandum which it provided to Congress that this provision is not necessary to bring the United States into compliance with the conventions. Indeed, in the wake of the passage of similar provisions in the USA Patriot Act, P.L. No. 107-56, such legislation is not needed. Furthermore, although a similar provision is currently set forth in 18 U.S.C. §2339A, the House bill provides a lower *mens rea* requirement than that law; an important change which was not highlighted in the Administration materials provided explaining the proposal.

Finally, the Senate bill contains an important new tool for international cooperation between law enforcement which is not included in H.R. 3275. Currently, there is no clear statutory authority which allows domestic law enforcement agents to share Title III wiretap information with foreign law enforcement counterparts. This may create problems when, for example, the DEA wants to alert Colombian authorities that a cocaine shipment is about to leave a Colombian port but the information is derived from a Title III wiretap.

This bill would clarify the authority for sharing wiretap derived information, specifically in the Title III context. The bill provides a clear mechanism through which law enforcement may share wiretap information with foreign law enforcement, while at the same time ensuring that there are appropriate safeguards to protect this sensitive information against misuse. It adds a subsection to 18 U.S.C. §2517, that permits disclosure of wiretap information to foreign officials (1) with judicial approval, (2) in such a manner and under such conditions as a court may direct, and (3) consistent with Attorney General guidelines on how the information may be used to protect confidentiality. This clarification will provide an additional tool to investigate international criminal enterprises and to seek the assistance of foreign law enforcement in our efforts.

For all of these reasons, I am pleased to introduce this legislation and I urge its swift enactment into law.

I ask unanimous consent that the text of the bill be printed in the RECORD, along with the sectional analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SUPPRESSION OF TERRORIST BOMBINGS

SEC. 101. SHORT TITLE.

This title may be cited as the "Terrorist Bombings Convention Implementation Act of 2001".

SEC. 102. BOMBING STATUTE.

(a) OFFENSE.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by adding at the end thereof the following new section:

"§2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities

"(a) OFFENSES.—

"(1) IN GENERAL.—Whoever unlawfully delivers, places, discharges, or detonates an explosive or other lethal device in, into, or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility—

"(A) with the intent to cause death or serious bodily injury, or

"(B) with the intent to cause extensive destruction of such a place, facility, or system, where such destruction results in or is likely to result in major economic loss, shall be punished as prescribed in subsection (c).

"(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (c).

"(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) if—

"(1) the offense takes place in the United States and—

"(A) the offense is committed against another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

"(B) the offense is committed in an attempt to compel another state or the United States to do or abstain from doing any act;

"(C) at the time the offense is committed, it is committed—

"(i) on board a vessel flying the flag of another state;

"(ii) on board an aircraft which is registered under the laws of another state; or

"(iii) on board an aircraft which is operated by the government of another state;

"(D) a perpetrator is found outside the United States;

"(E) a perpetrator is a national of another state or a stateless person; or

"(F) a victim is a national of another state or a stateless person;

"(2) the offense takes place outside the United States and—

"(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

"(B) a victim is a national of the United States;

"(C) a perpetrator is found in the United States;

"(D) the offense is committed in an attempt to compel the United States to do or abstain from doing any act;

"(E) the offense is committed against a state or government facility of the United States, including an embassy or other diplomatic or consular premises of the United States;

"(F) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed; or

"(G) the offense is committed on board an aircraft which is operated by the United States.

"(c) PENALTIES.—Whoever violates this section shall be imprisoned for any term of years or for life.

"(d) EXEMPTIONS TO JURISDICTION.—This section does not apply to—

"(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law,

"(2) activities undertaken by military forces of a state in the exercise of their official duties; or

"(3) offenses committed within the United States, where the alleged offender and the victims are United States citizens and the alleged offender is found in the United States, or where jurisdiction is predicated solely on the nationality of the victims or the alleged offender and the offense has no substantial effect on interstate or foreign commerce.

"(e) DEFINITIONS.—As used in this section, the term—

"(1) 'serious bodily injury' has the meaning given that term in section 1365(g)(3) of this title;

"(2) 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(3) 'state or government facility' includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of Government, the legislature or the judiciary or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

"(4) 'intergovernmental organization' includes international organization (as defined in section 1116(b)(5) of this title);

"(5) 'infrastructure facility' means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel, or communications;

"(6) 'place of public use' means those parts of any building, land, street, waterway, or other location that are accessible or open to members of the public, whether continuously, periodically, or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational, or similar place that is so accessible or open to the public;

"(7) 'public transportation system' means all facilities, conveyances, and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

"(8) 'explosive' has the meaning given in section 844(j) of this title insofar that it is designed, or has the capability, to cause death, serious bodily injury, or substantial material damage;

"(9) 'other legal device' means any weapon or device that is designed or has the capability to cause death, serious bodily injury, or substantial damage to property through the release, dissemination, or impact of toxic chemicals, biological agents, or toxins (as those terms are defined in section 178 of this title) or radiation or radioactive material;

"(10) 'military forces of a state' means the armed forces of a state which are organized, trained, and equipped under its internal law for the primary purpose of national defense or security, and persons acting in support of those armed forces who are under their formal command, control, and responsibility;

"(11) 'armed conflict' does not include internal disturbances and tensions, such as riots, isolated, and sporadic acts of violence, and other acts of a similar nature; and

"(12) 'state' has the same meaning as that term has under international law, and includes all political subdivisions thereof.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end thereof the following:

"2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities.".

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the applicability of any other Federal or State law which might pertain to the underlying conduct.

SEC. 103. EFFECTIVE DATE.

Section 102 shall take effect on the date that the International Convention for the Suppression of Terrorist Bombings enters into force for the United States.

TITLE II—SUPPRESSION OF THE FINANCING OF TERRORISM

SEC. 201. SHORT TITLE.

This title may be cited as the "Suppression of the Financing of Terrorism Convention Implementation Act of 2001".

SEC. 202. TERRORISM FINANCING STATUTE.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by adding at the end thereof the following new section:

"§2339C. Prohibitions against the financing of terrorism

"(a) OFFENSES.—

"(1) IN GENERAL.—Whoever, in a circumstance described in subsection (c), by any means, directly or indirectly, unlawfully and willfully provides or collects funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, in order to carry out—

"(A) an act which constitutes an offense within the scope of a treaty specified in subsection (e)(7), as implemented by the United States, or

"(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act,

shall be punished as prescribed in subsection (d)(1).

"(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(1).

"(3) RELATIONSHIP TO PREDICATE ACT.—For an act to constitute an offense set forth in this subsection, it shall not be necessary that the funds were actually used to carry out a predicate act.

"(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) in the following circumstances—

"(1) the offense takes place in the United States and—

"(A) a perpetrator was a national of another state or a stateless person;

"(B) on board a vessel flying the flag of another state or an aircraft which is registered under the laws of another state at the time the offense is committed;

"(C) on board an aircraft which is operated by the government of another state;

"(D) a perpetrator is found outside the United States;

"(E) was directed toward or resulted in the carrying out of a predicate act against—

"(i) a national of another state; or

"(ii) another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

"(F) was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel another state or international organization to do or abstain from doing any act; or

"(G) was directed toward or resulted in the carrying out of a predicate act—

"(i) outside the United States; or

"(ii) within the United States, and either the offense or the predicate act was conducted in, or the results thereof affected, interstate or foreign commerce;

"(2) the offense takes place outside the United States and—

"(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

"(B) a perpetrator is found in the United States; or

"(C) was directed toward or resulted in the carrying out of a predicate act against—

"(i) any property that is owned, leased, or used by the United States or by any department or agency of the United States, including an embassy or other diplomatic or consular premises of the United States;

"(ii) any person or property within the United States;

"(iii) any national of the United States or the property of such national; or

"(iv) any property of any legal entity organized under the laws of the United States, including any of its States, districts, commonwealths, territories, or possessions;

"(3) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed;

"(4) the offense is committed on board an aircraft which is operated by the United States; or

"(5) the offense was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel the United States to do or abstain from doing any act.

"(c) PENALTIES.—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 20 years, or both.

"(d) DEFINITIONS.—In this section—

"(1) the term 'funds' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including coin, currency, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, and letters of credit;

"(2) the term 'government facility' means any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of a government, the legislature, or the judiciary, or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

"(3) the term 'proceeds' means any funds derived from or obtained, directly or indirectly, through the commission of an offense set forth in subsection (a);

"(4) the term 'provides' includes giving, donating, and transmitting;

"(5) the term 'collects' includes raising and receiving;

"(6) the term 'predicate act' means any act referred to in subparagraph (A) or (B) of subsection (a)(1);

"(7) the term 'treaty' means—

"(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970;

"(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971;

"(C) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973;

"(D) the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979;

"(E) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on March 3, 1980;

"(F) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on February 24, 1988;

"(G) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988;

"(H) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988; or

"(I) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997;

"(8) the term 'intergovernmental organization' includes international organizations;

"(9) the term 'international organization' has the same meaning as in section 1116(b)(5) of this title;

"(10) the term 'armed conflict' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;

"(11) the term 'serious bodily injury' has the same meaning as in section 1365(g)(3) of this title;

"(12) the term 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(13) the term 'state' has the same meaning as that term has under international law, and includes all political subdivisions thereof.

"(e) CIVIL PENALTY.—In addition to any other criminal, civil, or administrative liability or penalty, any legal entity located within the United States or organized under the laws of the United States, including any of the laws of its States, districts, commonwealths, territories, or possessions, shall be liable to the United States for the sum of at least $10,000, if a person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end thereof the following:

"2339C. Prohibitions against the financing of terrorism.".

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the scope or applicability of any other Federal or State law.

SEC. 203. EFFECTIVE DATE.

Except for paragraphs (1)(D) and (2)(B) of section 2339C(b) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of the Financing of Terrorism enters into force for the United States, and for the provisions of section 2339C(d)(7)(I) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of Terrorist Bombing enters into force for the United States, section 202 shall take effect on the date of enactment of this Act.

TITLE III—ANCILLARY MEASURES

SEC. 301. ANCILLARY MEASURES.

(a) WIRETAP PREDICATES.—Section 2516(1)(q) of title 18, United States Code, is amended by—

(1) inserting "2332f," after "2332d,"; and

(2) striking "or 2339B" and inserting "2339B, or 2339C".

(b) FEDERAL CRIME OF TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by—

(1) inserting "2332f (relating to bombing of public places and facilities)," after "2332b (relating to acts of terrorism transcending national boundaries),"; and

(2) inserting "2339C (relating to financing of terrorism," before "or 2340A (relating to torture)".

(c) PROVIDING MATERIAL SUPPORT TO TERRORISTS PREDICATE.—Section 2339A of title 18, United States Code, is amended by inserting "2332f," before "or 2340A".

(d) FORFEITURE OF FUNDS, PROCEEDS, AND INSTRUMENTALITIES.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

"(H) Any property, real or personal, involved in a violation or attempted violation, or which constitutes or is derived from proceeds traceable to a violation, of section 2339C of this title.".

TITLE IV—DISCLOSURE OF INTERCEPTED WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS TO FOREIGN LAW ENFORCEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the "Foreign Law Enforcement Cooperation Act of 2001".

SEC. 402. AMENDMENT TO WIRETAP DISCLOSURE STATUTE.

Section 2517 of title 18, United States Code, relating to the interception of communications, is amended by adding at the end the following:

"(6) Disclosure otherwise prohibited under this chapter of knowledge of or the contents of any wire, oral, or electronic communication, or evidence derived therefrom may also be made when permitted by the court at the request of an attorney for the government, upon a showing that such information may disclose a violation of the criminal laws of the United States or a foreign nation, to an appropriate official of a foreign nation or subdivision thereof for the purpose of enforcing such criminal law. If the court orders disclosure of any matters under this subsection, the disclosure shall be made in such manner, at such time, and under such conditions as the court may direct. In making any application under this subsection, the attorney for the government shall certify that the official or officials for whom an order permitting disclosure is sought, have been informed that they may only make use of the information provided under this subsection consistent with such guidelines as the Attorney General shall issue to protect confidentiality.".

ANTI-TERRORISM CONVENTIONS IMPLEMENTATION—SECTION-BY-SECTION ANALYSIS

TITLE I SUPPRESSION OF TERRORIST BOMBINGS

Title I of this bill implements the International Convention for the Suppression of Terrorist Bombings, which was signed by the United States on January 12, 1998, and was transmitted to the Senate for its advice and consent to ratification on September 8, 1999. Twenty-eight States are currently party to the Convention, which entered into force internationally on May 23, 2001. The Convention requires State Parties to combat terrorism by criminalizing certain attacks on public places committed with explosives or other lethal devices, including biological, chemical and radiological devices. The Convention also requires that State Parties criminalize aiding and abetting, conspiring and attempting to undertake such terrorist attacks.

SECTION 101. SHORT TITLE

Section 101 provides that title I may be cited as "The Terrorist Bombings Convention Implementation Act of 2001."

SECTION 102. BOMBING STATUTE

Section 102 adds a new section to the Federal criminal code, to be codified at 18 U.S.C. §2332f and entitled "Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities," which makes terrorist acts covered by the Convention a crime. New section 2332f supplements and does not supplant existing Federal and State laws, and contains five subsections, which are described below.

Subsection (a) makes it a crime to unlawfully place or detonate an explosive in certain public places and facilities with the intent to cause death or serious bodily injury, or with the intent to cause extensive destruction, where such destruction results in, or is likely to result in, major economic loss. Conspiracies and attempts to commit such crimes are also criminalized. This provision implements Article 2, paragraphs 1, 2 and 3 of the Convention.

Inclusion of the term "unlawfully" in subsection (a), which is mirrored in Article 2 of the Convention defining the offenses, is intended to allow what would be considered under U.S. law as common law defenses. For purposes of subsection (a), whether a person acts "unlawfully" will depend on whether he is acting within the scope of authority recognized under and consistent with existing U.S. law, which reflects international law principles, such as self defense or lawful use of force by police authorities. This language is not to be construed as permitting the assertion, as a defense to prosecution under new section 2332f, that a person purportedly acted under authority conveyed by any particular foreign government or official. Such a construction, which would exempt State-sponsored terrorism, would be clearly at odds with the purpose of the Convention and this implementing legislation.

With respect to the mens rea provision of subsection (a), it is sufficient if the intent is to significantly damage the targeted public place or facility. Further, for the purpose of subsection (a), when determining whether the act resulted in, or was likely to result, major economic loss, the physical damage to the targeted place or facility may be considered, as well as other types of economic loss including, but not limited to, the monetary loss or other adverse effects resulting from the interruption of its activities. The adverse effects on non-targeted entities and individuals, the economy and the government may also be considered in this determination insofar as they are due to the destruction caused by the unlawful act.

Subsection (b) establishes the jurisdictional bases for the covered offenses and includes jurisdiction over perpetrators of offenses abroad who are subsequently found within the United States. This provision implements a crucial element of the Convention (Article 8(1)), which requires all State Parties to either extradite or prosecute perpetrators of offenses covered by the Convention who are found within the jurisdiction of a State Party. While current Federal or State criminal laws encompass all the activity prohibited by the Convention that occurs within the United States, subsection (b)(1) ensures Federal jurisdiction where there is a unique Federal interest e.g., a foreign government is the victim of the crime or the offense is committed in an attempt to compel the United States to do or abstain from doing any act.

Subsection (c) establishes the penalties for committing the covered crimes at any term of years or life. This provision differs from the Administration proposal, which sought to add a new death penalty provision for this crime, despite the fact that such a provision is not required for compliance under the Convention and may create hurdles in seeking extradition to the United States under this statute.

Subsection (d) sets forth certain exemptions to jurisdiction as provided by the Convention. Specifically, the subsection exempts from jurisdiction activities of armed forces during an armed conflict and activities undertaken by military forces of a State in the exercise of their official duties.

Subsection (e) contains definitions of twelve terms that are used in the new law. Six of those definitions ("State or government facility," "infrastructure facility," "place of public use," "public transportation system," "other lethal device," and "military forces of a State") are the same definitions used in the Convention. Four additional definitions ("serious bodily injury," "explosive," "national of the United States," and "intergovernmental organization") are definitions that already exist in other U.S. statutes. One of those definitions ("armed conflict") is defined consistent with an international instrument relating to the law of war, and a U.S. Understanding to the Convention that is recommended to be made at the time of U.S. ratification. The final term ("State") has the same meaning as that term has under international law.

SECTION 103. EFFECTIVE DATE

Since the purpose of Title I is to implement the Convention, section 103 provides that the new criminal offense created in Section 102 will not become effective until the date that the Convention enters into force in the United States. This will ensure immediate compliance of the United States with its obligations under the Convention.

TITLE II. SUPPRESSION OF THE FINANCING OF TERRORISM

Title II implements the International Convention for the Suppression of the Financing of Terrorism, which was signed by the United States on January 10, 2000, and was transmitted to the Senate for its advice and consent to ratification on October 12, 2000. The Convention is not yet in force internationally, but will enter into force 30 days after the deposit of the 22nd instrument of ratification with the U.N. Secretary-General. Once in force, the Convention requires State Parties to combat terrorism by criminalizing certain financial transactions made in furtherance of various terrorist activities. The Convention also requires that State Parties criminalize conspiracies and attempts to undertake such financing.

SECTION 201. SHORT TITLE

Section 201 provides that title II may be cited as "The Suppression of Financing of Terrorism Convention Implementation Act of 2001."

SECTION 202. TERRORISM FINANCING STATUTE

Section 202(a) adds a new section to the Federal criminal code, to be codified at 18 U.S.C. §2339C and entitled "Prohibitions against the financing of terrorism," which makes financial acts covered by the Convention a crime. New section 2339C supplements and does not supplant existing Federal and State laws, and contains five subsections, which are described below.

Subsection (a) makes it a crime to provide or collect funds with the intention or knowledge that such funds are to be used to carry out certain terrorist acts. Conspiracies and attempts to commit these crimes are also criminalized. This subsection implements Article 2, paragraphs 1, 3, 4 and 5 of the Convention.

Subsection (b) establishes the jurisdictional bases for the covered offenses under section 2339C(a) and includes jurisdiction over perpetrators of offenses abroad who are subsequently found within the United States. This provision implements a crucial element of the Convention (Article 10), which requires all State Parties to either extradite or prosecute perpetrators of offenses covered by the Convention who are found within the territory of a State Party. The structure of this provision is designed to accommodate the structure of the Convention, which sets forth both mandatory and permissive bases of jurisdiction, and excludes certain offenses that lack an international nexus. Some portions of this provision go beyond the jurisdictional bases required or expressly permitted under the Convention, however, where expanded jurisdiction is desirable from a policy perspective because a unique Federal interest is implicated and is consistent with the Constitution.

Subsection (c) established the penalties for committing the covered crimes at imprisonment for not more than 20 years, a fine under title 18, United States Code, or both. This penalty is consistent with the current penalties for money laundering offenses. See 18 U.S.C. §1956.

Subsection (d) contains 13 definitions of terms that are used in the new law. Two of those definitions ("government facility," and "proceeds") are the same definitions used in the Convention. The definition for "funds" is identical to that contained in the Convention with the exception that coins and currency are expressly mentioned as money. The definitions for "provides" and "collects" reflect the broad scope of the Convention. The definition for "predicate acts" specifies the activity for which the funds were being provided or collected. These are the acts referred to in subparagraphs (A) and (B) of section 2339C(a)(1). The definition of "treaty" sets forth the nine international conventions dealing with counter-terrorism found in the Annex to the Convention. The term "intergovernmental organization," which is used in the Convention, is specifically defined to make clear that it contains within its ambit existing international organizations. The definitions for "international organization," "serious bodily injury," and "national of the United States" incorporate definitions for those terms that already exist in other U.S. statues. One of the definitions ("armed conflict") is defined consistent with international instruments relating to the law of war. The final term ("State") has the same meaning as that term has under international law.

Subsection (e) creates a civil penalty of at least $10,000 payable to the United States, against any legal entity in the United States, if any person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a) of the new section 2339C. This civil penalty may be imposed regardless of whether there is a conviction of such person under subsection (a), and is in addition to any other criminal, civil, or administrative liability or penalty allowable under United States law. Subsection (e) fulfills Article 5 of the Convention.

SECTION 203. EFFECTIVE DATE

Section 203 provides that those provisions of the Act that may be implemented immediately shall become effective upon enactment. However, two jurisdictional provisions will not become effective until the Financing Convention enters into force for the United States. Those provisions are the new 18 U.S.C. §§2339C(b)(1)(D) and (2)(B). In addition, new 18 U.S.C. §2339C(d)(7)(1), which is a definitional section specifically linked to the Bombing Convention, will not become effective until that Convention enters into effect.

TITLE III. ANCILLARY MEASURES

Title III, which is not required by the International Conventions but will assist in federal enforcement, adds the new 18 U.S.C. §§2332f and 2339C to several existing provisions of law.

SECTION 301. ANCILLARY MEASURES

Sections 2332f and 2339C are made predicates under the wiretap statute (18 U.S.C. §2516(1)(q)) and under the statute relating to the provision of material support to terrorists (18 U.S.C. §2339A). Sections 2332f and 2339C are also added to those offenses defined as a "Federal crime of terrorism" under 18 U.S.C. §2332b(g)(5)(B), as amended by the USA PATRIOT Act. P.L. No. 107-56. In addition, a provision is added to the civil asset forfeiture statute that makes this tool available in the case of a violation of 18 U.S.C. §2339C. These provisions are consistent with the treatment of similar Federal crimes already in existence.

TITLE IV. FOREIGN DISCLOSURE OF WIRETAP INTERCEPTS

This provision, which is not required by the International Conventions, clarifies that Federal law enforcement authorities may disclose otherwise confidential wiretap information to their foreign counterparts with appropriate judicial approval. This provision is intended to ensure effective cooperation between domestic and foreign law enforcement in the investigation and prosecution of international criminal organizations.

SECTION 401. SHORT TITLE

Section 401 provides that title IV may be cited as "The Foreign Law Enforcement Cooperation Act of 2001."

SECTION 402. AMENDMENT TO WIRETAP STATUTE

Section 402 adds a new subsection to 18 U.S.C. §2517 that governs the disclosure of otherwise confidential information gathered pursuant to a Title III wiretap. This provision clarifies the authority of domestic law enforcement officers to disclose such information as may show a violation of either domestic or foreign criminal law to foreign law enforcement officials. The provision requires a court order prior to making such a disclosure and sets the standards for the issuance of such an order. It is intended to allow foreign disclosure only to enforce the criminal laws of either the United States or the foreign nation. It also requires that an attorney for the government certify that the foreign officials who are to receive the wiretap information have been informed of the Attorney General's guidelines protecting confidentiality. This provision is intended to enhance the ability of domestic law enforcement to work with their foreign counterparts to investigate international criminal activity at the same time as protecting against improper use of such wiretap information.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1773. A bill to designate the Richard J. Guadagno Headquarters and Visitors Center at Humboldt Bay National Wildlife Refuge, California; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today, I am introducing a bill to honor a California, Richard J. Guadagno, who sadly lost his life on United Flight 93 when it crashed in Western Pennsylvania on September 11. This legislation will designate the Headquarters and Visitors Center of the Humboldt Bay National Wildlife Refuge as the Richard J. Guadagno Headquarters and Visitors Center. Representative THOMPSON introduced this bill in the House.

Mr. Guadagno was the manager of the Humboldt Bay National Wildlife Refuge and devoted his life to the preservation of wildlife. As refuge manager at the Humboldt Bay National Wildlife Refuge, he lead with a vision that his colleagues embraced and admired. He always keep the best interests of the refuge at heart, and he enthusiastically worked to improve the condition of the refuge. Colleagues in the Fish and Wildlife Service consistently commended his courage and dedication to conservation and protecting biological diversity.

Mr. Guadagno began a career in public service as a biologist at the New Jersey Fish and Game Department and the Great Swamp National Wildlife Refuge. Before joining the Humboldt Bay National Wildlife Refuge, he worked at the Prime Hook National Wildlife Refuge in Delaware, Supawna

Meadows National Refuge in New Jersey, and the Baskett Slough and Ankeny National Wildlife Refuges in Oregon.

Richard Guadagno worked his entire life to preserve our Nation's wildlife. This legislation will ensure that we have a lasting memory of his work.

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 1774. A bill to accord honorary citizenship to the alien victims of September 11, 2001, terrorist attacks against the United States and to provide for the granting of citizenship to the alien spouses and children of certain victims of such attacks; to the Committee on the Judiciary.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Terrorist Victim Citizenship Relief Act, that would quickly provide citizenship relief to hundreds of families adversely affected by the attacks of September 11, 2001.

Today I am meeting with several of the families of the victims of the September 11 terrorist attacks to discuss crucial legislation that would provide them with tax relief in the wake of a national calamity. They are dealing with a personal anguish that many of us can only imagine. It is critical that the House of Representatives move swiftly to pass the tax relief legislation that has already passed the Senate, by unanimous consent, I might add. But there is more that Congress must do to account for the shocking and unanticipated failure of the existing legal framework in the aftermath of September 11. I believe that the Terrorist Victim Citizenship Relief Act is an important part of this vitally necessary overhaul.

When American citizens, foreign nationals, and immigrants perished in the cowardly terrorist acts of September 11, the immigration status of hundreds of families was thrown into turmoil. The attacks were on American soil on a major American institution and directed at the United States. Yet American citizens were not the only victims. Hundreds of temporary workers and immigrants died shoulder-to-shoulder with thousands of Americans. Their deaths should be acknowledged and their families should be honored.

My legislation would bestow honorary citizenship on legal immigrants and non-immigrants who died in the disaster. This would honor their spirit and their tremendous sacrifice. Perhaps more important, the bill would offer citizenship to surviving spouses and children, subject to a background investigation by the Federal Bureau of Investigation. In the spirit of fairness and unity, it is appropriate and responsible to offer the privilege of citizenship to families who lost so much because of this attack on the United States.

More than 3,000 people lost their lives when four planes crashed on that fateful September morning. Bodies are still being uncovered, and the death count has been revised several times. Nationals from some 86 countries perished in the attack, including visitors, non-immigrant workers, and legal permanent residents.

America was not the only country that suffered losses. There was good reason the complex was called the World Trade Center. In the September 11 attacks, England lost 75 people, with 60 other British nationals unaccounted for. India lost more than 100. Germany has 31 confirmed casualties. Mexico has 19. Colombia has 15. Japan has as many as 21. Canada, Australia, the Philippines, Ireland, South Africa, and Pakistan all suffered tragic losses. And there were many more. It would be wrong to allow the tragic destruction of that fateful day to derail the hopes of hundreds of immigrant families to secure a better life for themselves and their children in the United States. And we must acknowledge the hundreds of families from 86 countries who lost loved ones in the attack.

In New Jersey, there are dozens of poignant stories of immigrant families who experienced tragic losses in the World Trade Center disaster. These innocent people have lost husbands and wives, sons and daughters, sisters and brothers. Their families have been fractured and their livelihoods jeopardized. Immigrant families have been forced to grapple with a bureaucratic nightmare, wading through the myriad of programs available to the families of victims in an effort to keep their heads above water. They are often disheartened to learn that, although their loved ones died in the same attack, non-citizens are ineligible for many of the programs designed to assist the surviving families of victims.

Concerns about immigration status have only added to the tremendous burden immigrant families are already confronting. Take the example of one New Jersey woman who came to my office seeking assistance. Her immigration status was directly dependent on the non-immigrant worker status of her husband who died in the attack. Both of her children were born in the United States. They are full citizens and are enrolled in American schools. She wants to continue to raise her children in the United States. However, under the antiterrorism legislation that Congress passed this month, this mother of two will be allowed just one additional year to sort out her affairs before being forced to uproot her children and return to England.

One year is simply not enough to compensate this innocent woman for the loss of her husband. My legislation would grant her citizenship immediately, helping her to avoid the burden of removing her children from the only country they have ever truly known after having just lost their father. Granting her citizenship is the right thing to do.

But, this woman's story is one of hundreds. My office has received numerous inquiries from immigrant families concerned that their immigration status has been undermined by the death of a loved one. Many families were in the process of preparing the necessary paperwork to apply for a change in status, only to have their potential sponsor die alongside thousands of others in the World Trade Center attack. This legislation would ensure that those families would be allowed to become American citizens and avoid undue paperwork and heartache.

More than two months have passed since the United States was brutally attacked. When perpetrating their horrific crime, the terrorists did not distinguish between immigrants and American citizens or between undocumented workers and legal permanent residents. They were attacking the United States, and, in the process, killed thousands, citizens and non-citizens alike. In death, citizenship was irrelevant. In death, they were all unified.

The thousands who died did not know it when they went to work, but they were at the front lines in the next American war. Their deaths are a tragedy that every civilized human being wishes could be reversed. Unfortunately, we cannot turn back the clock. However, we can acknowledge the tremendous loss of hundreds of immigrant families by allowing them to take on the full rights and responsibilities of American citizenship.

I urge my colleagues to support this important legislation, and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Terrorist Victim Citizenship Relief Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) On September 11, 2001, the United States suffered a series of attacks which led to the deaths of thousands of people.

(2) Hundreds of foreign nationals perished in the attacks on the American institutions on American soil.

(3) At that time, the Immigration and Naturalization Service was processing applications for adjustment in immigration status for immigrants who perished in the attacks.

(4) The immigrant or nonimmigrant status of many immigrant families depends on the sponsorship of those who perished.

(5) The Immigration and Naturalization Service has publicly stated that it does not intend to take action against foreign nationals whose immigration status is in jeopardy as a direct result of the attack.

(6) Commissioner of the Immigration and Naturalization Service James Ziglar stated that "the Immigration and Naturalization Service will exercise its discretion toward families of victims during this time of mourning and readjustment".

(7) Only Congress has the authority to change immigration law to address unanticipated omissions in existing law to account for the unique circumstances surrounding the events of September 11, 2001.

SEC. 3. DECEASED ALIEN VICTIMS OF TERRORIST ATTACKS DEEMED TO BE UNITED STATES CITIZENS.

Notwithstanding title III of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), and except as provided in section 5, each alien who died as a result of a September 11, 2001, terrorist attack against the United States, shall, as of that date, be considered to be an honorary citizen of the United States if the alien held lawful status under the immigration laws of the United States as of that date.

SEC. 4. CITIZENSHIP ACCORDED TO ALIEN SPOUSES AND CHILDREN OF CERTAIN VICTIMS OF TERRORIST ATTACKS.

Notwithstanding title III of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), and except as provided in section 5, an alien spouse or child of an individual who was lawfully present in the United States and who died as a result of a September 11, 2001, terrorist attack against the United States shall be entitled to naturalization as a citizen of the United States upon being administered the oath of renunciation and allegiance in an appropriate ceremony pursuant to section 337 of the Immigration and Nationality Act, without regard to the current status of the alien spouse or child under the immigration laws of the United States, if the spouse or child applies to the Attorney General for naturalization not later than two years after the date of enactment of this Act. The Attorney General shall record the date of naturalization of any person granted naturalization under this section as being September 10, 2001.

SEC. 5. EXCEPTIONS.

Notwithstanding any other provision of this Act, an alien may not be naturalized as a citizen of the United States, or afforded honorary citizenship, under this Act if the alien is—

(1) inadmissible under paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act, or deportable under paragraph (2) or (4) of section 237(a) of that Act, including any terrorist perpetrator of a September 11, 2001, terrorist attack against the United States; or

(2) a member of the family of a person described in paragraph (1).

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 1776. A bill to provide for the naturalization of Deena Gilbey; to the Committee on the Judiciary.

Mr. CORZINE. Mr. President, I rise today to introduce private legislation granting citizenship to Deena Gilbey, a woman profoundly affected by the disaster of September 11. Since then, Deena has endured a tremendous hardship, a hardship that has been compounded by mounting paperwork and an unyielding, dispassionate bureaucratic process. Without swift congressional action, Deena, a British national, will be forced to uproot her two children and remove them from the only country they have ever known just one year from the death of their father.

Deena Gilbey first moved to the United States in July 1993 when Paul, her husband was transferred from London to the New York office of Euro Bank. They spent the eight years that followed building a life in the United States in suburban Chatham Township. They began to raise two children, Max, 7, and Mason, 3, both of whom were born in the United States. Although the children are both U.S. citizens, Deena is not and was present in the county as part of her husband's H1-B work visa. Both Deena and Paul were attempting to become citizens when disaster struck.

For all Americans, September 11 will be remembered with a deep sadness. However, that national anguish took on a personal quality for the Gibleys when the family learned that Paul, like so many others, was lost beneath the rubble of the World Trade Center.

With the death of Paul, Deena was forced to face up to the difficult realization that her own lawful status in the United States was in jeopardy. For the first several weeks after he died, it was unclear whether Deena would be allowed to leave the country and spend time with family or even work to support her children. The anti-terrorism bill that passed the Congress earlier this year was a step in the right direction. But it did not go far enough. It did not give Deena and Paul's children the stability they deserve.

The anti-terrorism legislation that passed the Congress earlier this year allowed Deena to remain in the United States just one additional year to sort out her affairs. She had just one year to wrap up the life she and Paul had made together in the United States. She had just one year to prepare her children for the trauma of moving to a foreign country and of leaving the only country that had ever been home. One additional year is simply not enough.

When Paul died in the attack on the World Trade Center, he died with thousands of Americans. Before that, he contributed to the American economy for nearly a decade, paying taxes and lending his expertise in a highly specialized field. On that fateful day, he embodied the American spirit when he assisted coworkers in escaping the fire and destruction of ground zero.

Paul Gilbey was killed in a callous and cowardly attack on America. In the aftermath of this tragic event, we have a responsibility to help ensure that stability returns to the lives of the children he left behind.

Giving citizenship to Deena Gilbey is our patriotic responsibility. I hope this Congress will acknowledge her sacrifice and allow her and her children to remain in the United States.

I urge my colleagues to support this important legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATURALIZATION OF DEENA GILBEY.

Notwithstanding title III of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) Deena Gilbey shall be entitled to naturalization as a citizen of the United States upon being administered the oath of renunciation and allegiance in an appropriate ceremony pursuant to section 337 of the Immigration and Nationality Act. Upon naturalization of Deena Gilbey under this Act, the Attorney General shall record the date of naturalization of Deena Gilbey as being September 10, 2001.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 187—COMMENDING THE STAFFS OF MEMBERS OF CONGRESS, THE CAPITOL POLICE, THE OFFICE OF THE ATTENDING PHYSICIAN AND HIS HEALTH CARE STAFF, AND OTHER MEMBERS OF THE CAPITOL HILL COMMUNITY FOR THEIR COURAGE AND PROFESSIONALISM DURING THE DAYS AND WEEKS FOLLOWING THE RELEASE OF ANTHRAX IN SENATOR DASCHLE'S OFFICE

Mr. CLELAND (for himself, Mr. FEINGOLD, Mr. ALLEN, Mr. COCHRAN, Mr. MILLER; and Mr. AKAKA) submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 187

Whereas there are approximately 30,000 legislative branch employees who work on Capitol Hill including approximately 6,200 Senate employees, 11,500 House employees, and 12,800 staff from other entities;

Whereas the Capitol Complex consists of approximately 285 acres comprised of 3 Senate office buildings, 3 House office buildings, 2 House annex buildings, 3 Library of Congress buildings, and several other facilities;

Whereas on October 15, 2001, a letter containing anthrax spores was opened in Senator Daschle's office;

Whereas approximately 6,000 individuals were tested for exposure to anthrax and 28 of those individuals tested positive;

Whereas approximately 1000 individuals received a 60-day supply of antibiotics as a precautionary measure;

Whereas the House of Representatives closed the Rayburn and Cannon House Office Buildings for 7 days and the Longworth House Office building for 19 days;

Whereas the Senate closed the Russell Senate Office Building for 6 days, the Dirksen Senate Office Building for 8 days, and the Hart Senate Office Building remains closed;

Whereas during the closure of the Senate and House Office Buildings, Members and staff were forced to find alternative office space or to work from their homes;

Whereas Members and staff whose offices are located in the Hart Senate Office Building continue to utilize alternative office space, including office space donated by other Members;

Whereas Senate, House, and support staff continued and still continue to perform their duties and serve the public with courage and professionalism in spite of the threat of anthrax exposure;

Whereas Capitol Hill police officers have worked 12 hour shifts in response to the September 11, 2001, attacks and have been working additional overtime due to anthrax contamination in the Capitol Complex to ensure the safety of Members, staff, and visitors within the Capitol Complex; and

Whereas the release of anthrax in Senator Daschle's office, and the contamination of 2 Senate office buildings and 1 House office building, has further disrupted the daily routines of Congressional Members and their staffs and caused frustration due to dislocated offices: Now, therefore, be it

Resolved, That the Senate —

(1) commends the staffs of Members of Congress, the Capitol Police, the Office of the Attending Physician and his health care staff, and other members of the Capitol Hill community for their courage, professionalism, and dedication to serving the public in the aftermath of the September 11, 2001, attacks and the release of anthrax in Senator Daschle's office;

(2) recognizes the Congressional leadership, Congressional employees, the Capitol Police, and the Office of the Attending Physician and the health care professionals in his office, in particular, who by their quick actions and early intervention prevented actual cases of anthrax within the Capitol Complex; and

(3) requests that the President recognize the courage and professionalism of Congressional staff, the Capitol Police, and other members of the Capitol Hill community for their public service in continuing to do the public's business in defiance of terrorist attacks.

Mr. CLELAND. Mr. President, I rise today to submit a resolution that will recognize the courage and professionalism of Congressional Staff, the Capitol Police, and other members of the Capitol Hill Community following the release of anthrax in Senator DASCHLE's office. In the aftermath of the first-ever evacuation of the Capitol and surrounding office buildings due to the terrorist attacks on September 11, 2001, and especially after the bioterrorist attack on the Congress and the Capitol Hill Community it is important to acknowledge the approximately 30,000 legislative branch employees who work on Capitol Hill including, approximately 6,200 Senate employees, 11,500 House employees, and 12,800 additional staff from other entities who have been affected by the release of anthrax in Senator DASCHLE's office. Therefore, in recognition of their outstanding public service in continuing to do the public's business in defiance of the terrorist attacks I am submitting a resolution to commend Congressional employees, the Capitol Police, the Office of the Attending Physician and his health care staff, and other members of the Capitol Hill community for their dedication to public service.

This legislation acknowledges the extensive grounds of the Capitol complex which consists of the Capitol building, three Senate office buildings, three House office buildings, two House annex buildings, three Library of Congress buildings, and several other facilities that comprise the Capitol complex of approximately 285 acres. The Office of the Attending Physician, in response to the release of anthrax in Senator DASCHLE's office, tested approximately 6,000 individuals for exposure to anthrax, 28 of whom were positive. In addition, approximately 1,000 individuals received 60-day supply of antibiotics as a precautionary measure and the Senate and House office buildings were closed while investigators and bioterrorism experts decontaminated the offices exposed to anthrax.

During the closure of the Senate and House office buildings, Members and staff were forced to find alternative office space or work from their homes. Members and staff whose offices are located in the Hart Senate Office Building continue to utilize alternative office space including office space donated by other Members. Senate, House, and support staff continued to perform their duties and serve the public with courage and professionalism in spite of the threat of exposure to anthrax. In addition, Capitol Hill police officers worked 12 hour shifts in response to the September 11, attacks and have been working additional overtime since anthrax contamination in the Capitol Complex to ensure the safety of Members, staff, and visitors within the Capitol Complex. Finally, the release of anthrax and subsequent contamination of Congressional offices disrupted the daily routines of Congressional Members and their staffs and caused frustration due to dislocated offices.

My legislation commends the Congressional leadership, Congressional employees, the Capitol Police, the Office of the Attending Physician and the health care professionals in his office, in particular, for their quick actions and early intervention which prevented actual cases of anthrax within the Capitol Complex. Capitol Hill employees deserve to be commended for their strength, courage, and professionalism since the September 11 attacks and this resolution asks the President to recognize them for their unwavering commitment to public service in continuing to do the public's business in defiance of the terrorist attacks. Thank you to Senators ALLEN, FEINGOLD, COCHRAN, MILLER, and AKAKA who have signed on as cosponsors to this legislation. I encourage other Senators to join us in this worthy recognition of the Capitol Hill community by cosponsoring this resolution.

SENATE CONCURRENT RESOLUTION 88—EXPRESSING SOLIDARITY WITH ISRAEL IN THE FIGHT AGAINST TERRORISM

Mr. BIDEN (for himself, Mr. DASCHLE, Mr. LOTT, Mr. BAYH, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mrs. CARNAHAN, Mr. CARPER, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. GRAHAM, Mr. HATCH, Mr. HUTCHINSON, Mr. KERRY, Mr. KOHL, Mr. LEVIN, Mr. LIEBERMAN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. SARBANES, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, and Mr. TORRICELLI) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 88

Whereas 26 innocent people in Israel were murdered in cold blood and at least 175 wounded by Palestinian terrorists, all within 14 hours, during the weekend of December 1-2, 2001;

Whereas these deaths are the equivalent, on a basis proportional to the United States population, of 1,200 American deaths and 8,000 wounded;

Whereas the President's Middle East envoy General Anthony C. Zinni has labeled the terrorism of this past weekend "the deepest evil one can imagine";

Whereas this bloody weekend is part of an ongoing terror campaign often targeted at youth and families and perpetrated by Islamic fundamentalist groups Hamas and Palestinian Islamic Jihad and by some elements of Palestinian Authority Chairman Yasser Arafat's Fatah movement;

Whereas President Bush declared at a joint session of Congress on September 20, 2001, that "[e]very nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists. From this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime"; and

Whereas President Bush declared on December 2, 2001, that "Chairman Arafat must do everything in his power to find those who murdered innocent Israelis and bring them to justice": Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) condemns the vicious terrorist murders of 26 innocent people in Israel within 14 hours during December 1–2, 2001, and extends its deepest sympathies to the State of Israel and to the families of the victims;

(2) expresses outrage at the ongoing Palestinian terrorist campaign and insists that the Palestinian Authority take all steps necessary to end it;

(3) demands specifically that the Palestinian Authority take action immediately to—

(A) destroy the infrastructure of Palestinian terrorist groups;

(B) pursue and arrest terrorists whose incarceration has been called for by the Government of Israel; and

(C) either—

(i) prosecute such terrorists, provide convicted terrorists with the stiffest possible punishment, and ensure that those convicted remain in custody for the full duration of their sentences; or

(ii) render all arrested terrorists to the Government of Israel for prosecution;

(4) urges the President to suspend all relations with Yasser Arafat and the Palestinian Authority, if Yasser Arafat and the Palestinian Authority fail to take the actions described in paragraphs (2) and (3);

(5) further urges the President to insist that all countries harboring, materially supporting, or acquiescing in the private support of Palestinian terrorist groups should end such support, dismantle the infrastructure of such groups, and bring all terrorists within their borders to justice; and

(6) expresses the solidarity of the United States with Israel in our common struggle against the scourge of terrorism.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2240. Mr. FEINGOLD (for himself, Mr. BAUCUS, and Mr. HELMS) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table.

SA 2241. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2242. Mr. CRAPO (for himself, Mr. BINGAMAN, Mr. DOMENICI, Mrs. FEINSTEIN, Mr. BROWNBACK, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2240. Mr. FEINGOLD (for himself, Mr. BAUCUS, and Mr. HELMS) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill insert the following sections:

SEC. . COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2002.

SA 2241. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . COMMERCIAL FISHERIES FAILURE.

In addition to amounts appropriated or otherwise made available by this Act, there are appropriated to the Department of Agriculture $10,000,000 for fiscal year 2002, which shall be transferred to the Department of Commerce to provide emergency disaster assistance for the commercial fishery failure under section 308(b)(1) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)(1)) with respect to Northeast multispecies fisheries. Amounts made available under this section shall be used to support a voluntary fishing capacity reduction program in the Northeast multispecies fishery that permanently revokes multispecies, limited access fishing permits so as to obtain the maximum sustained reduction in fishing capacity at the least cost and in the minimum period of time and to prevent the replacement of fishing capacity removed by the program.

SA 2242. Mr. CRAPO (for himself, Mr. BINGAMAN, Mr. DOMENICI, Mrs. FEINSTEIN, Mr. BROWNBACK, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 132 and insert the following:

SEC. 132. STUDY OF NATIONAL DAIRY POLICY.

(a) STUDY REQUIRED.—Not later than April 30, 2002, the Secretary of Agriculture shall submit to Congress a comprehensive economic evaluation of the potential direct and indirect effects of the various elements of the national dairy policy, including an examination of the effect of the national dairy policy on—

(1) farm price stability, farm profitability and viability, and local rural economies in the United States;

(2) child, senior, and low-income nutrition programs, including impacts on schools and institutions participating in the programs, on program recipients, and other factors; and

(3) the wholesale and retail cost of fluid milk, dairy farms, and milk utilization.

(b) NATIONAL DAIRY POLICY DEFINED.—In this section, the term "national dairy policy" means the dairy policy of the United States as evidenced by the following policies and programs:

(1) Federal Milk Marketing Orders.

(2) Interstate dairy compacts (including proposed compacts described in H.R. 1827 and S. 1157, as introduced in the 107th Congress).

(3) Over-order premiums and State pricing programs.

(4) Direct payments to milk producers.

(5) Federal milk price support program.

(6) Export programs regarding milk and dairy products, such as the Dairy Export Incentive Program.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, December 5, at 9:30 a.m., to conduct a hearing. The committee will receive testimony on the nominations of Margaret S.Y. Chu to be Director of the Office of Civilian Radioactive Waste Management, Department of Energy; Beverly Cook to be an Assistant Secretary of Energy (Environment, Safety, and Health), Department of Energy; Jeffrey D. Jarrett to be Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior; and Rebecca W. Watson to be an Assistant Secretary of the Interior (Lands and Minerals Management), Department of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a nominations hearing on Wednesday, December 5, 2001, at 10 a.m., in Dirksen Room 226.

Witness List

Panel I: Hon. John Warner, Hon. Phil Gramm, Hon. Harry Reid, Hon. Bob Graham, Hon. Ben Nighthorse Campbell, Hon. Kay Bailey Hutchison, Hon. Wayne Allard, Hon. Max Cleland, Hon. Jeff Sessions, Hon. Zell Miller, Hon. John Ensign, Hon. Ileana Ros-Lehtinen, Hon. Carrie Meek, and Hon. Silvestre Reyes.

Panel II: Callie V. Granade to be U.S. District Court Judge for the Southern District of Alabama; Marcia S. Krieger to be U.S. District Court Judge for the District of Colorado; James C. Mahan to be U.S. District Court Judge for the District of Nevada; Philip R. Martinez to be U.S. District Court Judge for the Western District of Texas; and C. Ashley Royal to be U.S. District Court Judge for the Middle District of Georgia.

Panel III: Mauricio J. Tamargo to be Chair of the Foreign Claims Settlement Commission of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CONRAD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet to hold a closed conference with the House Permanent Select Committee on Intelligence on H.R. 2883, on Wednesday, December 5, 2001, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CRIME AND DRUGS

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Crime and Drugs be authorized to meet to conduct a hearing on "Making America's Streets Safer: The Future of the COPS Program," on Wednesday, December 5, 2001, at 1:30 p.m., in SD226.

Witness List

Panel I: Viet D. Dinh, Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice.

Panel II: Thomas P. Gordon, County Executive, New Castle County, Delaware; Colonel Lonnie Westphal, Chief, Colorado State Patrol, Vice President, International Association of Chiefs of Police; Steve Young, Lieutenant, Marion City Police Department, National President, Fraternal Order of Police; Mike Brown, Sheriff, Bedford County, Virginia, National Sheriffs' Association; Dr. Jihong Zhao, Professor, Department of Criminal Justice, University of Nebraska at Omaha; and David Muhlhausen, Policy Analyst, Heritage Foundation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. CONRAD. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, December 5, 2001, at 9 a.m., on the response of the technology sector in times of crisis.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LUGAR. Mr. President, I ask unanimous consent that Carol Olander, Dave White, and Benjamin Young, detailees to the Agriculture Committee from the Department of Agriculture, be granted privileges of the floor during the pendency of the farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS, VASSILI SULICH

Mr. REID. Mr. President, on Saturday evening, December 15, the Las Vegas Philharmonic will be recognizing the work of one of Nevada's true cultural treasures, Vassili Sulich. I am pleased to speak of the vision and the accomplishments of this fine man.

In 1981, Vassili Sulich received the State of Nevada Governor's Arts Award for "Outstanding Individual Artist," an award which recognized his role in establishing the Nevada Dance Theatre and for bringing classical ballet to southern Nevada. This award is only one of many that have been bestowed upon Mr. Sulich, but it represents what he has meant, and still means for the cultural evolution of my home state.

Born on the island of Brac, Yugoslavia, Vassili Sulich began imagining and improvising performances from an early age. As a refugee in Egypt, during World War II, he joined a Yugoslav children's theatre, which continued performing in Europe after the war. He received classical dance training with the Zagreb Opera Ballet, and he remained in the theatre ever since.

In 1952, he received a scholarship to study in London. One year later, he moved to Paris to be a member of the Ballet de France de Janine Charrat. Paris became his home for eleven years, where he rose to the status of Danseur Etoile; first with Ballet des Etoiles de Paris and later with other companies and opera houses.

During this time, he performed as a principal dancer in many ballets, partnering such famous ballerinas as Ludmilla Tcherina, Zizi Jeanmarie, and Colette Marchand. He made many appearances on television and film, and starred in "Geraldine" with Geraldine Chaplin.

In 1960, Vassili was named the principal dancer at the Lido de Paris, and he began his choreographic career with "Suite Lyrique," "The Wall," and "Oedipe-Roi" with Jean Cocteau and composer Maurice Thiriet. In 1964, he came to New York as a principal dancer with "Folies Bergere" on Broadway and to study with Martha Graham.

That same year, he was offered a three-month contract by the producer of the "Folies Bergere" at the Tropicana Hotel in Las Vegas. It turned out to be a collaboration that lasted nine years. He was also named as ballet master, rehearsing and employing replacements for dancers and showgirls. The management of the Tropicana was always available to help, and even recreated a studio atmosphere in the theatre for ballet instruction in the afternoons and between shows.

After several years in Las Vegas, Sulich missed the beauty and focus of classical ballet, and he approached the University of Nevada, Las Vegas, offering to teach classical dance. That same year, he organized his first "Dance Concert" in the UNLV Judy Bayley Theatre, choreographing three ballets for 26 voluntary dancers from shows on the Las Vegas Strip. The program received such enthusiastic acclaim that in May of 1973, he presented a second Dance Concert. The projects were labors of love: no one was paid, the dancers furnished their own costumes, and the university provided technical support.

In 1974, a board of directors was formed, and the Nevada Dance Theatre came into existence, with Vassili Sulich at the helms as Artistic Director. Within a few years, the Nevada Dance Theatre was home to 23 professional dancers, providing classical ballet at home and touring the United States to critical acclaim. The Company was even recognized by Dance Magazine as one of the 10 best regional ballet companies in America.

Since founding the Nevada Dance Theatre, Sulich has choreographed fifty-one ballets, ranging from classical to contemporary to dramatic works with wide audience appeal. One of his works, "Mantodea," received international acclaim in Bulgaria and Russia and was filmed for Belgrade television. He has staged "Mantodea" for ballet companies in Canada, New Zealand, Singapore, Hong Kong, Hungary, and the United States. And just this year, he was again commissioned to stage the ballet in Brazil.

After twenty-five years, Vassili Sulich retired from the Nevada Dance Theatre, but he has not retired from cultural service. He was instrumental in the forming of the Las Vegas Philharmonic, and he has recently penned an autobiography, "Vision in the Desert: A Dancer's Life."

I am proud to take this opportunity to congratulate Vassili Sulich for a lifetime of artistic achievement. He is indeed a cultural treasure and an ambassador for the arts in Nevada, our nation and the world.

EXPLANATION OF ABSENCE

Mr. LIEBERMAN. Mr. President, I inform the Senate that due to the funeral in New Haven, Connecticut of a long-time Connecticut aide and close friend, I was unable to be present for the votes scheduled on December 5, 2001.

James "Jimmy" O'Connell passed away on Saturday at the age 53. Jimmy, a former New Haven police officer, was like a brother to me. We worked together for over 30 years. I enjoyed his extraordinary intelligence, his warm wit and his wonderful loyalty. I will miss him dearly and believe it was only fitting for me to attend his funeral in New Haven.

Had I been present, I would have voted as set forth below. On none of the votes would my vote have affected the outcome.

On the motion to waive the Budget Act with regard to Daschle amendment No. 2170, I would have voted in favor. On the final passage of H.R. 10, I would have voted in favor of the bill. On cloture on the motion to proceed to S.

1731, I would have voted in favor of cloture.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred November 11, 2001 in Milwaukee, WI. A lesbian woman, Juana Vega, was brutally assaulted and shot five times at point-blank range. Pablo Parrilla, the brother of Vega's then-girlfriend, has been arrested in connection with Vega's murder. Mr. Parilla objected to his sister's relationship with Vega, and reportedly threatened to kill Vega for "turning his sister gay."

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

HOLD ON NOMINATION

Mr. GRASSLEY. Mr. President, I have placed a "hold" on the nomination of General Claude Bolton, Jr. for the position of Assistant Secretary of the Army for Research, Development, Acquisition, and Technology as questions asked by the Iowa/Illinois Senate delegation remain unanswered.

MILITARY BUILD-UP IN BURMA

Mr. MCCONNELL. Mr. President, the Senate Appropriations Committee yesterday marked-up H.R. 3338, the FY 2002 Department of Defense Appropriations Bill. I authored language in the report accompanying that bill requiring the Pentagon to report to Congress on Thailand's defense needs in the wake of Burma's recent purchase of 10 MiG-29 fighter aircraft from Russia. I did so because of my grave concerns with regional security and stability—and with the welfare of the people of Burma who endure hardships and indignities under the oppressive misrule of the State Peace and Development Council (SPDC). In terms of oppressive regimes, the SPDC ranks right up there with the Taliban.

My colleagues should take note of the November 28 edition of Jane's Defence Weekly which states that Burma has "significantly expanded the country's military strength while most other [countries] in the region are pursuing force reductions . . . military modernization since 1988 has been heavily tied to China as the principal source of equipment—variously valued at between $1 billion and $2 billion. [The purchase of the MiGs from Russia] following up its 1996 purchase of Mi-17 helicopters, suggests that a new dimension could dominate the next phase of development . . . [the SPDC] has stated publicly that armed forces strength has been targeted to expand by a further 25 percent, to 500,000."

Lest my colleagues fail to understand what is happening in Rangoon today, let me sketch a quick outline:

The legitimately elected leader of Burma—Daw Aung San Suu Kyi of the National League for Democracy (NLD)—continues to be under house arrest in Rangoon, with up to 1,800 political prisoners languishing in Burmese prisons. While SPDC thugs and Suu Kyi are engaged in "talks", the junta is building up its military strength and purchasing billions of dollars of military hardware from Russia and China. To say that the defense build-up sends conflicting messages to the NLD and the world is a gross understatement.

Meanwhile, the people of Burma suffer from neglect and abuse at the hands of the SPDC who attached absolutely no importance to the welfare of Burmese citizens. None. And to make matters worse, Japan appears to be rewarding the SPDC by providing a grant aid to Burma for the repair of the Baluchaung Hydroelectric Power Plant in Karenni State. The Japanese government must understand that such assistance is not only premature, it is also misguided. Money is certainly the language of the thugs and thieves in Burma, but it cannot buy peace and stability in that mafia state.

I encourage my colleagues to read Fred Hiatt's excellent op-ed in Monday's edition of the Washington Post, and ask that it appear in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 3, 2001]

EYES WIDE OPEN

(By Fred Hiatt)

One inevitable reaction, as we hear now of the depredations of the Taliban regime, is: Where were we all while this was going on?

Oh, some feminists and human rights activists tried to call our attention to Afghanistan's gender apartheid. Journalists, including The Post's Pam Constable, reported from Kabul. We took note briefly when religious minorities were ordered to wear identifying marks and when those ancient statues were destroyed.

But for most of us, the recent revelations of Taliban brutality—of forced conscription, point-blank murder, scorched-earth destruction and merciless impoverishment of widows and children—have been just that, revelations. As the Bush administration rails righteously against a regime it barely seemed to notice before Sept. 11, we have to ask: Where were they—where were we—these five long years? How could we have let it happen?

One way to answer the question is to look at places where it is happening still.

This week past Nobel Peace Prize winners will gather in Oslo to honor one missing laureate Aung San Suu Kyi, the rightful leader of the Southeast Asian nation of Burma, wasn't allowed to pick up her prize in 1991, and a decade later she remains under house arrest and cut off from the world. Her countrymen—some 48 million of them, more or less double Afghanistan's population—are preyed upon by their leaders much as Afghans were by theirs.

The facts are depressingly familiar to the relatively few who follow events in Burma (renamed Myanmar by the junta). A promising, resource-rich nation with a well-educated and peaceable population has been ground gradually toward poverty and ignorance by a succession of malevolent and misguided rulers.

In 1990 the ruling junta, apparently deluded about its popularity, as dictators frequently are, staged elections. The National League for Democracy, led by Aung San Suu Kyi, won four out of every five parliamentary seats, even though she was already under house arrest. Instead of letting the parliament meet, the generals put many of the winners in jail, where some remain to this day.

Among juntas, Burma's is particularly famous for its use of forced unpaid labor. As many as 1 million Burmese, by the estimate of the International Confederation of Free Trade Unions, have been press-ganged into building roads, railroads and military installations. Many of the conscripted are children. Many are forced to act as porters for the army, often in dangerous circumstances.

The generals, fearing the people they rule, maintain an army of 400,000. They have shuttered the country's universities for most of the past decade. People are jailed for possession of unlicensed fax machines. Media are controlled by the state. Some 1,500 people are in prison for political crimes, mostly for having sought to peacefully express opinions of which the regime did not approve. In a country where one in three children is malnourished, the generals recently agreed to buy from Russia a dozen advanced MiG-29 fighter jets.

The combined effect of repression and the military's incompetence is ever-worsening poverty. In the past year, the local currency has lost half its value. The only export on an upward curve is heroin. Vast acreages of rain forest have been destroyed to feed the generals' corruption. Just in the past two months, the BBC recently reported, food prices have doubled, and power outages have become routine. HIV-AIDS is spreading fast.

Despite democracy's advances around the world in recent years, the Burmese assuredly are not the only people still enchained. North Koreans, Chinese, Belarusians, Iraqis, Cubans—all are denied their freedoms, yet none is about to be liberated by U.S. bombing. There's a limit to what we can do, and what we should do.

Yet in all of those places the United States can and should press for freedom. In Burma, economic sanctions are beginning to have some effect. Concerned about their image and the economy, the generals have released some 200 political prisoners and at least entertained the efforts of a U.N. envoy, now on his sixth trip to the nation. If other countries remain steadfast in supporting Aung San Suu Kyi—refusing to provide aid, for example, except in consultation with her—there's some hope for more progress.

Burma, after all, would require no nation-building, no Bonn conferences, no search for a viable opposition. A qualified and democratically elected leader waits quietly in her lakefront Rangoon house, still committed after a decade to human rights and nonviolent change. When she finally moves to the prime minister's office that belongs to her, and the Burmese people cheer their liberation as many Afghans have been cheering theirs, it would be nice if we could say at least: We're not surprised. We knew that terrible things were happening. We were with you all along.

ANDEAN TRADE PREFERENCE ACT

Mr. McCAIN. Mr. President, the Andean Trade Preference Act (ATPA) expired yesterday. Signed into law in 1991 by the former President Bush, this Act established a unique approach to combating the War on Drugs in Latin America. Rather than assisting Bolivia, Colombia, Ecuador, and Peru solely through military assistance or direct financial aid, the supporters of ATPA sought to reduce drug trafficking through economic expansion. It was believed that increased trade would promote healthy economies, diversify export bases, and create jobs outside of the drug trade. Unlike other forms of aid, the expansion of free trade benefits everyone. American consumers benefit from a wider variety of lower-priced goods, while the citizens of Andean nations benefit from the creation of legitimate jobs outside of the drug trade.

Since the enactment of ATPA, positive changes have occurred within the region. Two-way trade between the United States and the Andean nations has doubled. Bolivia succeeded in eradicating 95% of its coca plantations. Recently, Peru experienced a peaceful democratic transition from autocratic rule. In Colombia alone, ATPA helped to create over 140,000 new jobs. Today, farmers in the region are choosing to plant coffee beans, asparagus, and flowers instead of coca. With the expiration of ATPA, these successes are now in jeopardy.

While our nation remains engaged in a battle against terrorism, we must not lose sight of the critical security risks that remain not far beyond our borders. The Andean region is not only the world's primary source of coca, it is also a haven for terrorism and terrorist groups that thrive on funding derived from the drug trade. I am a staunch supporter of our war efforts, but I am also fearful of the consequences of neglecting this troubled region within our own hemisphere.

We are now at a critical juncture. Failing to extend ATPA sends a message to terrorist groups, drug traffickers, and counter-revolutionaries, that the United States is no longer committed to the region, and this inaction could impact our national security. Terrorism lurks in abandoned and hopeless regions, where good people resort to such measures out of desperation. As our nation's attention focuses on the war effort, we must not allow ourselves to neglect regions that still need our support and attention.

In March, Senator GRAHAM introduced S. 525, the Andean Trade Preference Expansion Act, of which I am a proud co-sponsor. That bill would expand and extend the current act, with the hope of furthering economic development and stability in the region. Unfortunately, that bill has yet to be debated on the Senate floor. While the Senate remains mired in partisan squabbling, the House of Representatives successfully passed a good bill on November 16 to extend and to expand ATPA. The expiration of ATPA should be a concern of all of us. I hope that the Majority leader will expeditiously move to schedule floor time for the consideration of an expansion of this important legislation before the fragile economies of the Andean region are left to falter.

EXECUTIVE SESSION

INTERNATIONAL CONVENTION FOR SUPPRESSION OF FINANCING TERRORISM

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed in Executive Session to the consideration of Executive Calendar No. 2, International Convention for Suppression of Financing Terrorism; that the treaty be considered as having advanced to its parliamentary status up to and including the presentation of resolution of ratification, and that the reservation, understandings, and conditions be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution of ratification is as follows:

INTERNATIONAL CONVENTION FOR SUPPRESSION OF FINANCING TERRORISM (TREATY DOC. 106-49)

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. ADVICE AND CONSENT TO RATIFICATION OF THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM, SUBJECT TO A RESERVATION, UNDERSTANDINGS, AND CONDITIONS.

The Senate advises and consents to the ratification of the International Convention for the Suppression of the Financing of Terrorism, adopted by the United Nations General Assembly on December 9, 1999, and signed on behalf of the United States of America on January 10, 2000 (Treaty Document 106-49; in this resolution referred to as the "Convention"), subject to the reservation in section 2, the understandings in section 3, and the conditions in section 4.

SEC. 2. RESERVATION.

The advice and consent of the Senate under section 1 is subject to the reservation, which shall be included in the United States instrument of ratification of the Convention, that

(a) pursuant to Article 24(2) of the Convention, the United States of America declares that it does not consider itself bound by Article 24(1) of the Convention; and

(b) the United States of America reserves the right specifically to agree in a particular case to follow the arbitration procedure set forth in Article 24(1) of the Convention or any other procedure for arbitration.

SEC. 3. UNDERSTANDINGS.

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the United States instrument of ratification of the Convention:

(1) EXCLUSION OF LEGITIMATE ACTIVITIES AGAINST LAWFUL TARGETS.—The United States of America understands that nothing in the Convention precludes any State Party to the Convention from conducting any legitimate activity against any lawful target in accordance with the law of armed conflict.

(2) MEANING OF THE TERM "ARMED CONFLICT".—The United States of America understands that the term "armed conflict" in Article 2(1)(b) of the Convention does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.

SEC. 4. CONDITIONS.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) TREATY INTERPRETATION.—The Senate reaffirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31, 1996), approved by the Senate on May 14, 1997 (relating to condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988).

(2) PROHIBITION ON EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT.—The United States shall not transfer any person, or consent to the transfer of any person extradited by the United States, to the International Criminal Court established by the Statute adopted in Rome, Italy, on July 17, 1998 unless the Rome Statute has entered into force for the United States, by and with the advice and consent of the Senate, as required by Article II, Section 2, Clause 2 of the United States Constitution.

(3) SUPREMACY OF THE CONSTITUTION.—Nothing in the Convention requires or authorizes the enactment of legislation or the taking of any other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

Mr. REID. Mr. President, I ask for a division vote.

The PRESIDING OFFICER. A division is requested.

Senators in favor of the resolution of ratification will rise and stand until counted.

Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. REID. Mr. President, in that division vote, did the Chair call those opposed to the ratification? I failed to hear that. Will the Chair do that again, please.

The PRESIDING OFFICER. A division is requested.

Senators in favor of the resolution of ratification will rise and stand until counted.

Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting, having voted in the affirmative, the resolution of ratification is agreed to.

INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF TERRORIST BOMBINGS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Executive Calendar No. 3, the International Convention for the Suppression of Terrorist Bombings; that the treaty be considered as having advanced through its parliamentary stages up to and including the presentation of the resolution of ratification and that the reservation, understandings and conditions be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution of ratification is as follows:

INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF TERRORIST BOMBINGS (TREATY DOC. 106–6)

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. ADVICE AND CONSENT TO RATIFICATION OF THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF TERRORIST BOMBINGS, SUBJECT TO A RESERVATION, UNDERSTANDINGS, AND CONDITIONS.

The Senate advises and consents to the ratification of the International Convention for the Suppression of Terrorist Bombings, adopted by the United Nations General Assembly on December 15, 1997, and signed on behalf of the United States of America on January 12, 1998 (Treaty Document 106–6; in this resolution referred to as the "Convention"), subject to the reservation in section 2, the understandings in section 3, and the conditions in section 4.

SEC. 2. RESERVATION.

The advice and consent of the Senate under section 1 is subject to the reservation, which shall be included in the United States instrument of ratification of the Convention, that:

(a) pursuant to Article 20(2) of the Convention, the United States of America declares that it does not consider itself bound by Article 20(1) of the Convention; and

(b) the United States of America reserves the right specifically to agree in a particular case to follow the procedure in Article 20(1) of the Convention or any other procedure for arbitration.

SEC. 3. UNDERSTANDINGS.

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the United States instrument of ratification of the Convention:

(1) EXCLUSION FROM COVERAGE OF TERM "ARMED CONFLICT".—The United States of America understands that the term "armed conflict" in Article 19(2) of the Convention does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.

(2) MEANING OF TERM "INTERNATIONAL HUMANITARIAN LAW".—The United States of America understands that the term "international humanitarian law" in Article 19 of the Convention has the same substantive meaning as the law of war.

(3) EXCLUSION FROM COVERAGE OF ACTIVITIES BY MILITARY FORCES.—The United States understands that, under Article 19 and Article 1(4), the Convention does not apply to—

(A) the military forces of a state in the exercise of their official duties;

(B) civilians who direct or organize the official activities of military forces of a state; or

(C) civilians acting in support of the official activities of the military forces of a state, if the civilians are under the formal command, control, and responsibility of those forces.

SEC. 4. CONDITIONS.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) TREATY INTERPRETATION.—The Senate re-affirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31, 1996), approved by the Senate on May 14, 1997 (relating to condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988).

(2) PROHIBITION ON EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT.—The United States shall not transfer any person, or consent to the transfer of any person extradited by the United States, to the International Criminal Court established by the Statute adopted in Rome, Italy, on July 17, 1998, unless the Rome Statute has entered into force for the United States, by and with the advice and consent of the Senate, as required by Article II, Section 2, Clause 2 of the United States Constitution.

(3) SUPREMACY OF THE CONSTITUTION.—Nothing in the Convention requires or authorizes the enactment of legislation or the taking of any other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

Mr. REID. Mr. President, I ask for a division vote.

The PRESIDING OFFICER. A division is requested.

Senators in favor of the resolution of ratification will rise and stand until counted.

Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting, having voted in the affirmative, the resolution of ratification is agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the motions to reconsider be laid upon the table, that any statements thereon be printed in the RECORD, that the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I am pleased to present to the Senate two multilateral conventions, negotiated within the UN system, to combat two specific aspects of international terrorism. The treaties, the International Convention for the Suppression of Terrorist Bombings, and the International Convention for the Suppression of the Financing of Terrorism, will provide important tools to the President in the global campaign against terrorism.

The two treaties are similar in approach: they require parties to criminalize the proscribed behavor—engaging in international terrorist bombings and fund raising for international terrorism—and to either extradite an alleged offender to another nation that has jurisdiction to prosecute or to submit the case for prosecution.

The conventions have received increasing support from the nations of the world. In the last several weeks, many nations have signed or ratified the treaties. For example, when the Committee on Foreign Relations held a hearing on the treaties in late October, 58 countries had signed the International Convention for the Suppression of the Financing of Terrorism, but just four had become parties to it. As of today, according to the web page of the United Nations, 125 countries have signed the Convention, and 15 have become party to it. It will enter into force when 22 nations become party to it, so the Senate's action today will be an important step in helping bring the Convention closer to entry into force.

I applaud and support the global campaign against terrorism that President Bush has waged to date. If we have learned anything about foreign policy since September 11, it is the global leadership and multilateral cooperation are essential to combating the terrorist networks. If we want to use air power in Afghanistan, we need over-flight rights from countries around the region. If we want Al-Qaeda cells to be investigated and arrested, we need our foreign partners to join us in the effort. If we want bank accounts of Osama bin Laden and his cohorts frozen, we need the assistance of foreign governments and foreign bankers. In short, we cannot wage this campaign by ourselves.

I am pleased that the administration strongly supports these conventions. They will provide additional weapons in the terrorism campaign. They set international standards—which we will expect foreign nations to embrace and enforce. The International Convention on the Suppression of the Financing of Terrorism will be of particular importance in our continuing effort to squeeze the financial lifeblood out of the international terrorism networks.

Despite this support for multilateral approaches, I find puzzling the Administration's failure to seize the initiative in other contexts, especially at this time when so many countries are lining up on our side in the present conflict. The vicissitudes of the war on terrorism also present opportunities to the United States, if only we will seize them.

For example, we all know that rogue states and terrorists are trying to obtain biological weapons. In response to this challenge, the Administration—which earlier scuttled a draft compliance protocol to the Biological Weapons Convention—proposes that countries enact national legislation criminalizng violations of the BWC, improve bilateral extradition agreements, and adopt strict standards for access to dangerous pathogens. But as recently as earlier this week, at the BWC Review Conference held every five years, the U.S. delegation was resisting the idea of a protocol calling on countries to take those actions. It is a mystery to me why the Administration cannot see the virtue of global adherence to a set of standards in the fight to prevent biological terrorism.

Mr. President, the Committee on Foreign Relations recommended, by a unanimous voice vote, that the Senate advise and consent to the two treaties now before the body. I am pleased that my colleagues have given their strong support to these conventions.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MAKING FURTHER CONTINUING APPROPRIATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to H.J. Res. 76, the continuing resolution, just received from the House and now at the desk.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

> A joint resolution (H.J. Res. 76) making further continuing appropriations for the fiscal year 2002, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Mr. President, I ask unanimous consent that the joint resolution be read three times, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 76) was read the third time and passed.

EXPRESSING SOLIDARITY WITH ISRAEL IN THE FIGHT AGAINST TERRORISM

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 88, introduced earlier today by Senators BIDEN and HELMS.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 88) expressing solidarity with Israel in the fight against terrorism.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 88) was agreed to.

The preamble was agreed to.

(The text of the concurrent resolution, with its preamble, is printed in today's RECORD under "Statements on Submitted Resolutions.")

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 96–114, as amended, announces the appointment of Kevin B. Lefton, of Virginia, to the Congressional Award Board.

MEASURE READ THE FIRST TIME—S. 1766

Mr. REID. Mr. President, I understand S. 1766, introduced earlier today by Senators DASCHLE and BINGAMAN, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

> A bill (S. 1766) to provide for the energy security of the Nation, and for other purposes.

Mr. REID. Mr. President, I now ask for its second reading and object to my own request on behalf of the minority.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

THE DEMOCRATIC ENERGY BILL

Mr. DASCHLE. Mr. President, after months of hard work by the chairman of nine committees, we are today introducing legislation to establish a national energy policy. The bill we are introducing provides a blueprint for solving many of the nation's energy problems, and will provide the American people with clean, reliable, and affordable energy for generations to come.

This bill recognizes that the use of energy has profound consequences for economic health, environmental quality and national security. The energy policy we choose to adopt will have long-lasting consequences in each of these areas.

Today, we have an opportunity to dramatically reshape America's energy future, and it is an opportunity we cannot afford to lose.

The strength of our economy depends, in large measure, in the abundant and inexpensive supply of energy.

The periodic price shocks experienced by American drivers since the mid-1970s underscores the vulnerability associated with our growing dependence on foreign oil. At the same time, the rolling blackouts experienced by California last summer serves as a cautionary tale of the failure to guarantee reliable and abundant supplies of electricity.

One of the greatest environmental challenges that our nation—and the world—will face in the coming years is the rising tide of global climate change. The way we generate and use energy in the future will determine whether we effectively face this challenge and prevent the catastrophic impacts of global warming, and whether we can make the air we breathe cleaner and more healthy.

And finally, the success of our foreign policy and the security of our nation are inextricably linked to our future patterns of energy use.

In the last 12 years we have spent billions of dollars fighting two wars in the Middle East, both of which involved oil. When Iraq invaded Kuwait it endangered the oil fields that supplied a significant percentage of the world's energy. The U.S., in cooperation with much of the rest of the world, was forced to respond to that threat.

More recently, we have learned that much of Osama bin Laden's financial support came from supporters made rich by the oil-based economy of the Middle-East.

It is long past time when we take whatever steps we can toward freeing ourselves from our dependence on foreign oil, and the volatility associated with it.

The bill we are introducing today is intended to address these challenges by pursuing a thoughtful, progressive, and realistic energy policies.

I thank Chairman BINGAMAN for the job he has done in working with nine committees to produce this bill. In addition to his Energy and Natural Resources Committee, he also coordinated with: the Environment and Public Works Committee; the Commerce Committee; the Banking Committee; the Indian Affairs Committee; the Foreign Relations Committee; the Governmental Affairs Committee; the Agriculture Committee; and the Finance Committee.

The events of September 11 have dictated that committees which have jurisdiction over key elements of energy policy deal with the issues that demand our immediate attention. Those committees are now turning to their energy-related work, and will have their provisions complete prior to floor debate.

For Example, the Commerce Committee has worked tirelessly to address aviation security and now is turning its attention to fuel economy. It will develop provisions designed to improve fuel efficiency of vehicles over the next 2 months and add them to this package.

The Finance Committee, which has spent so much time working on the economic stimulus legislation, will develop and add an energy tax component designed to spur investment in new, efficient energy technologies.

And the Environment and Public Works Committee will add provisions related to the protection and insurance of commercial nuclear facilities.

While those elements will continue to fall into place, the pieces of the bill already in place outline a balanced energy plan that will strengthen our economy, protect our environment, and provide energy security for our nation for decades to come.

The bill Senator BINGAMAN and I are introducing today includes provisions promoting renewable energy, clean coal use, oil and gas exploration, as well as greater efforts to improve the efficiency with which we use that energy. It will create hundreds of thousands of new jobs, while reducing our dependence on foreign oil.

Under our legislation, the federal government will lead by exemple—reducing consumption of energy by 20 percent by 2011 and purchasing 7.5 percent of its energy from renewable sources by 2010.

Our proposal requires utilities to generate and sell 10 percent of their electricity from renewable energy sources by 2020. It requires that five billion gallons per year of renewable fuels, such as ethanol and biodiesel, must be used in the nation's transportation fuels marked by 2012.

We increase funding for LIHEAP and state energy weatherization grants.

Our bill establishes permanent authority for the President to operate the Strategic Petroleum Reserves and request that it be filled. The bill overturns the air conditioner efficiency standard recently adopted by DOE and replaces it with a more aggressive standard.

We authorize up to $10 billion in loan guarantees to encourage timely development of a pipeline to bring 35 trillion cubic feet of natural gas from Alaska to the lower 48 states. Construction of this pipeline is expected to generate 400,000 new jobs.

To keep our nation moving forward, our plan authorizes billions of dollars of additional funding for research and development of energy-efficient and renewable energy technologies, and more efficient use of fossil fuels.

By reducing emissions of carbon dioxide, our bill is designed to help restore American's tattered credibility with the international community on the issue of climate change.

This bill includes climate change provisions developed by the Committees on Energy, Environment, Agriculture, Governmental Affairs, Foreign Relations and Commerce.

I am pleased that Senator BINGAMAN has included the Byrd-Stevens climate change legislation. This is a bipartisan and voluntary proposal that was passed unanimously by the Government Affairs Committee earlier this year.

It requires the establishment of comprehensive national plan, including a renewed commitment to develop the next generation energy technologies. We have complemented the Byrd-Stevens proposal with other climate change proposals from members on both sides of the aisle.

I know many of my colleagues are eager to debate our energy policy, and I look forward to giving this issue the substantive debate it deserves shortly after the new year.

I look forward to working with the White House, Senate Republicans, and our colleagues in the House to shape a national energy policy that can be signed into law.

ORDERS FOR THURSDAY, DECEMBER 6, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10:30 a.m. on Thursday, December 6; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. For the information of all Senators, we expect to go into executive session at approximately 11 a.m. tomorrow to consider executive nominations, with as many as three rollcall votes on judicial nominations. This will be prior to consideration of the Defense appropriations bill which will begin at or about noon tomorrow.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order. I appreciate the patience of the Presiding Officer.

There being no objection, the Senate, at 8:05 p.m., adjourned until Thursday, December 6, 2001, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 5, 2001:

DEPARTMENT OF THE TREASURY

RANDAL QUARLES, OF UTAH, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY, VICE EDWIN M. TRUMAN, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL DONNA F. BARBISCH, 2133
BRIGADIER GENERAL JAMIE S. BARKIN, 3376
BRIGADIER GENERAL ROBERT W. CHESNUT, 6270
BRIGADIER GENERAL RICHARD S. COLT, 4147
BRIGADIER GENERAL LOWELL C. DETAMORE, 9811
BRIGADIER GENERAL DOUGLAS O. DOLLAR, 9730
BRIGADIER GENERAL KENNETH D. HERBST, 3103
BRIGADIER GENERAL KAROL A. KENNEDY, 8598
BRIGADIER GENERAL RODNEY M. KOBAYASHI, 6985
BRIGADIER GENERAL ROBERT B. OSTENBERG, 8948
BRIGADIER GENERAL MICHAEL W. SYMANSKI, 1020
BRIGADIER GENERAL WILLIAM B. WATSON JR., 6859

To be brigadier general

COLONEL JAMES E. ARCHER, 6923
COLONEL THOMAS M. BRYSON, 0324
COLONEL PETER S. COOKE, 6590
COLONEL DONNA L. DACIER, 9272
COLONEL CHARLES H. DAVIDSON IV, 6837
COLONEL MICHAEL R. EYRE, 9396
COLONEL DONALD L. JACKA JR., 5508
COLONEL WILLIAM H. JOHNSON, 4212
COLONEL ROBERT J. KASULKE, 2949
COLONEL JACK L. KILLEN JR., 2073
COLONEL JOHN C. LEVASSEUR, 8050
COLONEL JAMES A. MOBLEY, 1285
COLONEL MARK A. MONTJAR, 7878
COLONEL CARRIE L. NERO, 7719
COLONEL ARTHUR C. NUTTALL, 6098
COLONEL PAULETTE M. RISHER, 2429
COLONEL KENNETH B. ROSS, 1462
COLONEL WILLIAM TERPELUK, 6129
COLONEL MICHAEL H. WALTER, 6525
COLONEL ROGER L. WARD, 4572
COLONEL DAVID ZALIS, 6482
COLONEL BRUCE E. ZUKAUSKAS, 7754

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

ROBERT W. SIEGERT, 4328

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN THE VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be colonel

CATHERINE M. BANFIELD, 7798
MICHELLE C. ROSS, 1313
JAMES R. SWEARENGEN, 9667
CLIFFORD L. WALKER, 7125
JACK M. WEDAM, 4620

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN THE MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be colonel

MARY CARSTENSEN, 3395
LAURA H. KOSTNER, 1403
MARY S. LOPEZ, 4697
DEBORAH M. STETTS, 9464
WILLIAM L. TOZIER, 2665

CONFIRMATION

Executive nomination confirmed by the Senate December 5, 2001:

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN P. WALTERS, OF MICHIGAN, TO BE DIRECTOR OF NATIONAL DRUG CONTROL POLICY.

HOUSE OF REPRESENTATIVES—*Wednesday, December 5, 2001*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. GILLMOR).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 5, 2001.

I hereby appoint the Honorable PAUL E. GILLMOR to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, we seek Your blessing upon all Members of the House of Representatives and the people of this Nation.

Once Abram responded to Your call of faith he was given Your promise: "I will make you into a great nation. I will bless you and make your name so great that it shall be used in blessings."

You fulfilled Your promise to our father in faith even as now You fulfill Your promise in us and in our time. Ever since the founding of this Nation in faith, You have blessed this land and its people. As in the past, so now and forever, we seek Your blessing and hope that these United States will be the Nation You design; the place where Your promise is fulfilled.

In turbulent times, Lord, do not allow us to lose our primal focus: It is You who will make us into a great Nation.

In present circumstances of war and economics, let us not simply react as if we alone counted, but guide us to wisely respond as a great Nation. By Your blessing upon us and our daily work, make us a great people called to do noble deeds and truly be a blessing upon the world both now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

AMERICA NEEDS STIMULUS BILL

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, how low will the Democratic Party go? I read in USA Today that the gentlewoman from New York (Mrs. LOWEY), the chairman of the DCCC, was planning on running ads blaming President Bush for the recession, calling it his recession. Well, for those Americans who are out of work and unemployed, it is a personal recession; and I take great umbrage at the gentlewoman for running ads at a time when we are in a national crisis fighting an evil enemy in Afghanistan and would make this a political opportunity to attack our Commander in Chief. It is regrettable, it is shameful, and it is out of bounds.

Mr. Speaker, Members should cease these kind of play games and start working. On the other side of this building, the Senate dawdles, fails to address a stimulus bill because the majority leader wants to run for President of the United States. If he was President now, we would have real problems because he cannot make a basic decision. I urge my colleagues to insist that the Senate pass a stimulus bill so we can repair the economy and move forward, and say to the Democrats and the DCCC, take your ads and shove them.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded not to criticize the Senate in their remarks.

CONGRATULATIONS TO THE UNIVERSITY OF TENNESSEE

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, President Bush has said let us get back to normal as much as we possibly can. We had a football game, the gentleman from Tennessee (Mr. DUNCAN) and I know, that happened in Florida between the University of Tennessee and Florida, and we had not beaten Florida in 30 years in Florida, in Gainesville, but we won that battle.

Mr. Speaker, we were an 18-point underdog, but we did very well and now are playing for the SEC championship, and I want to congratulate the University of Tennessee, my alma mater. I am a former college president at Cumberland University, and I want my colleagues to know that we hold the distinction at Cumberland of being defeated worse in football than any other school in America: Cumberland 0, Georgia Tech 222.

If Members want to know more about that game, there is a book written about that game, "You Dropped It, You Pick It Up." One of the Cumberland players dropped the ball during the game. The Cumberland player said, "Pick it up, pick it up." Another Cumberland player said, "You dropped it, you pick it up."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The previous speaker and all Members are reminded to observe proper decorum in the House during 1-minute speeches.

MILITARY TRIBUNALS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, much debate has occurred recently on President Bush's decision to utilize military tribunals to hold all terrorists responsible for their actions. I come to the floor to state my whole-hearted support for his decision. Let us get one thing straight. Terrorists do not, by definition, conduct themselves as lawful combatants. They began this war with us; and, consequently, they should be treated as war criminals if captured.

Mr. Speaker, I strongly disagree with the arguments of the other side that say using military tribunals would not ensure a fair trial. To the contrary, it allows for an appeals process through all levels of the military courts and ultimately to the United States Supreme Court.

I remind my colleagues that President Bush's decision to use military tribunals as a means of bringing terrorists to justice has historical precedence dating back to Presidents Franklin

Roosevelt, Abraham Lincoln, and even George Washington.

Mr. Speaker, terrorists are not abiding by the rules of a civil society. They should be held accountable for their actions as war criminals.

AMERICA'S STEEL INDUSTRY IS DYING

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Congress has bailed out everybody, airlines, insurance companies, even car makers. Chrysler is now owned by Germans. Bailout for almost everyone except America's steel industry, which is dying. Since 1998, 25 American steel companies have filed for bankruptcy, with thousands and thousands of unemployed steelworkers losing their benefits, losing their health care, losing their families, losing their homes. Unbelievable. Meanwhile, Daimler Chrysler is now lighting up cigars. Beam me up.

Mr. Speaker, I yield back the fact that America cannot build smart bombs with Styrofoam; and we had better take a look at our domestic ability to produce steel for our national defense.

CLONING BAN MUST BE PASSED BY SENATE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, Congress' job is to represent the people. That does not mean that we should be a rubber stamp for every poll that is taken. The American people expect us to exercise our judgment; and, in fact, that is our constitutional duty. But when the Gallup organization tells us that 88 percent of the American people oppose cloning, it is pretty hard to deny the will of this country.

Mr. Speaker, creating human life through cloning is unethical, and it is bad science. Creating human life with the intent to kill it in experiments is even worse. Yet that is the justification we are hearing. The scientists that are cloning human beings say that it is okay as long as they kill them off before they reach maturity. That is sick. It is time to demonstrate that at least we can still tell right from wrong.

Mr. Speaker, the House has already passed a ban on human cloning. The other body needs to act immediately. There is no time to wait.

HOMELAND SECURITY NEEDS TO BE STRENGTHENED

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CHRISTENSEN. Mr. Speaker, the war that our country is waging in response to the attacks of September 11 and to eliminate the terrorists who are responsible for it is, without question, necessary and important. But so are our homeland security needs.

The U.S. Customs Service, Immigration and Naturalization Service, the Coast Guard and regional defense forces need more staff, assets and funding. Our public health infrastructure, which will be our frontline biological and chemical defense, is full of holes and needs to be strengthened, especially in poor communities.

Our children, who must be prepared to carry out the long-term security mission, are being undereducated in rundown schools and need a major investment of our time and capital.

The biggest obstacles to meeting our obligations for security for our communities, including access to quality health care and a sound education for our children, is the tax cut. The insistence that we move forward and, worse, move it up at this time is putting our country and every citizen at risk.

Mr. Speaker, we need to roll back the tax cut so that we can properly prepare this country to meet our critical health, education and security needs.

PASS TRADE PROMOTION AUTHORITY

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, more than 95 percent of the world's population lives outside of the United States. For most American businesses this means that, in order to remain competitive, they must be allowed to market their goods and services across borders. This is particularly true for small business. There are more than 25 million small businesses in America, and they employ more than half the country's private workforce. Small businesses create three out of four new jobs and account for half of the America's annual economic production. Undoubtedly, small businesses are vital to the United States, and trade in turn is vital to them.

Mr. Speaker, nearly 97 percent of U.S. merchandise exporters are small- and medium-sized businesses. Companies with less than 20 employees account for more than two-thirds of all U.S. exporting firms. Further, the number of American small businesses that export grew by more than 200 percent between 1987 and 1997.

The United States is the single most competitive nation in the world. Tomorrow, Congress will have an opportunity to enable America's small businesses to prove their global competitiveness. We must pass Trade Promotion Authority and allow our small businesses to compete.

PASS TRADE PROMOTION AUTHORITY

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I, too, rise in strong support of the bipartisan Trade Promotion Authority that this House will take up tomorrow. Just like a labor union designates one person to negotiate its contract with management, America needs one voice empowered to put our interest first at the world trade negotiating table.

As my colleague from Georgia just expressed so well, Trade Promotion Authority is in the interest of small business. Ninety percent of exports come from companies with less than 500 employees. For every $1 billion in increased exports, we create 20,000 new jobs that pay an average of 17 percent more than the domestic economy.

Mr. Speaker, the only question for my colleagues is simply this: Do Members trust this President to put America's interests first at the trade negotiating table? I say proudly, along with some 80 percent of the American people, I trust this President. President Bush deserves a vote of confidence from this House. He deserves Trade Promotion Authority, and I urge a "yes" vote tomorrow.

□ 1015

DECREASING DELAY AND INCREASING SECURITY AT AIRPORTS

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, I rise today to commend the National Air Transportation Association and its leader, James K. Coyne, for coming up with an innovative Sky ID program. This plan would identify frequent flyers on commercial and general aviation planes and aviation personnel who could be classified as trusted travelers. They would have to undergo an intensive background check to be included in this program, but it would be completely voluntary, and people would be free to choose whether to participate or not. Their carry-on and other bags would still be screened, but this plan would be a significant step toward the goal of shortening the lines and reducing the delays at our Nation's airports.

The plan would use advanced digital identification technology and would produce smart cards with biometric template information so they could not be used by others. This plan would be similar to security systems used in very sensitive areas by the Department of Defense.

I want to encourage and urge the FAA to work closely with the National Air Transportation Association in this effort to decrease delays and, at the same time, increase security in a very low-cost way at our Nation's airports.

SUPPORT TRADE PROMOTION AUTHORITY

(Mr. ISAKSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISAKSON. Mr. Speaker, 10 weeks ago this Congress, with one lone dissenting vote, granted the President of the United States the authority to send our sons and daughters in harm's way, to root out and bring justice to the terrorists or take justice to them.

Tomorrow, this House will have the chance to vote on Trade Promotion Authority for our President, an exact comparable authority for the President of the United States to do for the global economy what we have allowed him to do militarily across the ocean and in Afghanistan.

If there were ever a time for us to ensure prosperity in the long-term in the 21st century, it is to give the President the same power to make the American economy the strongest weapon for peace and security and for employment of all our citizens.

I urge my colleagues to support Trade Promotion Authority tomorrow when it reaches the floor of the House of Representatives.

CREATING AN ENVIRONMENT OF GROWTH

(Mr. TOOMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TOOMEY. Mr. Speaker, we all know we have got a weak economy right now. The slowdown that began in September of 2000 accelerated in September of 2001, and the result is that hundreds of thousands of Americans have lost their jobs as a result.

What is our responsibility in Congress? I think it is to help to create an environment of growth and hope and opportunity to enable our neighbors to get back to work, and there are two vital ways we can do that.

One is to pass an economic stimulus package that lowers the tax burdens that are keeping people out of work. We have done that in the House. The President supports that. I hope the rest of the necessary steps are taken soon.

The second thing we can do is pass Trade Promotion Authority tomorrow. Give this President the authority to lower the barriers to open up foreign markets to American goods and services and help people get back to work producing those goods and services. The fact is, Mr. Speaker, that the American workforce is the most productive workforce in the world. If we are given a chance to compete, we win.

Let us give this President the opportunity to open up those markets, give our workers the opportunity to compete and let people get back to work.

BEEFING UP RESEARCH TO STIMULATE ECONOMIC GROWTH

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, yesterday I introduced a bill, H.R. 3400, that I think moves in the direction of establishing spending priorities. That legislation provides for beefing up the kind of research that is going to stimulate economic growth. A companion bill develops extra protection against cyber terrorism.

I chair the Subcommittee on Research of the Committee on Science. The bill increases our emphasis on basic research for information technology and networking, which has been so important in our economic expansion. The other bill increases our research effort to counter cyberterrorism. We will take up these two bills tomorrow in the Committee on Science.

As we approach additional spending on defense, we need to understand that defense spending has gone down while social spending since 1991 has increased by about 30 percent; and we need to start setting priorities that are going to help the two main goals that this Congress should be looking at: one is the defense and security of the people of this country, and the other is continued economic growth.

Our goal should be to reduce spending that is lower priority so as to accommodate security and economic needs without mounting huge deficits.

SMALL BUSINESS AND TRADE IN ILLINOIS

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Speaker, today I rise to talk about the success of a small business in Illinois, a business that can continue to offer products and services to foreign markets if we pass H.R. 3005, a bill to renew Trade Promotion Authority.

W.S. Darley & Company, a Melrose Park, Illinois-based, family-owned small business will have to hire more workers to fill a $12.8 million order for 40 fire trucks, spare parts and services from the Ghana National Fire Service. The company, founded in 1908, overcame stiff foreign competition to win Ghana's government contract, which is expected to lead to substantial additional business.

Passing H.R. 3005 is a necessary step in continuing to expand exports to foreign markets, including new and emerging marketplaces. W.S. Darley & Company is just one of more than 14,000 Illinois companies that rely on exports and are eager to find new opportunities in the global marketplace. Passing TPA will give U.S. negotiators the credibility they need to make agreements that will create those opportunities.

GRANT TRADE PROMOTION AUTHORITY TO PRESIDENT

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, I rise this morning to speak on granting Trade Promotion Authority to the President. Free trade is good for our overall economy; but as chairman of the Committee on Financial Services, I would like to focus this morning on how important trade is to our country's vital financial services sector.

Ambassador Zoellick gave a compelling presentation to our committee just recently on the advantages of trade and services. Note, for example, that our financial services trade surplus was $8.88 billion last year. That is a surplus. Financial services exports have seen an overall net increase of 273 percent over the last 10 years.

Clearly, we want to encourage continued growth in this vital industry. In my home State of Ohio, Columbus has had the distinction of being one of the fastest growing cities in the country, partly because of its emergence as a financial services center. But U.S. exports of financial services also help to promote the development of capital markets, open economies and democracy across the world.

When the President does not have Trade Promotion Authority, other countries are reluctant to enter into new agreements with the United States, so it is more difficult to get the kind of trade agreements that open up new markets for our financial services companies; and ultimately, that threatens U.S. preeminence in the international financial world.

We cannot afford to lose that standing. It is just one reason why this Congress needs to approve TPA tomorrow.

OPPOSE FAST TRACK TRADE AUTHORITY

(Ms. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McCOLLUM. Mr. Speaker, tomorrow the House will vote on a bill offered by the chairman of the Committee on Ways and Means which concedes to the executive branch this body's constitutional authority to negotiate trade agreements. My role in Congress is to represent the voices and values of the working men and women of Minnesota's fourth district, not to abdicate my vote to the President.

I want an opportunity to have input on agreements that promote global trade. Trade agreements are essential to our economic well-being, to our role as a global leader in promoting workers' rights, human rights and healthy environment. This Fast Track trade authority requires no congressional approval prior to the signing of a trade agreement, only consultations. This body may only vote to certify that the administration has failed to consult with Congress.

I was not elected to Congress to be a consultant. We are the House of Representatives, not the House of Consultants. I urge my colleagues to oppose H.R. 3005.

TIGHTENING BORDER CONTROL

(Mr. GRAVES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAVES. Mr. Speaker, we have taken many good steps since September 11 toward protecting our country. As our focus returns to the domestic issues, let us not overlook one critical piece missing from our Nation's security plan, tightening border control.

Each day, countless travelers freely cross our borders without proving their right to be in our country. Our ability to screen these people, even when this is an option, is severely compromised and must be addressed by bolstering the technology and intelligence capabilities at our ports of entry.

I, along with some of my colleagues, have introduced the Enhanced Border Security Act to strengthen our border security and monitor foreign nationals, particularly those on student visas visiting our country.

Our legislation would allow government law enforcement and intelligence agencies to share background information through a shared database. Additionally, this legislation will track foreign students receiving visas from educational institutions to ensure they are accounted for upon their arrival, during their study, and when their visa expires.

I urge my colleagues to join me in supporting this comprehensive legislation that will help ensure the safety of our Nation.

SUPPORT TRADE PROMOTION AUTHORITY

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRANE. Mr. Speaker, I just heard the gentlewoman from Minnesota commenting about Trade Promotion Authority, and there were a couple of comments that she made that I think need clarification.

One of these is the President has trade negotiating authority and has always had trade negotiating authority. What TPA does is let us participate in the process during the negotiating process, with consultation before, during and after the agreement is reached with another country.

The important thing to keep in mind is we had President Clinton go forward with his executive authority to negotiate that agreement with Jordan. He did bring it back, and we ultimately have the authority to vote it up or vote it down; that authority is retained.

I hope the gentlewoman will look at this, because TPA gives us greater opportunity for involvement in the process than anything that we have done in the past. Please, we need support on both sides of the aisle. It is a bipartisan issue.

FREEZING COPAY FOR VETERANS' PRESCRIPTION COSTS

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, I think veterans across this country would be upset to learn that at a time when we are giving multi-billion dollar tax breaks to wealthy corporations, we are in fact contemplating increasing the cost of prescription medications available to our veterans by a whooping 250 percent. We are in the process of increasing the copay for our veterans from $2 per prescription to $7 per prescription.

Now, many veterans receive 10 or more prescriptions per month. Ten times seven is $70 a month. This is absolutely outrageous and unacceptable, when we are providing billions of dollars in tax breaks to profitable corporations, we would burden the veterans in our country by increasing the copay for their medications by 250 percent.

This House should support my bill, H.R. 2820, which would freeze the copay for 5 years at its $2 per prescription level.

THANKING THOSE SERVING AND WHO HAVE SERVED IN THE MILITARY

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. SHIMKUS. Mr. Speaker, it has been quoted as saying that war is hell. We mourn the reported deaths of our soldiers in Afghanistan. We know the risks of combat. We know that wars are fought and won on the battlefield, and it is only on the rarest of occasion that in warfare we do not lose some of our own.

The military accepts these risks, the military and our government. We do not like it, but it is reality. To serve and protect, that is what they do. Duty, honor, country. Our liberty is paid for by the blood of our sons and daughters.

I pause to thank those who are serving in the military and those who have served in the past.

APPOINTMENT OF CONFEREES ON H.R. 2883, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2002

Mr. GOSS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2883) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

□ 1030

The SPEAKER pro tempore (Mr. Gillmor). Is there objection to the request of the gentleman from Florida?

The Chair hears none and, without objection, appoints the following conferees:

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. Goss, Bereuter, Castle, Boehlert, Gibbons, LaHood, Cunningham, Hoekstra, Burr of North Carolina, and Chambliss; Ms. Pelosi, Mr. Bishop, Ms. Harman, and Messrs. Condit, Roemer, Hastings of Florida, Reyes, Boswell, and Peterson of Minnesota.

From the Committee on Armed Services, for consideration of defense tactical intelligence and related activities: Messrs. Stump, Hunter and Skelton.

There was no objection.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.J. Res. 76, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2002

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 76) making further continuing appropriations for the fiscal year 2002, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. OBEY. Mr. Speaker, reserving the right to object, I would first yield to the gentleman from Florida for an explanation of his request, after which I have a series of questions I would like to put to him about it.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding. This continuing resolution extends the current CR until December 15. The terms and conditions of the previous CR will remain in effect. All ongoing activities will be continued at current rates under the same terms and conditions as fiscal year 2001, with the exception of the agencies covered by fiscal year 2002 appropriations bills that have been enacted into law.

Mr. Speaker, this CR is noncontroversial, and I urge the House to move the legislation to the Senate so that the government can continue to operate smoothly and efficiently and so that we can continue our work to finish those few regular appropriations bills that are still remaining.

Mr. OBEY. Mr. Speaker, continuing under my reservation, I would like to ask the gentleman several questions.

It is my understanding that the defense appropriations bill, and I do this because I think there are a lot of unrealistic expectations which are being directed at this committee by people who I do not think have sufficient appreciation for the detailed work that is required in order to produce legislation on, for instance, something as complicated as the defense bill.

My understanding is that that bill is 197 pages long and is expected, by the time the Senate is finished deliberating on it, to contain literally thousands of differences between the House and the Senate; is that not correct?

Mr. YOUNG of Florida. Mr. Speaker, the gentleman is correct.

Mr. OBEY. Mr. Speaker, let me ask another question under my reservation. Assuming that the Senate could pass the Department of Defense bill immediately, how long, in the gentleman's experience, does it usually take for the staff to put together the conference notes so that members of the conference understand what the differences are, and how long does it take usually after the conclusion of the conference for the staff to put together the required papers so that we know that what we vote on is what we actually agreed to in the conference?

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. OBEY. Surely.

Mr. YOUNG of Florida. Mr. Speaker, the answer is, of course it depends on the bill and the situation with that bill. In the case of the defense bill that we are dealing with now, the basic bill, the $317 billion defense bill, probably will not be that difficult to conference. Where there will be difficulty will be in the $20 billion supplemental that we have dealt with here in the House and that the other body is now dealing with and is possibly changing considerably. So it could take 4 or 5 working days, or longer, just to get that bill ready to go to conference.

Once the agreements are actually reached in conference, it could take as many as 10 days in order to complete consideration of this bill. It is a major bill. Of our discretionary accounts, it is half of our discretionary spending. In most years we do not have a lot of differences going into conference on that bill, but this year, because of the $20 billion supplemental that is a result of the September 11 attacks, there are substantial differences between the House-passed bill and what the Senate is probably going to consider today or tomorrow.

Mr. OBEY. Mr. Speaker, continuing under my reservation, I thank the gentleman for his comments. I think that they are most accurate and, to me, what it demonstrates is that, under the most optimistic assumptions, if the Senate could proceed virtually immediately to conclude its action on that bill, we are talking about at least a week after that point before we could possibly have this bill close to coming back to the House and probably a significant number of additional days.

I would add to that that, obviously, the Senate is not going to be in a position, based on what has been happening over there, to conclude this bill today.

So I have asked these questions, Mr. Speaker, in order to indicate my judgment that the date of December 15 for the expiration of this continuing resolution is incredibly optimistic. I do not think it, in fact, recognizes reality, and that it seems to me that if we are trying to extend this CR to the point where we think that the Congress will actually finish its work for this year that the date would have to be significantly later, I regret to say.

I would also say, continuing under my reservation, that with respect to the homeland security issue which the gentleman has mentioned, as I think has been obvious around this town for years, Congress often loses the off button at the end of the session. I do not know who has it, but, obviously, it is a whole lot easier to hit the start-up button for a congressional session than it is to find the off button at the end of the year, and whoever has that off button, I wish they would come forward, or we are going to be sitting here Christmas Eve still not having our work done.

I would also say that I think one of the keys to finding that off button is a willingness to compromise. I wish I thought I could see that on the part of the White House, especially on the part of OMB, with respect to the homeland security package. What is at stake in that package is, very simply, the security of every American citizen on the home front. With something that is that important, in order for Congress to finish its business on that item, for instance, we need a spirit of cooperation on both sides.

I must say I do not find that kind of spirit of cooperation coming from the White House on this item when we are called down to the White House for a meeting and, before we can get a word out of our mouths to explain what it is that our concerns are about home-based security, we are told immediately, "Fellows, no matter what you are about to say, we are going to veto anything that you are thinking before we have even heard what it is you are thinking of." I do not think that is a way to promote compromise, and I do not think that creates the right atmosphere for resolving differences.

So I would simply say that I believe that, while I am not going to object to this, Mr. Speaker, I think December 15 is unreasonably optimistic, unless we have a major attitude adjustment on the part of OMB, and I have not detected a spectacular capacity of that agency to provide that.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 76

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 107–44 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof "December 15, 2001".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on three motions to suspend the rules on which further proceedings were postponed yesterday.

Votes will be taken in the following order:

H. Con. Res. 242, by the yeas and nays;

H.R. 3348, by the yeas and nays;

H. Con. Res. 102, by the yeas and nays.

H. Res. 298 will be postponed until later today.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

RECOGNIZING RADIO FREE EUROPE/RADIO LIBERTY'S SUCCESS IN PROMOTING DEMOCRACY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 242.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 242, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 404, nays 1, not voting 28, as follows:

[Roll No. 469]

YEAS—404

Abercrombie
Ackerman
Aderholt
Akin
Allen
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—1

Paul

NOT VOTING—28

Andrews
Berman
Boozman
Cubin
Cummings
DeFazio
Gutierrez
Hefley
Hostettler
Johnson (CT)
Johnson, Sam
Kingston
Kucinich
LaTourette
Meehan
Meek (FL)
Ney
Pelosi
Quinn
Reyes
Roukema
Sanchez
Souder
Thomas
Thurman
Waxman
Weldon (PA)
Young (AK)

□ 1106

Mr. OXLEY changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. JOHNSON of Connecticut. Mr. Speaker, on rollcall No. 469 I was unavoidably detained. Had I been present, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to the provisions of clause 8 of rule XX, the Chair announces that he will reduce to 5 minutes the period of time within which a vote by electronic device will be taken on each question on which the Chair has postponed further proceedings.

GEORGE P. SHULTZ NATIONAL FOREIGN AFFAIRS TRAINING CENTER

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3348.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass the bill, H.R. 3348, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 0, answered "present" 2, not voting 24, as follows:

[Roll No. 470]

YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Allen
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement

Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meeks (NY)
Menendez
Mica
Millender-
McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rangel
Regula
Rehberg
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (FL)

ANSWERED "PRESENT"—2

Rahall
Wu

NOT VOTING—24

Andrews
Berman
Cubin
DeFazio
Gutierrez
Harman
Hostettler
Hunter
Johnson (CT)
Johnson, Sam
Kingston
Kucinich
LaTourette
Meehan
Meek (FL)
Ney
Quinn
Reyes
Roukema
Sanchez
Thurman
Waxman
Weldon (PA)
Young (AK)

☐ 1117

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. JOHNSON of Connecticut. Mr. Speaker, on rollcall No. 470 I was unavoidably detained. Had I been present, I would have voted "yea."

HUNGER TO HARVEST: DECADE OF SUPPORT FOR SUB-SAHARAN AFRICA RESOLUTION

The SPEAKER pro tempore (Mr. GILLMOR). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 102, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 102, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 400, nays 9, not voting 24, as follows:

[Roll No. 471]

YEAS—400

Abercrombie
Ackerman
Aderholt
Akin
Allen
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meeks (NY)
Menendez
Mica
Millender-
McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Sawyer
Schaffer

Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—9

Barr
Berry
Bonilla
Collins
Flake
Goode
Herger
Paul
Rohrabacher

NOT VOTING—24

Andrews
Camp
Cubin
DeFazio
Dicks
Foley
Gutierrez
Hostettler
Johnson, Sam
Kingston
Kucinich
LaTourette
Meehan
Meek (FL)
Ney
Quinn
Reyes
Roukema
Sanchez
Saxton
Sessions
Waxman
Weldon (PA)
Young (AK)

□ 1125

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules.

BEAR RIVER MIGRATORY BIRD REFUGE VISITOR CENTER ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3322) to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County, Utah.

The Clerk read as follows:

H.R. 3322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bear River Migratory Bird Refuge Visitor Center Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Bear River marshes have been a historical waterfowl oasis and an important inland waterfowl flyway for thousands of years.

(2) Congress created the Bear River Migratory Bird Refuge as one of the first National Wildlife Refuges, for the purpose of protecting waterfowl habitat and migratory birds, educating the public regarding, and enhancing public appreciation of, waterfowl habitat and migratory birds.

(3) The Bear River Migratory Bird Refuge was virtually destroyed by the devastating floods that occurred between 1983 and 1985.

(4) Refuge employees, aided by volunteers, have taken valiant actions to rebuild the Refuge by restoring habitat, increasing its attractiveness to waterfowl, reducing waterfowl botulism, and providing recreational and educational opportunities to the public.

(5) The Bear River Migratory Bird Refuge lacks a functional education and administrative center.

(6) The creation of such a facility would significantly enhance public appreciation of waterfowl and the need to preserve waterfowl habitat.

(7) Congress has taken significant steps to provide funding for the construction of an education and administrative center.

SEC. 3. DEFINITIONS.

For the purpose of this Act, the following definitions apply:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) REFUGE.—The term "Refuge" means the Bear River Migratory Bird Refuge in Box Elder County, Utah.

(3) EDUCATION AND ADMINISTRATIVE CENTER.—The term "Education and Administrative Center" means the facility identified in the Environmental Assessment dated 1991 and entitled "Restoration and Expansion of the Bear River Migratory Bird Refuge".

SEC. 4. AUTHORIZATION OF CONSTRUCTION OF THE EDUCATION CENTER.

(a) CONSTRUCTION.—The Secretary shall construct the Education and Administrative Center at the Refuge for the purposes of providing for the interpretation of resources of the Refuge for the education and benefit of the public, the advancement of research, protection, and health of waterfowl habitat, and for the administration of the Bear River Migratory Bird Refuge.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $11,000,000 to carry out subsection (a).

SEC. 5. MATCHING CONTRIBUTIONS REQUIREMENTS.

(a) DONATION OF FUNDS AND SERVICES.—The Secretary may accept donations of funds and services from nonprofit organizations, State and local governments, and private citizens for the construction of the Education and Administrative Center.

(b) MATCHING FUNDS.—The Secretary may not require matching funds or contributions in kind with a combined total value of more than $1,500,000 for construction of the Education and Administrative Center.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

The Bear River marshes in the northern portion of the Great Salt Lake have been a waterfowl oasis and an important inland waterfowl flyway for centuries, and I am pleased that the House is taking action to improve research opportunities and educational experiences at the refuge.

To give a little history of the Bear River marshes, in 1843, explorer John C. Fremont described the area by saying "The waterfowl made a noise like thunder, as the whole scene was animated with waterfowl." Later, settlers moved in and began draining the marshes so slowly that no one noticed until 1910 when botulism killed over 2 million birds and another deadly outbreak in 1920 killed 1.5 million birds. In 1928, at the urging of many individuals and organizations, Congress turned this unique area into a National Wildlife Refuge. The refuge soon became a popular attraction for various groups from sportsmen and school groups to wildlife photographers.

Then came Utah's 100-year floods of 1983 and 1985 when there was a manmade river running down State Street in Salt Lake City and Glen Canyon Dam was spilling over. Those wet years also caused the rising Great Salt Lake to breach the refuge dikes and saltwater contaminated wildlife habitat, destroyed marsh vegetation and destroyed the newly constructed visitors and administrative facilities.

In 1989, the water finally receded, and since that time refuge employees and scores of volunteers have worked tirelessly cleaning debris, moving 1 million cubic yards of earth, restoring 47 water control structures and 47 miles of dikes, and purchasing easements to restore the habitat to its previous condition.

□ 1130

Mr. Speaker, thanks to their good efforts, the refuge once again attracts hundreds of waterfowl and an increasing number of human visitors. There are 221 species of birds that have been recorded at the refuge, and 206 of those constantly come back each year. However, the refuge still lacks a functional education and administrative center which denies the public a rich educational opportunity.

I have worked with my colleagues on the Committee on Appropriations and with the Senate Committee on Appropriations to provide funding for the reconstruction of these facilities. Local communities, the Friends of Bear River

Bird Refuge and other nonprofit groups have demonstrated their interest and dedication to a research and education center by raising an additional $1.5 million for the project.

This bill recognizes the efforts of the refuge staff, the community, and the local Friends group to rebuild the refuge. Between the prior appropriations and the contribution from local supporters, over 80 percent of the funding has already been secured. This is a good bill.

Finally, I would like to compliment Al Trout, the refuge manager, who has worked so diligently to put this together, a truly dedicated public servant.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support the legislation of the distinguished gentleman from Utah (Mr. Hansen) which would authorize the construction of a new education and administrative center at one of our Nation's oldest migratory bird refuges. It was unfortunate that floods destroyed the center nearly 18 years ago. I understand the frustration of the gentleman from Utah (Mr. Hansen) that a new facility has not been built to replace the original building.

As Members may recall, the 1997 National Wildlife Refuge Improvement Act established environmental education and resource interpretation as priority uses at all national wildlife refuges. Education centers like the one planned for Bear River are essential to ensure that the Fish and Wildlife Service promotes the wildlife wonders throughout our national wildlife refuge system and generates public awareness and appreciation for these resources.

Mr. Speaker, I urge Members to support this legislation. I look forward to working with both the gentleman from Utah (Mr. Hansen) and our ranking member, the gentleman from West Virginia (Mr. Rahall), who adds his commendation and support for the bill to improve visitor services within our national wildlife refuges.

Mr. MATHESON. Mr. Speaker, it is with great pleasure that I rise today in support of the Bear River Migratory Bird Refuge Visitor Center Act. This legislation will allow the Refuge to construct an educational and administrative headquarters. It is my hope that bird enthusiasts throughout the West will be able to come to see the thousands of birds that visit the area each year and hear what explorer John C. Fremont called "a noise like thunder."

The Refuge was created by Congress in 1928 to ensure the survival of the birds and natural wetlands of the area. Unfortunately, due to massive flooding in the 1983 to 1985, the entire Refuge was destroyed and the wetlands completely covered with water.

Today, the Refuge consists of 74,000 acres. In 1993, land acquisition added nearly 9,000 acres of uplands, wetlands, and mudflats. The historic 65,000 acres of the Refuge, consisting mainly of marsh, open water, and mudflats, have slowly seen salt deposits from the flood flushed out. Now, the wetland is on the verge of full recovery, and with marsh plants thriving, birds are returning in increasing numbers to the Refuge.

I am excited to see this legislation come before the body. I strongly believe that this bill will be beneficial to the Bear River Migratory Bird Refuge habitat by increasing its attractiveness to birds, and to people.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Gillmor). The question is on the motion offered by the gentleman from Utah (Mr. Hansen) that the House suspend the rules and pass the bill, H.R. 3322.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FERN LAKE CONSERVATION AND RECREATION ACT OF 2001

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2238) to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fern Lake Conservation and Recreation Act of 2001".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds the following:

(1) Fern Lake and its surrounding watershed in Bell County, Kentucky, and Claiborne County, Tennessee, is within the potential boundaries of Cumberland Gap National Historical Park as originally authorized by the Act of June 11, 1940 (54 Stat. 262; 16 U.S.C. 261 et seq.).

(2) The acquisition of Fern Lake and its surrounding watershed and its inclusion in Cumberland Gap National Historical Park would protect the vista from Pinnacle Overlook, which is one of the park's most valuable scenic resources and most popular attractions, and enhance recreational opportunities at the park.

(3) Fern Lake is the water supply source for the city of Middlesboro, Kentucky, and environs.

(4) The 4500-acre Fern Lake watershed is privately owned, and the 150-acre lake and part of the watershed are currently for sale, but the Secretary of the Interior is precluded by the first section of the Act of June 11, 1940 (16 U.S.C. 261), from using appropriated funds to acquire the lands.

(b) Purposes.—The purposes of the Act are—

(1) to authorize the Secretary of the Interior to use appropriated funds if necessary, in addition to other acquisition methods, to acquire from willing sellers Fern Lake and its surrounding watershed, in order to protect scenic and natural resources and enhance recreational opportunities at Cumberland Gap National Historical Park; and

(2) to allow the continued supply of water from Fern Lake to the city of Middlesboro, Kentucky, and environs.

SEC. 3. LAND ACQUISITION, FERN LAKE, CUMBERLAND GAP NATIONAL HISTORICAL PARK.

(a) Definitions.—In this section:

(1) Fern lake.—The term "Fern Lake" means Fern Lake located in Bell County, Kentucky, and Claiborne County, Tennessee.

(2) Land.—The term "land" means land, water, interests in land, and any improvements on the land.

(3) Park.—The term "park" means Cumberland Gap National Historical Park, as authorized and established by the Act of June 11, 1940 (54 Stat. 262; 16 U.S.C. 261 et seq.).

(4) Secretary.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

(b) Acquisition Authorized.—The Secretary may acquire for addition to the park lands consisting of approximately 4,500 acres and containing Fern Lake and its surrounding watershed, as generally depicted on the map entitled "Cumberland Gap National Historical Park, Fern Lake Watershed", numbered 380/80,004, and dated May 2001. The map shall be on file in the appropriate offices of the National Park Service.

(c) Authorized Acquisition Methods.—

(1) In general.—Notwithstanding the Act of June 11, 1940 (16 U.S.C. 261 et seq.), the Secretary may acquire lands described in subsection (b) by donation, purchase with donated or appropriated funds, or exchange. However, the lands may be acquired only with the consent of the owner.

(2) Easements.—At the discretion of the Secretary, the Secretary may acquire land described in subsection (b) that is subject to an easement for water supply facilities and equipment associated with the withdrawal and delivery of water by a utility from Fern Lake to the city of Middlesboro, Kentucky, and environs.

(d) Boundary Adjustment and Administration.—Upon the acquisition of land under this section, the Secretary shall revise the boundaries of the park to include the land in the park. Subject to subsection (e), the Secretary shall administer the acquired lands as part of the park in accordance with the laws and regulations applicable to the park.

(e) Special Issues Related to Fern Lake.—

(1) Protection of water supply.—The Secretary shall manage public recreational use of Fern Lake, if acquired by the Secretary, in a manner that is consistent with the protection of the lake as a source of untreated water for the city of Middlesboro, Kentucky, and environs.

(2) Sale of water.—

(A) Contract with utility.—Upon the Secretary's acquisition of land that includes Fern Lake, the Secretary shall enter into a contract to sell untreated water from the lake to a utility that delivers and distributes water to the city of Middlesboro, Kentucky, and environs. The Secretary shall ensure that the terms and conditions of the contract are equitable, ensuring a balance between the protection of park resources and the delivery and distribution of sufficient water to continue meeting the water demands of the city of Middlesboro, Kentucky, and environs.

(B) PROCEEDS FROM WATER.—The Secretary shall negotiate a reasonable return to the United States for the sale of the water, which the Secretary may receive in the form of reduced charges for water service. Proceeds from the sale of the water, reduced by any offsets for water service to the park, shall be available for expenditure by the Secretary at the park without further appropriation.

(f) CONSULTATION REQUIREMENTS.—In order to better manage Fern Lake and its surrounding watershed, if acquired by the Secretary, in a manner that will facilitate the provision of water for municipal needs as well as the establishment and promotion of new recreational opportunities made possible by the addition of Fern Lake to the park, the Secretary shall consult with—

(1) appropriate officials in the States of Kentucky, Tennessee, and Virginia, and political subdivisions of these States;

(2) organizations involved in promoting tourism in these States; and

(3) other interested parties.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2238 was introduced by the gentleman from Kentucky (Mr. ROGERS) and would authorize the Secretary of the Interior to acquire Fern Lake and its surrounding watershed in Tennessee and Kentucky from willing sellers for addition to the Cumberland Gap National Historical Park. The boundary expansion would enhance the visitors' recreational experience and allow the National Park Service to preserve the 4,500 acre Fern Lake watershed and the water supply for the city of Middlesboro, Kentucky. Since the early 1900s, Fern Lake has been the sole source of drinking water for the city of Middlesboro, Kentucky.

Cumberland Gap, located where the borders of Tennessee, Kentucky and Virginia meet, forms a major break in the Appalachian Mountain chain. The park commemorates the story of the first gateway to the West, first used by the Native Americans and then by pioneers.

Mr. Speaker, during the subcommittee hearing on H.R. 2238, concerns were raised by the National Park Service on how it is to manage the water system once it acquires Fern Lake. At the Committee on Resources markup, I offered an amendment to address the water issue. The amendment was adopted and supported by both the majority and minority of the committee. However, since that time, the National Park Service has continued to express concern with the water management section of the bill.

Mr. Speaker, late yesterday afternoon the administration, the majority and the minority of the committee and the gentleman from Kentucky (Mr. ROGERS) agreed to the amendment before us. I believe the amendment further clarifies for the Service its responsibility protecting the resources in the park, while assuring the city of Middlesboro, Kentucky, that their continued water needs will be met.

H.R. 2238 is a unique and complex bill. The gentleman from Kentucky (Mr. ROGERS) has worked hard to accommodate the concerns raised by the administration, while remaining focused on his priority of ensuring long-term protection for Fern Lake and a continued supply of water for his constituents. I urge my colleagues to support H.R. 2238, as amended.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Cumberland Gap National Historical Park serves two important purposes: The park preserves an absolutely beautiful area, while also allowing people to explore the important historical role played by the Cumberland Gap. The gap, located at the intersection of the Kentucky, Tennessee and Virginia borders, was first a passageway for large game animals, then Native Americans, and finally hundreds of thousands of American settlers heading to the American West.

Like the park itself, H.R. 2238 serves two important purposes. The bill would authorize the Secretary of the Interior to acquire for addition to the park an approximately 4,500 acre parcel known as the Fern Lake Watershed. During the hearings we held on this matter, photographs showed it to be a lush, undeveloped area, and the administration testified as to its eagerness to add the land to the park.

In addition, passage of H.R. 2238 will ensure a reliable, long-term water supply for a community that depends on Fern Lake. The Secretary would be authorized to grant easements over the newly acquired property to facilitate the continued use of the lake as the municipal water supply for the town of Middlesboro, Kentucky, and to contract with the utility for the sale and distribution of the water to the town and its environs.

Mr. Speaker, we realize this is a somewhat unusual arrangement. However, the lake will be a valuable addition to the park, and we feel sure that the National Park Service, the utility and the town will develop a good, mutually beneficial working relationship.

Mr. Speaker, our ranking member, the gentleman from West Virginia (Mr. RAHALL), joins me in commending the gentleman from Kentucky (Mr. ROGERS) for his hard work on this legislation, and we urge support for H.R. 2238.

Mr. Speaker, I reserve the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. ROGERS), who is the sponsor of the legislation.

Mr. ROGERS of Kentucky. Mr. Speaker, I am pleased and honored to have the opportunity to rise in support of H.R. 2238, the Fern Lake Conservation and Recreation Act of 2001. This has been a long road, but with the help and services of the gentleman from Utah (Mr. HANSEN) and the gentleman from California (Mr. RADANOVICH), as well as the gentleman from West Virginia (Mr. RAHALL) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) on the floor this morning, we have come together and crafted an excellent bill that is worthy of the Chamber's support. I appreciate their efforts in getting this legislation to the floor in such a timely manner and making the necessary corrections to it that enables it to become, I think, a successful bill.

Mr. Speaker, the bill before the House today is an essential piece of legislation which will forever protect one of the most pristine areas in the Commonwealth of Kentucky, indeed the Nation, for future generations. The bill aims to incorporate, as has been said, Fern Lake, an unspoiled body of water nestled in the Appalachian Mountains, into the Cumberland Gap National Historical Park.

The photographs that stand before us this morning are simple testimony to the absolute beauty of this pristine area. For those who are not familiar with this part of the world, the Cumberland Gap National Park is 20,000 acres of virtually untouched frontier, mountains and countryside, established by Congress in 1940. It is, as some have said, the first frontier, where Daniel Boone blazed the Cumberland Gap Trail in the late 18th century leading the way for thousands and tens of thousands of other settlers hoping to find a fresh start in this new world, moving from the Eastern Seaboard, 13 colonies, into the hinterlands of this great Nation. This is where they first came through.

Congress rightly recognized the importance of permanently protecting this frontier, and today we will hopefully vote to continue these endeavors by approving this Fern Lake addition. In short, this bill will protect the lake as a clean and safe source of rural water for the city of Middlesboro, Kentucky, its only source, enhance the scenic, recreational, wildlife, cultural value of the park, and increase tourism opportunities in the tristate areas of Kentucky, Tennessee and Virginia.

As one can see from the pictures on display, the lake and the surrounding watershed are of unparalleled beauty, and these pictures capture the essence of what thousands of park visitors see each year. This spectacular landscape is visible from Pinnacle Overlook, the highest point, the most popular attraction in the national park, and it is typical of what many of our ancestors experienced as they trudged forward through this uncharted territory over 200 years ago.

Just from the photos alone, it is not hard to understand why Congress should act today to ensure the preservation of this pristine area. Because of the conditions set forth in the original Cumberland Gap legislation, no appropriate funds can be used to purchase additional acreage unless specifically authorized by Congress. H.R. 2238 provides that authorization and paves the way for an additional 4,500 acres to be included in the park if willing sellers appear and appropriations become available.

One of the principal goals of the legislation that we have before us is to ensure the continued use of the lake as a clean and safe water supply for the city of Middlesboro, Kentucky, a small city which borders the Cumberland Gap Park.

The dam was constructed in 1893, forming the lake, and that 150-acre lake has been privately owned for most of its existence, but it has been for sale on the open market since last year. Given the fact that the lake serves as the sole water source for the city, there is considerable concern that a new owner may not share the same interest as the community.

As our local resident witness testified before the hearings here, many businesses in the area rely on the uncommon purity of the water for their livelihood. With that in mind, the bill we crafted provides a valuable resource for the park, while at the same time ensuring that the city's water demands are sufficiently met.

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We expect the Park Service to act in good faith with this community, so that the citizens of Middlesboro will be secure with the knowledge that their water supply source will always be there. I am confident the Park Service will prove to be a valuable and responsible partner in this regard.

Lastly, Mr. Speaker, it cannot be overstated how important this legislation is to the economic well-being of the citizens of rural Appalachian Kentucky. This proposed Federal investment in our rich cultural heritage would certainly bring added tourism revenue and jobs to this impoverished area. Tourism is an essential part of our region's economic development, and we must seize every opportunity to further strengthen this sector.

In conclusion, Mr. Speaker, I want to extend my special gratitude and thanks to everyone who has made this day possible. The committee and the subcommittee have been very forthcoming, the staff has been extraordinarily helpful in this respect, and we appreciate it on both sides of the aisle.

I want to extend a special thanks to Middlesboro Mayor Ben Hickman and County Executive Jennifer Jones, who first brought this idea to my attention, and also Mrs. Karla Bowling, the president of the Bell County Chamber of Commerce, who traveled not just once but twice to this city to provide her expert testimony in support of this bill. We are grateful especially for their service.

Mr. Speaker, I strongly urge passage of this important legislation. I thank Members for their support.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume to just thank the distinguished gentleman from Kentucky. He has brought the wonderful pictures and really laid out all of the reasons why this bill should be supported.

We would also like to add our congratulations on his having passed the transportation appropriations bill with such a broad consensus and such a strong vote.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 2238, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RECLAMATION WASTEWATER AND GROUNDWATER STUDY AND FACILITIES ACT AMENDMENT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2115) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the Lakehaven Utility District, Washington.

The Clerk read as follows:

H.R. 2115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAKEHAVEN, WASHINGTON, WASTEWATER RECLAMATION AND REUSE PROJECT.

(a) AUTHORIZATION.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 1635. LAKEHAVEN, WASHINGTON, WATER RECLAMATION AND REUSE PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the Lakehaven Utility District, Washington, is authorized to participate in the design, planning, and construction of, and land acquisition for, a project to reclaim and reuse wastewater, including degraded groundwaters, within and outside of the service area of the Lakehaven Utility District.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.".

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of such Act is amended by inserting after the item relating to section 1634 the following:

"Sec. 1635. Lakehaven, Washington, Water Reclamation and Reuse Project.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Washington (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill H.R. 2115, as sponsored by the gentleman from Washington (Mr. SMITH), would authorize the Bureau of Reclamation to add the Lakehaven Utility District reclamation projects to its current list of 25 specifically authorized projects under title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act.

Lakehaven Utility District is proposing a water reclamation program that would result in the reduction or elimination of local secondary wastewater to the Puget Sound, conjunctive use of reclaimed water, groundwater and surface water, and enhancement of existing wetlands and fish habitat.

Lakehaven has two secondary wastewater treatment plants currently discharging over 6 million gallons of water a day to the Puget Sound. They would use reclaimed water to manage groundwater levels, thereby enhancing the reliability of existing water supplies. The project would result in the construction of additional treatment systems at the district's two wastewater treatment plants and would further purify all or portions of the plant's secondary effluent.

Lakehaven is also planning the construction of transmission and distribution pipeline systems to transport water to reuse areas where facilities will be developed to direct the water to the aquifer. This would be done through injection wells, sub-surface infiltration galleries and land applications in areas that are currently wetland restoration project areas.

The cost for these facilities is estimated to be $38 million. Under title XVI, the Federal portion of the cost of constructing facilities cannot exceed 25 percent, with a maximum of $20 million.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. SMITH of Washington. Mr. Speaker, first of all I want to thank the chairmen of the subcommittee and the full committee for bringing this issue through the committee and to the floor. It is an issue that is very, very important to my district.

The Lakehaven Utility District is one of the largest utility districts that I represent and have some critical wastewater needs, as was mentioned. The projects that they have put forward are very innovative and show a great deal of promise in developing new technology to help us deal with wastewater, both in terms of recycling it and properly disposing of it.

Some of the problems that we have in this country that do not get as much attention or are not as well noticed are some of the critical infrastructure problems. When most people think of infrastructure, they think of transportation, they think of airports, maybe they think of education; but wastewater treatment is one of the more critical infrastructure issues that our country faces, and we are facing a critical backlog of projects that need help and support.

This bill would give us the authorizing language that we need in order to move forward in this project. We are fully aware of the fact we also have to get in line with the other 25 projects to try to get it appropriated, but this is the first necessary step in that process.

I really want to compliment the Lakehaven Utility District and their commissioners, who have worked so hard on this project. I think they have been very forward-thinking, and the project they have put forward looked at new technologies and new ways to deal with wastewater in ways that hopefully will help become a model for the country and move forward.

They are fully prepared to fund, obviously, a portion of this project and just need a little Federal help to make it happen.

Again, I want to thank the chairman, I want to thank all the people on the committee, for allowing this to come forward, and, again, the folks in Lakehaven for doing the work.

Lastly, I am going to take a personal moment. It is my wife's birthday today; and, unfortunately, she is back home in my district. So this is my only opportunity to say happy birthday to her in any sort of visual format. So, happy birthday.

Again, I thank the chairman for bringing this bill up, and urge passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 2115.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the three bills just considered, H.R. 3322, H.R. 2238, and H.R. 2115.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT ACT

Mr. MANZULLO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2538) to amend the Small Business Act to expand and approve the assistance provided by Small Business Development Centers to Indian tribe members, Native Alaskans, and Native Hawaiians, as amended.

The Clerk read as follows:

H.R. 2538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Small Business Development Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Approximately 60 percent of Indian tribe members and Alaska Natives live on or adjacent to Indian lands, which suffer from an average unemployment rate of 45 percent.

(2) Indian tribe members and Alaska Natives own more than 197,000 businesses and generate more than $34,000,000,000 in revenues. The service industry accounted for 17 percent of these businesses (of which 40 percent were engaged in business and personal services) and 15.1 percent of their total receipts. The next largest was the construction industry (13.9 percent and 15.7 percent, respectively). The third largest was the retail trade industry (7.5 percent and 13.4 percent, respectively).

(3) The number of businesses owned by Indian tribe members and Alaska Natives grew by 84 percent from 1992 to 1997, and their gross receipts grew by 179 percent in that period. This is compared to all businesses which grew by 7 percent, and their total gross receipts grew by 40 percent, in that period.

(4) The Small Business Development Center program is cost effective. Clients receiving long-term counseling under the program in 1998 generated additional tax revenues of $468,000,000, roughly 6 times the cost of the program to the Federal Government.

(5) Using the existing infrastructure of the Small Business Development Center program, small businesses owned by Indian tribe members, Alaska Natives, and Native Hawaiians receiving services under the program will have a higher survival rate than the average small business not receiving such services.

(6) Business counseling and technical assistance is critical on Indian lands where similar services are scarce and expensive.

(7) Increased assistance through counseling under the Small Business Development Center program has been shown to reduce the default rate associated with lending programs of the Small Business Administration.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To stimulate economies on Indian lands.

(2) To foster economic development on Indian lands.

(3) To assist in the creation of new small businesses owned by Indian tribe members, Alaska Natives, and Native Hawaiians and expand existing ones.

(4) To provide management, technical, and research assistance to small businesses owned by Indian tribe members, Alaska Natives, and Native Hawaiians.

(5) To seek the advice of the governing bodies of Indian tribes, corporations organized pursuant to the Alaska Native Claims Settlement Act and other Alaska Native entities, and Native Hawaiian organizations on where small business development assistance is most needed.

(6) To ensure that Indian tribe members, Alaska Natives, and Native Hawaiians have full access to existing business counseling and technical assistance available through the Small Business Development Center program.

SEC. 3. SMALL BUSINESS DEVELOPMENT CENTER ASSISTANCE TO INDIAN TRIBE MEMBERS, ALASKA NATIVES, AND NATIVE HAWAIIANS.

(a) IN GENERAL.—Section 21(a) of the Small Business Act (15 U.S.C. 648(a)) is amended by adding at the end the following:

"(7) ADDITIONAL GRANT TO ASSIST INDIAN TRIBE MEMBERS, ALASKA NATIVES, AND NATIVE HAWAIIANS.—

"(A) IN GENERAL.—Any applicant in an eligible State that is funded by the Administration as a Small Business Development Center may apply for an additional grant to be used solely to provide services described in subsection (c)(3) to assist with outreach, development, and enhancement of small business startups and expansions that are owned by Indian tribe members, Alaska Natives, or Native Hawaiians and that are located in Alaska or Hawaii, or on Indian lands in the 48 contiguous States.

"(B) ELIGIBLE STATES.—For purposes of subparagraph (A), an eligible State is a State that has a combined population of Indian tribe members, Alaska Natives, and Native Hawaiians that comprises at least 1 percent of the State's total population, as shown by the latest available census.

"(C) GRANT APPLICATIONS.—An applicant for a grant under subparagraph (A) shall submit to the Associate Administrator an application that is in such form as the Associate Administrator may require. The application shall include information regarding the applicant's goals and objectives for the services to be provided using the grant, including—

"(i) the capability of the applicant to provide training and services to a representative number of Indian tribe members, Alaska Natives, and Native Hawaiians;

"(ii) the location of the Small Business Development Center site proposed by the applicant;

"(iii) the required amount of grant funding needed by the applicant to implement the program; and

"(iv) the extent to which the applicant has consulted with the governing bodies of Indian tribes, corporations organized pursuant to the Alaska Native Claims Settlement Act and other Alaska Native entities, and Native Hawaiian organizations, as appropriate.

"(D) APPLICABILITY OF GRANT REQUIREMENTS.—An applicant for a grant under subparagraph (A) shall comply with all of the requirements of this section, except that the matching funds requirements of paragraph (4)(A) shall not apply.

"(E) MAXIMUM AMOUNT OF GRANTS.—No applicant may receive more than $300,000 in grants under this paragraph in a fiscal year.

"(F) REGULATIONS.—After providing notice and an opportunity for comment and after consulting with the Association recognized by the Administration pursuant to paragraph (3)(A) (but not later than 180 days after the date of enactment of this paragraph), the Administrator shall issue final regulations to carry out this paragraph, including regulations that establish—

"(i) standards relating to educational, technical, and support services to be provided by Small Business Development Centers receiving assistance under this paragraph; and

"(ii) standards relating to any work plan that the Associate Administrator may require a Small Business Development Center receiving assistance under this paragraph to develop.

"(G) DEFINITIONS.—In this paragraph, the following definitions apply:

"(i) ASSOCIATE ADMINISTRATOR.—The term 'Associate Administrator' means the Associate Administrator for Small Business Development Centers.

"(ii) INDIAN LANDS.—The term 'Indian lands' means, in the 48 contiguous States, land that is a 'reservation' for the purposes of section 4 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903) and land that is an 'Indian reservation' for the purposes of section 151.2 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this paragraph).

"(iii) INDIAN TRIBE.—The term 'Indian tribe' means a federally recognized Indian tribe.

"(iv) INDIAN TRIBE MEMBER.—The term 'Indian tribe member' means an individual who is a member of an Indian tribe.

"(v) ALASKA NATIVE.—The term 'Alaska Native' means an individual who is—

"(I) a 'Native' for the purposes of section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b));

"(II) a descendent of an individual who is a 'Native' for the purposes of section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); or

"(III) a Tsimshian Indian who is an enrolled member of the Metlakatla Indian Community.

"(vi) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

"(H) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $7,000,000 for each of fiscal years 2002 through 2004.

"(I) FUNDING LIMITATIONS.—

"(i) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Funding under this paragraph shall be in addition to the dollar program limitations specified in paragraph (4).

"(ii) LIMITATION ON USE OF FUNDS.—The Administration may carry out this paragraph only with amounts appropriated in advance specifically to carry out this paragraph.".

SEC. 4. STATE CONSULTATION WITH LOCAL TRIBAL COUNCILS.

Section 21(c) of the Small Business Act (15 U.S.C. 648(c)) is amended by adding at the end the following:

"(9) ADVICE OF GOVERNING BODIES OF INDIAN TRIBES, ALASKA NATIVE CORPORATIONS AND OTHER ENTITIES, AND NATIVE HAWAIIAN ORGANIZATIONS.—A State receiving grants under this section shall request the advice of the governing bodies of Indian tribes, corporations organized pursuant to the Alaska Native Claims Settlement Act and other Alaska Native entities, and Native Hawaiian organizations, as appropriate, on how best to provide assistance to Indian tribe members, Alaska Natives, and Native Hawaiians and where to locate satellite centers to provide such assistance.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. MANZULLO) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

GENERAL LEAVE

Mr. MANZULLO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2538.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MANZULLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my good friend, the gentleman from New Mexico (Mr. UDALL), in offering this bill today.

While many Americans are justifiably anxious about a one-half percent jump in the unemployment rate, about 60 percent of our Native American population lives in or adjacent to Indian lands that suffer from an average unemployment rate of 45 percent. This past summer I had the opportunity to visit Santa Fe in the heart of the district of the gentleman from New Mexico (Mr. UDALL); and at that time we held a hearing involving the contracting practices of one of our labs out there, the Los Alamos lab.

The evidence adduced at the hearing pointed out quite significantly that the Native American tribes are not getting their share of the amount of Federal dollars that are being poured into the Los Alamos facility.

One of the purposes of this bill is to extend the facilities of the SBCDs, the Small Business Development Centers, of which there are over 1,000 in this country, for the purpose of business counseling and technical assistance to the Native Americans who may wish to become involved in the procurement process.

What is good about this bill, Mr. Speaker, is the fact that this is a self-help program, it involves the outlay of a relatively small amount of money, it is aimed directly at the Native Americans that really need the assistance, and it is the type of learning of business techniques that makes the Native Americans better able to compete to go after these Federal contracts and in the private sector.

So I join in the support of this bill and would encourage my colleagues to support H.R. 2538.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

First of all, let me thank the majority leader for allowing this legislation to come before the House for consideration. I also would like to thank the gentleman from Illinois (Chairman MANZULLO) and the ranking member, the gentlewoman from New York (Ms. VELÁZQUEZ), for their work and commitment to expanding small business opportunities for all Americans.

H.R. 2538 will establish a 3-year pilot program for providing grants to Small Business Development Centers for assisting Native American, Native Alaskan and Native Hawaiian populations with their small business development needs.

Today we have demonstrated how important small business is to the health of our economy, but there are still places in this country where economic prosperity has often failed to reach. These areas deserve our attention and assistance.

Consider this: nowhere in America has poverty persisted longer than on or near Native American reservations, which suffer an average unemployment rate of 45 percent. However, the number of businesses owned by Indian tribe members and Native Alaskans grew by 84 percent from 1992 to 1997, and their gross receipts grew by 179 percent in that period. This is compared to all businesses which grew by 7 percent, and their total gross receipts grew by 40 percent in that period.

I would like to continue this growth and expansion of small enterprise through this legislation. My bill ensures that Native Americans, Native Alaskans and Native Hawaiians seeking to create, develop and expand small businesses, have full access to the counseling and technical assistance available through the SBA's SBDC program. The business development tools offered by SBDCs can assist Native Americans with the information and opportunity to build sustainable businesses in their communities.

The Native American Small Business Development Act would permit State Small Business Development Centers to apply for Federal grants to establish one or more Native American Small Business Development Centers. In an effort to ensure the quality and success of the program, the proposal requires grant applicants to provide the SBA with their goals and objectives, including their experience in assisting entrepreneurs with the difficulties in operating a small business.

In addition, the applicant must show their ability to provide training and services to a representative number of Native Americans, Native Alaskans and Native Hawaiians. Most importantly, applicants must seek the advice of the local native population on specific needs and the location of services they will provide.

It is clear we can do more to aid Native American entrepreneurs. Not enough has been done to assist Native Americans in building their businesses, which in turn helps benefit their communities.

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I hope to change that with this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MANZULLO. Mr. Speaker, I yield myself such time as I may consume. I want to acknowledge the work of my colleagues on the Committee on Resources, in particular the gentleman from Utah (Mr. HANSEN). They contributed immensely to this bill in order to make sure that we are helping as many native Americans as possible, and particularly in clarifying the language as it applies to Alaska natives. I thank them for their contribution to this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. VELÁZQUEZ), our ranking member and a very hardworking member on this piece of legislation.

Ms. VELAZQUEZ. Mr. Speaker, I rise in strong support of H.R. 2538, the Native American Small Business Development Act. This is an important piece of legislation which we need now more than ever. I thank the gentleman from New Mexico for his hard work on this issue, and I congratulate him for bringing it to the floor today.

In the past decade, our economy has created more than 15 million new jobs and the greatest boom time on record. American small business has been an integral part of this growth. Small companies and entrepreneurs employ half our workers, create jobs 75 percent faster than large firms, and make up nearly half our gross domestic product. They are the key to our success and will be the key to our economic recovery.

But the prosperity many Americans have enjoyed failed to reach some places in our country. Certain regions and communities peer over an ever-widening canyon that separates them from those better off. These areas deserve our attention and our help to fill that gap.

Nowhere in America is poverty more persistent than on and near Native American reservations where citizens suffer a staggering average unemployment rate of 45 percent. Over a third of reservation inhabitants live below the poverty line.

But one of the bright spots on many reservations during the past decade has been the growth of small business. From 1992 to 1997, the number of businesses owned by Native Americans grew by 84 percent. Their gross receipts also grew during that time by 179 percent. Those rates dwarf national figures for small business. Clearly, Native American enterprise is a powerful engine for renewal.

While such spirit is innate, success is learned. We know from consistent and incontrovertible evidence that technical assistance helps small companies. Entrepreneurs who learn business skills are twice as likely to succeed.

The gentleman from New Mexico (Mr. UDALL), my good friend, understands this principle, which is why he introduced his innovative and valuable legislation. I commend him for his leadership and stewardship of this bill.

The Native American Small Business Development Act will provide the technical assistance and aid needed to spur and perpetuate an extraordinary burst of enterprise. It ensures that those seeking to develop small businesses will have full access to counseling and technical assistance provided by the SBA's Small Business Development Program.

With the economy in a downturn, we need this bill now more than ever, because enterprise is the engine of recovery. These hardworking entrepreneurs deserve the best service available to build and grow. This legislation will ensure they receive that aid which will help spread and sustain prosperity to every corner of our country.

Mr. Speaker, I urge all of my colleagues to support this legislation.

Mr. UDALL of New Mexico. Mr. Speaker, I yield 3 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, today I join my colleagues in support of H.R. 2538, the Native American Small Business Development Act. Within the past decade, America's small businesses have experienced unprecedented growth and have contributed greatly to our Nation's economic upswing prior to September 11. Now they will be an important engine for recovery.

As the premier technical assistance providers to America's entrepreneurs, Small Business Development Centers are responsible, in large part, for the successes of small businesses.

We know that many of these businesses operate near or at their profit margin and do not have the additional resources to hire legal or technical experts. This is where the SBDCs step in to provide free or, in a few instances, low-cost technical assistance. Research shows that small businesses that receive this technical assistance are twice as likely to succeed as those which do not.

Mr. Speaker, for too long our Nation's Native American population, the first Americans, have been, as they have often been referred to as, the "forgotten people." As a member of the Committee on Resources, like the gentleman from New Mexico (Mr. UDALL), and as a person with Native American lineage myself, I want to commend the gentleman from New Mexico for introducing this bill, and I am pleased to support it, and I look forward to its passage today.

While our country has experienced economic prosperity over the past decade, the Native American community, including the Alaskan Natives and Native Hawaiian communities, continue to lag behind. For example, the average unemployment rate for Native American communities, particularly on reservations, averages about 45 percent, with one-third of Native Americans living below the poverty level. With only limited help, Native American small businesses have grown at a rate of 84 percent over the past 5 years, but we need to help them more. We need to help them do better.

Mr. Speaker, H.R. 2538 will provide $7 million to fund a 3-year pilot program to provide technical assistance to Native American, Native Alaskan, and Native Hawaiian businesses. This program will give these businesses better access to the SBDC network, no matter where they are located. It will help to sustain and, hopefully, boost the growth of Native American, Native Alaskan and Hawaiian Native businesses which, in turn, will spur the much-needed economic growth in these communities.

Once again, I would like to commend the gentleman for championing this cause and bringing this legislation to the floor, and I urge my colleagues to support it.

Mr. UDALL of New Mexico. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, first of all, let me congratulate the gentleman from New Mexico (Mr. UDALL) on the introduction of this bill. I also want to commend the chairman and ranking member for the efficient manner in which they have moved this legislation to the floor.

Mr. Speaker, I rise in support of H.R. 2538, the Native American Entrepreneurial Development Act. This legislation would provide $7 million to fund a 3-year program for technical assistance to Native American businesses.

Mr. Speaker, the reality is that when we provide an opportunity for Native American businesses to grow and develop, to experience some sense of technical knowledge, to be able to come into the mainstream, then we are really doing the work, I think, that we were sent here to do.

I do not want to be redundant, but I certainly want to commend again the gentleman from New Mexico for his sensitivity and understanding and recognition of the needs of the people that he represents. Again, I commend the chairman, the gentleman from Illinois (Mr. MANZULLO), and the ranking member for the efficiency and the good work of this Committee on Small Business. With all due respect to other committees, Mr. Speaker, I think that this is probably one of the most bipartisan, one of the most efficient committees in Congress, and we all do an outstanding job on it.

Mr. UDALL of New Mexico. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman for his leadership on this issue, and I thank the chairman for his leadership on the committee.

I just rise very quickly to say that I had an opportunity to visit Ship Rock, New Mexico, with President Clinton when we went on the tour of the Digital Divide. At that time, I had a chance to visit an Indian reservation, and I had a chance to speak with and discuss with the people there the issues of small business. I am so happy that the gentleman has chosen and has had an opportunity to address this issue.

Secondly, I had a chance to visit the Small Business Development Center in Hawaii where they were doing innovative things on a lot of little small islands where they were able to put the counselor for the Small Business Development Center on a computer at one end and the people on the small islands at the other end to engage in counseling. So I am so happy that the gentleman has taken the leadership in this area, and I rise in support of him and congratulate him on the work he is doing, and the chairman as well.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just thank the chairman of the committee, the gentleman from Illinois (Mr. MANZULLO), once again. I want to echo what has been said earlier, that we have one of the most bipartisan committees in the Congress, and I know because of all of the chairman's hard work we have gotten this bill through and gotten this done.

I want to take the opportunity to thank the staff on both sides and my staff member, Tony Martinez, who has worked very hard on this.

Members from both parties talked about visiting my district and learning from those experiences out there, and I think one of the things they learned is that we can make a real difference for Native American entrepreneurs with this piece of legislation.

So let me once again just thank the gentleman from Illinois (Mr. MANZULLO) for all of his hard work.

Mr. RANGEL. Mr. Speaker, I rise today in support of the bill H.R. 2538, an important piece of legislation for the Native American small businesses community.

Now, more than ever, we need to develop and expand the Native American private sector. Industries employ a growing number of individuals on reservations. The expansion of small businesses positively impacts these communities by putting money directly into their hands and places them directly in control of their destinies.

In addition to creating new small businesses and enlarging existing ones we must provide management, technical, and research assistance to Native Americans who seek to create, develop, or expand small businesses. Only by providing them full access to the necessary business counseling and technical assistance can we ensure their success, a success that is so important to the future of those communities.

With our priority to support the Native American small business community, we build a stronger economy and provide jobs to tribal members. This will, in turn, open the doors for the future of the tribal Nations. Native Americans face various challenges and we have the obligation to actively pursue methods to improve the Native American standard of living.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 2538 as amended, and wish to clarify how the program authorized in this bill operates with respect to my Alaska Native constituents.

H.R. 2538 as amended does not differ in substance from the bill as reported by the Committee on Small Business. Rather, the measure under consideration today simply recognizes the unique Native American policies that Congress has implemented in the State of Alaska, and clarifies how the grant program the bill authorizes will be implemented in that State.

In the 48 contiguous States, Congress's policy on Native Americans has focused on recognizing groups of Native Americans as "federally recognized tribes" that are distinct political entities and a majority of whose members reside on reservations and other land that is owned by the United States in trust.

However, while Congress has routinely designated groups of Alaska Natives as "tribes," it has done so for the sole purpose of ensuring that Alaska Natives are eligible for programs and services that the United States provides to Native Americans because of their status as Native Americans.

Congress has not recognized any group of Alaska Natives as a "federally recognized tribe" that is a distinct political entity.

Instead, since 1884 Congress has required Alaska Natives to be, at all locations in Alaska, subject to the same criminal and civil state laws that non-Native Alaskans are required to observe.

Consistent with that policy, in 1971 when it extinguished Alaska Native aboriginal title by enacting the Alaska Native Claims Settlement Act, Congress required Alaska Natives to organize business corporations under the laws of the state of Alaska and then directed the Secretary of the Interior to convey the corporations fee title to 44 million acres of Federal land.

The amendments made to H.R. 2538 as reported by the Committee on Small Business simply acknowledge that Congress' Alaska Native policy is quite different from the Native American policy that Congress has implemented in the 48 contiguous States. It will also ensure that the intent of H.R. 2538 can be effectively met in Alaska for the benefit of Alaska Natives.

I would like to thank the gentleman from New Mexico and the chairman and ranking members of the Small Business Committee, and their staff, for their assistance in making appropriate changes to the language in the bill as reported.

These amendments will ensure the programs authorized by H.R. 2538 assist Alaska Natives as intended. I support H.R. 2538 as amended.

Mr. MATHESON. Mr. Speaker, it is with great pleasure that I rise today to support H.R. 2358, the Native American Entrepreneurial Development Act. This legislation is a great step forward for the small businesses owned and operated by Native Americans.

As many of us know, there are over 1,000 Small Business Development Centers across the United States serving over 600,000 businesses. Over 30 percent of those businesses are minority-owned. Unfortunately, while small businesses helped in our Nation's economic boom in the 1990s, Native American communities have lagged behind. Unemployment, especially on reservations, continues to be a rampant 45 percent. Even worse, nearly one in three Native Americans live far below the poverty line.

This legislation focuses on a $7 million pilot program that will provide technical assistance to Native American businesses. Since Native American businesses have grown at a rate of 84 percent over the last 5 years, H.R. 2358 will help more Native Americans find success as they launch companies and access the Small Business Development Center's network.

I appreciate the work and leadership of my colleagues on this legislation. As we work together, I believe that we will find more positive solutions that will help Native Americans throughout the United States become more successful. I ask my colleagues to support H.R. 2358, the Native American Entrepreneurial Development Act, and give Native

American businesses the opportunity to access capitol, hire strong, skilled workers, and successfully negotiate Federal, State, and local laws and regulations.

Mr. KILDEE. Mr. Speaker, as co-chairman of the Congressional Native American Caucus, I rise in strong support of H.R. 2538, a bill that amends the Small Business Act to expand and improve the assistance provided by the Small Business Development Centers (SBDC) for Native American tribal members. Alaska Natives and Native Hawaiians. I want to thank my good friend from New Mexico, Congressman TOM UDALL, for introducing this bill. I am proud to be an original cosponsor.

Mr. Speaker, the bill establishes a 3-year pilot project that allows any SBDC in a State, whose Native American tribal members, Alaska Native, or Native Hawaiian populations are 1 percent of the State's total population, to apply for grants from the Small Business Administration. The grants will help the SBDCs to assist the small business owners with their entrepreneurial needs.

The purpose of this bill is to create jobs and to foster economic development on tribal lands. It is my hope that by using the existing structure of the Small Business Administration's SBDC program, small businesses on tribal land will have a better chance for success. Due to limited resources, the SBDC program has had a difficult time providing counseling and technical assistance to small business owners on tribal land. This bill will provide SBDC the adequate resources it needs to reach out to small business owners in Indian country.

Mr. Speaker, I ask my colleagues to support this measure.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in support of H.R. 2538, the Native American Small Business Development Act.

Native people throughout our country continues to struggle because they lack the basic economic infrastructure to support businesses. Consequently, the poverty rate for native people remains at an unacceptable level. According to the Census Bureau, the poverty rate for American Indians and Alaska Natives averaged 25.9 percent from 1998 through 2000.

In Hawaii, census data indicates that Native Hawaiians continue to be clustered in the state's poorest areas. According to the State of Hawaii's Office of Hawaiian Affairs, Native Hawaiians significantly lag behind the state's averages for family income and high school graduation rates. The unemployment rate for Native Hawaiians living in Hawaii during 2000 was 7.2 percent, well above the state average of 4.3 percent.

Despite these sobering statistics, native people continue to show a strong entrepreneurial spirit. These businesses are gateways allowing individuals to find their way out of poverty.

H.R. 2538 creates a 3-year pilot program to support this entrepreneurial spirit by providing grants to Small Business Development Centers that assist the small business needs of native people.

Under this bill, Small Business Development Centers can obtain $300,000 grants to assist with outreach, development, and enhancement of small businesses owned by Indian tribe members, Native Alaskans, and Native Hawaiians. The bill will target the grants to businesses located on or near native lands, which will create new job opportunities for native people living in these areas.

The bill require states to consult with local native groups to determine the best way to provide assistance and where to locate satellite business centers. The cooperative nature of the relationship between the Small Business Development Centers and native people will help ensure the success of the program.

I urge my colleagues to vote for H.R. 2538 and help provide small business opportunities to Native Americans throughout America.

Mr. UDALL of New Mexico. Mr. Speaker, I yield back the balance of my time.

Mr. MANZULLO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and pass the bill, H.R. 2538, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Small Business Act to expand and improve the assistance provided by Small Business Development Centers to Indian tribe members, Alaska Natives, and Native Hawaiians.".

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS IN HONORING THE CREW AND PASSENGERS OF UNITED AIRLINES FLIGHT 93

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 232) expressing the sense of the Congress in honoring the crew and passengers of United Airlines Flight 93.

The Clerk read as follows:

H. CON. RES. 232

Whereas on September 11, 2001, acts of war were committed against the United States, killing and injuring thousands of innocent people;

Whereas these attacks were directed at the World Trade Center in New York, New York, and the Pentagon in Washington, D.C., which are symbols of the Nation's economic and military strength;

Whereas United Airlines Flight 93 was hijacked by terrorists as part of these attacks;

Whereas while Flight 93 was still in the air, passengers and crew, through cellular phone conversations with loved ones on the ground, learned that other hijacked airplanes had been used in these attacks;

Whereas during these phone conversations several of the passengers indicated that there was an agreement among the passengers and crew to try to overpower the hijackers who had taken over the aircraft;

Whereas it is believed that it was this effort to overpower the hijackers that caused Flight 93 to crash in southwestern Pennsylvania, short of what is believed to have been its intended target: Washington, D.C.; and

Whereas the crash resulted in the death of everyone on board the aircraft: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) on September 11, 2001, the passengers and crew of hijacked United Airlines Flight 93 possibly averted the use of that aircraft in a further terrorist attack on the United States by attempting to overpower the hijackers;

(2) the United States owes its deepest gratitude to the passengers and crew of Flight 93, and extends its condolences to the families and friends of Captain Jason Dahl, First Officer Leroy Homer, flight attendants Lorraine G. Bay, Sandra W. Bradshaw, Wanda A. Green, Ceecee Lyles, Deborah A. Welsh, and passengers Christian Adams, Todd Beamer, Alan Beaven, Mark Bingham, Thomas Burnett, William Cashman, Georgine Corrigan, Joseph Deluca, Patrick Driscoll, Edward Felt, Jane C. Folger, Colleen Fraser, Andrew Garcia, Jeremy Glick, Kristin Gould, Lauren Grandcolas, Donald Greene, Linda Gronlund, Richard Guadagno, Toshiya Kuge, Hilda Marcin, Waleska Martinez, Nicole Miller, Louis J. Nacke, Donald Peterson, Mark Rothenberg, John Talignani, Honor Elizabeth Wainio, and 9 passengers whose families wish them to remain anonymous; and

(3) a memorial plaque to these victims should be placed on the grounds of the Capitol, and a copy of the wording of the plaque, together with a copy of this resolution from the Congressional Record, should be sent to a designated survivor of each victim.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. LIPINSKI) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution was introduced by the gentleman from Kentucky (Mr. FLETCHER). As of yesterday, it had 131 cosponsors, and I know many others are interested in cosponsoring this important resolution.

The resolution was introduced on September 20, 2001, 9 days after the September 11 attack on America.

In my view, all the victims who gave their lives on September 11 are American heroes. Of course, much attention has been rightfully focused on the heroes that took heroic actions in the World Trade Center and also in the Pentagon. But, Mr. Speaker, the passengers of United Flight 93 deserve special recognition.

As the fourth plane hijacked on that day, the passengers, unfortunately, knew the fate that awaited them. Rather than accept that fate, however, the passengers of Flight 93 acted. We know they courageously fought back against the terrorists. While they did not succeed in saving the aircraft or their own lives, they were able to prevent hijackers from achieving their horrible objectives. In that process, Mr. Speaker, they lost their lives, and they lost their lives conducting heroic actions.

While we may never confirm the targets of those terrorists, we know they were headed, in fact, to Washington and, more than likely, this very Capitol building. The heroic actions of the passengers and crew of Flight 93 saved many lives. Therefore, it is entirely fitting that we, my colleagues in the Congress today, honor the crew and passengers on Flight 93 with both this resolution and also with a memorial plaque on the grounds, as called for in this resolution.

□ 1215

I want to take this opportunity to again congratulate our colleague, the gentleman from Kentucky (Mr. FLETCHER), for his initiative in introducing this significant resolution, and urge its adoption in the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very proud and privileged to rise today to support this resolution. These American heroes launched the first offensive action of the United States of America's war on terrorism. They truly are American heroes. They knew the odds were overwhelmingly against them; yet motivated by patriotism, love of God, family, and country, they attacked the terrorists to protect other Americans in America.

Someone once said, "Responsibility is a wine press that brings forth strange juices." The juices that came from these passengers on United Flight 93 were unbelievable strength and unlimited courage.

Like those Americans on Bataan, Corregidor, and Wake Island, these Americans sacrificed for their country and their families. No American should ever forget what they accomplished.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Kentucky (Mr. FLETCHER), who is also the author of this resolution.

Mr. FLETCHER. Mr. Speaker, I thank the gentleman from Florida for his work on the Committee on Transportation and Infrastructure.

Mr. Speaker, as we look at this, I rise today to encourage my colleagues to vote for this measure; and I really do not think it will take a lot of encouragement because we have had an overwhelming expression of enthusiasm regarding those on Flight 93 and their heroic activities.

Mr. Speaker, this is a resolution expressing a sense of Congress that a memorial plaque be established on the grounds of the Capitol. It is an expression of our thanks and condolences to the passengers and crew of United Flight 93.

I also want to thank my staff member, Phillip Brown, who has worked very hard to get this done. It was originally his idea. I think it is very appropriate as the families and survivors, and not only that, all of us, as we go about these Capitol grounds, I think it will be the appropriate thing to do. I think it will be great for posterity as they see a plaque that honors those on Flight 93 that I do believe had a significant part in saving probably our Capitol.

On September 11, United Airlines Flight 93, piloted by Captain James Dahl, departed from Newark International Airport at 8:01 on a routine flight to San Francisco with six other crew members and 38 passengers on board. Shortly after departure, the flight was hijacked by terrorists.

The hijacking was one of four, as we all remember, on the morning of September 11. We all remember that date because it was a horrible day and a turning point in our Nation's history. Four of our own planes were hijacked and targeted on buildings that define our Nation and symbolize our freedom and values and symbolize our Nation's economic and military strength. Three of these planes hit their marks, resulting in an incomprehensible tragedy and loss of innocent life on a scale not seen in this country since the Civil War.

We know that the passengers and crew learned through cellular phone conversations with loved ones on the ground of the deliberate acts of the destruction and murder occurring in New York City and Washington, D.C., and that hijacked aircraft had been used in these terrorist acts of war.

During these phone conversations, several of the passengers indicated that there was an agreement among the passengers and crew to try to overpower the hijackers who had taken over the aircraft. It is believed that it was this effort to overpower the hijackers that caused Flight 93 to crash at 10:37 a.m. in southwestern Pennsylvania near Schwenksville, short of what is believed to have been its intended target, Washington, D.C., and probably, this very Capitol building we stand in today.

These efforts of these individuals on this plane heroically limited the damage the terrorists could inflict, losing their lives for their country in the process. We owe the passengers and the crew our gratitude and our honor.

The participants of the resistance on board Flight 93 showed selfless courage and patriotism:

Passengers like Todd Beamer, whose young widow is here today in Washington. He told a telephone operator how much he loved his expecting wife and two sons, and he asked her to call them. He asked her to pray the Lord's Prayer and Psalm 23 with him. He told her, "I am going to have to go out in faith," and his now famous words "Let's roll" have become a rallying cry in America.

Passengers like Tom Burnett, who left what he knew would be likely his last conversation with his wife saying, "Okay, we are going to do something."

Passengers like Jeremy Glick, who told his wife that the passengers and crew had taken a vote and agreed to try to take back the plane.

Crew members like Sandra Bradshaw, who told her husband of the plan to rush the hijackers and take back control of the plane, and that she was boiling water to use as a weapon against the terrorists.

The passengers and crew, all of whom are survived by loved ones, husbands, wives, children, and parents, very likely averted the destruction of the U.S. Capitol and the symbol this institution has become for the democratic process of government, and in the process, saving hundreds, perhaps thousands of lives.

By their heroic acts, Lady Liberty still stands at the top of our noble dome, and the light of freedom still shines brightly here in the Capitol.

This resolution expresses the sense of Congress that a memorial plaque to honor, and I would like to read these names, Captain Jason Dahl, First Officer Leroy Homer, flight attendants Lorraine G. Bay, Sandra W. Bradshaw, Wanda A. Green, Ceecee Lyles, Deborah A. Welch, passengers Christian Adams, Todd Beamer, Alan Beaven, Mark Bingham, Thomas Burnett, William Cashman, Georgine Corrigan, Patricia Cushing, Joseph DeLuca, Patrick Driscoll, Edward Felt, Jane C. Folger, Colleen Fraser, Andrew Garcia, Jeremy Glick, Christine Gould, Lauren Grandcolas, Donald Greene, Linda Gronlund, Richard Guadagno, Toshiya Kuge, Hilda Marcin, Waleska Martinez, Nicole Miller, Louis J. Nacke, Donald Peterson, Jean Peterson, Mark Rothenberg, Christine Snyder, John Talignani, and Honor Elizabeth Wainio.

This plaque should be crafted and placed here on the grounds of the United States Capitol expressing our thanks and condolences; and a copy of the plaque, together with a copy of this resolution from the CONGRESSIONAL RECORD, should be sent to a designated survivor of each victim.

I am confident with the passage of this resolution that the Speaker of the House, the House minority, the Senate majority leader, and the Senate minority leader will ask and direct the Architect of the Capitol to begin plans for design, crafting, and placement of this plaque, to begin as soon as possible.

I also want to thank my colleagues for their support of this resolution; and after this vote, I intend to send a letter to the leadership regarding this sense of Congress, and I invite my colleagues to join me.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today to join in strong support of House Concurrent Resolution 232, in honor of all of the passengers and the crew on United Flight 93 that were lost on that fateful day, September 11, 2001.

Mr. Speaker, I rise today because two of those who lost their lives came from Hawaii: Georgina Corrigan and Christine Snyder.

Nothing could be more appalling than the spectacle of the airplanes crashing into the World Trade Center, and then to learn that a plane had also crashed in the Pentagon, and to learn about the crash in the fields in Pennsylvania. But the most devastating news for the people of Hawaii was to learn the names of all of the individuals from Hawaii who were lost in all of the four sites.

The two who lost their lives at Pennsylvania in United Flight 93 are especially endeared to all of us here in the Capitol because there is nothing to discount the basis of information that we have that that plane, had it not been overtaken by those passengers, was destined to Washington, D.C. and quite probably the Capitol building itself. We would not be standing here today, we would not be part of this great legislative body if the people on Flight 93 had not taken the heroic stand that they did.

So I stand here on behalf of all of the grateful people of this Capitol and its vicinity and of the government here in Washington, D.C. to especially pay tribute to those who lost their lives in Flight 93, United, and especially to remember the two women from Hawaii whose beloved ones, their friends and relatives, have all already had memorial services for them. They were distinguished in the lives and careers they had. So I am here today to express on behalf of their families and all of their friends our gratitude and our everlasting love and devotion in their memory.

Mr. MICA. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of this resolution honoring the crew and passengers of United Flight 93. But, Mr. Speaker, my colleagues must be aware that as we honor these passengers we are honoring them for disregarding government policy. That government policy related to how one deals with a hijacking situation. That government policy mandated that we have full cooperation of the passengers and the crew with any potential hijackers.

Amazingly, the FAA has still not changed that policy, despite the obvious changes in circumstance that make this policy ridiculous.

Of all the precautions that we have been taking or could be taking to make sure that there are not any more hijackings, there are only really two things that matter: to secure the aircraft cockpits so they cannot be broken into; and, most importantly, to make sure that the crew and passengers never again cooperate with hijackers, and never open the door to that cockpit to any hijacker, no matter what may be happening in the cabin.

Nothing else, not the banning of tasers or knives or even strip searches, is going to make air travel any safer than that.

As we honor these people who gave their lives and were so brave and courageous, let us admit that perhaps we have made some mistakes in Congress in dealing with this crisis. The fact is that we have moved forward in response to these horror stories on September 11 and the bravery on Flight 93 and the other planes that were hijacked, and we have put in place policies that may be backfiring right now.

Instead of saving the industry, we may be killing the airline industry, and that is the very last thing we should do to honor these brave people on Flight 93, who more than any other fellow Americans stand for freedom to travel. Instead of saving our airline industry, we have people who are being now so inconvenienced that they are giving up airline travel. This makes no sense at all. We should today, as we honor these heroes of Flight 93, reexamine what we put in place so our airlines can serve people.

As the gentleman from California (Mr. FILNER) mentioned to me a few moments ago, we are losing more passengers to this incredible, nonsensical way that we are hindering people from getting on the plane to the inconvenience that we have created that is not making travel any safer than we are losing passengers for fear of terrorism.

So today, let us honor these people who fought so bravely, these Americans on Flight 93, United 93; and let us say that what they were fighting for was the freedom to travel. Let us back up the airline industry. Let us not do something that just makes us feel good or makes the American people feel good; but instead, let us put in practice some of the changes in policy needed to make airline transportation safer, but is not some sort of show that makes things more inconvenient, thus killing the airlines.

□ 1230

Mr. LIPINSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. MASCARA).

Mr. MASCARA. Mr. Speaker, I thank the gentleman from Illinois (Mr. LIPINSKI) for yielding me the time.

Mr. Speaker, I rise to honor American heroes. Since September 11 our Nation has learned a lot about heroes. Not surprisingly, they are everywhere across this great country of ours. Some of the first heroes to stand up for America on the tragic day were the men and women of United Flight 93.

When the 44 men and women aboard Flight 93 discovered what was intended for that plane, they united to make the ultimate sacrifice for their Nation. Their valor thwarted either an attack on this building or on the Nation's White House. These brave passengers and crew members knew that if they did not act the terrorists would strike another blow against the country they love.

Flight 93 went down just outside of my district. That is now hallowed ground. Family and friends of the passengers and crew of Flight 93 visit that site to continue to remember their loved ones.

This Congress should make sure that their brave actions will never be forgotten by their family and friends and every citizen of this Nation for generations to come. This Congress should show our Nation's gratitude by passing this resolution and erect a memorial plaque on the Capitol grounds in honor of the men and women of Flight 93. These citizens were true American heroes.

Mr. MICA. Mr. Speaker, may I inquire as to the time remaining?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Florida (Mr. MICA) has 8 minutes remaining. The gentleman from Illinois (Mr. LIPINSKI) has 15 minutes remaining.

Mr. MICA. Mr. Speaker, I am pleased to yield 3½ minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend, the gentleman from Florida (Mr. MICA), for yielding me the time.

Mr. Speaker, I rise today in very strong support of this resolution to honor the heroes on Flight 93 who undoubtedly gave their lives so that other people, perhaps people in this building, perhaps all of us, would be able to live.

Words, it seems to me, seem inadequate to express the deep emotions that we feel for the loss suffered by the surviving family members of those who perished on September 11. We offer our sincere condolences, and we pray that God may supernaturally intervene with healing, comfort, and peace for them, especially during this holiday season.

Mr. Speaker, we will not forget the action of those on Flight 93. Like I said, they probably saved the lives of many people here in Washington. Capitol Hill was a very busy morning on September 11. Many congressional hearings were taking place. As a matter of fact, as chairman of the Committee on Veterans Affairs, at 10 o'clock I was convening a hearing with the American Legion, and there were several hundred legionnaires in attendance at that hearing.

On the Senate side, the First Lady was preparing to testify on a hearing on early childhood development.

Their lives were saved, the lives of all of the employees here in the Capitol were probably saved from a horror because of their very heroic action.

The planned destruction of buildings was prevented. The Capitol, the White House, the many monuments, we are not sure what the final destination was. There is a great deal of conjecture, but the odds were that they were coming here.

Our Nation, Mr. Speaker, owes these passengers and crew an enormous debt of gratitude, and, again, their sacrifice will be remembered for many, many years to come.

I would like to just point out that there were at least seven people who lived in or near my own central New Jersey district who were on that flight. Some of the family members and friends have contacted my office, and we have tried to work on their behalf. Their names are in the resolution, but out of respect and gratitude I would like to read their names again: Flight Attendant Lorraine Bay; Todd Beamer, who was in the district just north of me, in the gentleman from New Jersey's (Mr. HOLT) district; Patrick Driscoll; Edward Felt; Jeremy Glick; Richard Guadagno. Donald and Jean Peterson were also on board that flight.

And one final point. Earlier the gentleman from California (Mr. ROHRABACHER) mentioned the fact that the crews, especially the pilots, were admonished, more than admonished, they were told by the FAA that they were to cooperate if there was a hijacking and go to wherever it is the hijackers wanted them to go. My own brother is an airline pilot. He is a 757 captain with a major airline, and he, too, has told me how obnoxious it is that that was the policy, take them to Cuba, take them to Tripoli, take them to where it is they want to go because they have got to put the safety of the passengers first. It is obnoxious now more than ever because we know that there are different designs on those planes being carried out.

I just want to make it very clear, it is my sense and a sense that this will not happen, that whether it be the crew or whether it be the passengers—or not—that we will never see another airliner turned into a cruise missile again because there will be action taken; and, again, Flight 93 has set a precedent that will live on forever, that people will not stand idly by when they know that they are going to be part of a terrorist action unwittingly, as were the other flights.

Again, I want to commend the maker of the resolution, the gentleman from Kentucky (Mr. FLETCHER), my good friend, for offering it.

Mr. LIPINSKI. Mr. Speaker, I yield myself the balance of my time.

In conclusion, I once again would like to salute the crew and the passengers of United Airlines Flight 93 and express my personal condolences to all their family members.

I would also, though, like to refer to some references that an earlier speaker made here. Since this tragedy on September 11, the United States Government has voted $5 billion to airlines in this country. We have voted $10 billion in loan guarantees to airlines in this country, and we have passed an extremely strong aviation security bill in this country. I believe all of those efforts are to improve not only the safety and security of American aviation but to get people back into the air, get people back flying.

I also believe that in the security bill that we passed we spent a considerable amount of time talking about the training on terrorist attacks that crews should receive. So I think that since this horrendous terrorist attack on September 11 we in the House and the Senate and the executive branch of government have done a great, great deal to improve aviation security and safety and, also, as I said earlier, to get Americans back into the air.

Let us hope and pray and work towards the day when American aviation will be perfectly secure and no one will have any hesitation about flying.

Once again, my sincere condolences to the family of United Flight 93, the passengers, the crew; and, once again, I salute those courageous American heroes who tried to retake that flight and perished in their attempt. I thank them.

Mr. MICA. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, it is indeed fitting that we honor and recognize the heroic efforts of the passengers and crew of Flight 93. This memorial resolution and the proposed plaque are indeed fitting, again, for those heroic actions.

I must say, Mr. Speaker, that since September 11 many of us have been concerned about the welfare of some of those families left behind from Flight 93. My wife Pat and other congressional spouses and some in Congress have also been involved in trying to meet some of the financial needs of the families. Some of them were children left behind. The resolution and plaque are a great tribute from Congress, but these families, particularly in the time of holidays and their own personal needs, are in dire straits.

Again, they have not gotten the attention of the victims of the World Trade Center or the Pentagon, but, nonetheless, they were great heroes, and they are now in need.

I urge my colleagues and others to contact a Web site, www.capitolheroes.org. That is www.capitolheroes.org, to aid those families. So today we fittingly recognize those families with this resolution and those heroes with this plaque, but we also try to remember those left behind as survivors, and not only this resolution but our thoughts and prayers go out to the survivors and family left behind.

Mrs. ROUKEMA. Mr. Speaker, I rise today with a heavy heart in support of this resolution that honors the great bravery, courage, and patriotism of the crew and passengers abroad United Airlines Flight No. 93, including Jeremy Glick of West Milford, NJ. Though we may never know what took place in the final minutes on that flight, we can be certain that because of Jeremy's actions, along with other passengers and crew members, lives were saved. Not only do the passengers and crew of Flight No. 93 deserve the highest of honors, but they deserve our immense gratitude.

One of my constituents, Jeremy Glick, was among the 37 passengers and 7 crew members on board United Airlines Flight No. 93 that on September 11, 2001, departed from Newark International Airport at 8:01 a.m., on its scheduled route to San Francisco, CA. Shortly after departure, the plane was hijacked by terrorists. It is clear from the evidence that after learning that other hijacked planes had been used to attack the World Trade Center in New York City, Jeremy and others onboard United Airlines Flight No. 93 decided to fight the terrorists for control of the plane. Their brave defiance appears to have caused United Flight No. 93 to crash prematurely, potentially saving hundreds or thousands of lives. The White House or the Capitol clearly could have been the intended target of the terrorists.

I would like this Chamber to know about one of the men who saved lives, possibly lives in this House, on September 11. Jeremy Glick was a devoted family man. His wife Lyzbeth had recently given birth to their daughter Emerson. Anyone who has seen the picture of Jeremy holding his baby daughter can clearly see the deep love that was in his heart.

Jeremy was a man who loved life. Lyz, his brother Jared, or any of his friends could tell you endless stories that end in laughter. Ironically, Jeremy and his buddies dressed up like their favorite super heroes a couple of weeks ago. Jeremy dressed up as the Green Lantern. Little would we know that on September 11, 2001, Jeremy became a super hero.

Soon after the terrorists took over the plane, Jeremy called his wife on his cell phone. Jeremy told his family about the terrorists and the location of the plane. Jeremy's family relayed the information to the police over another phone line. After Jeremy learned that other terrorists crashed planes into the World Trade Center he left his phone for a while and returned to say that the men voted to attack the terrorists. He left the phone and said he would be back—he never came back on the line.

It is not hard to imagine Jeremy deciding to join with other passengers to fight the terrorists. He was well over six feet and was a college judo champion. It was reported that Jeremy faced the terrorists armed only with a plastic knife from an airline meal. I believe that Jeremy did not even need the plastic knife because he had courage and bravery on his side when he fought with the cowards who commandeered the plane.

Jeremy's last words to his wife were, "Lyz, I need you to be happy." It should be the hope and prayer of all Americans that Lyz will be happy. Lyz said after the crash, "I think

God had a larger purpose for him, He was supposed to fly out the night before, but couldn't. I had Emmy one month early, so Jeremy got to see her. You can't tell me God isn't at work there." I believe God is at work with the Glicks.

One thing that Lyz can definitely be, as we all are, is proud. The incredible courage and bravery that Jeremy showed in the face of certain danger is an inspiration to us all. When Jeremy died, he did it on his own terms—fighting against evil, with a brave heart, and boundless courage to sacrifice himself so others could live. For this reason, I have introduced a resolution urging the Congress to grant Jeremy the Congressional Gold Medal. On behalf of our country, let us recognize this man who served us in one of our most horrific hours. Jeremy Glick truly deserves the highest of our Nation's honors.

Now our Nation faces a long and hard struggle to rid the world of the evil that took Jeremy's and so many others lives on September 11. Many thousands of our men and women in uniform are meeting that challenge. Jeremy—though not expecting to—became one of the first "soldiers" in this crusade. I will forever remember and honor Jeremy as a true American superhero.

Mr. Speaker, I urge passage of this measure.

God bless Jeremy Glick and God bless America.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 232.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. MICA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

TODD BEAMER POST OFFICE BUILDING

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3248) to designate the facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, as the "Todd Beamer Post Office Building".

The Clerk read as follows:

H.R. 3248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TODD BEAMER POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, shall be known and designated as the "Todd Beamer Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Todd Beamer Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3248.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3248 introduced by our distinguished colleague, the gentleman from New Jersey (Mr. HOLT). This measure designates the facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, as the "Todd Beamer Post Office Building". Members of the entire House delegation from the State of New Jersey are cosponsors of this legislation.

Mr. Speaker, many heroes emerged on September 11, from firefighters and policemen to military personnel at the Pentagon to citizens such as Todd Beamer. Todd Beamer, a resident of Cranbury, was one of the passengers on the hijacked United Flight 93 who gave their lives fighting the hijackers and denying them their deadly mission on September 11.

Mr. Beamer was a husband, father, a businessman and a citizen. He is survived by his wife, Lisa, and their two children and a third child who is expected in about 2 weeks. His courageous acts and the acts of all of the passengers on Flight 93 are an inspiration to all Americans. Their acts saved countless lives.

Mr. Speaker, I urge adoption of H.R. 3248.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I am pleased to join my colleague, the gentlewoman from Virginia (Mrs. JO ANN DAVIS), in consideration of H.R. 3248, legislation naming a post office in Cranbury, New Jersey, after Todd Beamer.

H.R. 3248 was introduced by the gentleman from New Jersey (Mr. HOLT) on November 7, 2001. I would like to begin my remarks by thanking the gentleman from New Jersey (Mr. HOLT) for continuing the tradition of naming post offices after individuals of accomplishment and people who have given up much to the betterment of their community and of their Nation.

Naming a postal facility after Todd Beamer sets a very high standard indeed; for Todd Beamer not only accomplished much, he gave his life in defense of our country.

The consideration of H.R. 3248 on the heels of H. Con. Res. 232 is important, important because we in the Congress express our appreciation to the passengers and crew of the hijacked United Airlines Flight 93 for diverting the use of that aircraft from its intended target, Washington, D.C., possibly headed for the White House or the Nation's Capitol. As the resolution states, we in the Congress extend our condolences to the victims, families and friends. We also place a memorial plaque honoring the victims of Flight 93 on the Capitol grounds.

□ 1245

Acknowledging the heroic struggle aboard Flight 93 leads us to the consideration of H.R. 324, and the fateful telephone call from Todd Beamer to a telephone operator. Todd Beamer, along with other passengers on the plane, organized resistance to the hijacking after learning the fate of three planes, two of which flew into the World Trade Center and one which hit the Pentagon.

Mr. Speaker, on September 11, Flight 93 took off from Newark, New Jersey, bound for San Francisco, with Captain Jason Dahl in the pilot's seat. Along the way, it suddenly and unexpectedly detoured, heading for Washington, D.C.

Before I conclude my comments, I would like to express my sincere condolences to the widow of Todd Beamer. She has handled the loss of her husband extremely well. But in addition, Lisa Beamer has become a real activist, organizing assistance for victims and the families of those who were victimized. She is in Washington this day, trying to generate support for the families of those who lost loved ones. Her children and family can take great comfort in knowing that their father and son was a hero and a master of his fate. His actions have left behind a great legacy, a legacy of patriotism, a legacy of love, a legacy of courage, and a legacy of leadership. Mr. Speaker, I often define leadership as the ability to do what needs to be done, but to do it first.

In closing, I am proud to support H.R. 3248. I thank the chairman of the Committee on Government Reform, the gentleman from Indiana (Mr. BURTON), and the ranking minority member, the gentleman from California (Mr. WAXMAN), for moving quickly to schedule this bill. I also again express my appreciation to my colleague, the gentleman from New Jersey (Mr. HOLT), for introducing this legislation.

In what has been quoted as the final immortal words of Todd Beamer, I close, Mr. Speaker, by asking America, "Are you ready? Let's roll." I urge the swift passage of H.R. 3248.

Mr. Speaker, I reserve the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLT), who is the sponsor of this legislation.

Mr. HOLT. Mr. Speaker, I thank my colleague and friend from Illinois for yielding me this time, and I rise to speak in favor of H.R. 3248, legislation to designate the United States Post Office in Cranbury, in my home district, as the Todd Beamer Post Office.

I too want to express my appreciation to the chairman of the committee, the gentleman from Indiana (Mr. BURTON), and the ranking member, the gentleman from California (Mr. WAXMAN), as well as the majority leader, the gentleman from Texas (Mr. ARMEY), for allowing this bill to come to the floor; and I thank my colleagues for their eloquent remarks.

This is, I think, very appropriate. America has found a hero in Todd Beamer, one of the passengers on hijacked Flight 93. We all mourn the loss of Todd Beamer and the others on that flight; and our hearts and prayers go out to Lisa Beamer, who is here with us in the gallery now, and to their two fine children, whom I have observed, and to all the other families of people on that plane. We hold up the memory of Mr. Beamer as one who represents what is good about America. All of America knows of his reciting the 23rd Psalm, the Lord's Prayer, and his words, "Let's roll."

At a time like this, we seek to draw lessons for us Americans who are left behind after September 11. For a couple of centuries observers from around the world, from Alexis de Toqueville to Winston Churchill, have spoken about the marvelous ability of Americans to rise to meet a challenging situation, the ability of individual Americans to step from their ordinary lives to do extraordinary things. You will notice I do not say ordinary Americans, because, in fact, that is the essence of what makes this country. There are no ordinary Americans. There are Americans who will, at one time or another, rise to do extraordinary things.

I attended a memorial service for Todd at the church in Plainsboro, New Jersey, where the Beamer family worships. And from the remembrances delivered lovingly by friends and family, I learned a lot about the character of this national hero. He was an outstanding athlete who led and inspired his athletes and who said he always seemed to somehow find a way to come up with a critical run. He was a fine businessman who stood out in a national company. He was an involved and loving father of David, 3 years old, and 1-year-old Andrew, and was looking forward to the upcoming birth of his third child. But especially, especially I learned that he was a man of deep religious faith, a faith that allowed him to look past death to act so courageously on board Flight 93.

We believe that the band of passengers who fought the hijackers, Todd's father calls them freedom fighters, saved hundreds, perhaps thousands of lives that would have been taken if that plane had made its fiery descent into the hijackers' intended target. And it is worth noting that none of those people whose lives were saved know who they are. We will never know. But all Americans can be grateful.

Ours is a diverse country, with a rich religious tradition, a very diverse religious tradition. And September 11 was a particularly tough day for Muslims. They find that day hard because there were some people who wanted to say that those were Muslims who hijacked the plane. But good Muslims assure me that no follower of Mohammed would have done that. Because it is written not only in the Judeo-Christian tradition but also in the Koran. In the Talmud it says, "Whoever saves a single life is honored as though he saved an entire world." And in the Koran, "If anyone saved a life, it would be as though he saved the life of the whole people."

The memory of the people on board Flight 93 reminds us that this is not the last time that America will need heroes. Andrew and David can grow up knowing that their father acted heroically. They can also see it in the way their mother has borne this hard time. The survival of American ideals, though, beyond the immediate Beamer family, depends day in and day out on ordinary Americans stepping out of their ordinary lives to do extraordinary things, courageous things. It is appropriate, I think, that people will be able to find inspiration as they look at the Federal post office in Cranbury and pause for a moment to reflect on the essence of America, what we can extract from our diversity, and also to reflect on the meaning of religious faith in our lives.

It is only fitting that a memorial for Todd be established in Cranbury, where he and his family live.

First settled in 1697, the town of Cranbury is one of the oldest towns in New Jersey. It derived its name from the brook on whose banks it had its beginning. Over 80 soldiers from the Revolutionary War are buried in the town. While it today is in close proximity to some of our Nation's largest metropolitan areas, Cranbury retains its unique village character.

The opportunity comes to every American to do courageous things. I want to repeat that. To every American. Now, most of us will never have the chance, thank God, to have to face down an armed hijacker. But many will have the opportunity in their neighborhoods or among their friends to face down bigotry, intolerance, or injustice. The memory of people like Todd Beamer helps us meet those challenges.

This legislation is one small honor for Todd Beamer and for all the heroes on Flight 93 and elsewhere around the country on September 11. It is not the last time America will need heroes.

I urge my colleagues to join me in passing this bill, and I also urge that we honor the survivors and families left after the atrocities through appropriate compensation and tax relief.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Although the Chair understands the gentleman's sentiment, the Chair must remind all Members not to introduce or bring to the attention of the House any occupant in the gallery.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I am pleased to yield 3½ minutes to my distinguished colleague, the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentlewoman from Virginia for yielding me this time.

Let me just say, Mr. Speaker, I rise in very strong support of H.R. 3248, to designate the United States Postal Service facility in Cranbury as the Todd Beamer Post Office Building, and want to thank the gentleman from New Jersey (Mr. HOLT) for sponsoring the legislation that is before us today.

Mr. Speaker, when Congress names particular facilities in honor of someone, we do it because they have made an outstanding contribution to society. I can think of no one who deserves that honor more than Todd Beamer. The accounts of his heroism aboard Flight 93 fill us with awe and gratitude and inspire us. And by all accounts, it was Todd's faith in the Lord that inspired him to act with such decisiveness and tenacity and with such courage.

Todd's deeds and the actions of his fellow passengers aboard Flight 93 have become powerfully etched into the psyche of America itself. Flight 93 has become a symbol of the American spirit, the spirit of courage and selfless sacrifice, of standing up to cowards who would kill in the middle of the night or by using aircraft as cruise missiles.

When faced with the ultimate test of character, Todd Beamer did not flinch for one moment. He took bold action to stop an act of terrorism in progress. On his last phone call from the aircraft, Todd told Lisa Jefferson, the GTE air phone supervisor working out of the Illinois facility, that he and his other passengers aboard Flight 93 were planning to overpower the hijackers and to stop their suicide attack. Miss Jefferson cautioned him to consider carefully what he was saying: "Are you sure that that is what you want to do, Todd?" Todd's response: "It's what we have to do."

Mr. Speaker, how often do we hear those words—this is something I have to do—the notion that someone is acting out of a moral imperative is astonishing in this day and age. Well, Todd did it and did it with great distinction and courage.

Many in America before September 11 had become jaded about the notion of selfless sacrifice, Mr. Speaker, of doing what is right even when you know it may cost you your very life. We know from the Scriptures that our Lord Jesus Christ said, "There is no greater love than he who lays down his life for his brother or for his sister," and that is exactly what Todd Beamer has done. Surely he has, is and will be greatly blessed in Heaven for his sacrifice.

Mr. Speaker, the cowardly terrorists counted on both the element of surprise and on the element of intimidation to achieve their awful end, but they did not count on meeting face to face with the likes of Todd Beamer. Todd Beamer was an extraordinary man on what should have been an ordinary flight. And when faced with a horrific set of circumstances, Todd stepped up to the plate and he did what had to be done. And he never, not for a moment, by all accounts, even hesitated.

Instead, Todd drew his courage and strength from his faith. He told Lisa Jefferson, "I don't think we're going to get out of this thing. I'm going to have to go out on faith." Mr. Speaker, his last words, as we all know, and as President Bush has quoted, was "Let's roll." And those words, I think, have mobilized and motivated and inspired all Americans in our current fight in Afghanistan. "Let's roll." Let's stop these terrorists.

Let me finally remind Members of Todd's embrace of Psalm 23, which surely was in Todd's heart in those final moments, where it is said by King David, "The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures; he leadeth me beside the still waters. He restoreth my soul: he leadeth me in the paths of righteousness for His name's sake. Yea, though I walk through the valley of the shadow of death, I fear no evil; for thou art with me; thy rod and staff they comfort me."

A post office memorializing Todd Beamer is the least we in Congress can do to honor his supreme sacrifice. He was a great man; and we honor his widow Lisa—a strong woman in her own right and his family.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself the balance of my time.

Somehow or another, heroes arise in times of great need. Heroes arise in times of great need. At a time of crisis and great need, Todd Beamer and his fellow passengers rose up. And because they rose up, we have the ability to continue to stand up on this floor and protect the rights of Americans and of people all over the world.

So we take this moment not only to designate a post office in honor of Todd Beamer, but we say, "Thank you, Todd. Thank you, passengers and crew of Flight 93."

Mr. Speaker, I yield back the balance of my time.

□ 1300

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Speaker, every time we hear of the deeds of the folks like Todd Beamer on Flight 93, we are left with the kind of introspection that can be very challenging. We have to say to ourselves, what would I have done? How would I have reacted under similar circumstances? We all want to think that we would have done what Mr. Beamer and others did. We can only hope that is the case, but we can also only hope that we will not have to face that challenge.

But if we do, if something like that ever comes up again, the fact is that any American who has read the story, becomes acquainted with the actions of the people on Flight 93, we can sincerely believe that the possibility for us to do the right thing under those circumstances, to do what they did, is greater because we know what they did, and because of what it does for us internally, because of the way it changes us, because of the courage, perhaps, that they have given us.

Mr. Speaker, we also are able to put faces together with names now of people who were on the plane. I take this opportunity also to think about and to speak for just a moment about Captain Jason Dahl. Mr. Dahl chose to be on the plane that day. He scheduled himself for Flight 93. From everything we have learned about Mr. Dahl, it is certainly understandable and it is quite probable that it was his decision even to take the plane into the ground rather than into any other edifice.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman from New Jersey (Mr. HOLT) for introducing this legislation and for working so hard to ensure its passage. I encourage all Members to support this resolution. Mr. Speaker, to quote Todd Beamer, "Let's roll."

Mr. TANCREDO. Mr. Speaker, I rise in support of H.R. 3248 and wish to fully express my gratitude to the crew of United Flight 93, and especially its captain, Jason M. Dahl. It was with immense sadness that I learned that the Dahl family and indeed all of Colorado had been robbed on September 11th of a good man and a good father. Mr. Dahl's family, to paraphrase President Lincoln, must feel enormous pride for having laid such a costly sacrifice upon the altar of freedom.

According to a friend, Dahl learned to fly before he learned to drive. A neighbor remembered Dahl's football and baseball games in the street with neighborhood children and his commitment to his family and his community. Having read the statements of those who eulogized him, I cannot help but conclude that the gentleman flying that plane was one of America's best—a great father and husband alkike. Since September 11th, America has rediscovered the importance of family, and turned to family members for comfort and understanding. It is no small tragedy that the Dahl family does not have this luxury, having been left incomplete on September 11th.

Most of us saw evil on that day watching the pictures of the two planes collide with the World Trade Towers in New York City. Jason Dahl almost surely saw evil in a different form. He must have seen it in the faces of the hijackers and known that it was in their hearts.

The loss of Mr. Dahl and all of the passengers aboard Flight 93 will not be forgotten—certainly not by this body. This morning, we passed a resolution calling for a plaque to be placed on the grounds of the Capitol memorializing their deaths. I would suggest that their memory will go much farther. The fact that this great building and its dome—two irreplaceable symbols of American democracy—still stand today will always be a living memorial to their sacrifice.

My prayers, Mr. Speaker, are with all of the innocent civilians who died aboard that plane, and especially Jason Dahl and his family.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the bill, H.R. 3248.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXPRESSING SOLIDARITY WITH ISRAEL IN THE FIGHT AGAINST TERRORISM

Mr. HYDE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 280) expressing solidarity with Israel in the fight against terrorism.

The Clerk read as follows:

H. CON. RES. 280

Whereas 26 innocent people in Israel were murdered in cold blood and at least 175 wounded by Palestinian terrorists, all within 14 hours, during the weekend of December 1–2, 2001;

Whereas this is the equivalent, on a proportional basis, of 1,200 American deaths and 8,000 wounded;

Whereas United States Middle East envoy Anthony Zinni has labeled the terrorism of December 1–2, 2001, "the deepest evil one can imagine";

Whereas this bloody weekend is part of an ongoing terror campaign often targeted at youth and families and perpetrated by the Islamic fundamentalist groups Hamas and Palestinian Islamic Jihad and other Palestinian terrorist groups;

Whereas President Bush declared at a joint session of Congress on September 20, 2001, that "Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists. From this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime"; and

Whereas President Bush declared on December 2, 2001, that "Chairman Arafat must do everything in his power to find those who murdered innocent Israelis and bring them to justice": Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) condemns the vicious terrorist attacks resulting in the death of 26 and the wounding of at least 175 innocent people in Israel within 14 hours during December 1–2, 2001, and extends its deepest sympathies to the Israeli nation and to the families of the victims;

(2) expresses outrage at the ongoing Palestinian terrorist campaign and insists that the Palestinian Authority take all steps necessary to end it;

(3) demands, specifically, that the Palestinian Authority take action immediately to—

(A) destroy the infrastructure of Palestinian terrorist groups;

(B) pursue and arrest terrorists whose incarceration has been called for by Israel; and

(C) either—

(i) prosecute such terrorists, provide convicted terrorists with the stiffest possible punishment, and ensure that those convicted remain in custody for the full duration of their sentences; or

(ii) render all arrested terrorists to the Government of Israel for prosecution;

(4) urges the President to take any and all necessary steps to ensure that the Palestinian Authority takes the actions described in paragraph (3), including, if necessary, suspending all relations with Yasir Arafat and the Palestinian Authority;

(5) further urges the President to insist that all countries harboring, materially supporting, or acquiescing in the private support of Palestinian terrorist groups end all such support, dismantle the infrastructure of such groups, and bring all terrorists within their borders to justice;

(6) commends the President for his strong leadership against international terrorism, his forthright response to this most recent outrage, and his swift action to freeze additional sources of terrorist funds; and

(7) expresses the solidarity of the United States with Israel in our common struggle against the scourge of terrorism.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

Mr. DINGELL. Mr. Speaker, I rise in opposition to H. Con. Res. 280.

The SPEAKER pro tempore. Is the gentleman from California (Mr. LANTOS) in opposition to the motion to suspend the rules?

Mr. LANTOS. Mr. Speaker, I strongly support the resolution.

The SPEAKER pro tempore. As a Member opposed to the motion, the gentleman from Michigan (Mr. DINGELL) may control the 20 minutes reserved for opposition.

Mr. HYDE. Mr. Speaker, I ask unanimous consent to divide my time with the gentleman from California (Mr. LANTOS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that each side be given an additional 10 minutes in view of the fact that we have a number of speakers.

Mr. DINGELL. Mr. Speaker, parliamentary inquiry. Each side, I would like to know what that means?

The SPEAKER pro tempore. Does the gentleman from Michigan object?

Mr. DINGELL. Mr. Speaker, I do not. I simply reserve the right. That means 10 minutes more for those supporting the motion and 10 minutes more for the opposition?

The SPEAKER pro tempore. The Chair would state that it would make the motion debatable for an hour evenly divided.

Mr. DINGELL. Mr. Speaker, I do not object to that.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. HYDE) will control 15 minutes, the gentleman from California (Mr. LANTOS) will control 15 minutes, and the gentleman from Michigan (Mr. DINGELL) will control 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 280, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, yesterday the House leadership would have met with Israeli Prime Minister Sharon in the United States Capitol to discuss the status of the peace process. Instead, he had to return home to Israel, and we are here on the floor of the House joining with the people of Israel in their grief over the losses from the horrific terrorist attack of the past weekend.

As Israel buries its dead, comforts its bereaved and begins to heal its wounded, we send through this resolution a signal of sincere condolence and solidarity with the people and the government of the State of Israel.

The American people also join in President Bush's forthright expression of support for Israel's right of self-defense. Mr. Speaker, yesterday the President took additional actions to cut off funding for terrorists, funds which originated here in the United States. Hamas is now understood to be a terrorist organization of global reach, even if that reach is mainly from Iran, Syria, or Lebanon into Israel.

This resolution calls on Palestinian Authority Chairman Arafat to do what the President's spokesman said he could have done in the past, to really crack down on those who would deliberately murder women, children and men as they go about their business on the streets.

We ask the President to act sharply against the Palestinian Authority if it does not heed our request. This is not an action we should rush to take, because the Palestinian people have chosen Chairman Arafat as their leader, and it is important that we maintain a relationship with him if at all possible. But as we do not provide aid to the Palestinian Authority itself, we cannot cut off assistance as a way of showing displeasure. A customary way of showing extreme displeasure with a foreign authority is to cut off our diplomatic relationship and compel some or all of their envoys to return home.

It seems clear that the actions or inaction of the Palestinian Authority to date merit the President's taking all appropriate actions, which could include the cutting off of our quasi-diplomatic relationship should we not see some serious action on their part.

Mr. Speaker, I believe that Chairman Arafat has a historic role to play. He needs to lead his people by stopping the violence and beginning the negotiating process. He needs to do this not because we asked him to, not because of Israel's interest, but the interests of his own people. He needs to clearly convey to his people that the way of violence is not the way forward.

I sincerely hope he chooses the path of peace, takes risks for peace, and finds a way out of his present dilemma. The United States and its friends can and should do all it can to help him, but the choice ultimately is one that he and his colleagues must make and take responsibility for.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, I rise in regretful opposition to the resolution. It is clear we have an opportunity to pass a resolution which will contribute in a significant way to the peace process. It is very clear that we have a duty to oppose terrorism, which I have always done and which I continue to do. It is also equally clear that the United States has a long-standing commitment to the freedom and independence to the State of Israel, and I strongly support that undertaking.

But I would note that here the resolution contributes very little to the accomplishment of those purposes. What this resolution does is to essentially set up a situation where the United States appears and in fact does and will be viewed by people in the area as having taken sides. The interests of the United States here are to bring to a halt terrorism and to create a lasting viable negotiated peace. That is best done by attacking the root causes of terrorism, not the least of which are the thousands or hundreds of thousands of Palestinians and others feel themselves to be unfairly, badly, and improperly treated. Their homes are destroyed. Their orchards are destroyed. Their lands are settled in defiance of their wishes their people are driven to poverty and killed. International agreements which they have made in their names are not being honored.

The duty of the United States here is a very simple one, and that is to work for peace in the Middle East. Our single most important concern in that area is peace: peace for Israel, security for Israel, peace and security for the Palestinians, an end to the fighting, a termination of terrorism. How is that done? Is it done by shooting up Arafat's helicopters? Is it done by terror bombings of people who are committing suicide to kill Israelis? No. Only one way leads to this course, the strongest possible leadership by the United States functioning as an impartial honest broker between people who find little reason not to hate each other.

Mr. Speaker, this will be done by a long process of negotiation in which the parties must come together to negotiate their differences under the strong leadership and guidance of the United States. This resolution accomplishes nothing in that end. It does nothing to move forward the peace process which came so close under the leadership of President Clinton during the last days of his administration. It does nothing to strengthen our friends in the area, the Governments of Egypt and Jordan. And it does nothing to make it possible for Mr. Arafat to provide the necessary leadership towards meaningful discussions. Rather it, and other actions leave Arafat weaker and less capable of effective participation in the peace process.

The question Members have to ask is: How is it that Arafat is to be better disposed to move forward towards peace when his people are angry and when his helicopters are bombed and when his headquarters is threatened? The answer is, not at all. But, it goes beyond this. How is the peace process, or how are our concerns about peace in the area moved forward by weakening Arafat and by making him appear to be incapable of leading the Palestinian people? Or making the Palestinian people less willing to follow his leadership in the peace process?

Mr. Speaker, I hold no brief here for any side, none for Mr. Arafat, none for the Israelis or anybody else. I think the United States has to look to one thing. Let us look to our principal interest. Our principal interest is peace in the area. How is that to be achieved? Only in one way and no other. There is only one country in the world that has the prestige and the ability to do that and the military capability to bring that about. When it gets down to the point, we, and we alone, acting as leader of other Nations also dedicated to peace have the capacity to do what has to be done, to bring about real meaningful and final negotiations to settle the problems.

The issue here is how we bring the parties forward to begin a long and difficult a process. We must use the most intense pressure of the United States to abate and to terminate the terrible events which we are seeing in Israel, in Palestine, in the occupied territories in the Middle East. Negotiations between the parties are the only way.

I think Members can anticipate that the terrible events which occurred the other day in Israel with scores of people injured and killed are going to be replicated again and again. Angry, frustrated, bitter people are going to use that method because that is the only method that is available to the weak.

□ 1315

Again how are we going to bring the terrible events in the Middle East to a halt? By seeing to it that the problems that exist between the Israelis and the Palestinians and the others in the area are abated by negotiations between them. Is this going to be easy? Of course not. But is there an alternative way? The answer is there is no other way that that could be accomplished.

Certainly the resolution which is before us offered, by good friends of mine, for whom I have great respect, with, I am sure, the best of intentions, does not carry out the mechanisms for bringing peace and it does not offer us the prospects of seeing progress going forward. Nor does it offer this Nation the opportunity to know that we have done something which will abate the root causes of terrorism in that world which are causing deaths in the United States as well as Israel, Palestine, and other places. We have committed ourselves to a massive effort in Afghanistan, which has caused us to spend billions of dollars and to put at risk our military personnel.

I support that effort, and each year I support massive funding to help Israelis to maintain their statehood and to deal with their security problems.

This resolution is counterproductive. It does not move us forward towards world peace. It does not move us forward towards a resolution of the controversy of the differences which are major causes of terrorism, heartache, death and suffering, for Israelis and for Arabs alike, and on September 11, Americans.

This leaves us with a large new group of people who are going to say the United States sides with Israel, and that this country is not concerned about peace in the Middle East, and not concerned about addressing the enormous problems which divide the people there. We thus ignore some of the terms most important to our national security. We are talking here about an area which has the potential for the next world war occurring. Terrorism can bring it about at any time. It could happen; and if it does, the results to Israel will be calamitous. Five million Israelis, or a few more, in a small country surrounded by millions of Arabs, is facing terrible risk and danger in the event that there is significant trouble.

I am not sure that the United States can address any of the problems that we have with peace in the area easily, or that we can address the problems of assuring our own security. But we must. We have already learned the bitter anger that causes suicide bombers will kill large numbers of Israelis and Americans through terrorist tactics. I would urge my colleagues to choose a better mechanism for assuring peace in the area and the security of the United States, a negotiated settlement by the parties, driven by our leadership, and effort, with the support of the other peace loving Nations.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say to my distinguished friend, the gentleman from Michigan (Mr. DINGELL), for whom I have enormous admiration, that he has a much more spacious view of the purpose of this resolution. We do not pretend to have an answer to the Middle East conflict; and I pray that if the gentleman does, he will come forward with it so that peace might be moved closer in that troubled part of the world.

What this resolution does is a very narrow, simple thing, and that is it shows solidarity with the Israeli people who were victimized on December 1 with an atrocity, namely the killing of 26 people, randomly, in a shopping mall, and the wounding of at least 175 of them, in the wake of what happened to our country on the 11th of September in the worst act of terrorism in recorded history in the memory of man.

So Israel and the United States are both victims of a terrible act of terrorism; and in that co-victimhood we attempt to show solidarity. That is not a mindless thing; it is not an empty gesture. It focuses on this new form of war, which is beyond contempt. I think that is very useful and necessary.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first want to pay tribute to the leadership of the chairman of the Committee on International Relations, our distinguished colleague, the gentleman from Illinois (Mr. HYDE), in bringing this resolution before us.

I should also mention, Mr. Speaker, that as we speak, a parallel resolution is being considered in the other body, introduced by the chairman and the ranking member of the Senate Foreign Affairs Committee.

Mr. Speaker, I rise in strong support of the Hyde-Lantos resolution expressing solidarity with the State of Israel and the Israeli people in their fight against terrorism.

Mr. Speaker, this past weekend, Israel experienced the most deadly eruption of Palestinian terrorist assassinations that country has seen in years. Some 26 utterly innocent civilians were killed, most of them young people, and 175 wounded, within a 14-hour period as a result of ruthless suicide bombs in both Jerusalem and Haifa. Once again, Palestinian terrorists targeted people on a bus and people in a shopping mall.

We as Americans, ourselves recently victimized, fully share the Israelis' sense of anger, outrage, and violation. The horror of this past weekend was, as President Bush's Middle East envoy, General Zinni, stated, "the deepest evil one can imagine."

Israel's casualty figures from the 14 hours of carnage are the equivalent on a proportional basis of 1,200 American dead and 8,000 American wounded. The horrors of this past weekend only underscore a relentless campaign of murder carried out by Hamas, Islamic jihad and elements of Arafat's own Fattah movement. In fact, Mr. Speaker, since that fateful date, September 11, the equivalent of 2,700 Israelis have fallen victim to Palestinian terrorism.

Each human life is a treasure far beyond what any statistic can express. Both the Jewish and Islamic traditions poignantly declare that the saving of one human life is the equivalent of saving the world and the murder of one human life is the equivalent of destroying the world. I cite the proportional figures only as a means to illustrate, Mr. Speaker, the impact these killings have on a small nation of just 6 million people.

This Congress and the American people are angry, frustrated, and fed up with Arafat's cynical support of murderous criminals and his failure to act to prevent the killing of both Israelis and Palestinians. But Arafat's failure does not only lead to death; it leads to the danger that a bloodbath will ensue in the entire region.

We know, Mr. Speaker, that Arafat is capable of stopping terror. We have seen him do so when under sufficient international pressure. Until he does end the terror, and end it for good, we must conclude that he supports it.

It is no longer good enough, indeed, it never was, Mr. Speaker, for Arafat to run a revolving prison door, arresting a few low-level terrorists for a few days until the world diverts its glance and moves on to other issues.

The Hyde-Lantos resolution provides that the Palestinian Authority should arrest, prosecute, and punish the perpetrators of this monstrous act or turn over these terrorists to the Government of Israel for prosecution. Our resolution urges the President of the United States to take any and all steps necessary to ensure that the Palestinian Authority complies with all of our demands. If it does not, we call on our President to terminate relations with Arafat and the Palestinian Authority.

Mr. Speaker, in his historic speech to our joint session on September 20, President Bush said that nations will be judged as either being against terrorists or being for them. In this hour of their grieving, Israelis should know that the American Congress and the American people stand resolutely with them in our joint struggle against international terrorism.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I rise in opposition to this piece of legislation. Not because it is completely flawed, it has great value in some of the things it says, but it has flaws.

Before I go on to those flaws, I would like to point out that the previous speaker misstated this resolution. I would ask the gentleman from California (Mr. LANTOS) to use some of his remaining time to restate correctly this resolution.

This resolution in its original form very outlandishly called on the Palestinian Authority, as though they were the perpetrators of this crime. It has been changed, because they are not.

Hamas committed these two terrible attacks, for which Hamas should be hunted down and punished, as the President is seeking to do. But in fact, the Palestinian Authority is also a victim of these attacks. They have had loss of life as a result of this. And going to the larger picture of the Middle East, Israel continues to find ways to punish and diminish the Palestinian Authority's ability to enforce the very laws that they ask to be enforced by bombing their police headquarters in retaliation for what was taken credit by Hamas to be their act.

Hamas is, in fact, an organization formed in opposition to the Palestinian Authority's very own party. I would ask that these inaccuracies be corrected, because in fact Hamas would like to see the PLO out of power. Hamas is an extreme organization with a very different bent than the Palestinian Authority's general way of doing business.

More importantly, I would call on everyone to look at item four, where it urges the President to take any and all necessary steps to ensure the Palestinians take the actions described. That was added, and it was added for a good and valid reason that I hope we will all remember should this otherwise in some ways misguided resolution pass.

The President could restore the $900 million that the Israeli Government has withheld from the Palestinian Authority. Those dollars were designed to allow them to enforce their laws, and yet that has been unlawfully and in violation of the agreement that they have made withheld.

The President could see that the Palestinian Authority, who today only has two answers to a riot, yell at them or shoot them, because they are prohibited and withheld the kind of riot control equipment that would allow them to enforce these very sanctions that we want to see that they do to root out Hamas. They have no riot control equipment; they have no billy clubs; they have no tear gas.

So I ask that we look at this somewhat erroneous resolution for what it might do for the administration, if the administration takes the initiative and does some positive things to undo the damage that has been done by Israel in breaking down the very authority that they now call on the United States to insist that they take these steps.

We were just in the West Bank on a CODEL. We saw how little ability the PLO now has, what the effects of 14 months of not receiving the funding they need to do their job are.

☐ 1330

This is not a perfect document. It has been improved. I would call, once again, on the gentleman from California (Mr. LANTOS) to make those corrections so that we fairly and accurately state what item 4 and the rest of this document says, which is a call on Hammas, the Palestinian Islamic Jihad and other organizations, terrorist organizations, of which the Palestinian Authority is not one.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New York (Mr. GILMAN).

Mr. DINGELL. Mr. Speaker, out of extraordinary respect and affection for the gentleman from New York (Mr. GILMAN), my good friend, I yield him an additional 1 minute.

The SPEAKER pro tempore (Mr. BASS). The gentleman from New York (Mr. GILMAN) is recognized for 3 minutes.

Mr. GILMAN. Mr. Speaker, I rise to urge my colleagues to fully support H. Con. Res. 280 so that the Congress can demonstrate that it stands in strong support of Israel as it confronts terrorism threats similar to the ones we have been confronted by our own Nation. I thank our distinguished chairman, the gentleman from Illinois (Mr. HYDE), and the gentleman from California (Mr. LANTOS), our ranking minority member, for bringing this measure to the floor in a timely manner.

We should be reminded that Israel has lived with these kinds of threats and terrorism for most of its existence, not just since September 11, and which have escalated just in the past few days, killing so many innocent civilians. Palestinian leader Chairman Arafat needs to know that he will receive no more second opportunities and no more benefits of doubt. This resolution does just that by demanding that Chairman Arafat root out the infrastructure of Palestinian terrorist organizations operating within its territory that is controlled by the Palestinian Authority.

This resolution demands that Chairman Arafat either prosecute Palestinian terrorists and ensure that they remain in custody, or turn over the terrorists to Israel for prosecution. These are steps that Arafat, despite repeated demands from Israel and, to some extent, from our own Nation, that he has to undertake at this time but has refused to. Our resolution urges the President to suspend relations with Mr. Arafat, the Palestinian Authority, until they, once and for all, root out the terrorist infrastructure. We must not do business as usual with Mr. Arafat while he continues to allow Palestinian suicide bombers to roam freely, enabling them to carry out more destruction against civilians.

Mr. Arafat has refused to crack down on these terrorist groups, believing that he can keep peace with the Palestinian Authority if he stands down from confronting the militants.

However, these groups actually have been undermining Mr. Arafat's leadership by provoking Israel and preventing negotiations from yielding peace and prosperity for the Palestinian people.

Mr. Speaker, this resolution puts other governments on notice that we in the Congress are watching their behavior toward Palestinian terrorism as well. Governments such as Syria and Iran must not be permitted to fund, to arm and to harbor Palestinian terrorist groups with immunity and then hide behind tepid words of support for the United States' efforts against the Taliban and bin Laden. Syria has allowed Hammas and the Palestinian Islamic Jihad to maintain their headquarters in Damascus and to operate training camps in the Bekaa Valley of Lebanon. Iran provides about 10 percent of Hammas' total budget and virtually all of the funds used by Palestinian Islamic Jihad, according to a wide variety of reports and analyses. It also funds weapons to Hizbollah in Lebanon, an organization that helps train Hamas and Palestinian Islamic Jihad.

In conclusion, let me say, Mr. Speaker, that the passage of this resolution will send to Chairman Arafat a clear, strong message that our patience with him is at an end. As some Israeli leaders have noted, Mr. Arafat should be told to either surrender the terrorists, or surrender his power. The same policies that we are pursuing against Osama bin Laden in Afghanistan should be applied to Mr. Arafat. I urge my colleagues to fully support this measure.

Mr. LANTOS. Mr. Speaker, before yielding to the gentlewoman from Nevada, I want to make some observations on the speaker prior to the gentleman from New York (Mr. GILMAN).

I do not take back one single word of my statement. Units of Arafat Palestinian Authority have participated repeatedly in the most heinous terrorist acts and claimed credit for it. Arafat paid tribute to mass murderers and assassins on a repeated basis. He is part and parcel of the terrorist cabal.

Let me also say, with respect to sanctimonious statements about peace, there was an opportunity for peace when, under President Clinton's leadership and at his urging, former Prime Minister Barak made sweeping and phenomenal concessions to the Palestinian Authority, and instead of accepting those or coming up with a counteroffer, he started a 14-month mass murder, sweeping the region, with hundreds of Israelis and Palestinians being killed, the Palestinian economy in shambles, tourism in the whole region from Egypt to Lebanon dead. All of it because of terrorism and violence.

Mr. Speaker, I am delighted to yield 2½ minutes to the gentlewoman from Nevada (Ms. BERKLEY), my distinguished colleague and good friend.

Ms. BERKLEY. Mr. Speaker, I rise in strong support of the Hyde-Lantos resolution.

I would like to personally thank both the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) for bringing this measure to the floor and for their excellent leadership on our committee.

Mr. Speaker, after the vile terrorist attacks perpetrated by Palestinian suicide bombers this weekend in Israel, many are claiming that this is the moment of truth for Yasar Arafat. The fact is, Chairman Arafat has had too many moments of truth, and he has failed them all.

The patience of the United States has been abused time and again by the Palestinian leadership. It is far past time for Chairman Arafat to start producing results. He started this Intifada over a year ago after rejecting Prime Minister Barak's generous calls for peace and, since then, has chosen to ignore America's calls for negotiation in favor of blowing up discos and pedestrian malls. Mr. Arafat and the entire Palestinian leadership must listen very clearly to the message that we are sending: You have gained nothing by killing innocent teenagers, except the wrath of America, Israel and the civilized international community.

Palestinian apologists have tried to link these terrorist attacks to Israeli policies. Let me say loud and clear that those who make this argument are the same, in many instances, who claim that the attacks on America on September 11 were motivated by America's foreign policy. Only the most despicable or deliberately blind human beings can rationalize the murder of innocent teenagers for a supposed political cause.

Mr. Speaker, our patience with the Palestinian leadership has run its course. American policy is clear that our enemies are terrorists everywhere and all governments that support them. This resolution says once and for all to Chairman Arafat, what side are you on? Do you support terror, or will you immediately and permanently dismantle the terrorist organizations that act freely within your territory?

Hamas and other terrorist organizations operate with a free hand because Arafat allows them to. If Arafat cannot control these terrorists, then why are we propping him up and pretending that he has the ability to negotiate with Israel for peace? If Chairman Arafat fails to act, then it is time to regard the Palestinian Authority as supporters of terror and deal with them as such. The choice, as it has always been, is Chairman Arafat's to make.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, Yasar Arafat says that he cannot control the terrorists. It seems that we have a relatively easy decision to make. Why do we not take him at his word? If he cannot control the terrorists, then he should not pretend that he can bring peace, and we ought to stop negotiating with him. We need to look elsewhere among the Palestinians for negotiating partners. If Yasar Arafat is responsible, then terrorists under his control over the weekend killed 26 Israelis. If he is responsible, he needs to be held accountable for his actions. We need to remember that Arafat has never outlawed Hammas, he has never confiscated its weapons, he has never shut down its training camps, and he has never even publicly condemned it by name.

In 1997, then Secretary of State Madeleine Albright said that Arafat had a revolving door justice system when it came to handling terrorists. Things have not changed.

Again, the U.S. simply needs to determine, is Arafat in control, or is he not? I would suggest that, in either case, we ought to stop negotiating with him.

Further, there are better uses for taxpayer dollars than to prop up terrorists and their regimes. If we find that he is not in control, stop negotiating with him. If he is in control, hold him accountable. We ought to begin the post-Arafat era.

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to the resolution and not, obviously, because it condemns violence. We all condemn the violence. But there is more to this resolution than just condemning the violence. I have a problem with most resolutions like this because it endorses a foreign policy that I do not endorse, and it does that by putting on unecessary demands. So the demands part of this resolution is the part that I object to, not the condemnation of violence.

By doing this, we serve to antagonize. We hear today talk about having solidarity with Israel. Others get up and try in their best way to defend the Palestinians and the Arabs. So it is sort of a contest: Should be we pro-Israel or pro-Arab, or anti-Israel or anti-Arab, and how are we perceived in doing this? It is pretty important.

But I think there is a third option to this that we so often forget about. Why can we not be pro-American? What is in the best interests of the United States? We have not even heard that yet.

I believe that it is in the best interests of the United States not to get into a fight, a fight that we do not have the wisdom to figure out.

Now, I would like to have neutrality. That has been the tradition for America, at least a century ago, to be friends with everybody, trade with everybody, and to be neutral, unless somebody declares war against us, but not to demand that we pick sides in every fight in the world. Yet, this is what we are doing. I think our perceptions are in error, because it is not intended that we make the problem worse. Obviously, the authors of the resolution, do not want to make the problem worse. But we have to realize, perceptions are pretty important. So the perceptions are, yes, we have solidarity with Israel. What is the opposite of solidarity? It is hostility. So if we have solidarity with Israel, then we have hostility to the Palestinians.

I have a proposal and a suggestion which I think fits the American tradition. We should treat both sides equally, but in a different way. Today we treat both sides equally by giving both sides money and telling them what to do. Not $1 million here or there, not $100 million here or there, but tens of billions of dollars over decades to both sides; always trying to buy peace.

My argument is that it generally does not work, that there are unintended consequences. These things backfire. They come back to haunt us. We should start off by defunding, defunding both sides. I am just not for giving all of this money, because every time there are civilians killed on the Israeli side or civilians killed on the Palestinian side, we can be assured that either our money was used directly or indirectly to do that killing.

□ 1345

So we are, in a way, an accomplice on all of this killing because we fund both sides. So I would argue we should consider neutrality, to consider friendship with both sides, and not to pretend that we are all so wise that we know exactly with whom to have solidarity. I think that is basically our problem. We have a policy that is doomed to fail in the Middle East; and it fails slowly and persistently, always drawing us in, always demanding more money.

With the Arabs, we cannot tell the Arabs to get lost. The Arabs are important. They have a lot of oil under their control. We cannot flaunt the Arabs and say, get lost. We must protect our oil. It is called "our oil." At the same time, there is a strong constituency for never offending Israel.

I think that we cannot buy peace under these circumstances. I think we can contribute by being more neutral. I think we can contribute a whole lot by being friends with both sides. But I believe the money is wasted, it is spent unwisely, and it actually does not serve the interests of the American people.

First, it costs us money. That means that we have to take this money from the American taxpayer.

Second, it does not achieve the peace that we all hope to have.

Therefore, the policy of foreign noninterventionism, where the United States is not the bully and does not come in and tell everybody exactly what to do, by putting demands on them, I think if we did not do that, yes, we could still have some moral authority to condemn violence.

But should we not condemn violence equally? Could it be true that only innocent civilians have died on one side and not the other? I do not believe that to be the care. I believe that it happens on both sides, and on both sides they use our money to do it.

I urge a no vote on this resolution.

Mr. Speaker, like most Americans, I was appalled by the suicide bombings in Israel over the weekend. I am appalled by all acts of violence targeting noncombatants. The ongoing cycle of violence in the Middle East is robbing generations of their hopes and dreams and freedom. The cycle of violence ensures economic ruin and encourages political extremism; it punishes, most of all, the innocent.

The people of the Middle East must find a way to break this cycle of violence. As Secretary of State Colin Powell told the House International Relations Committee in October, "You have got to find a way not to find justifications for what we are doing, but to get out of what we are doing to break the cycle."

Mr. Speaker, I agree with our Secretary of State. The Secretary also said that we need to move beyond seeing the two sides there as "just enemies." I agree with that too. But I don't think this piece of legislation moves us any closer to that important goal. While it rightly condemns the senseless acts of violence against the innocent, it unfortunately goes much further than that—and that is where I regrettably must part company with this bill. Rather than stopping at condemning terrorism, this bill makes specific demands in Israel and the Palestinian areas regarding internal policy and specifically the apprehension and treatment of suspected terrorists. I don't think that is our job here in Congress.

Further, it recommends that the President suspend all relations with Yasir Arafat and the Palestinian Authority if they do not abide by the demands of this piece of legislation. I don't think this is a very helpful approach to the problem. Ceasing relations with one side in the conflict is, in effect, picking sides in the conflict. I don't think that has been our policy, nor is it in our best interest, be it in the Middle East, Central Asia, or anywhere else. The people of the United States contribute a substantial amount of money to both Israel and to the Palestinian people. We have made it clear in our policy and with our financial assistance that we are not taking sides in the conflict, but rather seeking a lasting peace in the region. Even with the recent, terrible attack. I don't think this is the time for Congress to attempt to subvert our government's policy on the Israeli-Palestinian conflict.

Finally, the bill makes an attempt to join together our own fight against those who have attacked the Untied States on September 11 and Israel's ongoing dispute with the Palestinians. I don't think that is necessary. We are currently engaged in a very difficult and costly effort to seek out and bring to justice those who have attacked us and those who supported them, "wherever they may be," as the president has said. Today's reports of the possible loss of at least two our servicemen in Afghanistan drives that point home very poignantly. As far as I know, none of those who attacked us had ties to Palestine or were harbored there. Mr. Speaker, I think we can all condemn terrorism wherever it may be without committing the United States to joining endless ongoing conflicts across the globe.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding time to me, and I thank him for his leadership.

I also want to commend the gentleman from Illinois (Chairman HYDE) and, again, the chairman of the subcommittee, the gentleman from New York (Mr. GILMAN), and the gentleman from California (Mr. LANTOS) for the work they have done.

I rise in strong support of this resolution to express solidarity with Israel and the fight against terrorism. We have had leadership on the Committee on International Relations that has helped us to ensure our support for Israel, and I want to thank them all for their leadership.

The citizens of Israel know too well the threat of terrorism. This past weekend was another brutal example: 26 Israeli citizens were murdered and 175 were wounded by the terrorist group Hamas and the Palestinian jihad, all within 14 hours. This bloody weekend was part of an ongoing campaign aimed at youth and families, unacceptable acts of terrorism.

To bring an end to terrorism in Israel, Chairman Arafat has to live up to his agreements, including commitments made to stop this violence against civilians. That means fulfilling promises of prosecutions. His ability to maintain the rule of law would finally demonstrate a Palestinian interest in engaging in discussions of peace.

Without serious action to eliminate, even harness terrorism, Arafat cannot expect any opportunity for negotiations.

So the United States stands united with Israel in the effort to eliminate the terrorist attacks against our citizens. Our continued unification with other nations on this issue must not cease to be heard around the world. Our Arab allies, indeed, must understand our position and encourage Chairman Arafat to take the necessary steps against known terrorist organizations, and support him publicly when he does.

I encourage all my colleagues to support House Concurrent Resolution 280 to express our support and solidarity for the citizens of Israel.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New York (Mr. ACKERMAN), the distinguished ranking member of the Middle East subcommittee of the Committee on International Relations.

Mr. ACKERMAN. Mr. Speaker, I am outraged by the statement of one of the previous speakers who has now left the floor who said, with his unique sense of justice, that we should treat everybody equally; that we should treat the terrorists and victims the same; that we should treat Hamas the same way and look at them in the same way that we treat little girls going to a disco, or grandmothers taking their grandchildren out for pizza for lunch. That is not justice; that is ridiculous.

Mr. Speaker, I rise in strong support of the resolution. I would like to thank the chairman, the gentleman from Illinois (Mr. HYDE), and the ranking member, the gentleman from California (Mr. LANTOS), for their outstanding efforts in crafting this resolution and getting it to the floor in so timely a fashion.

I believe it is critically important at this moment, this moment of truth, for the House of Representatives to speak out against the Palestinian terrorism which has cost so many innocent Israelis their lives.

It is well past time for Congress to say enough, enough killing, enough terror, and finally, enough duplicity, excuses, and lies. Palestinian terrorism is not an accident; it is not an uncontrollable cycle. In fact, it is the result of a deliberate, deliberate refusal by the Palestinian Authority to crack down on terrorist groups like Hamas and the Palestinian Islamic jihad.

It is the result of the Palestinian Authority's revolving-door prison policy, and the Palestinian leadership's unconscionable refusal to arrest terrorists whose names and addresses are made familiar by endless Israeli requests for action, requests that have been confirmed by our own government.

Hamas is a terrorist group, and the PA harbors them. Our President says there is no difference, that the Palestinian Authority must be held accountable for these grotesque decisions which make any hope of peace an impossibility.

The Palestinian people have legitimate grievances and they have a right to express them; but they have no right, no right, no right to blow up and murder innocent men, women, and children.

Mr. Speaker, the United States cannot work during the day with Palestinian leaders on "the peace of the brave" while in the evening they turn a blind eye to terrorist bombings, shootings, and mayhem. As President Bush made so clear in his address to this Congress and to the American people, the time has come for every Nation and national group to choose: they are either with us or they are with the terrorists.

The Palestinian Authority has exactly that choice to make now. Either they destroy the infrastructure of Hamas, Islamic jihad, and other terrorist groups, or they will lose their relationships with the Congress, lose their relationship with the United States, and in the end, stand to lose much more than that.

Mr. Speaker, we must pass this excellent resolution. Again, I want to thank the gentleman from Illinois (Chairman HYDE) and the gentleman from California (Mr. LANTOS) for helping the House to find its voice on this very critical issue.

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that each side be given an additional 5 minutes, since we have some additional speakers.

The SPEAKER pro tempore (Mr. BASS). Is there objection to the request of the gentleman from New York?

Mr. DINGELL. Mr. Speaker, reserving the right to object, I just want to hear again what my good friend said.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I would tell the gentleman, I am asking for an additional 5 minutes for each side, since we have additional speakers.

Mr. DINGELL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. GILMAN), the gentleman from Michigan (Mr. DINGELL), and the gentleman from California (Mr. LANTOS) will each be recognized for an additional 5 minutes.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I will be voting for House Concurrent Resolution 280. This bill reflects my abhorrence and total condemnation of terrorist attacks on innocent Israelis, noncombatants. That attack, carried out on December 1 and 2, mutilated and killed 26 noncombatants, and 175 were wounded. These were human beings: men, women, and children, young people, and seniors. This monstrous atrocity must be condemned by all who believe in morality, all who believe in God, all who seek a better world and seek peace.

We condemn this as we condemn all attacks which have targeted Israelis and noncombatants in the decades past. This unconditional condemnation of such attacks on Israel, on their noncombatants, is totally justified.

But that is not enough. If America is to be a peacemaker in the Middle East, if we are to take a principled stand that will then be taken seriously by both sides when we condemn terrorism, we must condemn with equal moral outrage the murderous assaults on Palestinian noncombatants.

There are piles of bodies in the Middle East today, piles of bodies of innocent people. The Economist Magazine recently noted that the number of Palestinian noncombatants who have been killed in these last 6 weeks far outnumber the number of Israeli victims.

But there have been victims on both sides; and we need to equally, with equal fervor, condemn these attacks on innocent people. We should have zero tolerance, zero tolerance of this brutal terrorism that has kept the Middle East in such turmoil.

But let me note that does not mean, because we condemn this terrorism, that we close our eyes to the fact that Israeli soldiers are mowing down young boys who are doing nothing more than throwing rocks, a nonlethal weapon, and they use deadly force.

There are people in this body who are, with me, dedicated to human rights who would never permit a regime anywhere in the world to use such deadly force against people who are simply throwing rocks in order to call the public attention to their seeking justice for their cause. The killing of an Israeli soldier does not justify the shelling, indiscriminate shelling, of Palestinian villages, which has been part of their policy in the past, as well.

If we are to be taken seriously about condemning terrorism, if we are to be a peacemaker in the Middle East, and that is what we should be whenever there is an act of terrorism, we need to step forward; and we have not done it when the Palestinians are the victims.

Today I am going to vote for this resolution because I wholeheartedly condemn the killing that we are talking about here, with these poor Israeli people, 26 of them, and 175 wounded. These young people who are wounded probably have no legs, young people being disfigured all their lives. This is a horror story.

But it is an equal horror story when those things are done on Palestinians by the Israeli soldiers, and we need to be a peacemaker and not just give blanket approval to everything Israel does.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to tell my good friend, the gentleman from California, that there is an enormous difference between targeting innocent civilians and collateral damage.

Today, as we speak, American soldiers were killed, killed in Afghanistan by our own forces inadvertently. There is a difference of the whole world between deliberately killing innocent civilians and retaliating, doing one's utmost to avoid killing civilians and, tragically, mistakes occurring. I think this distinction must be made on this floor.

Mr. Speaker, I am pleased to yield 2 minutes to my good friend, the distinguished gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I thank the gentleman for allowing me this time.

Let me also thank the gentleman from California (Mr. LANTOS) for his leadership in bringing forth this resolution and thank the gentleman from Illinois (Mr. HYDE), as well.

Mr. Speaker, some of our colleagues are concerned about taking a side. We are taking a side; we are taking a side against terrorists. We cannot be neutral when it comes to terrorists. Our President has said it very clearly: they are either on our side in the fight against the terrorists, or they are on the side of the terrorists.

This resolution is very straightforward. It supports the resolve of the people of Israel, and it lends the support of our Nation in their war against terrorists.

□ 1400

That is exactly what the President and we asked of the American people after the attack on our country on September 11. We asked for the resolve of our people and their national support. There should not be a different standard here. We all should be opposed to the terrorist activities and support this war.

Mr. Arafat must make a choice. He either will join us in rooting out the terrorists in the Middle East or he will continue to be an ineffective leader. If he wants to be the leader of the Palestinian people that brings peace to the Middle East, then he must engage us, as this resolution calls upon him to do, to root out terrorists in the Middle East.

Mr. Speaker, this is a resolution that I hope all of us would support. It shows that we will not compromise with terrorists. It shows that we are united as a Nation, we are united in our international coalition to root out terrorist activities, whether they occur in the United States, whether they occur in Israel, or wherever they occur. Innocent people should not be targets. We cannot compromise that issue.

This resolution speaks to that, and I urge my colleagues to support the resolution, to put this body on record against terrorism.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 30 seconds to the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I want to make it clear that this resolution started off as one that I could not support, and, in its final form, it is one that I will vote for, not because anything I said was less accurate. There are unsaid things. There are, in fact, challenges that the Israeli government has not met that I would hope they meet, but I would say that in the final analysis that we as a body must speak about the wrong actions that occurred, regardless of what is not in this document or any flaws that remain.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 2 minutes to our distinguished colleague, the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, I stand up to say, enough is enough. I rise in strong support of this resolution, and I am proud to be a cosponsor. I commend the gentleman from Illinois (Mr. HYDE), the chairman, and the gentleman from California (Mr. LANTOS), our ranking member, for bringing this measure before us this afternoon.

I was both saddened and infuriated by the events that transpired in Jerusalem and Haifa this past weekend. Saddened because 26 people were murdered and 175 were injured in a cowardly terrorist attack. Infuriated because Yasser Arafat and his Palestinian Authority have done nothing to prevent these attacks since the peace process began.

Arresting low-level Hamas operatives to demonstrate that he is doing something is fooling absolutely no one. Arafat's declaration that he is cracking down on Palestinian terrorists is about as effective as the police inspector played by Claude Rains in Casablanca when he said, round up the usual suspects, while Humphrey Bogart got away.

The revolving door policy at Palestinian jails must end immediately. After years of negotiating with Arafat and the Palestinian Authority to no avail, it may be time to ask if Arafat is truly a partner interested in peace. As the old adage goes, actions speak louder than words. Arafat's actions suggest that we have been wasting our time in dealing with him.

Mr. Arafat, our patience has finally run out. You have no more bargaining chips left. President Bush issued a challenge to the world when he said, you are either with us or you are with the terrorists. Clearly, you have chosen.

Following the events of September 11, Americans have experienced what the Israelis have been dealing with since 1948. The Israeli government was there for us on 9/11, and we need to be with the Israelis today.

I urge all of my colleagues to support this resolution.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Speaker, I rise today in strong support of H. Con. Res. 280; and I thank the gentleman from Illinois (Mr. HYDE), the chairman; the gentleman from California (Mr. LANTOS), the ranking member; and the gentleman from New York (Mr. GILMAN) for bringing this measure to the floor so quickly.

As was stated earlier, this past weekend we witnessed some of the bloodiest and most gruesome terrorist attacks on Israeli citizens by Palestinian terrorist organizations. These terrorist attacks are just another reminder that Palestinian Authority Chairman Yasser Arafat and his closest confidants continue to be the largest obstacle to peace in the Middle East by contributing to the reign of terror.

Each and every day Israelis and now Americans face disruptions to our normal civilized daily lives by the constant threat and now reality of suicide bombers and terrorist attacks. I commend President Bush for his actions yesterday in freezing the assets of the Holy Land Foundation for Relief and Development, which poses as a charitable organization but, in fact, funnels millions of dollars annually to Hamas.

In response to an earlier speaker who asked, when are we going to start acting in the U.S. interests, I pose and ask, are not we acting in the interests when we shut down organizations as that who are operating within our borders? Those organizations are using our laws to operate to raise money for terrorist activities which can just as easily take place in Israel and as we saw on 9/11 here in America.

We in America, under the leadership of President Bush, have set out to make Americans and freedom-loving people safer against the terrorists. As stated in the Bush doctrine, there is no distinction between the terrorists and those who harbor them. Just as al-Qaida receives support and sanctuary from the Taliban, Hamas, Palestinian, Islamic Jihad, Hezbollah and others are provided a sanctuary and with land to operate and with support from Mr. Arafat and his confidants.

Mr. Speaker, the time has come for the United States to stop talking about waiting for Arafat to fulfill certain conditions. How many times will we demand he reign in the terror and stop the killing? How many U.S. taxpayer dollars must we spend and entrust to Arafat and his Palestinian Authority as they continue to harbor the terrorists?

Mr. Speaker, the United States and Israel share common values and freedom of choice, and I believe this resolution signals what should be the end of the road for American patience with Mr. Arafat.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I rise in strong support of this resolution condemning the terrorist outrages committed by the Palestinian terrorist groups and expressing our solidarity with Israel.

Mr. Speaker, there can be no peace and no real negotiations as long as such terrorist attacks continue. Mr. Arafat denounces these terrorist attacks but operates a revolving door prison system, that encourages the terrorists to continue. He then lionizes the terrorist murderers and, in fact, gives death benefits and pensions to the families of the suicide bombers.

He is obviously not honest in his opposition to terrorism, and he permits it to continue and, indeed, promotes it.

Mr. Speaker, there can be no moral equivalency between the deliberate attacks of the terrorists on Israeli civilians and the unfortunate deaths of civilians who are victims when Israel attempts to attack the terrorists to prevent further terrorist attacks.

Mr. Arafat must now be held to destroy the terrorist infrastructure now. If Arafat does not do this very quickly, then Israel in all likelihood will take upon itself the necessity of doing so. Israel will have to exercise its inherent right of self-defense, as the United States is now doing in Afghanistan, and that will greatly escalate the situation.

The key to the Oslo agreement for peace talks was the renunciation of violence by both sides as leverage in negotiations. Israel has renounced that violence. Arafat, obviously, has used it as a tool. After Prime Minister Barak made a breathtaking offer of concession to Israel last year, Arafat reacted not by agreeing, not by a counteroffer, but by starting a war which has escalated into a war against civilians.

I support this resolution. We must stop that war. Israel, if necessary, must exercise its right of self-defense to stop that war against civilians, and no one on earth can tell a sovereign nation not to fight to protect its citizens against the kind of terrorist murderers who murdered people in Jerusalem last week and in New York City on September 11.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, there comes a time in the life of a democracy when their leaders must respond to terror by unleashing a terrible, swift sword. That is this time for our allies in Israel.

Under the previous prime minister, Yasar Arafat was offered a choice. At Camp David and again at Taba, he chose between an offer of 97 percent of the territories or the gun. He chose the gun.

Many Americans thought that Arafat could make a courageous decision like Nelson Mandela to surrender the gun and govern a state, or Arafat could follow the path of Fidel Castro and preside over increasing isolation and destruction. Arafat chose unwisely and conducted a wave of violence against teenagers and commuters.

His apologists say that Arafat has no power. They are wrong. He has no judgment. President Bush put the question clearly after September 11, you are either with the terrorists or you are with the West. You cannot condemn the Taliban and hug Hezbollah. Egypt and Jordan chose wisely: Peace with Israel. Arafat chose war.

He is now harvesting the wrath of a democracy and her American ally. Americans are best when we stand with our democratic allies, and now is the time to stand with Israel. Together, we will show that the way of the suicide bomber leads nowhere, and only negotiations with the democratically elected leaders of Israel can lead to peace.

I want to thank the gentleman from Illinois (Mr. HYDE) and the gentleman from New York (Mr. GILMAN) and especially the gentleman from California (Mr. LANTOS) for his leadership on this.

The SPEAKER pro tempore (Mr. OTTER). The Chair would announce that the gentleman from Illinois (Mr. HYDE) has 3 minutes left. The gentleman from Michigan (Mr. DINGELL) has 17 minutes left. The gentleman from California (Mr. LANTOS) has 3 minutes left.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 2 minutes to our distinguished colleague from New York (Mr. WEINER).

Mr. WEINER. Mr. Speaker, Lewis Carroll wrote about a language where down is up, black is white as jabberwocky, and some of the opponents of this resolution are engaged in it today.

The very distinguished gentleman from Michigan (Mr. DINGELL) talks about the despair of the Palestinian people as if it is a rationale for dynamite laced with nails in the middle of a busy square in front of a pizzeria and an ice cream parlor, as if the slaughter of innocents is somehow a legitimate form of political speech.

My friend from California says, oh, we have got the wrong villain. It is not the Palestinian Authority, it is not Arafat, it is Hamas, and if only you give him the chance and the tools to stamp out Hamas, he can do it.

Well, he asked for control of the territories. The Palestinian Authority has it; 95 percent of those that live in the territories are under Palestinian control. He says, I need a police force to control violence. The Israelis gave him a police force, gave him guns, gave those fighting against them guns. He said, that is not enough. He said, I need a list of the terrorists. Well, the Israelis gave him that, too. They refuse to arrest them, and then they go and slaughter innocents. We cannot have it both ways.

Some say Arafat is powerless. Well, if he is powerless, let us adopt President Bush's admonition and toss him upon the dust heap of history; and if he is powerful enough to be a partner for peace, let me ask why is it in his entire history he has not given a single speech in Arabic telling his people that it is time to live in peace with Israel. Not a single one.

Ask him why it is that he has never stopped educating the young people in the Palestinian territories to hate from their very youngest age. He even stopped a program called Seeds of Peace which let young people from Israel and from the territories get together and share their common interests.

On September 11, we in the United States learned what it was like to live in Israel. We would not think of saying to Osama bin Laden, well, let us negotiate, let us take it easy, let us give him a chance. We would never think about giving them Texas and Louisiana if only they would go away. We would never think of that then. We should not even consider that today.

We should pass this very strong resolution, and we should do even more in the future.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to remind the House that Members should address their comments to the Chair and not to other Members in the second person.

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that all persons who control time be given equally an additional 10 minutes. I know some of my colleagues do not need it, but in the spirit of collegiality, we do not want to stifle discussion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MURTHA. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

□ 1415

Mr. LANTOS. In view of the objection heard, Mr. Speaker, I ask unanimous consent that each side be given an additional 5 minutes.

The SPEAKER pro tempore (Mr. OTTER). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New York (Mr. ENGEL).

Mr. ENGEL. I thank my colleague from California, the ranking member, for yielding me this time; and I also thank the chairman.

I rise in very, very strong support of this resolution. I want to read a quote from President Bush right from his resolution, when he stated on September 20: "Every Nation and every region now has a decision to make. Either you are with us or you are with the terrorists. From this day forward, any Nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime."

Mr. Speaker, we are in Afghanistan going after the Taliban not because we think the Taliban plotted and planned the terrorist attacks on September 11, but because the Taliban harbored Osama bin Laden and al Qaeda, which planned these attacks. Well, if it is okay for the United States to knock off the Taliban because they did nothing to prevent terrorist acts and indeed harbored the terrorists, then Israel has the same right to go after Yasar Arafat because he has done nothing to stop terrorism.

No one is saying he sits there and plans and plots the terrorist attacks, but he certainly does nothing to stop them. Either he cannot stop them, at which point what is the point in talking to him; or he refuses to stop them, which at the same point there is no sense talking to him. He has had time.

My colleagues have mentioned where there were generous peace proposals, far beyond what any Israeli prime minister could have offered, and Yasar Arafat rejected the peace proposals of then Prime Minister Barak, and, worse than rejecting it, he walked away from the process. He did not make any counterproposal. He did not try to squeeze a few more concessions out of the Israelis. He walked away and he unleashed the intifada. As far as I am concerned, I am at my wits' end with Yasar Arafat, because he has not shown that he is a partner for peace. In order to be a partner for peace, it takes two to tango. As far as I am concerned right now, Israel is without a partner to negotiate peace.

Now, Hamas, Islamic jihad, all the terrorists have had revolving-door justice from Mr. Arafat. He arrests them and lets them out the back door. The game is played time and time again. He will come here to Washington, and he will issue statements in English condemning terrorism. He does not issue those statements in Arabic. He does not call for peace with Israel in Arabic. He does not do anything to help the plight of his own people. In fact, Islamic jihad and Hamas represent at least as much a threat to him and his authority and his people as they do to Israel.

We have to condemn terrorism with every force we have. And for the question before that was asked, what is in the best interest of the United States, the best interest of the United States is to go after terrorists wherever they rear their ugly head, in the United States, in Israel, or anywhere around the world. I wholeheartedly support this resolution and urge its passage.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the chairman for yielding me this time, and I commend him and the ranking member for their outstanding leadership on this very timely resolution.

Twenty-six innocent people in Israel murdered in cold blood, 175 wounded by Palestinian terrorists all within 14 hours. On a proportional basis, as our resolution provides, this would represent 1,200 American deaths and 8,000 wounded. Today, I rise as a proud and humbled cosponsor of House Concurrent Resolution 280 expressing solidarity with Israel in its fight against terrorism.

I submit to you, Mr. Speaker, that we should do no less than we will do in this Chamber today: condemn the vicious terrorist attacks that have resulted in the deprivation of sons and daughters, husbands and wives, and grandparents of the families in Israel; expressing outrage today, as we do, of the ongoing Palestinian terrorist campaign, which is not, as some in the media say, a cycle of violence; but it is violence against the people of Israel and the self-defense of Israel. And we also demand today that the Palestinian Authority destroy the infrastructure of Palestinian terrorist groups, pursue and arrest terrorists, and bring them to justice; and our efforts both commend the President and urge all necessary steps be taken to ensure such actions by the Palestinian Authority are timely indeed.

I rise today, Mr. Speaker, as a Christian American from the heartland of this country, the great State of Indiana. And I am here to say that I represent hundreds of thousands of Americans who still believe that He will bless those who bless Israel. It is from this tender regard of the American people that this nation sprang back into existence in its historic homeland in 1948, and the enemies of Israel should know that that regard remains to this day.

I pray for the peace of Jerusalem. May there be peace within her walls and security within her citadels. May the grieving families hear from this Congress today the voice of sympathy and the voice of solidarity, and I urge all of my colleagues to support this resolution.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 1½ minutes to my good friend and distinguished colleague from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, I thank the gentleman for yielding me this time and also for his outstanding leadership on this issue. I rise in strong support of Israel's fight against terrorism.

The blood of combatants is unfortunate but understandable. The blood of innocents is intolerable and unacceptable. Today, we deal with that blood; and we first have to say that we must not have and shed the blood of innocents on either side. Now, the gentleman from California (Mr. LANTOS) correctly made the distinction that sometimes in the course of collateral damage innocent Palestinian blood has been shed, and we must say in all sincerity that that is truly a tragedy. But today we address a different situation, the targeted and deliberate shedding of innocent blood of Israelis, Israeli youth in many instances; and that is unacceptable.

But it is not enough to come down here today and condemn from afar. I think we also have to today say, in addition to the fact that we condemn terrorism, we have to examine our role as a country, our foreign policy. We cannot stand on the sidelines. We have to have more engagement. We have to press for a workable and serious ceasefire. We have to continue the peace process, because it is only through the peace process that we can end the shedding of innocent blood. And we have to have accountability for individuals and countries, some of whom are our allies, who tolerate, incite, and ignore the proposals of hatred within their own borders. Because it is this cycle of hatred that really causes the violence that we decry today.

So we need to both condemn today the terrorism that caused these tragic deaths and also look inside our own foreign policy to see how we can do more to combat this problem that is affecting the Middle East today.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 1½ minutes to our distinguished colleague, the gentleman from Pennsylvania (Mr. HOEFFEL).

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of this resolution today.

The increased violence in the Middle East and the horrible acts of terror against Israelis have recaptured the attention of the world. And as we refocus on the Middle East, and in our mutual search for peace, we have to be willing to denounce and decry the horrible acts of violence against civilians. The inexcusable terror directed against Israelis must be condemned by the world.

We must hold Yasar Arafat responsible for stopping that terror. Israel surely has a right to hold him responsible, the United Nations and the United States must hold him responsible, and the world must hold him responsible.

Israel surely has a right to defend herself, and we are seeing that today. She surely has a right to act firmly to prevent further acts of terror. But we must, as we criticize appropriately Yasar Arafat, we have to keep our eyes on the ball, which is not so much Yasar Arafat and his terrible failings, but the hope that is offered by George Mitchell and George Tenant. The Mitchell plan and the Tenant principles to restart the peace process have to be the focus of this country.

We need to move forward with a cooling off period, a cease-fire, of confidence-building measures and must restart the peace process. That is the highest priority, and I call on the House to give our full support to it.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 1½ minutes to our distinguished colleague, the gentleman from Florida (Mr. DEUTSCH).

The SPEAKER pro tempore (Mr. OTTER). The Chair would advise that the gentleman from California (Mr. LANTOS) has 1 minute remaining.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. DEUTSCH).

The SPEAKER pro tempore. The gentleman from Florida (Mr. DEUTSCH) is recognized for 2 minutes.

Mr. DEUTSCH. Mr. Speaker, I thank the ranking member of the Committee on International Relations as well as the ranking member of the Committee on Energy and Commerce for yielding me this time.

I urge my colleagues to read the resolution. I urge my colleagues to read it because I think when they read it, there should be no votes against it on the floor. I know a number of Members have spoken against it today; but I urge them to read the specifics, because I do not think there is anything in this resolution that any Member in good faith can be against.

There are things that Members can object to about Israeli policies, and there is a debate that we can go and we should articulate. But what this resolution is really talking to is specifically acts of terrorism, acts of terrorism that, as Mr. Zinn has said, and I quote, "the deepest evil one can imagine." And that is what we are condemning today, to show that this Congress and the American people are grieving, are feeling some of the pain, although not as significant as the pain that Israelis individually and families are feeling today.

We have a unique role to play as America, as the world's only superpower, as a linchpin of Israel's survival and security. In fact, our role as Members of Congress are as linchpins of any potential peace in the region.

I have not given up hope. This week, Jews throughout the world are going to read a passage in the Torah about Joseph being thrown into slavery and being in a prison, and it looks as if the worst possible time exists for him. Yet at that worst possible time, by our faith and by our belief, we understand that there is hope for peace.

But I urge all of my colleagues to support the resolution.

Mr. DINGELL. Mr. Speaker, I yield myself 7 minutes.

This is a very important debate and one which merits the careful attention of all of our colleagues. And it is one on which the body here should remain focused on the issues which are before us.

What is the real issue that confronts the United States? Is it this resolution, or is it real and lasting peace in the Middle East? The answer is our concerns are peace in the Middle East, peace for the Israelis, peace for the Palestinians, peace for the other Arab and Muslim countries in the area. And without that, there will be no peace and no security for the United States, as September 11 shows us.

I have heard a number of my colleagues say, that, you are either for us or against us on terrorism. I am aware of no one in this body who does not join me in opposition to terrorism. And I am aware of no one in this body who does not feel that peace is in the best interest of all. I am also aware of no member here who is not supportive of the continued existence of the State of Israel, and who does not feel that this should be a part of American policy and concern.

I am troubled, however, when I hear some of my colleagues, as they have done in this debate, talk about how the issue here is terrorism, and you are either with us or against us on terrorism. Not so! The issue is peace and how to achieve it. That must be our debate and our focus.

□ 1430

Peace is the important issue, and it is the one that concerns us above all others in the Mid East. It is one which we have addressed in our resolutions earlier and which we are addressing now through actions diplomatically and militarily.

Now what should be the focus of the debate here is something quite different, and that is how we focus the efforts and the energies of the United States to bring about peace. I have introduced H. Con. Res. 253 which expresses support for the Mitchell Commission Report. No action has been taken by the Committee on International Relations, and yet that is something which the United States should be speaking and upon which this body should be speaking.

I have heard nothing in this debate from the other side about what they propose to do to bring about a real peace. Is the termination of the existence of Mr. Arafat as the head of the Palestinian Authority in the best interests of the United States? Will that resolve the controversies? No, it will simply eliminate somebody who is a potential participant in meaningful peace talks, and one who with proper support can provide useful leadership.

What we suggest here is to bring all of the parties together and make them talk. Let us use the full prestige and the power of United States to accomplish that purpose. That is far better. Each day that passes means more risk of the kind of terrible crimes that we saw in the killing of scores of Israelis and the wounding of many, many more.

This is what we are talking about. The best interests of Israel, the best interests of the Palestinians, and the best interests of the United States are found most powerfully in the resolution of the controversies there. These controversies create bitter and angry people who are going to engage in terrorist activities and are the real risk to the people of the world, and to world peace.

I am surprised that my colleagues are not more publicly aware of this. We are not talking for or against Israel. We are not talking for or against the Palestinians. We are talking about two things: one, peace; and, two, a process which has to be bottomed on justice and a sense of justice by all of the parties in the area.

I do not know what I have to do to have my colleagues here understand that the interest of the United States will never be served by the conflict which exists in the Middle East, or what I have to do to have my colleagues understand that this kind of Resolution really does nothing to resolve those kinds of problems, or to make my colleagues understand that peace and security for Israel or the United States or Palestine lies only in one thing and that is a negotiated settlement in which they have come to an agreement themselves. This is something which can only be forced by the United States.

Mr. Speaker, I see nothing of that kind moving forward in this discussion. I see only further actions taken by the United States to continue what is going on now, to see the killings in Israel going on, to see frustrated, angry people going out to commit suicide just to kill a few people that they hate, lets understand that this is a risk which has already visited the United States on September 11. To begin to force the peace process to work is the one interest that we should discuss in the United States today. Regretably we are not doing so.

We could be discussing how we are going to bring these people to the table. I have heard a rich abundance of denunciation of Mr. Arafat. I remind all here I do not rise to defend Mr. Arafat, but he is the leader of the Palestinian people. We have none other to do this and no assurance that his successor will be more able or compliant.

Killings going on, and innocent people on both sides, Israelis, Palestinians and others, are being killed. I have heard great concern about the Israelis, and I share that concern. What happened the other day is terrible, it is criminal and indefensible. I have heard very little about what has transpired with the Palestinians. And I have heard even less of an awareness in this body. The failure of the United States to address this matter vigorously and to see to it that the root causes and the differences of the Israeli people and the people of the occupied territories are negotiated away is a real interest of the United States which must be addressed.

Why is it that there are so few in this body that cannot understand that? Why is it that we are debating the faults of Mr. Arafat unless we have a better alternative and a better leader acceptable to the Palestinian people. Why is it that we are failing to discuss peace and a really meaningful way of achieving that peace?

That is the end to terrorism and killing. That is the beginning of peace for Israel. It is a beginning of an end to the sorrows and misfortunes of the Israelis. It is also a beginning of an end to the sorrows and the travails that are felt by the Palestinian people.

We should be discussing these matters, and we should begin to set a policy in the United States where we are forcibly going to address these concerns and where we are finally taking meaningful action to ensure lasting peace.

I am not asking my colleagues to embark on an easy trip. I am asking them to look to find what alternative there are and then to join me and other decent people in an American effort to bring peace to the Middle East for the Israelis, and for the people of the occupied territories. We must assure we do this while we still have friends who are leading countries in the area and while we still bring all parties to the table to commence a meaningful and strong effort for peace.

I ask with each passing day, does the cause of peace get stronger with the killing of innocent Israelis in Israel or the killing of innocent Palestinians in the occupied territories? Do the frustrations and angers and the bitterness and the hate that is building over there add a single thing to our prospects for peace? I suggest not. I do suggest that we commence the beginning of a meaningful process forced with every effort that this country can put into it to abate this terrible situation.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I have had the opportunity to visit Israel and meet with the leaders and also meet with Chairman Arafat both in 1995 and 1999. In the times I was there and even up until last year, the United States was engaged in the peace process to the point of putting the prestige of this country and the Presidency to try to bring peace to Israel and the Palestinian question.

What happened, though, was that Chairman Arafat walked away. Whatever the reason, all of the reports from the United States is that he walked away from a peace process. The Government of Israel changed in response to that; and, of course, now we have been in the latest infatada with the loss of lives on both sides.

I add my voice in support for this resolution because as we see the loss of innocent life in Israel it condemns terrorism, whether it is on the street of New York, on the streets of Washington, or in Ben Yehuda in Jerusalem. Our country is at war because of terrorism. We lost thousands of people because of terrorism. Killing and injuring innocent people should be stopped, and it should be stopped whether it is Washington, New York, or Jerusalem or Tel Aviv.

Our friendship with Israel has not even been considered. We have been a friend of Israel for many years, and that is strong. There is no way we can condone or encourage or be silent in the loss of the innocent people that happened this last weekend.

I have an opportunity to walk the streets of Jerusalem at the very spot those bombs went off, and I think this resolution is mild compared to what should be done. I am proud of this Congress and the President of the United States in condemning the terrorism, again whether it is here in our country or anywhere in the world.

Mr. DINGELL. Mr. Speaker, I yield 7 minutes to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time and for his excellent leadership on the question before us today.

Mr. Speaker, I strongly condemn the horror that was inflicted upon innocent Israeli men, women and children by suicide bombers. I condemn that violence at all times and all places.

I think it is important to note that we can either oppose or vote present on this resolution today and still be considered a supporter of the State of Israel and a friend of Israel and a supporter of the long-standing relationship between the United States and Israel, and do not let any outside group in this town try to characterize Members in any other way, because it is possible.

Secretary Powell said it best when he phoned Chairman Arafat after the latest bombings and said this was an attack upon Arafat's authority as well as an attack upon innocent men, women and children. I think that has been lost today. In all of the demands that Arafat must go, we have lost sight that these suicide bombers were indeed attacking Chairman Arafat himself.

As I condemn the horror of the past weekend, I strongly condemn the horror that has been inflicted upon innocent Palestinians, men, women and children, carried out by the Israeli Occupation Forces, including, within the last 2 weeks, five innocent Palestinian schoolboys killed in the Gaza refugee camp just within the last 2 weeks. Such terror, such disproportionate use of power and force, continued humiliation, demolition of homes and one's livelihood by destroying their crops on their own land, such daily restriction of one's movements of the Palestinians by the Israeli Defense Forces, and I could go on and on, all of which have been accelerated over the past 14 to 15 months, but all of these events, both sides should be just as equally deplored by those concerned about human rights abuses around the world, about fairness and about peace. Every one of these attacks should be condemned.

Some in the Israeli government obviously very clearly by their own words want to get Arafat. Some statements today have alluded very strongly to the fact that we have got to get Arafat. But such action, indeed such action as this resolution today and those that call for Arafat's demise, will do zero, will do nothing to reach that just peace and may even exacerbate and take us backward from achieving that just peace that we all want to achieve.

Getting Arafat is no solution. Continued humiliation is no solution. This is the method of operation of bullies, not of those who want to return to the peace process, to the negotiating table, where, as any individual involved in negotiations knows, each party has to give a little. There is a give and take in the negotiating process. Is that the real fear here?

The military option will not secure a peace in the Middle East. The military option will not work. No peace can be achieved; and indeed, as I read through this resolution, and there are good points in this resolution about condemning terrorism, but I fail to find the word "peace" mentioned once in this resolution. Peace.

□ 1445

Peace. Maybe I need to read it without my glasses, but I have not found the word "peace" mentioned once in this resolution before us today.

Now, it is all good, or some of it is good, not all good, but some of it is good. Yes, prosecute such terrorists. Provide them with the stiffest possible punishment. Yes, ensure that they remain in custody.

Well, my question is, the Israelis today are bombing all the Palestinian police stations, their security operations. Where is Arafat going to keep those he arrests, in the living room by the fireplace in his home? So the Israelis are making it impossible to fulfill the demands that are being placed upon Arafat in this resolution today.

What if every demand in this resolution were met by 9 o'clock tomorrow morning? Would that end terrorism? Would we have peace?

Indeed, I might announce to my colleagues, as we speak, an announcement has been reached of a cease-fire, a 12-hour cease-fire, just announced between Chairman Arafat and the Israelis; and he has until whatever the 12-hour expiration time is to arrest certain militants. So let us let the parties work their will.

So, let us look at the consequences of our actions here today, and, indeed, actions of this body, regardless of whether they have the force of law or not, which this, of course, does not. But they do send a message to the participants in the Middle East.

I have traveled the region enough, extensively, including less than 2 weeks ago, having met with Chairman Arafat, President Mubarak, the Prime Minister of Lebanon, President Assad of Syria; and I know that they get a wrong signal when we pass resolutions of this nature.

So I say to my colleagues, let us truly get at the roots of terrorism. We know the causes of hatred in this part of the world. Secretary Powell said it in his speech of November 19. The occupation must end. The occupation must end, the continued expansion and building of new settlements. That is confiscation of Palestinian land.

Mr. Speaker, I say to my colleagues, please understand, that is the root of the problem here. That is what we should be addressing in this very good debate. And I commend all sides for conducting this debate today. But let us not ignore the true roots of the problem, if we indeed want to restart the peace process.

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, one of the issues that seems to be at the heart of one of the discussions going on here today is whether or not the terrorism which we are condemning in this resolution, which I support wholeheartedly, is intentional, which we understand, but whether or not those actions on the part of the Israeli Government which result in the death of noncombatants, whether that is just collateral damage.

The gentleman has been in the Middle East many times and knows many of the players. From a firsthand point of view, does the gentleman believe that the damage that is being done to noncombatants by the Israeli army is unintentional?

Mr. RAHALL. Mr. Speaker, reclaiming my time, the gentleman asks a good question; and certainly in the eyes of many in the region; those who suffer from this infliction of horror, their answer would be yes, that it is intentional. That would be their response. That is something we must understand from our perspective, if we truly want to end the horror and the violence that comes from all sides. Indeed, there is no side that is lily white in the Middle East. Make no mistake about it, we must truly look at the causes of terrorism.

Mr. LANTOS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, closing the debate on our side, there is no moral equivalence between terrorists and the victims of terrorism. What this resolution does, and I am proud to join the gentleman from Illinois (Chairman HYDE) in being the principal sponsor of this resolution, what this resolution does is it expresses the solidarity of the American people who were victims of terrorism on September 11 with the people of Israel who were victims again just this past weekend.

We want peace, but we will not get to peace as long as there is an attempt to create a moral equivalence between a corrupt dictatorship and its terrorist tactics and the democratic ally of the United States.

I urge all of my colleagues to vote for this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, it is hard to help my colleagues understand the defect of this legislation, which is that it takes sides. It does this in a way which does not need to be taken, in a fashion and at a time when it is not in our National interest.

I condemn terrorism, and I condemn the killing of the innocent Israelis in Israel just recently, just as I do the killing of thousands of Americans on September 11. The roots of the events were somewhat the same: frustration, anger, ill will, hatred, and all of the things that are generated by the kind of situation that has gone on too long in the Middle East.

These are events which are not blameable on one person or another, and I do not believe that the blood of the small Palestinian boy who died in his father's arms from Israeli gunfire is any more pleasing in the eye of the almighty God than is the death of the scores of Israelis who died the other day in Israel because of a terrorist bomb. But those are really not the questions that we should be addressing here.

I just want my colleagues to keep this in mind: if the problems of the Mideast are to be resolved and if peace is to be achieved there, it is going to take an enormous effort by the United States and by every other peace loving Nation. I would note to my colleagues that it is not done by attacking other Members of this body because of their concern, and it is not done by rejecting the opportunity to use different people who are major players in that area.

If we are to succeed, we must call on everyone, the Israeli leadership, Yasar Arafat, the Palestinians, the people of Israel, the people of the United States, Lebanon and the countries like Jordan and Egypt, to help get their assistance in bringing about a viable, lasting peace, negotiated between the parties. We will also need the help of other countries in Africa, Europe, Asia and the two American continents.

I see nothing of that kind in this resolution. This resolution, as the gentleman from West Virginia mentioned, does not even use the word "peace." This is what we should be talking about if we are really interested in serving the best interests of the United States. Peace, peace in the Middle East, peace with dignity and honor and respect, for and from all of the parties of that unfortunate area, and how we are to achieve it for all.

That is our interest. And that is what we should be addressing. We cannot gain anything by castigating or criticizing anyone here, or elsewhere. Our role must be that of an honest impartial broker. We must travel the long and hard path for peace; and we must start it now, not tomorrow, not sometime in the future. And we must do it by making the parties negotiate these differences out themselves, so that there can be contentment and peace and security in Israel, but also in the occupied territories; so no longer is there frustration, hunger, unemployment, misfortune in the occupied territories, and so no longer is there risk of death and destruction in Israel. That is what the interests of the United States should be and calls upon us to do. We do not serve our country well if we fail to start this effort—Now! And with great resolve.

The passing of a resolution of this kind simply shows the Arab people that the United States again is taking sides in a confrontation. It is not in the interests of this country to take sides. It is in the interests of this country to be an honest broker, who can be trusted by all of the parties there, because securing peace can only be done by the efforts of the United States leading the peace loving Nations of the world in a great and difficult effort. The bombing and killing by suicide bombers is not going to get peace. The rockets and missiles and helicopter attacks by the Israelis are going to achieve nothing. Nor will suicide bombing by terrorists. The only solution to this is negotiations between the parties to resolve the issues.

Why is it that my colleagues do not understand this simple fact. Why are we not here talking about how we remove the root causes of trouble and get down to the business of bringing about a real and lasting peace that benefits all of the people of the area and benefits the interests of the United States? That is the question we should be asking.

Taking sides benefits us not at all, but getting lasting peace does. This is not the way to get lasting peace. This is simply the way to alienate more people in the area and cause ourselves more enemies, more trouble, more risk, more peril, more killings, more misfortune for Israelis and Palestinians alike, and a longer time to achieve peace.

Mr. Speaker, I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. OTTER). The gentleman from Illinois is recognized for 3½ minutes.

Mr. HYDE. Mr. Speaker, well, this has been a stimulating debate, and it has been educational. I would like to respond as much as I can to some of the critics of the resolution.

My good friend, the gentleman from Michigan (Mr. DINGELL), describes a resolution which my resolution never was. He wants to head it in the direction of a comprehensive peace in the Middle East, something that has eluded some of the finest minds in the world for hundreds of years, certainly since 1948 with the founding of Israel. Many, many people, including the former President of the United States, spent hours and hours with the parties trying to get peace. Everybody is for peace; but in the words of Patrick Henry, "Peace, peace, there is no peace."

So, I did not pretend, I was not arrogant enough to decide I would set out a formula for peace. If I could do that, I certainly would do it. All I am trying to do is respond to the famous lines in Arthur Miller's play, "Death of a Salesman," where Willie Loman's wife, Linda, says, "A man is dying. Attention must be paid." Attention must be paid to what is going on in Israel.

How would you like to be a mother, and every day wonder if your little girl going to school will come home with all her limbs, with her life? It is a hellish way to live. I simply was trying to call attention to the horror, the indescribable horror of acts of terrorism, and show solidarity as a co-victim of horrible acts of terrorism. It is American to put your arms around a fellow democracy and not turn your back on them in their hour of need. That is what we were doing.

This simply says that when acts of terror occur, attention must be paid. It must be pointed out. We must shout about it, we must make an example of it, we must show the world the horror of what is going on. And maybe, just maybe, one day we will all get so sick of it we will not tolerate it anymore.

The gentleman from Michigan sets up a straw man. Not one word about peace. Everything we do is about peace, and objecting to terrorism is about peace, and showing solidarity to the Israeli people and to the Palestinian people.

The next time, if any, there is an atrocity, an act of terror by the State of Israel, bring a resolution to the floor. We will debate it. We will debate it. But I have not heard one. I have not seen one. Bring it to the floor and let us debate it.

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Speaker, the gentleman just mentioned the Palestinian people. I wonder if that was mentioned in the resolution, expressing the concern for their plight as well. I wonder if that was in the resolution and I happened to overlook it.

Mr. HYDE. Mr. Speaker, reclaiming my time, the Palestinian involvement in the atrocity of last Saturday is mentioned, because this focuses on what happened in Jerusalem, when 26 women and children and men were killed and 1,200 were injured. That is what we are talking about.

Mr. Speaker, support our expression of solidarity with the victims of this horrible act of terrorism. Support the resolution.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois (Mr. HYDE) be granted 2 additional minutes, because the gentleman mentioned me and I would like to have his attention on that matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan.

□ 1500

Mr. DINGELL. Mr. Speaker, I do not propose to rebut what my dear and valued friend has said about me. I do not remember setting up a straw man, but I would like to say the gentleman has mentioned H. Con. Res. 253 which I sponsored earlier and with which the gentleman has suggested a great deal of sympathy. I wonder if maybe the committee could bring that proposal to the floor. It is a fair and even-handed statement. It is supported by the administration. It urges that the United States have as its policy the carrying forward of the Mitchell report. Why is it that we cannot have something like that before us?

Mr. HYDE. Mr. Speaker, I have no idea. If the staff will bring it to my attention, we will give it the most careful scrutiny. The gentleman from California (Mr. LANTOS) and I will do it together.

Mr. DINGELL. Mr. Speaker, I would be delighted to have the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) put that bill on the floor so that perhaps we could be together on something that is in the interest of the United States.

Mr. HYDE. Mr. Speaker, it would also be a pleasure to be with the gentleman from Michigan (Mr. DINGELL).

Mr. WAXMAN. I rise in strong support for H. Con. Res. 280 and join my colleagues in condemning Yasser Arafat and the Palestinian terrorists responsible for the massacre of innocent Israeli civilians.

In the past six months alone, Hamas suicide bombers have murdered teenagers at the discotheque in Tel Aviv, commuters on a rush hour bus ride in Haifa, pedestrians at a busy intersection in Afula, families eating lunch at a pizza store in Jerusalem, and a street filled with young Israelis and Americans out for a Saturday night in the heart of the nation's capital.

On a daily basis, the Tanzim and Force 17, Yasser Arafat's Fatah paramilitary forces, shoot at Israeli motorists on their way to work, school, or returning to their homes.

Instead of arresting, prosecuting, and outlawing these terrorists, Yasser Arafat has deliberately given them free reign, safe harbor, and license to organize and carry out heinous attacks. Instead of condemning anti-Israel incitement in Palestinian media, schools, and mosques, he has contributed the free flow of hatred that seeks to legitimize violence. And in doing so, he has turned the Palestinian Authority into nothing short of the Taliban.

The horrific events of September 11 have tragically brought home to all Americans the terrorism that Israel has long been suffering. Our solidarity has never been stronger or more important.

Now more than ever, we must renew the common purpose, strategic goals and democratic ideals that are the cement of strong U.S.-Israel relations. We must join together with Israel in defending our citizens, our values, and our future from the shadow of terrorism.

That is why this resolution determines that the United States should break off all diplomatic relations with the Palestinian Authority unless immediate action is taken to destroy the Palestinian terrorist network and arrest the perpetrators of these terrorist crimes.

Yasser Arafat must be held accountable, and there is no reason to contemplate the creation of a Palestinian state unless he can demonstrate that the terrorism will end. So far he has been unwilling to achieve this for even seven days, giving neither Israel nor the United States reason to be confident that he has the will or ability to do so permanently.

But one thing is certain—Israel as a sovereign nation has the right to take all measures necessary to defend its citizens, and it is in the interest of the United States to support its ability to do so.

Now is the time for us to pressure Yasser Arafat to crush the terrorist networks within his grasp, and urge all civilized nations of the world to abandon the ongoing efforts by Arab and Islamic states to isolate Israel in this time of crisis.

Just hours ago in Geneva, an international conference convened to condemn Israel for violations of the Fourth Geneva Convention, which was adopted in response to Nazi atrocities during the Holocaust. The agenda included biased determinations on the final status of Jerusalem, Palestinian refugees, and the imposition of a United Nations observer force.

Only yesterday, the U.N. General Assembly overwhelming voted for resolutions advocating the creation of a Palestinian state, Israeli withdrawal from the Golan Heights, and rejecting Jerusalem's status as the capital of Israel as "illegal and therefore null and void."

These one-sided determinations are irresponsible and counterproductive. They devastate the constructive role the international community could play in ending the violence and terrorism that have taken so many American and Israeli lives.

I commend the Administration for staunchly opposing these forums, and I applaud its actions yesterday to freeze the assets of the charities and banks raising funds in the United States to support the terrorist activities Hamas and other Palestinian groups.

Today we must do more. We must pass H. Con. Res. 280 and let Yasser Arafat and the Palestinian terrorist organizations know that there is a line that separates outlaws from the rest of civilized society and they have crossed it.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in strong support of House Concurrent Resolution 280, and urge all members to vote in support of this measure that expresses our solidarity with the people of Israel at this difficult time.

Now we know; now we understand. As Americans, we know. We see the people running down the street in panic and it looks all too familiar. Now we know.

We hear the sirens and see the dead and injured, and as much as thought we knew, now we know.

We sometimes joked about Israelis and their cell phone, and now we know how it must feel to wait for the call from your teenager who is out for the evening with friends saying, "Mom, I'm OK," or just waiting for that call.

We now know the rage and frustrations of being attacked by those who prefer to die than live, and who plot and scheme to take innocent life with them.

We now know the courage and determination it takes to "just live your life" when "just going shopping, out to eat or riding the bus can be life threatening.

And while hopefully we will not know what it is like to live for half a century and more on constant high alert, we understand better now intolerable that must be.

And now that it happened to here, in a place many believed was immune to such an attack, we know that terrorists must be answered, and those who harbor or support terrorists must be held accountable.

And we know, as we pray for peace, leave space for peace, continue to work for the miracle of peace in this holiday season, we know that we must defend ourselves and our children.

And we know, as Americans who love Israel, that as people, as a community, and as nations we must be united more than ever before in defense of that tiny and precious plot of land, surrounded day in and day out by hatred and danger, where our brothers and sisters want only one thing, and that is to live in peace and freedom.

I commend the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) for introducing this important measure and I urge all of my colleagues to support it.

Mr. CRANE. Mr. Speaker, I rise today in support of H. Con. Res. 280. Like the recent attacks on our country, the terrorist bombings in Israel are horrific. Once again innocent civilians have been brutally murdered by terrorists. Israel is a democracy under siege. As the world's leading democracy the United States cannot, in good conscience, stand idly by while a democratic ally is being brutally attached by evildoers.

For too long the Palestinian Authority has preached peace while terrorists use its territory as a safe haven. Even after President Bush endorsed the idea of a Palestinian state the attacks continued. If the Palestinian Authority wants to be a government it must act like one by stopping these suicide bombings from being planned and launched from its territory. The Palestinian Authority's leader, Yasser Arafat, has condemned the attacks. But he has done so before and the attacks against Israel continue. Chairman Arafat must do more than offer sympathetic remarks. I applaud and support President Bush's response and hope that Chairman Arafat's actions will back up his words and stop these attacks.

Mr. FORBES. Mr. Speaker, I rise in strong support of H. Con. Res. 280, which extends our deepest sympathies to the people of Israel for the recent string of deadly terrorist attacks in their nation and expresses our sense of solidarity with them in this difficult time.

The people of Israel have long had to live with terror on their street, and the world has largely stood by and felt great sympathy but little need to act upon it. But these attacks come at a time of heightened awareness around the globe of the necessary of riding our communities of the evil face of terrorism. Peaceful people have been made prisoners in their own communities by those who give no thought to the deadly consequences of their actions and who spread venomous hatred for their fellow man.

On September 11th, those free and peaceful people said with one resounding voice that they would no longer allow that kind of evil to destroy our world.

The war against terrorism is not America's war alone. It is a fight that we lead for freedom-loving people everywhere. Though there may be fewer dead and less extensive damage, the horrific attacks that occurred over a 14-hour period this weekend in Israel are no less atrocious than the attacks our nation suffered on September 11th. The mothers and fathers who lost their children in each of those attacks cry the same tears and feel the same pain.

We, as a nation, must stand beside our friend, Israel, in this time of need and support her in the fight to provide a prosperous, peaceful, and secure future for her people. I urge my colleagues to support Israel by supporting this resolution.

Mrs. MCCARTHY of New York. Mr. Speaker. I rise in support of H. Con. Res. 280, of which I am a cosponsor.

On Saturday, December 1st, suicide bombers killed 10 teenage Israelis and wounded more than 150 others in downtown Jerusalem. On Sunday morning, just 14 hours after the first horrific attack, a suicide bomber boarded a local bus route in the northern port city of Haifa, killing 15 and wounding 35. The victims of these attacks range in age from 14 to 75; they include students, senior citizens, and a Filipino nanny. The terrorist organization Hamas claimed responsibility for their cowardly attacks.

Since September 11th, international attention has been deflected from the everyday acts of violence in Israel to the United States' war on terrorism. Recently President Bush brought the Arab-Israeli conflict back under public purview by sending U.S. peace envoy General Anthony Zinni to the region to promote a cease-fire and possible resumption of peace talks.

When Palestinian terrorists killed 26 and wounded 175 Israelis within a matter of 24 hours, Palestinian Authority Chairman Arafat's commitment to find and prosecute terrorists was called into question, and Israel subsequently launched its own war against terrorism. Twenty-four hours after the suicide bombing in Haifa, and 36 hours after the bombings in Jerusalem, Israel retaliated against the Palestinian Authority by bombing chairman Yasser Arafat's headquarters in Gaza Strip, and police buildings in the West Bank town of Jenin.

I rise in agreement with Prime Minister Sharon and President Bush. As the chairman of the Palestinian Authority, Yasser Arafat has on more than one occasion voiced his commitment to peace, and his desire to fight terrorism. Yet words alone are not enough; they necessitate action. Yasser Arafat must take an active and responsible role in tracking and arresting those involved in terrorist activities. As the leader of the Palestinian people, Yasser Arafat must utilize his power to reign in the extraneous terrorist factions that continue to lash out at innocent Israeli civilians.

This resolution, H. Con. Res. 280, holds Arafat responsible for the actions of all his people, including Palestinian terrorists. It expresses the United States' solidarity with Israel during this difficult and emotional time. Now, more than ever, we must stand strong with our democratic allies to fight terrorist groups worldwide.

Ms. KILPATRICK. Mr. Speaker, today, I voted "present" on this Concurrent Resolution because it is my belief that the United States through the House of Representatives should remain a fair and honest broker in the Middle East. At a time when hostilities in the Middle East are escalating and all parties are looking to American officials to negotiate a fair and equitable solution, I believe that this Resolution is ill timed and diminishes the credibility of the negotiation process. It is imperative that all steps we take in this House secure our position as an impartial broker in the Middle East and this measure does not do this.

Make no mistake. I stand against terrorism and the killing of innocent civilians such as those that occurred in Israel this past weekend. I condemn them wholeheartedly. Both sides in the conflict, however, have the blood of innocents on their hands. Both sides in this conflict must make extraordinary and concerted efforts to come to the negotiating table and resolve the problems of the region. I support the findings of the Mitchell-Tenet Commission, which recommended that Congress not approve such resolutions. I regret that Congress is ignoring that recommendation. By doing so, the action of this chamber only serves to prolong the hostilities in that region and discourages both sides from engaging in the negotiation process. I strongly urge the parties to cease hostilities and do all they can to move forward with the Mitchell-Tenet recommendations.

Mr. Hyde, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OTTER). The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and agree to the concurrent resolution H. Con. Res. 280.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules.

Pursuant to clause 8, rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed yesterday and earlier today.

Votes will be taken in the following order:

H. Res. 298, by the yeas and nays;

H. Con. Res. 232, by the yeas and nays; and

H. Con. Res. 280, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES THAT VETERANS DAY CONTINUES TO BE OBSERVED ON NOVEMBER 11

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 298.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and agree to the resolution, H. Res. 298, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 18, as follows:

[Roll No. 472]

YEAS—415

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump

Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—18

Cubin
DeFazio
Gutierrez
Hayes
Hostettler
Johnson, Sam
Kingston
Kucinich
LaTourette
Markey
Meehan
Meek (FL)
Ney
Quinn
Reyes
Roukema
Sanchez
Young (AK)

□ 1529

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS IN HONORING THE CREW AND PASSENGERS OF UNITED AIRLINES FLIGHT 93

AMENDMENT OFFERED BY MR. MICA

Mr. MICA. Mr. Speaker, I ask unanimous consent that the text of House Concurrent Resolution 232, as proposed to be adopted under suspension of the rules, be modified by the amendment that I have placed at the desk.

The SPEAKER pro tempore (Mr. OTTER). The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MICA:

Whereas on September 11, 2001, acts of war were committed against the United States, killing and injuring thousands of innocent people;

Whereas these attacks were directed at the World Trade Center in New York, New York, and the Pentagon in Washington, D.C., which are symbols of the Nation's economic and military strength;

Whereas United Airlines Flight 93 was hijacked by terrorists as part of these attacks;

Whereas while Flight 93 was still in the air, passengers and crew, through cellular phone conversations with loved ones on the ground, learned that other hijacked airplanes had been used in these attacks;

Whereas during these phone conversations several of the passengers indicated that there was an agreement among the passengers and crew to try to overpower the hijackers who had taken over the aircraft;

Whereas it is believed that it was this effort to overpower the hijackers that caused Flight 93 to crash in southwestern Pennsylvania, short of what is believed to have been its intended target: Washington, D.C.; and

Whereas the crash resulted in the death of everyone on board the aircraft: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) on September 11, 2001, the passengers and crew of hijacked United Airlines Flight 93 possibly averted the use of that aircraft in a further terrorist attack on the United States by attempting to overpower the hijackers;

(2) the United States owes its deepest gratitude to the passengers and crew of Flight 93, and extends its condolences to the families and friends of Captain Jason Dahl, First Officer Leroy Homer, flight attendants Lorraine G. Bay, Sandra W. Bradshaw, Wanda A. Green, Ceecee Lyles, Deborah A. Welsh, and passengers Christian Adams, Todd Beamer, Alan Beaven, Mark Bingham, Deora Bodley, Thomas Burnett, William Cashman, Georgine Corrigan, Patricia Cushing, Joseph Deluca, Patrick Driscoll, Edward Felt, Jane C. Folger, Colleen Fraser, Andrew Garcia, Jeremy Glick, Kristin Gould, Lauren Grandcolas, Donald Greene, Linda Gronlund, Richard Guadagno, Toshiya Kuge, Hilda Marcin, Waleska Martinez, Nicole Miller, Louis J. Nacke, Donald Peterson, Jean Peterson, Mark Rothenberg, Christine Snyder, John Talignani, and Honor Elizabeth Wainio; and

(3) a memorial plaque to these victims should be placed on the grounds of the Capitol, and a copy of the wording of the plaque, together with a copy of this resolution from the Congressional Record, should be sent to a designated survivor of each victim.

Mr. MICA (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 232, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 232, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 18, as follows:

[Roll No. 473]

YEAS—415

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock

Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—18

Cubin
DeFazio
Gordon
Gutierrez
Hayes
Hostettler
Johnson, Sam
Kingston
Markey
Meehan
Meek (FL)
Ney
Pastor
Quinn
Reyes
Roukema
Sanchez
Young (AK)

□ 1540

Mr. BONIOR changed his vote from "present" to "yea".

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING SOLIDARITY WITH ISRAEL IN THE FIGHT AGAINST TERRORISM

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 280.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 280, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 384, nays 11, answered "present" 21, not voting 17, as follows:

[Roll No. 474]

YEAS—384

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rangel
Regula
Rehberg
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—11

Abercrombie
Dingell
Hilliard
Hinchey
Jackson (IL)
McKinney
Mink
Paul
Rahall
Rush
Thompson (MS)

ANSWERED "PRESENT"—21

Barr
Bartlett
Bonior
Boucher
Clay
Clayton
Conyers
Davis (IL)
Deal
Ehlers
Johnson, E. B.
Kaptur
Kilpatrick
Lee
Payne
Roybal-Allard
Sanders
Snyder
Stark
Waters
Watt (NC)

NOT VOTING—17

Cubin
DeFazio
Gutierrez
Hayes
Hostettler
Johnson, Sam
Kingston
Markey
Meehan
Meek (FL)
Ney
Obey
Quinn
Reyes
Roukema
Sanchez
Young (AK)

□ 1550

Mr. STARK changed his vote from "yea" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON THURSDAY, DECEMBER 6, 2001

Mr. ARMEY. Mr. Speaker, I move that when the House adjourns today it adjourns to meet at 9 a.m. tomorrow.

The SPEAKER pro tempore (Mr. OTTER). The question is on the motion offered by the gentleman from Texas (Mr. ARMEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROWN of Ohio. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 322, noes 82, not voting 29, as follows:

[Roll No. 475]

AYES—322

Aderholt
Akin
Allen
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bentsen

Bereuter
Berman
Biggert
Bilirakis
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boyd
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (IN)
Castle
Chabot
Chambliss
Coble
Combest
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Deal
Delahunt
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Everett
Farr
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Largent
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pastor
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanders
Saxton
Schaffer
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Young (FL)

NOES—82

Abercrombie
Ackerman
Andrews
Becerra
Berkley
Berry
Bishop
Blumenauer
Bonior
Brady (PA)
Brown (OH)
Capps
Capuano
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Crowley
DeGette
DeLauro
Evans
Fattah
Filner
Gephardt
Gilman
Harman
Hill
Hilliard
Hinchey
Hoeffel
Holt
Honda
Israel
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (MN)
Kilpatrick
Lantos
Larsen (WA)
Lewis (GA)
Lipinski
Lynch
McGovern
McKinney
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (KS)
Napolitano
Oberstar
Olver
Pallone
Payne
Pelosi
Phelps
Rivers
Rothman
Roybal-Allard
Sandlin
Sawyer
Schakowsky
Schiff
Sherman
Slaughter
Smith (WA)
Strickland
Stupak
Thompson (MS)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Wynn

NOT VOTING—29

Boucher
Collins
Cubin
Davis, Tom
DeFazio
Dingell
Dooley
Duncan
Gutierrez
Hayes
Hostettler
Johnson, Sam
Kingston
Linder
Maloney (CT)
Markey
Meehan
Meek (FL)
Murtha
Ney
Obey
Pascrell
Pitts
Quinn
Reyes
Roukema
Sabo
Sanchez
Young (AK)

☐ 1611

Mr. MEEKS of New York changed his vote from "aye" to "no".

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PENCE). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

☐ 1615

AMIGOS TOGETHER FOR KIDS

The SPEAKER pro tempore (Mr. PENCE). Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, one of the most special aspects of our everyday lives is to be blessed with true friends. Amigos Together for Kids is an organization that has been in existence since 1991, and under the direction of Jorge Plasencia serves the needs of south Florida's forgotten children, those who are abused, neglected and abandoned.

Now celebrating its 10th anniversary, Amigos has many friends who have committed their energies toward the success of its programs, including Roxana Fernandez, Mirta Fuentes, Paul Hanson, Victoria Rodriguez, Daniel Rodriguez-Cuesta and Jorge Rouco, to name just a few.

The Amigos programs include Amigos Doctors for Kids, Children Helping Children, The Birthday Club, The Holiday Toy Drive, The Back-to-School Drive, and a new and ambitious program to serve adolescents in our area in south Florida.

Congratulations, Amigos Together for Kids. You are definitely fulfilling your mission of making south Florida's less fortunate young people feel truly loved. We really appreciate your dedication to our community's future, our children.

OPPOSE FAST TRACK LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. LYNCH) is recognized for 5 minutes.

Mr. LYNCH. Mr. Speaker, I rise again in opposition to the so-called Fast Track legislation that will be debated in this House over the next 2 days. I do so for several reasons.

Firstly, because Fast Track contradicts the clear requirement of the United States Constitution, which vests the responsibility in this body, in the House of Representatives, to regulate trade with foreign nations. It also vests the power in the Congress to make any necessary laws for the exercise of that authority.

Secondly, I oppose Fast Track because it requires that these negotiations, very detailed, complicated negotiations, with great impact for not only our generation but those to come, it requires that these negotiations occur in secret; not in open debate on the floor of the House, but in secret.

I also oppose Fast Track because of our own past experience. We have seen what Fast Track has brought us, and we have been shown that it is a poor way to conduct, establish, and implement trade policy.

We have seen what it has done for workers, both in the United States and Mexico, through the example of NAFTA. We see now multinational corporations, General Motors, closing down plants in the U.S. and moving them over the border into Mexico, where our own auto workers are now forced to compete with auto workers in Mexico making 67 cents an hour. That is what Fast Track has brought us.

We have seen what it has brought to our environment, where corporations are continuing to seek to escape, avoid and evade responsible environmental standards in this country in order to go to other countries and to make a profit, make a profit by avoiding responsible environmental behavior.

We have seen what it has done to our food safety standards, where right now in this country under Fast Track legislation we can no longer keep out foods that do not meet our own food safety standards.

But last of all and most importantly, I oppose Fast Track because I think it is the single greatest threat to our representative form of democracy. It takes the power that has been vested in this body as representatives of the voters and gives it to the United States Trade Representative, who then, through agreements again in secret, delegates the authority to the World Trade Organization in Geneva, Switzerland. I think every Member in this body knows the chances of their own constituents exercising any right to petition to the WTO representatives in Geneva, Switzerland.

I think this is a bad policy for America. I think that we have a responsibility here to our constituents. I know they did not send me down here to give away the rights of the constituents in the Ninth Congressional District of Massachusetts, and I assure you that no Representative in this Congress has been so directed by their people.

THE LOCAL LAW ENFORCEMENT HATE CRIMES PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I rise today to encourage the Republican leadership to bring the bill offered by the gentleman from Michigan (Mr. CONYERS), H.R. 1343, The Local Law Enforcement Hate Crimes Prevention Act, to the House floor. It is time to take action against crimes that are motivated by hate.

I appreciate all of my colleagues that are coming here this evening that are going to take their time and to speak in support of H.R. 1343.

In the past 3 months, crimes against Muslims, Arabs, Sikhs, Southeast Asians and anyone resembling these nationalities have increased significantly. The Council on Arab and Islamic Relations has compiled more than 1,400 reports of hate crimes since September 11. This represents a 51 percent increase in reported crimes against those of Middle Eastern descent since the attacks.

Our children are watching in horror as they and their moms and their dads, their brothers, their sisters and close friends, are being harassed, spit on, beaten and, even worse, killed. These hate crimes are happening in their neighborhoods, at their schools, and their places of worship. This Congress does not want to stand by and let our children be subjected to this kind of hate. We cannot. We should not. The 107th Congress must recognize the problem at hand and must take effective measures to reverse this trend, and we can do that by bringing H.R. 1343 forward.

The stories of these hate crime victims are disheartening. In Poughkeepsie, New York, a high school student was harassed and attacked while another student yelled "I hate you, dirty Afghani," as he pelted him with rocks and plants.

In Dumfries, Virginia, a mother and her son attacked two Afghani American brothers, age 16 and 17. During school the son and a group of his friends approached the two Afghani teenagers and began taunting and hitting them. The mother entered the fight and hit the 17-year-old youth in the head. Luckily, both boys escaped into a neighbor's home and luckily neither was seriously injured.

In San Mateo, California, a gasoline bomb was thrown through the window of a Sikh family's home hitting a 3-year-old. Fortunately, the bomb failed to explode.

These stories are both unbelievable and intolerable. But, sadly, these acts of hate are rampant, and people of Middle Eastern descent are not the only victims affected by ignorance and hate.

Just a week ago, a hate crime occurred in my district. Three sophomores at a high school in my district assaulted a 17-year-old student because he was openly gay. The apparent leader of the assault paid two other boys $10 each to beat up the victim. Our children cannot be subjected to such violence and such hate.

No one in America should live in fear because of his or her ethnic background, because of religious affiliation, because of gender, disability or sexual preference. This is especially true of our children.

That is why it is important to pass meaningful hate crime legislation, and to pass it now. We need to strengthen our existing laws, and we must protect people against all hate crimes. We must send a message, especially to our children, that hateful behavior is wrong and it will not be tolerated.

Our law enforcement officials need vigorous tools to fight and prosecute hate crimes. Yet existing Federal law is inadequate. That is why I am a strong supporter of the bill offered by the gentleman from Michigan (Mr. CONYERS), the Local Law Enforcement Hate Crimes Prevention Act.

For the first time under Federal law, this measure would add sexual orientation, gender and disability. In addition, it would expand Federal civil rights law to allow prosecution of hate crimes even if no federally protected activities were involved, such as voting or attending school. Also the bill would expand the circumstances under which the Federal Government could offer assistance to State and local governments to help prosecute these crimes.

Even though the bill is cosponsored by over 200 bipartisan Members, it has been cast aside. We must bring it to the floor, and we must pass it now.

HONOR THE FALLEN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) is recognized for 5 minutes.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, today I would like to again take up the effort to pay tribute and honor the fallen who perished as a result of the attacks on September 11, 2001.

This growing list of over 3,000 names is comprised of many of the victims of the recent horrific attacks on our Nation, including the firefighters and policemen who willingly gave their lives in an attempt to rescue others. I intend to read these names for as many days as it takes to bring honor and recognition to those individuals who lost their lives or are still missing:

Alok Mehta; Raymond Meisenheimer; Manuel Emilio Mejia; Antonio Melendez; Mary Melendez; Manny Melina; Christopher D. Mello; Yelena Melnichenko; Stuart Todd Meltzer; Diarelia J. Mena; Dora M. Menchaca; Charles Mendez; Lizette Mendoza; Shevonne Mentis; Wolfgang Menzel; Steve Mercado; Wesley Mercer; Ralph Mercurio; Alan H. Merdinger; Yamel Merino; George Merino; Michael Dermott Mullan; Dennis Michael Mulligan; Peter Mulligan; Michael Joseph Mullin; James Donald Munhall; Nancy Muniz; Carlos Mario Munoz; Theresa "Terry" Munson; Robert M. Murach; Cesar Augusto Murillo; Marc A. Murolo; Raymond E. Murphy; Patrick Jude Murphy; Christopher William White Murphy; James Francis Murphy, IV; Brian Joseph Murphy; James Thomas Murphy; Edward C. Murphy; Kevin James Murphy; Charles Murphy; Robert Murphy; Susan D. Murrary; John Murray; Susan D. Murray; John "Jack" Murray; Fall Mustafa; Richard Todd Myhre; Louis J. Nacke; Robert Nagel; Mildred Naiman; Takuya Nakamura; Alexander J.R. Napier, Jr.; Frank Naples; John Napolitano; Catharine Nardella; Mario Nardone; Manika Narula; Shawn Nassaney; Narendra Nath; Karen S. Navarro; Joseph Michael Navas.

Mr. Speaker, today I heard as others were honored who were on United Flight 93, and it did my heart good to know we have them all in the CONGRESSIONAL RECORD.

Again, Mr. Speaker, I urge all my colleagues to join me in remembering these brave heroes, so that their names will go down in the CONGRESSIONAL RECORD, and they will not be just remembered as numbers, but will be remembered as people.

□ 1630

PASS H.R. 1343, THE HATE CRIMES PREVENTION ACT OF 2001

The SPEAKER pro tempore (Mr. PENCE). Under a previous order of the House, the gentlewoman from Maryland (Mrs. MORELLA) is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, as an original cosponsor of H.R. 1343, the Hate Crimes Prevention Act, I am committed to seeing this legislation enacted into law. It is really important. I also want to thank the gentlewoman from California (Ms. WOOLSEY), my friend and colleague, for her leadership on this issue.

Mr. Speaker, last year hate crimes legislation passed the Senate in a bipartisan 57 to 42 vote on June 20. We had over 190 bipartisan cosponsors in the House, regrettably not enough to gain House passage. Many fear that this legislation would create a new area of law, and this is simply not true.

H.R. 1343, which currently has 199 bipartisan cosponsors, will enhance the ability of Federal law enforcement to provide assistance to State and local prosecution of hate crimes and, in certain limited cases, ease the ability of Federal law enforcement to prosecute racial, religious, ethnic and gender-based violence.

The FBI has reported approximately 50,000 hate crimes have been committed in the past 5 years, with nearly 8,000 reported last year alone. And although these statistics are alarming, even more disturbing is the fact that groups monitoring such crimes report that the FBI's data collection method has routinely missed tens of thousands of cases, and the number of hate crimes is probably closer to 50,000 a year.

Why the discrepancy? Because participation in the FBI's annual hate crimes statistics report is voluntary, and several States do not fully participate. The FBI collects the data from local jurisdictions under the 1990 Hate Crime Statistics Act; and, unfortunately, little money has been allocated to train police officers to determine whether a crime was fueled by hate.

Mr. Speaker, now more than ever we need to provide law enforcement the tools and the resources they need to both report and fight against these senseless acts of hate and violence. These crimes are uniquely destructive and divisive. Their perpetrators seek not only to harm the immediate victim but to make a statement to an entire community.

Hate crimes are a disturbing barometer of the state of a nation. Notably, antiblack hate crimes accounted for 35.6 percent of all racial bias; anti-semitism accounted for 75 percent of all religious incidents; and people with substantial disabilities, approximately 15 percent of the population, suffer from violent and other major crimes at rates many times higher than that for the general population. Research shows that this population is over four times as likely to be victims of crime than are people without disabilities.

Hate crimes based on sexual orientation also continue to rise and currently make up the third highest category after race and religion. Additionally, in the wake of the September 11 terrorist attacks, the Arab-American Anti-discrimination Committee has investigated, documented and referred to Federal authorities over 450 incidents of hate-related crime. Moreover, the Council on American-Islamic Relations has compiled over 1,200 complaints of hate attacks directed against American Muslims.

State and local authorities currently prosecute the overwhelming majority of hate crimes, and they will continue to do so with enhanced support of the Federal Government under the Hate Crimes Prevention Act.

Mr. Speaker, hate crimes represent an attack on the American ideal that we can forge one Nation out of many different people and requires a determined response from law enforcement. The Hate Crimes Prevention Act is a constructive and measured response to a problem that continues to plague our Nation: violence motivated by prejudice. Let us pass H.R. 1343. It is long overdue.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monohan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10. An Act to provide for pension reform, and for other purposes.

PREVENTION OF TERRORISM ORDINANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I am concerned about recent statements made by one of my colleagues, the gentleman from Indiana (Mr. BURTON), with regard to India. We will soon be voting on the Foreign Operations appropriations bill which will be providing very limited aid to India, the world's largest democracy and our strong friend in the politically unstable Southeast Asia region.

The gentleman from Indiana (Mr. BURTON) recently made critical statements to the press about India in an effort to persuade Members to not provide aid to India or to resume sanctions against India. He specifically referenced the Prevention of Terrorism Ordinance, or POTO, and stated that it was the most repressive law that India has ever considered.

Mr. Speaker, for the past 50 years, India has been forced to deal with severe cross-border terrorism in Kashmir and an upsurge of terrorist attacks throughout their nation. Since the September 11 attacks here in the U.S., India has experienced heightened terrorism in Kashmir; and, quite frankly, I have been reading about murders of innocent Kashmiris by Islamic militants on nearly a daily basis.

Just this morning I read about two new incidents that occurred yesterday. Suspected terrorists shot and killed a judge in Kashmir, along with his friend and two guards. This is the first attack on the judiciary of Jammu and Kashmir State.

The other incident was a suicide squad of a Pakistani-based guerilla group that killed at least five people at an Indian Army camp in Kashmir. This latest suicide attack is to be added to a long series of suicide attacks that have killed many innocent Kashmiris.

Mr. Speaker, as a result of violent terrorist attacks against India, the Indian President has issued the Prevention of Terrorism Ordinance, POTO. POTO would make provisions for Indian law enforcement officials to prevent and deal with terrorist activities. The current criminal justice system in India is not sufficient in prosecuting terrorists and, with passage of POTO, India will be provided the necessary law enforcement tools to prevent and effectively deal with terrorism.

I am not suggesting, Mr. Speaker, that the gentleman from Indiana (Mr. BURTON) or anyone else should not be able to speak out against POTO if they desire. We know that India is a vibrant democracy with an open political system. Its free press and democratic nature allows all voices and opinions to be heard. But I think the criticism is undeserved at this time.

I would like to draw an analogy between what is happening with POTO in India and what is happening with the Provide Appropriate Tools Required to Intercept and Obstruct a Terrorism Act, or PATRIOT Act, in the United States. This analogy was conveniently overlooked by the gentleman from Indiana.

In October of this year, the U.S. Congress passed the PATRIOT Act, which gave law enforcement officials more tools to detect, apprehend, and prosecute terrorists. In the aftermath of September 11, Congress was required to act quickly to pass measures to address the immediate and long-term security, recovery, and financial needs of the country.

There was controversy and there still remains criticism of the PATRIOT bill from both the right and the left. Members protested that it would grant the government too much power and endanger civil liberties. However, the administration called for immediate action and, while moving the bill through

Congress, several provisions were either dropped or modified and a bill did pass.

From what I understand, the Indian Parliament is planning on going through a similar process of modifying some provisions in their ordinance. It is likely that the bill will pass and be enacted into law, thereby affording Indian officials the authority to deal with the growing terrorist threat facing India that the normal criminal justice system could not address sufficiently.

Mr. Speaker, I believe that unusual circumstances in the U.S. call for these types of measures, and the same holds true for India. A true parallel can be drawn here for the two largest and most vibrant democracies in the world. Unfortunately, both of these countries are now combating terrorism.

The gentleman from Indiana (Mr. BURTON) I think is incorrect in accusing India of being repressive by enacting this law. His strategy to bash India is clearly a pattern. It is no surprise that these types of statements come at a time when we are providing aid to India. There is no justification for ending the limited aid that we provide to India, and there is no rhyme or reason to cutting back or putting back in place the sanctions against India that should have been lifted a long time ago.

My point, Mr. Speaker, is that the gentleman from Indiana's efforts to implement such things are simply wrong. We do not need to go back to the sanctions, and we certainly should not punish India for essentially doing the same thing that the United States has done in the aftermath of September 11.

U.S. SHOULD PRIORITIZE SPENDING TO AVOID DEFICIT SPENDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, the question I would like to ask my colleagues is how much more, how much deeper should we go in debt in this country?

The current authorized debt that we passed several years ago is $5,950 billion, and we were actually projecting just a few months ago, last May, that we would not have to increase the debt limit. Our current debt, the debt limit as passed by law is $5,950 billion. The current debt is $5,860 billion. So if we implement what we are talking about for next year's budget, if all of the bills that have been passed in the House were implemented, then we are going back into deficit spending, which means we are going to have to increase the debt of this country.

It seems to me that we should be budgeting in a way that every family has to budget, that every business has to budget, and that if something comes up that is very important we look at other portions of that budget that we might reduce in order to accommodate the higher priority spending. In this case, I would suggest, Mr. Speaker, to my colleagues that the higher priority spending is to assure security and to do what we can to make sure that the economy again comes back strong as quickly as possible.

But if we do that without going into debt like we were some years ago, driving the debt of this country up, if you will, driving the mortgage that our kids and our grandkids are going to have to pay off because of our excessive spending, if we are not to go back into that kind of deficit spending, then we are going to have to prioritize.

How do we prioritize? Is there some spending of this Congress, is there some pork spending, is there some spending that is less important than driving us deeper into debt? Let me just suggest, as we discuss economic stimulus packages, at what point of overspending that is going to result in higher interest rates. Overspending means the government has to borrow more money. We go into competition with business and individuals for that available money supply out there; and, in fact, Congress bids up interest rates to get what they want. So at what point do we decide that increased interest rates are as much of a downer for economic recovery as maybe some stimulus package or some spending that some Members say are important to their economy locally? At what point does it balance? How much should we go in debt in future spending?

I would suggest to my colleagues that the gimmick of the lockbox that we passed, Democrats and Republicans together, was a good effort, suggestion, indication, that we would not go back to spending the Social Security surplus. This year, Social Security is going to bring in a surplus of about $160 billion. But the way we are going, we are going to spend all of that Social Security surplus. I say this is not good. I say that belt-tightening is called for, and prioritization of spending is called for.

So I would not only suggest to this Chamber but certainly to the Senate, certainly to the President and the administration, to start prioritizing spending so that we minimize the amount that we are going to drive our kids and our grandkids into indebtedness that sometime, someplace, somehow, they are going to have to pay off.

Last May, let me just tell my colleagues how rapidly things have changed. Last May, the Congressional Budget Office, the CBO, estimated that our surplus for this 2002 fiscal year would be $304 billion. $304 billion surplus. Now, with the bills that have passed the House, with the bills that have passed the Senate, all of them have not passed the Senate, but with all of the appropriation bills and the stimulus package, we are actually now deficit spending, spending all of the Social Security surplus, spending all of the Medicare-Medicaid surplus and going back into debt, which means that sometime our kids are going to have to come up with either the increased taxes or the reduced living standards from government that we have provided to date.

Mr. Speaker, in conclusion, let me say that I think there are a lot of areas of spending that are of lesser importance, and simply because the lockbox has now been, if you will, broken open, is not the excuse to spend all kinds of money for all kinds of projects.

□ 1645

IN SUPPORT OF INCREASED FUNDING FOR HOMELAND SECURITY

The SPEAKER pro tempore (Mr. PENCE). Under a previous order of the House, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

Mr. LANGEVIN. Mr. Speaker, yesterday the Senate Appropriations Committee passed the defense appropriations bill containing $35 billion in funding to enhance our Nation's efforts to combat terrorism.

Last week, the House missed an opportunity to do the same. The ranking member of the Committee on Appropriations had proposed an amendment to the defense appropriations act to add $7.2 billion for homeland security. Unfortunately, the rule failed to protect this amendment from a point of order, and the House was prevented from voting on one of the most important issues facing Americans today.

Considering the Bush administration issued a third terror alert on Monday, it is imperative that Congress act now to provide greater security for the American people. Since September 11, States and cities have been forced to dig deep into their coffers to pay for unexpected emergency programs. I have met with Rhode Island officials to learn how they have responded to this crisis and to gauge their need for additional counterterrorism and security improvements.

In the 6 weeks following the terrorist attacks, my State spent $18 million on homeland security and needs $56 million more to upgrade emergency response in public health systems. State and local governments have done an exceptional job at pinpointing and prioritizing areas in need of improvement to ensure the safety of their citizens, and Congress must act now to provide them with the resources that they require.

Rhode Island's leaders recognize that law enforcement and emergency responders represent the first line of defense in the domestic fight against terrorism. As a result, they hope to invest $5.8 million for improvements in coordinated emergency response efforts. Through new equipment and training for hazmat teams, the State will be better prepared to deal with the threat of weapons of mass destruction.

Also, the anthrax attacks highlight the need for a strong public health infrastructure. Rhode Island has proposed a $48 million plan to enhance medical surveillance, research, and investigation. Our health officials must be prepared to identify a biological attack in its early stages, respond swiftly to the threat, and prevent further contamination.

As an original cosponsor of the Bioterrorism Prevention Act of 2001, which would provide $7 billion to improve our national public health infrastructure, I applaud the gentleman from Wisconsin (Mr. OBEY) for proposing funding to address the threat of bioterrorism in our communities.

One particularly important provision included in the Obey amendment was a budget increase for the Coast Guard, which has now taken on new responsibilities since September 11. Daily life of Rhode Island is intricately tied to the ocean and Narragansett Bay. Commercial fishing netted $79 million for the State's economy in 1999, and recreational boating is a popular pastime among our residents.

The Coast Guard's dependable presence and its work to keep our seaways safe have made them well respected among our boaters and our residents. However, the Coast Guard has been plagued by dwindling budgets in recent years, preventing personnel increases and equipment improvements. As a result, of the 41 nations with coastal patrols, the U.S. Coast Guard now has the 39th oldest fleet.

Nonetheless, the Federal Government expects the Coast Guard to patrol the Nation's 361 ports and increase inspections of foreign vessels, and 121 Rhode Island reservists have been called to this mission. Commandant Admiral James Loy has pleaded with Congress for years to raise funding levels for the Coast Guard, but we have again taken the wind out of their sails.

Moreover, the Obey amendment would have provided critical funding to strengthen our border patrol. Each day, 1.25 million people, 500,000 vehicles, and 50,000 containers cross our borders; yet far too few vehicles, containers, packages, and other possessions are properly checked. We must provide the Border Patrol with the resources needed to detect and prevent terrorism at our borders.

Although the House was not able to address these and many other concerns by voting on the Obey amendment, I strongly encourage my colleagues to continue pushing for increased homeland security funding so that we may provide Americans the protection and peace of mind that they demand and that they deserve.

Mr. FILNER. Mr. Speaker, will the gentleman yield?

Mr. LANGEVIN. I yield to the gentleman from California.

Mr. FILNER. Mr. Speaker, I want to thank the gentleman for raising these issues, especially his statement about the Coast Guard. I represent San Diego, California; and we only inspect less than 10 percent of the ships coming in. We need more positions for the Coast Guard. I thank the gentleman for his efforts here.

Mr. LANGEVIN. I could not agree more.

HATE CRIMES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, since the April 3, 2001 introduction of H.R. 1343, the Hate Crimes Prevention Act, more than 200 members (202) from both sides of the aisle have added their voices to the call for comprehensive legislation that will provide assistance to state and local law enforcement and amend federal law to streamline the investigation and prosecution of hate crimes.

This legislation is a constructive and measured response to a problem that continues to plague our nation—violence motivated by prejudice. The legislation is designed to address two significant deficiencies in the existing bias crime law enforcement framework. First, the legislation loosens the overly restrictive federally protected activity requirement under existing hate crimes law. Second, the legislation expands the jurisdiction of the federal government to reach violent conduct aimed at victims on the basis of their gender, sexual orientation or disability status.

Title 18, United States Code, Section 245, is one of the primary statutes used to combat racial and religious violence. At the time of its passage in 1968, a number of members of Congress wanted to limit the reach of the statute. They accomplished their goal by including a dual intent requirement. To establish a violation under Section 245, a federal prosecutor must prove that a defendant acted, for example, because of the victim's race and because the victim was exercising one of a limited category of federally protected rights (e.g., serving on a jury, voting or attending public school).

The original version of the statute contained a less restrictive, but still substantial, intent requirement that the government prove the defendant acted while the victim engaged in a federally protected activity.

This dual intent requirement has substantially hampered the hate crimes enforcement by the Department of Justice. There are numerous examples of heinous acts of violence that DOJ has either been unable to prosecute, or has been unsuccessful in prosecuting, due to the limitations of Section 245.

One of the most egregious examples of the problems under current federal law occurred in a 1994 Texas hate crimes prosecution. A federal jury acquitted three white supremists of civil rights violations arising out of an incident where they stalked the street of Fort Worth hunting for African-American victims. Although the jury agreed that the defendants' actions were racially motivated, they acquitted the assailants because they could not conclude that they intended to deprive the victims of a federally protected right.

The Hate Crimes Prevention Act would correct this deficiency by expanding the reach of federal jurisdiction to cover serious, violent bias crimes. Under the bill, hate crimes that cause death or bodily injury because of prejudice can be investigated federally, regardless of whether the victim was exercising a federally protected right.

This legislation will also address inconsistencies in the coverage of current federal, state and local bias crime provisions. Current law does not permit federal involvement in a range of cases involving crimes motivated by bias against the victim's sexual orientation, gender or disability. This loophole is particularly significant given the fact that five states have no hate crime laws on the books, and another 21 states have extremely weak hate crimes laws.

Our bill will expand the jurisdiction of federal law to cover sexual orientation, gender or disability, so the federal government will no longer be handicapped in its efforts to assist in the investigation and prosecution of hate crimes.

In addition, through an Intergovernmental Assistance Program, federal authorities will be able to provide technical, forensic or prosecutorial assistance to state and local law enforcement officials. In addition, the legislation authorizes the Attorney General to make grants to state and local law enforcement agencies that have incurred extraordinary expenses associated with the investigation and prosecution of hate crimes.

The Hate Crimes' Prevention Act is endorsed by notable individuals and over 175 law enforcement, civil rights, civic and religious organizations, including: President Bush's Attorney General Dick Thornburgh; 22 State Attorney Generals; National Sheriffs' Association; International Association of Chiefs of Police; U.S. Conference of Mayors; Presbyterian Church; Episcopal Church; and the Parent's Network on Disabilities.

Poll after poll continues to show that the American public supports hate crimes legislation, including legislation inclusive of sexual orientation. A new Kaiser Family Foundation poll released last month shows that 73 percent of Americans support hate crime legislation that includes sexual orientation.

Passage of a comprehensive law banning hate violence is long overdue. It is a federal crime to hijack an automobile or to possess cocaine, and it ought to be a federal crime to drag a man to death because of his race or to hang a man because of his sexual orientation. These are crimes that shock and shame our national conscience and they should be subject to federal law enforcement assistance and prosecution.

THE LOCAL LAW ENFORCEMENT HATE CRIMES PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes.

Ms. BALDWIN. Mr. Speaker, I rise today to urge the House to pass H.R. 1343, the Local Law Enforcement Hate Crimes Prevention Act. Passage of hate crimes legislation is long overdue.

As the House of Representatives fails to act, the list of victims of hate crimes grows every day. One such victim was murdered in Milwaukee, Wisconsin, last month on November 11. Juana Vega was shot repeatedly by her girlfriend's brother outside her girlfriend's family home. According to friends of the victim, the suspect made repeated threats, explicitly stating that he would kill the victim because of her sexual orientation.

Unfortunately, Mr. Speaker, this tragic situation repeats itself far too often in our country. We must act to address it now. It is unfortunate that hate crimes occur, but they do. It is irresponsible to deny that there are individuals who seek to commit violence against an individual because they may be gay, lesbian, a woman, or disabled, the people that we seek to protect with the passage of this legislation.

It has been argued that we cannot see into a criminal's heart or mind, that we cannot determine their motive and intent, and therefore, cannot dole out appropriate justice. Yet, the most ancient concepts of justice still with us today consider the intent of those perpetrating a crime. Should we not consider the intent of a man or woman who kills or maims because of their hatred of an entire group, class, or race of people?

A Member of the other body, the former chairman of the Senate Committee on the Judiciary, said last year, "A crime committed not just to harm an individual but out of the motive of sending a message of hatred to an entire community is appropriately punished more harshly or in a different manner than other crimes."

Hate crimes are different than other violent crimes because they seek to instill fear in an entire community, be it burning a cross in someone's yard, the burning of a synagogue, or a rash of beatings of people in proximity to gay-identified establishments. This sort of domestic terrorism demands a strong Federal response because this country was founded on the premise that persons should be free to be who they are without the fear of violence.

Mr. Speaker, this House needs to pass the Local Law Enforcement Hate Crimes Prevention Act as expeditiously as possible. We need to do everything that we can to prevent hate crimes like the murder of Juana Vega.

EXPRESSING SUPPORT FOR PASSAGE OF MEANINGFUL HATE CRIMES PREVENTION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, I rise today to join with the gentlewoman from California (Ms. WOOLSEY), the gentlewoman from Maryland (Mrs. MORELLA), the gentleman from Georgia (Mr. LOUIS), the gentlewoman from Wisconsin (Ms. BALDWIN), and others here today to express my strong support for the passage of meaningful hate crimes prevention legislation, and in particular, the Local Law Enforcement Enhancement Act of 2001, which I am proud to be a cosponsor of.

During these difficult times, it is critical that we stand together as one people united against a common enemy. In the past months we have witnessed the worst of humanity. On September 11, over 3,500 of our fellow human beings were murdered by extremists whose sole motivation was a pure hatred of America and the freedom and diversity that define our Nation. We must combat this horrible act by holding those responsible to account, and we must combat this horrible act by sending a powerful and clear message to the world that we are a Nation that values tolerance, acceptance, understanding; and we are a Nation that celebrates our diversity.

At no time in the great history of this Nation has it been more important for us to take a stand against hatred, scapegoating, and prejudice that can affect and destroy a society. Never has it been more important for us to reach out to our friends and neighbors of Arabic descent or of the Islamic faith, demonstrating how much we value them as members of our community.

Nothing would aggravate and undermine the forces that committed the horrible atrocities of September 11 more than redoubling our efforts to protect and respect and uphold the rights of all.

Mr. Speaker, since September 11, hate crimes against Muslim and Arab Americans and immigrants have increased all over the country. From small towns to large cities, we have seen incidents of physical and verbal abuse. More than 1,200 cases of hate-motivated attacks or assault against members of the Muslim and Arab communities have been documented in just 3 months.

As Members of Congress, we must act now to reassure our American Muslim and Arabic communities that they and their families are safe and welcome and we value their presence in our country.

America has always been a Nation of tremendous diversity. As our men and women in uniform risk their lives to protect our way of life, nothing could send them a stronger message of support than an America that finds strength in the differences in heritage and beliefs that make us uniquely American. Bias, bigotry, scapegoating, prejudice, discrimination, and hateful persecution have no place in American society. It is time we solidified such a position with the full force of the law.

Dr. Martin Luther King, Jr., once said, and I quote, "Injustice anywhere is a threat to justice everywhere." Mr. Speaker, as we fight to bring those who have attacked us to justice, we must not overlook the injustices that are still present in our own society. Hate crimes are serious and well-documented problems, yet they remain inadequately recognized. The current Federal hate crimes statute is limited to crimes motivated by discrimination on the basis of race, religion, color, or national origin. Unfortunately, hate crimes committed in this country are broader than that. Current law excludes other communities of individuals who are victimized just as often for other reasons.

The importance of congressional action on this crucial issue cannot be overemphasized. Unlike other crimes, hate-motivated crimes not only affect individuals or families, they permanently scar entire communities. Only by recognizing and combatting these crimes can we all begin to eradicate the bias and bigotry that remains all too prevalent in today's society.

We must work to rid our schools and our neighborhoods and our communities of hatred. We owe it to ourselves, we owe it to each other, and we owe it to our children who look to us for guidance.

The time has come to break down the walls of ignorance once and for all and replace them with communities built on tolerance, justice, and compassion. The perpetrators of hate crimes are not the only guilty parties. Silence, complacency, and indifference in the face of such brutal attacks are allies, as well.

Mr. Speaker, I urge all my colleagues to join in the fight for a Nation united against the evils of bigotry and hate directed against anyone in our society. Let us bring this legislation to the floor that has been championed by the gentleman from Michigan (Mr. CONYERS) so valiantly over the years. Let us pass it through this House, and let us send a message to the rest of the world that the United States of America will not tolerate hate crimes. It is a message that needs to be sent now.

A TRIBUTE TO DR. KAMLESH GOSAI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MASCARA) is recognized for 5 minutes.

Mr. MASCARA. Mr. Speaker, I rise today to recognize Dr. Kamlesh B.

Gosai, this year's winner of the Country Doctor of the Year Award.

Let me begin by saying that Dr. Gosai best exemplifies and illustrates the Hippocratic oath he took upon entering the practice of medicine. He is a shining example of what that oath is all about. He is a great human being.

This award was created to recognize outstanding rural physicians throughout the United States, and Dr. Gosai definitely is deserving of this recognition.

□ 1700

This is a tribute to his dedication, skill and caring for his patients, a rare commodity in a time when health care is undergoing questionable change.

Dr. Gosai always has time for his patients. He practices out of the Southwest Medical Center in Bentleyville, Pennsylvania, a small community of about 2,300 people where I met my wife Dolores. While many physicians choose to practice medicine in larger, more populated areas, Dr. Gosai has chosen to make his home in the Mon Valley region of southwestern Pennsylvania.

Dr. Gosai is the perfect example of how a good country doctor can change a community in a positive way. He brought a state-of-the-art medical center to Bentleyville and recruited many specialists to enter his practice. He also opened a medical center in 1993 in nearby Charleroi, Pennsylvania, ironically where I live, which now employs nearly 100 and offers a wide range of specialty practices.

In addition to being on call 24 hours a day, it is not uncommon for Dr. Gosai to see 75 patients a day in his office or make himself available for last-minute exams or emergencies; and, yes, he still makes some house calls.

As key health care providers for more than 60 million people, country doctors are an integral part of America's health care system, and the people of the 20th District of Pennsylvania are very fortunate to have a dedicated physician like Dr. Gosai living in their own backyard.

Mr. Speaker, I know the entire House of Representatives joins me in congratulating Dr. Gosai on this well-deserved honor. He is a credit to his profession.

TRIBUTE TO THE LIFE OF PATRICIA A. JONES

The SPEAKER pro tempore (Mr. PENCE). Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise to pay tribute to an outstanding woman, Mrs. Patricia A. Jones, who in her own right provided immeasurable services, especially to children and social service agencies in Chicago, Illinois, and its surrounding suburbs.

In addition to that, Mrs. Jones is also the beloved wife of the Senate Democratic Leader of Illinois, Emil Jones, Jr. She passed away Sunday past at 11 p.m. at St. Francis Hospital, a young woman, only 63 years old.

She was as much a partner in her husband's public life as she was in his private life. Emil and Patricia Jones were wed on December 4, 1974. She was born in New Orleans, Louisiana, on August 9, 1938, the third of eleven children. She went through the New Orleans school system where she became a teacher.

Of course, ultimately, she came to Chicago and is survived by her husband; two sons, John Sterling and Emil Jones III; and a nephew, Emil Alvarez Jones, whom she raised. She is also survived by a number of other relatives.

She attended Loyola University in Chicago and graduated from Chicago State University.

As a young adult, Mrs. Jones moved with her family to Chicago. She was employed by the City of Chicago, administrating the Title 20 program for a number of years, which included preschool, Head Start. She also taught in the preschool program at the YMCA in Chicago.

She served on the school board as President of Holy Name of Mary Catholic School in Morgan Park. She was active in her church, Holy Name Mary Catholic Church in Morgan Park, where she was a former member of the Ladies Guild. She was a member of AKA Sorority and a board member of the Beverly Arts Center.

We extend our condolences to the minority leader in the Illinois Senate, Emil Jones, on the death of his wife, but we value her contributions and know that they will long remain not only a part of Chicago but a part of the Nation.

FOLLOW THE WILL OF CONGRESS: REMOVE MEXICAN SEWAGE FROM U.S. SOIL AND WATER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today to tell my colleagues about an incredible situation that is going on in my district in San Diego, California. I have running through my district 50 million gallons of raw sewage a day. I doubt that any congressperson in America could say that, 50 million gallons of raw sewage coming through his or her district.

This is because of the nature of the geography in southern California and the unfortunate situation that our sister city across the Mexican border, Tijuana, does not have facilities to treat all its sewage, so sewage which is untreated eventually finds its way into the Tijuana River Valley, across my district and then empties into the Pacific Ocean. It is a terrible environmental problem which both countries are trying to solve.

I have worked on this problem for over a decade as a member of the San Diego City Council and as a member of this Congress. We found a win-win-win way to deal with this issue that had been plaguing us for 50 years.

A joint U.S.-Mexico private firm made a proposal to build a sewage treatment plant using the most advanced environmental techniques to build such a plant in Mexico where the water could be treated to a level that could be reclaimed for agriculture, commercial or even drinking use, which Mexico desperately needs, and this treatment would be paid for by the United States government.

It is the citizens of this country that are being affected by the potential disease and the environmental problems. So we thought, given the situation, that a private firm working with both countries could not only treat the sewage, but solve the U.S. environmental problem, and help recycle water to Mexico.

My former colleague and I, Mr. Bilbray, convinced this Congress that such a plan was workable, and, in fact, this Congress a year ago passed a law, Public Law 106–457, to do exactly what I just outlined, to solve a 50-year-old problem. Title VIII of that law authorized the International Boundary and Water Commission to begin negotiations with Mexico to provide for the treatment of Mexican sewage that flows into the United States. This Congress decided that unanimously.

Recently, the new commissioner that was appointed by President Bush for the International Boundary and Water Commission, Mr. Carlos Ramirez from El Paso, decided on his own, without talking to any of us here in Congress, ignoring decades of litigation by environmental groups, ignoring all the work that had been done by the political leaders, local, State and Federal, in San Diego and in Mexico, repeatedly said recently in public meetings and to the press that that law had no force, that he was not required to, in fact, undertake those negotiations and build the treatment plant mandated by Congress. In fact, he said we are going to do it with an expensive process that this Congress and our whole border community rejected a decade ago.

I do not know why the new commissioner started off his work in this fashion. I offered to meet with him. No meeting could be arranged, but I took this problem to the chairman of the subcommittee that had worked out this legislation a year ago, the gentleman from Tennessee (Mr. DUNCAN), and he agreed to hold an oversight hearing on the implementation of the law that required the sewage treatment plant to be built cooperatively with Mexico.

This hearing will be scheduled for this Wednesday, December 12. I hope that the administration spokesman, Mr. Ramirez, his employer, the State Department, the Office of Management and Budget will explain why a law that was passed by Congress a year ago has not been implemented.

This law is environmentally sound. It is good for the taxpayers of this Nation. It solves a problem that has been with us for 50 years. What Mr. Ramirez wants to do is treat half the problem, do it more expensively and in an environmentally insensitive way. I do not understand that at all, and I am glad the gentleman from Tennessee (Mr. DUNCAN) agrees with me that he should explain this to Congress.

So we will have this oversight hearing which is the role of Congress to have. It is about time the International Boundary and Water Commission followed the will of this Congress.

CHANGING THE PRESCRIPTION COPAY FOR VETERANS

The SPEAKER pro tempore (Mr. SIMMONS). Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I wanted to take a few moments this evening to explain something that is happening to veterans that I think many Members of this House may not be aware of and would like to correct.

Currently, a veteran who receives prescription medications as an outpatient for a service-connected disability is charged a $2 copay per prescription, and the Veterans Administration is contemplating increasing that copay from $2 per prescription to $7 per prescription, a '250 percent increase in one fell swoop.

Why are we doing this? I have checked with the Chilicothe, Ohio, Veterans Hospital and talked with their CEO. He tells me that, at that hospital, the average veteran who gets prescription medications takes, on average, at least 10 prescriptions per month. If we take $7 per prescription and multiply it by 10, that is $70 a month; and then many veterans get their prescriptions for 3 months at a time. So 70 times 3 finally starts adding up to a sizeable amount of money, especially for a veteran with a service-connected disability who is trying to live on a fixed income.

It is unconscionable to me that at this time in our Nation's history, when we are paying honor to those who are fighting for us and for those who have fought for us, that we would increase the costs of prescription medications; and we are doing it at a time, quite frankly, when we are making huge, multibillion dollar tax breaks available to wealthy corporations.

Who do we care about in this House? Wealthy corporations or the men and women who have served this country honorably and who are sick and in need of medication and who oftentimes cannot afford that medication, even with a $2 copay?

I have introduced H.R. 2820, and it is a simple bill. It just simply says that the Secretary of the Veterans Administration cannot increase this copay amount beyond the $2 for the next 5 years. Surely, surely, we can find the resources to do this good thing. I am calling upon my colleagues, and I am doing this on behalf of those who have served our country, the men and women who have paid the price, given of their time, given of their bodies and been willing to give of their very lives to make sure that those of us who serve in this Chamber can do so in freedom.

So I call upon my colleagues to join me in cosponsoring H.R. 2820. It is the least we can do for those who have done so much for us.

ECONOMIC STIMULUS PACKAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CUNNINGHAM) is recognized for 5 minutes.

Mr. CUNNINGHAM. Mr. Speaker, I do not plan on taking the full 5 minutes. But we have just gotten through with the defense bill and the Select Committee on Intelligence has just passed its conference report, and our Nation is at war, and above the regular amount the President has seen fit to give a $40 billion supplemental to try not only to help people in New York, people at the Pentagon, but this Nation heal itself.

Post-September 11 has seen over 700,000 jobs lost, and yet we still have 99 percent of the American people that have their jobs, but if someone is one of those of that 1 percent that has lost their job, it is critical to them. Many of the people in my own district that has happened to.

We tried to protect those jobs, and I think that we need to do more. We also need to help people temporarily. But even more important than that, Mr. Speaker, we need to stimulate the growth of the new and the old jobs through different measures, economic measures.

□ 1715

Seventy-five percent of the jobs created are created by small business in this country, and I believe that tax relief for businesses will act as a stimulus that will enable those businesses to hire more people, to hire back some of those 700,000 that have lost their jobs.

We all know that a company does not just fire people because it wants to; it is because they are working with a margin. And when they start losing money, either because they are overtaxed or because of the system or something like September 11 happens, they are forced to let people go. I have people in the hotel industry that only have about a 25 percent occupancy right now. That is devastating to those industries, and this has happened across the board.

So the things we can do to stimulate the economy is, one, tax relief for those businesses. That is important in an economic stimulus package, as well as direct pay to some of those folks that need the help immediately.

Secondly, there has been a lot of debate on trade in this House, and I think very positively, both those for and opposed. But I believe whether you are a union worker or come from the private sector, our workers in this country are second to none. Given fair trade and given an equal chance, they can compete with any nation.

Some people debate and look at the trade deference. Well, ask anybody, they would rather be from a country that has higher pay, that has higher quality, that has higher technology than a country that has low pay, low technology, but yet is able to flood the markets. It just stands to reason. It is common sense.

Trade is also important to my State, California. The number one commodity in California is agriculture. Those that say they are friendly to agriculture should have no second thought on the vote that is coming to us tomorrow or the next day on the trade bill sent down by the President. The bill tomorrow will improve existing and future trade agreements. Not necessarily new trade agreements, but it will enable the President to shore up problems that many of my colleagues on the other side have brought forward, and I think in some cases rightfully so.

Mr. Carville, who used to work for President Clinton, once said, "It's the economy, stupid." If we can give tax relief to businesses and stimulate jobs, if we can pass trade agreements that will help benefit our workers and shore up existing problems, I think that will help.

My constituents want three kinds of security: they want personal security; they want to be safe in their schools and on their streets; they want to be able to open up a piece of mail that does not have anthrax in it; they want economic security, to know they are not going to lose their job; and they want national security. For those things, Mr. Speaker, I ask my colleagues to support both the economic package, the stimulus package that was passed out of this House, and to support the trade agreement that will be brought forward this week.

SUPPORT H.R. 1343, LOCAL LAW ENFORCEMENT HATE CRIMES PREVENTION ACT

The SPEAKER pro tempore (Mr. PENCE). Under a previous order of the House, the gentleman from Texas (Mr. RODRIGUEZ) is recognized for 5 minutes.

Mr. RODRIGUEZ. Mr. Speaker, I am here today to call attention to the dramatic rise of hate crimes and voice my support of H.R. 1343, the Local Law Enforcement Hate Crimes Prevention Act.

Last Congress, we came closer to enacting legislation that would have reaffirmed our commitment to prosecuting those who commit hate crimes. The Senate passed the hate crimes amendment on the defense appropriations act. The House subsequently passed a motion, which the majority of us supported, to instruct the conferees to retain the language contained in the Senate version of the defense authorization bill. Unfortunately, the conference committee ignored the will of the House and the Senate and chose not to retain the hate crime provisions in the final conference report.

Opponents of the hate crime measure have charged that it grants preferential treatment to certain groups. This is totally a false presumption. Heinous crimes that target victims solely on the basis of their race, their color, religion, national origin or sexual orientation deserve enhanced punishment. Because hate crimes are as diverse as the persons who commit them, we are all vulnerable to becoming victims. Hate crime legislation is a reaffirmation, not a denouncement of our Nation's commitment to civil rights and equal protection under the law for all Americans.

Furthermore, I reject the notion that a hate crimes bill would undermine one of the most important constitutional tenets, the freedom of speech. This could not be further from the truth. Racist groups and other extremists would have the constitutional right to preach and spread their propaganda. However, if those views translate into premeditated violence against a person or persons because of their ethnicity, their religion, or their sexual orientation, then those perpetrators should be held justly accountable for their acts.

The Texas legislature passed a hate crimes bill earlier this year after failing to do so during the previous legislative session. The bill was named to commemorate James Byrd, Junior, an African American man who was dragged to his death in Jasper, Texas, in 1998 by three white men solely because of the fact that he was black.

During the 1999 legislative session, the Texas House also passed a hate crimes bill. Unfortunately, opponents blocked consideration of the measure in the Texas Senate. Even more disappointing was that then-Governor George Bush was silent on the issue and refused to pledge his support for the bill. I am pleased that this year the legislature in Texas was able to remove the previous roadblocks and secure passage of the bill.

However, now that Texas has committed itself to hate crimes prevention, it needs the tools to facilitate the enforcement. For this reason, I am proud to be a cosponsor of H.R. 1343, the Local Law Enforcement Hate Crimes Prevention Act, which has been introduced by the gentleman from Michigan (Mr. CONYERS). H.R. 1343 provides the technical, forensic, as well as prosecutorial tools local law enforcement needs to combat this type of violence.

H.R. 1343 has garnered the support of over 202 co-sponsors. Now more than ever we need the Federal hate crimes bill. Since September 11, hate crimes, especially those targeting Arab Americans and Muslim Americans have dramatically increased. This is unfortunate, and we need to make sure that this does not occur. While I am sure that we are all angry and frustrated, and have a great deal of anxiety as a result of what has transpired and what a lot of Americans are feeling, such feelings cannot ever, and I repeat, such feelings cannot ever justify senseless acts of violence against innocent people.

I ask my colleagues and the Republican leadership to speak out against these hate crimes and secure passage of H.R. 1343 as immediately as possible.

CONGRESS MUST PASS HATE CRIMES PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of Georgia. Mr. Speaker, now is the time to pass the Hate Crimes Prevention Act. Congress must stand up and pass this legislation to send an important message to the American people and the world, that hate crimes will not be tolerated.

From the Justice Department demanding interviews from thousand of Arab-American men simply because of their heritage, to secretly detaining hundreds more, this country is sending the wrong message to its people and the world. Since September 11, we have seen a tendency in our citizens to strike out against those who they believe to be responsible. We continue to hear reports of harassment and discrimination against Arab Americans and Muslims. There has been a rise in all types of hate crimes. Congress must act now to send the right message. It must pass the Hate Crimes Prevention Act before we adjourn.

America is Christian, Jewish, Muslim, black, white, Hispanic, Asian American and Native American. We are gay and we are straight. We are one Nation. We are one people. We all must continue to live and work together to create one house, one family: the American house, the American family.

The President has preached a message of tolerance and respect and has urged all Americans to be sensitive in this difficult time. This country, as a whole, must heal and move forward together as one Nation. We can do that by embracing the idea, the concept of the beloved community, a community based on hope, compassion, and justice, a community at peace with itself. We must renounce racism, we must renounce hate, we must renounce violence and embrace diversity. We must teach not just tolerance; we must teach acceptance and love. Only then can we achieve the concept of the beloved community, a community that is free of hate based on race, religion, national origin, or sexual orientation.

Passing the Hate Crimes Prevention Act is a step, a major step in the right direction, a step down a long road. It sends an important message. We must show the world the great Nation that we are, a Nation where all men and women are created equal. It is time to pass the Hate Crimes Prevention Act. So, Mr. Speaker, I call on all of my colleagues to lead by example and pass this bill before we leave.

IN OPPOSITION TO FAST TRACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BACA) is recognized for 5 minutes.

Mr. BACA. Mr. Speaker, I stand in opposition to the Fast Track legislation that is being proposed. Our country is at war. We must prioritize safety and security of the American people. There are lingering concerns of biological contamination. The American people continue to worry about anthrax, about new reports from the administration to be on high alert. Now is not the time to move forward on the Thomas Fast Track legislation.

The U.S. has officially entered an economic recession. Millions of workers are suffering: unemployed, no health coverage, and jobs lost. Terrorists have struck the American people in their pocketbooks. The holidays are approaching. Hundreds are fearful of imminent layoff. Do you know what it is like to be laid off, not being able to make your payments, not being able to put food on the table, feed your children, stand up with pride? It is very difficult for many Americans who are being laid off, who are now trying to figure out a way to pay their bills. Now is not the time to move forward with this Fast Track legislation. Expediting a trade negotiation is the last priority for the American people, the last priority for the American people in these trying times.

International trade directly affects the lives and the livelihood of increasing numbers of Americans. Congress cannot be confined to the back bench. We in Congress must be active and participate in all international trade negotiations. The Thomas bill would have us serve merely as consultants. That is not what we were elected to do. We were elected to voice and protect the interests not only of my district but of the American people in general. The Thomas Fast Track bill is an unfortunate manipulation of trade policy.

Since September 11, broad bipartisanship has been a top priority.

□ 1730

This bill serves in dividing the line. This bill is driving a wedge between the Democrats, the Republicans, between the Democrats and the high-tech community. The partisan tactics of the proponents of the Thomas Fast Track bill stands in stark contrast to the President's statement last week that the passage of Trade Promotion Authority would send a signal that Congress and the administration are united on trade. Congress is not united on trade. Now is not the time to move forward with the Thomas Fast Track legislation.

Mr. Speaker, I would support legislation granting President Bush Fast Track negotiation powers provided it addressed effectively the key issues of labor and the environment and the role of Congress. I am not against free trade. Unfortunately, this bill we will vote on tomorrow fails to address the new realities of trade in an effective and realistic manner.

The Thomas bill endangers a rare opportunity to build a bipartisan consensus in support of tearing down trade barriers in a way that would create jobs and raise living standards around the world. Labor and environmental considerations are not merely social considerations. The truth is that inclusion of labor and the environmental issues has real commercial significance for the terms of trade.

A growing number of people around the world, having experienced the negative effects of free trade agreements, we can look back at NAFTA, are opposing accords such as the proposed free trade agreements because we know what we have experienced from many of the jobs lost in the auto industry, the manufacturing industries, and many other areas where people lost their jobs.

We need a different kind of trade agreement, one that would benefit working people and the environment in every country. We can no longer give free reign to the over-exploitation of the workers who abuse not only workers but children and the environment. We must protect the interests of hard-working Americans and the hard-working individuals in our global community.

PASS HATES CRIMES LEGISLATION

The SPEAKER pro tempore (Mr. SIMMONS). Under a previous order of the House, the gentleman from New York (Mr. OWENS) is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, I rise in support of the Hate Crimes Prevention Act offered by the gentleman from Michigan (Mr. CONYERS), H.R. 1433. I think there is nothing more important that we are doing here in this session than this Hate Crimes Prevention Act. We are wasting our time passing junk resolutions, in many cases, and we do not address an important piece of legislation like this. More than 200 Members have signed on as cosponsors of this legislation.

Mr. Speaker, I think that every legal or legislative step that can be taken to combat hate should be taken. Hate is a strong force in the world. It is a monster expressing itself in many ways. The hate monster has us by the neck all over the world, but terrorists that we are fighting in Afghanistan, bin Laden, the al Qaeda network throughout the world, is motivated by hate. Hate seems to generate more fervor than love. People who are pushing love and want to do things differently do not seem to have the same kind of motivation or energy. The people who want to destroy our democracy, they hate us because we will not cover our women in public, they hate us for a thousand different reasons, and we need to meet that with tactics and with strategies that are as strong as the hatemongers.

We need to have in every way blanket condemnations of hatred, intolerance, and we need to be very detailed in this country. In this country we can get into the details of what is wrong. We need to condemn intolerance, and we need to specifically condemn intolerance that relates to sexism or intolerance that relates to race or disability. There are some people who, some men in particular, who are very adamant in terms of the workplace, and they cannot stand intolerance or oppression by the boss or management, but they will exploit and oppress women.

There are some people in certain races who certainly will speak out against racial intolerances, and they will also oppress women. There are some women who will certainly defend the rights of women to be equal, but they will oppress or be intolerant of people of other races. All of these things add up to a situation that is very complex. We cannot stop it by legislation, but legislation plays a key role. We are the catalytic agent in the process of helping people to deal with hate, making our society as a whole deal with hate.

Nationality or ethnic origin is certainly unacceptable for hatemongers, also; and, unfortunately, in our agencies of government, bureaucracies sometimes express a bit of intolerance and sometimes get into hate. Under the President's pressures of terrorism, as we mount our campaign against terrorism, I have seen in my own district Pakistanis rounded up because they are Muslim, and those Pakistanis when they were interrogated, they may have some immigration problems, they have been put in holding pens and jails in New Jersey outside of New York City. About 200 people in a 2-month period have been rounded up and held for 2 or 3 weeks merely because they have an infraction related to immigration but not a serious crime. They asked to go home, and, instead of being immediately processed out and sent home, they were held. One man even died there because there is an intolerance in the FBI bureaucracy under the pressure of the present situation to combat terrorism.

We should not let our guard down and become intolerant of any particular group. Immigrants in general are being put on the spot. I have a large number of people in my district from the Caribbean. Through World War I, World War II, Korea, Vietnam, they never found a single Caribbean espionage agent from Haiti or any other Caribbean nation. Why are they penalizing and putting those people on the spot and profiling them in the situation that presently exists?

It is intolerant, unreasonable and from our own agencies we should not tolerate it. Let us take every step possible. H.R. 1433 is an important step. We do not need more hate in the world. We need in our official conduct as well as our personal conduct to do everything possible to combat hate.

POSTAL WORKERS PROVE DETERMINATION TO GET JOB DONE IS SECOND TO NONE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HILL) is recognized for 5 minutes.

Mr. HILL. Mr. Speaker, "Neither snow, nor rain, no heat, nor gloom of night stays these couriers from the swift completion of their appointed rounds."

These words ring truer now than ever before. In recent weeks, our country's postal workers have once again proven that their determination to get the job done is second to none.

Thankfully, the anthrax scare that recently gripped the Nation has subsided. This does not mean that we should be less diligent when it comes to looking for lessons to draw from these acts of terrorism. Even now, it is clear that commerce in this country is inextricably linked to confidence in our mail system. Maintaining confidence in the system requires that we do whatever is necessary to ensure the mail's safety.

I was reminded of this a few weeks ago as I toured postal facilities in southern Indiana. Simply, I got an earful. Foremost in the minds of these dedicated Hoosiers was the question of when would the mail facilities receive the help needed to purchase and install anti-biological irradiation equipment.

I hope the answer to that particular question is sooner rather than later. The Postal Service needs our help. In the meantime, I have no doubt that Postal Service employees will continue to brave the elements and the unknown and deliver the mail.

FUTURE ROLE OF WOMEN IN AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to continue to speak out on the critical issue of women in Afghanistan and their plight during these perilous times. As Democratic Chair of the Congressional Caucus on Women's Issues, I have made it a priority to address the House each week to provide a voice to the women who have been silent far too long. It is also my intention to continue to raise awareness about the current state and the future state of women and children in Afghanistan.

Today marks the conclusion of the Bonn negotiations for a post-Taliban government in Afghanistan. A new interim administrator will be in place by December 22. While few women were involved in the current negotiations, I am happy to learn that women will take part in the rebuilding of their country. The new administration will include five deputy prime ministers and 23 other members for negotiation. Of the five deputy prime ministers, one is a woman. Women are also expected to occupy up to five other ministerial portfolios. One minister is to be established solely for women and children. I am happy to report that there is progress being made.

Under the proposed agreement, a special commission will be appointed within a month to organize the calling of an emergency legislature or traditional constituent assembly of provisional leaders and notables. It should be called within 6 months and would have the right to revise the new interim executive and create other bodies that would serve for up to 2 years.

The commission is also to ensure that due attention is paid to the presence in the governing body of a significant number of women. The proposed agreement foresees the drafting of a new constitution to be ratified by another legislature, with elections to take place at the end of that 2-year period.

As women strive both inside the country and outside to contribute towards shaping a meaningful future, we must demonstrate our resolve to help those Afghanistan leaders be involved in all political and economic negotiations from the outset. It is extremely important that there are not just a few women used as tokens but as real partners and equal partners. Women need to be involved in every aspect of that country's fabric.

As I have said before, Afghan women must be ensured of their basic human rights once more such as access to safe drinking water and sufficient food; to receive decent health and maternal care; and, foremost, to again move freely in their society without being subject to harassment and abuse. Above all, they must be allowed to practice their religious beliefs as Islamic women without retribution.

It will be important to see that women are involved in the emergency laya jerga since it appears that this is a real place where power and authority will be exercised.

Mr. Speaker, I am pleased to present this report this evening.

□ 1745

HATE CRIMES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this evening to offer my thoughts on the importance of passing in this body hate crimes legislation, but also to ask this House to prioritize its work. Inasmuch as we can spend an enormous amount of time on some very valid initiatives, I do believe that hate crimes legislation, the passage of hate crimes legislation that has been offered in two previous congressional sessions, is long overdue and it is not being passed.

I heard a colleague of mine just earlier today talk about the climate in which we live. All of us have stood up against terrorism and have given to the President the authority to ferret out terrorism and to bring to justice those who perpetrated the unspeakable crime on September 11, 2001. But, likewise, we have spoken against the indictment of the Islamic faith and all Muslims. We realize that Muslims are not the crux of our problem inasmuch as the virtues of their faith talk about peace and justice.

I would say that we experienced over the past weekend some terrible tragedies, terrible loss of life in the Mideast. It does us no good as well to speak hate against either the Israelis or the PLO. In fact, it is most important that we look to speak to the issues of peace and reconciliation and bringing people together.

Our first step to acknowledge to the world that we will not harbor hate is to pass our own hate crimes legislation so that we can say to the world we argue and fight against hate in this Nation, and we will stand against hate in the world. We cannot cry in a one-sided manner. We must cry for all of those who lose their life.

So, as we talk about the passage of hate crimes legislation, let us be reminded that we have those brothers and sisters within our boundaries who feel that they have been discriminated against because of their faith. We may have brothers and sisters around the world who feel that these tragedies that have occurred, that we have somewhat not understood their crisis and that we do not look to seek peace. I would argue that we can find peace here in this Nation and a recognition and reconciliation of our opposition to hate by passing the hate crimes legislation, and we can do so by speaking to all parties who would come to the table of peace to design peace in the Mideast and to design peace in Afghanistan.

The hate crimes legislation that is so needed in this country would address the question of Leonard Clark, a 13-year-old African American teenager who was riding his bicycle one day in Chicago when he was accosted and brutally beaten by three white teenagers. The perpetrators have been charged with attempted murder, aggravated battery and hate crimes under the Illinois State law. However, the irony in this case is that one of the key witnesses to the beating remains missing. A Federal hate crimes law would have allowed for the full involvement of the FBI in this case, thereby increasing the chances of capture and justice.

In my own congressional district in Houston in 1995, Fred Mangione, a homosexual, was stabbed to death, and his companion was brutally assaulted. The two men who were charged with Mangione's murder claimed to be members of the German Peace Corps, which has been characterized in media reports as a neo-Nazi organization based in California. At the time, this crime did not meet the State of Texas threshold for trial as a capital offense because the murder did not occur during the commission of a rape or robbery. Justice failed us during that time frame.

I am very gratified to say that since that time and since the brutal beating and killing and dismemberment of James Byrd, Jr., we have passed the James Byrd, Jr., Hate Crimes Act in Texas. It was passed by Republicans and Democrats and signed by a Republican Governor.

So I speak tonight not in one voice. I speak to all of my colleagues, and I am gratified that the gentleman from Michigan (Mr. CONYERS) has offered legislation and the gentlewoman from California (Ms. WOOLSEY) continues to bring us together so that we can speak in one voice.

But even as we speak, we are still facing attacks on our own American citizens and those within our boundaries, such as the statistics of 1995, 2,212 attacks on lesbians and gay men were documented, an 8 percent increase over the previous year. There have also been numerous attacks on people of various backgrounds, whether they have been Jews or Asians, Hispanics, Native Americans or anyone that has been different in our community. The hate crimes prevention act will protect these groups from targeted attacks because they are members of these groups. They likewise would protect women and others on the grounds of difference.

Mr. Speaker, I join with my colleagues today in simply saying we can fight hatred with our own changed hearts, but as well we can provide changed laws for America and pass the Hate Crimes Prevention Act of 2001 or 2002.

Mr. Speaker, the tragic events of September 11 have compelled this great country of ours to join efforts and resources in healing the wounds and rebuilding lives. Our love for America was never more evident than in the days and months subsequent to September 11. Flags are flown daily even embroidered on clothing. We cannot stop showing our love for our country.

Yet expressing our deep affections for our country and what we have had to endure, must include ALL Americans. It must not be exclusionary, but rather include all races, creeds, gender, and sexual orientation.

When Thomas Jefferson wrote the Declaration of Independence he stated that, "We hold these truths to be self evident that all Men Are created Equal." Women, African Americans, Native Americans, Hispanic Americans, Asian Americans, and Jewish Americans have been too often historically, culturally, and prospectively excluded from inclusion in that declaration.

President Abraham Lincoln stated so eloquently in his Gettysburg Address, "Our Nation must struggle . . . in order to create a more perfect union". The problem with our struggle today is our judiciary system's inability to effectively address violent acts of hate crime in our society. It is particularly difficult because there is no current law that makes a hate crime a federal offense. We need Hate Crimes legislation to "create a more perfect union."

Early in 1987, a public controversy developed between William Bradford Reynolds, Assistant Attorney General, Civil Rights Division, and prominent civil rights advocates. Reynolds stated that racial violence was not increasing, basing his assertion on informal surveys of Federal prosecutors and the number of civil rights complaints being filed with the Justice Department. Civil rights advocates asserted the contrary, that racial violence was in fact increasing, basing their assertions on data supplied by the Justice Department's own Community Relations Service, which reportedly indicated a rise from 99 racial incidents in 1980 to 276 in 1986.

This controversy ultimately led to the passage of the Hate Crime Statistics Act, enacted April 23, 1990. This law required the FBI to collect, compile, and publish statistics on hate motivated crime. Since then, Federal legislation has moved beyond data collection on the incidence of hate crime activity, to include new provisions requiring stiffer penalties for bias-motivated criminal activity. Also, it has designated a new category of individuals, to include those with disabilities.

According to the Hate Crimes Statistics Act, a hate crime is defined as acts which individuals are victimized because of their "race, religion, sexual orientation, or ethnicity." In this statute, hate crimes are those in which "the defendant intentionally selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.

But despite our historical progress and despite our laws, how far have we really come? Just when we thought that our Nation had built a foundation for peace and harmony, three attackers in a small town in Texas, shattered the illusion with an atrocity beyond imagination. The so-called "dragging" murder DEFIES the very fabric of the moral code that all Americans innately support. The moment that Mr. Byrd's tormentors chained his body against the cold, lifeless metal of their truck, they became something savage, something inhuman, and the very embodiment of hate criminals.

African-Americans have historically been the most frequent targets of hate violence in the United States, and they are among its principal victims today in many states. From lynching to cross-burning, and church-burnings, antiblack violence has been, and still remains, the protypical hate crime—an action intended not simply to injure individuals but to intimidate an entire group of people. Hate crimes against African-Americans impact upon the entire society not only for the hurt they cause, but for the tragic history they recall and perpetuate.

In March of 1997, Leonard Clark, a 13-year-old African-American teenager was riding his bicycle home one day in Chicago, when he was accosted and brutally beaten by three white teenagers. The perpetrators have been charged with attempted murder, aggravated battery and Hate Crimes under Illinois state law. However, the irony in this case is that one of the key witnesses to the beating remains missing. A federal hate crimes law would allow for the F.B.I.'s full involvement in this case, thereby increasing the chances of capture, and thus, justice.

In my Congressional District in Houston in 1995, Fred Mangione, a homosexual, was stabbed to death, and his companion was brutally assaulted. The two men who were charged with Mangione's murder, claimed to be members of the "German Peace Corps," which has been characterized in media reports as a neo-Nazi organization based in California. This crime did not meet the State of Texas' threshold for trial as a capital offense, because the murder did not occur during the commission of a rape or robbery.

In recent years, attacks upon gays and lesbians are increasing in number and in severity. During 1995, 2,212 attacks on lesbians and gay men were documented—an 8% increase of the previous year.

There have also been numerous attacks against Jews, Asians, Hispanics, and Native Americans. Fortunately, the Hate Crimes Prevention Act would protect these groups from targeted attacks because they are members of these groups.

Examination of hate crimes statistics sadly reveals that Mr. Byrd's murder was not an isolated incident. The FBI releases the totals each year for hate crimes reported by state and local law enforcement agencies around the country based on race, religion, sexual orientation or ethnicity. These national totals have fluctuated—6,918 in 1992, 7,587 in 1993, 5,852 in 1994, 7,947 in 1995, and 8,759 bias-motivated criminal incidents reported in 1996. Of the 8,759 incidents, 5,396 were motivated by racial bias; 1,401 by religious bias; 1,016 by sexual-orientation bias; and 940 by ethnicity/national origin bias.

A Hate Crimes Prevention Act would send a message that perpetrators of serious, violent hate crimes will be prosecuted to the fullest extent of the law. Hate crimes that cause death or bodily injury because of prejudice should be investigated federally, regardless of whether the victim was exercising a federally protected right.

It is time for the Congress to act. Violence based on prejudice is a matter of national concern. Federal prosecutors should be empowered to punish if the states are unable or unwilling to do so.

OPPOSING FAST TRACK

The SPEAKER pro tempore (Mr. SIMMONS). Under the Speaker's announced policy of January 3, 2001, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Ohio. Mr. Speaker, earlier today I joined a number of my colleagues from the House and leaders of the most influential environmental groups in the United States to express opposition to so-called Fast Track, granting the President Trade Promotion Authority. The presence of this coalition highlighted quite impressively the solidarity of the environmental community on this critical vote.

Another thing that underscores the solidarity of the environmental community against the Thomas bill is the stern warning issued by the League of Conservation Voters that it will likely score this vote. The LCV takes its scoring seriously and to ensure balance in its ratings only scores environmental votes for which there is absolute unanimity in the environmental community. The League of Conservation Voters has never before scored a trade vote. That means the environmental community has never been so focused on and so unanimously supportive of and so involved in a trade vote in this country's history.

Why is there such urgency in the environmental community in opposition to the Thomas Fast Track proposal? Because this bill would do nothing, would do nothing to prevent countries from lowering their environmental standards to gain unfair trade advantages. It would do nothing to require that the environmental provisions be included in the core text of our trade agreements, because it would do nothing to ensure that the environmental provisions in future trade agreements are enforceable by sanctions.

Instead, it would transfer the burden to consumers and to regulators to prove that the science underlying domestic regulation is beyond dispute, resulting in a downwards harmonization of our environmental laws, a rollback of environmental laws, a weakening of environmental regulation. It would encourage Western companies to build manufacturing plants in countries with the least stringent environmental laws, and, as a result, cost skilled American workers good-paying jobs.

It would allow future trade agreements to include provisions like NAFTA's chapter 11, encouraging so-called regulatory tax claims by foreign companies and threatening hard-won democratically enacted laws and regulations that protect our natural resources.

This investor-state relationship cast by chapter 11 of the North American Free Trade Agreement exemplifies the greatest imaginable abuse of our democratic principles. It allows private corporations to sue a sovereign government and overturn domestic health and safety laws.

Think about that for a minute. A country can pass a law that that country's democratically elected legislative body contends, believes, will in fact help the environment and promote public health. A company in another country, a privately owned large corporation in another country, can go to court and sue the government, the democratically elected government, even force that democratically elected government to repeal its environmental law to weaken its public health regulations.

U.S. Trade Representative Bob Zoellick, a Bush appointee, is committed to including those same anti-consumer, anti-environmental, anti-public health, anti-combat-bioterrorism provisions in Fast Track. Under this provision, not only can laws be overturned, but taxpayers of the subject nation can be liable for damages if a NAFTA tribunal rules that a law or regulation causes an unfair barrier to free trade.

That sounds pretty outrageous. It makes one incredulous. It sounds like it could not happen, but it actually happened. When Canada passed a law to promote clean air in automobile emissions, Canada's public health community said this is important to fight cancer in Canada. A U.S. company sued Canada in a NAFTA tribunal. The U.S. company won the case against Canada, which had passed a public law protecting the public health. Canada had to repeal its public health law. Canada had to pay this American company $13 million.

Sometimes it will be against Canada and a democratic law there, sometimes it will be against the United States and a public law here, sometimes against Mexico, France, Germany or wherever.

I am joined today by my friend, the gentleman from Ohio (Mr. STRICKLAND), and the gentleman from Michigan (Mr. BONIOR). The three of us worked many years ago in opposition to NAFTA, and the gentleman from Michigan (Mr. BONIOR) in those days, as he has continued to, has led the opposition to these agreements.

I yield to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. I would like to say to my friend from Ohio that as I am standing here listening to what you are saying, it causes me to think there are some in this Chamber who are willing to relinquish their responsibilities to protect the ability of this country to make sovereign decisions in the best interests of the people that we were elected to represent.

I mean, to think that we in this body as representatives of the people could come together in a deliberative process, make a decision that we collectively feel is in the best interests of the health and safety of our Nation, and then to have entered into an agreement that would allow a for-profit foreign corporation to bring suit against our government based on their objections to what we think is best for the United States of America, it seems to me if we were to allow that we are relinquishing our constitutional responsibilities.

Who are we responsible for representing and protecting, some foreign national company, a multinational company with no particular allegiance to any country, any democratic principles, any form of government, but whose bottom line is in fact profit? It just seems almost unbelievable to me that we would ever allow that to happen. It is an unconscionable thing. It is difficult to even contemplate that this government would ever permit that.

What the gentleman says, I assume, is an accurate interpretation of what the circumstances would be.

Mr. BROWN of Ohio. Even people that support Trade Promotion Authority acknowledge that that is what that provision does. When it was put into NAFTA in 1993, when this Congress in a very narrow vote passed NAFTA in November of that year, people did not quite understand that provision.

That provision was sold to the Congress and to the American public. Even though the three of us all voted against NAFTA that are talking this evening, this afternoon, that provision was sold to protect American investors in Mexico where the government might expropriate or take their properties.

But in fact it is clear that the way that has worked is time after time after time corporations have sued foreign governments, in this case Canada, Mexico, the United States, a corporation in one of the three countries has sued a government in one of the other two, and each time, in almost every case, the government has lost, the government which passed these laws to protect in most cases the public health, sometimes the environment, sometimes consumer protection law, but laws that were passed by those governments were repealed. It is almost so unbelievable that you cannot believe that this Congress would do it.

Mr. STRICKLAND. I was just thinking very recently, in fact, just a few days ago, we were able to get an amendment in the defense bill that would require that any steel used in the military apparatus that would be purchased with funds in that bill would have to be American-made steel.

I remember as we were discussing and debating that possibility, there were those who said, well, this would be acceptable, because there is an exemption for these kinds of decisions that relate specifically to national security. But what the gentleman is saying, I believe, is that in most cases there could be a decision made by this House of Representatives, the Senate of the United States, legislation signed into law by the President, and if it was interpreted to be in violation of these trade agreements as providing perhaps protections to our citizens that under the international trade laws would be deemed inappropriate or inconsistent with those laws, that there could actually be legal action taken against our government by a foreign corporation to try to force a change in the domestic law of this land. Is that a correct interpretation?

Mr. BROWN of Ohio. The correct interpretation in this case, it is very possible that a steel company in Mexico or Canada might sue the U.S. Government for passing a provision like that, saying that is an unfair trade practice, and might be able to get the NAFTA tribunal, the three-judge panel, to overturn U.S. law.

□ 1800

One of the reasons they do that and one of the reasons these three-judge panels have decided against public health laws, against environmental protections passed by a majority of this House and Senate and signed by the President, or consumer protection or any of those laws, is because of the nature of those three-judge tribunals, those panels. They are made up of trade lawyers, not public health experts, not consumer protection experts, not environmental experts. They are made up of trade lawyers.

They meet behind closed doors. They do not accept petitions or testimony from third parties, and they then can turn around and repeal a sovereign nation, as we are, as Mexico is, as Canada is. They can repeal a sovereign nation's public health and environmental laws.

So when we have these panels made up of trade lawyers who typically sit in downtown offices and rule on trade issues and decide the arcane minutia of trade issues but do not have any real expertise or any real interest in environment or public health issues and policy and laws, we lose time after time after time. We have lost public health laws and environmental laws repeatedly in the World Trade Organization with those same secret panels making those decisions. We do not know anything about the proceedings and, all of a sudden, it is in the paper. We get a notice.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Speaker, to follow up on this very good discussion on sovereignty here, it gets to not only the question of multinational corporations, foreign corporations in the example that the gentleman from Ohio (Mr. STRICKLAND) gave, but there is also a taking away of local units of government's power and State units of government's power.

For instance, we have a particular problem in my State of Michigan with trash, garbage, coming in from Canada. Toronto has decided that it is much easier, more economical, less hassle, to bury all of their waste in Wayne County, Michigan, which is the county the City of Detroit is located in. So they haul their garbage across the Ambassador Bridge, the Bluewater Bridge in my area up in Port Huron. We have a couple hundred trucks a day that come across there with garbage, and God knows what is inside these facilities, and they take it to a dump, and they dump it there.

Now, let us assume that we try to overturn the basic law of this country which says that garbage companies are free to move garbage anywhere they want to vis-a-vis the Interstate Commerce Clause of the Constitution. There was a court ruling that was made in 1992, I believe, on the Fort Gratiot landfill case which went all the way to the U.S. Supreme Court.

If we decided in this institution or the State of Michigan decided in their legislature to say, no, you cannot do that, you cannot bring your garbage and make Michigan a dumping ground, that company or those companies, those trash haulers, those garbage companies could go to court and say, well, wait a minute. This is an impediment on free trade. This is an impediment of moving commerce. And those kinds of panels that the gentleman from Ohio (Mr. BROWN) just alluded to could make the decision that what we do here or what they do in the State of Michigan is irrelevant, because it impedes trade.

Now, there are hundreds of U.S. laws on the environment, as the gentleman pointed out, on food safety, on antitrust, on just laws that deal with people expressing themselves at the local level about a policy on human rights that they may object to, which may be taking place in a regime that is persecuting its people abroad that could be struck down as a result of empowering international panels and taking away the power from this institution, local and State governments.

So this is real serious stuff, and it goes way beyond just dollars and cents in trade. We are talking, as the gentleman pointed out, about food safety, health care, human rights, antitrust, labor law. You name it. It is all kind of wrapped up here.

If I could make one other point and then yield back to those who have the time, that is the broader issue here of relinquishing our power as a Nation and as a State and as governments. But the more internal debate to that is what this institution, this U.S. House of Representatives is doing in terms of receding from the powers that the Constitution gives us in Article I, Section 8, which is the power to deal with trade laws. We are handing that over to the executive branch. It is very, very disturbing, the change in the balance of power switching over to the executive branch and to corporate America, basically, here. That is what is going on.

This may seem a little arcane to people, a little not too clear because of its legalistic implications and language, but I can assure my colleagues that it gets right back down to whether or not we are going to have garbage buried in our backyard or out our window, or whether or not we are going to be able to go to the supermarket and get food that we are assured is going to be safe for us to feed our families.

I mean, it gets down to some really basic things here. We are trying to bring the argument and trying to make the American people see that under the cloak or the disguise of this legalese debate we are having here on "fast track," that it is going to affect everybody in this country in a dramatic way.

Mr. Speaker, I thank my colleagues for raising the issue.

Mr. BROWN of Ohio. Mr. Speaker, none of the three of us is a lawyer; and we are explaining, in a sense, a legal procedure here that really is pretty simple. It is a question of increasing corporate powers by turning over our sovereignty, turning over our ability to make democratic determinations, whether it is where a community puts its trash, whether it is a food safety law, whether it is a clean air regulation, whether it is a public health program. We are saying in these agreements that we will cede power from a democratic government to a private corporation.

Mr. Speaker, when we come to this institution, we have seen this kind of corporate power in this institution. There is not much doubt that corporations wield huge amounts of power when we try to pass strong food safety laws, we try to pass good public health laws, clean air laws, bioterrorism laws, protections for our food supply, labor standards, minimum wage. Whenever we try to pass a bill like that, it is always met with huge resistance from the largest corporations in the country, the largest corporations in the world. So we, in many cases, overcome that resistance and do what is right for the public.

I wear this lapel pin which symbolizes a lot of things to me. It is a canary in a birdcage. One hundred years ago the miners used to take a canary down in the mines in a birdcage, and if the canary died, the miners they had to get out of the mine. It was the only protection they had. The government did nothing to help them.

In these 100 years, when 100 years ago the average child born in this country could live to be about 47 in terms of the average, in those 100 years this institution has passed minimum wage laws, safe drinking water, pure food laws, Medicare, Social Security, clean air laws, worker protections, mine safety. We have done all of those things against great resistance from the wealthiest, most privileged people in society. We have been able to do that in this institution.

Now, even when we do that, we are going to see corporations in one country try to overturn the laws we have done. So we passed them with great difficulty against huge campaign contribution dollars and lobbying and all of the special interest groups that fight progressive, good government that helps the public, and then these groups turn around now, these big companies, and they sue democratic governments to stop, to overturn their environmental laws and weaken their food safety laws and hurt their labor laws and try to devastate so many of the protections that we have been able to accomplish as a society, with people pushing their Congress to do the right thing.

Now some faceless bureaucrats on a trade panel, a NAFTA tribunal can, out of the public light, in a back room, simply wipe away those kinds of environmental laws.

Mr. BONIOR. And then, Mr. Speaker, go to the lowest standard, go to the lowest standard. That is what they are after. They want to take us back to where we were when people used to take canaries down in a birdcage. They go to the lowest standard, and the lowest standard is often in the developing world.

It is in countries that are trying to develop a body of law but cannot get there because of the international corporate pressure not to go there, to keep wages low, to keep standards low. They cannot get there because labor unions cannot form because of that same kind of pressure. They cannot get to our standard.

So because they cannot get to our standards because of institutional pressures within their own country, these corporate entities now have bonded together with them and are trying to bring down our standard here.

Mr. BROWN of Ohio. Mr. Speaker, before I yield to the gentleman from Ohio (Mr. STRICKLAND), we are joined by three other Democrats, and they are the gentleman from New Jersey (Mr. PASCRELL); the gentlewoman from Texas (Ms. JACKSON-LEE); and the gentlewoman from California (Ms. SOLIS).

Let me yield to the gentleman from Ohio, and then the rest can join in.

Mr. STRICKLAND. Mr. Speaker, I will be very brief. But I think it is important for those who are listening to us to understand why we are here tonight, and it is because we are going to be called upon tomorrow to cast a vote, and we are going to cast a vote that will protect the sovereignty of our Nation, or we will cast a vote that potentially will turn over all the decisionmaking that is important to all of the multiple millions of people that we collectively represent to this three-panel assemblage.

Now, I would like to ask the gentlewoman from Texas, and I think I know the answer, but which American citizens are able to vote and select any of those three persons that would be in a position to make decisions regarding the health and safety and security of this Nation? Is any American citizen ever going to be in a position to cast a vote to select these persons who are going to be making decisions for all Americans?

Mr. BROWN of Ohio. Mr. Speaker, before the gentlewoman from Texas answers, here is an additional question. Is anybody even going to know the names of the people that sit on that panel?

Ms. JACKSON-LEE of Texas. Mr. Speaker, obviously, absolutely not. And as the gentleman makes that point, the people's House, the representatives that come to the people's House, are themselves barred from even speaking on behalf of the people for having any oversight into this kind of legislative initiative. So I see no opportunity for the people to speak about this legislation.

Mr. Speaker, I would be happy to further the point of the distinguished gentleman, because I think it is a very valid point. I rise to suggest to my colleagues in a bipartisan manner that a far better approach would have been if we had accepted both the offer and the interest some years back of the gentleman from New York (Mr. SWEENEY). I do not come to the floor to quote or to put words in the gentleman's mouth at all, but I do remember some years back when these discussions were coming about and there was some interest to be able to hear the vital points that labor had to offer about how we can truly have the working people's trade bill. I believe that he had some very meritorious points that would have allowed us, even to this point, to come together with a bill that would have answered many of the concerns that are totally ignored in H.R. 3005, which is the Thomas bill.

That is, if I can point out, number one, there are no labor standards whatsoever. Right now in my district I have 4,000 people laid off by one of our very vital companies. We may have a total of 10,000. I would venture to say that those constituents are really looking for jobs right here, and their priorities are more about how they are going to survive over the holiday season.

I have taken trade on a case-by-case basis, looking to see opportunities where we could work together. In this instance, I have higher priorities, and that is to be able to assist those individuals in finding jobs, keeping jobs, and providing for their families.

Tomorrow we are going to be asked, rather than dealing with those needs, the unemployment needs of America, to put forward a bill that disallows any type of labor standards so that countries with poor labor standards will maintain those standards; and, in fact, under the present bill that we have, the underlying bill, countries with poor labor standards are not required to have or implement any of the five core standards. So no labor standards whatsoever. That suggests to me that, rather than benefit from jobs being generated, we will lose by jobs being lost to other places, because someone will try invariably to avoid following any labor standards.

Might I also say that, in talking to many corporations, I have heard them saying that we wish we could have worked in a bipartisan way. We wish we could have had more people at the table. As it relates to the environment, we are finding out that there is no addressing of the environment in the Thomas bill.

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There are no legal or technical incentives to make sure we strengthen the environmental laws and regulations.

Then I would like to speak to, as I sort of draw to a close, the idea of the point that the distinguished gentleman from Ohio (Mr. BROWN) made; that is regarding the oversight, the voice of the people, the people's House being able to speak.

With a narrow three-person body, there is no opportunity in the bill that will be on the floor tomorrow for us to have congressional oversight, for there to be an involvement of the people's voice; for the voters who have voted for those in this body and elsewhere to be able to have oversight over whether or not human rights is being protected, whether or not we are using child labor, whether or not we are using slave labor.

And believe me, Mr. Speaker, it exists. In Afghanistan, children are making bricks who are 8 years old and 7 years old. As we went to Bangladesh and other places around the world, there is child labor. We are trying to work against that.

However, the point is if Congress has no oversight, and we have a small body that does not have to listen to us, then who is to say that these violations will not be promoted?

I am going to vote for the Rangel substitute because I believe we have ways of making a difference, but I am ashamed that we would put forward legislation like this that does not answer the question of labor, working with those who believe working people deserve a decent place to work; and does not address the environment, because I am shamed that if I have a minimal amount of a good quality of life here in America, that I would put on others a devil-may-care attitude: Who cares about how you function and how you live?

Finally, I would say that we who have been elected by the people of this great Nation, who cast their vote for us to go to the people's body, are totally blocked and excluded from any oversight to protect the values of the people who we represent, from human rights to the rights of children to the rights of women to the fairness in the judicial system or court system. None of that comes to us now. We just abdicate our responsibilities. I believe that we cannot do that and that we must stand up and be heard.

I thank the gentleman from Ohio (Mr. BROWN) for his untiring work on this issue, bringing to the people the point that none of us coming from our districts disown our business communities. We work with them; and we do a lot for them, I believe, in many, many different aspects, because they are our communities.

But we cannot disown our values tonight and tomorrow, and we must be able to say that the two of those could have come together if we would have had a process where all of our voices could have been heard.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman of Houston, Texas, who always articulates so well her views on this and so many other things.

When we talked about articulating our values and representing those values, I think about what the President's

Trade Representative, Robert Zoellick, has been saying the last month or so.

He has been really saying that those of us, whether it is the gentleman from New Jersey (Mr. PASCRELL), the gentlewoman from California (Ms. SOLIS), the gentleman from Ohio (Mr. STRICKLAND), the gentleman from Michigan (Mr. BONIOR), any of us in this institution, Republicans and Democrats alike, who oppose this trade agreement, he really has questioned our commitment to American values and whether we want to join the antiterrorism movement.

In fact, when one supports the position we have taken against these trade agreements, we in fact are supporting American values, because American values are things like free elections and believing in the Constitution and supporting workers around the world, and building a better environment and more consumer safety and food safety, and all of that.

That is why it is too bad that their campaign in support of this and their arm-twisting, especially in the last 72 hours, has taken on a tone of "you are either with us or against us; you are either against terrorism or you are for terrorism, or you are against American values or for American values."

We are joined by two other people. The gentlewoman from California (Ms. SOLIS) is a freshman member who has devoted her entire career to fighting for social justice. The gentleman from New Jersey (Mr. PASCRELL) raised some very important constitutional questions of sovereignty that we touched on and the gentleman from Ohio (Mr. STRICKLAND) touched on earlier, all four of us.

He has really attracted a lot of interest in his views of the Constitution and why this Trade Promotion Authority really does undercut our constitutional provisions and sovereignty.

Mr. Speaker, I yield to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank the gentleman for yielding to me. It is an honor to be here tonight to talk about this very important issue, one that hits home directly for me.

As a former State Senator in California, back in 1995 I had the dubious distinction of representing a district where it was found that 72 Thai women workers were held hostage, slave labor here in our own country, 72 women. Some had been there for 7 years. Some were not paid overtime. Some were not even paid minimum wage.

My whole opinion on this matter is that if we do not have enough support here in our own borders at times, how can we also, with all honesty and integrity, go out and expect other countries that have records that are much more egregious than ours to meet these standards that we want to set, that the American public wants to set?

I can tell Members firsthand how difficult it is trying to secure rights for workers now, for immigrant workers in our own country, along the border and in East Los Angeles, and the city of El Monte in the San Gabriel Valley, which I represent, that people are even being paid minimum wage, and they are sometimes not allowed to bargain or join a union.

I know in Mexico and other parts of Central America and South America and other parts of the world, people are not allowed to join a union. In fact, they are tortured, they are harassed, they are told why they cannot and that they will be fired and they will lose their jobs and they will go hungry.

These are the kinds of things that the public should know.

Mr. PASCRELL. Mr. Speaker, if the gentlewoman will yield for a comment, the gentlewoman from California has brought up a very important point. Is it not ironic that the very people we invite to our shores, "Give us your tired, your hungry," come here from countries that we are now transporting jobs to?

We are talking out of both sides of our mouth, and the gentlewoman from California has to deal with it, as many of us on both sides of the aisle have to deal with unemployment problems. It is growing. We are losing our manufacturing base.

It just struck me when the gentlewoman was speaking, that very example, that very anecdotal story the gentlewoman is presenting to America, and her heart and sincerity are in it, that we are talking out of both sides of our mouths and inviting people here and then transporting jobs to their countries. They are needed here first. We know our international responsibilities.

Ms. SOLIS. Mr. Speaker, I just want to encourage the public to know that many of us here in Congress do want to have this very serious debate, but we have been left out. In fact, we have been left out all the time. We are losing jobs. In my district, we are looking at unemployment rates of over 9 percent.

I am going to talk about that later on this evening. But the fact of the matter is that the people we are inspiring here in our country to support us, to stick with us, we are telling them one thing and we are doing another. Our actions are showing them that we do not care about the quality of life for our families here.

We have to make a statement, and I am proud to be here to say that we cannot go home and turn our backs on working families. Working families want to know that we are going to take care not only of the domestic front here but also those relationships that we want to set across the country.

I know that in Tijuana, for example, there is a Hyundai factory along the border there. People tried to organize there, some Mexican workers. They were told not to worry, they will get their opportunity. Women and men were stuck in a situation there that was very unsafe. There were pools of water, electrical lines running, and no safety protections whatsoever. These people were putting their lives at risk to build automobiles that were going to be shipped all over the world and probably right here in our own home States.

I know if people in my district knew the conditions that other people were being forced to work under, they would think twice. And nobody talks about that.

Mr. BROWN of Ohio. Mr. Speaker, one interesting thing that my friend, the gentlewoman from California (Ms. SOLIS), said, people who are supporting these trade agreements said if we do these trade agreements, it is going to lift up living standards in Mexico and in China, and the Chinese will be freer and democracy will break out, and all of that.

There is no evidence of that in China. In fact, it is every bit as oppressive and repressive a regime as it was 3 or 4 years ago, or 2 years ago when the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from New Jersey (Mr. PASCRELL) and I worked against giving China most favored nation trading privileges.

I want to briefly tell a story in line of what the gentlewoman from California (Ms. SOLIS) told.

About 4 years ago, when Fast Track was defeated in this body, and it has been defeated twice in the last 4 years, and will be again tomorrow, I went down to sort of look at how NAFTA worked. NAFTA had been in effect 4 or 5 years then. I wanted to get a picture of the future, and to put a human face on trade and on NAFTA, and on what we had to look forward to if we passed Fast Track.

I went to a home of a husband and wife, and it was nothing; you could not describe it as anything else but a shack maybe 20 feet by 20 feet, with dirt floors, no running water, no electricity.

The husband worked at General Electric, an American company, and the wife worked at General Electric. They each made 90 cents an hour. There were dirt floors, no running water, no electricity. When it rained, the floor turned to mud. This was just 3 miles from the United States of America. If they had been on our side of the border, they would be making $15, $17 an hour, perhaps, with good health care benefits, a retirement package, in all likelihood. But on the Mexican side of the border they were making 90 cents an hour.

They were almost in the shadow of the factory where they worked. When one looks at one of these shacks or neighborhoods in these so-called colonias, we see ditches separating some of the shacks with some sort of effluent running through them. It could have been industrial waste, human waste, who knows. Children are playing nearby.

The American Medical Association calls the border a pool of infectious diseases. They say it has the worst health conditions probably in the whole western hemisphere.

These workers are working 10 hours a day, 6 days a week and cannot afford to have any kind of a decent lifestyle. They work in these wonderfully modern plants, in many cases; but they do not share in the wealth they create. They create this wealth for General Electric, and they do not share in the wealth they create.

In Ohio, in New Jersey, in California, workers help to create wealth for their employer and share in that wealth. They get something for that. They get a decent living standard. They can send their kids to college, buy a car, or buy a house.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. I am listening to my brothers and sisters here, and I have listened to folks on both sides of the aisle. I was just as opposed to this when President Clinton was there, and I am an equal opportunity opposer right now.

I want to make very clear to everybody, and particularly to those who stood on this floor and talked about "Buy America," well, we hope there are items that are manufactured in this country that we can buy. We are losing our wherewithal. People earned their identity when they came to this country and worked with their hands to produce products.

This is a critical vote tomorrow, one that between 10 and 20 of us will decide, in the final analysis.

Every poll, and the gentleman from Ohio I think will support what I am going to say, every poll indicates the American people do not want to transfer the powers in the Constitution from the House of Representatives, from the Senate, to the executive branch.

I can cite four or five different ways in which the power of the Congress has been eroded over the past 20 years. This is not the way to do it. So if Members want to buy American, they have to have something to buy. There needs to be something to produce, to be produced.

Then, there are those who want to try to sway, in the final hours, this vote. They say, What we are going to do is make sure that we have trade adjustment assistance; or, in other words, it may not be all that good, but what we will do is we will have some money over here; and, by the way, it is authorized, not appropriated, not appropriated; but they say, we will have some money over here to help those that are unemployed. It has not worked in the past, and we know how many jobs have been lost under NAFTA.

There are two things, two things, in the final hours of this great debate, with respect to all sides here, two motivating forces of the opposition, or those supporting giving the President this sole power and leaving us out, regardless of what words they put in there: stimulus and national security, stimulus and national security.

They have sent some of the first-line troops out to talk about national security, that this is important: if the President does not have Fast Track, we cannot defend America.

Mr. STRICKLAND. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. STRICKLAND. We have been talking among ourselves in a bipartisan way about the crisis facing the steel industry in this country. The President himself has said that maintaining a domestic steel industry is a national security issue. I believe it is. How can we produce the military hardware we need if we do not have steel that is produced domestically, without having to rely on foreign steel?

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These are serious matters. And the gentleman from New Jersey (Mr. PASCRELL) mentioned transferring our authority, the House and Senate authority, to the executive branch. What really troubles me is then the executive branch transferring that authority to some international body of unelected representatives, so that the American people have no representation, and I think that is what we are facing tomorrow, is the possibility of taking an action which can further erode the sovereignty of this Nation. I think that is a gross mismanagement of the constitutional responsibilities that we took upon ourselves when we stood for an election in this House of Representatives.

Mr. PASCRELL. I might add that there is no real evidence to back up the contention that this is an economic stimulus. In fact, if all of the data are in, whether we are talking about the balance of trade, which is now $435 billion, no one wants to address that. The relationship between that balance of trade and what goes on in the economy in the United States is profound, is profound.

There is no real evidence that points out what the President's press secretary said on Monday. He said, the President believes that Trade Promotion Authority is the stimulus in and of itself to keep the economy growing.

Well, first of all, Fast Track is necessary for the administration on two fronts, the World Trade Organization and the proposed Free Trade Area of the Americas, FTAA. They are both long-term goals that are not going to bring any stimulation to this economy over the next 2 or 3 years. We are only kidding ourselves.

In terms of the WTO, the World Trade Organization, disappointed that this body has progressed to where it should be, within this Fast Track bill there is nothing we can do about that either, nothing. The WTO can be a body that advances the ball on such issues as labor and the environment but only if we force the issue, and I might add, over 25 years we have forced the issue on workers rights and environmental protections to no gain, to no gain. It has been talk, it has been cheap, and it has been profuse, but it has not brought a change about in our trade policies whatsoever.

The high American standards that are commonplace worldwide if we push this issue, we know that other countries do not have the labor standards that we have and environmental standards. We understand that. We understand that. We are not minimizing other nations. What we are saying is we cannot be foolish in the face of what we want to negotiate. Let us have reciprocal trade agreements, and we have had reciprocal trade agreements, where we, on a piece of paper, agree that we are going to respect the rights of other nations to decide their own fate.

Why should we keep our rates low while other nations will not allow our goods in? And, in many cases, the people in those countries cannot afford our goods and services, and we are sacrificing, we are sacrificing the brothers' and sisters' jobs in this country.

Mr. BROWN of Ohio. Reclaiming my time, during the NAFTA debate in 1993, we stood in this hall, the gentleman from Ohio (Mr. STRICKLAND) and I, for much of the summer doing discussions like this and into the fall and into November. And when the vote was held, one of the things the other side always said was NAFTA will create jobs. It will be an economic stimulus, if you will. It will right our trade imbalance.

Our trade imbalance in 1994 when NAFTA took effect in January of that year was $182 billion. That meant that we imported $182 billion more worth of goods than we exported. The NAFTA promoters and the free traders and the hot-shot Harvard economists and the President and the former secretaries of state and the newspaper editors, CEOs, all said this will get fixed.

Do my colleagues know what the trade deficit that was just announced is? $439 billion. That is billion with a B, and that is a $250 billion growth in trade deficit. What that means, according to President Bush, Sr., Papa Bush, he said, every billion dollars of trade, either deficit or surplus, represented between 19,000 and 20,000 jobs. So if you have a billion dollar trade deficit, that means you lost 20,000 jobs to overseas.

If you have a billion dollar trade surplus, then you gained 19, 20,000 jobs. Well, a $250 billion trade deficit, it went from $250 billion worse than it was, means 5 million jobs.

Those are generally industrial jobs. They are well-paying jobs. They are jobs that pay benefits. They are jobs where people pay into Social Security, a fund that, because of Republican tax cuts, is now more in jeopardy than ever before. They pay into Medicare, a fund that is in jeopardy because of Republicans bailing out insurance companies. And look where we are when we pass these kinds of trade policies. It is simply not working when we have those kinds of trade deficits to get worse and worse.

Mr. STRICKLAND. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. STRICKLAND. Mr. Speaker, I thank the gentleman from Ohio (Mr. BROWN) for yielding.

The gentleman's discussion of the imbalance in our trade reminds me of a friend that I had some years ago who frequently played the Ohio lottery. He would put 50 or more dollars every week into the Ohio lottery, and, occasionally, he would win $10 or $20 or $50. And, guess what, he was very free in telling everyone, oh, I hit the lottery. He was happy that he got his $50, but he seemed to have forgotten that week after week after week he had lost 50 or more dollars.

That is the way we talk about the trade situation here. The administration and those who are for Fast Track will say, oh, since NAFTA we send more agricultural products to Mexico. They do not want to talk about the flood of products that are coming in from Mexico and from other countries.

Mr. BROWN of Ohio. As living standards continue to go down in Mexico, I would add.

Mr. STRICKLAND. Absolutely. They want to talk about the modest increase in exports, but they do not want to talk about the multiple thousands of jobs that have been lost as a result of the flooding of imports.

As we go to the shopping malls to buy our holiday gifts, it is very, very difficult, as my friend, the gentleman from New Jersey (Mr. PASCRELL), had said, it is very difficult, impossible to find a television that has been constructed and built in this country. It is very difficult to find many products that are American made, and that is because we are being flooded by cheap imports, built in some cases by slave labor, and in countries that are absolutely opposed to our way of life, to our democratic institutions, and yet we continue to do this.

It is beyond belief that we could be contemplating doing tomorrow what some want to do.

Ms. SOLIS. Mr. Speaker, would the gentleman yield?

Mr. STRICKLAND. I absolutely would yield.

Ms. SOLIS. Mr. Speaker, just to touch briefly and say, on NAFTA and what is happening in Mexico, there is a big discussion about the rain forest and the decimation of the rain forest in Mexico and South America. There is a big issue regarding timber coming into this country and people from the Mexican side that are saying we are also losing our well-being and our livelihood because we are forced by big corporations to cut down the timber and then send it here and into other parts of the world.

We are talking about erosion of our environment. We are talking about degradating the quality of life for Mexicans as well.

So who is winning? The big corporations, the big factories. The folks that run those operations do not live there. They live in the ivory tower, but they are taking and reaping some of the resources, the natural resources that currently exist in that country.

I can tell my colleagues that Mexico still has a long way to go in terms of providing protections for the working class people there that are suffering every single day and not seeing any kind of return on their work.

Mr. BROWN of Ohio. Let me shift for a moment to an issue that we have all talked about before, and I would like the last 10 minutes or so to discuss for a moment and that is the issue of food safety. We see in this country 5,000 people a year die from food-borne illness, not nearly all of them from imported fruits and vegetables, but certainly there is a problem in our food inspection in this country, too, but some significant amount comes from that. We see about 800,000 Americans get sick a year. About 1/10th that many get hospitalized from food-borne illnesses.

Yesterday, Dr. Mohammad Akhter, the top public health official in this country, who is the executive director of the American Public Health Association, was talking about Fast Track. And he said that Trade Promotion Authority on which we will vote tomorrow, he said that we can count on the fact that if we pass Trade Promotion Authority and more trade agreements like this we will see more food come across the border and into this country by truck and plane and train and all, more food come into this country that is not inspected. He said we will see more infectious disease outbreaks. We will see more illness, food-borne illness. We will see more deaths. We will see more hospitalizations.

When we consider that when NAFTA passed, 8 percent of fruits and vegetables in this country that we, 8 percent of the imported fruits and vegetables in this country were inspected. Today, it is 1/10th that number. It is .7 percent, 7/10s of 1 percent. That means for every 140 crates of broccoli that come across the border into this country, one crate is inspected. For every 140 crates of peaches, one crate is inspected.

I have stood at the border in Laredo, Nuevo Laredo in the Texas-Mexican border; and I have seen the FDA, the way that they examine broccoli when it comes in. They do not have high-tech equipment there. They cannot get immediate reads on antimicrobial contaminants, on pesticide residues, on anything like that. They simply take two bunches of broccoli, slam them down in a steel crate and look for any insects that might come out, dead or alive. If live insects come out they spray the truckload. Other than that, the products move on.

We have not put the kind of equipment at the border to detect antimicrobial contaminants. We have not put at the border facilities and equipment to be able to detect pesticide residues, and we know that there are pesticide residues on there because pesticides that are illegal to use in the United States are still manufactured here and sold to developing countries, put on fields and sent back into the United States.

We are not protecting the American people. We pass Trade Promotion Authority, according to Dr. Akhter, the top public health official in the United States, we are asking for more food-borne illnesses, more deaths and more hospitalizations. And we owe it to this country, to people that go to grocery stores, to all of us that eat at our kitchen table and go to restaurants and eat fresh produce coming in from other countries in the world, we owe it to them to do a much better job on this.

Mr. STRICKLAND. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. STRICKLAND. I believe when an American consumer goes to a supermarket to buy food or fresh produce they have a right to know where that food comes from, and I believe we need labelling of country of origin. I believe American consumers, if they are given a choice, will most of the time choose to buy products that are grown and manufactured in our country. But the fact is they do not have a choice because they are deprived of that necessary information, and one of the things they would like to see done is to require that the country of origin be made available to the consumer. Then the consumer can choose. But without that information the consumer is deprived of the opportunity of making the choice to buy the American-produced food or the American-produced product.

Why should we keep that information from the American consumer? It just does not seem reasonable to me that this House would not take action to provide this information so that the American consumer can be informed.

Mr. BROWN of Ohio. At the same time, we have the ability to raise standards around the world. We have a choice tomorrow when we vote for or against Trade Promotion Authority, so-called Fast Track, we can continue to dismantle our standards, to weaken our truck safety laws, to weaken our food safety laws, to lower our environmental standards, to dismantle our safety in the workplace standards. We can vote that way or we can cast a vote against Trade Promotion Authority and begin to lift up food safety standards for ourselves and for the rest of the world and begin to lift up truck safety standards, to begin to lift up environmental standards.

Whether it is pesticides, whether it is environmental laws, we can do better. Why should we say to an American corporation that goes to the Mexican border on the Mexican side, if you are going to produce cars in that country you are going to follow the same laws. In terms of what you dump into the sewers, what you put into the air, whether you pollute the environment, you are going to follow the same laws that you do in the United States. How about when you go into Mexico and build cars? Then you are going to follow the same worker safety protection laws that you do in this country.

It is outrageous that these American companies go there. They brag about how green they are in the United States and how well they treat their workers. They go to a developing country. They do not treat them well at all.

I yield to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I am going to bring up a sore subject some of us may not like, but let me bring it up anyway, because this is it. This is the vote tomorrow, and I am very concerned about members of my own party, to be very honest with you, and I respect all persuasions within my own party, regardless of where they fall on the spectrum.

I have an inner laugh when I hear our party needs to be the party of inclusion. We need to reach out to business. Well, let me tell my colleagues who the people are who have been at my door in the last 2 years.

□ 1845

They have been owners of textile mills, they have been owners of machine shops, they have been owners of cable companies. Owners, entrepreneurs who hire the folks that we are all concerned about, but we should be concerned about those who put the capital up to go into business in the first place.

So I want to make sure to tell my brothers and sisters in my own party that we want to be inclusive. Both parties want to try to be inclusive in whatever way they choose. But do not come back to me and say we are never going to get the support. And I think I have a right to talk about this, talk turkey here tonight. That is how critical this vote is.

We have an erosion of the Constitution of the United States. We have had an erosion of jobs. We have had an erosion of food safety. We do not need a further erosion. We do not wish to deny this. We do not want to stick our heads in the sand and say things will get better. They did not get better with NAFTA, and they are not going to get better with this vehicle if we support it tomorrow.

I want to thank my colleague for getting us together, the gentleman from Ohio, because he has stayed on this case. He has not given it a one-shot deal. The gentleman has worked on it since I have been here, for 5 years, and I commend him.

The American people understand this better than we do; and the American people, in every poll, have indicated they want their jobs protected. They understand we need to trade with other countries. They know that this is a world economy, that we live in a global village. But the folks in my town work in Paterson, New Jersey. They love the world. They have been fighting in wars, and they will defend us. Are we going to defend their jobs?

And if it is textiles and machinery today, what will it be tomorrow? That is the question that every person who is a Member of the House of Representatives must ask themselves tomorrow before they vote. Textiles, cable wire, machinery, leather goods today. What is tomorrow? Or shall it be, whose ox is gored? That is not what America is all about. America is about our being the last hope here on this floor to protect the interests of working families. We are the last vestige of hope.

Mr. BROWN of Ohio. I yield to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. The gentleman just hit a real soft spot for me in my heart. My mother, who is now retired, worked for about 25 years for a big toy maker in my district, standing on her feet most of her 20 years there, and now has some very serious problems with her legs. That company employed over 2,000 people in our community. They left. They went to Mexico, then they went to China.

We now import those same toys. Many of those toys place harm upon our children because they do not meet our consumer safety standards. And nobody is crying out saying, wait a minute, what have we done here. We let go of these jobs, we let go of those pensions, those health and welfare benefits that went with those families and jobs. They went somewhere else, yet the people making those same items do not have any protections and maybe get 10 cents a day for producing products that they end up sending back here that somebody buys for $20 or $30. That is wrong.

Mr. PASCRELL. And the answer to the gentlewoman's mother is, well, if your job is extinguished, you will have to go to another job, a service-related job.

I ask the gentleman from Ohio, is that what has happened under NAFTA? Have we seen those service jobs? In fact, what have we seen?

Mr. BROWN of Ohio. In Ohio, we are threatened right now with losing 3,000 jobs at LTV Steel. People say, well, the economy will change. If they lose their jobs, they will find another job. They clearly will not find another job close to what they are making.

Before closing, I thank very much my colleagues, the gentleman from Ohio (Mr. STRICKLAND), the gentleman from New Jersey (Mr. PASCRELL), and the gentlewoman from California (Ms. SOLIS), for joining me, and also earlier the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentleman from Michigan (Mr. BONIOR).

Let me sum up with this: we in this country believe in the free market system. We believe in free enterprise, but we also believe in rules. The rules are that we have environmental protections, we have minimum wage laws, we have worker safety protections. We should believe in the same kinds of rules in free trade. We believe in trade, but we think we should have similar kinds of rules.

We should have environmental standards to govern the rules of trade. We should have worker safety standards and labor standards. It has worked in this country to raise our standard of living so we have a huge middle class. Those same kinds of rules could work internationally, in the global economy, if this body tomorrow defeats trade promotion authority and begins to write trade law that lifts people up all over the world. I thank my colleagues for joining me tonight.

TRADE PROMOTION AUTHORITY

The SPEAKER pro tempore (Mr. FLAKE). Under the Speaker's announced policy of January 3, 2001, the gentleman from Texas (Mr. BRADY) is recognized for 60 minutes as the designee of the majority leader.

Mr. BRADY of Texas. Mr. Speaker, the need for Trade Promotion Authority is clear. Approval of TPA, as it is called, is critical to the economic prosperity of our Nation, of Texas, and regions like mine, for the economic security of America, for the future. The President urgently needs this authority. He has made this one of his very few top priorities before Congress adjourns in the next few weeks. He needs it to level the playing field for U.S. companies by removing barriers abroad to American exports. In other words, he wants to be a salesman for American companies, for American jobs, for American farmers.

Every President until 1994 has had this authority. But we have been out of that game, we have been out of that playing field, and it has cost us literally tens of thousands of jobs. No successful business survives without a strong sales force. So why do we think America can succeed over the long haul without giving the President the tools he needs to promote American goods and services in the international marketplace.

In the end, Congress, Members of Congress, will have the ultimate decision on whether any proposed agreement is free and fair, in America's interest. I want that authority. I want the responsibility to look at an agreement to open new markets with another country for our American products and goods. I can determine whether it is good for this Nation, for my district, or not.

America is falling terribly behind. There are more than 130 trade and investment agreements in the world today. One hundred thirty. How many is America a party to? Three. That ranks the United States behind those free enterprise bastions of Cuba and Morocco, although I think we edge out Tunisia by one agreement. That is embarrassing.

Congress has forced the United States to sit on the sidelines. By not granting our President the ability to promote trade, our international competitors are forging ahead. They are successfully completing their own trade agreements that puts U.S. companies at a competitive disadvantage. For example, the European Union has trade and customs agreements with 27 countries and another 15 accords in the pipeline to date.

To explain it another way, and I am not much of a gambler or a golfer, but my friends who golf regularly and make a friendly wager will say that oftentimes that wager is won or lost on the first tee as people decide what the rules are going to be and when they give strokes to each of the competitors. Well, America is not on that first tee when it comes to laying out the rules for trade, so our companies are not getting fair rules and we are not getting fair strokes. We are, in fact, put at a terrible disadvantage.

Everyone knows their own region better, but for Houston this is about jobs and our economic future. We have tens of thousands of new jobs at stake with this legislation. And as I have seen it, perhaps no State or region will benefit more or create more jobs from the passage of TPA than ours. Trade is already a large creator for America and a large creator for Texas. We are the second largest exporter in the country and the fastest growing. The Houston region is the largest and fastest growing export region in Texas, and now nearly two out of every three new jobs that are being created in our region come from international trade. That is good news for employees who have been laid off from Enron, from Continental, from Compaq, and from other very good companies. We need to get them back up on their feet and in new jobs, and trade is the way to do it.

We sell or transfer what the world wants to buy, from agriculture to energy, petrochemicals to computers, construction services to new technologies and insurance. These are our competitive strengths. In fact, these are America's competitive strengths, and with the second largest port in America, great international air routes and airports, and a proximity to growing Latin American markets, Trade Promotion Authority is critical to our economic future. Truly, I do not understand how any Member of Congress who has constituents in the Houston region can justify not opening other countries' markets to America, to Texas, to Houston businesses and farmers, because it is our jobs locally that are at stake.

When we look at what the opponents say about it, this legislation includes some of the strongest environmental and labor language in trade history in America. Each country must not only rigorously enforce its existing laws, environment and labor, but seek ways to further protect the environment and to further raise worker standards. Here is a good example in real life in the environment that I know of and have seen firsthand. Through NAFTA, the borders have been open between Texas and Mexico, America and Mexico. But because of that trade agreement, we now have, along our border, over 18 environmental projects that total more than $1 billion. That is $1 billion, new dollars, that are in projects to clean our air, to clean our water, to clean the wastewater and sewer in our area, and generally to create a much better environment in an area that desperately needed it that never would have happened without trade.

When we talk about labor standards and worker raises, we can look at one of our trade agreements that we do have with the Andean countries that includes Bolivia and Colombia and other countries. When we listen to them, they say as a result of America trading with them, not only has America created jobs, but in terms of labor standards, Colombia, for example, in that region, has created more than 100,000 new jobs. They used to be into narco-trafficking, the drug trafficking trade, and now they are in legitimate business.

They have, for example, the cut flower industry that is now a model industry that now has much higher wages for its workers, has child care and training and education for its women employees. It is helping these people buy homes and improve their homes that they never had a chance to do before. It has raised the worker standards for that region. And Colombia, in fact, has launched a "cleaner Colombia" effort that these businesses are part of to clean up the environment down there. So we are seeing higher labor standards, and we are seeing a greener world because of trade. And they could have more of these model companies if America would just simply let them.

As I see it, and when I listen to them, they have watched the way America has pulled itself up by its bootstraps, and they do not want just aid, they want to trade. They want to compete. They want to try to build themselves as America has built itself, and they are right to do so.

I am convinced when people say trade hurts the environment, common sense tells us they are wrong. For countries who are so poor or their children going hungry, where their families shiver through the night, protecting the rain forest, protecting the Monarch Butterfly is not high on their priority list. The fact of the matter is trade, raising worker standards, giving people a job, helping raise the environment, that is the best way to protect and preserve the environment around the real world. Not what we hear in Washington, but the way it works in the real world.

The truth is, unfortunately, for opponents of Trade Promotion Authority, no language will ever be tough enough. Business has already made tremendous concessions. The reasonable objections of the environmental community and those really looking at labor from a reasonable standpoint have all been met. They have given up a great deal in order to try to work with our Members across the aisle who simply do not want free and fair trade, who are afraid, unfortunately, of competition. But they are simply not going to support this.

We are fortunate that we did have some trade-oriented, fair trade-oriented Democrats who helped craft this bill. It is the best compromise that can be reached, and I think they played a key role in making this the best trade legislation that Congress has ever crafted.

□ 1900

Mr. Speaker, this surprises people. Because we talk about competition, but trade is very good for consumers. By the most recent estimate, American families save nearly $2,000 a year because of competition that trade brings about. What that means is that. For an average family like ours or yours, we can make one trip to a grocery store a month free due to the savings from international competition. Those are the savings we see because we have better and more affordable cars, clothing, toys and TV sets. What that means this year is that parents will have one or more gifts under the tree for their children due to savings because of competition.

The bottom line here is there is a principal attached to this legislation. And here it is. If Americans build a better mousetrap, we should be able to sell it without penalty anywhere in the world. If someone builds a better mousetrap, we should be able to buy it without penalty for our families and businesses. This legislation really provides us a very clear choice for voters to see. There is a choice between defeatists who believe that American products are not good enough to compete, or those of us who believe that enhanced trade is America's future.

Mr. Speaker, I am convinced that we should not retreat from fair trade competition. We should insist on it. Competition is America's strength, and it is the key to our high-tech, high-wage future, and truly tens if not hundreds of thousands of jobs are at stake.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the gentleman, and I thank him for having this Special Order. I heard most of his remarks, and I want to echo them and add a little to it.

This debate here on the floor tomorrow is really a test of this Congress and this Nation. Is our country going to move forward not just in trade but in liberalizing economies all around the world, or are we going to go back and pull back in a way that hurts not only our own economy but the global economy? That is the test we have tomorrow with Trade Promotion Authority which will be on the floor of the House.

I heard some of the discussion earlier by some of our colleagues on the other side of the aisle, and their position confused me. This should not be a tough vote. All we are saying is that the President has the ability to go out and negotiate trade agreements. It is not a particular trade agreement. This Congress will always have the right to vote yes or no on a particular trade agreement.

Are we sensitive to labor, environmental, and congressional consultation issues? Yes. This legislation is more sensitive to those issues, addresses those issues in a more direct way than any Fast Track legislation or trade promotion legislation before this House.

In 1997 and 1998, we had a number of Members who were supportive of this legislation when it was called Fast Track but expressed some concern about labor and the environment. We have addressed many of those concerns, and this legislation moves in a way that should make it even more attractive to those Members who expressed those concerns before.

I am concerned that some of those Members have now said that they can somehow cannot support a bill that is more sensitive on these issues, such as labor and the environment and the degree to which Congress plays a role.

The benefits of trade should be obvious to everybody. Economists tell us that 30 percent of the growth that we have seen in our economy, the tremendous growth that we have seen over the last decade, is directly attributable to exports. Thirty percent is because of exports and enhanced trade.

In Ohio, trade is extremely important. Ohio is now the seventh-largest exporting State in the Nation, with nearly $30 billion in exports last year alone. This is going to help people in my district to get jobs, to retain their jobs, and to be able to allow our area to continue to grow.

Because of jobs created by trade, we are not just increasing our exports, we are also getting better jobs. We know the jobs involved with trade pay, on average, 13, 14, 15, 16 percent higher than jobs not involved with trade. These are not just jobs. These are good jobs.

Since we lost Trade Promotion Authority in the last administration, our Nation has fallen behind. The fact is that we now have 130 free trade agreements around the world. The United States is party to just three out of 130 trade agreements. During this period of time that the United States has not had trade negotiating authority, the ability for a President to negotiate, our competitors have continued to enter into agreements, helping jobs in their countries and taking away markets that should be ours, U.S. exports.

For example, since 1990, our toughest competitor which is the European Union, has completed negotiations on 20 free trade agreements. Twenty. Currently, they are negotiating 15 more free trade agreements. In fact, in the last year they have entered into a free trade agreement with Mexico, which is the second largest market for American exports. While we sit back and talk about how we cannot give the President even the ability to go out and negotiate agreements, our competitors around the world are aggressively pursuing markets that should be ours, and it is hurting the United States' position in the global economy. This means American exporters encounter higher tariffs, if not closed markets altogether, in many countries around the world when other competitors of ours have a more open market to go into and have lower tariffs.

Our lack of free trade means our government is sitting on the sidelines while other countries negotiate international rules in a multilateral way with a lot of countries that come together. They decide on international rules on everything from e-commerce to agriculture. This is hurting us, too. It is hurting our exports and economy.

The question has come up earlier tonight from Members talking on the other side of the aisle primarily about why cannot we just have the United States enter into these agreements without Trade Promotion Authority. Why do we need Trade Promotion Authority?

I would suggest tonight that the reason is simple. The President cannot go out and negotiate with other countries unless he has the ability to say, this is it. This is the agreement we have agreed on after a lot of tough bargaining and negotiations. We will now take it to our legislature for an up-or-down vote. That is what other countries can do.

Without this trade negotiation authority, a President cannot do that. Congress can still vote yes or no. They just cannot amend it to death. Congress cannot nickel and dime an agreement that comes back to the Congress, and Congress has voted yes and has voted no in the past. We can simply do that.

This kind of procedure where you come to an agreement and bring it back for a vote is common. Think about labor negotiations. If you are a member of a union out there, do you have an ability to amend an agreement that comes to you for ratification? Management and labor sit down. They hammer out an agreement. They come together with a fragile agreement where both parties have put their best offers on the table. The membership then decides yes or no.

Think about a merger. What happens is, you come up with a decision. Once it is negotiated, it goes to the board of directors. The board of directors says yes or no. They do not renegotiate to death. If so, you could never come to an agreement. The other side would never be willing to put their best offer on the table thinking it could be amended to death. It is common sense. There are all kinds of analogies in the real world.

Passing Trade Promotion Authority will help reestablish this Nation's global leadership in the area of the economy and of opening up markets around the world. This is important to our economic security in this country, to more jobs, but I would suggest that it is also important for our national security. In the wake of what happened on September 11, let us not forget that those countries most closed to trade, the economies that are most closed are those economies that are most likely to be breeding grounds for terrorists. That is factual. If Members look around the world, whether it is Afghanistan or other countries where they have a closed society and a closed economy, those are the places where we tend to see the kind of terrorism and the breeding ground for terrorism and the sponsorship of terrorism around the world.

This does relate to the kind of world my kids and grandkids are going to have, not just in terms of their economic security, the kind of jobs that they will be able to access to achieve their dreams, but the world that they are going to live in in terms of national security.

Our prosperity is not only threatened by terrorists, it is threatened by the worsening economic situation around the globe. So Trade Promotion Authority addresses not only national security but also the global economy that affects us here in the United States. Unless we can begin to improve the economic performance around the world, we are not going to be able to see our economy perform the way we would like it to be.

By negotiating free trade agreements, opening up new markets for U.S. goods and services, we are taking an important step toward helping in that long-term economic picture. I think it is time, past time, for Congress to act. We have not had trade negotiating authority, Trade Promotion Authority, Fast Track authority, whatever one wants to call it, in the United States since 1994. Not since 1994. During that time, again, America has taken a back seat. American has not been in the driver's seat. America has fallen behind in relation to our global competitors.

Now we need to get back in the front seat to drive this home for our economy, for the global economy, for helping to open up other countries around the world, reducing barriers, tariff and nontariff alike, and so we have a world safer for our kids and grandkids.

I hope that Congress will act to stabilize our economy and to make sure that this Congress does not go on record saying that we are going to go back in terms of opening up trade and opening up markets, but rather this Congress is going to give the President the ability to go out and negotiate, be a tough negotiator, but negotiate agreements that are in our interest around the world.

Mr. BRADY of Texas. Mr. Speaker, the gentleman is one of the leaders of the Committee on Ways and Means. The gentleman is familiar with legislation that opens up markets to American farmers and businesses and jobs.

One of the excuses we hear from people that do not support this is that Congress has no say in this legislation. The President negotiates it and usurps our constitutional power, that we have no say in shaping what an agreement will look like. My understanding is that the legislation provides more consultation than ever in history, but what are the gentleman's thoughts?

Mr. PORTMAN. Mr. Speaker, the gentleman is correct.

First, Congress has the ultimate say. Congress can vote no on the agreement as it comes before us.

Second, Congress has the ability to forge an agreement, and the administration knows that. In this case our U.S. Trade Representative, Ambassador Zoellick, who is a tough negotiator, is going to be mindful of the fact that what he brings to this Congress has to pass muster here.

In this legislation we have unprecedented congressional consultation and involvement. Farmers, one thing that I think is an improvement in this bill, as compared to what we voted on in 1997 and 1998, the Committee on Agriculture has a specific role and has the ability to be in consultation with the administration to help shape that agreement.

That is extremely important, because it is probably the most competitive industry in America, is the agriculture industry. Our ability to export our agricultural products around the world is not being maximized because there are barriers to our products. So we are going to have more consultation than we have ever had. The administration will be forced to deal with us to help forge the agreement; and, ultimately, we have the ability to say yes or no.

Mr. LINDER. Mr. Speaker, that is precisely the point. Absent Trade Promotion Authority this House sits silent. The President can go to any nation in the world and negotiate a treaty and take it to the Senate, have the Senate debate it, amend it, and take it back to the country with whom we have reached an agreement and ask them to negotiate for a second time. We sit silent with no role.

This is not a trade agreement we are talking about. This is a process to allow the President to negotiate with any country in the world some trade agreement that then we will be in judgment on. It will come back to us, and we can vote yes or no. But this House will have a role. Absent this, we have no role.

There are 130 trade agreements in the world. We are party to three of them. After NAFTA, Mexico has agreements with 28 or 29 different countries. The European Union, 27. We are not a party. We sit silent. I am astonished by my colleagues that do not want to have a role. This President understands that free trade is necessary for freedom. It is a moral value.

□ 1915

He will reach agreements. If he has to go some day by treaty to Chile, Argentina, Brazil, he will go there. He will negotiate with the Senate, and we will sit silent. So if we vote for Trade Promotion Authority tomorrow, which I intend to do, we are saying that the House has a role, there is something we can do. He can bring back an agreement that we can defeat. Whoever does not like the provisions of the agreement that comes back can vote no. We can kill it. But, absent this agreement, we sit silent.

Mr. BRADY of Texas. I know the gentleman from Georgia has long played a leadership role in trade, and I know you listen very carefully to those who create jobs in Georgia. What do your farmers, your small businesses, your technology companies, your financial groups, those who are creating jobs in Georgia, what do they tell you about this legislation?

Mr. LINDER. We have the lowest tariffs in the world. We have thousands of Georgia companies selling goods and services into a global economy. We want to lower the tariffs of other nations so that we can be competitive. Our ability for the President to negotiate with other nations and lower their tariffs will only improve our sales. It will only help us.

More than half of the Georgia companies that sell goods and services into the global economy are small and medium-sized businesses. That is our growth rate. Twenty-five percent of our economic growth over the last 10 years has been due to export. We simply cannot throw up a wall around us.

Chris Patten said when we were talking about NAFTA in 1993, I believe it was, Chris Patten was the last British Governor of Hong Kong, and he gave a speech in which he said if a space ship had come to the Planet Earth in the 16th century, the 15th and 16th centuries, and landed in the teepee huts of North America, to the typhoid-ridden streets of London and the warring streets of Paris, and wound up in the Ming Dynasty, they would have concluded within a minisecond that China would rule the world for centuries. She had just invented gunpowder and a printing press and had a huge cultural growth rate; the people were happy and well fed and economic growth rates were rapidly climbing. And then he said this: and then she built a wall around herself, and history told a different tale.

The future is for knocking down walls, whether they are tariff or nontariff barriers. My grandchildren deserve the privilege of buying the best product at the lowest rate, and you do that by knocking down the walls to trade.

Mr. BRADY of Texas. I yield to the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. I thank the gentleman for yielding. I just have a few moments here that I wanted to take, and I appreciate the gentleman from Texas yielding, and I appreciate the gentleman from Georgia here with the gentleman from Texas (Mr. BRADY), obviously, and the gentleman from Ohio (Mr. PORTMAN). Your work on agriculture is one part of it.

I want to talk a little bit about leadership, because I think one of the things lacking here is if the U.S. does not garner some agreements around the world, we are abdicating our role as a leader. We are a national leader, and tomorrow's vote on Trade Promotion

Authority is critical to the future of this country.

It is important for Members and Americans to understand just what is at stake here. So I appreciate the opportunity to come here with you gentlemen and discuss why it is so important that we talk about this and reinforce TPA.

Free trade is about a lot of things. It is about expanding the economy, new jobs, strengthening relations with our allies and lifting the developing world out of poverty. On this, one of the things that the U.S. does best is it leads. But in this arena, it seems to me that they are failing. They are dropping the role that they play in such a huge way and have played over the last several decades.

It is only proven through action, whether you go back to World War II, whether you are talking about the rebuilding of Europe, fighting communism or protecting the environment, growing the economy or fighting terrorism, which we are doing now, that is the real essence of America, and I think we have to express ourselves. We do it best tomorrow by passing TPA; and we, frankly, risk our opportunity, we are abdicating our position of leadership, if we do not in fact promote international trade in a way that gives the President the authority that is so vital to America's well-being.

Let me just give you some numbers in my own home State of Michigan. Last year 372,000 jobs were dependent upon manufactured exports. Last year we sold some $52 billion of goods to more than 200 foreign markets, which is the fourth most in the country.

We need to begin to aggressively break down the barriers to American exports so that we can create these new jobs.

I would just add a thing or two. This is the thing that bothers me the most. With more than 130 preferential trade agreements in effect in the world today, the U.S. is only a party to three; the NAFTA agreement, and, of course, the agreements with Israel and Jordan. In contrast, and this is the bothersome part, the European Union has 27 agreements in effect, 20 negotiated in the 1990s, and right now is currently negotiating 15 more.

Mr. BRADY of Texas. I would say to the gentleman, Europe is running circles around America and around American jobs.

Mr. KNOLLENBERG. They are indeed. One of the problems with that, and to just give one example, Canada has a free trade agreement, obviously with us; but they also have one with Chile. I think the gentleman mentioned that a moment ago.

Just to give one example, because Canada does have a free trade agreement with Chile, we do not, a farm tractor costs something like $15,000 more if purchased from the U.S. than its Canadian counterpart. If we had, obviously, an agreement with Chile, we would be selling tractors to Chile. But you know who they are going to buy them from? The Chileans are not going to buy them from us.

The same thing could be expressed about potatoes. They buy potatoes from, guess who, Canada, because they have an agreement. Burger King is big in Chile, and that is another reason we should look at it.

I might just say this, that I think it is a sorry state for the U.S., which is the most open society in the world, that we begin to close our doors to allowing our products to get into other countries.

I think we have a great opportunity tomorrow, if we do not fumble it and pass this bill. I would just say that we can break down the barriers to U.S. goods and services and that Chilean situation would not occur and we would have a market for our products overseas.

What I like to always say is the jobs stay here, the products go overseas, and the workers earn the money here and keep their job. We have to do more of that if we are going to be the leader and maintain our leadership in the world.

So I particularly enjoy having an opportunity to spend a moment or two this evening on this. I would simply yield back to the gentleman from Texas.

Mr. LINDER. If the gentleman would yield further, all of those numbers are the numbers I have. The 15,000 is the tariff on the Caterpillar tractor. We have the lowest tariffs in the world. We would like to be able to have our President negotiate with every nation in the world to lower their tariffs to our levels. We ought to be in favor of that. Then we ought to be able to look at that agreement when it comes back to the House and vote it up or down.

But this bill we are talking about tomorrow only enables the President to bring us a measure. It only enables him to go out and negotiate a measure and come back to the House and the Senate for an up or down vote. This is a 25-year-old process.

I do not blame the President of Chile if he does not want to negotiate with the United States twice, once when they sign the treaty and another time when the Senate alters it. It is a sensible approach that just brings the House into the game.

For our colleagues that oppose this, I am always surprised at the variety of reasons I hear for the opposition, because my answer is always then, why do you not want to have a say? This is the only way this House will have a voice in any trade agreement in the future.

I, of course, have been actively involved in trying to pass this. I hope it will pass tomorrow. The President deserves this. I was in favor of this when President Clinton was in office. I worked hard for it when he wanted it passed. I will work just as hard for it tomorrow.

Mr. BRADY of Texas. Both of these gentlemen have been leaders in trade, because it means jobs for Georgians, it means jobs for people in Michigan, it means jobs for people in Illinois. As you mentioned, Chile, an average person, just one of our neighbors will ask, sure, I can see why a country like Chile would want to sell to America. They are going to get all the benefits from these agreements. What is in it for us in this country?

I looked at a study the other day that showed if we had a free trade agreement with Chile, their economy would grow by some $700 million a year, a pretty big pop by Chilean standards. But America, our selling, we would sell 128 times more products to Chile as a result of the agreement.

So, in fact, our economy is boosting. We are creating more jobs as a result of that trade between us and another country. Of course, that means jobs here in our local community.

With that, I would like to yield to the gentleman from Illinois (Mr. SHIMKUS), who is also very involved in labor issues, environmental issues and job creation.

Mr. SHIMKUS. I thank my colleague from Texas, and I am honored to join this group. Illinois is an exporting State, whether it be manufactured goods from Deere and Caterpillar or high-tech goods from Motorola.

Of course, I represent a strong agricultural district, and no one can argue with the importance of agriculture to central and southern Illinois. It is the bulwark in keeping our small communities alive and vibrant.

Rural America has fallen on tough times for the simple reason we produce more than we can consume. It comes down to this basic equation: we produce much more than we as a Nation can consume. So the prices, at times, in my time here in Congress, we have had prices at Depression-era lows for some products. You cannot operate family farms on that return. There is no return. It is a negative return.

So what occurs is the government, because we understand the importance of the agriculture section and understand the importance of the small family farms, is we end up coming in with some emergency aid.

My producers, they really do not want the help. What they want to do is to sell their product. That is why this bill is so important, because we have missed out on 125-some-odd trade agreements, because this President and the past President did not have Trade Promotion Authority. So we are not at the table, so we cannot work diligently to lower tariffs, and we cannot get our foot in the door in some of these markets. So we continue to produce more than we consume. Our local farmers then lose money producing food, and large corporate farms are developing to try to develop the efficiencies to make it profitable and get some return on investment.

Illinois is the Nation's second largest soybean producer. We are the Nation's second largest feed corn producer. We rank sixth in all 50 states with agriculture exports with an estimation of $3 billion; and you can understand how exports help the family income, the family farm.

The demand for our agriculture products is growing. But we cannot negotiate if we are not in the room when these countries want to negotiate a deal to buy our products.

Mr. BRADY of Texas. Does the gentleman not think it is a great source of frustration for America's heartland that they have answered the call to produce their food and their products more efficiently, cheaper, more affordably, more environmentally friendly ways, they have done all the right things, yet the prices get lower and lower because they are blocked?

Literally, "Americans need not apply" signs are all around the world for our products, and all they want is the opportunity to compete. Because they know if they do, that American farmers and ranchers and producers, we could feed the world, at least we could if they would allow us to. Because other countries are out there on the playing field opening up their markets, but America is not even in the ball game. We do not even have a chance to stand up for our farmers and our ranchers and producers.

Does the gentleman not think that is why the agriculture community in America is united behind this legislation, because this gives them a chance to compete?

Mr. SHIMKUS. It goes back. The gentleman from Texas was not a Member during the last passage of the agriculture bill, and I was not a Member then, but there were promises made to the agriculture sector, and the promises said we want to ease the regulatory burden. It did not happen. They said we are going to open markets for you, so that they then planted for the market and did not plant based upon government intervention, a centralized control system. We have not kept those promises.

A vote on this bill is a move forward in keeping the promises that were made in the last agriculture bill. And we are on the verge of a new agriculture bill. As the gentleman knows, the gentleman from Texas, the chairman of the Committee on Agriculture, visited my producers at their annual meeting on Monday, and exports is the key for their survival. That is why it is so important.

Again, I also mentioned other parts of the economy, whether it be heavy industrial equipment, it could be high-tech equipment.

□ 1930

It could be that even small businesses reap tremendous benefits. I have a statistic, and I am not one that likes to throw out statistics all the time, but from 1992 to 1998, the number of Illinois companies exporting increased 50 percent, and more than 86 percent of Illinois' 14,231 companies that export are small- and medium-sized businesses.

One of the things that I have talked about over my time as a Member of Congress and even before I was running is how small business has created the job growth over the past 10 years. If we look where the action is, the action is in small business. Even when we have a downturn, we find many people who are aggressive, and they leave their current large employer. They strike out on their own. How many stories of success have we heard in operating and starting a new business? Well, a lot of these new businesses that are successful are tied to the export community, and the job benefits are just notable.

Mr. BRADY of Texas. Mr. Speaker, if the gentleman will yield, I have sensed up here from some of the opponents that perhaps they are afraid for America to compete, that they are not so sure our products and our workers are good enough anymore around the world. But if we listen to those workers in our businesses, whether it is the farmers who are out there or small businesses, our technology companies, our software companies, computer makers, construction, energy, financial people, just people all around our neighborhood, the reason they are pushing for this legislation is they know that they can compete.

They know that they can create jobs right here at home but, literally, 95 percent of the world that is the population outside of America that is growing by leaps and bounds, again, America need not apply to sell them and compete for their business, yet every other country is out there doing it. For them, they see it simply as this is a huge opportunity to create jobs and help families.

What is interesting is these jobs from international trade pay a little more than domestic jobs, and they are more recession-proof, which I would think for those 700,000 or so employees that we have lost who have been laid off since September 11, jobs that hang tight in a tough economy would be good news, and jobs one can raise a family on would be very important, again, if Americans can apply for these jobs in these businesses.

Mr. SHIMKUS. Mr. Speaker, the gentleman speaks to an issue that is pretty near and dear to my heart, because I have great friends across the aisle, I have great friends who are strong labor supporters, and I have somewhat of a pretty good record as a Member of Congress in an attempt to be very responsive and open and be there at times when I can really justify the position with organized labor.

The concern I have always had is there is job loss going on always in this country, and it is sometimes part of a normal business cycle. These job losses and some of this movement of the industrial workforce is occurring without trade negotiating, Trade Promotion Authority. For the life of me, I find it hard to understand, how do they think the job loss will be any less? We lower tariffs, we make our manufactured goods more competitive.

We had our other colleagues here who spoke of industrial manufacturers. Again, I can talk to Deere; I can talk to Caterpillar. Does my colleague know what? They want to be able to compete. They want Illinois workers and an Illinois company producing strong, durable goods that we can sell overseas. And lowering barriers to trade, i.e., tariffs, will do that.

But we have to accept the premise that there is job loss and there is winners and losers. They addressed that issue in past bills, and we have been able to use successfully NAFTA transitional assistance to help provide a floor of support to help in retraining, reeducation, moving the displaced workers from the unemployment line to, many times, even some better jobs. And the NAFTA transitional assistance has been very beneficial. I am glad it was part of the last trade agreement.

That is why I am very pleased with the gentleman from California (Mr. THOMAS) and his additional push at the urging of many of us that understand that there are winners and losers, trade adjustment assistance and a push to help protect our workers and a push to help get them the training, the education, the experience to be able to move them quickly from one sector of the economy into another sector of the economy, whether they want to move and be another employee or whether they are going to venture out and be one of these small businesses that I have talked about that really have created all of the jobs.

Mr. Speaker, when we cannot negotiate with a competitor or a country and we have problems, and in my area I have been a vigilant opponent of dumping of steel in this country. We know it goes on. We cannot stop it. We are not at the table. We cannot negotiate. And by the time this President, President Bush, enforces section 201, which is to go after and penalize these countries, guess what? We have already lost the jobs, because the past administration did nothing. So it is this Republican administration that is seeking to go after the countries that are abusing trade by using government subsidies to undercut the price of steel. How much better if we are negotiating and at the table so that we can bring up those issues.

Mr. BRADY of Texas. Mr. Speaker, in Illinois, if we ask any neighbor who has a good, secure job that they like, that is paying good, decent benefits, I wonder how many of them work for a company or for a farm that does not have a salesman, that does not have someone out there selling and promoting their products. And yet we wonder how can America succeed against other countries when we lock our President here. We do not allow him to go out there and open up markets, tear down that "Americans need not apply sign," who pushes for us just to get a fair shake in this competition. I do not know how we succeed these days without a tough, aggressive sales force out there pushing for us. Does the gentleman?

Mr. SHIMKUS. No, Mr. Speaker, I do not. The gentleman knows that I am involved with the NATO Parliamentary Assembly, which as legislative members we gather, and they are the NATO countries, and it is a kind of oversight what our folks do. And a lot of times we will visit the EU, and what is the EU doing? They are establishing, and a lot of these are our allies, they are establishing a common market and reducing trade barriers so that they can trade across country lines with no barriers. Does the gentleman know what else they are doing? A common currency.

Talk about a competitive advantage: Knocking down the trade barriers is definitely having a common currency, and then we are in. That is why this administration is looking for a Western Hemisphere in trade in response to our western allies who want to get the benefits of efficiencies and lower taxes and a single monetary system. That is what we are up against in this world.

Do we shy away? Do we go and cower in the corner? Or do we say, all right, if our allies are doing that to us, we will gather our allies in our Western Hemisphere, and, man, we will go show them, and dare they not come to our area, because we are going to strike some pretty good deals with these emerging countries that really want our assistance, and we can grow together.

Mr. BRADY of Texas. Mr. Speaker, this is why the President I think has said that national security is his number one priority. Economic security comes right after that. This is all about jobs in competition.

The gentleman and I, we both have young children. A lot of our neighbors have children in college or kids just getting out in the workforce. This is all about jobs. This is all about us competing and them having the kinds of jobs they can raise a family on.

We hear a lot of excuses, but today, earlier tonight we heard another "I am for free trade, but," which seems to follow with anything, but one of them said, I am for free trade, but I do not want to give up our sovereign rights as a country.

Earlier today Senator PHIL GRAMM, who is a constitutionalist beyond many in Congress; if someone asks him what time of the day it is, he would consult the Constitution first to see if that is allowed and permitted and what rights are there for Americans. This morning he stood here and told colleagues on Capitol Hill that he supports this bill. This protects the sovereign rights of America, of American workers, of American business, of the American Constitution. So I think that excuse just does not wash.

The other thing I wonder about is if people understand the potential that is out there for us. The gentleman and I have talked about this. Ninety-five percent of the world that lives outside of America, they cannot all buy, those countries cannot all buy what the gentleman and I perhaps can afford today, but someday they will. All we need to do is look at Japan and Western Europe, nations that went from abject poverty to prosperity in one generation. I mean one generation, from father to son, from mother to daughter, as a Nation, went from the poorest of the poor to being strong competitors and economic powers in this world. That is what we are competing for.

Last year I read a number, and I followed up and confirmed it. Half of the adults in the world today, one-half, have yet to make their first telephone call. Think about that. Half of the adults in the world have yet to make a telephone call. Common sense tells us, if it is American companies that land those contracts to sell those telephones and that service, they will create American jobs. If there are companies in Europe that land those contracts, they will create jobs in Europe and in Asia, in Asia.

So it is sort of Lewis and Clark out there in the world, and every country is out there, every nation is out there staking lucrative claims to these markets except for us, because we do not allow our President to go out there and give us a fair shake and allow us to compete.

The potential for jobs for our children, for our neighbors, for those who are unemployed is just huge. Would the gentleman not agree?

Mr. SHIMKUS. Mr. Speaker, I do. I serve on the Subcommittee on Telecommunications of the Committee on Commerce; and we deal with broad band, cellular, cell phones and all the like. A lot of these countries, Third World countries, they are not going to deploy telephone lines like we have all over the place. They are going to come in with the next generation and they are either going to have direct satellite broad band services provided by the United States or they are going to expand the cellular industry, hopefully provided by us. But if we are not there to negotiate, they will get it. But guess who will be providing it? Our competitors. Because we are just not at the table.

I want at least mention one other thing in this environment, especially with the international arena that we are in today. We are asking our friends, some staunch allies, some good allies and some who have not been very good allies of ours in the last couple years, to come to the plate and help us fight international terrorism. They are making sacrifices. They are giving us intelligence, they are working with us on basing, they are providing us maybe soldiers, transport, and the like. How can we tell these people who are asking for help that we do not want to sit down and trade with them, we do not want to negotiate with them, we do not want to strike a deal with them, we do not want to be on a level playing field and work out and both benefit from increased trade?

I just find it very, very sad that in this environment, when we are asking our international allies to be there for us, I am afraid we are not willing to be there for them in international trade.

Mr. BRADY of Texas. Mr. Speaker, I would think this is about the worst possible time to isolate America. It could not come at a worse time, and yet the vote tomorrow will really be between those who embrace competition and new jobs and those who fear it and those who want to open America. What is our strongest export? Freedom. It will be between those who want to export our freedoms and those I think who want to build walls and isolate us. It is a very clear choice that really rarely happens here on Capitol Hill.

But there are just tens of thousands of jobs at stake in my community and in the gentleman's as well.

□ 1945

I do not want to be self-promoting on my biography, but I was a former teacher, a history teacher.

Major world conflicts: Why did many of them evolve? Trade barriers were increased and countries wanted to go after raw materials which they could not negotiate through low tariffs, so they built up armies and they went to get it.

Whether it was the World War II experiences or the Japanese in Southeast Asia, Hitler going in to get the gas in the Soviet Union, you name it, a lot of things occurred and a lot of wars are fought because there are the haves and there are the have-nots.

Trade will help everyone get a bite at the apple, and everyone will benefit through the growth and the experience.

Mr. BRADY of Texas. Mr. Speaker, if the gentleman from Illinois will accept praise for his role in job creation for Illinois, for America, I would like to offer it.

Mr. Speaker, I yield to the gentleman from California (Mr. DREIER), the chairman of our Committee on Rules, but really, perhaps, the premier free trader in America, for his comments.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding to me, and I want to congratulate both the gentleman from Texas (Mr. BRADY) and the gentleman from Illinois (Mr. SHIMKUS) for taking out this important time.

Let me just say that I appreciate, as I said, the compliment; but I am one of a long line of people who really see this correctly. I do believe that we are on the verge of facing what clearly will be one of the most important votes certainly of the new millennium, and it is not that old, but the vote that we are going to be casting tomorrow will lay the groundwork for the extraordinary role that the United States of America will be playing in leading not only the issue of trade but the cause of freedom, political pluralism, and democracy worldwide.

That is really what this has come down to in many ways, Mr. Speaker, is a vote of whether or not the United States will in fact step up to the plate and once again assume that rightful place which, unfortunately, has been greatly diminished since 1994 when we saw this very important, what we used to call Fast Track negotiating authority, which was really a misnomer, now correctly labeled Trade Promotion Authority.

The reason is, and I am sure that we have heard this over and over again, with the signing of the U.S.-Jordan Free Trade Agreement just very recently, we now are a party to three of the 133 trade agreements that have been put together in the last several years.

So we have observed, unfortunately, many countries that historically have not been strong supporters of free trade and the cause of it say that they are going to play this leadership role, and yet the United States of America is the most productive Nation on the face of the Earth; and our workers, our farmers, our businesses are prepared to compete.

All we are going to be saying tomorrow when we have this debate and the vote is: Why do we not pry open new markets which have been limited to us because of tariffs? A tariff is a tax. We are talking about cutting the taxes for consumers so they can have access to U.S. goods and U.S. services.

We have found the benefits of imports here in the United States. They have allowed us to keep inflation down, they have allowed people going to stores to have a decent holiday because they are able to buy products that have come into the United States; and because of imports, the United States of America has become even more productive because of competition that imports have provided here.

Now let us give the President the authority to open up the world to us. As was said by the great Secretary of Commerce, Don Evans, at a news conference we held yesterday, 90 percent of the world's consumers are outside of our borders.

The world economy is about $40 trillion, and $10 trillion, a quarter of that, is right here in the United States. But as we see these other countries improve their economies and develop new economic opportunities, they are going to have living standards improved to the point where they are going to be able to buy even more U.S. goods and services.

So that is why we are simply saying the United States Congress, we hope, tomorrow afternoon we will say to the President of the United States that he should go out and negotiate the very best that he possibly can for the American worker, for the American farmer, for America's businesses, for America's consumers, and then come back to us, and we in the House and Senate will make a decision as to whether or not he has negotiated a good agreement. Then we will vote yes or no.

I am here to say, I am proud to stand in this well to say that if the President brings back a bad agreement, I will be proud to lead the charge against that agreement. But if he comes back with a good agreement, an agreement which is going to break down tariff barriers, recognize the importance of environmental quality and worker rights, recognize the importance of enhancing opportunity for U.S. workers, farmers, and businesses, I believe that it will be the right thing for us to do.

So I just would like to say that on the national security front this is the right vote because global leadership and what it is that the President is providing has been heralded by so many people. We have learned that Osama bin Laden has the ability to do one thing and one thing only, and that is to destroy. But I will say that we are the producers, we are the best producers on the face of the Earth, so let us have an opportunity to do that.

I thank my friend for yielding, and I am sorry to have consumed so much of his time.

Mr. BRADY of Texas. Mr. Speaker, in closing, let me say we should not retreat from fair trade competition, we should insist on it, because competition is America's strength and it is the key to our high-wage and our high-tech future.

GENERAL LEAVE

Ms. SOLIS. Mr. Speaker, I ask unanimous consent that Members have 5 legislative days to revise and extend on the subject of my Special Order.

The SPEAKER pro tempore (Mr. KELLER). Is there objection to the request of the gentlewoman from California?

There was no objection.

THE NEED FOR AN ECONOMIC STIMULUS PLAN IN MINORITY COMMUNITIES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentlewoman from California (Ms. SOLIS) is recognized for 60 minutes.

Ms. SOLIS. Mr. Speaker, today I rise with the Congressional Hispanic Caucus and the Congressional Black Caucus to highlight the immediate need for an economic stimulus plan in the minority communities we represent.

Many minority communities throughout our country have been disadvantaged in various ways throughout our country's history. Historically, Latinos and Latin Americans have had higher rates of unemployment, lower rates of health care coverage, and fewer educational opportunities than do their Anglo counterparts.

Now, I know most Members know what I am talking about here. However, I would ask that my colleagues in this House and in the other body keep in mind these historical facts as we seek to craft a meaningful economic stimulus plan.

My district and those of my colleagues joining me here this evening are in desperate, desperate need of assistance. We need an economic stimulus package now. Although tax cuts have a role in our economic plan, especially ones similar to a bill that I introduced earlier this year that would grant tax rebates to low-income families who did not receive a rebate as a result of the tax cuts that the President enacted, the most important aspect of any economic stimulus plan is unemployment protection.

Latino and African American families in the Los Angeles area, in California, and throughout the country, are being forced to endure the harsh consequences of high, alarmingly high unemployment rates. We know that brings on problems. All I have to do is point out what those current rates are here in my own district and in Los Angeles County.

I would like to point out for my colleagues that in one of the cities that I represent in Los Angeles, in South El Monte, we know at the national level right now the unemployment is at 5.9 or 5.4 percent, and in the city of South El Monte, which is largely minority, it is up to 9.3 percent. In the city that I live in alone, it is 7.6 percent. In other areas that I can point out here where high numbers of minorities live, such as in the city of Baldwin Park, a largely working class blue-collar community, unemployment levels are up to 6.8 percent.

These figures are already dated, and I can tell the Members now in all honesty that these numbers are going to keep going up. These people have not seen the relief that we have talked about in this House. In the economic stimulus plan we passed a few weeks ago, I know that my residents, the people that I represent, have not seen anything that is going to give them the assurance that we in fact are doing our job here in the House to take care of them.

Mr. Speaker, I know that there is much more that we can do. I am also pleased to have join me tonight the gentlewoman from Florida (Ms. BROWN), the distinguished gentlewoman who is also helping me provide this important information about our minority communities. I know she has a lot to say, and I yield to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Speaker, let me thank the gentlewoman for organizing this Special Order. It is so important that we point out the disparity within the minority community; and I have an old saying, that when America has a cold, African Americans, Hispanics, have pneumonia. That is what we are here today to discuss, what is going on within those communities, and, of course, the economic stimulus package.

First, I just want to take 1 minute to talk about a subject that is very dear to my heart, and that is election reform. We have not had or passed a bill, a fair election reform bill, and that is so close and dear to my heart because of what happened in the last election in my district, the Third Congressional District of Florida, where 27,000 African Americans were disenfranchised.

Mr. Speaker, there is an article that I will include for the RECORD that was written by former President Carter and President Ford on this subject, and I would like to commend the gentleman from Maryland (Mr. HOYER) and the gentleman from Ohio (Mr. NEY) for their leadership on this issue.

The title of the article is “A Holiday Gift for the Voters,” and it talks about the House and the Senate and the administration coming close to passing an election reform bill. That is so needed for the people that were so disenfranchised in the last general election in this country.

Mr. Speaker, I want to commend the gentlewoman again for her leadership on this issue, because how minorities have been affected by 9–11 and the economic downturn is something that we need to point out, and we need to move forward as far as how we address these issues.

When we passed the transportation emergency bill for the airlines, we passed $15 billion for the industry. In the hearings, when the airline executives, the CEOs, the big dogs, when they came to the committee, they indicated to us that they were going to lay off over 100,000 employees.

Mr. Speaker, I did not vote for the bill because nowhere in the bill did we address those over-100,000 people that were going to be laid off. That is the problem with this House, the people's House. That is the problem. The problem is that, and I like this saying, only the big dogs eat here. That means they have to have the big-time lobbyists, and they have to be in with certain people.

But the problem that bothers me is not just that the big dogs eat, it is the only dog that eats. In other words, we are not concerned with the gentlewoman's constituents or my constituents. We were not concerned about those 100,000 people that we laid off, that the industry laid off. I am very concerned about it.

Ms. SOLIS. I also want to point out, Mr. Speaker, this other chart that I have before me. What this indicates here is all the layoffs and different service sectors or industries that have been affected from September 12, 2001, to November 19.

What these figures portray here is, as the gentlewoman and I know, and as the gentlewoman from Florida stated earlier, large segments of our communities, service employees in the airline industry, lost many jobs. They did not receive one penny of that bail-out that was passed by this House.

I, too, did not vote for that legislation because I knew that the workers were not going to receive any type of benefit.

According to this chart, it says in transportation alone over 137.291 jobs were lost in that sector alone. In the hospitality, tourism, and entertainment industry we lost 135,783 jobs.

□ 2000

Communications and utilities, and I do not think I need to remind folks that in California we were hit pretty hard with our energy crisis. We lost 68,671. This is nationally.

In the manufacturing industry, one of the largest segments that has been affected here, 286,717 jobs lost.

In retail trade, that is our small businesses, where people are really striving to try to make a difference, we lost 20,000 jobs.

In the services, 47,000.

In finance, insurance and real estate, 31,000.

In public administration, over 12,000 jobs.

Other jobs, 82,000 jobs.

A total of 747,850 jobs lost that we know of, and this information is being provided to our offices by the AFL–CIO.

I would yield time to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Speaker, what stands out most in my mind is that the economic stimulus package that passed this House, that I did not vote for, gave more tax breaks to a certain segment. I call them the country club tax breaks. I say it is the reverse Robin Hood, and we have practiced it ever since a certain group took over this House. What I call it is reverse Robin Hood, robbing from the poor and working people to give tax breaks to the rich country club friends.

I am so happy to say that the gentleman from Illinois (Mr. DAVIS), from Chicago, has joined us, and he wants to help us explain to the American people about this, the big dogs controlling this debate.

Mr. DAVIS of Illinois. Mr. Speaker, first of all, let me congratulate the gentlewoman from California (Ms. SOLIS) and the gentlewoman from Florida (Ms. BROWN) for organizing this Special Order. They have identified one of the most immediate needs in our country, and that is the need to stimulate the economy.

I guess it must be somewhat official now in that economists are declaring that we are in a recession, and I can tell my colleagues, if the economy overall is in a recession, then in much of my district we are in a depression. For if America sneezes economically, many low income, intercity, rural and marginalized communities catch pneumonia. If the economic temperature drops, we go into a deep freeze. Therefore, we need an economic stimulus, and I mean a real stimulus, and we need it now.

Quite frankly, Mr. Speaker, our response to the terrorist attacks, I commend the Congress, the President and the people for what we have done. What really amazes me the most is what we have not done. We have not bailed out the post office so that people can regain confidence in our mail services. We have not raised the minimum wage so that low-income wage earners may obtain a livable wage. We have not extended health care coverage so that unemployed workers who were laid off or have lost their jobs will have some protection.

Please, Mr. Speaker, I hope that nobody comes to me again with the same old worn-out, nonproductive, trickle-down theories of huge tax breaks for big corporations and the wealthy, with the idea that somehow this will reach those who are most in need. Most often, it does not. I call it the same old wine in a new bottle, or maybe we could call it the same old lemon with a new twist.

The real deal is that a rising tide will lift all boats, and so if we want to stimulate the economy, take John Smith who makes $7.50 an hour, give him an extra $50, and I guarantee my colleagues he will spend every penny of it, plowing it right back into the economy. He may go to the shoe store, buy little Johnny a pair of shoes, maybe Suzy a dress. Then the clerk at the shoe store can go to the grocery store, pick up a gallon of milk, maybe some eggs. Then the clerk at the grocery store can go to the beauty shop and see the cosmetologist who then goes to church, puts something in the collection plate. Maybe the preacher then goes to the car dealer, purchases a car, so that he can go and visit his parishioners in the county hospital. On the way, he purchases gasoline so that the person at the gasoline station then earns some money.

So if we want to really stimulate, I think we need to reach down to where the people are.

My mother was a great soup maker, and she could make a soup that was just out of sight. But I would always notice that when she was making the soup she would take this big spoon and go deep down in the pot, and she would stir up the bottom, and then we could smell the aroma all through house as the ingredients mixed, and then we could be filled with nutrients as we would eat the soup. We would be healthy and happy.

This is what America has to do if we are going to stimulate the economy, that is, raise the minimum wage, extend coverage for unemployed workers, for people who are laid off, give them some health benefits so they can still be healthy, and then put the people back to work. If we are not prepared to do that, then we are not really talking about a stimulus. We are talking about a trickle-down system that does not work.

I again just commend my colleagues, both of them, for providing us with the opportunity to share with the American people.

Ms. SOLIS. Mr. Speaker, reclaiming my time, I thank the gentleman from Illinois (Mr. DAVIS) for being here tonight, also, and helping to clarify that the stimulus plan that was passed out of this House a few weeks ago did not address those workers that are in need of unemployment insurance. Many Latino workers, because of the fact that they may not work 40 hours and are viewed as part-timers, will not qualify for any assistance. That means their children, their families will go hungry.

We cannot ask charities to pick up that, because many of those folks are also hurting. We need to do something here in the House to extend that coverage beyond that, qualify people to make sure that their earnings can be calculated according to a sound method that would treat human beings adequately, because these are workers that support our economy.

I appreciate the statements of the kind gentleman from Illinois (Mr. DAVIS).

I yield time to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Speaker, I have one question. The gentleman from Illinois (Mr. DAVIS) talked about his mother's soup. Now I need him to know that my grandmother used to do a sweet potato pie, and I mean her pie was the best pie, and those ingredients that she put in the pie represent the ingredients that we have here in this Congress, the economic stimulus, and the key is that everybody always wants a slice of my grandma's pie, and that is what our constituents want. They want a part of that soup and a part of the pie.

As I heard one of the colleagues on the floor say, we know that this is tilted one way. Tilted was not the word. The word was there was nothing left over. There was no pie nor soup for the majority of the American people. The economic stimulus package that passed this House was clearly for the country club set.

Ms. SOLIS. Mr. Speaker, I yield time to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Let me just say one thing as I prepare to leave. The gentlewoman from Florida's (Ms. BROWN) grandmother was not only a great pie maker but she was also a very wise woman, because she taught the gentlewoman from Florida the value of getting a slice of that pie. Keep doing the work that your grandmother taught you.

Ms. BROWN of Florida. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for his comments.

Mrs. CLAYTON. Mr. Speaker, I want to thank both these gentlewomen for arranging the Special Order of this very important subject on the stimulus and pointing out to the American people what the ingredients of a good stimulus program would mean in order to benefit all Americans.

I like the analogy to food, because I like soup and I like dessert and I like sweet potato pie and I also like the idea of getting a slice of the pie. I do not want dessert to be gone.

American people, too, understand the very basics. They understand that this economy has had a big slowdown. In fact, recently, the Center on Budget and Policy Priorities shared some important issues in the debate. There are those who would say that investing in corporate tax reduction or incentive for corporations would be the way to stimulate this economy. But, actually, when we understand that the downturn in this economy is based on a lack of demand for services and products, meaning people are not purchasing the products and services that the corporations have, that they have invested in, therefore understandable is the business theory that if there are more products and services than people are demanding, therefore, they have to reduce their employees for that.

So, as we do that, we also create a spiral, and that spiral is we have less families now with resources to buy those products and services that were already reduced. So we are increasing that spiralling that is going down.

Business is based on a market, a market that can afford to purchase the cars or the clothes, the large appliances or the services. To the extent that is not happening, the economy goes down.

Well, what would we put in that soup to make that economy respond immediately? Well, there are some things we could do. Obviously, investment is one, but that is a long-term strategy. We need a strategy that will bring that aroma of that soup, if I can play on that analogy a little bit, immediately. There was a soup when we are sick we give, mother's chicken soup, I think they used to say, and that would really get us well. We need something to really respond to the illness of the economy, and that does not mean long term. That is not a 6-month strategy. We need something immediately.

The bill that went out of the House, what it did, it proposed to transfer neatly funds to the States and to unemployment. They did not change the strategy, as the gentlewoman indicated. There are many people who are now not eligible for any unemployment. So they still will be ineligible. So what we have done is put more money that is in the State with the structure just like it is. It does not help those people in their needs.

Ms. SOLIS. Reclaiming my time, I think the gentlewoman from North Carolina (Mrs. CLAYTON) makes an excellent point, and in that stimulus program that was passed on the floor Members voted on putting aside $3 billion that would go out to States. Now, if the States have an astute governor, that might make sense because he could be creative and hopefully draw down that money and give it to these people who would not otherwise qualify for unemployment insurance. I am not sure that all the governors in this great country are going to be mindful of these people that we are talking about here tonight.

I hope people will heed our concerns and talk to their elected officials as well about garnishing that money and making sure that it goes to those particular families that are not going to be eligible under the categories of unemployment insurance, as well as the loss of health care, COBRA. Many people, because they work for small businesses, did not have health care coverage. We need to put money into Medicaid so that when they do go to the emergency hospital or go get a flu shot, they are going to have something there for them, not next year but this year.

I yield time back to the gentlewoman from Florida (Ms. BROWN).

☐ 2015

Ms. BROWN of Florida. On that point, if the gentlewoman will yield for a second, the gentlewoman said something that was very important when she spoke of the governors. Because I come from the great State of Florida, and one thing I can tell my colleagues about my governor from the great State of Florida, for the past 3 years we have given these ludicrous tax cuts. Well, what is the result? Florida is a tourist State. The tourists are not coming.

So we have given these large tax cuts every year, and what has happened? Florida now has a $1.3 billion shortfall. Based on spending every dime that we have on a tax cut, now the revenue is not good so we do not have any money. So we are going in there cutting programs now. And let me just mention a few. Services for children. Blind kids. Can my colleagues imagine that? $15.2 million cut just in one county. Duvall County school system cut out summer school programs. Florida will take from health care, and we talked about health care earlier today, $146 million, $109 million from public safety. Those are programs for youth. Cutting out scholarship programs for kids in college.

So those are the results of this same kind of ludicrous policy we have going on in Florida that we are trying to transport here to Washington.

Mrs. CLAYTON. I think both of my colleagues' points are very timely, and it has to be understood in the context of our wanting to have a program that would have an impact immediately, that would not be a permanent fix, meaning that we want something that is temporary that we can remove when there is no need, but we want something that will be responsive for right now.

The bill that passed the House transferred unabated or unstructured or unmodified to the States the unemployment insurance that we have called the Reed Act. And what it would do, the States would have to match it. A case in point: if Florida is now in a deficit, they do not have a reserve to match it.

In fact, again responding to the Center on Budget and Policy Priorities, they made a survey of all the States, and the survey results by the National Association of State Workforce Agencies confirmed that 38 States of the 50 that responded stated that they have questioned whether they would use those funds. And most respondents say they would not expand or extend the benefit. Why? Because they are uncertain how long this will last. They know what their reserves are, but they are uncertain how long they would be expected to put up a match.

So we need to change that match. The match now does not favor the States making that kind of commitment, and the proposal should be where we have more of a Federal match expanded for those who are not covered and the Federal Government assuming more of a responsibility without adding those extra burdens to States that are already bankrupt or find themselves with real fiscal problems in that area.

Now, I want to talk about health; but I know the gentlewoman from Florida wants to respond to that, so I will stop for a moment.

Ms. BROWN of Florida. Well, I first want to bring in the gentlewoman from Georgia (Ms. MCKINNEY).

Ms. McKINNEY. Well, I thank my colleagues very much, the gentlewoman from California (Ms. SOLIS), the gentlewoman from Florida (Ms. BROWN), and the gentlewoman from North Carolina (Mrs. CLAYTON), my good friend and mentor.

The gentlewoman from Florida talked about policies from Florida coming up to D.C., and I guess what I want to talk about is policies from Texas coming up to D.C. and the impact that it is going to have on all of us. We know that minorities are hit hardest in times of trouble and lifted last in times of plenty. But I think it is correct to point out tonight some of the particular problems that are faced by minorities in this country.

Eighty percent of all Federal prisoners are minorities. Fifty percent of them are black. Blacks and Latinos are not graduating from high school. There is a 56 percent graduation rate for blacks, 54 percent graduation rate for Latinos, juxtaposed to a 78 percent graduation rate for whites. Forty-three percent of American children live in or near poverty. Thirty-three percent of black children live in poverty; 30 percent of Latino children live in poverty.

Let us talk about being able to just reach the age of 1. Black infant mortality is twice that of the rest of the American population. And as I was sitting in front of my computer terminal, as I do too much because my eyes are getting worse, a name came out at me. Jesus Blanco. Jesus Blanco was the first person in the year 2001 to freeze to death on the streets of Washington, D.C. How in the world in this country in the land of plenty can we have people freeze to death on our streets? Five people froze to death in Washington, D.C. Let us remember the name of Jesus Blanco. Twenty-three million Americans were forced to seek food assistance. But this was when times were great. This is before there was a recession. Just imagine what it is going to be now, when times are bad.

And instead of homeland security that protects our most precious assets, our values and our people, President Bush gives us three hits and two misses in Star Wars national missile defense. He gives us military tribunals that put us in the same league with Peru. Remember Lori Berenson? Burma, Egypt, all of whom we have criticized for their military tribunals, and now we are going to do the same thing and follow in their footsteps.

President Bush gave us a recession. Even though the recession did not start as 2001, as early as December 21 in 2000, Bush said, and I know it is true because it is here on the CBS News Web site, December 21 Bush said, "I have said that there are some warning signs on the horizon. I think people are going to find out that when I am sworn in as President, I will be a realist. And if there are warning signs on the horizon, we need to pay attention to them. We need to act in a positive way to make sure that our economy continues to grow so people will be able to find high-paying jobs. One of my responsibilities is to anticipate problems and be prepared to act."

But that is not all.

Ms. BROWN of Florida. If I can interrupt the gentlewoman for one quick second, I have a question. We are going to take up Fast Track tomorrow. Does my colleague think that is the solution? Is that the President's solution to the high-paying jobs?

Ms. McKINNEY. Well, we all know that Fast Track is not the solution, because I used to represent a rural district. I know my colleague from North Carolina currently represents a rural district, and we lost our jobs.

Ms. BROWN of Florida. We lost them in Florida, too.

Ms. McKINNEY. If I can return, because I would like to finish this, Vice President CHENEY, who before he was sworn in was talking about the recession that was on the horizon, and Bush said as early as this year that a warning light is flashing on the dashboard of our economy and we just cannot drive on and hope for the best. This was reported by the American Prospect in April of this year. Now, we have got President Bush and Vice President CHENEY saying all these things, and President Clinton told them not to talk up a recession; do not talk it up.

But we have seen plenty of stimulus. We have seen stimulus for the airline industry, even before we took care of airline security. We have seen stimulus for the insurance industry before the victims of the September 11 tragedies have even been taken care of. And what about America's working families? The gentlewoman from Florida (Ms. BROWN) even brought us today people from Florida who were crying not to cripple our public hospitals. But that is what they are going to do.

It is the economy, stupid. That was 1992. And advertise economy, stupid, which I am sure the American people will hear on 2002. A piece of the pie. A political piece of the pie as well as an economic piece of the pie.

I will yield now, but I have some devastating news about the election down in Florida that I want to talk about. Because when we talk about public policy up here, it depends on the actions of people who go to the polls and vote and think their vote is going to be counted. And then when they find out that their vote has been stolen from them, and we end up with this kind of public policy, maybe it has to do with how we even arrived at the people who are sitting making that public policy today.

Ms. SOLIS. Mr. Speaker, reclaiming my time, I would ask the gentleman from Texas (Mr. RODRIGUEZ) to join us and also ask the gentlewoman from North Carolina (Mrs. CLAYTON) if she would like to finish up.

Mrs. CLAYTON. Yes, I wish to make a departing comment. I want to visit an analogy for the American people to understand and for those of us who are in this debate; a contrast giving a corporate investment stimulus and tax break as investing in the people in terms of uninsurance benefits.

If we understand that this economy is not due to a lack of cash, it is due to a lack of economy spending, there are not consumers, consumers with money, not corporations without money. It is not a lack of cash on the part of corporations; it is a lack of cash on the part of the average American citizen to buy products and services. So if we want to really be a realist in what it will take, we are investing in the wrong thing in order to get the economy moving.

We have to put cash in our citizens' hands, and we do that by making sure we have a structure that will allow us to put cash in individuals' hands and in modifying the unemployment insurance and providing that insurance in such a way that States can use it. As it is now, the States will not use the Reed Act because it is too much of a burden on them. As it is now, the proposal has too much of a tax break. That means that only the investment side is there.

If we were not in a recession, that may make some sense. But we are in a recession, where there is a lack of consumers with cash to buy products and services. So we want to find a way where we modify that and have a more equitable way of stimulating interest. And I thank my colleagues again.

Ms. BROWN of Florida. I also want to thank the gentlewoman from North Carolina, our former class president, for her leadership. She is always right on target.

Mr. RODRIGUEZ. I want to thank the gentlewoman from California (Ms. SOLIS). I know she invited me to come over and say a few words as it deals with the stimulus package, but let me say that my colleagues are exactly correct.

One of the things we have heard, and we have heard from every single economist, with perhaps one exception, we do have Senator GRAMM, who was an economist, but every single economist who is worth anything, the seven Nobel Prize winners, have indicated that we have been on the wrong track; that we have been in this recession since March; that we need to be able to come together and be able to do the right thing. And they agree that if we are going to consider any tax cuts, they have to be for the basis of creating additional jobs.

But we have been sending checks. And the economists tell us they do not need cash, what they need is consumers. And in order for us to create consumers, we have to allow those resources to go down there. So one of the first things we need to do, and one of the first responsibilities that we have, is that we have declared war. We have to make sure our homeland is secure.

□ 2030

That should be first before any tax cuts.

In addition, let me add that they were quick to give the tax cuts, and I saw a check for $1.4 billion for IBM, but at the same time they are dragging their feet when it comes to taking care of the people who have been losing their jobs. Just what happened in New York, a lot of people have lost their jobs in South Texas. On the Mexican border, it is taking 3 hours for people to cross the border. I have a 13 percent unemployment rate in Starr County, and we are having a rough time, and they are getting impacted like everyone else.

When we look at stimulating the economy, the only thing we have stimulated is the corporations. The rest of us have not received any stimulus. In the month of October, 450,000 people have lost their jobs, the most in any month since May of 1980. We have a serious situation.

In addition, the comments that were made earlier by the gentlewoman from Georgia (Ms. MCKINNEY) regarding the impact to minorities, the African American is a little higher, about 9 percent. Unemployment for Hispanics and Latinos is 17.2 percent, while the national is 5.5 percent.

In order for us to turn this around, our first priority ought to be our national defense and taking care of our homeland. We have been told that we do not have enough people in the medical fields and in the areas to make sure that we have first responders to help our communities, our cities.

I got a report from the city of San Antonio, and I was told in the first 2 weeks after September 11 that we had over 500 calls. The majority were hoaxes, bomb threats, but it cost the community resources is the bottom line. That is occurring across the Nation and has a great impact on our local communities.

This battle, we have to protect our troops, but now it is a war, and we have to protect our families. Our families should come first. We ought to consider that and do the right thing when it comes to taking care of the pensions and making sure that workers get good benefits. As we looked at pensions and unemployment benefits, the data is startling. The fact that a great number of people, if they worked 30 hours, worked part time, they get nothing. Some States are worse than others. People are hurting.

Mr. Speaker, what little insurance they had, they are having difficulty getting access to their insurance. The minority, both African Americans and Latinos, are the least likely to have insurance coverage.

Ms. SOLIS. Mr. Speaker, I would like to commend the gentleman for coming forward today and helping to provide a picture of what is happening in America, the face of the minorities, Latinos, African Americans, people who are disadvantaged, who do not have a voice at the table. The gentleman said that the unemployment rate in some of his cities is as high as 9 percent. In Los Angeles, in East L.A., we have upwards of 9 percent and more, and it is higher for the youth. We know that we are always the last hired and the first fired. We need to do something here to provide a stimulus, to get the Senate, the other House, to understand that these are some major concerns that we have, and they can help work this out.

Mr. RODRIGUEZ. Mr. Speaker, I want to leave one last message. That is that every single war that we have declared, from the Spanish American war where we had the phone tax to the Gulf War, we have always had a war tax. This is the first time not only do we not have a war tax, we are giving tax cuts to special interests and taking care of them and stimulating them. At the same time, this is the first war that we run it on the so-called surplus which we know is the resources that provide for Social Security and Medicare. This war is being run on the backs of our senior citizens.

Once again, I congratulate the gentlewoman.

Ms. BROWN of Florida. Mr. Speaker, did the gentleman say more workers lost their job in October than any other month since May, 1980?

Mr. RODRIGUEZ. Mr. Speaker, that is correct. That is 450,000 Americans in the month of October alone.

Ms. BROWN of Florida. Mr. Speaker, shame, shame, shame.

Ms. SOLIS. Mr. Speaker, I thank the gentleman for joining us here.

Joining us here is the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank the gentlewoman for her leadership and for engaging us in this dialogue tonight. Because we have to remind the public and the world that, as we move to enhance our national security and our public safety, we must also respond to economic security. We must be sure that we deal with this by passing a strong and fair economic stimulus bill that provides relief where it is truly needed. That is to our workers who have lost their jobs and also their health care. In losing their jobs, they lost their health care. This is really the right way to pass a plan to stimulate the economy. There is always a right way and a wrong way.

The wrong way to pass a bogus stimulus plan is to allow special interests, which we are allowing in this Congress, to use this moment to push and to solidify their corporate welfare agenda. The gentlewoman from Florida (Ms. BROWN) referred to tomorrow's vote on Fast Track. That is just another slap in the face to American workers. We have got to put a stop to this. We are here tonight trying to frame the arguments so people understand that there are many in this Congress that understand that an economic stimulus plan should target those in need. Creating jobs and economic development activities stimulate the economy. Providing for fair employment and health benefits to those who have lost their jobs, that creates economic stability, and that is the right thing to do.

I am really happy that the gentlewoman from Georgia (Ms. MCKINNEY) and all of the Members here on the floor tonight are talking about how minorities are especially affected by this recession and need an economic stimulus plan. The percentage of African Americans and Latinos who are unemployed rose more than 2 percent between October, 2001, going back to October, 2000. Minority women were affected the most. African Americans and Latinos are more likely to lose their jobs than other workers.

Additionally, many minority workers are not eligible for unemployment insurance because they work part-time or short-term jobs. That knocks them out of eligibility for unemployment insurance. Because minority workers, unfortunately, earn less than their white counterparts, they receive a smaller unemployment benefit.

Additionally, low-paid jobs mean that workers have less of a chance for workers being eligible for health benefits from their employers while they are working and, of course, when they are laid off. We need to pass a strong economic stimulus plan, one which extends the period of time for workers to be eligible for unemployment insurance and also extends the eligibility.

We also need a bill that provides for comprehensive health benefits for workers who have lost their jobs. We need a plan to improve our infrastructure which not only creates jobs but also renovates our crumbling schools and hospitals.

Ms. BROWN of Florida. Mr. Speaker, being on the Committee on Transportation and the Infrastructure, for every billion dollars that we spend on infrastructure, it generates 49,000 jobs. If we want to stimulate the economy, then we should invest in the building up of our infrastructure and tie it to homeland security.

Ms. LEE. Mr. Speaker, so infrastructure development should be part of any economic stimulus plan that this Congress moves forward to the President's desk.

We also need to extend the $300 per person rebate which the gentlewoman from California (Ms. SOLIS) has worked very hard on, because over 50 percent of our low-income and minority families were left out of that benefit earlier this year, and that is not fair. That is wrong, and we should correct it since we have the opportunity to correct it now.

Ms. SOLIS. Mr. Speaker, reclaiming my time, I know her district is a lot like mine, many folks that maybe just got laid off from the hotel and restaurant industry that was shattered by the September 11 attack. It hit all of us, no matter where the worker is, and on the chart here, 137,000 or more jobs were lost. What about the people already on the short stick that got pink slips before that disaster?

One of things that was an eye-opener for me, I visited one of the unions that had a lot of employees laid off. The union decided to put together a food bank to bring together resources to try to help these people out. What are we doing in this stimulus package that got passed here that is going to provide coverage for those families? I go back to that same thought that the governors can take hold of $3 billion that is earmarked for every State. Every State can go into that pot and get money, but which astute governors are going to do that?

Ms. LEE. Mr. Speaker, if the gentlewoman would yield, the gentlewoman is right. This is through no fault of their own. They lost their jobs through either recessionary measures or as a result of the tragedy of September 11. However they lost their job, they lost their job, and they deserve unemployment benefits, and they deserve their health care.

Families who are laid off, they cannot keep waiting for a bill to be passed, hoping that they can extend their rent that is due or hoping that they might pay their mortgage sooner or later or hoping that their children's tuition will hang tough until they can figure out how to pay for their kids to stay in school. They cannot keep waiting for their grocery bills to be paid as we here in Congress promise that we are going to do something. I think during this holiday season we must remember those who really do need us the most.

Tax cuts will not provide relief for these families and for these workers. We need to provide a safety net immediately for families who desperately need our attention. Hopefully, we will continue to beat the drum, because this is such an important issue. It is so important for us in December now to really move this bill forward and move it in a way that benefits those that need it the most.

I thank the gentlewoman for this Special Order tonight.

Ms. BROWN of Florida. Mr. Speaker, if the gentlewoman would yield, I want to mention that the bill that passed this House, the one that passed, I did not support it because it did not include almost any of those elements that we are discussing here tonight.

Ms. LEE. Mr. Speaker, it was a tax cut bill for the country club set.

Ms. SOLIS. Mr. Speaker, that is what most people are saying back home: Why did the Congress vote out a measure that does nothing for our families?

Mr. Speaker, I yield to Mrs. JONES.

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentlewoman for this opportunity to discuss the economic stimulus package. I agree with the statements that have been made by my prior colleagues, and I would like to associate myself with their comments.

If the gentlewoman would allow me, I would like to bring this issue particularly back to my own congressional district.

Mr. Speaker, currently, we have LTV Steel Company in bankruptcy. In fact, in court yesterday and today, the steel company has moved to have an opportunity to corral its assets and sell those assets. As a result thereof, we are looking at losing 3,200 workers from LTV Steel. If those 3,200 workers are laid off, another 40,000 workers across the State of Ohio will be impacted by the layoff.

Two things that I would like to have happen on the economic stimulus package is that the steel loan guarantee would be changed, that it would allow the steel loan guarantee bar to be reduced to allow a steel company in the United States to have the same application process as a steel company in a foreign country. Currently, if you are building a steel company in a foreign country, your economic layout does not have to be as strong as if you are building in the United States.

Secondly, I would like to have added a proposal that would allow for net operating losses to be used by steel companies when they have not been able to use them before because they have not been profitable and let those dollars be used as tax credits to pay retiree health care benefits, legacy costs, as well as to pay retiree health care benefits and retirement.

□ 2045

I recognize that our time is coming to an end. I thank you for the opportunity to be heard. I would encourage those of you who are listening to me and my colleagues to allow these two amendments to any economic stimulus package we present so that the steel industry, that has significant numbers of minorities and women in those jobs, that they be able to stay in decent high paying jobs. I thank you for the opportunity to be heard.

Ms. SOLIS. I thank the gentlewoman for her remarks. It is very appropriate, given the discussion that we had earlier today on the floor, but also with the vote that we are going to take tomorrow on fast track. The whole irony is that we are going to be charged with building up our defense, and where do we get the steel?

Mrs. JONES of Ohio. From foreign countries.

Ms. BROWN of Florida. I want to thank the gentlewoman for organizing this special order. I think it is so very, very needed, that we point out how the minority communities around this country are suffering. You talked about California, but I want to point out I represent the third Congressional District of Florida that goes from Jacksonville to Orlando, and we have had one of the largest declines in tourists coming into the area. An area that had 30 million people coming through, it is scary when you look at the decline. It is for many reasons. People are not taking personal family trips, and we want to encourage them to do that, but they are not going to do it if they do not have jobs. They are not going to be tourists if they do not have the jobs. That is just common sense. So, job creation should be one of the things we should be doing, along with training, to stimulate the economy.

When we think about homeland security, let us look at it. We have looked at the security of the airports, but we have not discussed the ports. That is another area. For every $1 billion we spend, it creates 49,000 jobs. We have not discussed Amtrak. That is another area that we need to deal with as far as security. In fact, we need to change our mode of operation completely on how we do things in this country, and we need to beef up security. That should be targeting part of any economic stimulus package that we bring forth to the American people.

One of my favorite scriptures that I quote all the time is to whom God has given much, much is expected, and he is expecting us during this time to raise up and do more. When we have had special orders talking about how women and children are doing in other countries, we need to look at how women and children are doing in this country, how are women and children doing in this country.

Many of those workers that we are talking about are the head of the household, so, therefore, when they lose their jobs and there are no benefits and the benefits run out, there is no safety net, and it is our responsibility to do what we can to make a difference for the people in this country.

Once again, I want to thank the gentlewoman for her leadership in organizing this special order.

Ms. SOLIS. Mr. Speaker, reclaiming my time, I want to thank the gentlewoman from Florida and my colleagues that have come and spoken here tonight. Obviously you can tell that the women of this House, the minority women, are sending a resounding message to the public that the stimulus program that passed out of this House did not go far enough.

This is going to be a sad Christmas for many families all over the country, and particularly for those women and children that get no benefit at all. They are not that group of people that got the tax cuts. They are not the group of people that got the tax break, because they did not get enough money to earn to get a tax break.

Let us do the right thing. Let us make sure we put money and food on their tables and in their pockets so that they have a wonderful Christmas, something that I think all of us here can get behind.

Again, just to reiterate, the numbers here, the totality is still unforeseen. In our districts we have more people getting pink slips every single day, and those people are waiting for us to take action here in the House.

I want to thank my colleagues, and I hope that those that are not here tonight, that perhaps are listening to us, will understand the urgency of trying to provide immediate relief to those families, the working families that made America the great country that it has been, and to provide that security, that safety net, for all Americans, regardless of race, color and gender.

Mrs. MEEK of Florida. Mr. Speaker, I commend my good friends, Congresswoman Corrine Brown and Congresswoman Hilda Solis, for organizing this Special Order and for their leadership in bringing public attention to the disproportionate impact of the post-September 11th economic downturn on minority communities.

Mr. Speaker, the September 11th attacks have radically altered business prospects throughout our country. No community has been spared. While even places thousands of miles from the destruction of September 11th have been severely affected, tourist dependent communities that rely upon the airlines an the hotel industry, like my home town of Miami, have been particularly hard hit.

Mr. Speaker, the post-September 11th economic downturn has been difficult for many Americans. It has been particularly devastating to the African-American community, both nationally and in my congressional district in Miami. We are in the midst of an economic crisis in the African-American community. My constituents desperately need relief. They need help and they need it now. It's scandalous that, almost 3 months after the despicable attacks of September 11th, we have yet to pass any meaningful relief for our workers and their families. Let's look at the facts: In October 2000, nationally, the percentage of unemployed African-Americans was 7.4%. In October 2001, the percentage is 9.7%, an increase of 2.3% which is an increase of 32% in the African-American unemployment rate in the past year. The rate went up 1.0% from 8.7% to 9.7% between September 2001 and October 2001.

From October 2000 to October 2001, the unemployment rate among African-American adult women, 20 and over, went from 5.8% to 8.9%, an increase of 3.1%, which is an increase of almost 53% in that unemployment rate in the past year.

From October 2000 to October 2001, the unemployment rate among African American adult men, 20 and over, went from 7.0% to 8.0%, an increase of 1.0%, which is an increase of about 15% in that unemployment rate in the past year.

From October 2000 to October 2001, the unemployment rate among African American teens, (16–19 years, went from 21.2% to 29.0%, an increase of 7.2%, which is an increase of about 32% in that unemployment rate in the past year.

In Miami-Dade County, in October 2001, the first month to reflect the impact of the September 11th attacks, the unemployment rate was 7.3%, up .9% from September 2001, and up 2.0% from October 2000, an increase of 36% in the past year. Normally, in Miami, the unemployment rate drops slightly between September and October because of tourism and agriculture. Obviously, this year, everything is different because of the catastrophic decline in tourism that resulted from September 11th.

Initial claims for unemployment benefits in Miami-Dade County jumped from 7,100 in September 2001 to 13,200 in October 2001, an increase of 85%! Initial claims for unemployment in October 2001 were up 143% from October 2000 because of major layoffs in tourism-related industries such as air transportation, water transportation, hotels, and business services.

Mr. Speaker, in this downturn, so far two-thirds of all mass layoffs and 74% of all initial claims for unemployment insurance have come from the manufacturing and service industries. From October 2000 to October 2001, nationally, over 1 million jobs were lost in the manufacturing sector as employment fell from 18.4 million to 17.3 million jobs. The Service Sector lost 70,000 jobs from October 2000 to October 2001 (1.93 million down to 1.86 million). From October 2000 to October 2001, there was a loss of 42,000 jobs in the restaurant sector alone!

Nationwide, in September 2001, the number of layoffs and initial claimants for unemployment insurance reached its highest levels since April, 1995. When the November figures are released this Friday, the figures are likely to be even higher.

Mr. Speaker, we all know about last hired, first fired. African-Americans get laid off more frequently in an economic downturn. For decades now, for reasons ranging from lower educational levels, to the remoteness of job hubs from African-American neighborhoods, to the over-representation of blacks in low-skill part-time jobs with little security, to the impact of racial discrimination, the African-American unemployment rate has been roughly twice that of the white rate.

Mr. Speaker, the tens of thousands of workers who have lost their jobs as a result of the September 11th terrorist attacks need immediate relief. Since September 11th, more than 100,000 airline employees have lost their jobs. Many thousands more workers in industries directly and indirectly affected by the disruption of the airline industry also have been laid off. Small businesses also have been hit very hard by the September 11th attacks. Many of them lost key customers who constituted the lion's share of their business, as well as key suppliers who enabled them to do business. Unfortunately, it seems clear that we have not yet hit bottom. Unless we act promptly and decisively, many more hard working Americans, through no fault of their own, soon will lose their jobs. Mr. Speaker, all of these workers desperately need our help and they need it now.

Mr. Speaker, the human costs of this economic downturn for many of our fellow Americans are truly staggering. Airline and airport workers, transit workers, employees who work for airline suppliers such as service employees and plane manufacturers, all face common problems and challenges. Their mortgages, rents, and utilities still must be paid. Food must be placed on the table. Children must be clothed. Health care costs must be covered.

While some will get by depleting their savings, the vast majority of those who have lost their jobs have little or no savings to deplete. All of these workers need a strong, flexible and lasting safety net, the kind that only the Federal government can provide. With no income coming in and little prospect for prompt re-employment within their chosen field, these displaced workers must search for new jobs while few firms are even hiring. While some will find new positions quickly, many, if not most, will not. Some of this unemployment will be structural as some of these industries will be downsizing permanently. As a result, many workers will have to retrain in a new field or receive additional training in their chosen field simply to get reemployed.

So what is it that these workers need? Just like those workers who qualify for help under the Trade Adjustment Assistance Program, workers who lost their jobs because of the September 11th attacks need extended unemployment and job training benefits (78 weeks instead of 26 weeks). Those workers who would not otherwise qualify for unemployment benefits need at least 26 weeks of benefits. These workers especially need COBRA continuation coverage, that is, they need to have their COBRA health insurance premiums paid for in full for up to 78 weeks, or until they are re-employed with health insurance coverage, whichever is earlier. Those without COBRA coverage need coverage under Medicaid.

Mr. Speaker, this Congress acted quickly and responsibly to meet the challenges posed by the September 11th attacks. We acted as one to pass the Joint Resolution authorizing the use of United States Armed Forces against those responsible for the attacks against the United States. We heeded the call of all Americans and said: Never, again. We stood shoulder to shoulder with President Bush, our Commander in Chief, firmly united in our resolve to identify and punish all nations, organizations and persons who planned, authorized, committed, or aided the September 11th terrorist attacks, or harbored such organizations or persons. We unanimously passed the $40 billion Emergency Supplemental Appropriations bill to finance some of the tremendous costs of fighting terrorism and of helping and rebuilding the communities devastated by these horrendous attacks. We provided cash assistance and loan guarantees to the airline industry. Now, Mr. Speaker, we must demonstrate the same resolve, the same commitment on behalf of our workers. Deeds, not just words, are required. All of these hard working, innocent displaced workers and their families desperately need our help. We must hear and answer their pleas. They need our help and need it now. We cannot rest until we have met their needs.

Mr. Speaker, even in good economic times, African-Americans suffer the nation's highest unemployment rates. In bad times, they tend to fare even worse losing jobs at a disproportionate rate and remaining out of work longer than other Americans. Mr. Speaker, this Congress said yes to the airlines and to other with extraordinary needs arising as a result of the September 11th attacks. Our workers deserve at least the same level of support. They have already waited far too long. Let's do the right thing for the minority community and all of our displaced workers by providing them with fair and immediate relief.

Ms. MILLENDER-McDONALD. Mr. Speaker, we all know that today Chairman THOMAS and a number of our colleagues have begun negotiations on an Economic Stimulus Package. We also know that the administration and most of us are anxious to come to some kind of an accommodation that will help revive our faltering economy. Economic conditions are spiraling downward every day and certain sectors are experiencing dramatic setbacks. The traditional tourism and travel industries were the first to feel the impact. These industries fuel the service jobs that have been the first line of fire. The unemployment statistics are growing worse with each passing day with thousands of people set adrift with little or no compensation. Most of these jobs are at the low-paying, minimum wage end of the scale for which there is no soft landing, no cushion for these workers.

Therefore, the matter of directing economic stimulus towards lower-income workers is of vital importance towards the goal of this nation regaining economic health. If more deficits occur as a result of misdirected tax breaks for the upper 2% of the spectrum, we will not be able to achieve a positive outcome. There will not be enough stimuli for both bread and butter and the working poor will become even more devastated. Painful choices will have to be made between paying for food or for the car note, for the mortgage or for medicine.

Mr. Speaker, in my mind it would be disastrous to force such choices on our fellow citizens when they are already suffering severe loss. How could we in good conscience provide immediate refunds of corporate taxes paid since 1986, which were minimum to begin with, when we should be addressing the plight of the ranks of the unemployed and those soon to enter that group? With businesses folding each day, our actions must work to ensure that we help the least fortunate of the working world as well as to strengthen the hand of small and medium enterprises that employ almost two-thirds of the work force.

For me and for many of my distinguished colleagues in this House, this issue strikes close to home. In our districts, across the country, large numbers of our constituents, particularly women, are employed in the service economy. They hold part-time or low-paying jobs. Many also have been the first to lose employment due to the layoffs and to the impact of the September 11th terrorist attacks. They have joined the throngs of the unemployed and have lost the minimal health and other benefits—if they had any. This situation is highly notable in minority communities across the major urban areas of America. What is being viewed as a recession in much of the country could be termed a depression in these already disadvantaged communities. In my own district, unemployment among African-Americans, Hispanic-Americans and other minority groups, many of whom work in the travel and tourism areas has reached a high proportion. As pointed out, unemployment in the Los Angeles area is well above the national level.

Mr. Speaker, we should be grateful for the attention on this critical matter being brought forward today by my distinguished colleagues, Congresswoman HILDA SOLIS and Congresswoman CORRINE BROWN. This Special Order should serve notice that we as congressional leaders want an economic stimulus package as much as the rest of the nation. We just want to prepare a plan that will aid the greatest number of our working citizens to ride out the effects of the worse economic downturn we have experienced in two decades. We want to ensure that this worsening job market is not disproportionately felt by our minority constituents who are already struggling to maintain their families at a level of dignity and well-being against difficult odds.

Black men, women and teenage citizens since 2000 have borne the brunt of falling employment at a higher rate than other Americans. Since the playing field is not yet level and hiring discrimination, unfortunately, is still a fact of life in our great country, what can we do to help these impoverished communities?

Mr. Speaker, there must be a safety net below which no working American should fall. I urge us to come up with a stimulus package that can achieve this objective in the immediate term. This is an important challenge for us and has implications for our nation's recovery, both economically and psychologically from the horrific attacks of September 11. We need urgent action. We cannot delay any further on this critical task before us.

Ms. SOLIS. Mr. Speaker, I yield back the balance of my time.

CONFERENCE REPORT ON H.R. 2944, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2002

Mr. KNOLLENBERG (during the special order of Ms. SOLIS) submitted the following conference report and statement on the bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2002, and for other purposes:

CONFERENCE REPORT (H. REPT. 107-321)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2944) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2002, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 2002, and for other purposes, namely:

FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, $17,000,000, to remain available until expended: Provided, That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to $2,500 each year at eligible private institutions of higher education: Provided further, That the awarding of such funds may be prioritized on the basis of a resident's academic merit, the income and need of eligible students and such other factors as may be authorized: Provided further, That the District of Columbia government shall establish a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: Provided further, That the account shall be under the control of the District of Columbia Chief Financial Officer who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program: Provided further, That the Resident Tuition Support Program Office and the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations of the Senate and House of Representatives for these funds showing, by object class, the expenditures made and the purpose therefor: Provided further, That not more than seven percent of the total amount appropriated for this program may be used for administrative expenses.

FEDERAL PAYMENT FOR INCENTIVES FOR ADOPTION OF CHILDREN

The paragraph under the heading "Federal Payment for Incentives for Adoption of Children" in Public Law 106–113, approved November 29, 1999 (113 Stat. 1501), is amended to read as follows: "For a Federal payment to the District of Columbia to create incentives to promote the adoption of children in the District of Columbia foster care system, $5,000,000: Provided, That such funds shall remain available until September 30, 2003, and shall be used to carry out all of the provisions of title 38 of the Fiscal Year 2001 Budget Support Act of 2000, effective October 19, 2000 (D.C. Law 13–172), as amended, except for section 3808: Provided further, That $1,000,000 of said amount shall be used for the establishment of a scholarship fund for District of Columbia children of adoptive families, and District of Columbia children without parents due to the September 11, 2001 terrorist attack to be used for post high school education and training.".

FEDERAL PAYMENT TO THE CAPITOL CITY CAREER DEVELOPMENT AND JOB TRAINING PARTNERSHIP

For a Federal Payment to the Capitol City Career Development and Job Training Partnership, $500,000.

FEDERAL PAYMENT TO THE CAPITOL EDUCATION FUND

For a Federal payment to the Capitol Education Fund, $500,000.

FEDERAL PAYMENT TO THE METROPOLITAN KAPPA YOUTH DEVELOPMENT FOUNDATION, INC.

For a Federal payment to the Metropolitan Kappa Youth Development Foundation, Inc., $450,000.

FEDERAL PAYMENT TO THE FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

For a Federal payment to the Fire and Emergency Medical Services Department, $500,000 for dry-docking of the Fire Boat.

FEDERAL PAYMENT TO THE CHIEF MEDICAL EXAMINER

For a Federal payment to the Chief Medical Examiner, $585,000 for reduction in the backlog of autopsies, case reports and for the purchase of toxicology and histology equipment.

FEDERAL PAYMENT TO THE YOUTH LIFE FOUNDATION

For a Federal payment to the Youth Life Foundation, $250,000 for technical assistance, operational expenses, and establishment of a National Training Institute.

FEDERAL PAYMENT TO FOOD AND FRIENDS

For a Federal payment to Food and Friends, $2,000,000 for their Capital Campaign.

FEDERAL PAYMENT TO THE CITY ADMINISTRATOR

For a Federal payment to the City Administrator, $300,000 for the Criminal Justice Coordinating Council for the District of Columbia.

FEDERAL PAYMENT TO SOUTHEASTERN UNIVERSITY

For a Federal payment to Southeastern University, $500,000 for a public/private partnership with the District of Columbia Public Schools at the McKinley Technology High School campus.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS

For a Federal payment to the District of Columbia Public Schools, $2,500,000, of which $2,000,000 shall be to implement the Voyager Expanded Learning literacy program in kindergarten and first grade classrooms in the District of Columbia Public Schools; $250,000 shall be for the Failure Free Reading literacy program for non-readers and special education students; and $250,000 for Lightspan, Inc. to implement the eduTest.com program in the District of Columbia Public Schools.

FEDERAL PAYMENTS FOR DISTRICT OF COLUMBIA AND FEDERAL LAW ENFORCEMENT MOBILE WIRELESS INTEROPERABILITY PROJECT

For Federal payments in support of the District of Columbia and the Federal law enforcement Mobile Wireless Interoperability Project, $1,400,000, of which $400,000 shall be for a payment to the District of Columbia Office of the Chief Technology Officer, $333,334 shall be for a payment to the United States Secret Service, $333,333 shall be for a payment to the United States Capitol Police, and $333,333 shall be for a payment to the United States Park Police: Provided, That each agency shall participate in the preparation of a joint report to the Committees on Appropriations of the Senate and the House of Representatives to be submitted no later than March 30, 2002 on the allocation of these resources and a description of each agencies' resource commitment to this project for fiscal year 2003.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

For a Federal payment to the District of Columbia for emergency planning and security costs and to reimburse the District for certain security expenses related to the presence of the Federal Government in the District of Columbia, $16,058,000: Provided, That $12,652,000 shall be made available immediately to the District of Columbia Emergency Management Agency for planning, training, and personnel costs required for development and implementation of the emergency operations plan for the District of Columbia, to be submitted to the appropriate Federal agencies: Provided further, That a detailed report of actual and estimated expenses incurred shall be provided to the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2002: Provided further, That $3,406,000 of such amount shall be made available immediately for reimbursement of fiscal year 2001 expenses incurred by the District of Columbia for equipment purchased for providing security for the planned meetings in September 2001 of the World Bank and the International Monetary Fund in the District of Columbia: Provided further, That the Mayor and the Chairman of the Council of the District of Columbia shall develop, in consultation with the Director of the Office of Personnel Management, the United States Secret Service, the United States Capitol Police, the United States Park Police, the Washington Metropolitan Area Transit Authority, regional transportation authorities, the Federal Emergency Management Agency, the Governor of the State of Maryland and the Governor of the Commonwealth of Virginia, the county executives of contiguous counties of the region and the respective state and local law enforcement entities in the region an integrated emergency operations plan for the District of Columbia in cases of national security events, including terrorist threats, protests, or other unanticipated events: Provided further, That such plan shall include a response to attacks or threats of attacks using biological or chemical agents: Provided further, That the city shall submit this plan to the Committees on Appropriations of the Senate and the House of Representatives no later than January 2, 2002: Provided further, That the Chief Financial Officer of the District of Columbia shall provide quarterly reports to the Committees on Appropriations on the use of the funds under this heading, beginning not later than April 2, 2002.

FEDERAL PAYMENT TO THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

For a Federal payment to the Chief Financial Officer of the District of Columbia, $8,300,000, of which $2,250,000 shall be for payment for a pilot project to demonstrate the "Active Cap" river cleanup technology on the Anacostia River; $500,000 shall be for payment to the Washington, D.C. Sports and Entertainment Commission which, in coordination with the U.S. Soccer Foundation, shall use the funds for environmental and infrastructure costs at Kenilworth Park in the creation of the Kenilworth Regional Sports Complex; $600,000 shall be for payment to the One Economy Corporation, a non-profit organization, to increase Internet access to low-income homes in the District of Columbia; $500,000 shall be for payment to the Langston Project for the 21st Century, a community revitalization project to improve physical education and training facilities; $1,000,000 shall be for payment to the Green Door Program, for capital improvements at a community mental health clinic; $500,000 shall be for payment to the Historical Society of Washington, for capital improvements to the new City Museum; $200,000 for a payment to Teach for America DC, for *teacher development; $350,000 for payment to the District of Columbia Safe Kids Coalition, to promote child passenger safety through the Child Occupant Protection Initiative; $50,000 for payment for renovations at Eastern Market; $1,000,000 shall be for payment to the Excel Institute Adult Education Program to be used by the Institute for construction and to acquire construction services provided by the General Services Administration on a reimbursable basis; $300,000 shall be for payment to the Woodlawn Cemetery for restoration of the Cemetery; $250,000 shall be for payment to the Real World Schools concerning 21st Century reform models for secondary education and the use of technology to support learning in the District of Columbia; $300,000 shall be for payment to a mentoring program and for hotline services; $250,000 shall be for payment to a youth development program with a character building curriculum; and $250,000 shall be for payment to a basic values training program.*

Federal Payment to the District of Columbia Corrections Trustee Operations

For salaries and expenses of the District of Columbia Corrections Trustee, $30,200,000 for the administration and operation of correctional facilities and for the administrative operating costs of the Office of the Corrections Trustee, as authorized by section 11202 of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105–33; 111 Stat. 712) of which $1,000,000 is to fund an initiative to improve case processing in the District of Columbia criminal justice system, $500,000 to remain available until September 30, 2003 for building renovations or space acquisition required to accommodate functions transferred from the Lorton Correctional Complex, and $1,500,000 to remain available until September 30, 2003, to be transferred to the appropriate agency for the closing of the sewage treatment plant and the removal of underground storage tanks at the Lorton Correctional Complex: Provided, That notwithstanding any other provision of law, funds appropriated in this Act for the District of Columbia Corrections Trustee shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies.

Federal Payment to the District of Columbia Courts

For salaries and expenses for the District of Columbia Courts, $112,180,000, to be allocated as follows: for the District of Columbia Court of Appeals, $8,003,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, $66,091,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Court System, $31,594,000, of which not to exceed $1,500 is for official reception and representation expenses; and $6,492,000 for capital improvements for District of Columbia courthouse facilities: Provided, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives: Provided further, That funds made available for capital improvements may remain available until September 30, 2003.

Administrative Provisions

Section 11–1722(a), District of Columbia Code, is amended in the first sentence by striking ", subject to the supervision of the Executive Officer".

Section 11–1723(a)(3), District of Columbia Code, is amended by striking "and the internal auditing of the accounts of the courts".

CRIME VICTIMS COMPENSATION FUND

(a) Treatment of Unobligated Balances.—Section 16(d) of the Victims of Violent Crime Compensation Act of 1996 (sec. 4–515(d), D.C. Official Code), as amended by section 403 of the Miscellaneous Appropriations Act, 2001 (as enacted into law by section 1(a)(4) of the Consolidated Appropriations Act, 2001), is amended—

(1) by striking "in excess of $250,000";

(2) by striking "and approved by" and inserting "which is submitted to"; and

(3) by striking "and not less than 80 percent" and all that follows and inserting the following: "except that under such plan—

"(1) 50 percent of such balance shall be used for direct compensation payments to crime victims through the Fund under this section and in accordance with this Act; and

"(2) 50 percent of such balance shall be used for outreach activities designed to increase the number of crime victims who apply for such direct compensation payments.".

(b) Limit on Use of Amounts for Administrative Expenses.—Section 16(e) of such Act (sec. 4–515(e), D.C. Official Code), as amended by section 202(d) of the Fiscal Year 2001 Budget Support Act of 2000 (D.C. Law 13–172), is amended to read as follows:

"(e) All compensation payments and attorneys' fees awarded under this Act shall be paid from, and subject to, the availability of monies in the Fund. Not more than 5 percent of the total amount of monies in the Fund may be used to pay administrative costs necessary to carry out this Act.".

(c) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of section 403 of the Miscellaneous Appropriations Act, 2001.

PAYMENTS FOR REPRESENTATION OF INDIGENTS

(a) Services of Counsel.—

(1) In General.—Section 11–2604, District of Columbia Code, is amended—

(A) in subsection (a), by striking "$50" and inserting "$65"; and

(B) in subsection (b)—

(i) by striking "$1300" each place it appears and inserting "$1900", and

(ii) by striking "$2450" each place it appears and inserting "$3600".

(2) Neglect and Parental Rights Termination Proceedings.—Section 16–2326.01(b), District of Columbia Code, is amended—

(A) by striking "$1,100" each place it appears and inserting "$1,600";

(B) in paragraph (3), by striking "$1,500" and inserting "$2,200"; and

(C) in paragraph (4), by striking "$750" and inserting "$1,100".

(b) Services of Investigators, Experts, and Others.—Section 11–2605, District of Columbia Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d); and

(2) by inserting after subsection (a) the following new subsection:

"(b) Subject to the applicable limits described in subsections (c) and (d), an individual providing services under this section shall be compensated at a fixed rate of $25 per hour, and shall be reimbursed for expenses reasonably incurred.".

(c) Effective Date.—The amendments made by this provision shall apply with respect to cases and proceedings initiated on or after March 1, 2002.

Section 11–2604, District of Columbia Code, is amended:

(1) in subsection (a), by striking "50" and inserting "75"; and

(2) in subsection (b)—

(A) by striking "1300" each time it appears and inserting "1900";

(B) by striking "2450" each time it appears and inserting "3600".

Federal Payment for Family Court Act

For carrying out the District of Columbia Family Court Act of 2001, $24,016,000, of which $23,316,000 shall be for the Superior Court of the District of Columbia and $700,000 shall be for the Mayor of the District of Columbia of which $200,000 shall be for completion of a plan by the Mayor on integrating the computer systems of the District of Columbia government with the Family Court of the Superior Court of the District of Columbia: Provided, That the Mayor shall submit a plan to the President and the Congress within six months of enactment of that Act, so that social services and other related services to individuals and families serviced by the Family Court of the Superior Court and agencies of the District of Columbia government (including the District of Columbia Public Schools, the District of Columbia Housing Authority, the Child and Family Services Agency, the Office of the Corporation Counsel, the Metropolitan Police Department, the Department of Health, and other offices determined by the Mayor) will be able to access and share information on the individuals and families served by the Family Court: Provided further, That $500,000 of such amount provided to the Mayor shall be for the Child and Family Services Agency to be used for social workers to implement Family Court reform: Provided further, That the chief judge of the Superior Court shall submit the transition plan for the Family Court of the Superior Court as required under the District of Columbia Family Court Act of 2001 to the Comptroller General (in addition to any other requirements under such section): Provided further, That the Comptroller General shall prepare and submit to the President and Congress an analysis of the contents and effectiveness of the plan, including an analysis of whether the plan contains all of the information required under such section within 30 calendar days after the submission of the plan by the Superior Court: Provided further, That the funds provided under this heading to the Superior Court shall not be made available until the expiration of the 30-day period (excluding Saturdays, Sundays, legal public holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more that 3 days, or an adjournment of more than 3 days) which begins on the date the Comptroller General submits such analysis to the President and Congress: Provided further, That the Mayor shall prepare and submit to the President, Congress, and the Comptroller General a plan for the use of the funds provided to the Mayor under this heading, consistent with the requirements of the District of Columbia Family Court Act of 2001, including the requirement to integrate the computer systems of the District government with the computer systems of the Superior Court: Provided further, That the Comptroller General shall prepare and submit to the President and Congress an analysis of the contents and effectiveness of the plan within 30 calendar days after the submission of the plan by the Mayor: Provided further, That the funds provided under this heading to the Mayor shall not be made available until the expiration of the 30-day period (excluding Saturdays, Sundays, legal public holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) which begins on the date the Comptroller General submits such plan to the President and Congress.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11–2604 and section 11–2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Division of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Code, and payments for counsel authorized under section 21–2060, D.C. Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), $34,311,000, to remain available until expended: *Provided*, That the funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the $6,492,000 provided under such heading for capital improvements for District of Columbia courthouse facilities) may also be used for payments under this heading: *Provided further*, That in addition to the funds provided under this heading, the Joint Committee on Judicial Administration in the District of Columbia shall use funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the $6,492,000 provided under such heading for capital improvements for District of Columbia courthouse facilities), to make payments described under this heading for obligations incurred during any fiscal year: *Provided further*, That of the amounts provided in previous fiscal years for payments described under this heading which remain unobligated as of the date of the enactment of this Act, $4,685,500 shall be used by the Joint Committee on Judicial Administration for design and construction expenses of the courthouse at 451 Indiana Avenue NW: *Provided further*, That of the remainder of such amounts, such sums as may be necessary shall be applied toward the portion of the amount provided under this heading which is attributable to increases in the maximum amounts which may be paid for representation services in the District of Columbia courts: *Provided further*, That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: *Provided further*, That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105–33; 111 Stat. 712), $147,300,000, of which $13,015,000 shall remain available until expended for construction expenses at new or existing facilities, and of which not to exceed $2,000 is for official receptions related to offender and defendant support programs; of which $94,112,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to supervision of adults subject to protection orders or provision of services for or related to such persons; $20,829,000 shall be transferred to the Public Defender Service; and $32,359,000 shall be available to the Pretrial Services Agency: *Provided*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: *Provided further*, That notwithstanding chapter 12 of title 40, United States Code, the Director may acquire by purchase, lease, condemnation, or donation, and renovate as necessary, Building Number 17, 1900 Massachusetts Avenue, Southeast, Washington, District of Columbia, or such other site as the Director of the Court Services and Offender Supervision Agency may determine as appropriate to house or supervise offenders and defendants, with funds made available by this Act: *Provided further*, That the Director is authorized to accept and use gifts in the form of in-kind contributions of space and hospitality to support offender and defendant programs, and equipment and vocational training services to educate and train offenders and defendants: *Provided further*, That the Director shall keep accurate and detailed records of the acceptance and use of any gift or donation under the previous proviso, and shall make such records available for audit and public inspection.

FEDERAL PAYMENT TO THE CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal payment to the Children's National Medical Center in the District of Columbia, $5,500,000, of which $5,000,000 shall be for capital and equipment improvements, and $500,000 shall be used for the network of satellite pediatric health clinics for children and families in underserved neighborhoods and communities in the District of Columbia.

ST. COLETTA OF GREATER WASHINGTON EXPANSION PROJECT

For a Federal contribution to St. Coletta of Greater Washington, Inc. for costs associated with the establishment of a day program and comprehensive case management services for mentally retarded and multiple-handicapped adolescents and adults in the District of Columbia, including property acquisition and construction, $2,000,000.

FEDERAL PAYMENT TO FAITH AND POLITICS INSTITUTE

For a Federal payment to the Faith and Politics Institute, $50,000, for grass roots-based racial sensitivity programs in the District of Columbia.

FEDERAL PAYMENT TO THE THURGOOD MARSHALL ACADEMY CHARTER SCHOOL

For a Federal payment to the Thurgood Marshall Academy Charter School, $1,000,000 to be used to acquire and renovate an educational facility in Anacostia.

FEDERAL PAYMENT TO THE GEORGE WASHINGTON UNIVERSITY CENTER FOR EXCELLENCE IN MUNICIPAL MANAGEMENT

For a Federal payment to the George Washington University Center for Excellence in Municipal Management, $250,000 to increase the enrollment of managers from the District of Columbia government.

COURT APPOINTED SPECIAL ADVOCATES

For a Federal payment to the District of Columbia Court Appointed Special Advocates Unit, $250,000 to be used to expand its work in the Family Court of the District of Columbia Superior Court.

ADMINISTRATIVE PROVISION

Of the Federal funds made available in the District of Columbia Appropriations Act, 2001, Public Law 106–522 for the Metropolitan Police Department (114 Stat. 2441), $100,000 for the police mini-station shall remain available for the purposes intended until September 30, 2002: *Provided*, That the $1,000,000 made available in such Act for the Washington Interfaith Network (114 Stat. 2444) shall remain available for the purposes intended until December 31, 2002: *Provided further*, That $3,450,000 made available in such Act for Brownfield Remediation (114 Stat. 2445), shall remain available until expended.

DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: *Provided*, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act and section 119 of this Act (Public Law 93–198; D.C. Official Code, sec. 1–204.50a), the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2002 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or $6,048,160,000 (of which $124,163,000 shall be from intra-District funds and $3,574,493,000 shall be from local funds): *Provided further*, That this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs: *Provided further*, That such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act as amended by this Act: *Provided further*, That the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2002, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $286,138,000 (including $229,421,000 from local funds, $38,809,000 from Federal funds, and $17,908,000 from other funds): *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the

Office of the Chief Technology Officer's delegated small purchase authority shall be $500,000: Provided further, That the District of Columbia government may not require the Office of the Chief Technology Officer to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: Provided further, That not less than $353,000 shall be available to the Office of the Corporation Counsel to support increases in the Attorney Retention Allowance: Provided further, That not less than $50,000 shall be available to support a mediation services program within the Office of the Corporation Counsel: Provided further, That not less than $50,000 shall be available to support a TANF Unit within the Child Support Enforcement Division of the Office of the Corporation Counsel: Provided further, That of all funds in the District of Columbia Antitrust Fund established pursuant to section 2 of the District of Columbia Antitrust Act of 1980 (D.C. Law 3–169; D.C. Official Code §28–4516) an amount not to exceed $386,000, of all funds in the Antifraud Fund established pursuant to section 820 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Official Code 2–308.20) an amount not to exceed $10,000, and of all funds in the District of Columbia Consumer Protection Fund established pursuant to section 1402 of the District of Columbia Budget Support Act for fiscal year 2001 (D.C. Law 13–172; D.C. Official Code §28–3911) an amount not to exceed $233,000, are hereby made available for the use of the Office of the Corporation Counsel of the District of Columbia until September 30, 2003, in accordance with the statutes that established these funds.

Economic Development and Regulation

Economic development and regulation, $230,878,000 (including $60,786,000 from local funds, $96,199,000 from Federal funds, and $73,893,000 from other funds), of which $15,000,000 collected by the District of Columbia in the form of BID tax revenue shall be paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11–134; D.C. Official Code, sec. 2–1215.01 et seq.), and the Business Improvement Districts Amendment Act of 1997 (D.C. Law 12–26; D.C. Official Code, sec. 2–1215.15 et seq.): Provided, That such funds are available for acquiring services provided by the General Services Administration: Provided further, That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia: Provided further, That the Department of Consumer and Regulatory Affairs shall use $50,000 of the receipts from the net proceeds from the contractor that handles the District's occupational and professional licensing to fund additional staff and equipment for the Rental Housing Administration: Provided further, That the Department of Consumer and Regulatory Affairs shall transfer up to $293,000 from other funds resulting from the lapse of personnel vacancies, caused by transferring DCRA employees into NSO positions without filling the resultant vacancies, into the revolving 5–513 fund to be used to implement the provisions in D.C. Law 13–281, the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, pertaining to the prevention of the demolition by neglect of historic properties: Provided further, That the fees established and collected pursuant to Law 13–281 shall be identified, and an accounting provided, to the District of Columbia Council's Committee on Consumer and Regulatory Affairs: Provided further, That 18 percent of the annual total amount in the 5–513 fund, up to $500,000, deposited into the 5–513 fund on an annual basis, be used to implement section 102 and other related sections of D.C. Law 13–281.

Public Safety and Justice

Public safety and justice, $633,853,000 (including $594,803,000 from local funds, $8,298,000 from Federal funds, and $30,752,000 from other funds): Provided, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That notwithstanding any other law, section 3703 of title XXXVII of the Fiscal Year 2002 Budget Support Act of 2001 (D.C. Bill 14–144), adopted by the Council of the District of Columbia, is enacted into law: Provided further, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: Provided further, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved: Provided further, That no less than $173,000,000 shall be available to the Metropolitan Police Department for salary in support of 3,800 sworn officers: Provided further, That no less than $100,000 shall be available in the Department of Corrections budget to support the Corrections Information Council: Provided further, That not less than $296,000 shall be available to support the Child Fatality Review Committee.

Public Education System

Public education system, including the development of national defense education programs, $1,108,665,000 (including $896,994,000 from local funds, $185,044,000 from Federal funds, and $26,627,000 from other funds), to be allocated as follows: $813,042,000 (including $661,124,000 from local funds, $144,630,000 from Federal funds, and $7,288,000 from other funds), for the public schools of the District of Columbia; $47,370,000 (including $19,911,000 from local funds, $26,917,000 from Federal funds, $542,000 from other funds), for the State Education Office, $17,000,000 from local funds, previously appropriated in this Act as a Federal payment, and such sums as may be derived from interest earned on funds contained in the dedicated account established by the Chief Financial Officer of the District of Columbia, for resident tuition support at public and private institutions of higher learning for eligible District of Columbia residents; and $142,257,000 from local funds for public charter schools: Provided, That there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of each fiscal year: Provided further, That if the entirety of this allocation has not been provided as payments to any public charter school currently in operation through the per pupil funding formula, the funds shall be available for public education in accordance with the School Reform Act of 1995 (Public Law 104–134; D.C. Official Code, sec. 38–1804.03(b)(e)(A)): Provided further, That $480,000 of this amount shall be available to the District of Columbia Public Charter School Board for administrative costs: Provided further, That section 161 of the District of Columbia Appropriations Act, 2001 (Public Law 106–522; 114 Stat. 2483, 2484), is amended, as if included in the Act—

(1) by striking "not later than 1 year after the date of the enactment of the District of Columbia Appropriations Act, 2001,";

(2) by inserting "revolving" after "enhancement" in the second sentence of paragraph (2)(B), in the heading of paragraph (3), and in paragraph (3)(A); and

(3) by striking "10 percent" and inserting "5 percent":

Provided further, That the cap on administrative costs as amended by section 161 of the District of Columbia Appropriations Act, 2001 (Public Law 106–522; 114 Stat. 2484), is amended by striking "10 percent" and inserting "5 percent": Provided further, That $76,542,000 (including $45,912,000 from local funds, $12,539,000 from Federal funds, and $18,091,000 from other funds) shall be available for the University of the District of Columbia: Provided further, That $400,000 shall be available for Enhancing and Actualizing Internationalism and Multiculturalism in the Academic Programs of the University of the District of Columbia: Provided further, That $1,277,500 shall be paid by the Chief Financial Officer to the Excel Institute for operations as follows: $277,500 to cover debt owed by the University of the District of Columbia for services rendered shall be paid to the Excel Institute within 15 days of enactment of this Act; and $1,000,000 for fiscal year 2002 shall be paid to the Excel Institute in equal quarterly installments within 15 days of the beginning of each quarter: Provided further, That not less than $200,000 for Adult Education: Provided further, That $27,256,000 (including $26,030,000 from local funds, $560,000 from Federal funds and $666,000 other funds) for the Public Library: Provided further, That the $1,007,000 enhancement shall be allocated such that $500,000 is used for facilities improvements for 8 of the 26 library branches, $235,000 for 13 FTEs for the continuation of the Homework Helpers Program, $143,000 for 2 FTEs in the expansion of the Reach Out And Read (ROAR) service to licensed day care homes, and $129,000 for 3 FTEs to expand literacy support into branch . libraries: Provided further, That $2,198,000 (including $1,760,000 from local funds, $398,000 from Federal funds and $40,000 from other funds) shall be available for the Commission on the Arts and Humanities: Provided further, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: Provided further, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for official purposes: Provided further, That none of the funds contained in this Act may be made available to pay the salaries of any District of Columbia Public School teacher, principal, administrator, official, or employee who knowingly provides false enrollment or attendance information under article II, section 5 of the Act entitled "An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes", approved February 4, 1925 (D.C. Official Code, sec. 38–201 et seq.): Provided further, That this appropriation shall not be available to subsidize the education of any nonresident of the District of Columbia at any District of Columbia public elementary and secondary school during fiscal year 2002 unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia which are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): Provided further, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the

Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2002, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: Provided further, That notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes: Provided further, That the District of Columbia Public Schools shall spend $1,200,000 to implement D.C. Teaching Fellows Program in the District's public schools: Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2002, an amount equal to 25 percent of the total amount provided for payments to public charter schools in the proposed budget of the District of Columbia for fiscal year 2003 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2003: Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2002, an amount equal to 10 percent of the total amount provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal year 2003 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2003: Provided further, That the first paragraph under the heading "Public Education System" in Public Law 107–20, approved July 24, 2001, is amended to read as follows: "For an additional amount for 'Public Education System', $1,000,000 from local funds to remain available until September 30, 2002, for the State Education Office for a census-type audit of the student enrollment of each District of Columbia Public School and of each public charter school and $12,000,000 from local funds for the District of Columbia Public Schools to conduct the 2001 summer school session.".

HUMAN SUPPORT SERVICES

(INCLUDING TRANSFER OF FUNDS)

Human support services, $1,803,923,000 (including $711,072,000 from local funds, $1,075,960,000 from Federal funds, and $16,891,000 from other funds): Provided, That $27,986,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That $90,000,000 transferred pursuant to the District of Columbia Appropriations Act, 2001 (Public Law 106–522) to the Public Benefit Corporation for restructuring shall be made available to the Department of Health's Health Care Safety Net Administration for the purpose of restructuring the delivery of health services in the District of Columbia and shall remain available until expended for obligation during fiscal year 2002: Provided further, That no less than $7,500,000 of this appropriation, to remain available until expended, shall be deposited in the Addiction Recovery Fund established pursuant to section 5 of the Choice in Drug Treatment Act of 2000, effective July 8, 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3004), and used solely for the purpose of the Drug Treatment Choice Program established pursuant to section 4 of the Choice in Drug Treatment Act of 2000 (D.C. Official Code, sec. 7–3003): Provided further, That no less than $500,000 of the $7,500,000 appropriated for the Addiction Recovery Fund shall be used solely to pay treatment providers who provide substance abuse treatment to TANF recipients under the Drug Treatment Choice Program: Provided further, That no less than $2,000,000 of this appropriation shall be used solely to establish, by contract, a 2-year pilot substance abuse program for youth ages 16 through 21 years of age: Provided further, That no less than $60,000 be available for a D.C. Energy Office Matching Grant: Provided further, That no less than $2,150,000 be available for a pilot Interim Disability Assistance program pursuant to title L of the Fiscal Year 2002 Budget Support Act (D.C. Bill 14–144).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, $300,151,000 (including $286,334,000 from local funds, $4,392,000 from Federal funds, and $9,425,000 from other funds): Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business: Provided further, That no less than $650,000 be available for a mechanical alley sweeping program: Provided further, That no less than $6,400,000 be available for residential parking enforcement: Provided further, That no less than $100,000 be available for a General Counsel to the Department of Public Works: Provided further, That no less than $3,600,000 be available for ticket processing: Provided further, That no less than 14 residential parking control aides or 10 percent of the residential parking control force be available for night time enforcement of out-of-state tags: Provided further, That of the total of 3,000 additional parking meters being installed in commercial districts and in commercial loading zones none be installed at loading zones, or entrances at apartment buildings and none be installed in residential neighborhoods: Provided further, That no less than $262,000 be available for taxicab enforcement activities: Provided further, That no less than $241,000 be available for a taxicab driver security revolving fund: Provided further, That no less than $30,084,000 in local appropriations be available to the Division of Transportation, within the Department of Public Works: Provided further, That no less than $12,000,000 in rights-of-way fees shall be available for the Local Roads, Construction and Maintenance Fund: Provided further, That funding for a proposed separate Department of Transportation is contingent upon Council approval of a reorganization plan: Provided further, That no less than $313,000 be available for handicapped parking enforcement: Provided further, That no less than $190,000 be available for the Ignition Interlock Device Program: Provided further, That no less than $473,000 be available for the Motor Vehicle Insurance Enforcement Program: Provided further, That $11,000,000 of this appropriation shall be available for transfer to the Highway Trust Fund's Local Roads, Construction and Maintenance Fund, upon certification by the Chief Financial Officer that funds are available from the 2001 budgeted reserve or where the Chief Financial Officer certifies that additional local revenues are available: Provided further, That $1,550,000 made available under the District of Columbia Appropriations Act, 2001 (Public Law 106–522) for taxicab driver security enhancements in the District of Columbia shall remain available until September 30, 2002.

RECEIVERSHIP PROGRAMS

For all agencies of the District of Columbia government under court ordered receivership, $403,868,000 (including $250,515,000 from local funds, $134,339,000 from Federal funds, and $19,014,000 from other funds).

WORKFORCE INVESTMENTS

For workforce investments, $42,896,000 from local funds, to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act for which employees are properly payable.

RESERVE

For replacement of funds expended, if any, during fiscal year 2001 from the Reserve established by section 202(j) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, Public Law 104–8, $120,000,000 from local funds.

RESERVE RELIEF

For reserve relief, $30,000,000, for the purpose of spending funds made available through the reduction from $150,000,000 to $120,000,000 in the amount required for the budget reserve established by section 202(j)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, Public Law 104–8: Provided, That $12,000,000 shall be available to the District of Columbia Public Schools and District of Columbia Public Charter Schools for educational enhancements: Provided further, That $18,000,000 shall be available pursuant to a local District law: Provided further, That of the $30,000,000, funds shall only be expended upon: (i) certification by the Chief Financial Officer of the District of Columbia that the funds are available and not required to address potential deficits, (ii) enactment of local District law detailing the purpose for the expenditure, and (iii) prior notification by the Mayor to the Committees on Appropriations of both the Senate and House of Representatives in writing 30 days in advance of any such expenditure: Provided further, That the $18,000,000 provided pursuant to local law shall be expended only when the Emergency Reserve established pursuant to section 450A(a) of the District of Columbia Home Rule Act (Public Law 93–198; D.C. Official Code, sec. 1–204.50a(a)), has a minimum balance in the amount of $150,000,000.

EMERGENCY AND CONTINGENCY RESERVE FUNDS

For the Emergency and Contingency Reserve Funds established under section 450A of the District of Columbia Home Rule Act (Public Law 93–198; D.C. Official Code, sec. 1–204.50a(b)), the Mayor may deposit the proceeds required pursuant to section 159(a) of Public Law 106–522 and section 404(c) of Public Law 106–554 in the Contingency Reserve Fund beginning in fiscal year 2002 if the minimum emergency reserve balance requirement established in section 450A(c) has been met.

REPAYMENT OF LOANS AND INTEREST

For payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act (Public Law 93–198; D.C. Official Code, secs. 1–204.62, 1–204.75, 1–204.90), $247,902,000 from local funds: Provided, That any funds set aside pursuant to section 148 of the District of Columbia Appropriations Act, 2000 (Public Law 106–113; 113 Stat. 1523) that are not used in the reserve funds established herein shall be used for Pay-As-You-Go Capital Funds: Provided further, That for equipment leases, the Mayor may finance $14,300,000 of equipment cost, plus cost of issuance not to exceed 2 percent of the par amount being financed on a lease purchase basis with a maturity not to exceed 5 years: Provided further, That $4,440,000 shall be for the Fire and Emergency Medical Services Department, $2,010,000 shall be for the Department of Parks and Recreation, and $7,850,000 shall be for the Department of Public

Works: Provided further, That no less than $533,000 be available for trash transfer capital debt service.

Emergency Assistance Loan Guarantees

Notwithstanding any other provision of law, the District of Columbia is hereby authorized to make any necessary payments related to the "District of Columbia Emergency Assistance Act of 2001": Provided, That the District of Columbia shall use local funds for any payments under this heading: Provided further, That the Chief Financial Officer shall certify the availability of such funds, and shall certify that such funds are not required to address budget shortfalls in the District of Columbia: Provided further, That the Director the Office of Management and Budget shall develop with the Chief Financial Officer of the District of Columbia an estimate of the liability incurred by the District of Columbia in implementing such Act: Provided further, That the District of Columbia shall implement such Act consistent with the recommendations made by the Office of Management and Budget and the Federal Credit Reform Act: Provided further, That the District of Columbia budget for fiscal year 2003 and future years shall include an amount for potential loan repayment consistent with the liability requirements recommended by the Office of Management and Budget.

Repayment of General Fund Recovery Debt

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $39,300,000 from local funds, as authorized by section 461(a) of the District of Columbia Home Rule Act, (105 Stat. 540; D.C. Official Code, sec. 1–204.61(a)).

Payment of Interest on Short-Term Borrowing

For payment of interest on short-term borrowing, $500,000 from local funds.

Emergency Planning and Security Costs

For an emergency operations plan, implementation of the emergency operations plan, and reimbursement of fiscal year 2001 expenses incurred by the District of Columbia for equipment purchased for providing security for the planned World Bank and International Monetary Fund September 2001 meetings, $16,058,000, from funds previously appropriated in this Act as a Federal payment, of which $12,652,000 shall be made available immediately to the District of Columbia Emergency Management Agency for planning, training and personnel costs required for development and implementation of the emergency operations plan for the District of Columbia.

Wilson Building

For expenses associated with the John A. Wilson Building, $8,859,000 from local funds.

Emergency Reserve Fund Transfer

Subject to the issuance of bonds to pay the purchase price of the District of Columbia's right, title, and interest in and to the Master Settlement Agreement, and consistent with the Tobacco Settlement Trust Fund Establishment Act of 1999 (D.C. Official Code, sec. 7–1811.01(a)(2) et seq.) and the Tobacco Settlement Financing Act of 2000 (D.C. Official Code, sec. 7-1831.03 et seq.), there is transferred the amount available pursuant thereto and Section 404(c) of Public Law 106–554, not less than $33,254,000, to the Emergency and Contingency Reserve Funds established pursuant to section 450A of the District of Columbia Home Rule Act (Public Law 93–198; D.C. Official Code, sec. 1–204.50a(a)).

Non-Departmental Agency

To account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget including anticipated employee health insurance cost increases and contract security costs, $5,799,000 from local funds.

ENTERPRISE AND OTHER FUNDS

Water and Sewer Authority

For operation of the Water and Sewer Authority, $244,978,000 from other funds of which $44,244,000 shall be apportioned for repayment of loans and interest incurred for capital improvement projects ($17,953,000 payable to the District's debt service fund and $26,291,000 payable for other debt service).

For construction projects, $152,114,000, in the following capital programs: $52,600,000 for the Blue Plains Wastewater Treatment Plant, $11,148,000 for the sewer program, $109,000 for the combined sewer program, $118,000 for the stormwater program, $77,957,000 for the water program, $10,182,000 for the capital equipment program: Provided, That the requirements and restrictions that are applicable to general fund capital improvements projects and set forth in this Act under the Capital Outlay appropriation account shall apply to projects approved under this appropriation account.

Administrative Provision

BILLINGS FOR WATER AND SEWER AUTHORITY SERVICES PROVIDED TO THE FEDERAL GOVERNMENT

(a) Providing Estimates to Secretary of the Treasury and Department Heads.—

(1) Sanitary sewer services.—Section 212(b)(2) of the District of Columbia Public Works Act of 1954 (sec. 34–2112(b)(2), D.C. Official Code) is amended by inserting after "the Office of Management and Budget," the following: "the Secretary of the Treasury, and the head of each of the respective Federal departments, independent establishments, and agencies,".

(2) Water services.—Section 106(b)(2) of such Act (sec. 34–2401.25(b)(2), D.C. Official Code) is amended by inserting after "the Office of Management and Budget," the following: "the Secretary of the Treasury, and the head of each of the respective Federal departments, independent establishments, and agencies,".

(3) Clarification of treatment of Arlington National Cemetery.—Chapter 11 of title II of the Supplemental Appropriations Act, 2001 (Public Law 107–20; 115 Stat. 188) is amended in the item relating to "INDEPENDENT AGENCIES—Department of Defense—Civil—Cemeterial Expenses, Army—salaries and expenses" by striking the colon at the end of the second proviso and inserting the following: ", except that nothing in this proviso may be construed to affect the determination of the amounts required to be paid for such services under sections 212(b) and 106(b) of the District of Columbia Public Works Act of 1954 (sec. 34–2401.25(b) and sec. 34–2112(b), D.C. Official Code) or to waive the requirement under such sections for the Secretary of Defense to pay such amounts to the District of Columbia:".

(b) Requiring Federal Departments To Grant Access To Authority for Reading and Testing Water Meters.—

(1) In general.—Section 106(a) of the District of Columbia Public Works Act of 1954 (sec. 34–2401.25(a), D.C. Official Code) is amended by inserting before the last sentence the following: "As an additional condition of service, the department, agency, or establishment which is responsible for the maintenance of any such meter shall provide the Mayor (acting through the District of Columbia Water and Sewer Authority) with such access to the meter as the Mayor may require to measure the actual usage of the department, agency, or establishment (including any entity under the jurisdiction of the department, agency, or establishment) for purposes of making the adjustments to annual estimates required under subsection (b)(2)(A).".

(2) Permitting authority to install meters.—If a department, independent establishment, or agency of the United States which uses water and water services from the District of Columbia water supply system has not installed a suitable meter at each point of Federal connection to the system to control and record the use of water through each such connection (as required under section 106(a) of the District of Columbia Public Works Act of 1954) as of the expiration of the 60-day period which begins on the date of the enactment of this Act—

(A) the District of Columbia Water and Sewer Authority shall install such a meter or meters (and incidental vaults, valves, piping and recording devices, and such other equipment as the Authority deems necessary) not later than 60 days after the expiration of such period; and

(B) the department, independent establishment, or agency shall pay the Authority promptly (but in no case later than 30 days after the Authority submits a bill) for the costs incurred in installing the meter and equipment.

(c) Clarification of Responsibility of Federal Departments To Allocate Billings and Collect Amounts From Individual Offices.—

(1) Sanitary sewer services.—Section 212 of the District of Columbia Public Works Act of 1954 (sec. 34–2112, D.C. Official Code) is amended by adding at the end the following new subsection:

"(c) Nothing in this section may be construed to require the District of Columbia to seek payment for sanitary sewer services directly from any Federal entity which is under the jurisdiction of a department, independent establishment, or agency which is required to make a payment for such services under this section, or to allocate any amounts charged for such services among the entities which are under the jurisdiction of any such department, independent establishment, or agency. Each Federal department, independent establishment, and agency receiving sanitary sewer services from the District of Columbia shall be responsible for allocating billings for such services among entities under the jurisdiction of the department, establishment, or agency, and shall be responsible for collecting amounts from such entities for any payments made to the District of Columbia under this section.".

(2) Water services.—Section 106 of the District of Columbia Public Works Act of 1954 (sec. 34–2401.25, D.C. Official Code) is amended by adding at the end the following new subsections:

"(c) Nothing in this section may be construed to require the District of Columbia to seek payment for water services directly from any Federal entity which is under the jurisdiction of a department, independent establishment, or agency which is required to make a payment for such services under this section, or to allocate any amounts charged for such services among the entities which are under the jurisdiction of any such department, independent establishment, or agency. Each Federal department, independent establishment, and agency receiving water from the District of Columbia shall be responsible for allocating billings for such services among entities under the jurisdiction of the department, establishment, or agency, and shall be responsible for collecting amounts from such entities for any payments made to the District of Columbia under this section.

"(d) In the case of water services provided to a department, independent establishment, or agency in Virginia through the Federally owned water main system, if the total of the metered amounts billed for all individual users of the system (as measured by the meters for each individual user) is less than the total amount as measured by the meters at the delivery points

into the system at the Francis Scott Key Bridge, the District government shall collect, and the Secretary of Defense shall pay, the difference to the District government in accordance with the requirements for collecting and making payments under this section.''.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

WASHINGTON AQUEDUCT

For operation of the Washington Aqueduct, $46,510,000 from other funds.

STORMWATER PERMIT COMPLIANCE ENTERPRISE FUND

For operation of the Stormwater Permit Compliance Enterprise Fund, $3,100,000 from other funds.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act, 1982 (95 Stat. 1174, 1175; Public Law 97–91), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia (D.C. Law 3–172; D.C. Official Code, sec. 3–1301 et seq. and sec. 22–1716 et seq.), $229,688,000: Provided, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

SPORTS AND ENTERTAINMENT COMMISSION

For the Sports and Entertainment Commission, $9,627,000 (including $2,177,000 to be derived by transfer from the general fund of the District of Columbia and $7,450,000 from other funds): Provided, That the transfer of $2,177,000 from the general fund shall not be made unless the District of Columbia general fund has received $2,177,000 from the D.C. Sports and Entertainment Commission prior to September 30, 2001: Provided further, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Home Rule Act (87 Stat. 824; Public Law 93–198; D.C. Official Code, sec. 1–204.42(b)).

DISTRICT OF COLUMBIA RETIREMENT BOARD

For the District of Columbia Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 866; D.C. Official Code, sec. 1–711), $13,388,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: Provided, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $57,278,000 from other funds.

HOUSING FINANCE AGENCY

For the Housing Finance Agency, $4,711,000 from other funds.

NATIONAL CAPITAL REVITALIZATION CORPORATION

For the National Capital Revitalization Corporation, $2,673,000 from other funds.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of $1,550,787,000 of which $1,348,783,000 shall be from local funds, $44,431,000 from Highway Trust funds, and $157,573,000 from Federal funds, and a rescission of $476,182,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of $1,074,605,000 to remain available until expended: Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That the capital budget for the Department of Health shall not be available until the District of Columbia Council's Committee on Human Services receives a report on the use of any capital funds for projects on the grounds of D.C. General Hospital: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal Aid Highway Act of 1968 (82 Stat. 827; Public Law 90–495), for which funds are provided by this appropriation title, shall expire on September 30, 2003, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 2003: Provided further, That upon expiration of any such project authorization, the funds provided herein for the project shall lapse: Provided further, That except for funds approved in the budgets prior to the fiscal year 2002 budget and FL–MA2 in the fiscal year 2002 Budget Request, no funds may be expended to renovate, rehabilitate or construct any facility within the boundaries of census tract 68.04 for any purpose associated with the D.C. Department of Corrections, the CSOSA, or the federal Bureau of Prisons 'unit until March 31, 2002 or until such time as the Mayor shall present to the Council for its approval, a plan for the development of census tract 68.04 south of East Capitol Street, S.E., and the housing of any misdemeanants, felons, ex-offenders, or persons awaiting trial within the District of Columbia, whichever occurs earlier: Provided further, That none of the conditions set forth in this paragraph shall interfere with the current operations of any Federal agency: Provided further, That none of the conditions set forth shall restrict the ongoing operations of the Department of Corrections.

GENERAL PROVISIONS

SEC. 101. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 102. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: Provided, That in the case of the Council of the District of Columbia, funds may be expended with the authorization of the chair of the Council.

SEC. 103. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government: Provided, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 104. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 105. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 106. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, and salary are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 107.(a) Except as provided in subsection (b), no part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

(b) The District of Columbia may use local funds provided in this Act to carry out lobbying activities on any matter other than—

(1) the promotion or support of any boycott; or

(2) statehood for the District of Columbia or voting representation in Congress for the District of Columbia.

(c) Nothing in this section may be construed to prohibit any elected official from advocating with respect to any of the issues referred to in subsection (b).

SEC. 108. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: Provided, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 109. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2002, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for an agency through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or responsibility center; (3) establishes or changes allocations specifically denied, limited or increased by Congress in this Act; (4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted; (5) reestablishes through reprogramming any program or project previously deferred through reprogramming; (6) augments existing programs, projects, or responsibility centers through a reprogramming of funds in excess of $1,000,000 or 10 percent, whichever is less; or (7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center; unless the Committees on Appropriations of both the Senate and House of Representatives are notified in writing 30 days in advance of any reprogramming as set forth in this section.

(b) None of the local funds contained in this Act may be available for obligation or expenditure for an agency through a transfer of any local funds from one appropriation heading to another unless the Committees on Appropriations of the Senate and House of Representatives are notified in writing 30 days in advance of the transfer, except that in no event may the amount of any funds transferred exceed four percent of the local funds in the appropriation.

Sec. 110. Consistent with the provisions of 31 U.S.C. 1301(a), appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

Sec. 111. (a) Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2–139; D.C. Official Code, sec. 1–601.01 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (87 Stat. 790; Public Law 93–198; D.C. Official Code, sec. 1–204.22(3)), shall apply with respect to the compensation of District of Columbia employees: Provided, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

(b)(1) Certification of Need by Chief Technology Officer.—Section 2706(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, as added by section 2 of the District Government Personnel Exchange Agreement Amendment Act of 2000 (D.C. Law 13–296), is amended by inserting after "Director of Personnel" each place it appears the following: "(or the Chief Technology Officer, in the case of the Office of the Chief Technology Officer)".

(2) Inclusion of Overhead Costs in Agreements.—Section 2706(c)(3) of such Act is amended by striking the period at the end and inserting the following: ", except that in the case of the Office of the Chief Technology Officer, general and administrative costs shall include reasonable overhead costs and shall be calculated by the Chief Technology Officer (as determined under such criteria as the Chief Technology Officer independently deems appropriate subject to the review of the City Administrator, including a consideration of standards used to calculate general, administrative, and overhead costs for off-site employees found in Federal law and regulation and in general private industry practice).".

(3) Reporting Requirement.—Section 2706 of such Act is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection:

"(f) Not later than 45 days after the end of each fiscal year (beginning with fiscal year 2002), the Chief Technology Officer shall prepare and submit to the Council and to the Committees on Appropriations of the House of Representatives and Senate a report describing all agreements entered into by the Chief Technology Officer under this section which are in effect during the fiscal year.".

(c) The authority which the Chief Financial Officer of the District of Columbia exercised with respect to personnel, procurement, and the preparation of fiscal impact statements during a control period (as defined in Public Law 104–8) shall remain in effect through July 1, 2002.

(d) Section 424(b)(3) of the District of Columbia Home Rule Act (sec. 1–204.24b(c); D.C. Official Code) is amended—

(1) by striking "determined" and all that follows through "exceed" and inserting "equal to"; and

(2) by striking "IV" and inserting "I".

(e) Effective Date.—The amendment made by subsection (d) shall apply with respect to pay periods in fiscal year 2002 and each succeeding fiscal year.

Sec. 112. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 2002, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 2002 revenue estimates as of the end of the first quarter of fiscal year 2002. These estimates shall be used in the budget request for the fiscal year ending September 30, 2003. The officially revised estimates at midyear shall be used for the midyear report.

Sec. 113. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6–85; D.C. Code, sec. 2–303.3), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical: Provided, That the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and said determination has been reviewed and certified by the Chief Financial Officer of the District of Columbia.

Sec. 114. (a) In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99–177), after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: Provided, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by such Act.

(b) For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99–177), the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: Provided, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985.

Sec. 115. Acceptance and Use of Gifts. (a) Approval by Mayor.—

(1) In General.—An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 2002 if—

(A) the Mayor approves the acceptance and use of the gift or donation (except as provided in paragraph (2)); and

(B) the entity uses the gift or donation to carry out its authorized functions or duties.

(2) Exception for Council and Courts.—The Council of the District of Columbia and the District of Columbia courts may accept and use gifts without prior approval by the Mayor.

(b) Records and Public Inspection.—Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a), and shall make such records available for audit and public inspection.

(c) Independent Agencies Included.—For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) Exception for Board of Education.—This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

Sec. 116. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3–171; D.C. Official Code, sec. 1–123).

Sec. 117. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

Sec. 118. None of the Federal funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9–114; D.C. Official Code, sec. 32–701 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

Sec. 119. Acceptance and Use of Grants Not Included in Ceiling. (a) In General.—Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(b) Requirement of Chief Financial Officer Report and Council Approval.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

(1) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

(2) the Council within 15 calendar days after receipt of the report submitted under (1) has reviewed and approved the acceptance, obligation, and expenditure of such grant.

(c) Prohibition on Spending in Anticipation of Approval or Receipt.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under subsection (b)(2) of this section or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(d) Quarterly Reports.—The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the quarter covered by the report.

Sec. 120. (a) Restrictions on Use of Official Vehicles.—Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and *workplace (except: (1) in the case of an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department; (2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day; (3) the Mayor of the District of Columbia; and (4) the Chairman of the Council of the District of Columbia).*

(b) INVENTORY OF VEHICLES.—The Chief Financial Officer of the District of Columbia shall submit, by November 15, 2001, an inventory, as of September 30, 2001, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

(c) No officer or employee of the District of Columbia government (including any independent agency of the District but excluding the Office of the Chief Technology Officer, the Chief Financial Officer of the District of Columbia, and the Metropolitan Police Department) may enter into an agreement in excess of $2,500 for the procurement of goods or services on behalf of any entity of the District government until the officer or employee has conducted an analysis of how the procurement of the goods and services involved under the applicable regulations and procedures of the District government would differ from the procurement of the goods and services involved under the Federal supply schedule and other applicable regulations and procedures of the General Services Administration, including an analysis of any differences in the costs to be incurred and the time required to obtain the goods or services.

SEC. 121. Notwithstanding any other provision of law, not later than 120 days after the date that a District of Columbia Public Schools (DCPS) student is referred for evaluation or assessment—

(1) the District of Columbia Board of Education, or its successor, and DCPS shall assess or evaluate a student who may have a disability and who may require special education services; and

(2) if a student is classified as having a disability, as defined in section 101(a)(1) of the Individuals with Disabilities Education Act (84 Stat. 175; 20 U.S.C. 1401(a)(1)) or in section 7(8) of the Rehabilitation Act of 1973 (87 Stat. 359; 29 U.S.C. 706(8)), the Board and DCPS shall place that student in an appropriate program of special education services.

SEC. 122. (a) COMPLIANCE WITH BUY AMERICAN ACT.—No funds appropriated in this Act may be made available to any person or entity that violates the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each agency of the Federal or District of Columbia government shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 123. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government for fiscal year 2002 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia, in coordination with the Chief Financial Officer of the District of Columbia, pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Official Code, sec. 2-302.8); and

(2) the audit includes as a basic financial statement a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year using the format, terminology, and classifications contained in the law making the appropriations for the year and its legislative history.

SEC. 124. None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

SEC. 125. (a) None of the funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 126. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including any independent agency of the District) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted, and the District's Chief Financial Officer shall provide to the Committees on Appropriations of the Senate and the House of Representatives by the 10th day after the end of each quarter a summary list showing each report, the due date and the date submitted to the Committees.

SEC. 127. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

SEC. 128. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a “conscience clause” which provides exceptions for religious beliefs and moral convictions.

PROMPT PAYMENT OF APPOINTED COUNSEL

SEC. 129. (a) ASSESSMENT OF INTEREST FOR DELAYED PAYMENTS.—If the Superior Court of the District of Columbia or the District of Columbia Court of Appeals does not make a payment described in subsection (b) prior to the expiration of the 45-day period which begins on the date the Court receives a completed voucher for a claim for the payment, interest shall be assessed against the amount of the payment which would otherwise be made to take into account the period which begins on the day after the expiration of such 45-day period and which ends on the day the Court makes the payment.

(b) PAYMENTS DESCRIBED.—A payment described in this subsection is—

(1) a payment authorized under section 11-2604 and section 11–2605, D.C. Code (relating to representation provided under the District of Columbia Criminal Justice Act);

(2) a payment for counsel appointed in proceedings in the Family Division of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Code; or

(3) a payment for counsel authorized under section 21–2060, D.C. Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986).

(c) STANDARDS FOR SUBMISSION OF COMPLETED VOUCHERS.—The chief judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals shall establish standards and criteria for determining whether vouchers submitted for claims for payments described in subsection (b) are complete, and shall publish and make such standards and criteria available to attorneys who practice before such Courts.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the assessment of interest against any claim (or portion of any claim) which is denied by the Court involved.

(e) EFFECTIVE DATE.—This section shall apply with respect to claims received by the Superior Court of the District of Columbia or the District of Columbia Court of Appeals during fiscal year 2002, and claims received previously that remain unpaid at the end of fiscal year 2001, and would have qualified for interest payment under this section.

FEDERAL CONTRIBUTION FOR ENFORCEMENT OF LAW BANNING POSSESSION OF TOBACCO PRODUCTS BY MINORS

SEC. 130. (a) CONTRIBUTION.—There is hereby appropriated a Federal contribution of $100,000 to the Metropolitan Police Department of the District of Columbia, effective upon the enactment by the District of Columbia of a law which reads as follows:

“BAN ON POSSESSION OF TOBACCO PRODUCTS BY MINORS

“SECTION 1. (a) IN GENERAL.—It shall be unlawful for any individual under 18 years of age to possess any cigarette or other tobacco product in the District of Columbia.

“(b) EXCEPTIONS.—

“(1) POSSESSION IN COURSE OF EMPLOYMENT.—Subsection (a) shall not apply with respect to an individual making a delivery of cigarettes or tobacco products in pursuance of employment.

"(2) PARTICIPATION IN LAW ENFORCEMENT OPERATION.—Subsection (a) shall not apply with respect to an individual possessing products in the course of a valid, supervised law enforcement operation.

"(c) PENALTIES.—Any individual who violates subsection (a) shall be subject to the following penalties:

"(1) For any violation, the individual may be required to perform community service or attend a tobacco cessation program.

"(2) Upon the first violation, the individual shall be subject to a civil penalty not to exceed $50.

"(3) Upon the second and each subsequent violation, the individual shall be subject to a civil penalty not to exceed $100.

"(4) Upon the third and each subsequent violation, the individual may have his or her driving privileges in the District of Columbia suspended for a period of 90 consecutive days.".

(b) USE OF CONTRIBUTION.—The Metropolitan Police Department shall use the contribution made under subsection (a) to enforce the law referred to in such subsection.

SEC. 131. The Mayor of the District of Columbia shall submit to the Senate and House Committees on Appropriations, the Senate Governmental Affairs Committee, and the House Government Reform Committee quarterly reports addressing the following issues: (1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets; (2) access to drug abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs; (3) management of parolees and pre-trial violent offenders, including the number of halfway house escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency; (4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools; (5) improvement in basic District services, including rat control and abatement; (6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but for which the District failed to spend the amounts received; and (7) indicators of child well-being.

SEC. 132. Nothing in this Act bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

RESERVE FUNDS

SEC. 133. (a) IN GENERAL.—Section 202(j) of Public Law 104–8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended to read as follows:

"(j) RESERVE FUNDS.—

"(1) BUDGET RESERVE.—

"(A) IN GENERAL.—For each of the fiscal years 2002 and 2003, the budget of the District government for the fiscal year shall contain a budget reserve in the following amounts:

"(i) $120,000,000, in the case of fiscal year 2002.

"(ii) $70,000,000, in the case of fiscal year 2003.

"(B) AVAILABILITY OF FUNDS.—Any amount made available from the budget reserve described in subparagraph (A) shall remain available until expended.

"(C) AVAILABILITY OF FISCAL YEAR 2001 BUDGET RESERVE FUNDS.—For fiscal year 2001, any amount in the budget reserve shall remain available until expended.

"(2) CUMULATIVE CASH RESERVE.—In addition to any other cash reserves required under section 450A of the District of Columbia Home Rule Act, for each of the fiscal years 2004 and 2005, the budget of the District government for the fiscal year shall contain a cumulative cash reserve of $50,000,000.

"(3) CONDITIONS ON USE.—The District of Columbia may obligate or expend amounts in the budget reserve under paragraph (1) or the cumulative cash reserve under paragraph (2) only in accordance with the following conditions:

"(A) The Chief Financial Officer of the District of Columbia shall certify that the amounts are available.

"(B) The amounts shall be obligated or expended in accordance with laws enacted by the Council in support of each such obligation or expenditure.

"(C) The amounts may not be used to fund the agencies of the District of Columbia government under court ordered receivership.

"(D) The amounts may be obligated or expended only if the Mayor notifies the Committees on Appropriations of the House of Representatives and Senate in writing 30 days in advance of any obligation or expenditure.

"(4) REPLENISHMENT.—Any amount of the budget reserve under paragraph (1) or the cumulative cash reserve under paragraph (2) which is expended in one fiscal year shall be replenished in the following fiscal year appropriations to maintain the required balance.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2001.

(c) CONFORMING AMENDMENTS.—Section 159(c) of the District of Columbia Appropriations Act, 2001 (Public Law 106–522; 114 Stat. 2482) is amended to read as follows:

"(c) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on October 1, 2000.

"(2) REPEAL OF POSITIVE FUND BALANCE REQUIREMENT.—The amendment made by subsection (b)(2) shall take effect October 1, 1999.

"(3) TRANSFER OF FUNDS.—All funds identified by the District government pursuant to section 148 of Public Law 106–113, as reflected in the certified annual financial report for fiscal year 2000, shall be deposited during fiscal year 2002 into the Emergency and Contingency Reserve Funds established pursuant to Section 159 of Public Law 106–522, during fiscal year 2002.".

(d) CONTINGENCY RESERVE FUND.—Section 450A(b) of the Home Rule Act (Public Law 93–198) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—There is established a contingency cash reserve fund (in this subsection referred to as the 'contingency reserve fund') as an interest-bearing account (separate from other accounts in the General Fund) into which the Mayor shall deposit in cash not later than October 1 of each fiscal year (beginning with fiscal year 2002) such amount as may be required to maintain a balance in the fund of at least 3 percent of the total budget appropriated for operating expenditures for such fiscal year which is derived from local funds (or, in the case of fiscal years prior to fiscal year 2007, such amount as may be required to maintain a balance in the fund of at least the minimum contingency reserve balance for such fiscal year, as determined under paragraph (2)).''; and

(2) by striking subparagraph (B) of paragraph (2) and inserting the following:

"(B) APPLICABLE PERCENTAGE DEFINED.—In subparagraph (A), the 'applicable percentage' with respect to a fiscal year means the following:

"(i) For fiscal year 2002, 0 percent.
"(ii) For fiscal year 2003, 0 percent.
"(iii) For fiscal year 2004, 0 percent.
"(iv) For fiscal year 2005, 1 percent.
"(v) For fiscal year 2006, 2 percent.".

SEC. 134. INTEGRATED PRODUCT TEAM. No funds appropriated by this Act shall be available for an Integrated Product Team until reorganization plans for the Integrated Product Team and a Capital Construction Services Administration have been approved, or deemed approved, by the Council: Provided, That this paragraph shall not apply to funds appropriated for the Office of Contracting and Procurement. .

SEC. 135. No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (Public Law 93–198; D.C. Official Code, sec. 1–204.42), for all agencies of the District of Columbia government for such fiscal year that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

SEC. 136. Section 403 of the District of Columbia Home Rule Act, approved December 24, 1973 (Public Law 93–198; D.C. Official Code, sec. 1–204.03), is amended as follows:

(1) Subsection (c) is amended by striking "shall receive, in addition to the compensation to which he is entitled as a member of the Council, $10,000 per annum, payable in equal installments, for each year he serves as Chairman, but the Chairman".

(2) A new subsection (d) is added to read as follows:

"(d) Notwithstanding subsection (a), as of the effective date of the District of Columbia Appropriations Act, 2001, the Chairman shall receive compensation, payable in equal installments, at a rate equal to $10,000 less than the annual compensation of the Mayor.".

SEC. 137. RISK MANAGEMENT FOR SETTLEMENTS AND JUDGMENTS. In addition to any other authority to pay claims and judgments, any department, agency, or instrumentality of the District government may pay the settlement or judgment of a claim or lawsuit in an amount less than $10,000, in accordance with the Risk Management for Settlements and Judgments Amendment Act of 2000, effective October 19, 2000 (D.C. Law 13–172; D.C. Official Code §2–402).

SEC. 138. Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act (sec. 1–206(c)(1), D.C. Code), the Closing of Portions of 2nd and N Streets, N.E. and Alley System in Square 710, S.O. 00–97, Act of 2001 (D.C. Act 14–106) shall take effect on the date of the enactment of such Act or the date of the enactment of this Act, whichever is later.

SEC. 139. None of the funds contained in this Act may be used to issue, administer, or enforce any order by the District of Columbia Commission on Human Rights relating to docket numbers 93–030–(PA) and 93–031–(PA).

SEC. 140. (a) Notwithstanding 20 U.S.C. §1415, 42 U.S.C. §1988, 29 U.S.C §794a, or any other law, none of the funds appropriated under this Act, or in appropriations Acts for subsequent fiscal years, may be made available to pay attorneys' fees accrued prior to the effective date of this Act that exceeds a cap imposed on attorneys' fees by prior appropriations Acts that were in effect during the fiscal year when the work was performed, or when payment was requested for work previously performed, in an action or proceeding brought against the District *of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. §1400 et seq.).*

(b) No later than 60 days after the date of enactment of this Act, the Superintendent of Schools for the District of Columbia shall submit to the Committees on Appropriations for the Senate and the House of Representatives a written report for each of the fiscal years 1999, 2000, and 2001, detailing a complete itemized list, by year, of the judgments for attorneys' fees awarded to plaintiffs who prevailed in cases brought against the District of Columbia or the District of Columbia Public Schools under section 615(i)(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(i)(3)). Such report shall specify: (1) the amount of each judgment; (2) the total amount paid on each judgment as of the date of the report; (3) the principal balance remaining due on each such judgment as of the date of the report, the amount of interest due as of December 31, 2001 on each unpaid amount; and the prospective annual rate of interest applicable to the judgment as of January 1, 2002; (4) the name of the Court and case number for each judgment; (5) the aggregate total due in principal and interest on the judgments; and (6) the amount paid by the District of Columbia, in each case listed, to defense counsel representing the District or the District of Columbia Public Schools.

SEC. 141. The Comptroller General, in consultation with the relevant agencies and members of the Committees on Appropriations Subcommittees on the District of Columbia, shall submit by March 31, 2002 a report to the Committees on Appropriations of the House and the Senate and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives detailing the awards in judgment rendered in the District of Columbia that were in excess of the cap imposed by prior appropriations Acts in effect during the fiscal year when the work was performed, or when payment was requested for work previously performed, in actions brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. §1400 et seq.): Provided, That such report shall include a comparison, to the extent practicable, of the causes of action and judgments rendered against public school districts of comparable demographics and population as the District.

This Act may be cited as the "District of Columbia Appropriations Act, 2002".

And the Senate agree to the same.

JOE KNOLLENBERG,
ERNEST ISTOOK,
JOHN T. DOOLITTLE,
JOHN E. SWEENEY,
DAVID VITTER,
BILL YOUNG,
CHAKA FATTAH,
ALAN B. MOLLOHAN,
Managers on the Part of the House.

MARY L. LANDRIEU,
JACK REED,
DANIEL K. INOUYE,
MIKE DEWINE,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the District of Columbia Appropriations Act, 2002, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 107-216 and Senate Report 107–85 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary. The agreement agreed to herein, while repeating some report language for emphasis, does not negate the language reference above unless expressly provided. General provisions which are identical in the House and Senate passed versions of H.R. 2944 are unchanged by the conference agreement and are approved unless provided to the contrary herein.

A summary chart appears later in this statement just before the explanations of the general provisions showing the Federal appropriations by account and the allocation of District funds by agency or office under each appropriation title showing the fiscal year 2001 appropriation, the fiscal year 2002 request, the House and Senate recommendations and the conference allowance.

FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

The conference agreement includes language requiring the Federal payment for resident tuition support be deposited into a dedicated account with any interest accrued to be used on behalf of eligible District of Columbia residents. The conference action requires quarterly financial reports from the Chief Financial Officer on the use of resident tuition funds and limits administrative expenses to seven percent of the total amount appropriated herein rather than allowing administrative expenses to be charged again on carryover amounts.

The conferees recognize and appreciate the important role of Historically Black Colleges and Universities (HBCUs) in educating citizens of the District of Columbia. Therefore, conferees urge the prompt expansion of the District of Columbia's Tuition Assistance Grant Program to make those students attending HBCUs outside of the District of Columbia, Maryland and Virginia eligible for grant assistance.

FEDERAL PAYMENT FOR INCENTIVES FOR ADOPTION OF CHILDREN

The conference agreement has approved extending the availability until September 30, 2002 of the $5,000,000 approved in Public Law 106–113 dated November 29,. 1999 for this program. The conference action provides that $1,000,000 be used for the establishment of a scholarship fund for post high school education and training for District children of adoptive families as well as for District children without parents due to the September 11, 2001 terrorist attack. The language also allows the funds to be used to fund programs included in amendments made by title 22 of the District's FY 2002 Budget Support Act to the Adoption Support Fund.

The conferees encourage the Mayor to use funds made available to create incentives to promote the adoption of children in the District of Columbia foster care system, including $2,000,000 for attorney fees and home studies, $1,000,000 for establishment of a private adoptive family resource center in the District to provide ongoing information, education and support to adoptive families, and $1,000,000 for adoption incentives and support for children with special needs.

FEDERAL PAYMENT TO THE CAPITOL CITY CAREER DEVELOPMENT AND JOB TRAINING PARTNERSHIP

Appropriates $500,000 for a Federal payment to the Capitol City Career Development and Job Training Partnership as proposed by the House.

FEDERAL PAYMENT TO CAPITOL EDUCATION FUND

Appropriates $500,000 to the Capitol Education Fund.

FEDERAL PAYMENT TO METROPOLITAN KAPPA YOUTH DEVELOPMENT FOUNDATION, INC.

Appropriates $450,000 to the Metropolitan Kappa Youth Development Foundation, Inc.

FEDERAL PAYMENT TO THE FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

Appropriates $500,000 to the Fire and Emergency Medical Services Department for dry docking of the fire boat as proposed by the House.

FEDERAL PAYMENT TO THE CHIEF MEDICAL EXAMINER

Appropriates $585,000 for the Chief Medical Examiner for reduction in the backlog of autopsies, case reports and for the purchase of toxicology and histology equipment as proposed by the House.

FEDERAL PAYMENT TO THE YOUTH LIFE FOUNDATION

Appropriates $250,000 to the Youth Life Foundation for technical assistance, operation expenses, and establishment of a National Training Institute as proposed by the House.

FEDERAL PAYMENT TO FOOD AND FRIENDS

Appropriates $2,000,000 to Food and Friends for their Capital Campaign as proposed by the House.

FEDERAL PAYMENT TO THE CITY ADMINISTRATOR

Appropriates $300,000 to the City Administrator for the Criminal Justice Coordinating Council for the District of Columbia as proposed by the House.

FEDERAL PAYMENT TO SOUTHEASTERN UNIVERSITY

Appropriates $500,000 to Southeastern University for a public/private partnership with the District of Columbia Public Schools at the McKinley Technology High School campus as proposed by the House instead of $250,000 as proposed by the Senate.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS

Appropriates $2,500,000 to the District of Columbia Public Schools of which $2,000,000 is for the Voyager Expanded Learning Literacy Program in kindergarten and first grade classrooms, $250,000 is for the Failure Free Reading Literacy Program for nonreaders and special education students and $250,000 is for Lightspan, Inc. to implement the eduTest.com program in the public school system.

FEDERAL PAYMENTS FOR DISTRICT OF COLUMBIA AND FEDERAL LAW ENFORCEMENT MOBILE WIRELESS INTEROPERABILITY PROJECT

Appropriates $1,400,000 as proposed by the Senate in support of the District of Columbia and Federal law enforcement Mobile Wireless Interoperability Project as follows: $400,000 to the District of Columbia Office of the Chief Technology Officer, $333,334 to the United States Secret Service, $333,333 to the United States Capitol Police, and $333,333 to the United States Park Police. The conferees expect the Secret Service, the Park Police, and the Capitol Police to provide additional funding to continue this project through their own appropriations or through existing interagency funding pools in subsequent fiscal years.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

Appropriates $16,058,000 for emergency planning and security costs in the District of Columbia of which $12,652,000 is to be made available immediately to the District's Emergency Management Agency for planning, training, and personnel costs required for implementing the emergency operations plan and $3,406,000 is to be made available immediately for reimbursement for equipment purchased to provide security for the planned meetings in September 2001 of the World Bank and the International Monetary Fund. The conference action requires the Mayor and the Chairman of the Council of the District of Columbia, in consultation with the Director of the Office of Personnel Management, the United States Park Police, the United States Capitol Police, the Washington Metropolitan Area Transit Authority, regional transportation authorities, the Federal Emergency Management Agency, the Governor of the State of Maryland and the Governor of the Commonwealth of Virginia, the county executives of the contiguous counties of the regional and the respective state and local law enforcement entities in the region, to develop an integrated emergency operations plan for the District of Columbia in cases of national security events, including terrorist threats, protests, or other unanticipated events. The plan is to be submitted to the Committees on Appropriations of the Senate and House of Representatives no later than January 2, 2002. In addition, the Chief Financial Officer is required to provide quarterly reports on the use of the funds under this heading beginning not later than April 2, 2002.

FEDERAL PAYMENT TO THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

Appropriates $8,300,000 instead of $2,350,000 as proposed by the House and $5,900,000 as proposed by the Senate. The appropriation includes $1,000,000 for payment to the Excel Institute Adult Education Program to be used by the Institute for construction, $300,000 for payment to the Woodlawn Cemetery for restoration of the Cemetery, $250,000 for payment to the Real World Schools concerning 21st Century reform models for secondary education and the use of technology to support learning in the District of Columbia, $300,000 for payment to a mentoring program and for hotline services; $250,000 for payment to a youth development program with character education initiative; $250,000 for payment to a basic values training in the local public schools, $2,250,000 for payment for a pilot project to demonstrate the "Active Cap" river cleanup technology on the Anacostia River, $500,000 for payment to the Washington, D.C. Sports and Entertainment Commission, which in coordination with the U.S. Soccer Foundation, shall use the funds for environmental and infrastructure costs at the Kenilworth Park in the creation of the Kenilworth Regional Sport Complex, $600,000 for payment to the One Economy Corporation to increase Internet access to low-income homes in the District of Columbia, $500,000 for payment to the Langston Project for the 21st Century, a community revitalization project to improve physical education and training facilities, $1,000,000 for payment to the Green Door Program, for capital improvements at a community mental health clinic, $500,000 for payment to the Historical Society of Washington for capital improvements to the new City Museum; $200,000 to Teach for America DC for teacher development, $50,000 to the District of Columbia for initial renovations at Eastern Market, $350,000 to the District of Columbia Safe Kids Coalition to promote child passenger safety through the Child Occupant Protection Initiative. The conferees direct the District's Chief Financial Officer to make the above payments directly to the organizations within 30 days of the enactment of this Act. The conferees do not expect the Chief Financial Officer to administer these programs or get involved in any way with the programs except to ensure that the funds are disbursed promptly and correctly to the proper organizations.

The conferees encourage the District's Chief Financial Officer to credit amounts reimbursed by the U.S. Marshals Service for District of Columbia inmates housed in private contract facilities directly to the District of Columbia Department of Corrections for payment to a contract bed space service provider.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA CORRECTIONS TRUSTEE OPERATIONS

Appropriates $30,200,000 instead of $32,700,000 as proposed by the House and Senate. The reduction consists of $2,000,000 from building renovations and $500,000 from funds requested for the closing of the sewage treatment plant and the removal of underground storage tanks at the Lorton Correctional Complex.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

Appropriates $112,180,000 instead of $111,238,000 as proposed by the House and $140,181,000 as proposed by the Senate and allocates $66,091,000 as proposed by the House for Superior Court instead of $72,694,000 as proposed by the Senate, $31,594,000 for the Court System instead of $31,149,000 as proposed by the House and $31,634,000 as proposed by the Senate, and $6,492,000 for capital improvements instead of $5,995,000 as proposed by the House and $27,850,000 as proposed by the Senate. The conference action deletes the proviso proposed by the House that would have required approval by the Committees for the purchase, installation and operation of an Integrated Justice Information System. The conference action deletes language proposed by the Senate that would have allowed the District of Columbia Courts to reallocate not more than $1,000,000 of funds provided under this heading among the items and entities funded under such heading. The conference action transfers the new District of Columbia Family Court to a separate appropriation heading as proposed by the House instead of as a proviso under this heading as proposed by the Senate.

ADMINISTRATIVE PROVISIONS

The conference agreement amends D.C. Official Code, sec. 11–1722(a) to remove the Director of Social Services in the Superior Court from direct supervision of the Executive Officer as proposed by the Senate.

The conference agreement amends D.C. Official Code, sec. 11–1723(a)(3) to remove the internal auditing of the accounts of the courts from the fiscal officer as proposed by the Senate.

Crime victims compensation.—The conference agreement amends D.C. Official Code, sec. 4–515(d) and (e) concerning the Victims of Violent Crime Compensation Fund to allow 50 percent of the estimated balance to be used for direct compensation payments to crime victims through the Fund and the balance for outreach activities designed to increase the number of crime victims who apply for such direct compensation payments. The language also provides that not more than 5 percent of the total amount of monies in the Fund may be used to pay administrative costs.

The District's Chief Financial Officer is directed to certify that priority is given to crime victim assistance programs that provide assistance to victims of sexual assault, domestic violence, or child abuse including but not limited to abuse counseling, health and mental health services, child advocacy centers, emergency housing, emergency child care, transportation, hospital-based informational and referral services, and family support. The conferees recommend that the District government make funds available for victim assistance programs which are aimed at improving the intake, assessment, screening and investigation of reports of child abuse and neglect and domestic violence.

The District's Chief Financial Officer is directed to certify that the program funds awarded to grantees under this program are used to directly serve victims of crime.

The conference agreement amends D.C. Official Code, sec. 11–2604 to increase the hourly rate for attorneys for indigents appointed under the Criminal Justice Act (CJA) from $50 per hour to $65 per hour and increases the rate paid to investigators from $10 per hour to $25 per hour. The rates are effective for cases initiated on or after March 1, 2002.

Quality of CJA legal services.—The conferees strongly urge the D. C. Superior Court to evaluate the quality of the legal services rendered by lawyers appointed under the Criminal Justice Act to handle juvenile delinquency cases. The Court is urged to take immediate, affirmative steps to ensure that lawyers who lack the requisite training, experience and skill are not appointed to delinquency cases. The conferees also urge the Court to adopt a Continuing Legal Education (CLE) requirement for all lawyers rendering legal services under the Criminal Justice Act. Such training is critical to improving the quality of legal representation provided to indigent people in the District of Columbia and will result in a more cost-efficient system.

FEDERAL PAYMENTS FOR FAMILY COURT ACT

Appropriates $24,016,000 for carrying out the District of Columbia Family Court Act of 2001 instead of $23,316,000 as proposed by the House and $23,315,000 as proposed by the Senate. The increase of $700,000 includes $200,000 for the completion of a plan by the Mayor on integrating the computer systems of the District of Columbia government with the Family Court of the Superior Court and $500,000 to be used by the Child and Family Services Agency for activities authorized by the District of Columbia Family Court Act of 2001.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

Appropriates $34,311,000 as proposed by the House instead of $39,311,000 as proposed by the Senate and makes conforming technical changes. The reduction of $5,000,000 below the Senate recommendation reflects conference action that requires the use of unobligated balances to fund the rate increase for investigators and for attorneys for indigents appointed under the Criminal Justice Act.

The conference agreement also requires that $4,685,500 for design and construction expenses of the courthouse at 451 Indiana Avenue, N.W., be paid from unobligated balances in this account.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

(INLCUDING TRANSFER OF FUNDS)

The conference agreement allows $2,000 for official receptions related to the offender and defendant support programs instead of $1,500 proposed by the House and $5,000 proposed by the Senate. The conference agreement restores the proviso requiring the Director to keep accurate and detailed records of the acceptance and use of any gift or donation as proposed by the House and makes conforming technical changes. The conference action includes language proposed by the Senate that allows the Director flexibility in acquiring an appropriate site to house or supervise offenders and defendants rather than limiting the Director to a specific site as proposed in the budget request and proposed by the House. In any event the site is to be acquired by March 31, 2002.

FEDERAL PAYMENT TO THE CHILDREN'S NATIONAL MEDICAL CENTER

Appropriates $5,500,000 to the Children's National Medical Center of which $500,000 is for completion of a network of satellite pediatric health clinics for children and families in underserved neighborhoods and communities in the District of Columbia and $5,000,000 is for capital and equipment improvements.

ST. COLETTA OF GREATER WASHINGTON EXPANSION PROJECT

Appropriates $2,000,000 to St. Coletta of Greater Washington, Inc. instead of $1,000,000 as proposed by the House for costs associated with the establishment of a day program and comprehensive case management services for mentally retarded and multiple handicapped adolescents and adults in the District of Columbia including property acquisition and construction.

FEDERAL PAYMENT TO FAITH AND POLITICS INSTITUTE

Appropriates $50,000 to the Faith and Politics Institute for grass roots-based racial sensitivity programs in the District of Columbia as proposed by the House.

FEDERAL PAYMENT TO THE THURGOOD MARSHALL ACADEMY CHARTER SCHOOL

Appropriates $1,000,000 as proposed by the Senate to the Thurgood Marshall Academy Charter School to be used to acquire and renovate an educational facility in the Anacostia area of the District.

FEDERAL PAYMENT TO THE GEORGE WASHINGTON UNIVERSITY CENTER FOR EXCELLENCE IN MUNICIPAL MANAGEMENT

Appropriates $250,000 to the George Washington University Center for Excellence in Municipal Management as proposed by the Senate to increase the enrollment of managers from the District of Columbia government.

COURT APPOINTED SPECIAL ADVOCATES

Appropriates $250,000 to the District of Columbia Court Appointed Special Advocates Unit as proposed by the Senate to be used to expand the Unit's work in the Family Court of the District of Columbia Superior Court.

ADMINISTRATIVE PROVISION

The conference agreement allows $100,000 appropriated in the District of Columbia Appropriations Act, 2001, Public Law 106–522 (114 Stat. 2441) to remain available until September 30, 2002 for the Metropolitan Police Department to fund a youth safe haven police mini-station for mentoring high risk youth; $1,000,000 made available in such Act for the Washington Interfaith Network (114 Stat. 2444) to remain available until December 31, 2002 for reimbursement of costs incurred in carrying out preconstruction activities at the former Fort Dupont Dwellings and Additions, and $3,450,000 for Brownfield Remediation (114 Stat. 2445) to remain available until expended for environmental and infrastructure costs at Poplar Point as proposed by the Senate.

CONGRESSIONAL RESEARCH SERVICE

The conferees direct the Congressional Research Service to analyze the differences and similarities in municipal, state and national government, including funding, management, oversight, and the rights of citizens, in the District of Columbia and ten other comparable national capitals. The conferees request that the report be submitted to the House and Senate Committees on Appropriations not later than March 31, 2002.

DISTRICT OF COLUMBIA FUNDS

DIVISION OF EXPENSES

Provides that operating expenses for the District of Columbia for fiscal year 2002 shall not exceed $6,048,160,000 of which $124,163,000 is from intra-District funds and $3,574,493,000 is from local funds instead of $6,043,881,000 of which $124,163,000 is from intra-District funds and $3,571,343,000 is from local funds as proposed by the House and $6,051,646,000 of which $124,163,000 is from intra-District funds and $3,553,300,000 is from local funds as proposed by the Senate. The changes in the amounts reflect actions taken by the conferees in the funding levels under the various appropriation headings.

The conference agreement includes a proviso allowing the ceiling amount to be increased by proceeds of one-time transactions which are expended for emergency or unanticipated operating or capital needs and deletes the provision that would have allowed expenditures above the cap to generate additional revenues. The conferees encourage the Chief Financial Officer to reprioritize existing resources for this purpose.

GOVERNMENTAL DIRECTION AND SUPPORT

Appropriates $286,138,000 including $229,421,000 from local funds, $38,809,000 in Federal funds and $17,908,000 from other funds instead of $285,359,000 including $229,271,000 from local funds, $38,809,000 from Federal funds and $17,279,000 from other funds as proposed by the House and $307,117,000 including $228,471,000 from local funds, $61,367,000 from Federal funds and $17,279,000 from other funds as proposed by the Senate.

Office of the Mayor.—The conference agreement includes an increase of $200,000 in Federal funds appropriated earlier under Federal Payments for Family Court Act for a computer integration plan for Child and Family Social Services as proposed by the Senate.

Recycled crumb rubber.—The conferees encourage the District government to use recycled crumb rubber from tires in environmentally responsible applications such as roads, playgrounds, bicycle paths, and parking lots. Last year in the United States alone 270 million tires were "retired". While it has been reported that 70 percent of the tires were beneficially utilized, some 30 percent went into landfills. Tires in landfills create problems that should be minimized or eliminated. New technology has now allowed tires to be recycled more economically, producing metals that are recycled and tire crumb that can be used in numerous applications that provide added benefits. Rubberized asphalt in road applications has been reported to last longer and provide lower noise levels. Mats made from recycled rubber have been known to provide a safer environment for children in playgrounds. These and other applications allow for environmentally responsible uses and minimize the number of tires that may be discarded.

Office of the City Administrator.—The conference agreement includes an increase of $300,000 in Federal funds appropriated earlier in this Act for the Criminal Justice Coordinating Council of the District of Columbia as proposed by the House. The conferees encourage District officials to reprogram or transfer funds to augment this program in the event additional funds are required.

Office of the Chief Technology Officer.—The conference agreement includes an increase of $400,000 in Federal funds appropriated earlier in this Act to manage a wireless pilot project to connect local and Federal law enforcement agencies in the region as proposed by the Senate instead of $500,000 as proposed by the House.

Office of the Corporation Counsel.—The conference agreement includes $386,000 for activities related to the D.C. Antitrust Act of 1980, $10,000 for Antifraud activities related to section 820 of the D.C. Procurement Practices Act of 1985, and $233,000 for the Consumer Protection Fund established pursuant to section 1402 of the District of Columbia Budget Support Act for fiscal year 2001.

Office of the Chief Financial Officer.—The conference agreement includes $50,000 for initial renovations at Eastern Market from Federal funds appropriated earlier in this Act.

ECONOMIC DEVELOPMENT AND REGULATION

The conference agreement includes the provisos proposed by the Senate requiring the Department of Consumer and Regulatory Affairs to use $50,000 of the receipts from the net proceeds from the contractor that handles the District's occupational and professional licensing to fund additional staff and equipment for the Rental Housing Administration. The conference agreement approves $293,000 from other funds resulting from the lapse of personnel vacancies, caused by transferring employees into NSO positions without filling the resultant vacancies, into the revolving 5–513 fund to be used to implement the provisions in D.C. Law 13–281, the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, pertaining to the prevention of the demolition by neglect of historic properties. The conference agreement approves the proviso that requires 18 percent of the annual total amount in the 5–513 fund, up to $500,000, that is deposited into the 5–513 fund on an annual basis, be used to implement section 102 and other related sections of D.C. Law 13–281. The conference agreement deletes the proviso concerning personnel matters and the filling of certain positions in the Department.

Downtown Business Improvement Districts (BID).—The conferees have reviewed concerns expressed by businesses and business organizations in the District, as well as criticism expressed in the local press, concerning the Downtown BID's commitment to expand its mission into areas of regulation, planning, marketing, advocacy and economic development by way of the creation of affiliated entities, and its advocacy for legislative authority to expand its functions to include public space management and regulation.

The Downtown BID and other BIDs in the District generate funding for operations and administration under the authority granted to it by legislation enacted by the Council of the District of Columbia and approved by Congress. Justification for delegating the authority to impose taxes, fees or liens on all commercial owners and tenants within the BID's boundaries arose out of the need to enhance the District's ability to maintain cleanliness and public safety within those boundaries. In fact, language exempting BIDs from taxes levied by the District of Columbia was initially placed in the fiscal year 1999 District of Columbia Appropriations Act based on assurances that the BIDs' role would be limited to augmenting the services that the District government was providing in the areas of public safety, trash collection, street cleaning and "ambassadorial" assistance. The proposal was for the businesses in the area to "tax themselves" and use those funds to provide a higher level of basic services in their area. On that basis, it seemed fair to allow the tax exemption. However, the intent was not to provide a tax exemption for economic development or activities other than those that would enhance the appearance and livability in the BID area.

The House Committee took the initiative to investigate and respond to the concerns expressed by the business community to the expansion of the BID's mission as well as the various proposals for funding the operation and administration of such affiliate entities. As a result of the House Committee's discussions with Downtown BID Board members and staff members, the Downtown BID has informed its Board and other business organizations in the District that it will not move forward with the expansion of its core mission at this time, and that any expansion of its core mission, either within the BID or through affiliated entities, will not duplicate existing government functions that are currently funded with taxpayer dollars.

The conferees are concerned about this situation and the considerable deviation from the BIDs' original mission as conveyed to Congress.

PUBLIC SAFETY AND JUSTICE

Appropriates $633,853,000 including $594,803,000 from local funds, instead of $632,668,000 including $593,618,000 from local funds as proposed by the Senate.

Metropolitan Police Department.—The conference agreement provides $100,000 in Federal funds included in section 130 of the general provisions on the condition that the District government enacts into law a ban on the possession of tobacco products by minors as specified in section 132. The funds are to be used by the Department to enforce the ban.

Fire and Emergency Medical Services Department.—The conference agreement includes $500,000 for the Fire and Emergency Medical Services Department to cover the costs of dry docking the fireboat as proposed by the House.

Office of the Chief Medical Examiner.—The conference agreement includes $585,000 for the Chief Medical Examiner to help reduce backlogs of autopsies and case reports and to purchase toxicology and histology equipment as proposed by the House.

The conference agreement retains the proviso enacting into law section 3703 of title XXXVII of the Fiscal Year 2002 Budget Support Act of 2001 as proposed by the House and transfers the proviso relating to the District of Columbia Income and Franchise Tax Act of 1947 to section 103 of the general provisions.

PUBLIC EDUCATION SYSTEM

Appropriates $1,108,665,000 including $896,994,000 from local funds instead of $1,106,165,000 including $185,044,000 from Federal funds as proposed by the House and $1,108,915,000 including $187,794,000 from Federal funds as proposed by the Senate. The conference agreement allocates $400,000 for Enhancing and Actualizing Internationalism and Multiculturalism in the Academic Programs of the University of the District of Columbia and not less than $200,000 for Adult Education. The conference action allocates $1,277,500 for the Excel Institute Adult Education Program and requires that quarterly payments be made by the District's Chief Financial Officer. The conference action allocates funds for various programs as proposed by the Senate and retains the proviso that excludes the evaluation process for District of Columbia Public School employees as a negotiable item for collective bargaining purposes. The conference agreement deletes the proviso that would have changed the fiscal year for the District of Columbia Public Schools, District of Columbia Public Charter Schools and the University of the District of Columbia. The conference agreement extends the availability of $1,000,000 in local funds appropriated in Public Law 107–20 for the State Education Office for a census-type audit of the student enrollment of each District of Columbia Public School and each public charter school. The funds are to remain available until expended.

Public Schools.—Allocates $813,042,000 including $661,124,000 from local funds and $144,630,000 from Federal funds for public schools instead of $810,542,000 including $144,630,000 from Federal funds as proposed by the House and $813,292,000 from local funds and $147,380,000 from Federal funds as proposed by the Senate. The increase above the House allowance includes $250,000 for the Failure Free Reading literacy program for non-readers and special education students, $250,000 for Lightspan, Inc. to implement the eduTec.com program, and $2,000,000 for the Voyager Expanded Learning Literacy Program in kindergarten and first grade. The $2,000,000 for the Voyager Program consists of Federal funds appropriated earlier in this Act and will allow the program to be implemented in kindergarten and first grade classrooms throughout the District's public school system. The program is a comprehensive literacy system that guarantees that all children entering the system in kindergarten will be reading at grade level or above by the third grade. The program includes a 5 day reading certification for teachers, a student assessment system, and electronic data management system, an in-school reading program, after school and summer school interventions, and a home study program for parents.

PUBLIC CHARTER SCHOOLS

ENSURING INDEPENDENCE WITH ACCOUNTABILITY

Public charter schools are innovations in public education designed to provide public education programs free from traditional public school bureaucracy. The conferees are proud to have played a partial role in their establishment in the District of Columbia. After four years, the District continues to offer one of the most vibrant and diverse charter school programs in the United States, enrolling more than 11% of the District's public school students.

The conferees believe strongly that public charter schools must remain free of bureaucratic regulation. However, the conferees are also disturbed by press reports of fiscal irregularities and questionable management, reporting, discipline and academic practice at a few charter schools. Three schools were closed by their chartering authority for such reasons in the summer of 2001. Moreover, a number of schools will soon undergo the mandatory five-year review, to determine whether there is reason to revoke their charters. Obviously, charter school closings disrupt the instruction of their students. At the same time, chartering authorities cannot responsibly leave children in schools that are demonstrably failing or accept continued public funding of schools whose academic or financial performance is irresponsible.

In authorizing the establishment of public charter schools in the District of Columbia, Congress has chosen to encourage responsible educational creativity by a system that grants freedom from regulation in exchange for accountability. Accountability, however, requires the full disclosure of information about school performance and finances, and active oversight by chartering authorities. While the chartering authorities must not tell charter schools how to achieve results or require the submission of unnecessary data, they are obligated to remain informed of school performance and to take action when a school fails to live up to the promises made in its charter application, fails to provide legally mandated information, or fails to conform to acceptable financial practice.

The conferees therefore encourage the chartering authorities to act quickly when they become aware of problems at a public charter school that could potentially lead to revocation of its charter, to notify and offer support to the school in order to prevent the disruption to children's education of charter revocation and to protect public funds. The conferees do not encourage regulation or directives of the kind practiced by school system administrations, but do believe that the kind of accountability required of public schools in the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301) must be asked of the District's public charter schools also.

HUMAN SUPPORT SERVICES

(INCLUDING TRANSFER OF FUNDS)

The conference action makes conforming technical changes as to the amount available for the Health Care Safety Net Administration and deletes the proviso that would have prohibited the District from providing free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act.

The conference agreement inserts a proviso earmarking $7,500,000 to remain available until expended for the Addiction Recovery Fund to be used solely for the purpose of the Drug Treatment Choice Program.

PUBLIC WORKS

The conference agreement inserts provisos earmarking funds for various programs as proposed by the Senate.

RECEIVERSHIP PROGRAMS

Appropriates $403,868,000 including $250,515,000 from local funds, $134,339,000 from Federal funds instead of $403,368,000 including $134,339,000 from Federal funds as proposed by the House and $403,868,000 including $134,839,000 from Federal funds as proposed by the Senate. The conference agreement includes an increase of $500,000 in Federal funds appropriated earlier in this Act for the Family Court to hire additional staff to enhance coordination with the Family Court of the Superior Court of the District of Columbia as required by the Family Court Act.

RESERVE

The conference agreement provides a reserve of $120,000,000 as proposed by the Senate instead of $150,000,000 as proposed by the House and deletes the proviso concerning the obligation of the reserve funds as proposed by the Senate.

RESERVE RELIEF

The conference agreement inserts a new heading and language that allows the District to spend $30,000,000 of the Reserve under certain conditions as proposed by the Senate.

CONTINGENCY RESERVE FUND

The conference agreement deletes this heading and language as proposed by the Senate.

EMERGENCY AND CONTINGENCY RESERVE FUND

The conference agreement inserts a new heading and language to allow deposits into the Contingency Reserve Fund beginning in fiscal year 2002 if certain conditions are met.

REPAYMENT OF LOANS AND INTEREST

The conference agreement transfers the proviso for the Emergency Assistance Loan Guaranty Program to a separate heading.

EMERGENCY ASSISTANCE LOAN GUARANTEES

The conference agreement inserts a new heading and transfers language from Repayment of Loans and Interest that provides indefinite appropriations of local funds to make payments related to the District of Columbia Emergency Assistance Act of 2001 that was enacted by the District government in response to the impact that the terrorist attack of September 11, 2001 had on local businesses. The loans will be made by local banks for a period up to 10 years and will be guaranteed by the District government. The conferees encourage the District's Chief Financial Officer to consult with the Office of Management and Budget in developing legislation for consideration by the Mayor and Council consistent with the purposes of the Federal Credit Reform Act. Such legislation would require the District to accurately estimate and budget for the potential liability from existing District of Columbia loan and loan guarantee programs and the potential liability from legislation proposed to establish such programs.

EMERGENCY PLANNING AND SECURITY COSTS

Appropriates $16,058,000 in Federal funds appropriated earlier in this Act for emergency planning and security costs in the District of Columbia. The language agreed to by the conferees makes $12,652,000 of this amount available immediately to the District of Columbia Emergency Management Agency for planning, training and personnel costs required for development and implementation of the emergency operations plan for the District of Columbia.

EMERGENCY RESERVE FUND TRANSFER

The conference action makes conforming technical changes and requires that not less than $33,254,000 will be deposited into the Emergency and Contingency Reserve Funds.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY

The conference agreement inserts an administrative provision that clarifies responsibilities concerning the water and sewer system and the Federally owned water main system as well as the installation of and access to meters.

SPORTS AND ENTERTAINMENT COMMISSION

The conference agreement retains language concerning the transfer of funds and changes the date for a payment from the Commission to the general fund from September 20, 2001 as proposed by the House to September 30, 2001. The increase of $500,000 is for the creation of the Kenilworth Regional Sports Complex. The funds are to be used by the Commission in coordination with the U.S. Soccer Foundation to cover environmental and infrastructure costs at Kenilworth Park in connection with the creation of the Kenilworth Regional Sports Complex.

D.C. RETIREMENT BOARD

The conference agreement retains the proviso requiring the Retirement Board to provide the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds.

CAPITAL OUTLAY

The conference agreement includes language proposed by the Senate concerning the requirement for a plan for the development of census tract 68.04 south of East Capitol Street, S.E., and the housing of any misdemeanants, felons, ex-offenders, or persons awaiting trial within the District of Columbia as proposed by the Senate. The conference agreement includes language that none of the conditions set forth in this paragraph shall interfere with the current operations of any Federal agency.

SUMMARY TABLE OF CONFERENCE RECOMMENDATIONS BY AGENCY

A summary table showing the Federal appropriations by account and the allocation of District funds by agency or office under each appropriation heading for fiscal year 2001, the fiscal year 2002 request, the House and Senate recommendations, and the conference allowance follows:

CFSUMM

SUMMARY
FY 2002 D. C. APPROPRIATIONS BILL

	House Bill		Senate Bill		Conference	
	FTEs	Amount	FTEs	Amount	FTEs	Amount
FEDERAL FUNDS						
Federal Payment for Resident Tuition Support	0	17,000,000	0	17,000,000	0	17,000,000
Federal Payment to the Capitol City Career Development and Job Training Partnership	0	1,500,000	0	0	0	500,000
Federal Payment to Capitol Education Fund	0	0	0	0	0	500,000
Federal Payment to Metropolitan Kappa Youth Development Foundation, Inc.	0	0	0	0	0	450,000
Federal Payment to the Fire and Emergency Medical Services Department	0	500,000	0	0	0	500,000
Federal Payment to the Chief Medical Examiner	0	585,000	0	0	0	585,000
Federal Payment to the Youth Life Foundation	0	250,000	0	0	0	250,000
Federal Payment to Food and Friends	0	2,000,000	0		0	2,000,000
Federal Payment to the City Administrator	0	300,000	0	0	0	300,000
Federal Payment to Southeastern University	0	500,000	0	0	0	500,000
Federal Payment for Voyager Universal Literacy System	0	1,000,000	0	0	0	0
Federal Payment to the District of Columbia Public Schools	0	0	0	2,750,000	0	2,500,000
Federal Payment to the Office of the Chief Technology Officer	0	500,000	0	0	0	0
Federal Payment for District of Columbia and Federal Law Enforcement Mobile Wireless Interoperability Project	0	0	0	1,400,000	0	1,400,000
Federal Payment for Emergency Planning and Security Cost in the District of Columbia	0	16,058,000	0	16,058,000	0	16,058,000
Federal Payment to the Chief Financial Officer of the District of Columbia	0	2,350,000	0	5,900,000	0	8,300,000
Federal Payment to the District of Columbia Corrections Trustee Operations	0	32,700,000	0	32,700,000	0	30,200,000
Federal Payment to the District of Columbia Courts	0	111,238,000	0	140,181,000	0	112,180,000
Federal Payment for Family Court Act	0	23,316,000	0	0	0	24,016,000
Defender Services in the District of Columbia Courts	0	34,311,000	0	39,311,000	0	34,311,000
Federal Payment to the Court Services and Offender Supervision Agency for the District of Columbia	0	147,300,000	0	147,300,000	0	147,300,000
Federal Payment for Children's National Medical Center	0	5,500,000	0	3,200,000	0	5,500,000
St. Coletta of Greater Washington Expansion Project	0	1,000,000	0	0	0	2,000,000
Federal Payment to Faith and Politics Institute	0	50,000	0	0	0	50,000
Federal Payment to the Thurgood Marshall Academy Charter School	0	0	0	1,000,000	0	1,000,000
Federal Payment to the George Washington University Center for Excellence in Municipal Planning	0	0	0	250,000	0	250,000
Federal Payment for Child and Family Social Services Computer Integration Plan	0	0	0	200,000	0	0
Court Appointed Special Advocates	0	0	0	250,000	0	250,000
Child and Family Services Agency - Family Court Reform	0	0	0	500,000	0	0
Federal contribution for enforcement of law banning possession of tobacco products by minors, Sec. 130	0	100,000	0	0	0	100,000
	0	398,058,000	0	408,000,000	0	408,000,000

	House Bill		Senate Bill		Conference	
	FTEs	Amount	FTEs	Amount	FTEs	Amount
DISTRICT OF COLUMBIA FUNDS						
Operating expenses:						
Governmental Direction and Support	2,569	285,359,000	2,569	307,117,000	2,569	286,138,000
Economic Development and Regulation	1,518	230,878,000	1,518	230,878,000	1,518	230,878,000
Public Safety and Justice	7,617	633,853,000	7,617	632,668,000	7,617	633,853,000
Public Education System	11,903	1,106,165,000	11,903	1,108,915,000	11,903	1,108,665,000
Human Support Services	3,931	1,803,923,000	3,931	1,803,923,000	3,931	1,803,923,000
Public Works	1,663	300,151,000	1,663	300,151,000	1,663	300,151,000
Receivership Programs	2,994	403,368,000	2,994	403,868,000	2,994	403,868,000
Workforce Investments	0	42,896,000	0	42,896,000	0	42,896,000
Reserve	0	150,000,000	0	120,000,000	0	120,000,000
Reserve Relief	0	0	0	30,000,000	0	30,000,000
Repayment of Loans and Interest	0	247,902,000	0	247,902,000	0	247,902,000
Repayment of General Fund Recovery Debt	0	39,300,000	0	39,300,000	0	39,300,000
Payment of Interest on Short-Term Borrowing	0	500,000	0	500,000	0	500,000
Emergency Planning and Security Costs	0	16,058,000	0	0	0	16,058,000
Wilson Building	0	8,859,000	0	8,859,000	0	8,859,000
Emergency Reserve Fund Transfer	0	33,254,000	0	33,254,000	0	33,254,000
Non-Departmental Agency	0	5,799,000	0	5,799,000	0	5,799,000
Water and Sewer Enterprise Fund	0	244,978,000	0	244,978,000	0	244,978,000
Washington Aqueduct	0	46,510,000	0	46,510,000	0	46,510,000
Stormwater Permit Compliance	0	3,100,000	0	3,100,000	0	3,100,000
Lottery and Charitable Games Enterprise Fund	100	229,688,000	100	229,688,000	100	229,688,000
Sports and Entertainment Commission	0	9,127,000	0	9,127,000	0	9,627,000
D.C. Retirement Board	14	13,388,000	14	13,388,000	14	13,388,000
Washington Convention Center Enterprise Fund	0	57,278,000	0	57,278,000	0	57,278,000
Housing Finance Agency	0	4,711,000	0	4,711,000	0	4,711,000
National Capital Revitalization Corporation	0	2,673,000	0	2,673,000	0	2,673,000
Total, operating expenses	32,309	5,919,718,000	32,309	5,927,483,000	32,309	5,923,997,000
Capital Outlay:						
General fund	0	1,074,605,000	0	1,074,604,000	0	1,074,605,000
Water and Sewer fund	0	152,114,000	0	152,114,000	0	152,114,000
Total, capital outlay	0	1,226,719,000	0	1,226,718,000	0	1,226,719,000
Grand Total, District of Columbia Funds	32,309	7,146,437,000	32,309	7,154,201,000	32,309	7,150,716,000

GOVERNMENTAL DIRECTION AND SUPPORT

Agency/Activity	FY 2001 Approved	FY 2002	House Recom-mendation	Senate Recom-mendation	Conference Allowance
Council of the District of Columbia	12,124,000	13,232,000	13,232,000	13,232,000	13,232,000
Office of the District of Columbia Auditor	1,283,000	1,299,000	1,299,000	1,299,000	1,299,000
Advisory Neighborhood Commissions	748,000	808,000	808,000	808,000	808,000
Office of the Mayor	7,217,000 1/	7,787,000	7,787,000	7,987,000	7,987,000
Office of the Secretary	1,946,000	2,516,000	2,516,000	2,516,000	2,516,000
City-Wide Call Center	0	1,898,000	1,898,000	1,898,000	1,898,000
Office of the City Administrator	23,386,000	27,709,000	28,009,000	27,709,000	28,009,000
Office of Personnel	11,285,000	15,908,000	15,908,000	15,908,000	15,908,000
Human Resources Development Fund	2,744,000	3,766,000	3,766,000	3,766,000	3,766,000
Office of Finance and Resource Management	7,553,000 2/	2,198,000	2,198,000	2,198,000	2,198,000
Office of Contracting and Procurement	15,337,000	13,066,000	13,066,000	13,066,000	13,066,000
Office of the Chief Technology Officer	11,770,000	12,502,000	13,002,000	12,902,000	12,902,000
Office of Property Management	8,550,000	8,905,000	8,905,000	8,905,000	8,905,000
Contract Appeals Board	734,000	746,000	746,000	746,000	746,000
Board of Elections and Ethics	3,250,000	3,503,000	3,503,000	3,503,000	3,503,000
Office of Campaign Finance	1,209,000	1,388,000	1,388,000	1,388,000	1,388,000
Public Employee Relations Board	652,000	686,000	686,000	686,000	686,000
Office of Employee Appeals	1,434,000	1,540,000	1,540,000	1,540,000	1,540,000
Metropolitan Washington Council of Governments	367,000	367,000	367,000	367,000	367,000
Office of the Corporation Counsel	0	49,811,000	49,811,000	49,811,000	50,440,000
Settlements and Judgments	0	23,450,000	23,450,000	23,450,000	23,450,000
Office of the Inspector General	12,399,000	12,476,000	12,476,000	12,476,000	12,476,000
Office of the Chief Financial Officer	76,933,000	78,998,000	78,998,000	84,898,000	79,048,000
Federal Payment to the District of for Security Costs	0	0	0	16,058,000	0
Total, Governmental Direction and Support	200,921,000	284,559,000	285,359,000	307,117,000	286,138,000
Plus Intra-District funds	36,950,000	36,576,000	36,576,000	36,576,000	36,576,000
Total	237,871,000	321,135,000	321,935,000	343,693,000	322,714,000

1/ Includes $250,000 rescission in FY01 Supplemental (P.L. 107-20).

2/ Includes $5,400,000 increase in FY 01 Supplemental (P.L. 107-20).

ECONOMIC DEVELOPMENT AND REGULATION

Agency/Activity	FY 2001 Approved	FY 2002 Request	House Recommendation	Senate Recommendation	Conference Allowance
Business Services and Economic Development	27,753,000 1/	32,840,000	32,840,000	32,840,000	32,840,000
Office of Zoning	1,763,000	2,378,000	2,378,000	2,378,000	2,378,000
Department of Housing and Community Development	48,273,000	57,890,000	57,890,000	57,890,000	57,890,000
Department of Employment Services	80,812,000	80,477,000	80,477,000	80,477,000	80,477,000
Board of Appeals and Review	244,000	242,000	242,000	242,000	242,000
Board of Real Property Assessments and Appeals	0 300,000	298,000	298,000	298,000	298,000
Department of Consumer and Regulatory Affairs	27,198,000 2/	28,605,000	28,605,000	28,605,000	28,605,000
Alcoholic Beverage Regulation Administration	0	2,607,000	2,607,000	2,607,000	2,607,000
Office of Banking and Financial Institutions	1,869,000	2,694,000	2,694,000	2,694,000	2,694,000
Public Service Commission	5,678,000	6,402,000	6,402,000	6,402,000	6,402,000
Office of People's Counsel	3,020,000	3,884,000	3,884,000	3,884,000	3,884,000
Department of Insurance and Securities Regulation	7,359,000	9,377,000	9,377,000	9,377,000	9,377,000
Office of Cable Television and Telecommunications	3,054,000	3,184,000	3,184,000	3,184,000	3,184,000
Total, Economic Development and Regulation	207,323,000	230,878,000	230,878,000	230,878,000	230,878,000
Plus Intra-District Funds	2,017,000	1,017,000	1,017,000	1,017,000	1,017,000
Total	209,340,000	231,895,000	231,895,000	231,895,000	231,895,000

1/ Includes $1,000,000 in FY 01 Supplemental (P.L. 107-20).
2/ Includes $685,000 in FY 01 Supplemental (P.L. 107-20).

PUBLIC SAFETY AND JUSTICE

Agency/Activity	FY 2001 Approved	FY 2002 Request	House Recom-mendation	Senate Recom-mendation	Conference Allowance
Metropolitan Police Department	306,081,000 1/	311,868,000	311,968,000	311,868,000	311,968,000
Fire and Emergency Medical Services Department	122,536,000 2/	119,330,000	119,830,000	119,330,000	119,830,000
Police Officers and Fire Fighters' Retirement System	49,000,000	74,600,000	74,600,000	74,600,000	74,600,000
Office of the Corporation Counsel	46,066,000 3/	0	0	0	0
Settlements and Judgments Fund	23,450,000	0	0	0	0
Department of Corrections	212,993,000	111,532,000	111,532,000	111,532,000	111,532,000
District of Columbia National Guard	2,326,000	2,823,000	2,823,000	2,823,000	2,823,000
D.C. Emergency Management Agency	2,978,000	3,964,000	3,964,000	3,964,000	3,964,000
Commission on Judicial Disabilities and Tenure	169,000	172,000	172,000	172,000	172,000
Judicial Nomination Commission	90,000	91,000	91,000	91,000	91,000
Citizen Complaint Review Board	857,000	1,424,000	1,424,000	1,424,000	1,424,000
Advisory Commission on Sentencing	733,000 4/	637,000	637,000	637,000	637,000
Office of the Chief Medical Examiner	4,138,000	6,227,000	6,812,000	6,227,000	6,812,000
Total, Public Safety and Justice	771,417,000	632,668,000	633,853,000	632,668,000	633,853,000
Plus Intra-District funds	5,884,000	4,140,000	4,140,000	4,140,000	4,140,000
Total	777,301,000	636,808,000	637,993,000	636,808,000	637,993,000

1/ Includes rescission of $131,000 and increase of $2,800,000 in FY 01 Supplemental (P.L. 107-20).

2/ Includes $5,940,000 in FY 01 Supplemental (P.L. 107-20).

3/ Includes $101,000 in FY 01 Supplemental (P.L. 107-20).

4/ Includes $161,000 in FY 01 Supplemental (P.L. 107-20).

PUBLIC EDUCATION SYSTEM

Agency/Activity	FY 2001 Approved	FY 2002 Request	House Recommendation	Senate Recommendation	Conference Allowance
District of Columbia Public Schools	781,943,000 1/	810,542,000	810,542,000	813,292,000	813,042,000
Teachers' Retirement System	200,000	0	0	0	0
State Education Office	2,679,000 2/	47,370,000	47,370,000	47,370,000	47,370,000
D.C. Resident Tuition Support	17,000,000	0	0	0	0
Public Charter Schools	105,000,000	142,257,000	142,257,000	142,257,000	142,257,000
University of the District of Columbia	76,433,000	76,542,000	76,542,000	76,542,000	76,542,000
District of Columbia Public Library	26,459,000	27,256,000	27,256,000	27,256,000	27,256,000
Commission on the Arts and Humanities	2,204,000	2,198,000	2,198,000	2,198,000	2,198,000
Total, Public Education System	1,011,918,000	1,106,165,000	1,106,165,000	1,108,915,000	1,108,665,000
Plus Intra-District funds	24,623,000	43,349,000	43,349,000	43,349,000	43,349,000
Total	1,036,541,000	1,149,514,000	1,149,514,000	1,152,264,000	1,152,014,000

1/ Includes $12,000,000 in FY 01 Supplemental (P.L. 107-20).

2/ Includes $1,000,000 in FY 01 Supplemental (P.L. 107-20).

HUMAN SUPPORT SERVICES

Agency/Activity	FY 2001 Approved	FY 2002 Request	House Recommendation	Senate Recommendation	Conference Allowance
Department of Human Services	384,840,000	417,581,000	417,581,000	417,581,000	417,581,000
Department of Health	1,033,881,000 1/	1,289,086,000	1,289,086,000	1,289,086,000	1,289,086,000
Department of Parks and Recreation	28,855,000	31,307,000	31,307,000	31,307,000	31,307,000
D.C. Office on Aging	19,131,000	19,649,000	19,649,000	19,649,000	19,649,000
Public Benefit Corporation Subsidy	45,313,000	0	0	0	0
Unemployment Compensation Fund	6,199,000	8,200,000	8,200,000	8,200,000	8,200,000
Disability Compensation Fund	28,836,000 2/	27,986,000	27,986,000	27,986,000	27,986,000
Office of Human Rights	1,407,000	1,651,000	1,651,000	1,651,000	1,651,000
Office on Latino Affairs	1,882,000 3/	2,849,000	2,849,000	2,849,000	2,849,000
D.C. Energy Office	4,860,000	5,177,000	5,177,000	5,177,000	5,177,000
Office on Asian and Pacific Islander Affairs	0	207,000	207,000	207,000	207,000
Office of Veterans Affairs	0	230,000	230,000	230,000	230,000
Brownfield Remediation	3,450,000	0	0	0	0
Children Investment Trust Fund	5,000,000 4/	0	0	0	0
Total, Human Support Services	1,563,654,000	1,803,923,000	1,803,923,000	1,803,923,000	1,803,923,000
Plus Intra-District funds	6,586,000	12,547,000	12,547,000	12,547,000	12,547,000
Total	1,570,240,000	1,816,470,000	1,816,470,000	1,816,470,000	1,816,470,000

1/ Includes $19,000,000 in FY 01 Supplemental (P.L. 107-20).
2/ Includes $3,000,000 in FY 01 Supplemental (P.L. 107-20).
3/ Includes $1,000,000 in FY 01 Supplemental (P.L. 107-20).
4/ Includes $5,000,000 in FY 01 Supplemental (P.L. 107-20).

PUBLIC WORKS

Agency/Activity	FY 2001 Approved		FY 2002 Request	House Recommendation	Senate Recommendation	Conference Allowance
Department of Public Works	108,589,000		113,324,000	113,324,000	113,324,000	113,324,000
Department of Motor Vehicles	27,825,000		33,580,000	33,580,000	33,580,000	33,580,000
D.C. Taxicab Commission	804,000	1/	1,442,000	1,442,000	1,442,000	1,442,000
Washington Metropolitan Area Transit Commission	82,000		83,000	83,000	83,000	83,000
Washington Metropolitan Area Transit Authority	138,073,000		148,622,000	148,622,000	148,622,000	148,622,000
School Transit Subsidy	3,000,000		3,100,000	3,100,000	3,100,000	3,100,000
Total, Public Works	278,373,000		300,151,000	300,151,000	300,151,000	300,151,000
Plus Intra-District funds	19,703,000		13,942,000	13,942,000	13,942,000	13,942,000
Total	298,076,000		314,093,000	314,093,000	314,093,000	314,093,000

1/ Includes $131,000 in FY 01 Supplemental (P.L. 107-20).

RECEIVERSHIP PROGRAMS

Agency/Activity	FY 2001 Approved	FY 2002 Request	House Recom-mendation	Senate Recom-mendation	Conference Allowance
Child and Family Services Agency	166,652,000	175,799,000	175,799,000	176,299,000	176,299,000
Incentives for Adoption of Children	0	0	0	0	0
Commission on Mental Health Services	210,569,000	227,569,000	227,569,000	227,569,000	227,569,000
Corrections Medical Receiver	12,307,000	0	0	0	0
Total, Receivership Programs	389,528,000	403,368,000	403,368,000	403,868,000	403,868,000
Plus Intra-District funds	1,800,000	12,592,000	12,592,000	12,592,000	12,592,000
Total	391,328,000	415,960,000	415,960,000	416,460,000	416,460,000

FINANCING AND OTHER USES

Agency/Activity	FY 2001 Approved	FY 2002 Request	House Recom-mendation	Senate Recom-mendation	Conference Allowance
Workforce Investment	40,500,000 1/	42,896,000	42,896,000	42,896,000	42,896,000
Reserve	150,000,000	150,000,000	150,000,000	120,000,000	120,000,000
Reserve Relief	0	0	0	30,000,000	30,000,000
Repayment of Loans and Interest	243,238,000	247,902,000	247,902,000	247,902,000	247,902,000
Repayment of General Fund Recovery Debt	39,300,000	39,300,000	39,300,000	39,300,000	39,300,000
Payment of Interest on Short-Term Borrowing	1,140,000	500,000	500,000	500,000	500,000
Presidential Inauguration	5,961,000	0	0	0	0
Certificates of Participation	7,950,000	0	0	0	0
Security for Meetings	0	15,918,000 3/	0	0	0
Emergency Planning and Security Costs	0	0	16,058,000	16,058,000	16,058,000
Wilson Building	15,509,000 2/	8,859,000	8,859,000	8,859,000	8,859,000
Optical and Dental Insurance Payments	2,675,000	0	0	0	0
Management Supervisory Service	13,200,000	0	0	0	0
Tobacco Settlement Trust Fund Transfer Payment	61,406,000	0	0	0	0
Emergency Reserve Fund Transfer	0	33,254,000	33,254,000	33,254,000	33,254,000
Operational Improvement Savings (Including Managed Competition)	(10,000,000)	0	0	0	0
Management Reform Savings	(37,000,000)	0	0	0	0
Cafeteria Plan Savings	(5,000,000)	0	0	0	0
Non-Departmental Agency	0	5,799,000	5,799,000	5,799,000	5,799,000
Total, Financing and Other Uses	528,879,000	544,428,000	544,568,000	544,568,000	544,568,000

1/ Includes in FY 01 Supplemental (P.L. 107-20).

2/ Includes $7,100,000 in FY 01 Supplemental (P.L. 107-20).

3/ Included in Budget Amendment House Doc. 107-116.

ENTERPRISE AND OTHER FUNDS

Agency/Activity	FY 2001 Approved	FY 2002 Request	House Recom-mendation	Senate Recom-mendation	Conference Allowance
Water and Sewer Authority	230,614,000	244,978,000	244,978,000	244,978,000	244,978,000
Washington Aqueduct	45,091,000	46,510,000	46,510,000	46,510,000	46,510,000
Stormwater Permit Compliance	2,151,000 1/	3,100,000	3,100,000	3,100,000	3,100,000
D. C. Lottery and Charitable Games Control Board	223,200,000	229,688,000	229,688,000	229,688,000	229,688,000
D.C. Sports and Entertainment Commission	10,968,000	9,127,000	9,127,000	9,127,000	9,627,000
District of Columbia Health and Hospitals Public Benefit Corporation	78,235,000	0	0	0	0
District of Columbia Retirement Board	11,414,000	13,388,000	13,388,000	13,388,000	13,388,000
Correctional Industries Fund	1,808,000	0	0	0	0
Washington Convention Center Authority	52,726,000	57,278,000	57,278,000	57,278,000	57,278,000
Housing Finance Agency	0	4,711,000	4,711,000	4,711,000	4,711,000
National Capital Revitalization Corporation	0	2,673,000	2,673,000	2,673,000	2,673,000
Total, Enterprise Funds	656,207,000	611,453,000	611,453,000	611,453,000	611,953,000
Plus Intra-District funds	75,044,000	0	0	0	0
Total	731,251,000	611,453,000	611,453,000	611,453,000	611,953,000

1/ Included in FY 01 Supplemental (P.L. 107-20).

02FUNDS

DISTRICT OF COLUMBIA
TOTAL ESTIMATED RESOURCES AVAILABLE TO THE DISTRICT OF COLUMBIA, FISCAL YEAR 2002
AS APPROVED BY CONFERENCE AGREEMENT, DECEMBER 4, 2001

(Amounts in thousands)

	Local Funds		Federal Grants		Private & Other		Subtotal FY 2002		Intra-District		FY 2002 total resources	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Governmental Direction and Support:												
Council of the District of Columbia	163	13,232	0	0	0	0	163	13,232	0	0	163	13,232
Office of the D.C. Auditor	14	1,299	0	0	0	0	14	1,299	0	0	14	1,299
Advisory Neighborhood Commissions	1	808	0	0	0	0	1	808	0	0	1	808
Office of the Mayor	75	7,622	4	365	0	0	79	7,987	4	307	83	8,294
Office of the Secretary	25	2,425	0	0	2	91	27	2,516	0	0	27	2,516
City-wide Call Center	38	1,898	0	0	0	0	38	1,898	0	0	38	1,898
Office of the City Administrator	76	6,890	16	21,119	0	0	92	28,009	4	266	96	28,275
Office of Personnel	125	14,602	0	0	20	1,306	145	15,908	29	1,230	174	17,138
Human Resources Development Fund	10	3,766	0	0	0	0	10	3,766	0	0	10	3,766
Office of Finance and Resource Management	34	2,198	0	0	0	0	34	2,198	3	175	37	2,373
Office of Contracting and Procurement	164	13,066	0	0	0	0	164	13,066	0	0	164	13,066
Office of the Chief Technology Officer	83	12,888	0	0	0	14	83	12,902	22	2,539	105	15,441
Office of Property Management	48	7,262	0	0	2	1,643	50	8,905	156	24,916	206	33,821
Contract Appeals Board	6	746	0	0	0	0	6	746	0	0	6	746
Board of Elections and Ethics	50	3,503	0	0	0	0	50	3,503	0	0	50	3,503
Office of Campaign Finance	15	1,388	0	0	0	0	15	1,388	0	0	15	1,388
Public Employee Relations Board	4	686	0	0	0	0	4	686	0	0	4	686
Office of Employee Appeals	16	1,540	0	0	0	0	16	1,540	0	0	16	1,540
Metropolitan Washington Council of Governments	0	367	0	0	0	0	0	367	0	0	0	367
Office of the Corporation Counsel	377	30,299	119	15,180	14	4,961	510	50,440	27	2,065	537	52,505
Settlements and Judgments	0	23,450	0	0	0	0	0	23,450	0	0	0	23,450
Office of Inspector General	92	11,263	16	1,213	0	0	108	12,476	0	0	108	12,476
Office of the Chief Financial Officer	911	68,223	3	932	46	9,893	960	79,048	76	5,078	1,036	84,126
Total, Governmental Direction and Support	2,327	229,421	158	38,809	84	17,908	2,569	286,138	321	36,576	2,890	322,714
Economic Development and Regulation:												
Business Services & Economic Development	93	16,440	2	304	7	16,096	102	32,840	0	0	102	32,840
Office of Zoning	17	2,378	0	0	0	0	17	2,378	0	0	17	2,378
Department of Housing and Community Development	13	7,716	137	42,168	0	8,006	150	57,890	0	0	150	57,890
Department of Employment Services	44	7,309	378	53,624	158	19,544	580	80,477	0	0	580	80,477
Board of Appeals and Review	3	242	0	0	0	0	3	242	0	0	3	242
Board of Real Property Assessments and Appeals	3	298	0	0	0	0	3	298	0	0	3	298
Department of Consumer and Regulatory Affairs	371	26,203	0	0	5	2,402	376	28,605	0	500	376	29,105
Alcoholic Beverage Regulation Administration	0	0	0	0	36	2,607	36	2,607	0	0	36	2,607
Office of Banking and Financial Institutions	0	200	0	0	27	2,494	27	2,694	0	0	27	2,694
Public Service Commission	0	0	1	103	67	6,299	68	6,402	0	0	68	6,402
Office of People's Counsel	0	0	0	0	33	3,884	33	3,884	0	0	33	3,884
Department of Insurance and Securities Regulation	0	0	0	0	103	9,377	103	9,377	0	0	103	9,377
Office of Cable Television & Telecommunications	0	0	0	0	20	3,184	20	3,184	12	517	32	3,701
Total, Economic Development and Regulation	544	60,786	518	96,199	456	73,893	1,518	230,878	12	1,017	1,530	231,895

	Local Funds		Federal Grants		Private & Other		Subtotal FY 2002		Intra-District		FY 2002 total resources	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Public Safety and Justice:												
Metropolitan Police Department	4,350	296,995	200	6,829	25	8,143	4,575	311,968	2	4,140	4,577	316,108
Fire and Emergency Medical Services	1,920	119,821	0	0	0	9	1,920	119,830	0	0	1,920	119,830
Police and Fire Retirement System	0	74,600	0	0	0	0	0	74,600	0	0	0	74,600
Department of Corrections	749	89,035	0	0	194	22,497	943	111,532	0	0	943	111,532
National Guard	30	2,317	13	506	0	0	43	2,823	0	0	43	2,823
Emergency Management Agency	26	3,001	13	963	0	0	39	3,964	0	0	39	3,964
Commission on Judicial Disabilities and Tenure	2	172	0	0	0	0	2	172	0	0	2	172
Judicial Nomination Commission	1	91	0	0	0	0	1	91	0	0	1	91
Office of Citizen Complaint Review	21	1,424	0	0	0	0	21	1,424	0	0	21	1,424
Advisory Commission on Sentencing	6	637	0	0	0	0	6	637	0	0	6	637
Office of the Chief Medical Examiner	65	6,709	0	0	2	103	67	6,812	0	0	67	6,812
Total, Public Safety and Justice	7,170	594,803	226	8,298	221	30,752	7,617	633,853	2	4,140	7,619	637,993
Public Education System:												
Public Schools	9,821	661,124	506	144,630	119	7,288	10,446	813,042	365	34,032	10,811	847,074
State Education Office	27	19,911	10	26,917	6	542	43	47,370	2	480	45	47,850
District of Columbia Public Charter Schools	0	142,257	0	0	0	0	0	142,257	0	0	0	142,257
University of the District of Columbia	545	45,912	169	12,539	258	18,091	972	76,542	160	8,799	1,132	85,341
Public Library	422	26,030	9	560	2	666	433	27,256	0	0	433	27,256
Commission on the Arts and Humanities	2	1,760	7	398	0	40	9	2,198	0	38	9	2,236
Total, Public Education System	10,817	896,994	701	185,044	385	26,627	11,903	1,108,665	527	43,349	12,430	1,152,014
Human Support Services:												
Department of Human Services	848	201,593	977	214,602	0	1,386	1,825	417,581	19	1,733	1,844	419,314
Department of Health	439	424,657	825	851,753	87	12,676	1,351	1,289,086	10	6,110	1,361	1,295,196
Department of Parks and Recreation	579	28,912	0	34	83	2,361	662	31,307	93	4,308	755	35,615
Office on Aging	14	14,687	9	4,962	0	0	23	19,649	3	266	26	19,915
Unemployment Compensation Fund	0	8,200	0	0	0	0	0	8,200	0	0	0	8,200
Disability Compensation Fund	0	27,986	0	0	0	0	0	27,986	0	100	0	28,086
Office of Human Rights	23	1,545	0	106	0	0	23	1,651	0	0	23	1,651
Office on Latino Affairs	12	2,849	0	0	0	0	12	2,849	0	30	12	2,879
D.C. Energy Office	2	206	17	4,503	10	468	29	5,177	0	0	29	5,177
Office on Asian and Pacific Islander Affairs	3	207	0	0	0	0	3	207	0	0	3	207
Office of Veterans' Affairs	3	230	0	0	0	0	3	230	0	0	3	230
Total, Department of Human Services	1,923	711,072	1,828	1,075,960	180	16,891	3,931	1,803,923	125	12,547	4,056	1,816,470

	Local Funds		Federal Grants		Private & Other		Subtotal FY 2002		Intra-District		FY 2002 total resources	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Public Works:												
Department of Public Works	1,248	104,943	3	4,392	50	3,989	1,301	113,324	68	13,942	1,369	127,266
Department of Motor Vehicles	253	28,580	0		90	5,000	343	33,580	0	0	343	33,580
D.C. Taxicab Commission	16	1,006	0	0	3	436	19	1,442	0	0	19	1,442
Washington Metropolitan Area Transit Commission	0	83	0	0	0	0	0	83	0	0	0	83
Washington Metropolitan Area Transit Authority	0	148,622	0	0	0	0	0	148,622	0	0	0	148,622
School Transit Subsidy	0	3,100	0	0	0	0	0	3,100	0	0	0	3,100
Total, Public Works	1,517	286,334	3	4,392	143	9,425	1,663	300,151	68	13,942	1,731	314,093
Receivership Programs:												
Child and Family Services Agency	522	108,235	310	67,414	0	650	832	176,299	0	12,592	832	188,891
Department of Mental Health	1,502	142,280	660	66,925	0	18,364	2,162	227,569	0	0	2,162	227,569
Total, Receivership Programs	2,024	250,515	970	134,339	0	19,014	2,994	403,868	0	12,592	2,994	416,460
Financing and Other:												
Workforce Investments	0	42,896	0	0	0	0	0	42,896	0	0	0	42,896
Reserve	0	120,000	0	0	0	0	0	120,000	0	0	0	120,000
Reserve Relief	0	30,000	0	0	0	0	0	30,000	0	0	0	30,000
Repayment of Loans and Interest	0	247,902	0	0	0	0	0	247,902	0	0	0	247,902
Repayment of General Fund Recovery Debt	0	39,300	0	0	0	0	0	39,300	0	0	0	39,300
Payment of Interest on Short-Term Borrowing	0	500	0	0	0	0	0	500	0	0	0	500
Emergency Planning and Security Costs	0	16,058	0	0	0	0	0	16,058	0	0	0	16,058
Wilson Building	0	8,859	0	0	0	0	0	8,859	0	0	0	8,859
Emergency Reserve Fund Transfer	0	33,254	0	0	0	0	0	33,254	0	0	0	33,254
Non-Departmental Agency	0	5,799	0	0	0	0	0	5,799	0	0	0	5,799
Total, Financing and Other	0	544,568	0	0	0	0	0	544,568	0	0	0	544,568
Total, General Fund - Operating Expenses	26,322	3,574,493	4,404	1,543,041	1,469	194,510	32,195	5,312,044	1,055	124,163	33,250	5,436,207

	Local Funds		Federal Grants		Private & Other		Subtotal FY 2002		Intra-District		FY 2002 total resources	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Enterprise and Other Funds:												
Water and Sewer Authority	0	0	0	0	0	244,978	0	244,978	0	0	0	244,978
Washington Aqueduct	0	0	0	0	0	46,510	0	46,510	0	0	0	46,510
Stormwater Permit Compliance Enterprise Fund	0	0	0	0	0	3,100	0	3,100	0	0	0	3,100
Lottery and Charitable Games Enterprise Fund	0	0	0	0	100	229,688	100	229,688	0	0	100	229,688
Sports and Entertainment Commission	0	0	0	0	0	9,627	0	9,627	0	0	0	9,627
District of Columbia Retirement Board	0	0	0	0	14	13,388	14	13,388	0	0	14	13,388
Washington Convention Center Enterprise Fund	0	0	0	0	0	57,278	0	57,278	0	0	0	57,278
Housing Finance Agency	0	0	0	0	0	4,711	0	4,711	0	0	0	4,711
National Capital Revitalization Corporation	0	0	0	0	0	2,673	0	2,673	0	0	0	2,673
Total, Enterprise and Other Funds	0	0	0	0	114	611,953	114	611,953	0	0	114	611,953
Total, Operating Expenses	26,322	3,574,493	4,404	1,543,041	1,583	806,463	32,309	5,923,997	1,055	124,163	33,364	6,048,160
Capital Outlay:												
General Fund	0	917,032	0	157,573	0	0	0	1,074,605	0	0	0	1,074,605
Water and Sewer	0	0	0	0	0	152,114	0	152,114	0	0	0	152,114
Total, Capital Outlay	0	917,032	0	157,573	0	152,114	0	1,226,719	0	0	0	1,226,719
Grand Total	26,322	4,491,525	4,404	1,700,614	1,583	958,577	32,309	7,150,716	1,055	124,163	33,364	7,274,879

FISCAL YEAR 2002 FINANCIAL PLAN

[In thousands of dollars]

	Local funds	Grants and other revenue	Gross funds
Revenue:			
Local Sources:			
Property Taxes	746,031	0	746,031
Sales Taxes	738,507	0	738,507
Income Taxes	1,361,077	0	1,361,077
Gross Receipts	244,480	0	244,480
Other Taxes	153,460	0	153,460
Licenses, Permits ...	43,336	0	43,336
Fines, Forfeitures ...	60,040	0	60,040
Service Charges ..	49,928	0	49,928
Miscellaneous	72,030	194,510	266,540
Subtotal, local revenues ...	3,468,889	194,510	3,663,339
Federal sources:			
Federal payments	38,143	0	38,143
Grants	0	1,543,041	1,543,041
Subtotal, Federal sources	38,143	1,543,041	1,581,184
Other financing sources: Lottery transfer	70,000	0	70,000
Total, general fund revenues	3,577,032	1,737,551	5,314,583
Expenditures:			
Governmental Direction and Support	229,421	56,717	286,138
Economic Development and Regulation	60,786	170,092	230,878
Public Safety and Justice	594,803	39,050	633,853
Public Education System	896,994	211,671	1,108,665
Human Support Services	711,072	1,092,851	1,803,923
Public Works	286,334	13,817	300,151
Receiverships	250,515	153,353	403,868
Financing and Other	361,314	0	361,314
Reserve	120,000	0	120,000
Reserve Relief	30,000	0	30,000
Emergency Reserve Fund	33,254	0	33,254
Total, general fund expenditures ..	3,574,493	1,737,551	5,312,044
Surplus/Deficit	2,539	0	2,539

GENERAL PROVISIONS

The conference agreement changes several section numbers for sequential purposes and makes technical revisions in certain citations. Unless noted otherwise, the conference action refers to H.R. 2944 as passed the House.

The conference agreement inserts the words "legal settlements or" to section 103 of the House bill as proposed by the Senate concerning making payment of judgments that have been entered against the District of Columbia government.

The conference agreement retains section 106 of the House bill but amended to delete the words "past work experience, and salary history".

The conference agreement deletes section 107 of the House bill appropriating from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act.

The conference agreement modifies section 108 (new section 107) of the Senate bill to allow local funds to be used for certain lobbying activities.

The conference agreement amends section 110 (new section 109) of the House relating to reprogramming procedures to provide authority to transfer four percent of local funds between appropriation headings.

The conference agreement retains section 112(b) (new section 111(b)) of the House bill on Certification of Need by the Chief Technology Officer, deletes section (c) which provided no limit on full-time equivalent positions for the Office of the Chief Technology Officer, and retains section 112(d) (new section 111(b)) amending the District of Columbia Home Rule Act as it relates to the Chief Financial Officer's salary.

The conference agreement inserts section 111 (new section 112) of the Senate bill requiring the Mayor to submit to the Council the new fiscal year 2002 revenue estimates by the end of the first quarter of fiscal year 2002.

The conference agreement retains section 112 (new section 113) of the House bill as amended by the Senate to include whether to invoke the competitive bidding process "and said determination has been reviewed and certified by the Chief Financial Officer of the District of Columbia".

The conference agreement inserted section 113 (new section 114(b)) of the Senate bill and combines with section 114 (new section 114(a)) of the House bill regarding the Balanced Budget and Emergency Deficit Control Act of 1985.

The conference agreement amends section 118 of the House bill as amended by the Senate to delete extraneous language.

The conference agreement amends section 120(c) of the House bill to allow the Chief Financial Officer of the District of Columbia and the Metropolitan Police Department to enter into agreements in excess of $2,500 for the procurement of goods or services.

The conference agreement retains section 122 and combines with section 137 of the House bill. These sections relate to compliance with the Buy American Act.

The conference agreement amends section 123 of the House bill to require the annual audit be coordinated with the Chief Financial Officer.

The conference agreement retains section 124 of the House bill to prohibit funds in this Act from being used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

The conference agreement retains section 125 of the House bill, which prohibits any funds contained in this Act to be used for any program of distributing sterile needles, or syringes for the hypodermic injection of any illegal drug.

The conference agreement retains section 126 of the House bill which requires the chief financial officer of any office of the District of Columbia government (including any independent agency of the District) to file a certification with the Mayor and the Chief Financial Officer that they understand the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act).

The conference agreement deletes section 126 of the Senate bill which requires the Chief Financial Officer to submit a revised appropriated funds operating budget within 30 calendar days after the date of the enactment of this Act. This is section 135 of the House bill.

The conference agreement deletes section 127 of the House bill requiring that in submitting any documents showing the budget for an office of the District of Columbia government that contains a category of activities labeled as "other", "miscellaneous", or a similar general, nondescriptive term, the document shall include a description of the types of activities covered in the category and a detailed breakdown as proposed by the Senate.

The conference agreement deletes section 129 of the House bill authorizing the Mayor to allocate the District's limitation amount of qualified zone academy bonds.

The conference agreement inserts section 131 (new section 129) as proposed by the Senate that relates to prompt payment of appointed counsel.

The conference agreement retains section 132 (new section 130) of the House bill by appropriating a $100,000 Federal contribution to the Metropolitan Police Department on the condition that the District government enacts into law a ban on the possession of tobacco products by minors as specified in this section. The funds are to be used by the Department to enforce the ban.

The conference agreement retains section 132 (new section 131) of the Senate bill which requires the Mayor of the District of Columbia to submit to the Senate and House Committees on Appropriations, the Senate Governmental Affairs Committee, and the House Government Reform Committee quarterly reports addressing the following issues: (1) crime, (2) access to drug abuse treatment, (3) management of parolees and pre-trial violent offenders, (4) education, (5) improvement in basic District services, (6) application for and management of Federal grants, and (7) indicators of child well-being.

The conference agreement retains section 133 (new section 132) of the House bill that allows the District of Columbia Corporation Counsel to review and comment on briefs in private lawsuits and consult with officials of the District government regarding such lawsuits.

The conference agreement retains section 133 as proposed by the Senate amending the District of Columbia Financial Responsibility and Management Assistance Act concerning reserve fund requirements.

The conference agreement deletes section 134 as proposed by the House that amended the National Capital Revitalization and Self-Government Improvement Act of 1997.

The conference agreement retains section 134 as proposed by the Senate that prohibits funds appropriated by this Act for an Integrated Product Team until reorganization plans for the Integrated Product Team and a Capital Construction Services Administration have been approved, or deemed approved by the Council.

The conference agreement retains section 135 as proposed by the House which requires the Chief Financial Officer to submit to the appropriate committees of Congress, the Mayor, and the Council a revised appropriated fund operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act.

The conference agreement deletes section 135 as proposed by the Senate which appropriated for the use of the Office of the Corporation Counsel of the District of Columbia all funds deposited in the District of Columbia Antitrust Fund, Antifraud Fund, and District of Columbia Consumer Protection Fund and transferred those provisions to the Governmental Direction and Support appropriation title.

The conference agreement retains section 136 as proposed by the House that amends the Home Rule Act to increase the salary of the Council Chairman to $10,000 less than the annual compensation of the Mayor.

The conference agreement retains section 136 (new section 137) as proposed by the Senate on risk management for settlements and judgments.

The conference agreement deletes section 137 as proposed by the House stating that no funds appropriated in this Act may be made available to pay any person or entity that violates the Buy American Act and combines it with section 122 of the House bill.

The conference agreement retains section 137 (new section 138) as proposed by the Senate which waives the period of Congressional review for the Closing of Portions of 2nd and N Streets, N.E. and Alley System in Square 710, Act.

The conference agreement retains section 138 (new section 139) as proposed by the House that prohibits funds contained in this Act from being used to issue, administer, or enforce any order by the District of Columbia Commission on Human Rights relating to docket numbers 93-030-(PA) and 93-031-(PA).

The conference agreement deletes Section 138(a) which placed a limitation on the amount of fees attorneys may receive when representing a party who prevails in an action or the fees of any attorney who defends any action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act and Section 138(b) which allowed the Mayor and the Superintendent of the District of Columbia Public Schools to concur in a Memorandum of Understanding setting forth a new rate and amount of compensation, or a new limit.

The conference agreement retains section 138(c) (new section 140) concerning attorney fee awards made in cases under the Individuals with Disabilities Education Act. The conference agreement inserts a new subsection 140(b) which requires no later than 60 days after the date of enactment of this Act the Superintendent of Schools of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and the Senate a written report for each of the fiscal years 1999, 2000, and 2001, detailing a complete itemized list, by year, of the judgments for attorneys' fees awarded to plaintiffs who prevailed in cases brought against the District of Columbia or the District of Columbia Public Schools under section 6154(i)(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(i)(3)).

The conference agreement deletes section 139 as proposed by the Senate that makes certain exceptions to the limitation in the previous section on the amount of fees attorneys can receive when representing a party who prevails in an action or any attorney who defends any action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act.

The conference agreement deletes section 140 of the Senate bill concerning mandatory advanced electronic information for air cargo and passengers entering the United States.

The conference agreement inserts a new section 141 as proposed by the Senate that requires the General Accounting Office to submit by March 31, 2002 a report detailing the awards in judgment rendered in the District of Columbia that were in excess of the cap imposed by prior appropriations acts on attorney fees for work performed or previously performed in actions brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligation) authority for the fiscal year 2002 recommended by the Committee of Conference, with comparisons to the fiscal year 2001 amount, the 2002 budget estimates, and the House and Senate bills for 2002 follows:

[In thousands of dollars]

Federal Funds:	
New budget (obligational) authority, fiscal year 2001	$464,125
Budget estimates of new (obligational) authority, fiscal year 2002	358,607
House bill, fiscal year 2002	398,058
Senate bill, fiscal year 2002	408,000
Conference agreement, fiscal year 2002	408,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2001	−56,125
Budget estimates of new (obligational) authority, fiscal year 2002	+49,393
House bill, fiscal year 2002	+9,942
Senate bill, fiscal year 2002	——
District of Columbia Funds:	
New budget (obligational) authority, fiscal year 2001	6,774,159
Budget estimates of new (obligational) authority, fiscal year 2002	7,144,312
House bill, fiscal year 2002	7,146,437
Senate bill, fiscal year 2002	7,154,201
Conference agreement, fiscal year 2002	7,150,716
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2001	+376,557
Budget estimates of new (obligational) authority, fiscal year 2002	+6,404
House bill, fiscal year 2002	+4,279
Senate bill, fiscal year 2002	−3,485

Joe Knollenberg,
Ernest Istook,
John T. Doolittle,
John E. Sweeney,
David Vitter,
Bill Young,
Chaka Fattah,
Alan B. Mollohan,
Managers on the Part of the House.

Mary L. Landrieu,
Jack Reed,
Daniel K. Inouye,
Mike DeWine,
Ted Stevens,
Managers on the Part of the Senate.

ELECTION IRREGULARITIES

The SPEAKER pro tempore (Mr. Gutknecht). Under a previous order of the House, the gentlewoman from Georgia (Ms. McKinney) is recognized for 5 minutes.

Ms. McKINNEY. Mr. Speaker, I mentioned awhile ago a fact of what happened in the elections in Florida, which I would like to take an opportunity to revisit, and I am glad that the gentlewoman from Florida (Ms. Brown) has agreed to stay here so that she can respond to this information.

An enterprising journalist by the name of Gregory Palast who operates out of London and works with BBC-TV has provided some very interesting information to me. I have got a list here, and the list is about those people who were put on the voter file that said that they could not vote because they were convicted felons. I have got the list here.

For instance, number 354 on the list is Johnny Jackson, Jr., who is a black male from Texas, and then, unfortunately, John Fitzgerald Jackson. They said that those two people were the same people, so John Fitzgerald Jackson in Florida was denied the right to vote because a list from Texas that had the name of Johnny Jackson, Jr., on it, said that Johnny Jackson, Jr., was not eligible to vote.

I have got on this list, for example, Thomas Alvin Cooper, who is a white male from Ohio. Thomas Cooper is a pretty common name. There is more than one Thomas Cooper, I am sure, in all of the people in Florida. But Thomas Cooper was denied the right to vote in Florida, and Thomas Cooper in Florida, who was denied the right to vote, was a black man.

I have got here Michael Rodriguez from New Jersey, and I am sure Michael Rodriguez is a common name. But in Florida, Michael Rodriguez was denied the right to vote. In New Jersey it was Michael A. Rodriguez.

What this list shows is that there were about 2,800 people who were not allowed the right to vote because the State of Florida said that they were convicted felons in other states, and, therefore, they could not vote in Florida.

Mr. Speaker, 57,700 people, innocent people, I might add, were targeted for removal. Ninety percent of the people on the list that was purged so that these people could not vote in Florida, 90 percent of the names were wrong. At least 54 percent were black. 80 percent of those who finally were purged were black, and 93 percent of the people who were targeted to be purged vote Democratic.

Ms. BROWN of Florida. If the gentlewoman would yield for one minute, let me give you the rest of the story. Florida used $4 million of taxpayer money that they gave to a firm, it was not bid out, to a firm from Texas. Katherine Harris' office did that to the people of Florida, and they came up and purged people. There was no procedure, none whatsoever.

In fact, when I went to the poll on election day, I went downtown and there was some young black guys there saying they are not letting them vote because they said they were felons, and they had never been arrested.

Ms. McKINNEY. It was a procedure, all right, but the procedure was that if you were black, then you had your name on this list and you were denied the right to vote.

Ms. BROWN of Florida. There is no question. But I am going back to how it came about. There was a bid, a nonsolicited bid, where a contract was given to a firm, and all this is in the record, and the firm told the State of Florida that this system that you are using will identify people that are not convicted felons. The State of Florida says, oh, that is okay. That is okay.

Ms. MCKINNEY. That is exactly what happened. The name of the firm was Database Technologies, which was later absorbed by ChoicePoint, which has its headquarters right outside of Atlanta. The gentlewoman is absolutely right, that they told Katherine Harris, for whom a Congressional District I understand is being specially carved, that the information we are going to give you, according to your specifications, is wrong. We want you to know that the information that we are going to give you, the information that you have requested, is wrong. Do you want us to give you wrong information? And Katherine Harris and company, said yes, we want the wrong information.

VOTER IRREGULARITIES IN FLORIDA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. BROWN) is recognized for 5 minutes.

Ms. BROWN of Florida. Mr. Speaker, I want the gentlewoman from Georgia (Ms. MCKINNEY) to know that this is a very touchy situation for me, because so much happened in Florida. In fact, former President Jimmy Carter said that if Florida had been any other country, it would not have been certified, because when you had Republican operatives going into the supervisor of elections filling out forms and sending them out, it was totally illegal. But that happened in Florida.

Some of the things that happened in Florida you would not believe. It is just so hard for me to talk about. In my county alone, 27,000 of my people, voters, were thrown out; thrown out. Let me tell you, 16,000 said it was overvotes. We never saw them. But 10,000, let me tell you, the machines were old, there were undervotes, and the machines kicked them out. So, to date, they have never been counted.

Ms. MCKINNEY. If the gentlewoman will yield, there was serious disenfranchisement that took place. It was systematic, it was purposeful. It was stolen, because we are talking about 2,800 people who Florida took the right to vote away from just because they came from other states. But let me just add that they lied to the Department of Justice, because they told the Department of Justice that our little election thing here that we are trying to do, this little thing here is race-neutral, is not going to have an effect. And what did it do? It had an effect. It took away the right to vote for African Americans and other minorities.

I know the gentlewoman lived it and breathed it every day, but I am here to tell you that Florida was not the only place that it happened. We now know that it happened in too many places all over America, including Georgia.

But I am going to give the gentlewoman the last word, because in Florida, Florida certified the national election, and we have some serious questions about the validity of the Florida election and the Florida outcome.

Ms. BROWN of Florida. The one thing that I want to say on that, and it goes back to what I said earlier, the letter that Jimmy Carter, former President Carter and former President Ford said was give the American people a Christmas President. Give them election reform. What happened in Florida in that election, a black eye is not what it was.

□ 2100

It goes against who we are as Americans. It is bigger than that. Because if someone cannot win the election without stealing it, they do not deserve the office that they are running for.

One of the things I can say that happened in the last election in Virginia, there was close to 1,000 attorneys in all of the precincts. People are committed to making sure that what happened in Florida never, ever happens again in another election. We have had other elections in Florida where still, we have, from the governor's office, highway patrols park in front of the precinct all day.

Ms. MCKINNEY. But, Mr. Speaker, the question I have is, in the State of Florida, the Governor, Jeb Bush down there has declared a state of emergency. I wonder how long that state of emergency is going to last and if it is going to allow this kind of thing to happen again and the kinds of things that happened with the State patrol parked outside polling precincts and that kind of thing, if that is going to happen again as a result of this state of emergency.

Ms. BROWN of Florida. Mr. Speaker, the point of the matter is that the gentlewoman talked about what happened with the voters, but keep in mind that the system broke down before then, because we had Motor Voter where people went to the driver's license place, they received their driver's license, and they signed up to register to vote and to this day, they have not received their cards. So we had thousands of people that was registered to vote that never got the opportunity because that office did not turn it into the Supervisor of Election's office.

Ms. MCKINNEY. Mr. Speaker, we had similar problems in Georgia in my district as well. This is a sad day when we can provide for the people, for the Record, a piece of information like this that shows that people were designed to take away their right to vote just so that they could have a predetermined outcome.

Ms. BROWN of Florida. God bless America.

RECESS

The SPEAKER pro tempore (Mr. GUTKNECHT). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 2 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2302

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LINDER) at 11 o'clock and 2 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Report No. 107–322) on the resolution (H. Res. 305) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3005, BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2001

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 107–323) on the resolution (H. Res. 306) providing for consideration of the bill (H.R. 3005) to extend trade authorities procedures with respect to reciprocal trade agreements, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2944, DISTRICT OF COLUMBIA APPROPRIATIONS, 2002

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 107–324) on the resolution (H. Res. 307) waiving points of order against the conference report to accompany the bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DEFAZIO (at the request of Mr. GEPHARDT) for today on account of personal business.

Mr. FORD (at the request of Mr. GEPHARDT) for November 27 and the balance of that week on account of a death in the family.

Mr. HOSTETLER (at the request of Mr. ARMEY) for today until further notice on account of family medical reasons.

Mr. NEY (at the request of Mr. ARMEY) for today on account of family illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. LYNCH, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Ms. BALDWIN, for 5 minutes, today.

Mr. MCGOVERN, for 5 minutes, today.

Mr. MASCARA, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. RODRIGUEZ, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Mr. BACA, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mrs. NAPOLITANO, for 5 minutes, today.

Mr. HILL, for 5 minutes, today.

(The following Members (at the request of Mrs. JO ANN DAVIS of Virginia) to revise and extend their remarks and include extraneous material:)

Mr. FOLEY, for 5 minutes, today.

Mrs. JO ANN DAVIS of Virginia, for 5 minutes, December 6.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. CUNNINGHAM, for 5 minutes, today.

Ms. MCKINNEY, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

ADJOURNMENT

Mrs. MYRICK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until Thursday, December 6, 2001, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4723. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Azoxystrobin: Pesticide Tolerances for Emergency Exemptions [FRL-6809-3] received November 21, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4724. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Office of Security and Emergency Operations; Security Requirements for Protected Disclosures Under Section 3164 of the National Defense Authorization Act for Fiscal Year 2000 [Docket No. SO-RM-00-3164] (RIN: 1992-AA26) received November 20, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

4725. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Management of Report Deliverables—received November 20, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4726. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Energy Conservation Program for Consumer Products: Amendment to the Definition of "Electric Refrigerator" [Docket No. EE-RM-93-801] (RIN: 1904-AB03) received November 20, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4727. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Energy Efficiency Program for Certain Commercial and Industrial Equipment: Extension of Time for Electric Motor Manufacturers To Certify Compliance With Energy Efficiency Standards [Docket No. EE-RM-96-400] (RIN: 1904-AB11) received November 20, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4728. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Office of Civilian Radioactive Waste Management; General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories; Yucca Mountain Site Suitability Guidelines [Docket No. RW-RM-99-963] (RIN: 1901-AA72) received November 20, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4729. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Change to Definition of Major Source [FRL-7107-4] (RIN: 2060-AJ60) received November 21, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4730. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—New York: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7101-9] received November 21, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4731. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Utah: Final Authorization of State-Initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program [FRL-7092-1] received November 21, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4732. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Montana; Transportation Conformity; Correction [SIP NO. MT-001-0032; FRL-7102-5] received November 21, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4733. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production [FRL-7106-6] received November 21, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4734. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production [FRL-7106-1] received November 21, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4735. A letter from the Acting Assistant Secretary, Bureau of Land Management, Department of the Interior, transmitting the Department's final rule—Mineral Materials Disposal; Sales; Free Use [WO-320-1430-PB-24 1A] (RIN: 1004-AD29) received November 20, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under Clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 1576. A bill to designate the James Peak Wilderness and Protection Area in the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes; with an amendment (Rept. 207-316). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 1925. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System, and for other purposes; with an amendment (Rept. 107-317).

Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 1963. A bill to amend the National Trails System Act to designate the route taken by American soldier and frontiersman George Rogers Clark and his men during the Revolutionary War to capture the British forts at Kaskaskia and Cahokia, Illinois, and Vincennes, Indiana, for study for potential addition to the National Trails System (Rept. 107–318). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3334. A bill to designate the Richard J. Guadagno Headquarters and Visitors Center at Humboldt Bay National Wildlife Refuge, California (Rept. 107–319). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on Ways and Means. H.R. 3129. A bill to authorize appropriations for fiscal years 2002 and 2003 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes; with an amendment (Rept. 107–320). Referred to the Committee of the Whole House on the State of the Union.

Mr. KNOLLENBERG: Committee of Conference. Conference report on H.R. 2944. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–321). Ordered to be printed.

Mrs. MYRICK: Committee on Rules. House Resolution 305. Resolution providing for consideration of motions to suspend the rules (Rept. 107–322). Referred to the House Calendar.

Mr. REYNOLDS: Committee on Rules. House Resolution 306. Resolution providing for consideration of the bill (H.R. 3005) to extend trade authorities procedures with respect to reciprocal trade agreements (Rept. 107–323). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 307. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002 (Rept. 107–324). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of the rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

[Omitted from the Record of November 14, 2001]

By Mr. UDALL of Colorado:

H.R. 3296. A bill to amend title 49, United States Code, to prohibit the purchase, rent, or lease, for use as a schoolbus, of a motor vehicle that does not comply with motor vehicle safety standards that apply to schoolbuses, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

[Submitted December 5, 2001]

By Mr. McGOVERN:

H.R. 3404. A bill to require the Consumer Product Safety Commission to conduct a study on methods to dramatically increase the percentage of consumers effectively reached by product safety recalls; to the Committee on Energy and Commerce.

By Mr. ACEVEDO-VILÁ:

H.R. 3405. A bill to amend the Food Stamp Act of 1977 to increase the nutritional assistance block grant for Puerto Rico, and for other purposes; to the Committee on Agriculture.

By Mr. BARTON of Texas:

H.R. 3406. A bill to benefit consumers and enhance the Nation's energy security by removing barriers to the development of competitive markets for electric power, providing for the reliability and increased capacity of the Nation's electric transmission networks, promoting the use of renewable and alternative sources of electric power generation, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BONO (for herself, Mr. Hayworth, Mr. Kildee, Mr. Camp, and Mr. Kennedy of Rhode Island):

H.R. 3407. A bill to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program; to the Committee on Resources.

By Mr. FOLEY:

H.R. 3408. A bill to require foreign insurance companies doing business in the United States to disclose any financial dealings they had with individuals who survived or died in the Holocaust, to provide for the Attorney General of the United States to submit requests to such companies regarding claims on behalf of such individuals, and to prohibit insured depository institutions from transacting any business with or on behalf of any such foreign insurance companies that fail to comply with such disclosure requirements or fail to adequately respond to such requests, and for other purposes; to the Committee on Financial Services.

By Mr. FOSSELLA:

H.R. 3409. A bill to amend title 18, United States Code, to prevent or mitigate crimes of violence or acts of terrorism by authorizing Federal criminal investigators to carry firearms and respond to such crimes of violence or acts of terrorism committed in their presence and to amend section 5545a of title 5, United States Code, to expand the definition of "available" for those criminal investigators who receive Law Enforcement Availability Pay, to include responding to crimes of violence or acts of terrorism, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GRANGER:

H.R. 3410. A bill to provide for the inclusion of hazardous duty pay and diving pay in the computation of military retired pay for members of the armed forces with extensive hazardous duty experience, to require a study on the need for a tax credit for businesses that employ members of the National Guard and Reserve, and to require a study on the expansion of the Junior ROTC and similar military programs for young people; to the Committee on Armed Services.

By Ms. GRANGER (for herself, Mr. Dan Miller of Florida, Mr. Goode, Mr. Edwards, and Mr. Boyd):

H.R. 3411. A bill to amend title 37, United States Code, to provide the Secretary of Defense with the authority to make temporary, emergency adjustments in the rates of the basic allowance for housing for members of the uniformed services in response to a sudden increase in housing costs in a military housing area in the United States; to the Committee on Armed Services.

By Mr. HOSTETTLER (for himself, Mr. Bartlett of Maryland, Mr. Cunningham, Mr. Taylor of Mississippi, Mr. Everett, and Mr. Calvert):

H.R. 3412. A bill to extend the tax benefits available with respect to services performed in a combat zone to services performed in the Republic of Korea; to the Committee on Ways and Means.

By Mr. KENNEDY of Rhode Island (for himself and Mrs. Roukema):

H.R. 3413. A bill to amend the Public Health Service Act to establish a program of grants to States and political subdivisions of States for the provision of mental health services in response to public health emergencies, including disasters resulting from terrorism, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KING (for himself, Mr. Brown of Ohio, Mr. Walsh, Mr. Dingell, Mr. Houghton, Mr. Waxman, Mrs. Kelly, Mr. Bonior, Mr. Sweeney, Mr. Nadler, Mr. Quinn, Mr. Pallone, Mr. Grucci, Mrs. Capps, Mr. Serrano, Mrs. Maloney of New York, Mr. Boucher, Mr. Towns, Mr. Barrett, Mr. McNulty, Mr. Farr of California, Mr. Ackerman, Mr. Stenholm, Mr. Israel, Mr. Shows, Mr. Engel, Mrs. McCarthy of New York, Mr. Green of Texas, Mr. Strickland, Mr. Gilman, Mr. Allen, Mr. Hinchey, Mr. Stupak, Ms. Lee, Mr. Rangel, Mr. Reynolds, Mrs. Lowey, Mr. Weiner, Mr. Crowley, Ms. Velázquez, Mr. McHugh, and Mr. Foley):

H.R. 3414. A bill to provide certain temporary increases in the Federal medical assistance percentage (FMAP) under the Medicaid Program for fiscal year 2002 to help States finance increases in enrollment due to rising unemployment and to prevent reductions in health insurance coverage due to State budget crises; to the Committee on Energy and Commerce.

By Mr. KUCINICH:

H.R. 3415. A bill to amend title 11 of the United States Code to extend the priority provided to claims for compensation and benefits of all employees; to the Committee on the Judiciary.

By Mrs. MINK of Hawaii:

H.R. 3416. A bill to amend title 49, United States Code, to permit the hiring as security screening personnel of legal immigrants who have filed for naturalization before September 11, 2001; to the Committee on Transportation and Infrastructure.

By Mr. PAUL:

H.R. 3417. A bill to amend title 10, United States Code, to provide for the award of a medal to persons who served in the Armed Forces during the Cold War; to the Committee on Armed Services.

By Mr. SIMMONS (for himself, Mr. Shays, Mrs. Johnson of Connecticut, Ms. DeLauro, Mr. Larson of Connecticut, and Mr. Maloney of Connecticut):

H.R. 3418. A bill to name the Department of Veterans Affairs outpatient clinic located in New London, Connecticut, as the "John P. McGuirk Department of Veterans Affairs Outpatient Clinic"; to the Committee on Veterans' Affairs.

By Mr. YOUNG of Florida:

H.J. Res. 76. A joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes; to the Committee on Appropriations; considered and passed.

By Ms. LOFGREN:

H.J. Res. 77. A joint resolution proposing an amendment to the Constitution of the United States regarding the appointment of individuals to serve as Members of the House of Representatives when, in a national emergency, a significant number of Members are unable to serve; to the Committee on the Judiciary.

By Mr. SCHAFFER (for himself, Mr. Armey, Mr. Shows, Ms. Ros-Lehtinen, Mr. Smith of New Jersey, Mr. Pitts, Ms. Hart, Mr. Rogers of Michigan, Mr. Stearns, Mr. Pence, Mr. Akin, Mr. Forbes, Mr. Pickering, Mr. Hostettler, Mr. Tancredo, Mr. Kennedy of Minnesota, Mr. Weldon of Florida, Mr. Hoekstra, Mr. English, Mr. Crenshaw, Mr. Bartlett of Maryland, Mr. Grucci, Mr. Ryun of Kansas, Mr. Shuster, Mr. Terry, Mr. Burton of Indiana, Mr. Lewis of Kentucky, Mr. DeMint, Mr. Largent, Mr. Souder, Mr. Shimkus, Mr. Ferguson, Mrs. Myrick, Mr. Ryan of Wisconsin, Mr. Vitter, Mr. Goode, Mr. Cox, Mr. Istook, Mr. Brown of South Carolina, Mr. Chabot, Mr. Jones of North Carolina, Mr. Tiahrt, and Mr. Gutknecht):

H. Res. 302. A resolution expressing the sense of the House of Representatives with respect to crisis pregnancy centers; to the Committee on Energy and Commerce.

By Mr. GALLEGLY (for himself and Mr. Hilliard):

H. Res. 303. A resolution expressing appreciation to the North Atlantic Treaty Organization, the European Union, the Organization for Security and Cooperation in Europe, and the individual countries of Europe for providing or offering military forces and other assistance in support of Operation Enduring Freedom and the campaign against international terrorism; to the Committee on International Relations.

By Mr. KUCINICH:

H. Res. 304. A resolution providing for consideration of the bill (H.R. 808) to provide certain safeguards with respect to the domestic steel industry; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. JOHNSON of Illinois introduced a bill (H.R. 3419) for the relief of J.L. Simmons Company, Inc., of Champaign, Illinois; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 318: Mr. Filner, Mrs. Lowey, Mr. Holt, Mr. Acevedo-Vila, Mr. Sanders, Mr. Jefferson, Mrs. Napolitano, and Mr. Cardin.

H.R. 604: Ms. Schakowsky and Ms. Eshoo.

H.R. 661: Mr. Jefferson.

H.R. 742: Mr. Hinchey and Ms. Lofgren.

H.R. 951: Mr. McKeon.

H.R. 959: Mr. Bentsen.

H.R. 1073: Mr. Quinn and Ms. Eddie Bernice Johnson of Texas.

H.R. 1090: Mr. Maloney of Connecticut.

H.R. 1177: Mr. Lucas of Kentucky.

H.R. 1296: Mr. McIntyre and Mr. Linder.

H.R. 1331: Mr. Doolittle.

H.R. 1466: Mr. Shows, Mr. Kirk, and Mr. Thune.

H.R. 1475: Mr. Honda and Mr. Wu.

H.R. 1520: Mr. Lipinski.

H.R. 1582: Mr. Payne.

H.R. 1723: Mr. Leach and Mr. Frank.

H.R. 1724: Mr. McGovern.

H.R. 1754: Mrs. McCarthy of New York.

H.R. 1771: Mr. Visclosky.

H.R. 1795: Mr. Shows, Mr. Schiff, and Mr. LaTourette.

H.R. 1841: Mr. Lampson, Mr. Sanders, and Mr. Cramer.

H.R. 1911: Ms. Woolsey and Mr. Schiff.

H.R. 2023: Mr. Stearns.

H.R. 2125: Mr. Pastor, Mr. Bass, Mr. Platts, Ms. Eshoo, Mr. Price of North Carolina, Mr. Putnam, Mr. LaHood, and Mr. Gary G. Miller of California.

H.R. 2147: Mr. Souder.

H.R. 2484: Mr. Brown of Ohio, Mr. Payne, Mr. Baldacci, Mr. Markey, Mr. Olver, Mr. Rush, Mr. Neal of Massachusetts, and Ms. Brown of Florida.

H.R. 2610: Mr. Carson of Oklahoma, Mr. Watt of North Carolina, Mr. Terry, Mr. Clement, and Mr. Rahall.

H.R. 2706: Mr. Radanovich.

H.R. 2737: Mr. Bonior.

H.R. 2820: Mr. Pallone, Mr. Baca, and Mr. Brown of Ohio.

H.R. 2839: Mrs. Mink of Hawaii, Mr. Cummings, Ms. Rivers, and Mr. Honda.

H.R. 2847: Mr. Bereuter.

H.R. 2863: Ms. Schakowsky.

H.R. 2869: Ms. Carson of Indiana.

H.R. 2917: Mr. Shaw, Mr. Lucas of Kentucky, and Mr. Taylor of Mississippi.

H.R. 2935: Mr. Payne.

H.R. 2969: Mr. Platts.

H.R. 3014: Mr. Crane.

H.R. 3019: Ms. Berkley and Mr. Baird.

H.R. 3054: Mr. Bereuter, Ms. Schakowsky, Mr. Rogers of Michigan, Mr. Ferguson, Mr. Hinojosa, Mr. Sherman, Mr. Deutsch, Ms. Baldwin, Ms. Ros-Lehtinen, Mr. Luther, Mr. Brown of Ohio, Mr. Borski, Mr. Hoeffel, Ms. McCarthy of Missouri, Mrs. Capps, Mr. Horn, Mr. Schaffer, Mr. Kirk, Mr. Cantor, Mr. Otter, Mr. Hayworth, Mr. Scott, Mr. Barrett, Mr. Frank, Mr. Tierney, Mr. LaFalce, Mr. Nadler, Mr. Lewis of Georgia, Mr. Ortiz, Mr. Condit, Mr. Rush and Mr. Shays.

H.R. 3075: Mr. Kucinich, Ms. DeGette, Mr. Barrett, Mr. Baird, Mr. Brady of Pennsylvania, Mr. Faleomavaega, Ms. McCollum, Ms. Rivers, and Ms. Roybal-Allard.

H.R. 3113: Mr. Olver.

H.R. 3175: Ms. Rivers.

H.R. 3235: Mr. Lipinski, Mr. Hinchey, Mr. Filner, Ms. Woolsey, Mrs. Mink of Hawaii, and Mr. Bonior.

H.R. 3271: Mr. Kildee and Mrs. Christensen.

H.R. 3306: Mr. Underwood and Mr. Frost.

H.R. 3332: Mr. Cardin, Mr. Duncan, Mr. Gonzalez, Mr. Kanjorski, Mr. King, MR. Pomeroy, Ms. Schakowsky, Mr. Terry, and Mr. Wu.

H.R. 3341: Ms. Waters and Mr. Kildee.

H.R. 3351: Mr. Smith of Washington, Mr. Baca, Ms. Berkley, Ms. Pryce of Ohio, Mrs. Davis of California, Mr. Bentsen, Mr. Riley, Mr. Cardin, Mr. Deutsch, Ms. Schakowsky, Mr. Schaffer, Mr. Frank, Mr. Neal of Massachusetts, Mr. Rogers of Michigan, Mr. Walsh, Mr. Berman, Mr. Clay, Mr. Moran of Virginia, Mr. Sununu, Mrs. Mink of Hawaii.

H.R. 3358: Mr. Moore.

H.R. 3368: Mr. Jackson of Illinois, Mr. Frost, Mr. Rush, and Mr. Grucci.

H.R. 3371: Mr. Frost.

H.R. 3376: Mr. Shays, Mr. King, Mr. Smith of New Jersey, and Mr. McHugh.

H. Con. Res. 273: Mr. Leach, Mr. Bartlett of Maryland, Mr. Burton of Indiana, Mr. Smith of New Jersey, Mrs. Maloney of New York, Ms. McKinney, Ms. Ros-Lehtinen, Mr. Royce, Mr. Underwood, Mr. Berman, Mr. Tancredo, Mr. Horn, Mr. Nadler, Mr. Gilchrest, Mr. Stearns, Mr. Jones of North Carolina, Mr. Duncan, Mr. Wamp, Mr. Moran of Virginia, Mr. Gekas, Mr. Hayworth, Mr. Walsh, Mr. Istook, Mr. Weldon of Florida, Mr. Radanovich, Mr. Wicker, Mr. Herger, and Mr. Goodlatte.

H. Con. Res. 280: Mr. Faleomavaega, Mr. Platts, Mr. Israel, Mr. Hall of Ohio, Mrs. Maloney of New York, Mr. Hoyer, Mr. Frank, Mr. Pence, Mr. Ross, Mr. Schrock, and Mr. Culberson.

H. Res. 75: Mr. Kerns, Mr. Bachus, Mr. Reynolds, Mr. Ramstad, Mrs. Roukema, Mr. Goode, Mr. Chabot, Mr. Dan Miller of Florida, Mr. Largent, Mr. Horn, Mr. Chambliss, and Mr. Rohrabacher.

H. Res. 280: Ms. Roybal-Allard, Mr. Filner, Mrs. Mink of Hawaii, and Ms. Rivers.

H. Res. 281: Ms. Schakowsky, Mr. Rothman, Mr. Gutierrez, and Ms. Lofgren.

H. Res. 295: Mr. English and Mr. Tiahrt.

H. Res. 300: Mr. Neal of Massachusetts, Mr. Murtha, Mr. McHugh, and Mr. Costello.

EXTENSIONS OF REMARKS

ENERGY POLICY CRITICALLY IMPORTANT TO FARMERS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following opinion piece written by Mr. Bryce Neidig, president of the Nebraska Farm Bureau Federation, which appeared in the November 27, 2001, York News-Times. Mr. Neidig makes a convincing case for passing legislation which would implement a national energy policy. As Mr. Neidig stresses, farmers are heavily reliant on petroleum products and could suffer great hardship if Congress fails to develop a meaningful energy policy.

On August 2, 2001, the House approved an energy bill which would diversify our energy sources and create greater energy reliability and independence for the United States. Now is the time to enact a long-term energy policy. Congress must help assure farmers and all Americans of the increased development of diverse, reliable, and affordable energy sources.

NATIONAL ENERGY POLICY NEEDS FARMERS' SUPPORT

American agriculture is intensely dependent on petroleum. In fact, it's the lifeblood of farming. Our nation is facing an energy crisis, and farmers stand to suffer as a result—unless federal legislation is passed soon to end the crisis.

The House of Representatives adopted a comprehensive energy package in August—the National Energy Security Act 2001—that holds many keys to solving the nation's energy dilemma. It includes fuel alternatives, incentives to reduce consumption, aid to low-income fuel programs, and a provision for oil exploration and production in a tiny portion of the Coastal Plain in the Arctic National Wildlife Refuge (ANWR). The Senate needs to pass the act this year.

Farmers could be among the hardest hit if we fail to enact a national energy policy. Oil or gas shortages, scarcity, or worse, embargoes, could send the price of energy soaring. Higher input costs and low commodity prices are squeezing many producers at this time.

Petroleum products and natural gas provide heating oil and diesel to run equipment and they are a key ingredient in virtually all fertilizers and many other production inputs. Increases in energy prices ripple through the entire farm economy, spiking the costs to run farms and ranches.

Conservation and development of alternative fuels are important components of the legislation and are critical to agriculture's support for a national energy policy. However, exploration and production of domestic oil and gas are a critical part of this proposed act as well. As our nation grows and as the economy expands, so grows the need for more oil and gas. More oil and gas production is a must in order to stabilize energy prices for farmers and consumers, which is why many producers support the environmentally safe development of domestic and off-shore oil production.

It is my understanding that there could be upwards of 16 billion barrels of recoverable oil under Alaska's Coastal Plain. At full production, some estimates indicate that Coastal Plain oil could contribute about 25 percent of our energy needs. What Coastal Plain oil provides as well is a secure source of domestic energy. Farmers who lived through the Arab oil embargo of the early 1970s and the energy supply problems of the last two years can testify to the disruption and economic pain caused by an unstable oil supply. Coastal Plain oil could serve as a buffer against Iraqi or Iranian led embargoes, for example.

Farmers and ranchers work long, hand hours to keep their operations successful. The hard reality is that for most farmers, the line between success and failure is thin. Sudden spikes in energy prices because of shortages or embargoes could spell doom for many of America's farmers.

The National Energy Security Act 2001 is our nation's best opportunity to chart a course out of a crisis that was many years in the making. Farmers and all of us who make our living through agriculture need to encourage our members of Congress to back this legislation, for the sake of our families and farms.

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES THAT VETERANS DAY CONTINUE TO BE OBSERVED ON NOVEMBER 11

SPEECH OF

HON. BRIAN D. KERNS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. KERNS. Madam Speaker, I rise today in strong support of H. Res. 298, a resolution to preserve the spirit and true intention of Veterans' Day. Throughout the course of our Nation's history, courageous men and women have stepped forward in times of war and peace to serve in our Armed Forces. They have done so to protect the freedoms that we, as Americans, are blessed with each day.

Their service has often taken them far away from their homes, their family, and their friends, and has placed them in harms way. Whenever and wherever called upon they answered that call to duty, and their blood has been shed in defense of our liberty.

Now, as our Nation is leading the war on terrorism, the heroic acts of our American service men and women overseas and the 48 million who came before them to defend our country, deserve nothing less than a commitment by the Congress to preserve the sanctity and true mission of Veterans' Day.

While we can never adequately repay our men and women in uniform for the sacrifices they have made to keep America free, we can honor and thank them for their service. With our way of life, our freedoms, under attack at home and abroad, now more than ever, it is imperative that we guarantee that our veterans are honored. I urge my colleagues to support this resolution and maintain November 11 as Veterans' Day—a special day of national observance that we, as a nation, set aside to remember our veterans and the sacrifices they made to uphold our freedoms.

MEDICATIONS FOR DIABETES

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. GRAHAM. Mr. Speaker, for years too many Americans have suffered the ravaging effects of Diabetes. While there have been many promising advancements in the diabetes research field, there have also been many disappointing setbacks.

One key to proper treatment of Diabetes has been the development and the use of new medications. However, the Congress, questions have been raised about the safety of Rezulin and other medications approved by the Food and Drug Administration (FDA) for this use.

In my home state of South Carolina, Mrs. Francis Geddings took Rezulin as a treatment from April 1997 to January 1998. She was hospitalized in 1999 and tragically passed away from liver failure last year. She left behind her husband, Eugene, and many questions about the safety of this drug.

Rezulin was eventually removed from the market, but many questions remain. To avoid future tragedies like the one that visited the Geddings family, we must continually review how medication is made available for public use. Attached are documents that show only a small part of the Rezulin story. It is up to Congress to continue doing everything we can to make the FDA approval process as safe and open as possible.

Americans need to know that according to an FDA document created by several of the FDAs premier scientists, 1 in 1,000 patients who took Rezulin for more than one year will die of fatal liver disease. Pharmaceuticals companies everywhere can learn from the tragic history of Rezulin.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, PUBLIC HEALTH SERVICE, FOOD AND DRUG ADMINISTRATION, CENTER FOR DRUG EVALUATION AND RESEARCH.

December 19, 2000.

From: David J. Graham, MD, MPH, Associate Director for Science, Office of Postmarketing Drug Risk Assessment (HFD-400), Lanh Green, RPh. MPH, Safety Evaluator, Division of Drug Risk Evaluation II (HFD-400).

Through: Martin Himmel, MD, MPH, Deputy Director, Office of Postmarketing Drug Risk Assessment (HFD-400).

To: David G. Orloff, MD, Director, Division of Metabolic and Endocrine Drug Products (HFD-510).

Subject: Final Report: Liver Failure Risk with Troglitazone (Rezulin®), NDA: 20-720.

EXECUTIVE SUMMARY

The following report summarizes the activities of the Office of Postmarketing Drug Risk Assessment and its evaluation of the risk of acute liver failure (ALF) with the use of troglitazone for the treatment of diabetes. The report is divided into topical areas related to varying aspects of the issue.

We estimated the background rate of acute liver failure in the general population to the about 1 case per million persons per year (person-years). Using case reports data supplemented by usage data from a large multislate managed care organization, we estimated the rate of ALF with troglitazone to be about 1 case per 1000 person-years (accounting for underreporting). From three postmarketing clinical studies, the incidence of ALF ranged from about 1,200 to 17,000 per million person-years. Survival analysis suggested that the cumulative risk of ALF with troglitazone increased with continuing use of the drug. The implications of this for a product intended to bee used for decades should not be overlooked.

Based on a number of different analyses, underreporting of ALF with troglitazone was extensive. This highlights the limitations of voluntary (spontaneous) reporting systems. It also illustrates the danger of using changes in reporting over time as a message of success of an intervention. Reporting naturally decreases quickly after the start of marketing so that one cannot cite a decline in number of case reports as evidence that a safety problem has been successfully managed.

Multiple labeling revisions and "Dear Healthcare Professional" letters recommending monthly liver enzyme monitoring did not improve the safety profile of troglitazone. Enzyme monitoring was not performed regularly or reliably even after the July 1998 relabeling. Analysis of case reports suggested that even had monitoring been performed, it probably would not have prevented many, or perhaps any, cases of troglitazone-induced ALF. The "point of no return," that is, of irreversibility and inevitable progression to liver failure appeared to be reached within about a month or less of a time when liver enzymes were normal.

Troglitazone appeared to confer a substantially greater risk of ALF than rosiglitazone. However, the risk of ALF with rosiglitazone appeared to be higher than the expected background rate.

BACKGROUND ON ACUTE LIVER FAILURE

Acute liver failure is a rapidly progressive disorder characterized by hepatic encephalopathy, and frequently, coagulopathy (both platelets and clotting factors), methobilic derangements (lactic acidosis, hypoglycemia, electrolyte abnormalities), high output hypovolemic heart failure, renal failure and sepsis. Survival without transplant is below 25%.

Drug-induced ALF is usually more aggressive than viral forms, with survival rates around 10% without transplant. There are several competing classification systems for ALF, each relying on the length of time it takes for a patient to progress from initial symptoms (US) or jaundice (UK, France) to hepatic encephalopathy. The U.S. definition classifies ALF as progressive from initial symptoms of liver dysfunction to encephalopathy within 6 months. In Europe, progression from jaundice to encephalopathy within 12 weeks is classified as ALF. In subsequent work, we used the European criteria. We choose the latter criteria because their shorter time-window more closely reflected the fulminant nature of the cases we were receiving. Also, the onset of jaundice is a clearer and more definite time-point from which to begin counting compared with initial symptoms, the onset of which might be vague and hence unlikely to be reported accurately in case reports.

The etiology of ALF varies somewhat by country (slide 2). Until recently, about 70% of ALF in the U.S. was due to viral hepatitis (primarily hepatitis B), with 15% due to acetaminophen and about 10% due to other drugs and toxins.

* * * * *

The Diabetes Prevention Program (DPP) was a NIH-sponsored clinical trial performed on patients with impaired glucose tolerance (IGT), but not diabetes. Its purpose was to study whether treatment of IGT with oral hypoglycemic agents could prevent or delay the onset of diabetes. One arm of the trial included 585 patients treated with troglitazone on average for one year. From this group, one patient died of fulminant ALF, for an incidence rate of 1,724 per 10^6 person-years (95% confidence interval 44-9,569).

The REACH study was a Warner-Lambert/Parke-Davis sponsored postmarketing study to collect additional information on efficacy and safety of troglitazone. At the time when 2,433 patients were enrolled in the study, with an average duration of treatment <4 months, one patient died of fulminant ALF, for an incidence rate of 1,274 per 10^6 person-years (95% CI 32-7,077).

Another Warner-Lambert/Parke-Davis postmarketing study, Protocol II, was conducted to study the effect of troglitazone use on the insulin does required by diabetic patients enrolled in the study. There were 233 patients enrolled in this randomized double-blind placebo-controlled trial, each treated for a maximum of 6 months. Of this group, one died of liver failure. Of note, this patient developed liver enzyme abnormalities in November 1998 and was withdrawn from the study. His liver enzymes did not normalize and in early March 1999, the blind was broken for this patient to see whether he had received troglitazone or placebo. He had been treated with troglitazone. He was in hospital for evaluation of his liver disease on the day of the March 1999 advisory meeting, and died of liver failure three days after the meeting. Assuming that 50% of randomized patients were treated with troglitazone for a maximum of 6 months, the incidence rate in this study was about 16,949 per 10^6 person-years (95% CI 429-90,855).

In each of these three studies, fatal liver failure was observed at an extremely high rate, ranging from 1,274 to 16,949 per 10^6 person-years. Based on data from the published literature discussed above, we would expect about 1 case of ALF per 10^6 person-years meaning that the occurrence of liver failure in these studies was from about 1,300/ to 17,000/times greater than would be expected by chance.

In the original troglitazone NDA, there were 2 cases of jaundice/hepatitis (one of which was hospitalized) and 1 other patient hospitalized with drug-induced hepatitis, but no cases meeting our definition of ALF. This finding is still compatible with an ALF incidence rate of 2,584 per 10^6 person-years.

These studies demonstrate that liver enzyme monitoring on a monthly basis does not prevent the occurrence of ALF with troglitazone. Furthermore, they collectively support the conclusion that the underlying incidence rate of ALF due to troglitazone is extremely high, probably in the range of 1,000 to 2,000 per 10^6 person-years, representing about a 1,000- to 2,000-fold increase in liver failure risk. Another way of stating this is that 1-2 out of every 1,000 patients (1/500=-1/1,000) who use troglitazone for one year will die of ALF.

* * * * *

DISCUSSION

The data presented here provide a comprehensive picture of liver failure risk with troglitazone. Premarketing clinical trial data from the company's NDA for troglitazone showed that ALT elevation above 3 ULN occurred in 1.9% of treated patients. More importantly, it provided an estimate of the incidence of hospitalized drug-induced hepatitis that was more than 50-fold greater than the background rate suggested by the literature.

Soon after US marketing began, FDA began receiving case reports of ALF in patients who were using troglitazone. A series of labeling revisions and "Dear Healthcare Professional" letters followed, recommending increasing performance of liver enzyme monitoring as a means of reducing or eliminating risk of ALF. Despite those interventions, cases continued to be steadily reported to FDA.

Our analyses of the original 43 US cases found that there were no apparent risk factors by which to identify patients who might be at increased risk of developing ALF while using troglitazone. Furthermore, the onset of liver disease was usually heralded by the appearance of jaundice, by which time, irreversibility had been passed in these cases who usually progressed quickly to encephalopathy: Examination of 12 cases with adequate liver enzyme monitoring prior to onset of liver disease showed that in 75%, patients went from having normal liver enzymes to irreversible progression towards liver failure within the recommended monitoring interval. In the three other cases, the patients remained on troglitazone after the first recorded enzyme abnormally so that it was not possible to identify when the point of irreversibility was passed. Of note, there were no differences between the 12 "rapid risers" and the remaining 31 cases for whom we lacked data on the time-course of their liver enzyme elevations. From these data, we concluded that it was not possible to prevent ALF by patient selection or to predict who was at risk. Also, monthly liver enzyme monitoring would probably fail to prevent at least 75% and perhaps 100% of cases.

The cases reported to FDA were also used to estimate the pattern of ALF risk over time of continued use of troglitazone. This too was presented at the March 1999 advisory meeting. Analysis showed a marked rise in risk beginning with the first month of troglitazone use. With continued follow-up after the advisory meeting, our expectation was confirmed that heightened ALF risk continued for as long as troglitazone was used. In other words, the risk of ALF did not disappear after the first few months or even first 18 months of use. The pattern suggested that cumulative risk of ALF would continue to rise for as long as troglitazone was used, having important implications for a drug intended to be used for 20, 30 or 40 years or longer.

Against this backdrop of case reports, epidemiologic data suggested that the expected incidence rate of ALF in the general population was about 1 case per million per year. The data from case reports were markedly higher than this. At the March 1999 advisory meeting, we presented data showing that if we assumed there was no underreporting, the cumulative risk of ALF was about 1 case per 15,000 patients who used troglitazone for at least 8 months. If we factored into the analysis-that only 10% of cases had been reported, the cumulative risk became 1 case per 1,500 at 8 months (about 1 case per 1,000 per year). With an additional year's worth of case reports (through December 1999), the cumulative risk was 1 case per 7,000 patients after 18 months of troglitazone use, assuming no underreporting. With 10% reporting, this would be 1 case per 700 patients at 18 months (about 1 case per 1000 per year). The first analysis through 8 months of use led us to conclude prior to the March 1999 advisory meeting that the risk of ALF with troglitazone was probably increased at least 1000-fold over the expected background rate.

Independent population-based data prior to the March 1999 advisory meeting supported this. In two separate postmarketing clinical studies, one conducted by the National Institutes of Health and one conducted by the company, a case of fatal ALF occurred among small numbers of patients treated with troglitazone. This was highly statistically significant, and suggested that the incidence rate of ALF with troglitazone could range from 1,200 to 1,700 per million per year, with upper bounds approaching 10,000 cases per million per year. These data, in combination with case reports data, formed the basis for this medical officer's recommendation prior to the March 1999 advisory meeting that troglitazone be removed from the market. Subsequent to the advisory meeting, FDA learned of a third postmarketing study, this one randomized and double blinded, in which a patient treated with troglitazone died of ALF just three days after the advisory meeting. The incidence rate of ALF in this study was over 17,000 per million per year.

An important component in the troglitazone analysis was an assessment of the effect of FDA interventions in the form of labeling changes recommending periodic liver enzyme monitoring as a means of managing the ALF risk of troglitazone. The FDA study from UnitedHealth Group found that monitoring was not regularly or reliably performed and that repeated labeling revisions had not meaningfully improved the performance of monthly liver enzyme testing. Based on the data at hand prior to the March 1999 advisory meeting, we concluded that FDA labeling had not had a clinically important effect on medical practice and that monthly enzyme testing was largely not being performed. From our case analysis, we concluded that monitoring, were it performed, would fail to prevent most or all cases of troglitazone ALF.

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CHARITABLE LANDMARK: ON VERGE OF EXTINCTION

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. STEARNS. Mr. Speaker, today I rise in recognition of a Washington institution. In this city of lawmakers and policy, Sholl's Cafeteria has adopted a policy of its own: for over 70 years, the downtown landmark has never turned away a hungry soul. This cafeteria, this "triumph of charity," has fed thousands with warm, free meals. In recent months, however, Sholl's has faced dire straits with the recent economic downturn. Declining tourism and rising rent have forced Sholl's Cafeteria to consider closing its doors to the thousands of devoted patrons who have frequented the famed eatery. With all that Scholl's Cafeteria has done for our community, it is time for us to give back and maintain what has become a 70-year tradition. With that said, Mr. Speaker, I submit to the CONGRESSIONAL RECORD a letter written by Sholl's Chairman Jim McGrath to the Washington Post on October 14, 2001.

[From the Washington Post, Oct. 14, 2001]

ON THE EDGE OF EXTINCTION

As the nation mobilizes to combat the insidious foe of terrorism, another drama of a far different kind and scope is playing itself out in downtown Washington—the struggle for survival of Sholl's Cafeteria. Despite heroic sacrifice and Herculean labors by many—most notably its beloved proprietors, George and Van Fleishell—absent a substantial financial remedy, Sholls will be forced to close its doors as soon as Oct. 31.

The Sholl's story could easily get lost amid the tumult of our national preoccupation and suffering in the wake of Sept. 11, but that would be a profound shame, because the cafeteria's story has been one of special triumphs: of old-fashioned, all-American food, wonderfully prepared and wonderfully served; of humane pricing, so that nearly anyone can afford to eat there, of multiculturalism, with terrific employees, many there for generations, reflecting every spectrum of the human family; of kindness, with an atmosphere that welcomes everyone. It is a story of the triumph of charity—Sholl's has given away enough free food to feed an army 100 times over.

During the past several years, however, Sholl's has suffered from the decline in downtown dining. Its tour-bus trade has eroded because of the weak economy. It has endured bus-unfriendly parking restrictions. It has had to deal with prolonged building renovation and reconstruction while paying a huge rent. It has been put through the economic wringer.

Now another mobilization is needed to save this beloved institution. I am not alone in expressing those sentiments. They have been voiced by many, from the high and the mighty to the mighty humble. They have come from legions of senior citizens, bus loads of squealing kids and homeless people.

On Aug. 10, 1999, for example, the World Bank wrote to the cafeteria's owner: "You are correct characterize Sholl's as a charitable landmark. It would be a significant loss to our neighborhood if you were to close your doors, particularly for the large number of senior citizens, young kids, disabled and homeless people whom you serve."

On July 8, 1998, U.S. Sen. Max Cleland of Georgia read into the Congressional Record, "Patrons of Sholl's have described members of the Sholl family, who have owned and operated Sholl's over the last 70 years, as having the biggest hearts in Washington."

On March 7, 1999, Mike Kirwan, the late, great apostle to the homeless, said, "The stories I've heard from people on the streets, their quiet moments of dignity, respect, warmth and a full and nourishing meal at the hands of this wonderful cafeteria could fill a book of essays."

Possibly, the one who said it best, though, was a child who, on arrival from Pennsylvania on a school bus, told a WTOP reporter. "If it weren't for Sholl's Cafeteria, we couldn't afford to come to Washington."

The hour is late, and the odds are long. Although some say the time for Sholl's has passed, I profoundly disagree, and I hope others do too. Long live Sholl's Cafeteria.

JIM MCGRATH,
Chairman of the Save Our
Sholl's Cafeteria Committee.

THE 150TH BIRTHDAY OF SEATTLE, WASHINGTON

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. INSLEE. As our country recently prepared for its annual commemoration of the first Thanksgiving, my state was also honoring those who founded the city of Seattle 150 years ago. On November 13, 1851, the Denny Party, composed of 22 men, women, and children arrived at Alki Point in the pouring rain. They arrived only to find the cabin which the leader's brother, David Denny was supposed to prepare, unfinished and without a roof. David Denny himself lay sick and feverish.

Like those who survived the first tough winter in Plymouth, the Denny Party persevered. Their dreams of a city would not have survived, however, without the help of Native Americans. As the sopping wet and nearly helpless Denny Party struggled to survive, the Duwamish tribe, led by Chief Sealth, chose to camp around the party in order to protect them.

While Seattle celebrates the landing of the Denny Party, we must also remember those who lived here before- and continue to live here today. Without the assistance of Chief Sealth, the Duwamish tribe, and other tribes, the Denny Party could not have achieved their dreams of a city; a city named for the Chief who protected and helped those early settlers in their quest for a new home.

HONORING THE 40TH ANNIVERSARY OF WEST SPRINGFIELD CIVIC ASSOCIATION

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor the West Springfield Civic Association for forty years of exceptional service to the Northern Virginia community. Its dedication throughout our region has been, and will continue to be, an asset to the residents of the West Springfield area.

The West Springfield Civic Association was formed in 1961 by residents of West Springfield, Westview, and Keene Mill Manor neighborhoods. The motto of the association is Utile Dulci, Latin for "the useful with the pleasant." This civic association, together with many other area civic associations, formed the Greater Springfield Community Council.

With the growth of the community, a need for a new high school became evident. The civic association was influential in naming West Springfield High School after its community, rather than being named for a famous Virginian like most other Northern Virginia high schools are.

Within the community, the West Springfield Civic Association worked hard to keep the area filled with trees. It was also instrumental in the creation of bike paths and sidewalks along main roadways, and replaced a plank bridge covering the railroad tracks.

Since its inception in 1961, the members of the West Springfield Civic Association has always been a positive force for the development, progress and recognition of the Greater Springfield area. Not only has this organization held many meritorious events, but has also served in informing the residents of current issues affecting the community. In addition, the members of the Association have created a website which provides news, information, and events in the area, in addition to previous newsletters and minutes from past.

Mr. Speaker, in closing, I want to thank the West Springfield Civic Association for their hard work and dedication throughout the past forty years. I ask my colleagues to join me in congratulating an extraordinary group of devoted men and women.

150TH ANNIVERSARY OF THE IMMACULATE CONCEPTION CHURCH IN MORRIS, ILLINOIS

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. WELLER. Mr. Speaker, I rise today in recognition of the 150th anniversary of the establishment of the Immaculate Conception Church in Morris, Illinois.

In the fall of 1852, John McNellis, a local grain dealer, deeded two and a half acres of land to people who were interested in forming a Roman Catholic Church. Mr. McNellis also provided land for a parsonage and two schools, and he built a three story brick school because he felt that education was very important and believed that every child deserved to have an education. The church became the Immaculate Conception Church in Morris, Illinois.

On December 8, the church will start a year long celebration in commemoration of the establishment of the parish. The past 150 years have been full of progress and history. A fire almost destroyed the church in 1903, and in 1988, lightning struck the bell tower, causing an estimated $90,000 worth of damage, but the church prevailed. Throughout adversity the church keeps growing due to the hard work of the parishioners and the community of Morris. Many additions have kept the grounds looking fresh. A new parish center was dedicated in 1988. A group of parishioners transformed the lawn between the church and the parish hall into a beautiful prayer garden in 1991. Another major project was the restoration of the rectory in the Father Poff Center, which houses the meeting rooms and offices.

Mr. Speaker, I would like to commend the parishioners for all of their hard work and dedication to the church and to the city of Morris.

TRIBUTE TO LODGE FIGLI DELLA SICILIA NO. 227, COLUMBIAN FEDERATION AND VITO MANZELLA, 2001 MAN OF THE YEAR

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. BONIOR. Mr. Speaker, the Lodge Figli Della Sicilia No. 227 "Sons of Sicily" is a lodge of the Columbian Federation of Italian-American societies, and is one of the largest Italian-American organizations in the State of Michigan. Serving the tri-county area of metropolitan Detroit, Lodge 227 includes over 250 families whose purpose is to promote and preserve the Italian-American heritage through language, culture, music, and social events. Each year the Lodge 227 holds its annual banquet, honoring distinguished Italian-Americans in the community who have shown outstanding support and activism in their local community. On Saturday, September 29, as the Lodge Figli Della Sicilia celebrated its 65th Annual Banquet, they recognized Vito Manzella as their "2001 Man of the Year".

Faithfully committed to the preservation of Italian heritage, the Lodge Figli Della Sicilia No. 227 has been a cornerstone of the Italian American community since its founding in Detroit on February 10, 1936. As a dedicated member of over 30 years, President Salvatore Previti's outstanding leadership has motivated families to reach out to surrounding communities in friendship and charity. From preparations for the Columbus Day Parade and festivities to annual can and clothing drives for the Capuchin Food Kitchen during the holidays, the Lodge has truly become a part of the Metro Detroit family. The tireless efforts of Lodge 227 are outstanding, and will continue to be appreciated for years to come.

The Lodge Figli Della Sicilia's "2001 Man of the Year", Vito Manzella has demonstrated dedication and commitment to his family, his work, and his community for so many years. Born to Salvatore and Rosa Manzella in Detroit in 1967, who had just emigrated from Sicily 5 years before, Vito grew up in St. Clair Shores as a hard worker for the family business, Manzella's Fruit Market, and an athlete and leader in his community. Upon the untimely death of his father in 1995, Vito took over the store and has since continued the traditions of warmth and generosity Manzella's Fruit Market has always brought to the community. As a sponsor of churches and charities across Macomb County, Manzella's is a drop off site for "Toys for Tots", and after the September 11 tragedies, Vito donated 10 percent of profits from sales on September 19th, 2001. Vito's hard work and innovative ideas have been the driving force in the success of Manzella's, and his generous contributions and active involvement as a distinguished business owner and friend to all truly makes him this year's "2001 Man of the Year."

I applaud the Lodge Figli Della Sicilia No. 227 Columbian Federation and Vito Manzella for their leadership, commitment, and service, and I urge my colleagues to join me in saluting them for their exemplary years of leadership and service.

EDUCATION

HON. JOHNNY ISAKSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. ISAKSON. Mr. Speaker, within days, the Conference Committee on House Bill 1 will complete its work and President Bush's campaign commitment to "leave no child behind" will be before Congress for final approval.

As a member of the Conference Committee, I am very proud of the months of work, and the tireless efforts of Chairman JOHN BOEHNER. As a result of JOHN's leadership, America's public schools will have the resources, the tools, the flexibility, and the accountability to close the achievement gap between our best and our poorest performing children.

Since its inception thirty-five years ago, Title One of the Elementary and Secondary Education Act was designed to improve the performance of America's poorest and most at risk students. One Hundred and Twenty Five Billion Dollars later the performance of these children has not improved and the gap between our poorest and our best has actually increased. America's children and America's taxpayers deserve better, and this Conference Report demands better.

In my home district in Atlanta, Georgia, there is a talented and nationally syndicated talk show host named Neal Boortz. Neal is a conservative libertarian whose favorite target for criticism is often public schools or as he calls them, government schools. While Neal sometimes carries his criticism to the extreme, he is often on target. Neal will be happy that this Education Reform requires exactly what he has sought: accountability, competition, and results.

There is another reason Neal Boortz should be very happy. His able and talented assistant, Belinda Skelton, is expecting her first child in May, and when that child reaches six years of age America's schools will have improved dramatically because of five major provisions of this reform.

1. President Bush's Early Reading First initiative will ensure that every child reaching third grade will be able to read and comprehend at that level.

2. Every child in third through eighth grade will be annually tested in reading and math to measure the progress of their improvement, identify any problems and provide remediation where necessary.

3. Test results will be disaggregated so that every teacher, every school and every parent knows exactly how each student is performing and progressing. There will be no more hiding poor performers by averaging scores by grade.

4. Schools that fail to improve student performance will be held accountable, and parents of children in failing schools will be given choices including public school choice and parental direction of federal Title 1 funds to public or private supplemental educational services to address their child's needs.

5. Local School Boards of Education will be given flexibility in federal funds to address the educational needs of their children and their community. Federal control and federal mandates are reduced, so schools are held responsible for results in the performance of children and not satisfying bureaucratic red tape.

Mr. Speaker, President Bush's pledge to "leave no child behind" is a promise to Belinda Skelton's child and every child. It is a commitment to America's future, and an acknowledgement of past failures. I urge each member of Congress to join with me and with the President in our commitment to "Leave No Child Behind." Vote yes for real reform, local control, accountability, and parental involvement in public education.

CELEBRATING MADAWASKA ELEMENTARY SCHOOL

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. BALDACCI. Mr. Speaker, I rise today to ask my colleagues to join me in congratulating Madawaska Elementary School in Madawaska, Maine, for being named a Blue Ribbon School. This is an incredible achievement, and one which the students and staff in Madawaska are celebrating this week.

The Department of Education's Blue Ribbon Schools Award recognizes schools that are models of excellence and equity, schools that demonstrate a strong commitment to educational excellence for all students, and that achieve high academic standards or have shown significant academic improvement over five years. Madawaska Elementary School had met these high standards, earning a Blue Ribbon School Award.

Madawaska Elementary School is truly a model to which others may look for inspiration. Principal Mary Lunney and the entire staff strive to create an environment where everyone is a learner—students, teachers, staff and the community. The school's mission statement says it all: "Our goal is to create a school system where student learning is optimized; where students achieve clearly stated and understood Learning Results; where we continually ask ourselves what will students know and be able to do and how will they demonstrate their knowledge and skills; and where the focus is on what the student is learning and success for all." The school strives to serve the whole child, paying careful attention to academics, physical fitness, co-curricular activities, and supportive services.

Education is the foundation for our future. Quality education in Maine means a higher quality of life for all the people of the state. I am pleased that the Madawaska Elementary School has been recognized for its dedication to excellence and high standards. I know that they are extremely proud of their achievements, and I am pleased to have the opportunity to bring them to your attention.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 466, H.R. 3323, the Administrative Simplification Compliance Act. Had I been present I would have voted "yea."

I was unavoidably detained for rollcall No. 467, H.R. 3391, the Medicare Regulatory and Contracting Reform Act of 2001. Had I been present I would have voted "yea."

I was unavoidably detained for rollcall No. 468, S. 494, the Zimbabwe Democracy and Economic Recovery Act of 2001. Had I been present I would have voted "yea."

INTRODUCTION OF H.R. 3381

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. LEVIN. Mr. Speaker, last week, I introduced a bill, H.R. 3381, for Mr. CAMP, other members of the Michigan delegation, and myself, that would clarify that certain bonds issued by local governments should be treated as tax-exempt. This issue has particular importance to local governments in Michigan.

In Michigan, counties collect real property taxes to fund their school systems. To facilitate the collection of delinquent real property taxes levied for local school districts, the counties issue bonds (General Obligation Limited Tax Notes). The counties have been doing this since 1973. Until 1987, interest on the bonds was treated as tax exempt.

In 1987, a cloud was cast upon the tax exempt status of these bonds due to issues unrelated to the bonds. Michigan counties have continued to issue bonds under the delinquent property tax program, but since 1987 the bonds have effectively not been treated as tax-exempt, costing the counties millions of dollars per year.

This bill would restore the valuable General Obligation Limited Tax Notes program to a tax-exempt status, reducing borrowing costs, and providing badly needed support for education in the State of Michigan. While it would be highly beneficial to local schools, the Federal revenue cost of this bill would be negligible.

I urge all of my colleagues to join me in cosponsoring this bipartisan bill.

TRIBUTE TO ANN FLETCHER CELEBRATING HER 90TH BIRTHDAY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. BONIOR. Mr. Speaker, today I rise to recognize Ann Fletcher, who is celebrating her 90th birthday on Sunday, October 14, 2001. Truly a milestone occasion, 2001 marks 90 years of hard work and is celebration for a unique and endearing individual. Happy Birthday!

A pioneering woman in the fields of engineering and public service, Ann Fletcher has set an excellent example of hard work and dedication throughout her lifetime. Born in Latrobe, Pennsylvania in 1911, Ms. Fletcher was raised and educated in Detroit, attending Cass Technical High School until 1929 and the Wayne State University College of Engineering from 1942–1944. During school she worked as a patent illustrator for Bendix Aviation Corporation Research Laboratories in Detroit, continuing on until 1947. From there her career took her to the Ford Motor Company patent section and the Shatterproof Glass Corporation. Ms. Ann Fletcher became a self-employed technical consultant until her retirement in 1980. Her unfailing commitment allowed Ms. Fletcher to break through the barrier to women that existed in a male-dominated profession.

Married to Stanley Ostaszewski in 1932, they soon celebrated the birth of her son, Carl Ostaszewski, whom she raised while her husband was serving in the military and while she attended Wayne State University. Widowed in 1948, Ms. Ostaszewski married Mr. Cicero Fletcher in 1953. Her commitment to her family is as strong as her commitment to public service and the field of engineering.

Today we can all look up to Ms. Fletcher as a pioneer for working women in America and praise her contributions to Southeast Michigan and the Polish-American community. A former board member of the Engineering Society of Detroit, Ms. Fletcher was given the Distinguished Service Award, an award which now bears her name. Other awards throughout her notable career include the "Top Ten Working Women in Detroit" in 1966 and the "Distinguished Pioneer" of the Society of Women Engineers in 1994.

Today Ann Fletcher celebrates 90 years of life on this earth. I ask that all my colleagues join me in celebrating Ms. Fletcher's 90th birthday and celebrating all of the hard work she has accomplished as a woman pioneer and Polish-American.

ZIMBABWE DEMOCRACY AND ECONOMIC RECOVERY ACT OF 2001

SPEECH OF

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Ms. McKINNEY. Mr. Speaker, at the International Relations Committee meeting of November 28, 2001, which considered the Zimbabwe Democracy and Economic Recovery Act of 2001, I asked a question of my colleagues who were vociferously supporting this misdirected piece of legislation: "Can anyone explain how the people in question who now have the land in question in Zimbabwe got title to the land?"

My query was met with a deafening silence. Those who knew did not want to admit the truth and those who didn't know should have known—that the land was stolen from its indigenous peoples through the British South Africa Company and any "titles" to it were illegal and invalid. Whatever the reason for their silence, the answer to this question is the unspoken but real reason for why the United States Congress is now concentrating its time and resources on squeezing an economically-devastated African state under the hypocritical guise of providing a "transition to democracy."

Zimbabwe is Africa's second-longest stable democracy. It is multi-party. It had elections last year where the opposition, Movement for Democratic Change, won over 50 seats in the parliament. It has an opposition press which vigorously criticizes the government and governing party. It has an independent judiciary which issues decisions contrary to the wishes of the governing party. Zimbabwe is not without troubles, but neither is the United States. I have not heard anyone proposing a United States Democracy Act following last year's Presidential electoral debacle. And if a foreign country were to pass legislation calling for a United States Democracy Act which provided funding for United States opposition parties under the fig leaf of "Voter Education," this body and this country would not stand for it.

There are many de jure and de facto one-party states in the world which are the recipients of support of the United States government. They are not the subject of Congressional legislative sanctions. To any honest observer, Zimbabwe's sin is that it has taken the position to right a wrong, whose resolution has been too long overdue—to return its land to its people. The Zimbabwean government has said that a situation where 2 percent of the population owns 85 percent of the best land is untenable. Those who presently own more than one farm will no longer be able to do so.

When we get right down to it, this legislation is nothing more than a formal declaration of United States complicity in a program to maintain white-skin privilege. We can call it an "incentives" bill, but that does not change its essential "sanctions" nature. It is racist and against the interests of the masses of Zimbabweans. In the long-run the Zimbabwe Democracy Act will work against the United States having a mutually beneficial relationship with Africa.

NEED FOR REESTABLISHING THE OFFICE OF TECHNOLOGY ASSESSMENT

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. HOLT. Mr. Speaker, complex issues are facing Congress, many in the realm of science and technology. Current events are challenging our traditional understanding of medicine, engineering, science, environment, and telecommunications. Mail decontamination is just one issue where Congress needs better science advice.

Thousands of people have been affected by anthrax in our mail—millions more by the uncertainty and fear it has caused. Congress still has not received mail, severing a vital link to our constituents. Part of the reason for this delay is that there is no precedent for killing anthrax spores.

If the Office of Technology Assessment (OTA) existed today, we could expect to have already received information about rapid ways to decontaminate our mail. During its 23 years of existence, OTA provided Congress with well-respected, impartial analysis and advice, including valuable reports on terrorism, national security, and communication. If OTA existed today, they would have already completed reports useful to us in making decisions about the current war on terrorism.

Congress needs better scientific information. We need unbiased analysis and advice on the impact and use of technologies. We need to understand how technology can be used to hurt us and how we can use it to strengthen and defend our nation.

When OTA's funding was eliminated due to government downsizing in 1995, Congress lost a valuable and unique resource. Please join me, along with 55 of my colleagues, in cosponsoring H.R. 2148, bipartisan legislation to reestablish the Office of Technology Assessment (OTA).

TERRORISM RISK PROTECTION ACT

SPEECH OF

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. MOORE. Mr. Speaker, I rise in opposition to H.R. 3210, the Terrorism Risk Protection Act.

In the last two months, the Financial Services Committee, on which I serve, has held two hearings plus a roundtable on the state of the insurance industry after the September 11 terrorist attack. From these meetings, a consensus on several facts emerged. First, the lack of available terrorism reinsurance may cause significant disruption in the primary commercial insurance markets.

Second, without assurances that commercial firms can receive terrorism coverage, lenders (such as banks or other institutional investors) will not underwrite new loans for construction projects necessary to grow our economy.

Finally, and most importantly, is the fact that prompt congressional action on this issue is essential, since most reinsurance contracts will be renewed on January 1. Absent some form of terrorism coverage, the economic effects to our country will be devastating.

On November 7, a proposed bipartisan solution to this problem was reported by the House Financial Services Committee (H.R. 3210) by a voice vote. Our committee reported legislation that provided immediate assistance in the case of a terrorist disaster; it spread the risk across the industry, helping the industry to essentially act as its own reinsurer; it spread the costs out over time, to minimize the impact of an event in any given year; and it provided limited liability relief to protect insurers and taxpayers against litigation in the event of an attack.

Mr. Speaker, this bill was considered under regular order—the deliberative congressional process—as all legislation should. Our committee held hearings and markups; we took testimony from all interested parties; we vigorously debated all of the relevant issues; and we reported a well-thought out, well-designed, bipartisan product that met the needs of the marketplace.

Unfortunately, the majority leadership decided yesterday that their pre-September 11 agenda was more important than the deliberative legislative process and the will of the Financial Services Committee, which includes almost one-fifth of this House. At 2:30 p.m., yesterday afternoon, the majority leader introduced an entirely new product that did little to address the real needs of the insurance markets, but rather addressed the majority's desire to change long-standing and well established legal procedure in this country. Adding insult to injury, the majority party designed a rule that eviscerated the will of the Financial Services Committee by automatically making in order the leader's bill without allowing the full House the courtesy of a vote on our bipartisan product.

Mr. Speaker, I cannot support disregard for the expertise of committees, the erosion of our legislative process, and abuse of minority rights. I can no longer support business as usual.

The real injustice in the majority's actions is the fact that we must pass responsible legislation to provide terrorism coverage for primary insurers and policyholders. I hope the other body quickly enacts legislation to address the real needs of the marketplace, while eliminating the extraneous provisions attached to the product we are considering today. Our country needs that legislation. I want to vote for that legislation. I look forward to soon being able to vote for a conference report that reflects the priorities of the Financial Services Committee and respects the processes of our institutions.

PERSONAL EXPLANATION

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mrs. JONES of Ohio. Mr. Speaker on December 4, 2001, I had official business in my Congressional District and I missed rollcall votes 466, 467 and 468. Had I been present, I would have voted "aye" on the aforementioned rollcall votes.

HONORING THE 2001 RIVERDALE HIGH SCHOOL FOOTBALL TEAM

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. GORDON. Mr. Speaker, I rise today to acknowledge the accomplishment of a dedicated group of young men who worked together in the true spirit of sportsmanship to achieve a distinguished goal.

The Riverdale High School football team of Murfreesboro, Tennessee, won the state 5–A football championship this past season, the school's third state football title in 7 years. The Warriors ended the 2001 season with a perfect 15–0 record by beating Mid-state rival Hendersonville High School 35–7 in the Blue Cross Bowl.

The Riverdale Warriors trained vigorously and played tirelessly the entire season. They deserve recognition for a job well done. I congratulate each player, manager, trainer, and coach for an outstanding season. The Warriors are led by head coach Gary Rankin and assistant coaches Steve Britton, Ron Crawford, Ricky Field, Matt Gardner, Tracy Malone, Thomas McDaniel, Jason Scharsch, Matt Snow, Jeremy Stansbury, Nick Patterson and Greg Wyant. Managers Cody Dittfurth, Markey Burke, Cheryelle Ayers and Jennifer Headly contributed much time and effort to the team, as well, as did trainers Jennifer Snell, Lindsey Robinson and Celcka Akins.

The 2001 Class 5–A state champion Warriors are Corey Hathaway, Ward Poston, Tre' Dalton, Taron Henry, Marcus King, Jamaal Price, Grant Kolka, C.J. Powell, Terrell Coleman, LaBrian Lyons, Kevin Murray, Jervell Ford, Jay Carter, Stephen Britton, Ryan Hallman, Brian Campbell, Keith Bridges, Tron Baker, Alex Watson, Anton Bates, Don Mitchell, Devin Young, Ralph King, Edgar Martin, Jean Paul Gadie, Jeremy Jackson, Spike McDaniel, Edrell Smith, Emanuel Oglesby, Will Bullock, Andrew Morris, Jeremy Hurd, Kevin Davis, David Peterson, Tyler Campbell, A.J. Alexander, John Goodwin, Matthew Pedigo, John Batey, Albert Miles, Brandon Faulkner, Clay Richardson, Daniel Gammon, Brian Sawyer, Kris Kirby, Leon Alexander, Roger Winterbauer, Daniel Puckett, Charles Bigford, Michael Grove, Joe James, Brad Rainer, Ben Brazzell, Matthew Parton, John Awokoya, Ronnie Johns, ndrew Bigford, Wes Hall, William Lee, Marvin Richardson, Edward Belcher, Charles Todd, Kenyon Buford, Travis Livingston, Aubrey McCrary, Cortez Lawrence, Dustin Davis, Daniel Jones, David Varl, David Nickens, Glen Suggs, Curtis Smith, Heath Evans, Chad Neese, Jason Kidd, Jeremy Anderson and Rhyan Maupin.

TRIBUTE TO THE ISLAMIC ASSOCIATION OF GREATER DETROIT

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. BONIOR. Mr. Speaker, today I would like to recognize a community whose outstanding dedication and commitment has led to a great accomplishment. On Saturday, November 10, 2001, the Islamic Association of Greater Detroit will celebrate the completion of its beautiful Mosque expansion, a project that has been the heart and driving force of this entire community.

Located in Rochester Hills, the Islamic Association of Greater Detroit (IAGD) has always been a flourishing center of religious and social activity. Joyfully celebrating Ramadan and the Eid holidays, while lending a helping hand to those suffering and working for charitable causes, the IAGD has been a welcoming home to all who have walked through its doors.

However as the community began to grow and expand, its ideas and vision for the future began to grow with it. Dedicating over fifteen years of their time and talents to expansion efforts, this community envisioned a center that would continue to cultivate its community roots as well as reach out to younger generations. With new constructions including a large banquet and social hall, classrooms, library, gymnasium, and so much more, the completion of this Mosque expansion has truly become an example to all communities. Donating their time, money and efforts to a vision that is shared by Muslim Americans across the nation, this community's hard work and dedication to the completion of this beautiful new Mosque will assuredly become an inspiration for the next generations of Muslims in America.

I applaud the Islamic Association of Greater Detroit for reaching this historic milestone, and I urge my colleagues to join me in congratulating them on this landmark occasion.

TRIBUTE TO THE 70TH ANNIVERSARY OF GARDEN VILLAS ELEMENTARY MUSIC MAGNET SCHOOL

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. BENTSEN. Mr. Speaker, I rise today in recognition of the 70th Anniversary of Garden Villas Elementary Music Magnet School, a campus of the Houston Independent School District. The anniversary celebration will be held the week of December 3–7, 2001.

Garden Villas Music Academy was established in 1931 to accommodate those students in grade levels 1–10 residing in the Garden Villas region of southwest Houston. This community has a rich history that dates back to World War II. In the early 1950s the neighborhood was annexed into Houston incorporating Garden Villas Elementary into Houston Independent School District. Located on an acre of land, the school provides a comfortable and peaceful atmosphere, an ideal location for the cultivation of music skills. Currently, Garden Villas Elementary serves 920 students ranging from pre-kindergarten through fifth grade.

The mission of Garden Villas Elementary is to provide a safe environment in which students enhance their academic growth and enrich their education by participating in an exceptional music and fine arts curriculum. Students receive specialized instruction in a variety of areas, including strings, band, piano, art, dance, creative writing, and gymnastics. The faculty encourages young artists to work together to prepare performances and create exhibitions that display their appreciation of the arts, develop creativity and build self-esteem. Excellence in the arts is a natural, integrated extension of the academic program at Garden Villas Elementary Magnet School.

In addition to exemplary curriculum, Garden Villas Elementary, participates in programs designed to develop socially conscious, well-rounded students, such as United Way Kids, Red Ribbon Week, St. Jude's Mathathon and D.A.R.E. I applaud the faculty of Garden Villas Elementary for their creativity and leadership.

Again, I would like to recognize the 70th Anniversary of Garden Villas Elementary Music Magnet School and congratulate the students and faculty on 70 years of success.

PERSONAL EXPLANATION

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following votes. If I had been present, I would have voted as follows:

November 29, 2001, rollcall vote 459, on approving the Journal, I would have voted "yea".

November 30, 2001, rollcall vote 465, on agreeing to the conference report for H.R. 2299, I would have voted "yea".

RECOGNIZING IMPORTANT CONTRIBUTIONS OF HISPANIC CHAMBER OF COMMERCE

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. RANGEL. Mr. Speaker, I rise today to recognize the dedication of the United States Hispanic Chamber of Commerce to the success of Hispanic businesses in the United States and Latin America and to offer my strong support of H. Con. Res. 277.

The Hispanic community has become the fastest growing minority group in the United

States. The Hispanic community plays an essential role in sustaining the viability of the nation's economy and the number of Hispanic-owned firms is growing rapidly. According to the Census Survey of minority-owned business enterprises, Hispanic-owned business in the United States totaled 1.2 million firms in 1997 and employed over one million people. These businesses generated nearly $200 billion in revenues.

At the center of the growth is the United States Hispanic Chamber of Commerce. Over the years, the chamber has worked closely with the concerns and issues that affect Hispanic firms, developing business relationships, promoting international trade, and advocating to the Congress and Administration on behalf of these businesses. The Chamber's commitment to the Hispanic business community is a contribution to the economic empowerment of the Latino population as a whole and its impact has been felt throughout the Nation.

Promoting Latino-owned businesses is particularly important in my congressional district of Upper Manhattan. The Hispanic influence in this community is significant and the Chambers' continuing efforts to promote such ownership, particularly in the small business arena is critical to the economic viability of my community and its future. For the Chamber's initiatives, I commend them.

THE DEPARTURE OF PRESIDENT LEE BOLLINGER FROM THE UNIVERSITY OF MICHIGAN

HON. LYNN N. RIVERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Ms. RIVERS. Mr. Speaker, I rise today to pay tribute to Lee C. Bollinger, who will be leaving as president of the University of Michigan at the end of this month to become president of Columbia University in July.

For nearly 5 years, Mr. Bollinger has been a transforming leader at the University of Michigan, whose Ann Arbor campus is in my congressional district. During that time he has achieved a number of major accomplishments.

One of those efforts is the Life Sciences Initiative, which was launched in 1999. With a commitment of $100 million in campus funds, a $130 million endowment and additional revenues, the University will become a major source of research on human genomics, chemical and structural biology, and bioinformatics. A new six-story Life Sciences Institute is now under construction on the Ann Arbor campus. The university will also benefit from the state's Life Science Corridor, a 20-year program to develop new technologies in the life sciences statewide.

Mr. Bollinger has also overseen the most successful fund-raising campaign in history, raising nearly $1 billion since 1997. In three of those four years, Michigan raised more money from alumni than any other public university. Research expenditures also reached record levels under his stewardship to stand among the highest in the nation.

By far, one of his most significant contributions has been his ardent and effective defense of affirmative action in admissions. Mr. Bollinger has been a strong supporter of the need for diversity in higher education, and his willingness to fight several lawsuits on that issue underscore his strong commitment to that principle. I know of no president who has been so closely tied to students and who has related as well to the thousands of young men and women at the university.

From bringing the Royal Shakespeare Company to Ann Arbor to dedicating the new Gerald R. Ford School of Public Policy, Lee Bollinger has been a man of vision—a leader of compassion—and a strong advocate for the principles that he and the University embody.

I know he has mixed feelings about leaving behind the Michigan family as he moves on to Columbia next year. But those of us who have seen the progress and growth of the university under his tutelage can only say "thank you" to Lee for his outstanding service to the University, to the people of Michigan and to the nation.

I call upon all my colleagues to thank him for his legacy of service, and to join me in wishing him and his wife Jean well in their future endeavors.

TRIBUTE TO STEPHAN WICHAR, SR.

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. BONIOR. Mr. Speaker, today I rise to pay tribute to Stephan Wichar, whose achievements span the decades and have touched the lives of so many in the city of Warren and beyond. As family, friends, and community members gathered together on Sunday, November 18, 2001, they honored Steve Wichar for his years of service, as a distinguished Ukrainian-American who has shown outstanding leadership and support in his community and beyond.

President of the Ukrainian Village Board of Directors and distinguished community activist, Steve Wichar has demonstrated outstanding dedication and commitment to both the Ukrainian and American communities. President of the Board of Directors at Wingate Management, Steve has been providing leadership and expertise for over 14 years. He has worked hard to improve safety in Detroit Public Schools and lent countless hours to the Boy's Club of America. His efforts to help prenaturalized students overcome the challenges they face in public schools has been remarkable, and he has raised tens of thousands of dollars for the Children of Chernobyl Fund.

Faithfully committed to his Ukrainian heritage as well, his unparalleled devotion to Ukrainian senior citizens is reflected in his 13-year tenure as president of the Ukrainian Village Corporation. Steve served in World War II, and his leadership on behalf of Ukrainian American Veterans has been extraordinary. But Steve's efforts and achievements do not stop at veterans' affairs. Steve is the longest serving president of the Ukrainian American Center. He has successfully lobbied for continued aid to Ukraine, has kept an unwavering focus on human rights, and continues to work hard to bring Ukraine into the international community.

Steve has devoted his life to his community, and his efforts have brought great accomplishments for schools, seniors, veterans, and foreign policy. He is a respected scholar, teacher, and friend. It gives me great pleasure to honor Steve, for his leadership and commitment, and I urge my colleagues to join me in saluting him for his exemplary years of dedication and service.

PROMOTING TOLERANCE

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Ms. SOLIS. Mr. Speaker, today I rise again to urge this chamber to bring the Hate Crime Legislation H.R. 1342 to the floor for a vote.

This Nation has seen a sharp rise in hate crimes against individuals perceived to be of Middle Eastern decent or Muslim.

I stood right here 3 weeks ago and said there had been over 1,100 reported complaints since September 11th. That number has now jumped to almost 1,500.

What is it going to take to get people to realize that hate crimes aren't like other crimes?

People are attacked and intimidated because of how they look or where they pray.

Assault, harassment, discrimination, death threats, hate mail, and even death are occurring in schools, workplaces, airports, and homes.

My own family received a threat. My sister received a call about an anthrax letter being sent to her.

Hate crimes terrorize their victims. When a group is targeted no member of the group can feel completely safe.

There have been stories of Muslim men shaving their beards and removing their turbans just to feel safe.

Our Nation has the will to fight for the freedom of others in Afghanistan. We should make sure we have the will to fight for the freedom from hate crimes in our own country.

California has seen one of the largest increases in hate crimes of all the states.

Since September 11th in Los Angeles county alone, there have been 156 reported incidents against those perceived to be Arabs or Muslim. This includes 2 homicides.

This is a huge increase over last year, when there were just 12 reported incidents in Los Angeles County.

I am alarmed at these shameless acts.

Our diversity is our strength and we must remain united.

Our children learn prejudice and intolerance from us.

If we ignore acts of discrimination or make derogatory comments about other cultures, religions or ethnic groups what are we teaching our children?

Haven't we had enough? The violence, discrimination and intimidation against our Arab and Muslim neighbors must stop now.

Our children must be taught that it's not okay to use derogatory words against people of another race, religion or ethnic group.

A hate crime does not have to involve an actual act of violence to start the cycle of tension and deterioration of civil society that leads to violence.

Juveniles represent about half of hate crime offenders.

Our children need our help to understand hate crimes and to stop the cycle of senseless acts of hate.

It's time for Congress to take action against hate and intolerance and bring H.R. 1343, the Hate Crimes bill, to the floor for a vote.

HONORING CHARLES WHITE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to Charles White a longtime United Automobile Workers activist. Charles will be honored by the UAW Region 1C Retirees Legislative Committee on December 7, 2001 in my hometown of Flint.

Born in 1916, Charlie grew up in Missouri. During the 1920s he lived with an uncle who worked at Fisher Body in St. Louis. He moved to Flint and was hired in 1935 by General Motors to work at the Fisher Body 1 Plant. When General Motors attempted to remove the dies from the plant on December 30, 1936 the workers at Fisher Body Plant 1 joined the workers at Fisher Body Plant 2 to begin the historic sit-down strike. Charlie became a Flint Sit-Down Striker at that time.

Over the next weeks, Charlie worked tirelessly at the strike headquarters. He made banners, signs and drew editorial cartoons. When John L. Lewis came to Flint to work with the fledgling United Automobile Workers and help negotiate the settlement with General Motors, Charlie served as his bodyguard.

Continuing a tradition that had started during the strike, Charlie drew editorial cartoons for the union papers during the next forty years. Joining with his fellow UAW members, Charlie has fought for safety laws and improved conditions in the factories. He served as a union president and eventually retired in 1966 from UAW Local 581. In 1971 he became the Chairperson of the Local 581 Retiree Chapter and has continued in that capacity until the present time. He has been supported in his work by his wife, Barbara, and his three daughters.

Mr. Speaker, I ask the House of Representatives to join me in congratulating Charles White as he is honored by the retiree chapters in UAW Region 1C. His contributions have brought more humane working conditions in the our factories and a better life to workers everywhere.

TRIBUTE TO JAMIE ROCHELLE

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. RODRIGUEZ. Mr. Speaker, I rise to pay tribute to a woman of extraordinary ability, Jamie Rochelle, who this month ends an illustrious career at San Antonio's municipally-owned utility, City Public Service (CPS), and concludes her year-long service as chairman of the board for the Greater San Antonio Chamber of Commerce. She has proven herself not only a capable leader and chief executive, but also an important member of our community. Her efforts have made San Antonio a better place to work and live.

Jamie Rochelle is a true success story. What began as a computer programming job at CPS started her on a 31-year path that led her to become in 1998 the first female general manager and chief executive officer at CPS, now the second largest municipally-owned utility in the United States with more than $6 billion in assets. What's best, her leadership has helped keep CPS rates among the very lowest in the country. During her time at CPS, she handled a large debt refinancing yielding $20 million in interest savings, streamlined company management, managed supply crises well, and struck beneficial deals that helped the company save money and improve service. These experiences made her a successful manager and an astute chief executive.

CPS enjoys a diverse array of energy sources, protecting customers from market fluctuations and supply interruptions. Ms. Rochelle saw to it that CPS expanded its generating capacity while working to protect the environment. Last year, she took pride in bringing on-line a new state of the art gas-fired power plant. Under her leadership, the company was quick to respond last year to surging gas prices in an effort to soften the impact on the many vulnerable families it serves. Even in the absence of crisis, CPS a Project WARM fund to provide financial assistance to help needy families pay their utility bills.

CPS also takes pride in the success of its small and disadvantaged business outreach program. This past year CPS received the coveted Dwight D. Eisenhower Award for Excellence from the United States Small Business Administration. Competing against 2,500 utilities nationwide, CPS won this honor for its proven record of reaching out to and including small business in its contracting operation. Similarly, CPS has proven to be a good corporate neighbor. Whether through its Share the Warmth program to provide warm clothes in the winter, or its Weatherization Program to better insulate older, inner city homes in the summer, CPS and its employees reach out with a helping hand.

Jamie Rochelle has helped make CPS a pro-active leader in renewable energy research and development. In April 2000, CPS began to offer wind-generated electricity to its customers. With a financial investment, CPS supports solar energy projects in San Antonio. One project, in cooperation with Solar San Antonio, will assist local government in reducing energy consumption and researching the feasibility of renewable energy sources. One of its new service centers will become a working showcase in the possibilities of solar energy.

Jamie Rochelle has worked closely with me and my staff on projects important to our community and the Nation. Among other things, she has supported our efforts to transform Brooks AFB into a more efficient entity, known as a city-base, by partnering with the Air Force and academia on innovative energy projects. CPS partners with the Southwest Research Institute, Brooks AFB, St. Philips College and DCH Technology, and the U.S. Army Corps of Engineers on a year-long fuel cell research project at Brooks AFB, to find ways to make fuel cell technology feasible for residential uses. CPS has supported the Brooks Energy and Sustainability Laboratory, an effort coordinated by the Texas Engineering Experimental Station of Texas A&M University to make energy consumption in buildings operate at peak efficiency, cutting waste and conserving valuable resources. Most recently, Ms. Rochelle signed off on a partnership with the Department of Energy to develop at Brooks AFB a building cooling and heating plant as a model for efficient energy generation and use.

Jamie Rochelle is more than just a series of accomplishments, though she has had many and will likely have many more in the future. Quiet, confident and sure, she exemplifies good leadership. Knowing of the challenges facing not only CPS but San Antonio, she has provided a positive and inclusive vision for the company. She reaches out to others and has participated in numerous civic organizations, culminating in her past year as the head of the Greater Chamber. It has been my honor to work with her on behalf of the people of San Antonio.

PERMITTING LEGAL IMMIGRANTS WHO HAVE FILED FOR NATURALIZATION PRIOR TO SEPTEMBER 11, 2001, TO KEEP THEIR JOBS AT OUR NATION'S AIRPORTS

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to introduce H.R. 3416 to amend PL107–71, the recently passed Aviation Security Act.

PL107–71 prohibits the hiring of non-citizens in airport security programs no matter how well qualified. This prohibition is an egregious, unfair provision.

It forgets that 34,200 legal residents are active in the U.S. Armed Forces and that 12,600 serve in our Reserves and are willing to give their lives in defense of our freedom.

If legal residents can fight for us in war, they should be able to protect us in airports.

If legal residents are otherwise qualified to serve as our airport security officers, they ought not to be denied employment just because they are not citizens.

My bill, H.R. 3416, does not totally fix the basic problem. But it protects employment rights to legal residents who have filed for naturalization prior to September 11, 2001.

If a legal resident is otherwise cleared for employment and qualified for hire, lack of citizenship should not be a bar to hire if the legal resident has filed for naturalization prior to September 11, 2001.

This bill is fair. It opens the doors to continued employment in security jobs operated by the federal government under PL107–71.

Under H.R. 3416, intent to become a U.S. citizen clears the way to being hired. Filing for naturalization should be recognized as giving the employee the bona fides needed to qualify.

There are many places where it still takes 18 months to 2 years to become a citizen after filing for naturalization.

These persons should not be prejudiced for the failure to process the papers in a more timely manner.

I urge my colleagues to support this fair and equitable compromise.

IN MEMORY OF TED GREGORY, A CINCINNATI LEGEND

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. PORTMAN. Mr. Speaker, I rise today to honor the memory of Ted Gregory, a friend and constituent who passed away on Sunday, December 2. Ted Gregory was a wonderful person who built a legacy based on his landmark restaurants, his generosity and community service.

Born in Windsor, Ontario, he grew up in Detroit. He moved to Montgomery, Ohio when it was still a rural area, bought the former McCabe's Inn and renamed it Montgomery Inn. Six years later, his wife Matula developed a secret barbecue sauce recipe that made the Inn a legend.

The restaurants, combined with Ted's warm personality and business acumen, made him a legend. Eventually, Ted's operation expanded, with the addition of three other dining venues in Cincinnati and Northern Kentucky. According to Restaurants and Institutions magazine, the industry's leading trade publication, Montgomery Inn is the leading rib restaurant chain in the U.S.—over 15 tons are sold each week. His employees were devoted to him—many were with him twenty years or more.

Although Ted was a good businessman, he was also a lot of fun. Wherever he went, he always brought a smile and his endless good humor with him. When Bob Hope visited Cincinnati to support the Bob Hope House, he and Ted became good friends. Many other former Presidents and celebrities visited Ted's restaurants to enjoy the famed ribs, including Presidents Gerald Ford and Ronald Reagan, Vice President Dick Cheney, Tom Selleck, and Don Rickles.

His warmth extended to helping others. He generously supported the Cincinnati FreeStore/FoodBank, St. Rita's School for the Deaf, Sycamore High School, Bob Hope House, and Riding for the Handicapped.

All of us in Cincinnati will miss Ted Gregory's warmth, humor and love for life, and we extend our deepest sympathies to Matula and their children, Dean, Tom, Vickie and Terry.

THE CONTRIBUTIONS OF THE LATE JOHN T. O'CONNOR

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. CAPUANO. Mr. Speaker, I rise today to remember John T. O'Connor, a community activist and environmental advocate who passed away on November 30, 2001. A longtime resident of Cambridge, Massachusetts, John O'Connor fought for many important causes, from ending poverty to protecting our environment.

He graduated from Clark University in 1978, beginning a career of public service and advocacy. After graduation, he joined the "Volunteers in Service to America", an organization focused on eliminating poverty. He went on to found the National Toxics Campaign in 1983 and fought tirelessly for passage of the Superfund law.

Mr. O'Connor never lost his commitment to preserving our environment and demonstrated this in a number of ways over the years. He served as Chairman of Gravestar, Inc—a development company that focused on environmentally sensitive real estate projects. In 1991, he founded Greenworks, a company that provides a wide range of services from office space, financial support and advice to environmental start-up companies.

Mr. O'Connor paid tribute to his Irish roots by serving on the Irish Famine Memorial Committee. The Committee successfully raised the funds to construct a memorial in Cambridge and dedicated it in the presence of Mary Robinson, then President of Ireland.

Many people have stories to tell about Mr. O'Connor's generosity and his spirit. He helped local young people by providing guidance, advice and even money for college tuition. By these actions, he no doubt changed the course of many young lives for the better.

Mr. O'Connor made the world a better place in so many ways. He was generous with his time and his considerable talents, helping to further so many different causes, both large and small. He dedicated a significant amount of time and money to charitable organizations, making a tangible difference in the lives of so many.

I came to know John O'Connor first as a local businessman, then as an opponent in the 1998 congressional race, and later as a friend. He touched many lives in his 46 years, including mine, and I am saddened by his passage. My thoughts and prayers are with John's wife, Carolyn Mugar, his family and his many friends during this difficult time.

HONORING THE IDAHO PEARL HARBOR SURVIVOR'S ASSOCIATION

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. SIMPSON. Mr. Speaker, I rise today to honor a generation of American patriots. They were the men and women at Pearl Harbor, Hawaii that day of infamy, December 7, 1941. The men and women who served and died at Pearl Harbor paid a great price to our nation.

Today as we commemorate the 60th anniversary of the Pearl Harbor attack, I would like to honor the men and women who make up the Idaho Pearl Harbor Survivor's Association. This group of 50 active members helps keep the memory of those who served so bravely alive. To be a member you must be a military survivor of the December 7th attack, have been within a three-mile radius of the Island of Oahu between 7:55 a.m. and 9:45 a.m.

The nation-wide group has approximately 10,000 members and started with just 11 people in 1958. The Magic Valley Chapter started on Feb. 17, 1979 with five members. Over the years, the members have given back to each Idaho community—buying flags, talking with youth groups, and performing countless hours of community service. They have sounded their motto, "Remember Pearl Harbor—Keep America Alert" in all their activities. How poignant this statement is considering the events of September 11, 2001.

Today, I would like to honor this group by naming each survivor who currently lives in Idaho. This list is according to the Idaho Pearl Harbor Association. The members are:

Harold F. Beebe, Pocatello, Kaneohe NAS; Ralph Eaton, Twin Falls, USS Henley; Richard Hansing, Twin Falls, USS Nevada; C.H. Harame, Pocatello, USS Detroit; William Harten, Idaho Falls, USS West Virginia; Pershing Hill, Idaho Falls, USS Nevada; Leroy J. Kohntopp, Filer, USS Maryland; Gale D. Mohlenbrink, Buhl, USS Northampton; Patrick C. O'Connor, Pocatello, Receiving Station, Pearl Harbor; Robert R. Olsen, Chubbuck, Naval Hospital; Steve F. Phillips, Challis, Ford Island NAS; David R. Roessler, Gooding, 24 SIG.; Tony Sabala, Jerome, 21st INF.; Irvin A. Satterfield, American Falls, USS Argonne; Nicholaus Gaynos, Post Falls, 407th SIG; Miles R. Gillespie, Nampa, 27th INF.; Roy Hayter, Athol, USS Honolulu; Munith F. Higbee, Meridian, USS Phelps; Don A. Irby, Boise, USS Maryland; Wallace R. Jacobs, Lewiston, USS California; Dale E. Magnuss, Pinehurst, USS Cummings; James R. Mallory, Boise, USS St. Louis; Ernest R. Mangrum, Boise, USS West Virginia; Eugene N. McDonough, Boise, 24th INF.; Dallas F. Pohlmann, Boise, Pack Train; Glenn R. Rosenberry, Caldwell, HQ 18th Bomb EG.; Carrol V. Rowell, Boise, 2d Marie Air WG; Robert W. Arent, Nampa, USS Maryland; Richard L. Artley, Lewiston, USS Oklahoma; Ray Aznavoorian, Post Falls, USS Ontario; Conway B. Benson, Boise, USS Tennessee; Thomas A. Brown, Boise, USS Phoenix; Frank A. Cannon, Orofino, USS Wasmuth; Robert A. Coates, Nampa, USS Nevada; James R. Critchett, Silverton, Kaneohe, NAS; Frank R. Dallas, Meridian, HQ 18th Bomb WG.

USS Ogalala; Harold M. Sr. Erland, Boise, HQ HAW.; Dan C. Fry, Banks, Kaneohe; Horace E. Dresser, Caldwell, USS San Francisco; Raymond W. Garland, Couer D'Alene; USS Tennessee; John R. Sandell, Kamiah, HQ 5th Bomb GP; James K. Thomas, Boise; Franklin Elliott, Eagle.

HQ Hawaiian AF; Kenneth F. Walters, Lewiston, USS Pennsylvania.

On behalf of all Idahoans and Americans everywhere, "thank you" for your sacrifice and service to your country. You've reminded Americans that we can never become complacent and must keep our defenses strong. We will remember Pearl Harbor and always be on alert.

TRIBUTE TO ROLLIN "RUFFY" JOHNSON ON THE OCCASION OF HIS RETIREMENT AS A VFW ASSISTANT DEPARTMENT SERVICE OFFICER

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. STUPAK. Mr. Speaker, I rise today to pay special tribute to a U.S. military veteran—a special veteran, one who after completing his own tour of duty has spent a career providing assistance to other veterans. Mr. Speaker, I rise to honor Rollin "Ruffy" Johnson on the occasion of his retirement as a Veterans of Foreign Wars assistant state service officer for the Upper Peninsula of Michigan.

It is conventional wisdom that no person in any organization—and that includes you and I, Mr. Speaker—is truly irreplaceable, but Michigan veterans may look long and hard before they come up with an individual who has worked and battled so hard for the rights for our former military men and women as Ruffy Johnson has. I guess that, in Ruffy's case, his work on behalf of veterans blends innate Yooper cussedness with the personal style of a person who has claimed that his nickname "Ruffy" comes from his early days of enjoying a good fight. If you combine those characteristics with the important task of fighting for veterans' benefits, you know, you have a mixture that can make people at the Department of Veterans Affairs sit up and listen.

After graduating in 1951 from Negaunee High School in Michigan's U.P., Ruffy enlisted in the U.S. Navy, serving the first two years on the destroyer U.S.S. Beale and two more years at a base in the Mediterranean. His four-year hitch completed, he returned to the U.P. and was one of the first dozen civilians hired at K.I. Sawyer, a Strategic Air Command Base near Marquette, which is now closed. Following his Sawyer job he worked for a number of years for the U.S. Post office, but he took the job that really concerns us here in 1988, when he accepted a position with the Department of Michigan Veterans of Foreign Wars as an assistant state service officer in Detroit.

At least one Detroit colleague remembers Ruffy arriving from the U.P. with his wife Doreen in their pickup truck, and that colleague recalls checking to see if there was a hunting rifle in the rear window. Doreen remembers there was no gun, but she believes the rack was probably there.

Mr. Speaker, I said that Rolling Johnson was a fighter for veterans. An example of his tenacity is what occurred after Ruffy learned that veterans were being pressed for the copayments of their prescription drugs. He inquired about the appeal process and was told by the VA the there was no appeal. Well, Mr. Speaker, the VA had tangled with the wrong guy, and through the tenacity of Ruffy Johnson a national appeal process was established.

Ruffy was transferred from Detroit back to the U.P. in 1992. His initial veterans' service area was the eastern U.P. but by the end of the decade he was assisting across the Upper Peninsula. I know what's involved in that effort, Mr. Speaker, because I have put more than five hundred thousand miles in driving around my congressional district. Ruffy has clearly been up to the task, serving above and beyond the call of duty by going to every convention and every meeting that involved veterans. He was instrumental in creating a program to name a U.P. Veteran of the Year, and he has been active as a judge in those great VFW programs, Voice of Democracy and National Youth Essay.

Ruffy has held numerous positions at his own local post, Negaunee's Post 3165, including serving as post commander in 1980–81. He is currently 14th District Junior Vice Commander.

Ruffy has counseled widows of veterans on the benefits they are due, fought to keep veterans in nursing homes, and helped process myriad claims for deserving former military individuals. All his great attributes aside, however, Ruffy has one blind spot. Maybe it was those years in Detroit, but despite the advice of friends, despite the wishes of his own children, he remains a Detroit Lions fan in the heart of Green Bay Packer country. We'll forgive him this flaw.

Mr. Speaker, on Dec. 8, Ruffy Johnson will be honored by friends, peers, his wife of 45 years, his career-Army son, and two of his three daughters who are able to make it, at a gathering in Ishpeming, Michigan, I ask you and my House colleagues to join me in saluting Rollin "Ruffy" Johnson, a true friend of veterans in northern Michigan.

TRIBUTE TO MS. DEBBIE TAMLIN

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. SCHAFFER. Mr. Speaker, I rise today on the floor of the House to congratulate and call attention to one of Colorado's truly outstanding citizens. Ms. Debbie Tamlin of Fort Collins, Colorado, this week, has been named Realtor of the Year by her peers and colleagues of the Fort Collins Board of Realtors, a commendation she richly deserves for a variety of reasons. Debbie is a true professional who never lets up until her clients are well served. Her standard is excellence, and her dedication to her profession is legendary.

Debbie is proprietor and president of her own firm ZTI Group. She has been a real estate broker in Colorado for over twenty years, and president ZTI Group since 1989. Recently she was awarded for her work receiving the Distinguished Service Award twice from the Colorado Association of Realtors (CAR), and the 2001 Political Service Award from CAR.

Debbie is a familiar face at the Colorado State Capitol, at the County Courthouse, at City Hall, and even here in the nation's Capitol. She is clearly my community's most forceful and most competent advocate for the improvement of laws to benefit consumers and to build a stronger, healthier community. As one who for thirteen years has been on the receiving end of Debbie's lobbying, I can tell you, she's not to twist arms, make threats, or mislead. She's a skilled negotiator, a brilliant intellectual, and an honorable decent woman whose word is her bond, and whose integrity precedes her. Of course she's persuasive. Many of the best laws related to property rights and housing at the federal, state, and local level have only been accomplished because of Debbie Tamlin's devotion to her community and her profession.

Debbie Tamlin is a political activist. She's backed me in each of my efforts to represent Colorado, and I humbly warrant I would not have succeeded were if not for her assistance. In fact, there are many leaders in office today who owe their election victories to Debbie. Conversely, there are many aspirants whose political ambitions have been dashed because of Debbie * * * well, let's just say because Debbie didn't see things exactly their way.

Mr. Speaker, Coloradans know and appreciate Debbie Tamlin's numerous achievements, but to me, Debbie is a close friend, one I've known since I first arrived in Colorado. She's a devoted mother, a pious believer, and one of the most honorable people I've ever met. Whenever there is a cause, Debbie is there to be its champion. Whenever there is a need, Debbie is there to help. Whenever there is a challenge, Debbie is there to face it. She's a profile in courage, a heroine of endless generosity, and a loyal friend to many.

Debbie Tamlin is an authentic American and an enthusiastic patriot. She loves the West and all its traditions. She embodies the spirit of freedom and the hope of a brighter tomorrow; and she inspires all around her to achieve great things that once seemed only distant dreams. She's a leader—one whose mark on her community is unmistakable and always positive—the kind of leader who makes her friends and neighbors proud, sets the bar high, and leaves us in awe. She is respected across the country and beyond even that. Her passion for excellence in her professional life and personal life make her extraordinary. She is a splendid woman.

Mr. Speaker, it's difficult for any of us to describe the essence of a particular State. Colorado, for example, is known for many things—a rich history, rugged mountains, wild majestic skies and hard-working people. Debbie Tamlin is the face of Colorado. Her life's work embodies the qualities we all admire. She's a loving wife, a caring mother, and gentle soul and impressive figure in Colorado's bright future.

I am grateful for our colleagues from throughout the nation who join us tonight in expressing our warmest commendations and congratulations to Debbie. She's more than the Realtor of the Year, she's Debbie Tamlin. May God continue to richly bless her and her family.

APPOINTMENT OF CONFEREES ON H.R. 2883

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. GIBBONS. Mr. Speaker, since September 11, all Americans have witnessed our intelligence community at its best.

We have witnessed their loss, our first combat loss of an American hero in our war against terrorism, CIA agent Johnny "Mike" Spann. We must provide the resources needed to combat terrorism at the most basic level, intelligence.

This is a good bill. It provides significant resources to the intelligence community, which during the 1990s was underfinanced, understaffed, and underappreciated.

The 1990s was a "risk averse" period, during which the bullies of the world began to get the idea that the United States had gone soft, and no longer had a will to defend American lives and American interests.

The intelligence community often was not performing aggressively enough, though this was by no means the fault of the dedicated men and women who constitute the intelligence agencies' rank-and-file.

They are now doing a stupendous job of catchup, and they deserve the best support we can give them.

Regarding today's needs, we are providing logistical and technical resources for a worldwide campaign to root out terrorism.

Our intelligence officers are working on the ground in Afghanistan, as the American public is now aware—sadly aware with the news of our fallen CIA hero.

What the American public will probably never know is that American intelligence officers are working around the clock, worldwide, to neutralize terrorist cells and otherwise diminish the possibility of future attacks on innocent American citizens.

As for future needs, this bill provides resources for greater foreign language expertise, increased specialized training, increased analytical expertise to include measures to restore the intelligence community's ability to provide worldwide analytical coverage.

This administration and this Congress are acutely aware of the need for a strong intelligence capability. We on the Intelligence Committee have done our utmost to give the intelligence agencies what they need to do their job.

I urge your support on this motion.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, December 6, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 7

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Sean O'Keefe, of New York, to be Administrator of the National Aeronautics and Space Administration.

SR–253

Joint Economic Committee

To hold hearings to examine the employment-unemployment situation for November, focusing on payroll employment figures.

1334 Longworth Building

DECEMBER 10

10 a.m.

Judiciary

To hold hearings on the nomination of David L. Bunning, to be United States District Judge for the Eastern District of Kentucky.

SD–226

DECEMBER 11

9:30 a.m.

Governmental Affairs

To hold hearings to examine the local role in homeland security.

SD–342

10 a.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings to examine homeland defense issues, focusing on sharing information with local law enforcement.

SD–226

DECEMBER 12

10 a.m.

Judiciary

To hold hearings to examine the future of the Microsoft settlement.

SD–226

2 p.m.

Commission on Security and Cooperation in Europe

To hold hearings to examine the state of human rights, democracy and security concerns in Kyrgyzstan, focusing on human rights and democracy in the Central Asian region.

334 Cannon Building

DECEMBER 13

9:30 a.m.

Governmental Affairs

To hold hearings to examine security of the passenger and transit rail infrastructure.

SD–342

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine housing and community development needs in America.

SD–538

Judiciary

Business meeting to consider pending calendar business.

SD–226

DECEMBER 18

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine the limits of existing laws with respect to protecting against genetic discrimination.

SD–106

HOUSE OF REPRESENTATIVES—*Thursday, December 6, 2001*

The House met at 9 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Eternal God, You reveal Yourself in the Sacred Scriptures. In blessing Abram, You said:

"I will bless those who bless you and curse those who curse you. All the communities of the earth shall find blessing in you."

May this blessing now fall upon this Nation and this Chamber.

Since we tend to rejoice with friends and supporters, yet fear or ignore those who disagree or curse us, may Your Holy Word of blessing assure every one of us that You are one with us always, whether we feel praised or offended, blessed or cursed.

As You chose Abram, You have chosen these Representatives and the communities which have elected them to be Your very own.

Called by You to live into the bright promise of future and willing to be led by faith, may Your people prove worthy always to be blessed and never cursed.

May our attention to Your call and our gratitude for Your direction foster such a deep union in us and with You that we become a blessing to all the communities of the earth both now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida (Mr. FOLEY) come forward and lead the House in the Pledge of Allegiance.

Mr. FOLEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a joint resolution of the House of the following title:

H.J. Res. 76. Joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

The message also announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 88. Concurrent resolution expressing solidarity with Israel in the fight against terrorism.

The message also announced that pursuant to Public Law 96–114, as amended, the Chair, on behalf of the Majority Leader, announces the appointment of Kevin B. Lefton, of Virginia, to the Congressional Award Board, vice John Falk.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 1-minute speeches at the end of legislative business today.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 305 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 305

Resolved, That it shall be in order at any time on the legislative day of Thursday, December 6, 2001, for the Speaker to entertain motions that the House suspend the rules relating to the following measures:

(1) The bill (H.R. 3008) to reauthorize the trade adjustment assistance program under the Trade Act of 1974.

(2) The bill (H.R. 3129) to authorize appropriations for fiscal years 2002 and 2003 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes.

The SPEAKER. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, yesterday the Committee on Rules met and passed this resolution providing that it shall be in order at any time on the legislative day of Thursday, December 6, 2001, for the Speaker to entertain motions that the House suspend the rules relating to the following measures:

One, the bill, H.R. 3008, to reauthorize the Trade Adjustment Assistance Program under the Trade Act of 1974; and, two, the bill, H.R. 3129, to authorize appropriations for fiscal years 2002 and 2003 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes.

Mr. Speaker, our textile workers are hurting and they are hurting bad. In the last year, 60,000 textile workers have lost their jobs, 20,000 of them in North Carolina alone. The industry has done its best through technology to compete, but they have not had a level playing field.

These folks are the best our country has to offer. They are working hard to make ends meet. When they get laid off, they do not come whining to the government, they say maybe we could have done something better or different, but then they go out and get two jobs to make ends meet.

Mr. Speaker, someone has to stick up for these folks because the government does have something to do with these layoffs. Our textile workers are hurting because of low-cost foreign imports, and many of these imports are illegal. Asian countries avoid our quotas by shipping their goods through other countries. That is unacceptable, and it is time for it to stop. For years, our government has turned a blind eye to it.

The Customs authorization bill that we will consider today will help fight these illegal textile transshipments. It provides the Customs Service with $9.5 million for transshipment enforcement operations. These funds must be used to hire 72 new employees who will be stationed both here at home and abroad to enforce our textile trade laws. It is high time for the government to start taking our textile industry seriously.

This bill will not solve all of our problems, and it will not come anywhere close to solving our problems as we see them today, but at least we are getting somewhere and we are making some headway.

Mr. Speaker, the other bill we are going to consider today is a renewal of the Trade Adjustment Assistance program. This program gives job training and education benefits to workers who lose their jobs because of trade. To be honest about it, I have always had mixed feelings about TAA because my

□This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

friends back home would rather have a job than a handout and being unemployed. We should be working first and foremost to save our American jobs.

But quite frankly, that said, TAA is important to someone who has lost their job. And today's bill improves the program in two important ways. First, it extends job training benefits so they last the same number of weeks as unemployment benefits. What a novel idea. 104 weeks.

Second, the bill forces the Department of Labor to decide TAA requests within 40 days instead of 60 days so that workers can get their benefits more quickly. Is that enough? No way. TAA is not a substitute for a job, but it should be expanded so that secondary workers get help. Secondary workers are the supplier, those folks down the road who do business with the mills, and that has been a big issue in my district, people who have not qualified for help.

Secretary of Labor Elaine Chao has promised us that she will use emergency funds to provide TAA to secondary workers, and we should acknowledge her commitment; but we should put secondary worker coverage in the law so we do not have to rely on the whim of the next Secretary of Labor or the next one or the next one.

Mr. Speaker, let us pass this rule so we can give help to our hurting textile community. We have a long way to go, but now we have folks listening and we are making some progress. This is all a start. Sure, a very small start, but it is a start.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me this time, and as the gentlewoman has explained, under rule VX of the House rules, bills may be considered on the House floor under suspension of the rules only on Mondays and Tuesdays. Therefore, this resolution is required in order to consider these bills on today's schedule.

The gentlewoman has done an adequate job of explaining why, in the leadership's opinions, these bills must come to the floor today and in this manner.

Mr. Speaker, I respectfully disagree and I will call on our colleagues to oppose adoption of this rule. There is no need to rush to judgment on these bills. I heard my colleague and I agree with her with reference to the matters in TAA dealing with the textile industry, but there are some of us that are concerned about provisions in agricultural measures in regards to people that have lost their jobs. Some of us are interested in the citrus industry in Florida and what we are likely to do here today, and would like to have more discussion regarding same.

There is simply no good reason to handle these bills outside the normal parameters of the way the House should conduct its business. Moreover, when the House does operate this way, it effectively curtails our rights and responsibilities as serious legislators. Members should be very wary of allowing leadership to usurp our rights.

There are Members of this body who have serious concerns with at least one of the bills we are considering today. I am certain that we will hear quite a bit in due time from the distinguished ranking member of the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), on why this is not the appropriate way to handle serious legislation.

As my colleagues know, handling bills under suspension denies Members the opportunity to amend the bill in any way. Moreover, in this case many Members from both the committee of original jurisdiction, the Committee on Ways and Means and the Committee on the Judiciary, have serious concerns about the Customs bill.

We have heard or will hear soon that this particular bill passed committee on a voice vote; therefore, leading Members to believe that it is noncontroversial. It is not. There are legitimate questions with the bill as written, and we are not able to effectively deal with these questions when we give up our rights and allow the bill to be considered under suspension.

We are told that this is the only practical way of dealing with all of the House's business in a timely manner. Also not true. Like my colleagues, I was informed yesterday that the House is not scheduled to meet tomorrow or the following Monday. If we were serious about doing the work of our constituents, we would be here tomorrow, Monday, possibly Saturday and Sunday, and however long it takes in order that we might address the concerns as shared by our good friends and me for those persons that have been displaced by September 11, and are likely to be displaced by the actions that we undertake later today on the Trade Promotion Authority.

Mr. Speaker, there is much work to be done and we ought simply not advocate our responsibility to do. As I mentioned at the outset and for the reasons just explained, I oppose adoption of this rule.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

□ 0915

Mrs. MYRICK. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 207, nays 179, not voting 47, as follows:

[Roll No. 476]

YEAS—207

Ackerman
Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Bereuter
Biggert
Bilirakis
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Boozman
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dicks
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
Eshoo
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hobson
Hoekstra
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pitts
Portman
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
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Weldon (PA)
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Young (AK)
Young (FL)

☐ 0945

Mr. DAVIS of Illinois, Mr. FORD, Mrs. DAVIS of California and Messrs. DAVIS of Florida, WYNN, MARKEY and LIPINSKI changed their vote from "yea" to "nay."

Mr. HEFLEY and Mr. JEFFERSON changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BROWN of South Carolina. Mr. Speaker, on rollcall No. 476 I was unavoidably detained. Had I been present, I would have voted "Yea."

Stated against:

Mr. GONZALEZ. Mr. Speaker, on rollcall No. 476, had I been present, I would have voted "nay."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on the first motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules.

REAUTHORIZING TRADE ADJUSTMENT ASSISTANCE PROGRAM REAUTHORIZATION ACT

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3008) to reauthorize the trade adjustment assistance program under the Trade Act of 1974, as amended.

The Clerk read as follows:

H.R. 3008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—REAUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM; RELATED PROVISIONS

SECTION 101. REAUTHORIZATION OF PROGRAM.

(a) ASSISTANCE FOR WORKERS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking "October 1, 1998, and ending September 30, 2001," each place it appears and inserting "October 1, 2001, and ending September 30, 2003,".

(b) ASSISTANCE FOR FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking "October 1, 1998, and ending September 30, 2001" and inserting "October 1, 2001, and ending September 30, 2003,".

(c) TERMINATION.—Section 285(c) of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended in paragraphs (1) and (2)(A) by striking "September 30, 2001" and inserting "September 30, 2003".

(d) TRAINING LIMITATION UNDER NAFTA PROGRAM.—Section 250(d)(2) of the Trade Act of 1974 (19 U.S.C. 2331(d)(2)) is amended by striking "October 1, 1998, and ending September 30, 2001" and inserting "October 1, 2001, and ending September 30, 2003".

(e) CLARIFICATION OF CERTAIN REDUCTIONS.—(1) Section 231(a)(3)(B) of the Trade Act of 1974 (19 U.S.C. 2291(a)(3)(B)) is amended by striking "any unemployment insurance" and inserting "any regular State unemployment insurance".

(2) Section 233(a)(1) of the Trade Act of 1974 (19 U.S.C. 2293(a)(1)) is amended by striking "unemployment insurance" and inserting "regular State unemployment insurance".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2001.

SEC. 102. AMENDMENTS TO LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

(a) INCREASE IN MAXIMUM NUMBER OF WEEKS.—Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)) is amended—

(1) in paragraph (2), by inserting after "104-week period" the following: "(or, in the case of an adversely affected worker who requires a program of remedial education (as described in section 236(a)(5)(D)) in order to complete training approved for the worker under section 236, the 130-week period)"; and

(2) in paragraph (3), by striking "26" each place it appears and inserting "52".

(b) ADDITIONAL WEEKS FOR INDIVIDUALS IN NEED OF REMEDIAL EDUCATION.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended by adding at the end the following:

"(g) Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 which includes a program of remedial education (as described in section 236(a)(5)(D)), and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to an individual receiving trade readjustment allowances pursuant to chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) on or after January 1, 2001.

SEC. 103. EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.

Section 223(a) of the Trade Act of 1974 (19 U.S.C. 2273(a)) is amended in the first sentence by striking "60 days" and inserting "40 days".

SEC. 104. DECLARATION OF POLICY; SENSE OF CONGRESS.

(a) DECLARATION OF POLICY.—Congress reiterates that, under the trade adjustment assistance program under chapter 2 of title II of the Trade Act of 1974, workers are eligible for transportation, childcare, and healthcare assistance, as well as other related assistance under programs administered by the Department of Labor.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Labor, working independently and in conjunction with the States, should, in accordance with section 225 of the Trade Act of 1974, provide more specific information about benefit allowances, training, and other employment services, and the petition and application procedures (including appropriate filing dates) for such allowances, training, and services, under the trade adjustment assistance program under chapter 2 of title II of the Trade Act of 1974 to workers who are applying for, or are certified to receive, assistance under that program, including information on all other Federal assistance available to such workers.

TITLE II—ADJUSTMENT ASSISTANCE PROGRAM FOR WORKERS SEPARATED FROM EMPLOYMENT DUE TO THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001

SEC. 201. ESTABLISHMENT OF PROGRAM.

As soon as practicable after the date of the enactment of this Act, the Secretary of Labor shall establish a program to provide adjustment assistance for workers separated from employment due to the terrorist attacks of September 11, 2001, in accordance with the provisions of this title.

SEC. 202. PETITION.

(a) PETITION.—A petition for a certification of eligibility to apply for adjustment assistance under this title may be filed with the Secretary by a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) or by their certified or recognized union or other duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

(b) PUBLIC HEARING.—If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

SEC. 203. CERTIFICATION.

(a) CERTIFICATION.—The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this title if the Secretary determines—

(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely; and

(3) that the national impact of the terrorist attacks of September 11, 2001, contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production, as determined by the Secretary.

(b) ADDITIONAL REQUIREMENTS.—The provisions of section 223 of the Trade Act of 1974 shall apply to a determination and issuance of a certification with respect to a group of workers under this title in the same manner and to the same extent as such provisions apply to a determination and issuance of a certification with respect to a group of workers under the program under subchapter A of chapter 2 of title II of such Act, to the extent determined to be appropriate by the Secretary.

(c) DEFINITION.—For purposes of subsection (a)(3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

SEC. 204. BENEFITS.

Workers covered by a certification issued by the Secretary under section 203 shall be provided, in the same manner and to the same extent as workers covered under a certification under the program under subchapter A of chapter 2 of title II of the Trade Act of 1974, the benefits described in subchapter B of chapter 2 of title II of such Act, to the extent determined to be appropriate by the Secretary.

SEC. 205. ADMINISTRATION.

The provisions of subchapter C of chapter 2 of title II of the Trade Act of 1974 shall apply to the administration of the program under this title in the same manner and to the same extent as such provisions apply to the administration of the program under subchapter A of chapter 2 of title II of such Act, to the extent determined to be appropriate by the Secretary.

SEC. 206. DEFINITIONS.

In this title:

(1) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(2) TERRORIST ATTACKS OF SEPTEMBER 11, 2001.—The term "terrorist attacks of September 11, 2001" means the following events that occurred on September 11, 2001:

(A) The attack, using two hijacked commercial aircraft, that was made on the towers of the World Trade Center in New York City.

(B) The attack, using a hijacked commercial aircraft, that was made on the Pentagon.

(C) The hijacking of a commercial aircraft and the subsequent crash of the aircraft in the State of Pennsylvania, in the County of Somerset.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this title $2,000,000,000 for fiscal years 2002 and 2003.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I asked for consideration of this bill, as amended, because the underlying bill, the Trade Adjustment Assistance Act, expired on October 1.

In the committee we passed as a placeholder, if you will, a simple extension of the bill, fully intending, once we understood the consequences of September 11 and our ability to make additional adjustments, that we would, as we are doing here today, offer amendments on the floor of the House.

So I would like to address, other than the simple reauthorization, what those amendments are.

The Trade Adjustment Assistance Act says that if one loses one's job primarily related to trade, they are to get assistance and retraining. The problem is the current structure says that they also get income support while they are being retrained. The income support runs out before the training ends, and what we are doing is reconciling the differences between the two.

But beyond that, because of the events on September 11, we believe that it is entirely appropriate to include in this bill, notwithstanding the fact that it is supposed to be tied to trade, an act for the Secretary of Labor to assess those individuals who lost their job through no fault of their own associated with the tragic events on September 11.

That declaration would be virtually identical to the declaration that she is currently empowered to exercise in the area of trade. And to assist her in doing this for the 2-year period of this provision, we provide $1 billion this year and $1 billion next year, a total of $2 billion.

There has been some discussion and, my assumption is, some confusion on the other side of the aisle on materials that have been prepared to describe what this measure does. It does not require an appropriation. The provisions of the Trade Adjustment Act are an entitlement, and when the money is made available, it is available. It is not a requirement that a second hurdle be met. It is not that we could give with one hand and take away with another.

Anyone who supports this measure can have comfort in knowing that it not only makes more sense out of the assistance given to those who lose their jobs through trade, but for the next 2 years, those who were the unfortunate victims, from an employment point of view, because of September 11 will be able to have this assistance, as well.

In addition to that, since both the trade and the September 11 events are keyed to those who lost their job primarily associated with trade, we have discussed with the administration, and at the appropriate time I would like to place in the RECORD a letter from the Secretary of Labor who agrees that, although they may not have lost their job primarily because of the event, either trade or the tragedy of September 11, that there is additional support for those who secondarily lost their job, and that program is in place and will be used to expand the opportunities to assist people, even though they would not be classified under the primary trigger that is in this bill.

That is the sum and substance of what we have in front of us. It is a significant improvement in the underlying bill, and clearly, we have added this provision over 2 years at $1 billion a year to focus on those who lost their jobs not necessarily through trade, but because of the tragic events of September 11, and we allow the Secretary of Labor to make a decision similar to those who lost their jobs in trade.

The letter from the Secretary of Labor referred to earlier is as follows:

SECRETARY OF LABOR,
Washington, DC.

Hon. WILLIAM M. THOMAS,
Chairman, House Ways and Means Committee, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN THOMAS: As you know, the Trade Adjustment Assistance (TAA) programs authorized income support and training for workers who are able to demonstrate that they lost their jobs because an increase in imports of a "like or directly competitive product" contributed importantly to the job loss. I understand that a number of workers, including those in the textile industry, have been unable to obtain certifications under the TAA programs because they are classified as "secondary workers" and do not produce a product "like or directly competitive with" the important product. As a result, these workers cannot meet the TAA standard.

Nevertheless, I recognize that these secondary workers may have also been adversely affected by a trade agreement. Accordingly, I commit to using my current authority under the Workforce Investment Act to provide national emergency grants that can be used to provide income support, training and other reemployment services to eligible workers in firms that are determined to be secondary workers. Eligible workers would be required to meet the following criteria: (1) the subject firm must be a supplier of products to a TAA certified firm under 19 U.S.C. 2272(a) that is directly affected by imports, and (2) the loss of business with the directly affected firm must have contributed importantly to worker separations at the subject firm.

I recognize that while trade agreements will result in net economic benefits and increased job opportunities, some workers may be adversely affected. It is our responsibility to assure that hardworking Americans have appropriate opportunities to adjust to trade-related changes to the workforce.

Sincerely,

ELAINE L. CHAO.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill came before the Committee on Ways and Means. It did so in a way that did not allow us to add the reforms that are necessary for TAA.

Those reforms are many. Many of them have been recommended by GAO. Many of them are contained in the bill that is now in the Senate Finance Committee; actually, it is out of the Senate Finance Committee. Many of them are in a bill that has been introduced in this House. They relate to everything from the training provisions to wage insurance, to health insurance, to trade assistance for communities.

None of these are covered by this bill, so what we have before us is a reauthorization of TAA, with essentially two additions. One of them would allow the income maintenance to be for the same period as the training provision.

I am in favor of that, Mr. Speaker. Everybody should understand, however, that we are talking about a very small number of people who would be affected. As I understand it, less than 1 percent of those who are dislocated, or about 1 percent, would benefit from this provision.

The second relates to the $2 billion add-on. This was not discussed in the Committee on Ways and Means, and its implications remain unclear. I want to talk a bit about it substantively and raise a few questions.

But for everybody listening, I would say the following: We are going to be taking up a fast track TPA bill. One reason I think this bill is being brought up this morning this way is in case someone would like to use this as a reason to vote for a TPA fast track bill, I urge that there is no justification for using that as a reason.

TAA should have been expanded, and beyond what is being provided this morning. This morning is a quickie effort to move. It is inadequate. It has been called a small step, and that is, at best, what it is.

The gentleman from California (Mr. THOMAS), our chairman, has said that no appropriation is needed. While the language may not be clear, I accept that. Then we have the question of $2 billion. I think the gentleman from California (Mr. THOMAS) said it is $1 billion every year; it is not $2 billion each year. As a result, there is a good question as to how many people this will really cover.

When we look at the number of people who were dislocated before September 11 and add those who were dislocated after September 11, there is no way $1 billion is adequate funding for this program. That is another reason that is a small step at best.

Then there is the issue of the training benefit. As I understand, the TAA program caps the training benefit at $100 million. If that is true, what is going to happen with the way this is handled is that we will not have nearly adequate funds for the training component because that apparently is still capped. Maybe there can be clarification of that.

But as I understand it, the cap of $100 million remains, so essentially we are going to have a disequilibrium between the income provision and the training provision, and we are going to have many, many more people who might be eligible than was true before September 11. There is no provision for health insurance in this program.

Now, I want to say just a word about the issue of coverage, because one of the reforms that we should have been undertaking in this legislation, which is not even touched upon except perhaps indirectly, is who is covered. Will service workers be covered? Presently they are not, and it is not clear that they would be under this provision, because the TAA bill generally does not cover service workers.

The Secretary of Labor has said that secondary workers or, I should say, those who were laid off in a secondary way as a result of September 11, will become eligible under this program, I guess under rules and regulations that are promulgated by the Secretary. That leaves this program with much lack of clarity. There is no direction in this legislation as to how the Secretary of Labor should conduct herself and how she should implement the definition as she now sees it.

So this is a proposal that has come up at the last minute. These changes do not get at many of the basic issues of reform.

In terms of the relation of the training provision to the income provision, that has serious questions as to adequacy. Clearly it will not be adequate in terms of money, and it is not clear who would be covered.

I will leave it for further debate to clarify these issues. I hope that would happen, and then leave it for every Member to make a judgment. It may be that this is a tiny step forward. It should not be used as a rationale for a vote on any other bill.

Let us have a little bit of discussion now as to what is involved in this very small step when we should have been undertaking, as the Senate Finance Committee did a few days ago, some major reform of TAA.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

For what it is worth, for the record, the discussion and the vote in the committee on trade assistance was that it was a voice vote and no amendments were offered. I think we have to understand the context in which that discussion took place.

In addition to that, the gentleman from Michigan laments the fact that there is nothing in this particular provision for people who were laid off prior to September 11. We have to understand that this particular structure is triggered off of an event, a trade-related job loss, and now we are extending it to the tragedy of September 11 job loss.

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Not just any job loss. The President has spoken repeatedly on what he wants on an expanded assistance, including additional weeks, additional money, and additional assistance, not just on unemployment compensation but on health insurance as well. We on this side of the aisle, with the support of leadership, have also talked about expanding that area. That is in fact a different subject matter to be discussed at a different time. And this particular vehicle never was intended nor should it carry a response to unemployment because of a recession or a more generally difficult problem that spreads beyond the trigger of trade-related; and now for 2 years, those people who lost their jobs in association with the tragedy surrounding September 11.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, H.R. 3008 is a bill to reauthorize the trade adjustment assistance programs for 2 years until September 30, 2003. The current authorization expired in September but is continuing subject to the continuing resolution adopted last month and running until November 16, 2001.

It is an economic fact that free trade helps our overall economy. The value of the Uruguay Round Agreements and NAFTA to the U.S. economy was over $65 billion. A recent study at the University of Michigan, right next to the gentleman from Michigan's district, found that a new round could add double again that benefit. The general direction of trade policy should therefore be obvious. We should work assiduously toward free trade.

Nevertheless, it is also a fact that free trade accelerates economic change, which disproportionately hurts some industries and people. It is important then for us to offer a hand to those people and industries. We should help them adjust. This means that workers may need to train for other types of jobs, and during that training and subsequent job search time, they may need more direct assistance than States routinely provide. Similarly, firms need assistance in making strategic adjustments necessary to remain competitive in a global economy. The trade adjustment assistance programs provide this help.

All three TAA programs have proven successful and popular in softening the impact of foreign competition on workers in impacted industries. Workers may receive cash payments, job training, and allowances for job search and relocation expenses. In addition, we have heard concerns from Members about the problems in their districts and the need to increase the direct assistance for workers in order for them to complete their training. Accordingly, we are increasing the direct assistance by an additional 26 weeks and shortening the time that the government has to process petitions.

Mr. Speaker, I encourage my colleagues to support this bill and reauthorize the trade adjustment assistance programs.

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, whatever of the issues are in the trade adjustment bill, they are not the reason this bill is out here. This bill is out here as a vehicle for putting some things through the House that the chairman and others think will blind the eyes of Members of this House and will offer them some hope that there will be something done for the unemployed workers in this country, and that then they will say, well, since we have done that for the unemployed workers, we can now go ahead and pass fast track.

Now, the Speaker stood right here and promised us that we would do something about the health care and the unemployed workers of this country. When this bill came before the committee, every amendment was nongermane. No one said this is our chance to put unemployment up here. This is our chance to put up health care. It was a narrow little trade adjustment bill. And so now, after it gets out of the committee, they take it up to the Committee on Rules, and the Committee on Rules sticks in a bunch of stuff that nobody has looked at.

There is not anybody who can stand on this floor and say there will be one single unemployed worker in this country whose health care benefits will be protected by this bill. There is a bill that is going over to the Senate in the last days of the session, and we have had a recession in this country since March and we have not done anything, and we are here on the 5th of December, 6th of December, whatever it is, and we still have not had hearings in the House of Representatives on what really needs to be done to the unemployment system.

We have States in this country that do not have enough money for 3 months of unemployment benefits. Did we have a hearing on that? Did we talk about it? No. We have simply stuck $9 billion into a bill that went out of here, called the stimulus package, and said give it to the Governors; they will do whatever is right. Well, at least they figured out now that they want to make it done by the Congress, because Governors would have to call legislators into session to get anything done.

This is a fraud. This is a fraud. It has not had hearings, and you people have messed up the Medicare system in this country because you will not have hearings and figure out how it is going to work. And then suddenly since 1997, we are back every year fixing, fixing, fixing. Here's $2 billion for health; just throw it out there into the air and maybe it will happen to come down in the hands of somebody who is unemployed.

Give it to the Governors. Where is that going to get anybody?

We are all going to vote for this, but nobody should be confused about what this is.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find it ironic that the gentleman says that every amendment they offered was nongermane. Would you not think, if they were serious, they could offer a germane amendment? It was basically to be able to say that they were not able to do what they wanted to do.

Then the next argument is what in the world is trade adjustment assistance, which expired on October 1, doing on the floor the same day we are taking up trade promotion authority? The idea if we do enter into additional negotiations and we have some trade agreements, that someone may lose employment based upon the fact that we have the new trade agreements and we would not have reauthorized the legislation that takes care of those who lose their jobs because of trade.

If the gentleman from Washington (Mr. MCDERMOTT) does not understand why trade adjustment assistance is on the floor on the same day that we consider trade promotion authority, then I just do not know if there is any help for him.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Ms. DUNN) who has been a tremendous help in focusing especially those portions of the bill dealing with workers who lost their jobs because of September 11.

Ms. DUNN. Mr. Speaker, I rise in support of H.R. 3008 to reauthorize the trade adjustment assistance program and to temporarily extend new coverage for workers who were impacted by September 11.

TAA is critical for countless workers who have been adversely affected by foreign competition or by terrorist attacks. Many of the people I represent in Washington State will benefit from the job training services and unemployment compensation that are provided by this provision.

In 1998 and 1999, TAA provided $10 million worth of benefits to over 19,000 Boeing workers who were laid off. Many of the 20,000 to 30,000 Boeing workers who have been or will be laid off by the end of next year can now qualify for assistance from the traditional TAA and the new expanded coverage. This bill enhances income support benefits for an additional 26 weeks and it shortens the petition review time from 60 days to 40 days. These are changes that will help reduce paperwork while providing a very necessary safety net to workers.

I want to assure the former speaker that I am very happy this legislation also includes provisions that the gentleman from Washington (Mr. DICKS) and I have added to ensure that States already providing supplemental unemployment coverage beyond the Federal mandates are not penalized.

Under current Federal law, Washington State residents could not use TAA benefits until the State's regular and supplemental unemployment benefits were exhausted. I want to thank the gentleman from California (Chairman THOMAS) and Subcommittee on Trade chairman, the gentleman from Illinois (Mr. CRANE) for working with the gentleman from Washington (Mr. DICKS) and me to give Washington State greater flexibility by enabling the people we represent to qualify for TAA much earlier.

We have got to do all we can, Mr. Speaker, to provide relief to those who are now coping with the very difficult circumstances that displaced workers face. This legislation is a positive step in providing much needed assistance to those who reside in the area. I represent the great Pacific Northwest. My constituents there are very eager to get back to work.

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BENTSEN) who is the author of a comprehensive TAA bill in the House.

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, let me say I am going to vote for this bill, but this bill is a day late and a dollar short. This issue has been on the front burner, I think, of the whole trade debate for many, many years. And I think as the chairman and the ranking member know, there have been numerous articles in economic journals and academia about the whole issue of trade adjustment assistance.

This is a program that was created in 1962, and I cannot think of any program that was created in 1962 that somebody in Congress has not talked about the need to reform, and this program certainly needs reform. As best as I can tell from this bill, it does not address the issues of secondary workers in any clear-cut fashion or manner. It does not address the issue of allowing workers who we want to go back into retraining to get a part-time job to help put food on the table, which is really counter to every other public assistance program that we have addressed in the time I have been in this Congress.

It does not have anything to do with providing for better coordination between the Federal Government and State and local government, where a lot of these dollars are done through the work force training partnership programs that we have.

We had a situation a couple of years ago in El Paso, Texas where Hasbro had shut down plants, and they took TAA money and were teaching workers English instead of giving them skills to work in light manufacturing which needed jobs in the El Paso area, which is very much a bilingual area.

This bill, quite frankly, does not do enough. I am one who in the past has supported I think every trade bill that has come up. And every time I have done that, I have said we need to do more to help those who do not win from trade. And I am not alone in this view. A few weeks ago, the Chairman of the Federal Reserve, Alan Greenspan, very much a free trader, made remarks at the International Institute for Economics at their inaugural dinner. In that debate, the chairman said that trade is not necessarily about increasing a net gain of jobs, it is about raising the standard of living, and there are those who lose from comparative advantage even in the United States and that we have to do more to help those workers who fall behind.

This bill, quite frankly, does not do enough. If we were serious about doing this, we would bring up my bill, 3359; or the chairman can do his own bill, put it on the floor, let us debate it. This is a serious program that affects millions of Americans who do not benefit from trade. I believe the general economy can benefit from trade, but there are fellow Americans who do not. We should be doing more about it. This bill does not do it. There is a better way to do it.

I would hope that the House would get back on the right track as it relates to trade and address the issues so all our fellow Americans can benefit from this.

Mr. THOMAS. Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), the sponsor of this legislation.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of this legislation and I am interested that so many of my colleagues are criticizing the process by which it came to the floor or criticizing the fact that it does not do enough.

This is the first time in the history of this country that Congress has offered 2 years of stipend plus training costs to the unemployed. It is the first time. And those benefits are over and above the half-year of unemployment compensation benefits under current law.

The Democrats were in control of this House for 40 years. Never ever did they offer this kind of benefit to people unemployed as a result of foreign competition and, in this case, we are extending these remarkable benefits to those who lost their jobs as a result of a terrorist action as well.

Now, we need to lay our controversies aside and vote this through. This is an exceptional benefit for people who were unemployed as a result of foreign competition or as a result of the attack on September 11.

□ 1015

Let me tell my colleagues what it means. Remember your own people in your own district. Unemployment compensation is a small amount of money, and the unemployed have to keep going out and proving that they are looking for a job. Under TAA we said, look, you have the right for retraining and you will not have to go out and look for a job during this period. We are going to pay their unemployment comp so they have a way to support their family and we are going to pay for their training.

I have had people tell me in my district, as recently as 4 months ago, that, no, they were not looking for a job because under TAA, they had the right to go back to school. I just heard the gentleman from Texas (Mr. BENTSEN) say that they were teaching English as a second language. Is not that an incredibly important thing for a person to be able to have the opportunity to learn if they want real career advancement?

I have had many people, particularly women, tell me it is wonderful that I can go back and get my high school diploma. I can learn English as a second language and I am going to take this training, too, because in the period of time in which I can get training costs and a stipend, I can change my life.

Often people, at least in my district, go from high school into the factories or from very minimal education into the factories, and I will tell my colleagues that for many of them, often their company losing its competitive position, resulting in their having the TAA benefits, has changed their lives. They do not have to take the next job if they can afford to live on unemployment comp, which they often can if the other spouse is working, and go back to school. The joy in their eyes, as they have the chance to learn English, as they have the chance to get a degree, as they can go to the community college, as they can go to a medical technology course to prepare for a career that will offer them a higher salary and a lifestyle they are going to be proud of and happy with.

This is the first time ever in history that the United States Government has offered people 104 weeks of this benefit. I appreciate all the ancillary concerns of my colleagues, but do not let those ancillary concerns and the angers that are afoot in this body between this body and the other body prevent us from putting out there this kind of benefit that is going to help people at a level we have never been willing to help them before.

Let me just add one thing about the September 11th victims, those unemployed as a result of the September 11 attack. It is very hard, to determine in law exactly who is unemployed as a result of foreign competition as to determine who is unemployed as a result of the New York attack. Our Department of Labor has been very generous in their definitions and I believe will continue to be very generous in making people eligible for these benefits.

I have had a lot of experience with this in Connecticut. I represent a town that was all machine tools, bearings. Name the manufacturing facility and it used to be in my hometown, and I have been through this right up till recent years. The Department of Labor has been very open about it. They have been very generous about the definition, and people have benefited enormously, and I believe they will be the same kind of good helpmate in identifying who exactly the September 11 unemployed are. I urge support of this bill.

Mr. LEVIN. Mr. Speaker, could I ask how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Michigan (Mr. LEVIN) has 6 minutes. The gentleman from California (Mr. THOMAS) has 5½ minutes.

Mr. LEVIN. Mr. Speaker, it is my pleasure to yield 2 minutes to the very distinguished gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, I would like to thank the gentleman from Michigan (Mr. LEVIN) for yielding me the time and also for the work put into this.

We talk about trade agreements and we talk about the global economy, but every once in a while we need to make sure that we have a rearview mirror and that the rearview mirror is clearly focused to understand people who get left behind.

This program is one of the programs that assists people that get left behind and those relationships that we establish, and that is why it is vitally important to make sure that the resources are there and the tools are there so that people can have another opportunity, can get the training and education necessary.

In our own State of Maine, we faced these challenges of losing jobs in traditional manufacturing industries and this year has been no exception. There were 19 different applications for trade adjustment assistance awaiting review for Maine companies. This program has helped over 1,000 workers in Maine every year to retrain and restart their lives. It allows the workers to adapt to the 21st century economy while extending a crucial helping hand during troubled times.

I do wish that the bill had gone further in expanding this valuable program. The TAA law should be changed to be able to cover all forms of production shifts to other countries. The funding for the program needed to be more because it usually runs out of money for its training budget. This past year the Maine Department of Labor had to apply for $1.2 million in national emergency grants from the U.S. Department of Labor to cover costs. So we need to be able to look at expanding funding to ensure this.

However, although this bill is not perfect, the program is important to workers in Maine and around the country, and I urge my colleagues to vote for its reauthorization.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. HOUGHTON), who has experience in this area both within and without Congress.

Mr. HOUGHTON. Mr. Speaker, trade is a tricky business. What we are trying to do is go beyond the bounds of the United States and move into other areas, and this is very, very important. We are going to be talking about this later, because there are people who want our goods and services, but in the process, it is an uneven balancing act and people either in government or in business management can make decisions as far as going abroad. Yet at the same time there are people down in the system who are doing their best to be able to work diligently, loyally, who have no control over that.

Sometimes the squeeze comes because of the imbalance in this process and they need protection, and this is what the bill is all about.

I think it makes a great deal of sense. I think the conditions are fine. Maybe we will be able to enrich it later on, but it is a good start, and I heartily endorse the TAA bill H.R. 3008.

Mr. LEVIN. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I come from textile country, and I have seen the effects of imports upon jobs in the area where I live, $77 billion trade deficit in textiles and apparel last year. Over the last 10 years, we have lost about a million jobs in textile and apparel, and I can tell my colleagues, from my own district, my own State, from the Carolinas to the southeast, only a minute percentage of these people who have lost their jobs have been able to get trade adjustment assistance benefits.

That is a hard truth. We have heard these benefits extolled here on the floor, but in truth, very, very few people qualify for them.

It is shameful how little we do for the people we know are going to be hurt by the trade policies that we adopt, and anybody who thinks that this is going to make it easier to vote for fast track, easier to vote for trade promotion authority, they better think again, because this bill is a pittance. This bill will do very little. It does nothing to expand the eligibility of these people we know are going to be direct hits. They are not collateral casualties in this war. They are direct hits.

We know when we lower the tariffs, get rid of the quotas, that textiles are going to come flooding into our markets by an even greater volume and quantity, and we know exactly who is going to be hurt and who is going to be hit. No question about it, they are direct hits.

We say that we have got these benefits for them so they can have this marvelous change of life, this midcourse adjustment, but in truth, they have still got a house payment to make. They have still got car payments to make, and I know from talking to countless textile workers in my own district, very, very few of them, if they have it, can afford to exercise their COBRA benefits out of the meager unemployment income that they receive.

This is a mirage. Worse still, it is deceitful. It holds out that we are doing something significant when there is an agenda full of changes recommended to TAA that should start with the Department of Labor, which is woefully, woefully understaffed to handle the volume of applications under TAA. This is a pittance compared to what needs to be done, and we should be ashamed that we are bringing this up in the name of helping people who are going to be hurt by trade.

Mr. THOMAS. Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, is it the gentleman from Michigan's understanding that the intention of this bill is to make benefits available for Boeing workers who have been laid off after September 11 and for 100,000 airline employees who have been laid off since September 11?

Mr. LEVIN. Mr. Speaker, will the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from Michigan.

Mr. LEVIN. It is not easy to read this bill, but I think so.

Mr. McDERMOTT. Mr. Speaker, the gentleman from Michigan thinks so? So I have got to go home to my district and tell my people they might be covered by this, it is not clear?

Mr. LEVIN. It is not clear, and indeed, there will have to be regulations issued by the Department of Labor in terms of those who are affected secondarily.

Mr. McDERMOTT. Mr. Speaker, I think that is why this bill is really a fraud. It seems to do something for people but it is not clear. It is subject to interpretation by the Department of Labor.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

In the earlier reincarnation of the gentleman from Washington's statement on the floor, he indicated that he was going to be supporting the bill. I do not know what happened in the intervening moments, but apparently he is now supporting a fraud.

The question that was offered to the gentleman from Michigan (Mr. LEVIN), I believe, should have been answered this way. Do the Boeing employees and do the airline employees believe that the events of September 11, which included the government mandatory grounding of aircraft, the significant reduction in income to airlines, and their subsequent requirement to cancel airplane contracts, primarily tie to the September 11 event? If the gentleman from Michigan (Mr. LEVIN) is so bemuddled about trying to read this bill, that he could not answer yes to that question, then his answer was a political one and not an honest one.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, the distinguished gentleman from Washington (Mr. McDERMOTT), is a former Illinoisan and from the Chicago area, and I know that Boeing has moved to Chicago, and we are not laying folks off in Chicago, and I just wanted to find out if the gentleman from Washington (Mr. McDERMOTT) was in any way involved in trying to get them to move to God's country.

Mr. THOMAS. Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, how much time do I have, 1½ minutes?

The SPEAKER pro tempore. The gentleman from Michigan has 1½ minutes.

Mr. LEVIN. Mr. Speaker, I yield myself as much time as I may consume.

Let me just read what the standard is so that instead of the gentleman from California (Mr. THOMAS), as he sometimes does question motives, let us talk about what is in the law. It says for whom in, "The national impact of the terrorist attacks on September 11 contributed importantly to their job loss."

If anybody thinks that is a very clear standard, I ask them to think twice. It is better than nothing, but do not parade it for what it is not. I want to close by pointing out that in order for persons to be eligible for this, they must be eligible for unemployment insurance first. Less than 40 percent, and maybe it is only about a third of the workers in this country qualify for unemployment compensation in their State, and also, less than a fifth of low income workers qualify, including many in the services industry.

So what this has is not only a small amount of money for what is truly needed, not only does it have no other reforms, nothing for health care, but it is not going to cover a huge number of people who were affected by the September 11 tragedy, who clearly were affected. I just want everybody to understand what this bill really is and make no pretense that it is a reason to vote for any other bill.

□ 1030

Mr. THOMAS. How much time do I have remaining, Mr. Speaker?

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from California has 3 minutes remaining.

Mr. THOMAS. Mr. Speaker, I yield myself the balance of my time.

The name of this legislation is trade adjustment assistance. It is not undifferentiated unemployment compensation. There is another whole set of statutes, procedures, and funding to deal with unemployment in general. This measure's title is Trade Adjustment Assistance.

What we have done is to expand this bill to cover those individuals who, through no fault of their own, in a way in which they can show a nexus, and the gentleman from Michigan is entirely correct, that the loss of their job was a result of a contribution importantly tied to the September 11 event.

The gentleman then went on to complain about a number of other factors in which people are not eligible for unemployment in general. Not that it is tied to trade or the September 11 event, but that he is concerned about, in general, the failure of the unemployment insurance program to reach out to more people. We are going to have ample opportunity to deal with that in a larger context. The President has spoken to that issue. We have voted on that issue in this body in the stimulus package, and we have said we are willing to go far beyond what had been offered previously. That is not what is in front of us.

And I will repeat my understanding of the question of the gentleman from Washington. Because of the way in which the tragedy on September 11 occurred, the government ordered all planes grounded. The airlines suffered significant financial losses that resulted in the release of employees that otherwise would not have been released, and it resulted in the cancellation of airplane purchase contracts that otherwise would not have occurred. What we are expected to believe is that the Secretary of Labor would have great difficulty in associating those two events, the two events that the gentleman from Washington is concerned would not be covered by this legislation; that the Secretary of Labor would say neither of those qualify under this legislation.

I will tell the gentleman from Washington, I believe they do, and I will do everything in my power to make sure that the Secretary of labor says that those who lost their jobs because airplane contracts were canceled by airlines who had a shrinking in revenue because the government said they could not fly, and they released employees because of that same circumstance, certainly would be able to say that the loss of their jobs and the events associated with September 11 contributed importantly to the loss of those jobs. Those hurdles are not difficult ones to overcome.

Beyond that, we need to continue to work together, quit haranguing, and make sure that people who are currently unemployed, and who will become unemployed because the House has acted and the Senate has not on the larger questions, need to be preserved for another day.

On this measure, I urge my colleagues to vote "aye." It is better than it has ever been before.

Mr. RYAN of Wisconsin. Mr. Speaker, today I would like to rise in support of the reauthorization of the Trade Adjustment Assistance program.

Over the last 5 years, even as the economy in the rest of the country was booming, the manufacturing economy in Southeastern Wisconsin has been declining. While there are many companies in my district that could not survive without international trade, some companies have moved their operations outside U.S. borders. This is unfortunate for both the workers and the economy of Southeastern Wisconsin. TAA offers a way to buffer the transition.

The relocation of Southeastern Wisconsin companies outside the U.S. border has been constant over the past decade. In my 3-year tenure, I have seen the MacWhyte Co. of Kenosha shift production to Canada, Outboard Marine Corp. of Beloit go bankrupt, and Acme Die Casting of Racine shut down because of foreign competition. These companies, and several others over the years have applied for and have been granted either TAA and NAFTA–TAA, or both, for their workers. While TAA is not the same as a stable job, it gives workers a chance to access valuable job training while receiving expanded state unemployment insurance or an $800 relocation expense reimbursement if the worker decides his skills are valuable at another company elsewhere.

TAA for workers guarantees extended unemployment benefits and job training to those left jobless when imported goods have contributed significantly to their job loss. A similar program exists for workers affected by the North American Free Trade Agreement (NAFTA) when American firms relocate production to Mexico or Canada. H.R. 3008 reauthorizes TAA and NAFTA–TAA through FY2003. This bill extends direct benefits for an 26 additional weeks over the previous 78 weeks to total 104 weeks of both training and direct benefits. I supported this bill when it passed the Ways and Means Committee and support it today. I also voted in favor of an appropriation of $416 million in H.R. 3061, the FY2002 Labor, Health and Human Services and Education Appropriations bill.

Mr. Speaker, reauthorization of TAA and NAFTA–TAA is in the interest of the United States and, especially to those workers in Southeastern Wisconsin that have lost their livelihood as a result of international pressures. I am proud to be a co-sponsor and strong supporter of this bill.

Mr. BENTSEN. Mr. Speaker, I rise in support of this bill, which provides a two-year reauthorization of the Trade Adjustment Assistance program. While I am pleased that Ways and Means Committee worked to increase direct benefits to trade displaced workers and new benefit coverage to workers affected by the September 11th terrorist attacks, I am disappointed that the broader reauthorization provisions contained in a bill I introduced were not included in this legislation.

With my colleague ANNA ESHOO, I was pleased to offer H.R. 3359, which is the House version of legislation offered by Senators BINGAMAN, BAUCUS and DASCHLE as S. 1209, and was recently reported out of the Senate Finance Committee. H.R. 3359 would enact real reform and modification of the existing TAA program, which has been in existence since 1962 to help workers and communities address the difficulties presented by international trade. I wish the House Leadership had seen fit to consider this critical legislation, and I reman hopeful that many provisions of this bill will be adopted during conference consideration following the expected adoption of S. 1209.

Today we are here to consider the need for increased attention to the plight of workers affected by U.S. supported international trade agreements. As someone who has supported pro-trade measures in the past, I believe the negative effects on workers and communities has been often overlooked by proponents in the trade debate. Regardless of how each Member of Congress feels about globalization and free trade, I believe there is general agreement that the existing federal program to assist workers displaced by trade is outdated and in serious need of reform.

The current TAA program contains benefits criteria that are too restrictive; exclude too many workers; are inconsistent and contain confusing regulations—including a separate program under NAFTA; provide inadequate funding for job training, and lacks health care coverage.

My bill would improve on the current TAA in a number of ways, including the establishment of allowance, training, relocation and support service assistance to workers affected by shifts in production. The measures would also harmonize existing TAA programs to provide more effective and efficient results for individuals and communities. The legislation would facilitate on-the-job training and faster reemployment for older workers by providing up to two years in wage insurance for qualified workers over age 50. Additionally, income maintenance would be increased from 52 to 78 weeks, and funds available for training would be increased to ensure that workers taking part-time jobs would not lose training benefits. H.R. 3359 would also provide a tax credit for 50 percent of COBRA payments, increase assistance for job relocation and link TAA recipients to child care and health care benefits under existing programs. To help communities respond to job losses more quickly and efficiently, this bill would encourage greater cooperation between federal, state, regional, and local agencies that deal with individuals receiving trade adjustment assistance.

Mr. Speaker, as we move toward consideration of the Trade Promotion Authority later today, I believe we must not discount the effect of trade to the American workers. I believe we can improve the trade adjustment assistance programs in a fundamental and beneficial way. Congress should pass legislation that will make these improvements in the trade adjustment assistance program, and I ask my colleagues to support this bill.

Mr. DICKS. Mr. speaker, I strongly support H.R. 3008, the reauthorization of the Trade Adjustment Act, which is a vital program to help those workers who have lost their jobs due to increased imports. TAA gives these displaced workers the best chance for new employment opportunities. The program provides retraining, education, job search assistance, and income support to get people through the trials of unemployment and toward a new job.

I want to commend Chairman THOMAS and Ranking Member RANGEL for including in this bill additional benefits to reflect the economic consequences of September 11. These workers, including many in Washington State, suddenly were left jobless due to the terrorist attacks and I am glad that this bill will help them. However, we need to provide even more benefits for all jobless Americans whatever the cause of their unemployment.

And finally, my deepest gratitude goes to Chairman THOMAS and Ranking Member RANGEL for including a provision in H.R. 3008 to correct a problem that penalizes Washington and other States with supplemental unemployment programs for displaced workers who are being retrained. Congresswoman DUNN and myself brought to their attention the fact that TAA benefits would be delayed in States like Washington that have taken the forward-looking step of creating their own supplemental retraining programs. It makes no sense to put Washington and these other States at a disadvantage because they have decided to provide their displaced workers with additional help. I am grateful that Chairman THOMAS and Ranking Member RANGEL understood the unfairness of this situation and agreed to correct it.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 3008, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. THOMAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CUSTOMS BORDER SECURITY ACT OF 2001

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3129) to authorize appropriations for fiscal years 2002 and 2003 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Customs Border Security Act of 2001".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—UNITED STATES CUSTOMS SERVICE

Subtitle A—Drug Enforcement and Other Noncommercial and Commercial Operations

Sec. 101. Authorization of appropriations for noncommercial operations, commercial operations, and air and marine interdiction.
Sec. 102. Antiterrorist and illicit narcotics detection equipment for the United States-Mexico border, United States-Canada border, and Florida and the Gulf Coast seaports.
Sec. 103. Compliance with performance plan requirements.

Subtitle B—Child Cyber-Smuggling Center of the Customs Service

Sec. 111. Authorization of appropriations for program to prevent child pornography/child sexual exploitation.

Subtitle C—Miscellaneous Provisions

Sec. 121. Additional Customs Service officers for United States-Canada border.
Sec. 122. Study and report relating to personnel practices of the Customs Service.
Sec. 123. Study and report relating to accounting and auditing procedures of the Customs Service.
Sec. 124. Establishment and implementation of cost accounting system; reports.
Sec. 125. Study and report relating to timeliness of prospective rulings.
Sec. 126. Study and report relating to Customs user fees.
Sec. 127. Fees for Customs inspections at express courier facilities.

Subtitle D—Antiterrorism Provisions

Sec. 141. Immunity for United States officials that act in good faith.
Sec. 142. Emergency adjustments to offices, ports of entry, or staffing of the Customs Service.
Sec. 143. Mandatory advanced electronic information for cargo and passengers.
Sec. 144. Border search authority for certain contraband in outbound mail.
Sec. 145. Authorization of appropriations for reestablishment of Customs operations in New York City.

Subtitle E—Textile Transshipment Provisions

Sec. 151. GAO audit of textile transshipment monitoring by Customs Service.
Sec. 152. Authorization of appropriations for textile transshipment enforcement operations.
Sec. 153. Implementation of the African Growth and Opportunity Act.

TITLE II—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Sec. 201. Authorization of appropriations.

TITLE III—UNITED STATES INTERNATIONAL TRADE COMMISSION

Sec. 301. Authorization of appropriations.

TITLE IV—OTHER TRADE PROVISIONS

Sec. 401. Increase in aggregate value of articles exempt from duty acquired abroad by United States residents.
Sec. 402. Regulatory audit procedures.

TITLE I—UNITED STATES CUSTOMS SERVICE

Subtitle A—Drug Enforcement and Other Noncommercial and Commercial Operations

SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR NONCOMMERCIAL OPERATIONS, COMMERCIAL OPERATIONS, AND AIR AND MARINE INTERDICTION.

(a) NONCOMMERCIAL OPERATIONS.—Section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) is amended—

(1) in subparagraph (A) to read as follows:

"(A) $899,121,000 for fiscal year 2002."; and

(2) in subparagraph (B) to read as follows:

"(B) $922,405,000 for fiscal year 2003.".

(b) COMMERCIAL OPERATIONS.—

(1) IN GENERAL.—Section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)) is amended—

(A) in clause (i) to read as follows:

"(i) $1,606,068,000 for fiscal year 2002."; and

(B) in clause (ii) to read as follows:

"(ii) $1,647,662,000 for fiscal year 2003.".

(2) AUTOMATED COMMERCIAL ENVIRONMENT COMPUTER SYSTEM.—Of the amount made available for each of fiscal years 2002 and 2003 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by paragraph (1), $308,000,000 shall be available until expended for each such fiscal year for the development, establishment, and implementation of the Automated Commercial Environment computer system.

(3) REPORTS.—Not later than 90 days after the date of the enactment of this Act, and not later than each subsequent 90-day period, the Commissioner of Customs shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report demonstrating that the development and establishment of the Automated Commercial Environment computer system is being carried out in a cost-effective manner and meets the modernization requirements of title VI of the North American Free Trade Agreement Implementation Act.

(c) AIR AND MARINE INTERDICTION.—Section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3)) is amended—

(1) in subparagraph (A) to read as follows:

"(A) $181,860,000 for fiscal year 2002."; and

(2) in subparagraph (B) to read as follows:

"(B) $186,570,000 for fiscal year 2003.".

(d) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 301(a) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(a)) is amended by adding at the end the following:

"(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).".

SEC. 102. ANTITERRORIST AND ILLICIT NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS.

(a) FISCAL YEAR 2002.—Of the amounts made available for fiscal year 2002 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, $90,244,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of antiterrorist and illicit narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,200,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $13,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV).

(D) $7,200,000 for 8 1–MeV pallet x-rays.

(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) $2,450,000 for 7 automated targeting systems.

(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following:

(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) $3,600,000 for 4 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(3) FLORIDA AND GULF COAST SEAPORTS.—For Florida and the Gulf Coast seaports, the following:

(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $7,200,000 for 8 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(b) FISCAL YEAR 2003.—Of the amounts made available for fiscal year 2003 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 101(a) of this Act, $9,000,000 shall be available until expended for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2002 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of—

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (G) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (G); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 103. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

As part of the annual performance plan for each of the fiscal years 2002 and 2003 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall establish performance goals, performance indicators, and comply with all other requirements contained in paragraphs (1) through (6) of subsection (a) of such section with respect to each of the activities to be carried out pursuant to section 102.

Subtitle B—Child Cyber-Smuggling Center of the Customs Service

SEC. 111. AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Customs Service $10,000,000 for fiscal year 2002 to carry out the program to prevent child pornography/child sexual exploitation established by the Child Cyber-Smuggling Center of the Customs Service.

(b) USE OF AMOUNTS FOR CHILD PORNOGRAPHY CYBER TIPLINE.—Of the amount appropriated under subsection (a), the Customs Service shall provide 3.75 percent of such amount to the National Center for Missing and Exploited Children for the operation of the child pornography cyber tipline of the Center and for increased public awareness of the tipline.

Subtitle C—Miscellaneous Provisions

SEC. 121. ADDITIONAL CUSTOMS SERVICE OFFICERS FOR UNITED STATES-CANADA BORDER.

Of the amount made available for fiscal year 2002 under paragraphs (1) and (2)(A) of section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)), as amended by section 101 of this Act, $28,300,000 shall be available until expended for the Customs Service to hire approximately 285 additional Customs Service officers to address the needs of the offices and ports along the United States-Canada border.

SEC. 122. STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE.

(a) STUDY.—The Commissioner of Customs shall conduct a study of current personnel practices of the Customs Service, including an overview of performance standards and the effect and impact of the collective bargaining process on drug interdiction efforts of the Customs Service and a comparison of duty rotation policies of the Customs Service and other Federal agencies that employ similarly-situated personnel.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

SEC. 123. STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE.

(a) STUDY.—(1) The Commissioner of Customs shall conduct a study of actions by the Customs Service to ensure that appropriate training is being provided to Customs Service personnel who are responsible for financial auditing of importers.

(2) In conducting the study, the Commissioner—

(A) shall specifically identify those actions taken to comply with provisions of law that protect the privacy and trade secrets of importers, such as section 552(b) of title 5, United States Code, and section 1905 of title 18, United States Code; and

(B) shall provide for public notice and comment relating to verification of the actions described in subparagraph (A).

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

SEC. 124. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.

(a) ESTABLISHMENT AND IMPLEMENTATION.—

(1) IN GENERAL.—Not later than September 30, 2003, the Commissioner of Customs shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of the Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system for expenses incurred in both commercial and noncommercial operations of the Customs Service.

(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Customs Service, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of the expenses.

(b) REPORTS.—Beginning on the date of the enactment of this Act and ending on the date on which the cost accounting system described in subsection (a) is fully implemented, the Commissioner of Customs shall prepare and submit to Congress on a quarterly basis a report on the progress of implementing the cost accounting system pursuant to subsection (a).

SEC. 125. STUDY AND REPORT RELATING TO TIMELINESS OF PROSPECTIVE RULINGS.

(a) STUDY.—The Comptroller General shall conduct a study on the extent to which the Office of Regulations and Rulings of the Customs Service has made improvements to decrease the amount of time to issue prospective rulings from the date on which a request for the ruling is received by the Customs Service.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

(c) DEFINITION.—In this section, the term "prospective ruling" means a ruling that is requested by an importer on goods that are proposed to be imported into the United States and that relates to the proper classification, valuation, or marking of such goods.

SEC. 126. STUDY AND REPORT RELATING TO CUSTOMS USER FEES.

(a) STUDY.—The Comptroller General shall conduct a study on the extent to which the amount of each customs user fee imposed under section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is commensurate with the level of services provided by the Customs Service relating to the fee so imposed.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report in classified form containing—

(1) the results of the study conducted under subsection (a); and

(2) recommendations for the appropriate amount of the customs user fees if such results indicate that the fees are not commensurate with the level of services provided by the Customs Service.

SEC. 127. FEES FOR CUSTOMS INSPECTIONS AT EXPRESS COURIER FACILITIES.

(a) CUSTOMS USER FEES.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended as follows:

(1) Subsection (a) is amended—

(A) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively;

(B) by inserting after paragraph (6) the following new paragraph:

"(7) For the processing of merchandise that is informally entered or released at a centralized hub facility or an express consignment carrier facility (other than shipments valued at $200 or less, which shall not be subject to any fee under this subsection), $5.50"; and

(C) in the last sentence of paragraph (11), as so redesignated, by striking "subparagraphs (A), (B), and (C)," and inserting "subparagraphs (A) and (B), see paragraph (7), and at facilities referred to in subparagraph (C),".

(2) Subsection (b) is amended—

(A) in paragraph (5), by striking "(8)" and inserting "(9)";

(B) in paragraph (6)—

(i) by striking "(a)(8)" and inserting "(a)(9)"; and

(ii) by striking "(8)" and inserting "(9)";

(C) in paragraph (8)—

(i) in subparagraph (A)(i), by striking "(a)(9)" and inserting "(a)(10)"; and

(ii) in subparagraphs (B), (C), (D), and (E), by striking "(9) or (10)" each place it appears and inserting "(10) or (11)"; and

(D) in paragraph (9)—

(i) in subparagraph (A), in the matter preceding clause (i), by striking "a centralized hub facility, an express consignment carrier facility, or";

(ii) by striking clause (ii) of subparagraph (A);

(iii) in clause (i) of subparagraph (A)—

(I) by striking—

"(i) In the case of a small airport or other facility—";

(II) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively, and aligning the text of those clauses with clauses (i) and (ii) of paragraph (8)(E); and

(III) in clause (ii), as so redesignated, by striking "(a)(10) for such fiscal year, in an amount equal to the reimbursement under subclause (I)" and inserting "(a)(11) for such fiscal year, in an amount equal to the reimbursement under clause (i)"; and

(iv) by amending subparagraph (B) to read as follows:

"(B) For purposes of this paragraph, the term 'small airport or other facility' means any airport or facility to which section 236 of the Trade and Tariff Act of 1984 applies, if more than 25,000 informal entries were cleared through such airport or facility during the preceding fiscal year."; and

(E) in paragraphs (10) and (11), by striking "(9) or (10)" each place it appears and inserting "(10) or (11)".

(3) Subsection (c) is amended by adding at the end the following:

"(6) The terms 'centralized hub facility' and 'express consignment carrier facility' mean a separate or shared specialized facility approved by a port director of the Customs Service for examination and release of imported merchandise carried by an express consignment carrier. Entry filing is also permitted at a centralized hub facility.".

(4) Subsection (d)(4) is amended by striking "(a)(7)" each place it appears and inserting "(a)(8)".

(5) Subsection (e) is amended by adding at the end the following:

"(7) Notwithstanding section 451 of the Tariff Act of 1930 or any other provision of law, all services rendered by the United States Customs Service at a centralized hub facility or an express consignment carrier facility relating to the inspection or release of merchandise from such facility, either inbound or upon arrival from another country or outbound when departing to another country (including, but not limited to, normal and overtime services) shall be adequately provided when needed, at no cost to such facility (other than the fees imposed under subsection (a) of this section).".

(6) Subsection (f)(3)(A) is amended—

(A) in the matter preceding clause (i), by striking "(9) or (10)" and inserting "(10) or (11)";

(B) in clause (i)—

(i) in subclause (IV), by striking "and" at the end;

(ii) in subclause (V), by adding "and" after "1993,"; and

(iii) by inserting after subclause (V) the following:

"(VI) providing the services described in subsection (e)(7) at centralized hub facilities and express consignment carrier facilities,"; and

(C) in clause (ii), by striking "(8)" each place it appears and inserting "(9)".

(7) Subsection (f)(6) is amended by striking "(9) and (10)" and inserting "(10) and (11)".

(b) Additional Conforming Amendment.—Section 301(b)(2)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(B)) is amended by striking "(9) and (10)" and inserting "(10) and (11)".

Subtitle D—Antiterrorism Provisions

SEC. 141. IMMUNITY FOR UNITED STATES OFFICIALS THAT ACT IN GOOD FAITH.

(a) Immunity.—Section 3061 of the Revised Statutes (19 U.S.C. 482) is amended—

(1) by striking "Any of the officers" and inserting "(a) Any of the officers"; and

(2) by adding at the end the following:

"(b) Any officer or employee of the United States conducting a search of a person pursuant to subsection (a) shall not be held liable for any civil damages as a result of such search if the officer or employee performed the search in good faith.".

(b) Requirement To Post Policy and Procedures for Searches of Passengers.—Not later than 30 days after the date of the enactment of this Act, the Commissioner of the Customs Service shall ensure that at each Customs border facility appropriate notice is posted that provides a summary of the policy and procedures of the Customs Service for searching passengers, including a statement of the policy relating to the prohibition on the conduct of profiling of passengers based on gender, race, color, religion, or ethnic background.

SEC. 142. EMERGENCY ADJUSTMENTS TO OFFICES, PORTS OF ENTRY, OR STAFFING OF THE CUSTOMS SERVICE.

Section 318 of the Tariff Act of 1930 (19 U.S.C. 1318) is amended—

(1) by striking "Whenever the President" and inserting "(a) Whenever the President"; and

(2) by adding at the end the following:

"(b)(1) Notwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 et seq.) or to a specific threat to human life or national interests, is authorized to take the following actions on a temporary basis:

"(A) Eliminate, consolidate, or relocate any office or port of entry of the Customs Service.

"(B) Modify hours of service, alter services rendered at any location, or reduce the number of employees at any location.

"(C) Take any other action that may be necessary to directly respond to the national emergency or specific threat.

"(2) Notwithstanding any other provision of law, the Commissioner of Customs, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.

"(3) The Secretary of the Treasury or the Commissioner of Customs, as the case may be, shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 72 hours after taking any action under paragraph (1) or (2).".

SEC. 143. MANDATORY ADVANCED ELECTRONIC INFORMATION FOR CARGO AND PASSENGERS.

(a) Cargo Information.—

(1) In general.—Section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) is amended—

(A) in the first sentence, by striking "Any manifest" and inserting "(1) Any manifest"; and

(B) by adding at the end the following:

"(2) In addition to any other requirement under this section, for each land, air, or vessel carrier required to make entry under the customs laws of the United States, the pilot, the master, operator, or owner of such carrier (or the authorized agent of such operator or owner) shall provide by electronic transmission cargo manifest information in advance of such entry in such manner, time, and form as prescribed under regulations by the Secretary. The Secretary may exclude any class of land, air, or vessel carrier for which the Secretary concludes the requirements of this subparagraph are not necessary.".

(2) Conforming amendments.—Subparagraphs (A) and (C) of section 431(d)(1) of such Act are each amended by inserting before the semicolon "or subsection (b)(2)".

(b) Passenger Information.—Part II of title IV of the Tariff Act of 1930 (19 U.S.C. 1431 et seq.) is amended by inserting after section 431 the following:

"SEC. 432. PASSENGER AND CREW INFORMATION REQUIRED FOR LAND, AIR, OR VESSEL CARRIERS.

"(a) In General.—For every person arriving or departing on a land, air, or vessel carrier required to make entry or obtain clearance under the customs laws of the United States, the pilot, the master, operator, or owner of such carrier (or the authorized agent of such operator or owner) shall provide by electronic transmission information described in subsection (b) in advance of such entry or clearance in such manner, time, and form as prescribed under regulations by the Secretary.

"(b) Information Described.—The information described in this subsection shall include for each person described in subsection (a), if applicable, the person's—

"(1) full name;

"(2) date of birth and citizenship;

"(3) gender;

"(4) passport number and country of issuance;

"(5) United States visa number or resident alien card number;

"(6) passenger name record; and

"(7) such additional information that the Secretary, by regulation, determines is reasonably necessary to ensure aviation and maritime safety pursuant to the laws enforced or administered by the Customs Service.".

(c) Definition.—Section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) is amended by adding at the end the following:

"(t) The term 'land, air, or vessel carrier' means a land, air, or vessel carrier, as the case may be, that transports goods or passengers for payment or other consideration, including money or services rendered.".

(d) Effective Date.—The amendments made by this section shall take effect beginning 45 days after the date of the enactment of this Act.

SEC. 144. BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL.

The Tariff Act of 1930 is amended by inserting after section 582 the following:

"SEC. 583. EXAMINATION OF OUTBOUND MAIL.

"(a) Examination.—

"(1) In general.—For purposes of ensuring compliance with the Customs laws of the United States and other laws enforced by the Customs Service, including the provisions of law described in paragraph (2), a Customs officer may, subject to the provisions of this section, stop and search at the border, without a search warrant, mail of domestic origin transmitted for export by the United States Postal Service and foreign mail transiting the United States that is being imported or exported by the United States Postal Service.

"(2) Provisions of law described.—The provisions of law described in this paragraph are the following:

"(A) Section 5316 of title 31, United States Code (relating to reports on exporting and importing monetary instruments).

"(B) Sections 1461, 1463, 1465, and 1466 and chapter 110 of title 18, United States Code (relating to obscenity and child pornography).

"(C) Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953; relating to exportation of controlled substances).

"(D) The Export Administration Act of 1979 (50 U.S.C. app. 2401 et seq.).

"(E) Section 38 of the Arms Export Control Act (22 U.S.C. 2778).

"(F) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

"(b) Search of Mail Not Sealed Against Inspection and Other Mail.—Mail not sealed against inspection under the postal laws and regulations of the United States, mail which bears a customs declaration, and mail with respect to which the sender or addressee has consented in writing to search, may be searched by a Customs officer.

"(c) Search of Mail Sealed Against Inspection.—(1) Mail sealed against inspection under the postal laws and regulations of the United States may be searched by a Customs officer, subject to paragraph (2), upon reasonable cause to suspect that such mail contains one or more of the following:

"(A) Monetary instruments, as defined in section 1956 of title 18, United States Code.

"(B) A weapon of mass destruction, as defined in section 2332a(b) of title 18, United States Code.

"(C) A drug or other substance listed in schedule I, II, III, or IV in section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(D) National defense and related information transmitted in violation of any of sections 793 through 798 of title 18, United States Code.

"(E) Merchandise mailed in violation of section 1715 or 1716 of title 18, United States Code.

"(F) Merchandise mailed in violation of any provision of chapter 71 (relating to obscenity) or chapter 110 (relating to sexual exploitation and other abuse of children) of title 18, United States Code.

"(G) Merchandise mailed in violation of the Export Administration Act of 1979 (50 U.S.C. app. 2401 et seq.).

"(H) Merchandise mailed in violation of section 38 of the Arms Export Control Act (22 U.S.C. 2778).

"(I) Merchandise mailed in violation of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

"(J) Merchandise mailed in violation of the Trading with the Enemy Act (50 U.S.C. app. 1 et seq.).

"(K) Merchandise subject to any other law enforced by the Customs Service.

"(2) No person acting under authority of paragraph (1) shall read, or authorize any other person to read, any correspondence contained in mail sealed against inspection unless prior to so reading—

"(A) a search warrant has been issued pursuant to Rule 41, Federal Rules of Criminal Procedure; or

"(B) the sender or addressee has given written authorization for such reading.".

SEC. 145. AUTHORIZATION OF APPROPRIATIONS FOR REESTABLISHMENT OF CUSTOMS OPERATIONS IN NEW YORK CITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated for the reestablishment of operations of the Customs Service in New York, New York, such sums as may be necessary for fiscal year 2002.

(2) OPERATIONS DESCRIBED.—The operations referred to in paragraph (1) include, but are not limited to, the following:

(A) Operations relating to the Port Director of New York City, the New York Customs Management Center (including the Director of Field Operations), and the Special Agent-In-Charge for New York.

(B) Commercial operations, including textile enforcement operations and salaries and expenses of—

(i) trade specialists who determine the origin and value of merchandise;

(ii) analysts who monitor the entry data into the United States of textiles and textile products; and

(iii) Customs officials who work with foreign governments to examine textile makers and verify entry information.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

Subtitle E—Textile Transshipment Provisions

SEC. 151. GAO AUDIT OF TEXTILE TRANSSHIPMENT MONITORING BY CUSTOMS SERVICE.

(a) GAO AUDIT.—The Comptroller General of the United States shall conduct an audit of the system established and carried out by the Customs Service to monitor textile transshipment.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and Committee on Finance of the Senate a report that contains the results of the study conducted under subsection (a), including recommendations for improvements to the transshipment monitoring system if applicable.

(c) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this section has occurred when preferential treatment under any provision of law has been claimed for a textile or apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of the preceding sentence, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under the provision of law in question.

SEC. 152. AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated for textile transshipment enforcement operations of the Customs Service $9,500,000 for fiscal year 2002.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(b) USE OF FUNDS.—Of the amount appropriated pursuant to the authorization of appropriations under subsection (a), the following amounts are authorized to be made available for the following purposes:

(1) IMPORT SPECIALISTS.—$1,463,000 for 21 Customs import specialists to be assigned to selected ports for documentation review to support detentions and exclusions and 1 additional Customs import specialist assigned to the Customs headquarters textile program to administer the program and provide oversight.

(2) INSPECTORS.—$652,080 for 10 Customs inspectors to be assigned to selected ports to examine targeted high-risk shipments.

(3) INVESTIGATORS.—(A) $1,165,380 for 10 investigators to be assigned to selected ports to investigate instances of smuggling, quota and trade agreement circumvention, and use of counterfeit visas to enter inadmissible goods.

(B) $149,603 for 1 investigator to be assigned to Customs headquarters textile program to coordinate and ensure implementation of textile production verification team results from an investigation perspective.

(4) INTERNATIONAL TRADE SPECIALISTS.—$226,500 for 3 international trade specialists to be assigned to Customs headquarters to be dedicated to illegal textile transshipment policy issues and other free trade agreement enforcement issues.

(5) PERMANENT IMPORT SPECIALISTS FOR HONG KONG.—$500,000 for 2 permanent import specialist positions and $500,000 for 2 investigators to be assigned to Hong Kong to work with Hong Kong and other government authorities in Southeast Asia to assist such authorities pursue proactive enforcement of bilateral trade agreements.

(6) VARIOUS PERMANENT TRADE POSITIONS.—$3,500,000 for the following:

(A) 2 permanent positions to be assigned to the Customs attaché office in Central America to address trade enforcement issues for that region.

(B) 2 permanent positions to be assigned to the Customs attaché office in South Africa to address trade enforcement issues pursuant to the African Growth and Opportunity Act (title I of Public Law 106–200).

(C) 4 permanent positions to be assigned to the Customs attaché office in Mexico to address the threat of illegal textile transshipment through Mexico and other related issues under the North American Free Trade Agreement Act.

(D) 2 permanent positions to be assigned to the Customs attaché office in Seoul, South Korea, to address the trade issues in the geographic region.

(E) 2 permanent positions to be assigned to the proposed Customs attaché office in New Delhi, India, to address the threat of illegal textile transshipment and other trade enforcement issues.

(F) 2 permanent positions to be assigned to the Customs attaché office in Rome, Italy, to address trade enforcement issues in the geographic region, including issues under free trade agreements with Jordan and Israel.

(7) ATTORNEYS.—$179,886 for 2 attorneys for the Office of the Chief Counsel of the Customs Service to pursue cases regarding illegal textile transshipment.

(8) AUDITORS.—$510,000 for 6 Customs auditors to perform internal control reviews and document and record reviews of suspect importers.

(9) ADDITIONAL TRAVEL FUNDS.—$250,000 for deployment of additional textile production verification teams to sub-Saharan Africa.

(10) TRAINING.—(A) $75,000 for training of Customs personnel.

(B) $200,000 for training for foreign counterparts in risk management analytical techniques and for teaching factory inspection techniques, model law Development, and enforcement techniques.

(11) OUTREACH.—$60,000 for outreach efforts to United States importers.

SEC. 153. IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT.

Of the amount made available for fiscal year 2002 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by section 101(b)(1) of this Act, $1,317,000 shall be available until expended for the Customs Service to provide technical assistance to help sub-Saharan Africa countries develop and implement effective visa and anti-transshipment systems as required by the African Growth and Opportunity Act (title I of Public Law 106–200), as follows:

(1) TRAVEL FUNDS.—$600,000 for import specialists, special agents, and other qualified Customs personnel to travel to sub-Saharan Africa countries to provide technical assistance in developing and implementing effective visa and anti-transshipment systems.

(2) IMPORT SPECIALISTS.—$266,000 for 4 import specialists to be assigned to Customs headquarters to be dedicated to providing technical assistance to sub-Saharan African countries for developing and implementing effective visa and anti-transshipment systems.

(3) DATA RECONCILIATION ANALYSTS.—$151,000 for 2 data reconciliation analysts to review apparel shipments.

(4) SPECIAL AGENTS.—$300,000 for 2 special agents to be assigned to Customs headquarters to be available to provide technical assistance to sub-Saharan African countries in the performance of investigations and other enforcement initiatives.

TITLE II—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "not to exceed";

(B) in clause (i) to read as follows:

"(i) $30,000,000 for fiscal year 2002."; and

(C) in clause (ii) to read as follows:

"(ii) $31,000,000 for fiscal year 2003."; and

(2) in subparagraph (B)—

(A) in clause (i), by adding "and" at the end;

(B) by striking clause (ii); and

(C) by redesignating clause (iii) as clause (ii).

(b) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 141(g) of the Trade Act of 1974 (19 U.S.C. 2171(g)) is amended by adding at the end the following:

"(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the United States Trade Representative shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Office to carry out its functions.".

(c) ADDITIONAL STAFF FOR OFFICE OF ASSISTANT U.S. TRADE REPRESENTATIVE FOR CONGRESSIONAL AFFAIRS.—

(1) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2002 for the salaries and expenses of two additional legislative specialist employee positions within the Office of the Assistant United States Trade Representative for Congressional Affairs.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

TITLE III—UNITED STATES INTERNATIONAL TRADE COMMISSION

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended—

(1) in clause (i) to read as follows:

"(i) $51,400,000 for fiscal year 2002."; and

(2) in clause (ii) to read as follows:

"(ii) $53,400,000 for fiscal year 2003.".

(b) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended by adding at the end the following:

"(4) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Commission to carry out its functions.".

TITLE IV—OTHER TRADE PROVISIONS

SEC. 401. INCREASE IN AGGREGATE VALUE OF ARTICLES EXEMPT FROM DUTY ACQUIRED ABROAD BY UNITED STATES RESIDENTS.

(a) IN GENERAL.—Subheading 9804.00.65 of the Harmonized Tariff Schedule of the United States is amended in the article description column by striking "$400" and inserting "$800".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

SEC. 402. REGULATORY AUDIT PROCEDURES.

Section 509(b) of the Tariff Act of 1930 (19 U.S.C. 1509(b)) is amended by adding at the end the following:

"(6)(A) If during the course of any audit concluded under this subsection, the Customs Service identifies overpayments of duties or fees or over-declarations of quantities or values that are within the time period and scope of the audit that the Customs Service has defined, then in calculating the loss of revenue or monetary penalties under section 592, the Customs Service shall treat the overpayments or over-declarations on finally liquidated entries as an offset to any underpayments or underdeclarations also identified on finally liquidated entries if such overpayments or over-declarations were not made by the person being audited for the purpose of violating any provision of law.

"(B) Nothing in this paragraph shall be construed to authorize a refund not otherwise authorized under section 520.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from Washington (Mr. MCDERMOTT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

As I indicated on the previous legislation in front of us, I do ask that we suspend the rules and pass H.R. 3129, as amended, as well.

The amendment in this instance is a deletion rather than an addition. Although in committee we had a full and, I think, useful discussion about a number of concerns dealing with Customs and the way in which Customs deals with our border security and the way in which they enforce the law, one provision which caused some consternation and which has been in front of us for several years is the way in which Customs officials in particular areas are compensated.

It is a difficult job, because many of the airports in Customs locations are open 24 hours a day. People are coming in at all hours of the morning and night as well as during the day, and so it is a difficult labor situation. And in an attempt to try to figure out how to have an equitable pay structure for those who might be working shifts that most of us would be more familiar with, called graveyard shifts or night shifts, there does need to be a bit of an incentive in terms of offering more than the normal compensation during normal working hours.

The difficulty is that in certain areas there are individuals who are receiving nighttime pay, or overtime pay, that is used normally to compensate for the unusual hours they are working, and they are working in the middle of the day. This anomaly we attempt to correct in this legislation.

My friends on the other side of the aisle were strongly objective to removing night pay for people who are at work and if they look out the window the sun is shining. To make sure that we move forward with this whole area of trade and Customs, this legislation was placed on the suspension calendar. As a gesture which may or may not be received in the spirit in which it is delivered, we requested that we delete that portion of the Customs reauthorization dealing with the wage dispute.

The rest of the bill, I believe, is completely meritorious and deserves in its entirety to be passed, without objection, and I would urge that we do so on the suspension calendar.

Mr. Speaker, I reserve the balance of my time.

Mr. MCDERMOTT. Mr. Speaker, I yield myself 3 minutes, and I rise in opposition to H.R. 3129.

This is another bill that is put out here to confuse people, to throw sand in the eyes of Members of Congress. It was presented to the committee as a pay bill for Customs people. We voted on it there. And between the committee and coming to the floor, they suddenly took that all out and put a study in. Thank you very much, Mr. Chairman, we appreciate that. The other provisions were no good.

But what is left is not good either, because it should have gone to the Committee on the Judiciary. The sections which pertain to immunity of Customs agents and allowing the unwarranted search of outgoing U.S. mail should have been talked about by the Committee on the Judiciary. It seems to me that the Ways and Means was used as a way to go around the Committee on the Judiciary, rather than having them consider what needs to be done.

Now, our Customs agents are good and sincere people who have grave responsibilities. Unfortunately, there have been abuses of the authority that Customs agents have. A March 2000 General Accounting Office report found that while black female citizens were nine times more likely than white female citizens to be subject to x-ray searches by the Customs Service, these black women were less than half as likely to be found carrying contraband as white women.

Section 141 of the bill would exempt the Customs officer from liability for engaging in illegal body cavity search and from liability for illegal searches, provided the officer acted in good faith. Now, there is no reason put forward why we should change the standard set by the Supreme Court that the reasonableness of an officer's behavior is the proper test of liability. In the aftermath of the GAO study, many changes were instituted by Customs, and I believe that we should not change this in this way.

This is also not the time to give them a new standard about looking at mail. We prevent mail from coming in without a search because we are protecting ourselves. When it is going out, there is no justification given for why we are doing that. I think that that is another change, a power grab by the Justice Department, done through the Committee on Ways and Means.

And without anybody talking about it, they then added $9 billion to Customs for agents to deal with transshipment. Now, my colleagues, that is put in the bill for one reason and one reason only: To get textile people to say they are going to keep the textiles out of our country, we have good protectionists, so I can vote for trade promotion authority. It is simply a sop to Members.

Now, if Members think this is going to go over to the Senate and pass, remember, this has to go through the Senate. Passing in the House is not enough. This is a sop that will not work. I will vote "no."

Mr. THOMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. CRANE), chairman of the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, H.R. 3129, the Customs Border Security Act of 2001, would authorize the budget for the U.S. Customs Service, International Trade Commission, and Office of the U.S. Trade Representative. It also includes a number of critical new tools for fighting terrorism, drugs, and child pornography. The legislation will help Customs close a gap in our border that lets illegal money be taken out of the country. This legislation will also significantly help Customs' ability to stop the flow of illegal drugs from crossing our borders and getting into our children's hands.

The administration participated in drafting and working through several measures in this bill. We have a provision to require advanced electronic manifesting on passengers and cargo so that the Customs Service can have advanced notice of who is on planes and what is on ships about to land on American soil.

We also have a provision to give our Customs inspectors some protection against frivolous lawsuits since now, more than ever, they will be scrutinizing and watching people who come into the country, knowing full well that the next terrorist may be stepping off the plane at any time. Inspectors acting in good faith should not have to think twice about being subject to personal civil lawsuits. So we are proposing that they have immunity, but only for those who act in good faith, not for inspectors who may wrongly use race, ethnicity or gender to profile passengers.

The administration also requested that Customs be able to search outgoing mail because of the fact that the U.S. mail is used to transmit laundered money out of the country. I want to assure Members that we looked carefully at the privacy issues involved here and believe we adequately address them in this legislation. People fear that Customs may be reading our mail, but our bill preserves our cherished fourth amendment right against unwarranted search by requiring that no letter may be read by Customs officers unless a valid warrant is obtained. Remember, money from illegal activities is what leads us to terrorists and drug smugglers. We must preserve our privacy while giving Customs authority to root out these illegal activities.

We have increased funding to reestablish the New York Customs offices and an additional increase in funding to upgrade our textile transshipment monitoring and enforcement operations. Also, H.R. 3129 adds $10 million for the Customs Cyber-smuggling Center. With the explosion of the Internet, our children have become vulnerable to online predators. We need to protect them, and this legislation will help Customs combat this vile behavior.

This legislation also contains authorization for funding for Customs' new automation, the automated commercial environment. In 1998, Customs processed 19.7 million entries. This volume is expected to double by 2005. The current automation system is on the brink of continual brownout and possibly shutdowns. If this happens, it will cost American taxpayers millions of dollars.

I urge all of my colleagues who are serious about stopping terrorism, drugs, and online child pornography, while keeping our trade flowing, to support this bill.

□ 1045

Mr. McDERMOTT. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong opposition to H.R. 3129. This bill threatens to violate the civil rights of international travelers. The Customs Service's poor record of racially profiling passengers has been well documented. While I appreciate the attempts that they have made to address the problem, now is not the time to grant immunity to Customs officers conducting personal searches.

For more than 2 years, I have been examining allegations of racial profiling by Customs inspectors throughout the country, and mistreatment of international travelers, especially African Americans and Hispanics, in the Customs Service personal search process. I will not support any legislation that will grant Customs officers immunity before we have seen significant improvement in their record on racial profiling.

As public officials, Customs agents already have qualified immunity which is more than adequate to protect them if acting within the scope of their official authority. Civil lawsuits against government officials and agents are an important deterrent to racial profiling and unconstitutional and unlawful searches. Without the possibility of a lawsuit, individuals who have been treated in an unconstitutional manner by a government agency will have no redress, and the government agents will have less incentive to comply with the Constitution.

Mr. Speaker, I urge all of my colleagues to protect the basic civil rights and civil liberties of international travelers and oppose this bill.

Mr. THOMAS. Mr. Speaker, I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we have done a lot in a rush after September 11: Questioning the attorney's right to talk to his client without being listened to; military trials where the Attorney General and the Secretary of Defense will certify someone was a foreign terrorist and deny them a fair trial, whether they happen to be, in fact, a guilty terrorist or not. The individual might be an innocent citizen, but is still stuck with this system because the Attorney General has accused the individual.

We passed the airline security bill which included provisions which significantly reduced the rights of victims to be compensated for their injuries and without consideration by the Committee on the Judiciary which has jurisdiction over this, and now we are asked to suspend the rules and pass a bill which includes provisions which reduce the rights of victims of unconstitutional, unreasonable searches by government officials, searches which could include strip searches and so-called cavity searches. Many of these searches have been found to be conducted pursuant to racial profiling. They have only been stopped by lawsuits, and here we have bill that will throw some of these people out of court and make it less likely that these unconstitutional searches will be stopped.

The Supreme Court has held that the objective reasonableness of the official's behavior ought to be the standard, not the so-called good faith standard that is in this bill as the standard for liability. If we are going to change the standard, we ought to do it through the regular legislative process. Let the Committee on the Judiciary have hearings so we can consider whether a change needs to take place.

Rather, we are here on a motion to suspend the rules and just pass the bill. I would hope that we would not proceed with this standard, with this procedure, where we cannot have amendments or hearings, we have to take it up or down. This is too serious an issue to consider this way. I urge Members to defeat the motion to suspend the rules.

Mr. THOMAS. Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of this legislation. We did have hearings on this bill, I would note, and I am very proud to support it.

Furthermore, it is an urgent matter that we pass this at this time. First of all, it provides clear authority for Customs to get passenger lists from other countries. That authority is not clear in our Customs law. If we want Customs to provide us with the protection that they need to, we need to enable them to have advanced electronic information about passengers, cargo, carrier crew lists, and manifests.

This is very important in terms of the immediate challenge of protecting ourselves more effectively against terrorism. This is just as important as the airport safety bill. In addition to providing access to information about passengers and cargo, it allows clear authority to search outbound mail. Customs has authority to search inbound mail, but it is in the outbound mail that the cash roars out of America, laundered clean for terrorist activities and illegal drug smuggling.

Further, $10 million is going to go to something that I have been fighting for for 3 years and has had lots of hearings. Our children are not threatened by sexual exploitation and attack any more by people lurking in the school yards of America. They are now on the computers. They are in chat rooms. Do Members know where most of the child pornography comes from and how it comes into America? It flows in through cyberspace. Who are the people who have developed the most effective means of stopping child pornography and interrupting those conversations in the chat room through which adults are gaining access to children and luring them into dangerous relationships, it is the Customs folks.

I have talked to them extensively in my district. This is the ammunition that they need to beef up the resources and expand the expertise. They are really now skilled at this, being able to follow these chat room conversations, spot those individuals who are posing as young people, but who are really out to attract young people into meeting them here or there for sexual exploitation.

Mr. Speaker, we are very fortunate that we have not had more young children murdered. We have had children met in parking lots as a result of contacts made through international cyberspace connections.

And now the business that is developing in tourism, foreign companies luring, over our computers, adults to join trips whose goal it is to offer young children around the world to American tourists. Mr. Speaker, it is terrible. It is horrible, and that is a piece of this legislation that is urgently needed.

Mr. Speaker, do not underestimate the importance and the relevance of this to the very situation we face right now. Customs lost textile monitoring and enforcement infrastructure from the September 11 attack, and this allows the reestablishment of those offices and provides the resources so that the textile clearinghouse and commercial operations can be reestablished.

This is a very, very important bill. It is not sexy. There is not a lot of interest in Customs in Congress. There never has been. But the authorities that we are granting in this bill, the resources that we are providing, the border protection equipment to fight terrorism and illegal drugs, is very important. Again, do not let this be mired down or defeated by all of the other cross-currents that are swirling in this body and between the two Houses.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman's program has been funded for 3 years without authorization. We do not need this bill for that purpose.

Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I would like the gentlewoman from Connecticut (Mrs. JOHNSON) to know that the Committee on the Judiciary made a great pitch to increase the funding for Customs. It was blocked by the chairman of the Committee on Ways and Means sitting there. That is why we could not do it.

Mr. RANGEL. Mr. Speaker, Customs has no better friend than myself. When I was prosecuting narcotics cases, they were just as dedicated then in trying to keep those poisons from crossing our borders as they are today.

But it bothers me that the gentlewoman from Connecticut (Mrs. JOHNSON) in calling the bill not sexy would spend most of her time talking about preventing child pornography when the last several speakers on our side were talking about civil liberties. As a matter of fact, I have not heard anyone on the other side deal with this.

Mr. Speaker, we can have a good cause and good bill, fight terrorism, but if we ever lose sight of the constitutional rights of people to be protected, their civil rights, then we have lost this battle against terrorism. We have provisions here that say in this bill on the suspension calendar without the benefit of the thinking of the people on the Committee on the Judiciary that we are going to give some type of immunity, immunity to people who violate the rights of other people.

The Customs Service did not support these changes. The Department of Justice did not ask for these changes. The Department of Treasury did not ask for these changes, and these changes can violate the very structure of the constitutional rights of our people. So hey, put on the record, Democrats are against child pornography; but let us get on with answering some of the serious constitutional questions concerning civil liberties that our side has raised.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, the immunity section was specifically asked for by Customs, and responds to their very deep-seated need for protection from suit for actions that they as officers must take. After all, they do not know who is walking up to them and must make difficult instant judgments about their need to search and/or restraint.

Mr. RANGEL. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I would not put the valuable reputation of the gentlewoman from Connecticut on the line for that statement because our side is convinced that Customs did not ask for it and do not support it. The gentlewoman knows how much I respect her.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I appreciate the gentleman making that comment. I am putting on the record that our staff says Customs asked for this, so at least the public listening to this debate and the Members ought to know that our staff believes Customs asked for this very language and needs it.

Mr. RANGEL. If the gentlewoman would continue to yield, I am certain before the debate is over, staff will produce a document from Customs stating that. If not, we have a problem.

Mr. McDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS) to clarify what the Department of Justice wants.

Mr. CONYERS. Mr. Speaker, I have no idea what Department of Justice wants; and I can tell the gentleman, I do not care what Customs wants. Whether they asked for it or not, they should not get it. There are no documents to prove that they asked for it; Members can be the jury.

The question that the gentleman from New York raises is whether we are going to sanctioning in this quickie here, a racial profiling exemption that goes back, the qualified exemption that Customs already enjoys.

What are we doing here? We already have a dozen cases that have come out of court that have said that Customs is protected and has a qualified exemption from even the wrongdoing of the agents of Customs.

□ 1100

Now, and I guess this is in the quiet of the daytime, we are now saying let us exempt the whole agency, not just the individual agents that conduct these violations. Then I am hearing people talk about we need more money. And it is terrible what is happening to kids and ladies and girls, but the chairman is the one that blocked us adding the money. He is sitting here quietly reserving his time.

This is a wonderful practice, but what has it got to do with the Customs Border Security Act? Here is a bill that is going to bite the dust because we will not level about what we are doing here. So I cannot authorize sanctioning agencies to have exclusive remedy exemption, when they already have partial exemption.

Mr. THOMAS. Mr. Speaker, I continue to reserve my time.

Mr. MCDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, we could have had a very good bill that would have received a very large vote in support. The majority did the right thing by removing a provision in from the bill that would have unfairly cut the pay of our Customs officials, our front line at our borders to prevent terrorist activity from entering into our country. It has provisions which provide for automation for a computer system which is outdated and which must be replaced so we can track what comes into this country. But yet this bill instead chose to sacrifice privacy under the guise of security.

Regarding this immunity that the Customs Service so-called requested, first in committee, they could not explain why they needed it. But, more importantly, we know that the Customs Service has a terrible record when it comes to racial profiling.

Our own auditors, the General Accounting Office, has found that while black female U.S. citizens are nine times more likely than white U.S. citizens to be the subject of x-ray searches by our Customs Service, they are half as likely as white female U.S. citizens to actually be carrying contraband.

Let me repeat that. Even though African American women are found to carry contraband, U.S. citizen African American women are half as likely to carry contraband as white U.S. citizen women, they are nine times as likely to be searched. Yet we want to give the Customs Service more immunity from lawsuits for having done that? It is crazy.

Then we talk about inspecting mail. We inspect mail that comes into this country because we do not know what it might contain. Good. But mail going out, our privacy invaded? Right now, Customs Service has every right to inspect that mail by getting a search warrant. They can hold mail.

If they believe there is some contraband there, if there is money laundering occurring, all they have to do is hold it. They have the power to get a judicial order to hold it and inspect. What we are saying in this bill is forget about getting the judicial order, let us let them inspect without that. This is wrong. We should not sacrifice privacy.

We should pass this bill if we could, but we cannot. Let us defeat it.

Mr. THOMAS. Mr. Speaker, I continue to reserve the balance of my time, the assumption being we have no further speakers.

Mr. MCDERMOTT. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, this is the wrong way and the wrong time to consider this bill. Voted out of committee on Halloween, this is your typical Ways and Means trick-or-treat bill; a "trick" for hard-working employees, whose pay would be lowered, as originally proposed in a provision abandoned only last night, a "treat" for those who refuse to be held accountable.

If this measure is so absolutely vital in the war on terrorism, why has the gentleman from California (Mr. THOMAS) and the Republican leadership sat on it for 36 days, for 5 weeks, doing nothing about this piece of legislation?

No opportunity was offered to either the Ways and Means Committee or the Committee on the Judiciary, to consider the civil liberties questions associated with this measure.

This bill is part of a larger, very troubling trend in our country today. In defending our country from terrorists, it is critically important that we not erode the very values and principles for which this country stands—that we not destroy our democratic system in a misguided attempt to save it.

What separates us from our enemies is our respect for the rule of law, and as we seek to protect our freedom, we must not adopt measures that undermine our democracy.

Each passing day, particularly from the mouth of Attorney General John Ashcroft, seems to bring new dangers to our system of liberty: Eavesdropping on conversations between attorneys and their clients; secret military tribunals that deny the choice of legal counsel, deny trial by jury, deny any appeal through the judicial process, and deny other due process guarantees. They are the very type of fundamental procedural rights that those of us in the Human Rights Caucus have criticized when employed in countries around the world. Despite objections from the FBI, now the Justice Department is considering spying on domestic religious organizations. And now this measure today that would make it almost impossible for one to challenge an unconstitutional search and would allow the surreptitious opening of some of our mail.

This bill ought not to be considered in this way at this time. Because this bill fails to maintain the appropriate balance between our security and our rights. We need a no vote.

Mr. MCDERMOTT. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for allowing me time.

Mr. Speaker, I would like to tell the story of Yvette Bradley. A 33-year-old advertising executive and her sister arrived at Newark Airport from a vacation in Jamaica, an African American woman. Upon encountering Customs agents, Ms. Bradley recalls that she, along with most of the other black women on the flight, were singled out for searches and interrogation, where she experienced one the most humiliating moments of her life. All throughout her body was tapped and private parts were tapped. And, you know what, Mr. Speaker, no drugs or contraband was found.

I happen to be a strong supporter of our Customs agents and the responsibilities that they have. Interestingly enough, however, they have all of the provisions that they need to ensure the safety of this Nation.

To take away, to give them a bye, a pass, on the Bill of Rights and the Constitution, the understanding of unreasonable search and seizures, is unfair. The ability to search mail, more than they have now, is unfair and it is not what the American people want us to do.

This legislation did not go to the Committee on the Judiciary. This legislation came out of the Committee on Ways and Means on a party vote. It seems simply ludicrous that we throw to the wind our Constitution when we are fighting terrorism around the world.

This bill fails to address the very serious problems of racial profiling and invasions of privacy by our Customs agents. The Customs Service has a poor record on racial profiling. A March 2000 General Accounting Office report found that while black female U.S. citizens were nine times more likely than white female U.S. citizens to be subjected to x-ray searches by the Customs Service, these black women were less than half as likely to be found carrying contraband as white females.

Last April, Yvette Bradley, a 33-year-old advertising executive and her sister arrived at Newark Airport from a vacation in Jamaica. Upon encountering Customs agents Ms. Bradley recalls that she, along with most of the other black women on the flight, were singled out for searches and interrogation where she "experienced one of the most humiliating moments of (her) life." According to a subsequent ACLU lawsuit, Bradley was led to a room at the airport and instructed to place her hands on the wall while a Customs officer ran her hands and fingers over every area of her body, including her breasts and the inner and outer labia of her vagina. The search did not reveal any drugs or contraband.

Mr. Speaker, the bill before us today, H.R. 3129, contains a number of problematic provisions that perpetuate these kinds of insidious acts. Most notably, two provisions raise significant constitutional and civil liberties concerns. First, the Good Faith Immunity provision of section 141 provides Customs inspectors immunity from lawsuits stemming from personal searches of people entering the country so long as the officers conduct the searches in "good faith." Importantly, this provision has nothing to do with preventing terrorists from boarding airplanes. Customs officers search passengers when they are exiting the plane, not when they are boarding. Nothing in the provision limits it to terrorist investigations.

The provision was included as a "procedural" device to allow civil cases against individual Customs agents to be dismissed in the early stages of litigation. However, it is clear from a plain reading of this provision that the intent is to broaden the standard of immunity allowable under current law. The existing doctrine of qualified immunity protects public officials performing discretionary searches from civil damages if their conduct does not violate statutory or constitutional rights. However, the Supreme Court has repeatedly held that the proper standard of an officer's behavior with respect to liability is objective reasonableness and not subjective "good faith."

This provision in H.R. 3129 could weaken protections against racial profiling and other illegal and unconstitutional searches by the Customs Service. Despite the Majority's stated intent, section 141 appears to be a substantive, not a procedural, change and it is thus unclear why the provision is necessary.

Next, the Outbound Mail provision of section 144 would allow Customs investigators broad authority to search mail. With respect to outbound U.S. mail, this would allow broad authority of Customs to search packages for unreported money or other monetary instruments, weapons, and other contraband which could be used by terrorists. With respect to sealed outbound U.S. mail, the bill allows broad authority to Customs to open mail with "reasonable cause" to suspect that the mail contains contraband. Under current law, the Customs Service may search, without a warrant, any inbound mail handled by the United States Postal Service and packages and letters handled by private carriers such as Federal Express and the United Parcel Service. This "border exception" to the fourth amendment derives from the authority of the government to protect its borders against inbound contraband and to collect duties on inbound freight.

However, the bill would allow Customs officials to open "sealed" mail with "reasonable cause." This is a far lower standard than probable cause, and would effectively eliminate the need for judicial review. Furthermore, section 144 would allow Customs officials to open "unsealed" mail and any mail bearing a Customs declaration for no cause whatsoever.

Americans have an expectation of privacy in the mail they send to friends, family, or business associates abroad. The Customs Service's interest in confiscating illegal weapons shipments, drugs, or other contraband is adequately protected by its ability to secure a search warrant when it has probable cause. Short of an emergency, postal officials can always hold a package while they wait for a court to issue a warrant.

I urge my colleagues to oppose this bill.

Mr. McDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I know people on the other side think that the private sector ought always to be our model, but they have misapplied it in this case, because the model they have chosen is the Enron Corporation. The Enron Corporation got into trouble for engaging recklessly in trading in a way that violated the rules.

Well, that is what is happening here today. The gentlewoman from Connecticut is right. This is a very important bill, far too important to be debated under a procedure that was created for noncontroversial legislation: 40 minutes of debate and no amendments.

There are several important pieces to this bill. They try to achieve important goals. But some of them are flawed. There is no reason why, we have not been working that hard this week, we could not have had a serious debate on this bill.

Why is this now being rushed through? Because we are following the Enron principle. There is some trading going on here. In this case, what we are trading are votes on the trade bill.

What happened is very simply this: The Republican leadership found itself short of votes for fast track, so what they decided to do was to reach into the goodie-bag, they pull out trade adjustment assistance, which they will grudgingly put forward for a vote, they reach into this bill and rush it forward because it has some payoff for people in the textile industry.

I want to see the textile rules better enforced. I want to see us better protected a lot of ways. But I do not want to see that done by following the Enron model where the importance of trading is so overwhelming that you short circuit the rules and play fast and loose and get yourself in trouble.

It is an absolute degradation of the legislative process for a bill of this importance to be debated under this procedure of suspension of the rules.

We are opposing not the substance, which many of us support in some areas, but this degradation of the legislative process, this refusal to allow honest democratic debate on important subjects, simply because the Republican leadership finds itself a little shorter of votes than it thought for the bill.

I would also say, while we are at it, that people who are tempted by this ought to be clear that they get some guarantees. When people bring up a bill just like this, just before another vote, with no guarantee that it is going to go anywhere, they better be worried about consumer fraud as well as illegitimate trading.

Mr. McDERMOTT. Mr. Speaker, could the Speaker tell me how much time I have remaining?

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Washington (Mr. McDERMOTT) has 2 minutes.

Mr. McDERMOTT. I yield 1½ minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, as a veteran of every textile battle that has been fought on this floor for the last 20 years, let me warn my colleagues, you are badly mistaken if you think this bill is going to help our beaten and beleaguered industry.

First of all, it purports to put up $9.5 million for additional Customs enforcement. I am not one to look a gift horse in the mouth, I am glad to have $9.5 million, but I am also sensible enough to know that it does not amount to a thing until there is an appropriation. And what bill would provide the appropriation? Treasury-Postal. Long gone. When is there another vehicle coming? Who knows.

Secondly, this bill purports to deal with transshipment. Now, this is a chronic problem. I know it. I have offered legislation in the past to deal with it. If you wanted to get at it, you would get at the biggest offender, China, when the MFN bill came through here.

In any event, this is not the real problem today, because transhipment is mainly about quota evasion, and quotas have grown so liberal and increased every year that we have a $77 billion trade deficit today in textiles and apparel.

In any event, in any event, changing the definition of transshipment and asking for a General Accounting Office report on transshipment is not going to do a doggone thing about the problem until you put up money for additional Customs enforcement agents to do something about it.

My friends, if you want to make sure textiles do not become the sacrificial lamb, the donor industry, in the next round of trade negotiations, if that is what you want to do, we ought to be out here on the floor mandating USTR, no further tariff cuts in textiles, no acceleration of the integration agreement and the abandonment of quotas.

Textiles, believe me, Mr. Speaker, is an industry that is not just hurting, but is hemorrhaging and in desperate need of help, but this bill is deceitful in pretending to help and doing so very little.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) continues to reserve. The gentleman from Washington (Mr. McDERMOTT) has 30 seconds remaining.

Mr. McDERMOTT. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, there is an old rule in politics: If you got the votes, shut up. And I guess that is what the chairman is thinking.

But the fact is that the silence on the other side in answer to these constitutional questions, the fact that the chairman of the Committee on the Judiciary never even came out here, no one came out here to rebut a single question of the Constitution, speaks louder than any words you could have spoken in the minutes that you have reserved.

I am sure that when people listen, I guess silence means assent, they agree on the other side that we are right. We are taking away fourth amendment rights, and we are doing it without any hearings.

This is really a sad day for the Constitution on the floor of the House of Representatives.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope the folks who are listening and watching appreciate that someone who is listening and watching happens to be named Stephen L. Basha. Stephen L. Basha just called and said he could not believe what was occurring on the floor of the House.

Stephen L. Basha just happens to be the Associate Chief Counsel of the Office of Chief Counsel of the U.S. Customs Service. He was the gentleman who was at a hearing. You have heard representations that we have had no hearings. The testimony from the committee will show we had hearings, and one of the principal witnesses was the very same Stephen L. Basha, who indicated that there are hundreds of Customs workers following the law who are, nevertheless, sued. They are sued up to and including their homes being attached. They are put through years of meat-grinder court cases by money-grubbing attorneys looking for cheap settlement, and, after years, they are vindicated.

There is no question that in any situation when you are dealing with sensitive things like trying to make sure that terrorists do not come into this country, that drug dealers do not walk right past honest citizens, that there may be a mistake or two being made.

The key there is in education, to make sure that these very useful profile techniques are constantly improved; that the people who are utilizing these are required to have sensitivity training; that they are required to know clearly the law; and that in the course of the testimony you will find, and I am not allowed to read from it under the Rules of the House, but it is here, a clear understanding and a commitment upon the recommendation of the Democrats that we require the information that is the lawful structure of that profiling to be prominently displayed to make sure that the workers are sensitized.

□ 1115

Now, I have heard several times that this is a power grab by the Committee on Ways and Means; that we are going around the jurisdiction of other committees. Seated just to the right and behind the Speaker is the Parliamentarian. The Parliamentarian is a nonpartisan professional job. Their job is to analyze legislation and determine where it should go based upon the content of the legislation and the jurisdiction of the committees. Had this had an involvement with the Committee on the Judiciary, under the Rules of the House, the nonpartisan Parliamentarian would have said that the Committee on the Judiciary must be involved, either through primary jurisdiction, through concurrent jurisdiction, or through sequential jurisdiction. None of those jurisdictional provisions were called for. Power grab?

It is interesting that the gentleman from Texas lays upon this small and modest bill what he perceives to be the sins of the Bush administration through the Attorney General to try to protect the American people from further terrorist acts. This bill contains money not only to help in protecting against terrorism, but against drug addiction and against child pornography. If folks believe that this one, small provision requested by Customs to protect Customs officers in the lawful carrying out of their job is just too much for them, then vote against increasing our ability to protect Americans against terrorism, vote against a better, more efficient drug addiction structure, and vote against all of the new technological capabilities in going after those who prey on our youth.

Now, the other thing that really amazes me, but sometimes my threshold for amazement is not as high as it probably should be; the gentlewoman from Texas in her remarks said this bill came out of committee on a party-line vote. Again, if my colleagues will check the records of the committee, she is absolutely, flat out, factually wrong. How can I say that? Because this did not come out of the committee with a vote recorded at all. Not only was it not a party-line vote, there was no vote. The record will show that there was no vote requested by the minority on ordering this bill from the committee to the floor. It was ordered from the committee to the floor on a voice vote. And yet, at the eleventh hour, all of these indignations are surfacing on a provision that was there, requested by the Customs officials, so that the hard-working, frontline soldiers at our border are not unnecessarily harassed in trying to carry out the law and in protecting Americans from drugs, from terrorism, and from child pornography.

So in terms of the criticism that how come it has taken so long to bring this to the floor, which we heard, and then how come we are rushing it through; once again, if we take every side of the argument to stop a piece of legislation, the assumption is we may not necessarily be arguing about what is in the legislation, we just want the world to stop. Because in stopping the world, then the things that need to be done will not go forward and maybe, just maybe, somebody might be fooled into thinking that this would be a reason to vote for one person over another. If that is, in fact, the reason that we are opposing this piece of legislation, that is probably the worst possible reason that anyone could offer.

What this is is a modest Customs reauthorization, and what it does is extend Customs' ability to deal with problems that are manifest, including the failure of the Customs Department to focus on areas that people who are concerned about illegal textiles, like transshipment, need to be focused on. We not only say more agents need to be involved, we say more money ought to be placed on the table. We do both in this bill. Is it enough? Probably not. Is it more than what we are doing now? Yes. Will it be better than yesterday? Yes.

The gentleman from Washington said that we placed a study in the bill; again, he is factually flat out wrong. I said at the beginning that we were removing provisions of the bill. We did not add a study; we removed a provision. So when someone stands up and exhorts all of the problems and arrows of the world that have been inflicted on them by everyone else and says, all of it is manifest in this particular bill, I would ask that they actually take a look at what it is that we are placing before the House of Representatives in this bill. It is Customs reauthorization. It deals with those frontline soldiers who have an extremely difficult job; it provides them with a few more resources; it provides them with a few more technological tools in doing the job that they do, on the whole, very well, and that, hopefully, with this particular piece of legislation, they will be able to do it even better.

Mr. OTTER. Mr. Speaker, I rise today to discuss H.R. 3129, the Customs Border Security Act of 2001. Most of H.R. 3129 is a well-crafted and needed response to the events of September 11. I firmly believe that we need to strengthen the U.S. Customs Service to properly guard against the threats we now face. I particularly support the bill's provision for 285 new customs officers along the Canadian border. I represent a State that borders Canada and have seen the vast increase in traffic along US–95, one of our Nation's NAFTA corridors. Adding more customs officers will help protect Idaho, and the United States, from those who would seek to use the world's longest peaceful border against us.

I also strongly support the provision raising the personal exemption for goods brought back into the United States from $400 to $800. This step will help facilitate the growth of tourism and cut through much useless red tape.

Unfortunately, H.R. 3129 contained provisions that forced me to vote against it. In particular, section 141 establishes so-called "good-faith" protection for customs officers who violate the law in the course of carrying out their duties. If enacted into law section 141 would prohibit those affected by such lawbreaking from seeking damages from the guilty parties.

Working men and women are punished every day in Idaho for alleged violations of

Federal laws they didn't even know existed. Sadly their "good-faith" carries no weight with the enforcement bureaucracies of the Federal Government. The officials who enforce these laws should be held to the same standards. Granting Federal bureaucrats special exemptions from the law is to establish an artificial separation of the government from the governed. Retaining the right to sue government officials for violations of our rights is the best defense imaginable for ensuring that those rights are protected in the first place. I cannot vote to remove this protection from my constituents.

I welcome the announcement by Chairman THOMAS that he will be bringing this bill up under regular order in the near future. I look forward to working with him and Members from both sides of the aisle to improve this bill and improve our Customs Service.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 3129, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. McDERMOTT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules.

Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

H.R. 3008, by the yeas and nays;

H.R. 3129, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second vote in this series.

TRADE ADJUSTMENT ASSISTANCE PROGRAM REAUTHORIZATION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3008, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 3008, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 420, nays 3, answered "present" 1, not voting 9, as follows:

[Roll No. 477]

YEAS—420

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—3

Abercrombie
Flake
Paul

ANSWERED "PRESENT"—1

Filner

NOT VOTING—9

Brown (SC)
Clyburn
Cubin
Hostettler
Meek (FL)
Morella
Quinn
Roukema
Young (AK)

□ 1148

Mr. TAYLOR of Mississippi changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to reauthorize the trade adjustment assistance program under the Trade Act of 1974, and for other purposes.".

A motion to reconsider was laid upon the table.

Stated for:

Mr. BROWN of South Carolina. Mr. Speaker, on rollcall No. 477 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. ABERCROMBIE. Mr. Speaker, in the matter of rollcall 477, H.R. 3008, I was recorded as voting "no" when I intended to vote "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on the motion to suspend the rules on which the Chair has postponed further proceedings.

CUSTOMS BORDER SECURITY ACT OF 2001

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3129, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 3129, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 256, nays 168, not voting 9, as follows:

[Roll No. 478]

YEAS—256

Aderholt
Akin
Armey
Bachus
Baird
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berry
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Knollenberg
Kolbe
LaFalce
LaHood
Langevin
Largent
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Matheson
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Oxley
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Wu
Young (FL)

NAYS—168

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldacci
Baldwin
Barcia
Barrett
Becerra
Berkley
Berman
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Condit
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gutierrez
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Rahall
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skelton
Slaughter
Solis
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wynn

NOT VOTING—9

Brown (SC)
Clyburn
Cubin
Hostettler
Kirk
Meek (FL)
Quinn
Roukema
Young (AK)

☐ 1159

Mr. CROWLEY changed his vote from "yea" to "nay."

Mr. ISRAEL changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. BROWN of South Carolina. Mr. Speaker, on rollcall No. 478 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. KIRK. Mr. Speaker, on rollcall vote 478, I would have voted "yea."

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3008 and that, as a matter of notice, H.R. 3129 will reappear on the floor under a rule.

The SPEAKER pro tempore (Mr. ISAKSON). Is there objection to the request of the gentleman from California?

There was no objection.

BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2001

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 306 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 306

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3005) to extend trade authorities procedures with respect to reciprocal trade agreements. The bill shall be considered as read for amendment. The amendment recommended by the Committee on Ways and Means now printed in the bill, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS) pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 306 is a closed rule providing for consideration of H.R. 3005, the Bipartisan Trade Promotion Authority Act of 2001, with an hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The rule waives all points of order against consideration of the bill.

Additionally, the rule provides that the amendment recommended by the Committee on Ways and Means now printed in the rule, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted.

Finally, the rule provides for one motion to recommit with or without instructions.

Before I begin, there are many people responsible for this bipartisan compromise legislation on the floor today. The leadership of this House has been remarkable in educating Members and in reaching out to address their concerns. The gentleman from California (Mr. DREIER), the gentleman from California (Mr. THOMAS), and the gentleman from Illinois (Mr. CRANE) have been the driving force behind free trade; and I thank them and our colleagues on the other side of the aisle, the gentleman from California (Mr. DOOLEY), the gentleman from Louisiana (Mr. JEFFERSON), and the gentleman from Tennessee (Mr. TANNER), for their diligence and their perseverance.

Mr. Speaker, there was a time when this country could boast that we were the world leader in shaping the rules for international trade, globalization and open markets. Sadly, this is no longer the case.

There are more than 130 regional trade agreements in force today, but only three including the United States. To our south, Mexico has trade deals in at least 28 countries, while across the ocean, the European Union has trade agreements with 27 other countries.

In 1999 one-third of the world exports were covered by EU agreements. Only one-tenth of the world exports were covered by U.S. agreements, sending dollars and jobs to competitors that should have been in the United States.

We are the most competitive Nation in the world, yet we rank 26th in the world in bilateral investment treaties.

We have nearly completed the first year of the 21st century, the new millennium; yet America's trade agenda is still puttering along in a slow lane while our trade partners around the globe speed past us, and every day we get left behind, and our economy and our families are hurt even more.

Each day that America delays, other countries throughout the world are entering into trade agreements without us, gradually surrounding the United States with a network of trade agreements that benefit their workers, their farmers, their businesses and their economies at the expense of us. In short, our trading partners are writing the rules of world trade without us.

How important is this to American jobs and the American economy?

In my State, international trade is a primary generator of business and job growth. In the Buffalo area, the highest manufacturing employment sectors are also among the State's top merchandise export industries, including electronics, fabricated metals, industrial machinery, transportation equipment and food products. Consequently, as exports increase, employment in these sectors will also increase.

From family farms to the high-tech start-ups to established businesses and manufacturers, increasing free and fair trade will keep our economy going and create jobs in our community.

With America at war, now may seem like the time for our country to close its borders and discourage global interaction. Nothing could be further from the truth.

Never has it been more apparent that we need to enhance and strengthen friendships around the world, and what better way to build coalitions than with free trade.

In the 1960 Democratic platform, President Kennedy put it best in the following message that is relevant both then as it is now. World trade is more than ever essential to world peace. We must therefore resist the temptation to accept remedies that deny American producers and consumers access to world markets and destroy the prosperity of our friends in the non-Communist world.

We can neither deny nor ignore the correlation between peace and free trade.

Not only does the war on terrorism influence the need for free trade, but the anticipated economic opportunities for American workers, farmers and companies will provide a much needed boost to our uncertain economy.

Just look at the facts. One in 10 Americans, nearly 12 million people, work at jobs that depend on exports of goods and services. American farmers exported $51 billion in agricultural products and crops last year that supported 750,000 jobs.

In New York alone, my home State, the number of companies exported increased 61 percent from 1992 to 1998. Currently, the wages of New York workers in jobs supported by exports are 13 to 18 percent higher than the national average. The imports provide consumers and businesses in New York with wider choice in the marketplace, thereby enhancing living standards and contributing to competitiveness.

The world is not waiting while the United States putters along. Trade Promotion Authority offers the best chance for the United States to reclaim leadership in opening foreign markets, expanding global economic opportunities for American producers and workers, and developing the virtues of democracy around the world.

The President has said open trade is not just an economic opportunity, it is a moral imperative. The prosperity and integrity of global democracy is at stake, and it is incumbent upon us to pull into the fast lane in order to reap the benefits of free trade.

What we ask for today is nothing new. Until its expiration in 1994, every President from Richard Nixon through Bill Clinton has enjoyed the right of Trade Promotion Authority. This President deserves the same right.

I strongly urge my colleagues to do the right thing for America. Support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS), my good friend, for yielding me the customary 30 minutes.

Mr. Speaker, at the risk of being the House contrarian this morning, I again rise in strong opposition to this unfair rule and equally strong opposition to the underlying bill.

At the outset, let me explain the procedural problems with this rule that was reported late last night. Recently, we have heard so much about the new spirit of bipartisanship that is flowering throughout D.C. Unfortunately, the majority members of the House Committee on Rules must not have gotten this memo.

Mr. Speaker, I remember well the times that Republican after Republican came to this floor to decry so-called unfair, heavy-handed tactics that my party used when we held the majority in this Chamber. At that time, Republicans were outraged and incredulous each time an important bill came to the House floor under a closed rule which prohibited serious debate.

This is the exact rule that the Republicans would like us to work under today. So I say to my Republican colleagues, where is the outrage? Where is the disdain? My guess is that the disdain and outrage are packed and ready to go on 4 o'clock planes that they are trying to catch today. What other reason could there be for closing off such important debate?

Let there be no mistake, Mr. Speaker. The bill that we consider today will have profound and long lasting effects on every State in this great country and on citizens throughout the world, and instead of allowing a fair and open debate, the majority is trying to squelch the voices that they wish not to hear.

No amendments or substitute are permitted to this bill. The gentleman from New York (Mr. RANGEL), one of the most respected and distinguished Members of this body, a Member who has served nearly 27 years on the House Committee on Ways and Means, who knows as much about trade as anybody in the House of Representatives, will not be permitted to offer an amendment or substitute to this bill. Frankly, this is not simply unfair; it is offensive.

Moreover, there were a number of other Members who came to the Committee on Rules late last night to ask that their amendments be permitted to be offered. They were all denied their request.

What are Americans being denied the right to hear about? One example, the gentleman from Oregon (Mr. WU), our thoughtful colleague, would have liked to offer an amendment making human rights considerations a principal objective of our trade compacts. If this rule passes, the gentleman from Oregon (Mr. WU) will not be able to offer his commonsense amendment.

Another example, the gentlewoman from California (Ms. WATERS) had sensible amendments related to some of our neediest trading partners in Africa. Like the Wu and Rangel amendment, the American people will be denied the right to hear the gentlewoman from California's amendment.

How the majority is not embarrassed to bring such a rule to the House floor is simply beyond my comprehension.

Setting aside for a moment the gross problem with this rule, there are significant concerns related to the underlying bill.

Mr. Speaker, I am disappointed that the Trade Promotion Authority, formerly Fast Track, legislation completely ignores the legitimate concerns many people have raised about the negative impact of current trade policies on working families, the environment, family farmers, consumers, small- and mid-sized businesses, people of color and women here in the United States and around the world.

At a time when more than 700,000 layoffs have been announced since September 11, more than 2 million Americans have lost their jobs this year; and on the heels of the largest bankruptcy filing in the history of our country, where thousands more will soon receive a pink slip, the other side of the aisle is coming to the floor today to lay the foundation for the loss of hundreds of thousands of jobs by more Americans in the immediate future.

To top it off, just a short while ago this body reauthorized funding for trade adjustment assistance in anticipation of imminent job losses from future trade agreements.

□ 1215

Talk about a self-fulfilling prophecy. You see, Mr. Speaker, today we are not voting on one trade agreement versus another. Rather, we are voting on giving the President open-ended authority to go ahead and commit the United States to trade agreements without allowing Congress substantive consultation on the specifics of the agreement. To provide this open-ended authority to the President without requiring that environmental and labor standards be included in any trade agreement is nothing short of hammering another nail in the coffin of hundreds of American industries nationwide.

I support free trade. I was told last night in the Committee on Rules meeting that the manager's amendment will protect agriculture; that it will protect sugar in my State. Well, it did not. I have in the past, and will again, support free trade. However, any free trade agreement must be a fair trade agreement.

It is outrageous to expect the American agricultural industry to compete with South American, Central American, or Asian agricultural industries who are not required to pay their workers a minimum living wage and are not held to the same environmental standards as farmers here in the U.S.

Don't believe me? Look at what NAFTA did to my home state of Florida, specifically the agriculture industry. From citrus to sugar and from rice to tomatoes, Florida's agricultural industry has lost thousands of jobs as a direct result of NAFTA. While Mexican farmers have profited, companies have closed and Florida no longer have jobs.

The President has made it no secret that the first thing he will do with fast track authority is to move forward with the Free Trade Area of the Americas agreement. The FTAA agreement, as currently written, could result in Florida's citrus and sugar industries, along with fruit and vegetable industries nationwide, ceasing to exist. South American farmers who pay their workers pennies and do nothing to preserve the land they grow or the environment they pillage, could wipe out the U.S. agriculture industry before we know what hit us.

As I mentioned at the outset and for the reasons just explained, I oppose adoption of this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules, and an architect of this important legislation.

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule. This is a fair rule. Yes, it is a closed rule, but this rule is about procedure. My colleagues are either for granting the President Trade Promotion Authority or they are against granting the President Trade Promotion Authority. So I do not know what all this argument is about all these other issues.

Yes, we have worked long and hard to fashion a package. The gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, and a wide range of people on both sides of the aisle have worked on this issue, and now we have come down to the point where Members of Congress will have to make a choice. They will either vote "yes" to give the President authority or they will vote "no," and that is what this rule provides us with the opportunity to do.

It is very fair, it is very balanced, and it is, quite frankly, the way rules that have addressed trade issues in the past have been addressed. So this is nothing new. When our friends on the other side of the aisle, Mr. Speaker, were in the majority, this is exactly the way they moved the rules dealing with trade issues. And so we have learned from you all so well. So we are following your model to a T here, and thank you very much for setting the example for us.

Mr. Speaker, we all know that last week we learned with absolute certainty that our economy is faced with economic recession. It is a great difficult time for many of us. Many of our fellow Americans have been laid off. There is a great deal of suffering taking place. We are all aware of that, and we know it was dramatically exacerbated following September 11. What we are about to do, Mr. Speaker, I believe, may be one of the most important things that can help us turn the corner for those Americans who are suffering today.

What is it that trade agreements mean for America? They will provide and have traditionally provided targeted tax relief to America's working families by giving them access to high-quality products at low prices. They create better, higher-paying jobs by prying open new markets for America's world-class goods and services around the world. And we know that those involved in the area of exports traditionally earn between 13 and 18 percent higher income levels than those goods that are produced simply for domestic consumption here in the United States. So by prying open new markets, we create opportunities for higher wage rates for American workers.

They also provide that very important and powerful link between nations who want to participate peacefully in the global marketplace. And, Mr. Speaker, I believe that every shred of empirical evidence that we have leads us to conclude that American exports and American trade provide us the opportunity to do one of the most important things that we can, and that is export our western values throughout the world.

We know that as we deal with this challenging war against terrorism, trying to expand economic opportunity so that people have choices will go a long way towards dealing with this issue. The global leadership role that the

President has played, especially since September 11, has been heralded by Democrats and Republicans alike. And I believe that this tool which we are on the verge of giving him will be able to go a long way towards effectively dealing with this issue.

This is a positive, very positive rule. It is a good bill. My colleagues should join in strong support of it, and I thank my colleague for yielding me this time.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentleman from New York (Mr. RANGEL), the dean of the New York delegation and a 27-year-member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I take the floor in opposition to the rule. And I regret that the distinguished chairman of the committee has left the floor, because I do believe that, being in the minority, that the Committee on Rules has been extremely fair in giving Democrats an opportunity, not to pass anything and not to get any votes from them, but at least to give us the opportunity as the minority to have our views heard.

This bill has been called a bipartisan bill. And you can call it bipartisan all day and all night, this year and next year, but you can put wings on a pig and he cannot fly. This is not a bipartisan bill. Bipartisan means, to the chairman of the Committee on Ways and Means, walking down the hall with RANGEL and giving him an opportunity to talk about trade. If I miss that, then I miss the bipartisanship.

This was never discussed in the subcommittee, it never was discussed in the full committee, never discussed with Democrats, but there were meetings with two Democrats with the chairman. And he concluded after those conversations that ended compromise, that ended discussion, and that was the end product.

Now, we are used to that on the Committee on Ways and Means, because my chairman truly believes that he was violated by former chairman Dan Rostenkowski, and he is going to spend the rest of his legislative career making us pay for it. That is okay. We all understand that and we will work with it. But we always thought the Committee on Rules was different. We always thought the Committee on Rules knew that they were in the majority, the Republicans; they had the votes, so they at least would let us have an opportunity to express ourselves.

We know that we have the constitutional responsibility to deal in trade, but we know it is the President, like the head of any State, that has the responsibility to do it. But when you delegate your responsibility, there should be some checks, there should be some balances, there should be some credibility as to what you are doing.

We know Republicans are concerned about labor standards. They do not support slave labor and child labor. They would like people to organize. We believe that we would not want foreigners to have a better opportunity in investment than Americans. We believe Republicans truly believe that the Congress should not just be consulted but should protect its constitutional right to make certain that foreign organizations do not destroy the laws that we have.

But just to be so afraid that we will be heard because you do not have the votes or you have not bought enough votes or you do not have enough vehicles to talk about what you are going to give in some other field that you do not even give us a chance to tell you that we believe let us have TPA, let us have fast track, but we think there is a better way to do it.

Why would you not give the gentleman from Michigan (Mr. LEVIN) an opportunity to show you what we have worked on? Is he someone that is a protectionist; someone that stood up to the United Auto Workers in Detroit; someone that we would not have had a bill with China had he not worked with the gentleman from Nebraska (Mr. BEREUTER)? You know it and I know it.

What about the gentleman from California (Mr. MATSUI)? He worked so hard for NAFTA, the North American Free Trade Agreement. Who can deny that this man has dedicated his life to free trade?

What about the gentleman from Washington (Mr. MCDERMOTT)? He will not be able to be heard on the bill that we crafted; someone that opened the doors for trade with sub-Saharan Africa?

Are you so afraid of another view, are you so frightened that we will be heard and that you would lose some of the votes?

And then this terrorism thing. How dare people say that we are not fighting the war against terrorism because we do not do what the gentleman from California (Mr. THOMAS) says that we should do. Fighting the war against terrorism, the President says, requires a bipartisan approach. It means that it is not chairmen who run and rule; it is bipartisanship, Democrats and Republicans working together, working their will, and presenting something to us.

But I tell you this: If you really believe that doing the right thing with unemployment compensation and doing the right thing with health, when you have not done the right thing all year, that you are going to pick up some votes in doing it, and for those people who do not like the bill but are concerned about the crises and the hardships of people who have lost their jobs, and they are going to take a promise from the majority to trust them, vote for this bill and they will do the right thing for health insurance, if you believe that, I have a great bridge in Brooklyn I would like to discuss with you.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume to comment that listening to the comments of the dean of the delegation from New York, and listening to his remarks as the ranking member of the Committee on Ways and Means, ranking minority member, there are a lot of views to life. I have this glass of water. Some would say that it is half empty. I prefer to look at it as half full.

I do not know that any of us totally have an exact definition of what bipartisanship is. This is an up-or-down vote. This is not a Republican or a Democrat issue. We are either for free and fair trade and giving the President the authority to enter bilateral agreements or we are not. That is what that rule is about, to bring the bill to the floor and vote it up or down.

I look at it as bipartisanship, the same way I look at this half full glass of water that is on this table. There are six sponsors, three Democrats, three Republicans. About as bipartisan as I have seen anything be around here, with the gentleman from California (Mr. DREIER), the gentleman from California (Mr. THOMAS), the gentleman from Illinois (Mr. CRANE), the gentleman from California (Mr. DOOLEY), the gentleman from Louisiana (Mr. JEFFERSON), and the gentleman from Tennessee (Mr. TANNER).

I hope that the Members, as they come and listen to this debate and as they cast their vote, will see that it is, once and for all, a simple rule that gives us the opportunity to vote for a decision to give the promotion authority to the President and have free and fair trade or we do not.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. DIAZ-BALART), a member of the Committee on Rules.

Mr. DIAZ-BALART. Mr. Speaker, I thank my friend from New York for yielding me this time.

Mr. Speaker, this is a crucial moment, a crossroad for democracy in the Western Hemisphere. I recognize that there are legitimate concerns anytime Congress cedes authority granted to it by the Constitution. I, in fact, opposed granting President Clinton this authority. I did not trust him. But I trust President Bush. I voted last night in the House Committee on Rules to grant the President Trade Promotion Authority, and I will do so today as well on the House floor.

We have a unique opportunity to strengthen democracy in the Western Hemisphere. Nations in this hemisphere are facing numerous challenges that threaten their fledgling democracies, including narco-trafficking and terrorism. One of the surest ways to support democracy in our hemisphere is by facilitating the emergence of a common market of the Americas, the free trade area of the Americas, the FTAA. I strongly support free trade among free peoples; free trade among free peoples is good economically and it is ethical.

An FTAA that incorporates a strong, enforceable democracy requirement is the best hope for protecting unstable democracies and for exporting it to where tyranny now reins.

The European Community, now the European Union, insisted on democracy as a requirement for membership, and that contributed directly and effectively to the democratization of Spain and Portugal after the deaths of dictators Francisco Franco and Antonio de Oliveira Salazar in the decade of the 1970s.

The Declaration of Quebec City of April 2001, from the most recent Summit of the Americas, the process, Mr. Speaker, leading to the FTAA, made a similar commitment to democracy: The maintenance and strengthening of the rule of law and strict respect for the democratic system are, at the same time, a goal and a shared commitment and are an essential condition of our presence at this and future summits, all of the democratically elected heads of State in the hemisphere stated in April in Quebec. Consequently, disruption of the democratic order in a state of the Hemisphere constitutes an insurmountable obstacle to the participation of that state's government in the Summit of the Americas process."

□ 1230

The Summit of the Americas process is clearly headed in the right direction, but strong leadership by the United States is needed to make democracy in the entire hemisphere a permanent reality. Without Trade Promotion Authority, President Bush would not be able to achieve an FTAA with a strong democracy requirement. Accordingly, it is crucial that we pass Trade Promotion Authority for the President today.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I remind the gentleman from Florida (Mr. DIAZ-BALART) that certainly he remembers after NAFTA we lost considerable jobs in the State of Florida; and with the Free Trade Area of the Americas agreement, the likelihood is that can occur again.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, the notion that the U.S. has been standing still in trade is nonsense. Africa, CBI, Jordan, China, NTR, Cambodia, in the last few years, indeed, globalization is here to stay. The main issue today is not free trade versus protectionism. That is an old label for a new bottle of issues.

This is primarily a debate among supporters of expanding trade, whether to shape trade policy to maximize its benefits and minimize its losses. Supporters of the Thomas bill believe no. Essentially more trade is always better whatever the term, so they are comfortable with providing vague negotiating objectives, running away from issues like labor and the environment and leaving Congress in essentially the role of a consultant.

This is not time for a one-dimensional approach. It is a new world, new nations, expanding issues. For example, on core labor standards, the Rangel approach is clear and effective, a principal negotiating objective, increasingly enforcing ILO core labor standards. Thomas, each nation is essentially left on its own no matter how inadequate its laws. And the manager's amendment that was suddenly introduced last night only makes it worse, leaving a weak provision essentially powerless in its enforcement.

On investment, the Rangel bill is clear and unambiguous. No greater rights for foreign investors. The Thomas bill dances around this issue.

Then on the role of Congress, those of us who see the need to shape trade want to ensure an active and ongoing role for Congress. This is a necessary corollary of the fact that trade is more important than ever. The Thomas bill only enhances the role of Congress as a consultant, tracking the Archer-Crane language of 3 years ago.

The manager's amendment tried to beef this up by saying any Member can put forth a resolution to withdraw Fast Track; but it only reaches the floor if it goes through the Committee on Ways and Means and the Committee on Rules.

In this and so many other ways, the Thomas bill sometimes talks the talk, but does not walk the walk. We can and must do better: expand and shape trade. Fast Track authority is a major delegation of authority. We should do it the right way. Thomas does not do so. Rangel does. Vote "yes" on Rangel and vote "no" on Thomas.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Speaker, I rise today in strong support of the Bipartisan Trade Promotion Authority Act, and this is why: 95 percent of the world's population is outside of the United States. It is critical that we give the President the tools he needs to open up markets all across the world for our goods and services. By increasing America's export markets, we will increase the number of high-paying high-tech jobs in the United States.

A good example of that is the Recoton Corporation in central Florida, which is the Nation's largest consumer electronics manufacturer in the area of car stereo speakers. Recoton's president, Mr. Bob Borchardt, is also the chairman of the Electronics Industry Alliance.

Mr. Borchardt tells me that only 10 percent of his company's sales are outside of North America, and that passing Trade Promotion Authority will help open up foreign markets and will result in his company creating many new jobs in central Florida.

Mr. Speaker, now is not the time to isolate America. Let us pass TPA and give our economy a much-needed boost.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3½ minutes to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Speaker, I rise today as a former technology and trade attorney. I have negotiated international trade agreements. I am in favor of international trade, and we do need to build a stable consensus in favor of international trade. But from my personal experience, I know that there are winners and there are losers in trade; and we must work to ensure, to ensure, that this rising tide of international trade truly lifts all boats instead of leaving some behind. This requires meaningful protection of the environment, of labor rights, and most importantly to me, of human rights. This bill, the Thomas bill, does not do so. I reluctantly oppose the bill.

Mr. Speaker, we proposed amendments to improve this bill last night. They were all rejected by the Committee on Rules. Therefore, I strongly oppose the rule under which this bill is considered.

With respect to the environment, I call Members' attention to page 18, section 2(b)(11)(B) of this bill. It constitutes a huge loophole. This bill is literally a Trojan horse with respect to the environment. There is no meaningful protection for the environment in this bill. The manager's amendment exacerbates this problem, and I quote from the manager's amendments, "No retaliation may be authorized based on labor standards and levels of environmental protection." I think the language speaks for itself. This bill is a Trojan horse with respect to the environment.

With respect to some other basic rights, such as Americans knowing what they eat, I call Members' attention to page 14, section 2(b)(10)(viii)(II). This takes away our right to know what we eat. The amendment that the gentlewoman from California (Mrs. BONO) passed earlier this year would be eviscerated by this particular provision. The chairman would undoubtedly say it would be based on good science. I think this would be the kind of science that we get from the cigarette companies who have yet to find a real scientific link between cancer and smoking.

Finally, my core issue of human rights. Who will speak for those who are in jail or who are intimidated into silence if we do not? There are temporary trade advantages in suppressing human rights. Mussolini made the trains run on time, and making the trains run on time can temporarily benefit an economy. But in the long term, democracy and human rights are both good for individuals and they are good for business because complex societies, it is like geology when tectonic plates come against each other: that energy can be released in little earthquakes that are barely felt. We call those elections. Or we can permit those plates to lock up and have cataclysmic earthquakes. We call those revolutions. Revolutions are always bad for business.

Good human rights is good business for the long term, but there are temporary advantages to be had by the suppression of human rights. When we have a bill which promotes trade and protects human rights, I will support that bill. That day is not today.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT), who has worked diligently to help make this legislation come before the House.

Mrs. BIGGERT. Mr. Speaker, I rise in support of the rule on H.R. 3005 to grant Trade Promotion Authority. Few are the occasions on which Members of this body have the opportunity to shape the course of our long-term economic future as we have on this TPA vote today.

Without TPA, America will be forced onto the sidelines, watching as other nations form agreements which shut our products and services out of the most promising new markets. Without TPA, America will see its role as world leader transformed into world follower. Even our most innovative and successful companies will find themselves making a back seat to foreign competitors.

What is at stake here are the lives and livelihoods of current and future generations of American workers. Their productivity and creativity are second to none, and yet second to all this is what we will be if we tie the hands of our President. Let us untie the hands of the President, allowing his negotiators to bring home the best deals for America. I urge Members to support the rule and TPA.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, this is a very critical issue. We are arguing the rule. I want both sides to know these are the rules of the Constitution of the United States. Article 1 section 8 is very clear. In the last 20 years this Congress has given up its powers to the executive branch of government. We have had folks on the other side talk about it. It is very clear what article 1 section 8 says about what our responsibilities are.

In the movie "Thelma and Louise," Thelma turns to Louise and says, "Don't settle." We are settling here. We are settling for an erosion not only of the Constitution of the United States, an erosion of labor rights, an erosion of environmental security, an erosion of our trade imbalance which has risen to $435 billion, a $62 billion erosion according to NAFTA itself. We are making a big mistake if we vote "yes."

This is not a question of to trade or not to trade; this is a question of having the right rules at the right time. I ask Members to read article 1 section 8. Did constituents send Members here to give up their responsibility to the President of the United States on trade issues? Then change the Constitution. Change the Constitution is my recommendation if that is what Members wish to do.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in listening to that debate, I would just reflect that there was a time when the Nation could boast that we were the world leader in shaping those rules for international trade and globalization and open markets. Sadly, this is no longer the case.

In my opening remarks I also reflected that each President from President Nixon to President Clinton had this authority, and that it was important to look at giving our sitting President the same authority, for the simple fact that while we would give the ability to negotiate, the gentleman from New Jersey (Mr. PASCRELL) would know full well that this Congress, and future Congresses, under its authority that would be given to the President, would cast a vote for each and every agreement as our Constitution protects, and any rules that may be there. It is clear that this Congress will ratify any of those agreements. The authority would allow the President to enter into those bilateral agreements.

Mr. Speaker, we are behind. There are 130 regional trade agreements in force today with only three in the United States. Mexico has 28. The European Union has 27 with other countries. It is important that we move forward to protect our jobs and grow our jobs and treat the opportunity of the global economy as the United States marketplace.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

□ 1245

Mr. PENCE. Mr. Speaker, I thank the distinguished gentleman for his leadership and for yielding me time, and rise in strong support of the rule and of the Bipartisan Trade Promotion Authority Act today.

Mr. Speaker, I believe the question before this House, and, in many ways, before America today, is who do you trust? Do you trust the shuttered version of America that says that we will keep our own rules and we will keep to ourselves and we will maintain our place in the world, or do you trust the American worker and do you trust the American President at such a time as this?

Well, I stand today to say that I trust the American worker. The great American companies, large and small, when given an opportunity to compete in the world, not only, Mr. Speaker, do we compete, but we win, and we win consistently.

We know in Indiana that trade means jobs, $1.5 billion from this relatively small midwestern State in agricultural goods alone last year, supporting 24,000 jobs on and off the farm. And it is not only good for big business, as some on the other side might say. Ninety percent of exports in this country come from companies with less than 500 employees, and for every $1 billion in increased exports, Mr. Speaker, we create 20,000 new jobs here in America that pay an average of 17 percent more than similar jobs in the domestic economy.

I trust the American worker to compete and to win. But I also rise today to say that I trust the President. Along with more than 80 percent of the American people today, I trust President George W. Bush to put America's interests first in the world, to put American jobs, to put America's security, to put American agriculture, manufacturing, steel, all of the rest on the international negotiating table first.

I believe this President, particularly this fall, has earned our trust and earned our respect, and I urge all of my colleagues, trust the American worker, trust the American President; vote yes on the rule and the bipartisan Trade Promotion Authority.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 15 seconds to remind the gentleman from Indiana (Mr. PENCE) that American workers cannot buy food with trust and cannot pay mortgages with trust. Certainly none of us distrust the President. I trust the American worker, but the American worker has a problem having jobs under the lack of consultation that we provide here.

Mr. Speaker, I yield 3 minutes to the distinguished ranking member, the gentleman from Texas (Mr. FROST), a person that has done an outstanding job not only on trade, but on the Committee on Rules, in trying to provide fair and open rules for all the Members of this body.

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, since September 11, the world has watched this Nation, from the President and the Congress to the U.S. military abroad and the American people here at home, pull together to wage war on terrorism.

Unfortunately, America's desperately needed economic recovery has been a different matter. Our economy has been in recession since March, long before September 11, according to the experts. Millions and millions of people are unemployed across the country. In the past few months alone, hundreds of thousands of hard-working Americans have lost their jobs.

Meanwhile, just months after Republicans passed budget-busting trillion dollar tax breaks, the administration is now admitting that the surplus it inherited is gone and America now faces years of growing debt, threatening priorities from Social Security and Medicare to homeland security and affordable health care.

How have Republican leaders responded to this problem? With billions of dollars in tax breaks for big corporations, leaving just crumbs for laid-off workers. And today, Mr. Speaker, Republican leaders are using the House to play politics for the 2002 elections. Instead of helping American workers, Republican leaders are trying to help their own fund-raising.

Do not take my word for it, Mr. Speaker. The Chairman of the Republican Campaign Committee spelled it out in the Washington Post a few days ago. For Republican leaders, he said, this Fast Track bill is about fund-raising. It does not matter, he bragged, whether this bill passes or not. Just as long as they can use it to help the Republican fund-raising, then they will be happy.

So Republican leaders have written a Fast Track bill that shortchanges working Americans from coast to coast. They have written a bill that does not protect the environment, and they have written a bill that represents a dereliction of duty by Congress, an abdication of our responsibility to protect the people we represent on issues from food safety to telecommunications.

Mr. Speaker, Democratic leaders on trade fought valiantly for a bipartisan approach that protects American workers. The gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means, and the gentleman from Michigan (Mr. LEVIN), the ranking member on the Subcommittee on Trade, tried over and over to work with Republican leaders, but their overtures were rejected because Republican leaders wanted a political issue, not a bipartisan bill. And when the gentleman from New York (Mr. RANGEL) and the gentleman from Michigan (Mr. LEVIN) wrote a Democratic substitute, Republican leaders refused to even let the House vote on it. Thus, Mr. Speaker, did Republican leaders drive a stake into any hope of bipartisanship on trade. Indeed, there should be no doubt about how we got to this point. Republican political gamesmanship has put Fast Track trade authority in jeopardy.

Mr. Speaker, the American people deserve better. Reject this rule and force Republican leaders to sit down and work with Democrats. That is the only way Fast Track will ever get the broad bipartisan support it needs, and it is the only way we will ever achieve fair and free trade that benefits American workers.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I thank the gentleman from New York for yielding me time.

Mr. Speaker, I rise in support of this rule, because I support lower taxes on working Americans. Tariffs are essentially taxes that foreign countries impose on our products. You pay them whenever you pay taxes to support unemployment benefits for American workers, because foreign taxes that discriminate against the United States' goods put American workers out of work.

Millions more Americans could go to work in manufacturing and in services if tariffs and trade barriers imposed by foreign countries were reduced or eliminated. Of course, America's tariffs on foreign goods and our trade barriers on goods and services are essentially zero on most of what we consume in this country, so trade negotiations aimed at reducing tariffs and trade barriers work strongly in our favor. They mean big gains for American consumers and American workers.

There are many colleagues who have concerns about how future trade agreements will address issues such as sovereignty, environmental and labor protections, dumping and other unfair trade practices. But under this legislation, Congress will get to vote on any final trade agreement before it would become binding on the United States.

This legislation simply authorizes President Bush to negotiate in America's behalf, an authority that Congress has granted to every President from Nixon to Clinton.

Please vote "aye" on this rule to bring Trade Promotion Authority to the floor, so that we can give President Bush and America a chance to cut foreign taxes and help American workers and consumers.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1 minute to my very good friend, the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, Fast Track trade authority is an extraordinary concession of congressional authority in four critical areas to regulate and oversee the terms of trade. One vote, 62 pages, no amendments, 2 hours of debate.

Now, if the United States had a successful trade policy giving this President, or any President, a blank check to perpetuate and expand NAFTA into the FTAA and enhance the powers of WTO, well, that might make some sense. But the current system is failing miserably. We are not talking about that here on the floor today, are we?

Last year a record $435 billion trade deficit, 4.5 percent of our GDP. Many economists say that is unsustainable. 1994 to 2000, accelerated job loss due to trade. The current system discriminates against American labor, reduces living wages, safe working conditions, eviscerates environmental protections and consumer protections. But the gentleman from New York would somehow say it is necessary to compete in the world economy.

President Clinton negotiated 300 separate trade agreements: two under Fast Track trade authority, 298 without it. And, unlike my colleague from the other side who preceded me and said he opposed this under the last President but will vote for it now, I am going to vote on policy and principle, not politics and personalities. It was a bad idea for President Clinton; it is a bad idea for George Bush.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I rise in strong support of the rule and Trade Promotion Authority. I wish that opponents of free trade had as much faith in our workers as our military. As our forces fight and win in Afghanistan, opponents of free trade say Americans cannot win in business. Americans are not losers. We are winners, and we need only a chance to compete to win.

TPA will also lower international import taxes on Americans. As we start holiday shopping, we pay import taxes on backpacks, shoes and other clothes for the kids. TPA lowers these taxes, and, in sum, will put $1,300 in the pockets of American families.

If you like paying import taxes to other countries, vote against free trade. If you think Americans can compete and win, support Trade Promotion Authority for our President.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1 minute to my very good friend, the gentleman from Ohio (Mr. BROWN), the former Secretary of State of the State of Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from Florida for yielding me time.

Mr. Speaker, 2 months ago Republican leadership and the gentleman from California (Mr. THOMAS) promised us if we voted for money for New York City, then they would help unemployed workers. They never did.

Then Republican leadership and the gentleman from California (Mr. THOMAS) promised us if we bailed out the airlines, then they would help unemployed workers. But they never did.

Then Republican leadership and the gentleman from California (Mr. THOMAS) promised if we passed the stimulus package and gave huge tax cuts to the biggest corporations in America, then they would help unemployed workers. But they never did.

Now the gentleman from California (Mr. THOMAS) and Republican leadership are promising us if we vote for

Trade Promotion Authority, then they will help unemployed workers.

Mr. Speaker, when will we ever learn?

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. CHAMBLISS).

Mr. CHAMBLISS. Mr. Speaker, I rise in strong support of this rule and in support of the underlying bill, but I do so only after a couple of concerns that I have had with respect to our trade policy in this country have been addressed. Those two concerns are trade issues dealing with agriculture and trade issues dealing with the textile industry.

American agriculture and the American textile industry have been the whipping boys of previous trade agreements. We have been in difficult times in agriculture all across this country, but I am very satisfied with the language that has been put into this bill with respect to American agriculture and how our farmers are going to be treated. That language says that the House Committee on Agriculture and the Senate Committee on Agriculture are going to be direct participants in the discussions about issues relating to agriculture with respect to future trade agreements under this Trade Promotion Authority. That is the first step in the right direction that we have seen for American agriculture when it comes to trade in decades.

With respect to the textile industry, again, we have seen jobs moved to the south, jobs that cannot be replaced in the American workplace. We have never had the issue of textiles addressed in our trade agreements in a positive manner, but yesterday at a meeting at the White House, the President made a personal commitment that he is going to be sure that the textile industry does get fair treatment in any negotiated agreements from a trade perspective under this authority that he is asking for.

That is all we can ask. If we do not have that, if we do not have that, where is the American textile industry going today? It is going to continue to go south, and we do not need that to happen.

We have had thousands of jobs in my great State lost, particularly in my district, that have been lost over the last 7 to 10 years in the textile industry. We cannot afford any more of that. The way we ensure that does not continue to happen is that we have positive trade agreements and provisions in those trade agreements that are positive with respect to textiles and agriculture.

Mr. Speaker, I urge strong support of the rule and I urge support of the underlying bill.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1 minute to the very thoughtful new Member of Congress, the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Speaker, I rise today in opposition to the rule. Fast Track trade authority affects every single American, and they probably do not even know it. We import millions of tons of food into this country. That is a lot of food. In 1993, 8 percent of imported fruits and vegetables were inspected.

□ 1300

Since NAFTA, the number is now .7 percent. That is a 91 percent decrease in the inspections of fruits and vegetables that our children consume every day.

Minnesota families believe that meats, fruits and vegetables that they buy comply with our food standards. In these trade agreements there are no food standards; there are none. We buy strawberries and grapes tainted with pesticides that are illegal to use in this country. Congress passes food safety standards and the President's negotiators trade those standards away because, in their eyes, food safety is a barrier to free trade.

Mr. Speaker, this rule makes in order an up or down vote on Fast Track legislation that would forfeit all of the authority of Congress to directly participate in international trade agreements. Congress needs careful, deliberate negotiations on future agreements, not a fast track.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today in support of the rule and of this bill.

Just to give my colleagues an idea of how driven and dependent our national economy is on international trade, one need not look any further than my home State of New Jersey. Last year, New Jersey posted the eighth largest export total of any State in the Nation with a total of $28.8 billion being sold in export merchandise. This is up more than 38 percent since 1997. Those exports are shipped globally to 204 countries around the world. Most importantly, out of New Jersey's 4.1 million member workforce, over 600,000 people statewide, from Main Street to Fortune 500 companies, are employed because of exports, imports, and because of foreign direct investment.

Agilent Technologies, a company in my congressional district, recently wrote me in support of Trade Promotion Authority. They said, "Multilateral trade initiatives important to Agilent relating to tariff reductions, e-commerce, biotechnology and international standard-setting are now beginning."

Mr. Speaker, we need to participate. We need to support the rule, and we need to support the bill.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise to oppose this rule and to oppose Fast Track. I come from Cleveland, a steel-producing community which is fighting valiantly to save 3,200 steelworkers' jobs and to protect the benefits of tens of thousands of retirees. But Fast Track is a barrier. Fast Track brought us NAFTA. It prohibits amending trade agreements. We could not amend NAFTA chapter 11, which grants corporate investors in all-NAFTA countries the right to challenge any local, State, or Federal regulations which those corporations say hurt their profits; and then they are able to get penalty money from the taxpayers of this country.

The sovereign authority of all governments is at stake. Taxpayer dollars are at stake, even when we stand up for our own rights.

A NAFTA case brought by a foreign-owned steel fabricator company is trying to overturn. Get this, they are trying to overturn "Buy America" laws that require using American steel in highway projects. NAFTA allows foreign-owned companies to challenge our Constitution, our Congress, our right to enact American laws. This would have a catastrophic impact on steel workers, causing loss of U.S. jobs. American taxpayers are financing the fight for democracy all over the world, while our trade laws undermine our democracy here at home.

Vote against this rule and vote against Fast Track. Protect democracy. Protect American jobs.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Speaker, I rise in strong support of this rule for Fast Track consideration of Trade Promotion Authority. Mr. Speaker, this is not about citrus, it is not about steel, it is not about food inspection or any other product or any other service. It is about whether or not we believe we should have enough confidence in the President of the United States to go on the world stage with other negotiators to implement the trade agenda that was launched at Doha.

Now, in Doha where they set the agenda for the next round of talks, we got a set of negotiating issues that was extraordinarily favorable for the United States. It is everything that we could hope for in terms of what we want to accomplish in the next round of talks. Now we have to move to the next step. We cannot complete that unless the President has trade negotiating authority. We can never complete the talks, and yet, we are on a fast track with this round of talks. No organization, no country is going to put their best deals on the line if they think they are going to be changed by the United States Congress. Management and labor do not go into negotiations and then go back to their board of directors and their membership to amend the agreement; they submit it to them for a vote.

That is what we are talking about doing here with Fast Track. It is not about whether or not we like the agreement, because we do not have an agreement. The opportunity to consider that will come later.

One prominent Democrat from the Clinton administration, who would be known to every Member of this body, just 2 nights ago at a dinner told me that the framework legislation that is proposed here today goes much further than President Clinton or President Gore would ever have been able to offer. It goes a long way. It makes the environment and it makes labor rights principal negotiating objectives to support those. We need to have the confidence in our President to get this job done, and we do not compromise our ability to say yes or to say no to any agreement that is negotiated.

With the crisis that we face in the world, this is not the time to say that our President should not be able to move forward to protect American interests abroad, American economic interests. Agree to this. Say yes to Trade Promotion Authority.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WATERS), my very good friend.

Ms. WATERS. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

I rise to oppose this rule and this bill. H.R. 3005 supports the expansion of trade rules that allow pharmaceutical companies to challenge countries that distribute essential medicines to people who desperately need them. This bill would make it more difficult for developing countries to make HIV-AIDS medicines available to people with AIDS. Twenty-five million people are living with AIDS in Africa. Our trade policy should not cost them their lives.

This bill would also make it more difficult for the United States to respond to bioterrorist attacks. When the United States needed to acquire a large supply of the antibiotic Cipro to respond to the recent anthrax attacks, we knew that the health of the American people was more important than the profits of pharmaceutical companies. We had to get tough. The WTO could have ruled against us. Our trade policies should preserve our ability to respond to bioterrorist attacks in the future.

I offered an amendment to restore the rights of all countries to protect public health and ensure access to essential medicines, but my amendment was not made in order.

I urge my colleagues to vote "no" on the rule and "no" on the bill.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. RANGEL), the distinguished ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I say to my colleagues that we still have an opportunity to do what the President would have us to do. Sure, he wants Trade Promotion Authority, but he also wants bipartisanship. I think it is good for the Congress. I think it is good for the country. All of my colleagues know that we have not enjoyed this within the Committee on Ways and Means. That is what the Committee on Rules is all about.

The Committee on Rules is the legislative traffic cops. They can set us straight. They can shatter the wounds of partisanship that have been built up.

Since the attack on the United States of America, we have worked together, not as Democrats and Republicans, but as a united Congress. They can reject this rule and send us back to the table. They can tell the Committee on Ways and Means to have open negotiations. They can say that the Democratic ideas are just as patriotic, just as sincere, and that we support the war against terrorism the same as Republicans. If they do not do that, if they do not give us an opportunity to be heard. What they are saying is, it is our way or it is the highway.

I do not think it is fair. We have a stimulation package that we are working on, and we are trying to give the President what he wants in order to spur the economy. We are not supposed to do it as Republicans and Democrats; we are supposed to come together as responsible Members of Congress.

So I ask my colleagues to vote against this rule. It is not well thought out. It should not be just one-sided. Give us an opportunity to work together and to bring a product to our colleagues; and if we cannot do it, then at the very least, let there be an alternative for Members to vote for.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I have a whole raft of information from my staff talking about the benefits of trade and the economy, on jobs; and I will submit that for the RECORD. But let me just raise a confusing question. Why in the world does this House want to take itself out of the picture?

Absent TPA, we have no voice. The President negotiates with any nation in the world a trade agreement and brings it to the Senate as a treaty for their approval or disapproval, amendment or no amendment. If it is amended, it goes back to the other nation, and they have to negotiate a second time. I would not blame any executive of another nation to not want to deal with us, to have to go through two negotiations.

This House claims to be concerned about such things as labor and environment and human rights. Failing to pass TPA takes us out of the picture. We are silent. We have no voice.

Under TPA, the President can go to any nation, negotiate any agreement, and bring it back to the House and the Senate for an up or down vote. If we do not like the agreement, we can vote it down. If we do not like the lack of consultation, defeat it. But at least keep us in the game. Absent TPA, this House is silent.

Mr. Speaker, I do not understand how we are going to shape any future agreement, have any consultative effect, if the President just chooses to go to treaties and deals with the Senate. We need to get in the ballgame. We have the lowest tariffs in the world. Reaching trade agreements with other nations simply serves to lower their tariffs and open markets for our companies to sell into the global economy. We need to be in the global economy, where 95 percent of the citizens of the world live, not here. I cannot understand why some would want to take us out of the picture.

Mr. Speaker, the only voice the House has on any trade agreement is if we pass authority for the President to reach agreements and bring them back to us for up or down votes. I cannot imagine why anyone would oppose this.

Mr. Speaker, I rise in support of the rule. Today we have a tremendous opportunity to stimulate the economy, secure jobs, uplift the poor, improve wages, and prove our global competitiveness. With a single vote, we can change the course of millions of lives.

America produces many of the highest quality services, the most bountiful crops, and the most advanced technologies in the world. Today, we have the opportunity to ensure that all of these are shared with foreign nations.

Trade is also vital to our own national well-being and our economic recovery. Nationwide, one in ten American jobs depends on exports. These jobs are in a range of industries and service fields, and yet the one consistency among them is that they pay more than jobs in non-trading industries. According to the Department of Commerce, trade-oriented industries pay one-third more—approximately $15,000 more per employee—than non-trading industries.

Recent studies have further shown that if global trade barriers were cut by one-third, the world economy would increase by more than $600 billion a year. Eliminating trade barriers altogether would increase the global economy by nearly $2 trillion. The infusion of this much capital into the world market would serve as an engine of economic growth and improve the standard of living for all Americans.

Given the significance of trade to our economic future, it is imperative that Congress pass trade promotion authority. TPA requires a collaborative partnership between Congress and the President, and both must actively participate in order to properly frame treaty negotiations. In fact, TPA statutorily requires that the President engage in frequent and substantive consultations with Congress before, during, and throughout negotiations on a free trade agreement. These consultations allow Congress to make clear its priorities and concerns, and the President then incorporates such mandates into negotiations. In return, Congress commits to an up or down vote on the treaty without amendments. While some members will argue that our opportunity for debate is stifled because of our inability to offer amendment, it is worth noting that without TPA members of the House of Representatives could neither vote on nor offer amendments to the treaty at all.

Clearly, TPA is justified, it is responsible, and it is needed—and the time for TPA is now. Tariffs in the United States are among the lowest in the world. However, we face severe restrictions when we ship our goods overseas. In fact, while the average U.S. tariff is 4.8 percent, American goods are subject to tariffs of 11 percent in Chile, 13.5 percent in Argentina, 14.6 percent in Brazil, and a staggering 45.6 percent in Thailand.

To give you one example of the anti-competitiveness of foreign tariffs, we can look at a Caterpillar tractor. If that tractor is made in the U.S. and it shipped to Chile, it faces nearly $15,000 in tariffs and duties. If that tractor is made in Canada and is then shipped to Chile, the tariff and duties are zero. Clearly, reducing foreign tariffs is critical to ensuring that companies continue to build their factories in the U.S. And TPA is the greatest tool at our disposal for leveling the playing field to provide U.S. businesses access to the world's populations.

I urge my colleagues to join me in voting for the rule and H.R. 3005. This bill will help American regain its competitiveness, enabling the rebirth of prosperity and economic security.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Houston, Texas (Mr. GREEN), my very good friend.

Mr. GREEN of Texas. Mr. Speaker, I rise in opposition to both the rule and H.R. 3005, the legislation granting the President Fast Track Authority.

This is not the time to allow more countries greater access to our domestic markets. We need much tighter controls at our borders, and we need to let the global economy recover before we even begin considering opening our doors to even further trade expansion.

Foreign countries experiencing an economic slowdown always view the United States as a place to dump their excess goods. Japan, Russia, and South American countries have devastated our domestic steel industry through dumping. This illegal trade practice eliminates the thousands of high-paying American jobs tied directly to the steel industry and the thousands who support it.

In addition, the House of Representatives has done nothing to help the thousands of displaced travel, tourism, and hospitality workers who lost their jobs as a result of September 11. Increased foreign trade automatically means a loss in good blue collar jobs which means our constituents' jobs will be on the line today.

The House of Representatives has a spotty record in protecting displaced workers, especially from the textile, agriculture, and auto industries as a result of NAFTA; and that is why I oppose both the rule and the bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, I keep hearing my colleagues talk about, come back and have an up or down vote. What part of procedural versus substantive consultation do they not understand? As a matter of fact, what part of "deficit" do they not understand as it pertains to our trade policy? We have not had time, because they did not give us time; and last night I asked for an additional 2 hours and was denied that time. We have not had time to talk about the fact that antitrust laws are going to change without any consultation and without any input from Members of this body.

□ 1315

We have not had time to talk about the sovereignty issues, and I hope the gentleman from New York (Mr. RANGEL) and his committee can get to that issue because it is critical.

It is clear from this bill, the underlying bill, that foreign investors have an advantage over domestic persons in the United States, and the tribunals are held in secret. As a former judge, I cannot abide that. I must have my colleagues understand that it would be inappropriate to take American property in a secret forum, and that is what this measure permits. It does not permit that the United States Trade Representative come before us.

I ask my colleagues, please, vote against this rule and vote against the underlying bill.

Mr. REYNOLDS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I have heard today we should continue debating the bill, stall, or put it off; what is fair, unfair; water it down, pick it apart, and confuse the facts.

Mr. Speaker, the world is not waiting while the United States putters along. Trade Promotion Authority offers the best chance for the United States to reclaim its leadership in opening foreign markets, expanding global economic opportunities for American producers and workers, and developing the virtues of democracy around the world.

The prosperity and integrity of global democracies is at stake, and it is incumbent upon us to pull into the fast lane in order to reap the benefits of fair trade.

What we ask today is nothing new. Until its expiration in 1994, every President from Richard Nixon through Bill Clinton has enjoyed the right of Trade Promotion Authority. This President deserves that same right.

I strongly urge my colleagues to do the right thing for America: Support this rule and the underlying legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 224, nays 202, not voting 7, as follows:

[Roll No. 479]

YEAS—224

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam

Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays

Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry

Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (FL)

NAYS—202

Abercrombie
Ackerman
Allen
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)

Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)

Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—7

Andrews
Hostettler
Meek (FL)
Quinn
Roemer
Roukema
Young (AK)

☐ 1342

Messrs. LUCAS of Kentucky, GUTIERREZ and EVANS changed their vote from "yea" to "nay."

Mr. SMITH of New Jersey changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. ROEMER. Mr. Speaker, on rollcall No. 479, the rule on Trade Promotion Authority, I was detained on the Senate side attending an education event. As a conferee on the elementary Secondary Education Act, I was participating in a public forum advocating full funding for children with disabilities. Had I been present, I would have voted "nay."

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 306, I call up the bill (H.R. 3005) to extend trade authorities procedures with respect to reciprocal trade agreements, and ask for its immediate consideration.

The Clerk read the title of the bill.

☐ 1345

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 306, the bill is considered read for amendment.

The text of H.R. 3005 is as follows:

H.R. 3005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Trade Promotion Authority Act of 2001".

(b) FINDINGS.—The Congress makes the following findings:

(1) The expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity. Trade agreements today serve the same purposes that security pacts played during the Cold War, binding nations together through a series of mutual rights and obligations. Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.

(2) The national security of the United States depends on its economic security, which in turn is founded upon a vibrant and growing industrial base. Trade expansion has been the engine of economic growth. Trade agreements maximize opportunities for the critical sectors and building blocks of the economy of the United States, such as information technology, telecommunications and other leading technologies, basic industries, capital equipment, medical equipment, services, agriculture, environmental technology, and intellectual property. Trade will create new opportunities for the United States and preserve the unparalleled strength of the United States in economic, political, and military affairs. The United States, secured by expanding trade and economic opportunities, will meet the challenges of the twenty-first century.

SEC. 2. TRADE NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 3 are—

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trading disciplines and procedures, including dispute settlement;

(4) to foster economic growth, raise living standards, and promote full employment in the United States and to enhance the global economy;

(5) to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources; and

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the International Labor Organization (as defined in section 9(2)) and an understanding of the relationship between trade and worker rights.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) TRADE BARRIERS AND DISTORTIONS.—The principal negotiating objectives of the United States regarding trade barriers and other trade distortions are—

(A) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, with particular attention to those tariff categories covered in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States regarding trade in services is to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operations of service suppliers.

(3) FOREIGN INVESTMENT.—The principal negotiating objective of the United States regarding foreign investment is to reduce or eliminate artificial or trade-distorting barriers to trade-related foreign investment by—

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

(E) providing meaningful procedures for resolving investment disputes; and

(F) seeking to improve mechanisms used to resolve disputes between an investor and a government through—

(i) mechanisms to eliminate frivolous claims;

(ii) procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims; and

(iii) procedures to increase transparency in investment disputes.

(4) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding trade-related intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i)(I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), particularly with respect to meeting enforcement obligations under that agreement; and

(II) ensuring that the provisions of any multilateral or bilateral trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works; and

(v) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms; and

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

(5) TRANSPARENCY.—The principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency through—

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions;

(B) increased openness at the WTO and other international trade fora by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and

(C) increased and more timely public access to all notifications and supporting documentation submitted by parties to the WTO.

(6) IMPROVEMENT OF THE WTO AND MULTILATERAL TRADE AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of the World Trade Organization, the Uruguay Round Agreements, and other multilateral and bilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and such agreements to products, sectors, and conditions of trade not adequately covered; and

(B) to expand country participation in and enhancement of the Information Technology Agreement and other trade agreements.

(7) REGULATORY PRACTICES.—The principal negotiating objectives of the United States regarding the use of government regulation or other practices by foreign governments to provide a competitive advantage to their domestic producers, service providers, or investors and thereby reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and

(D) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

(8) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are—

(A) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization apply to electronic commerce;

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and

(ii) the classification of such goods and services ensures the most liberal trade treatment possible;

(C) to ensure that governments refrain from implementing trade-related measures that impede electronic commerce;

(D) where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(9) RECIPROCAL TRADE IN AGRICULTURE.—(A) The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by—

(i) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(I) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(II) providing reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations;

(ii) reducing tariffs to levels that are the same as or lower than those in the United States;

(iii) reducing or eliminating subsidies that decrease market opportunities for United States exports or unfairly distort agriculture markets to the detriment of the United States;

(iv) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(v) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices;

(vi) eliminating Government policies that create price-depressing surpluses;

(vii) eliminating state trading enterprises whenever possible;

(viii) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, particularly with respect to import-sensitive products, including—

(I) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(II) unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology;

(III) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(IV) other unjustified technical barriers to trade; and

(V) restrictive rules in the administration of tariff rate quotas;

(ix) eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;

(x) ensuring that the use of import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;

(xi) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(xii) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements;

(xiii) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;

(xiv) taking into account the impact that agreements covering agriculture to which the United States is a party, including the North American Free Trade Agreement, have on the United States agricultural industry; and

(xv) maintaining bona fide food assistance programs and preserving United States market development and export credit programs.

(B)(i) Before commencing negotiations with respect to agriculture, the United States Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of seasonal and perishable agricultural products to be employed in the negotiations in order to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area.

(ii) During any negotiations on agricultural subsidies, the United States Trade Representative shall seek to establish the common base year for calculating the Aggregated Measurement of Support (as defined in the Agreement on Agriculture) as the end of each country's Uruguay Round implementation period, as reported in each country's Uruguay Round market access schedule.

(iii) The negotiating objective provided in subparagraph (A) applies with respect to agricultural matters to be addressed in any trade agreement entered into under section 3(a) or (b), including any trade agreement entered into under section 3(a) or (b) that provides for accession to a trade agreement to which the United States is already a party, such as the North American Free Trade Agreement and the United States-Canada Free Trade Agreement.

(10) LABOR AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party after entry into force of a trade agreement between those countries;

(B) to recognize that parties to a trade agreement retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor or environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise of such discretion, or results from a bona fide decision regarding the allocation of resources;

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 9(2));

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services; and

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade.

(11) DISPUTE SETTLEMENT AND ENFORCEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments;

(C) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(D) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(E) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and

(F) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(12) WTO EXTENDED NEGOTIATIONS.—The principal negotiating objectives of the United States regarding trade in civil aircraft are those set forth in section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3355(c)) and regarding rules of origin are the conclusion of an agreement described in section 132 of that Act (19 U.S.C. 3552).

(c) PROMOTION OF CERTAIN PRIORITIES.—In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) seek greater cooperation between the WTO and the ILO;

(2) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 9(2)), and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(3) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(4) conduct environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 of November 16, 1999 and its relevant guidelines, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such reviews;

(5) review the impact of future trade agreements on United States employment, modeled after Executive Order 13141, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review;

(6) take into account other legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto;

(7) have the Secretary of Labor consult with any country seeking a trade agreement with the United States concerning that country's labor laws and provide technical assistance to that country if needed;

(8) with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor;

(9) preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping and countervailing duty laws, and avoid agreements which lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions;

(10) continue to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under Article XX of the GATT 1994; and

(11) report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than 12 months after the imposition of a penalty or remedy by the United States permitted by a trade agreement to which this Act applies, on the effectiveness of the penalty or remedy applied under United States law in enforcing United States rights under the trade agreement.

The report under paragraph (11) shall address whether the penalty or remedy was effective in changing the behavior of the targeted party and whether the penalty or remedy had any adverse impact on parties or interests not party to the dispute.

(d) CONSULTATIONS.—

(1) CONSULTATIONS WITH CONGRESSIONAL ADVISERS.—In the course of negotiations conducted under this Act, the United States Trade Representative shall consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Congressional Oversight Group convened under section 7 and all committees of the House of Representatives and the Senate with jurisdiction over laws that would be affected by a trade agreement resulting from the negotiations.

(2) CONSULTATION BEFORE AGREEMENT INITIALED.—In the course of negotiations conducted under this Act, the United States Trade Representative shall—

(A) consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 161 of the Trade Act of 1974 (19 U.S.C. 2211), the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Congressional Oversight Group convened under section 7; and

(B) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

SEC. 3. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this Act will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment; or

(B) increases any rate of duty above the rate that applied on the date of the enactment of this Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 5 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B) and (2) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect;

and that the purposes, policies, priorities, and objectives of this Act will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A), or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 2(a) and (b) and the President satisfies the conditions set forth in section 4.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.—(A) The provisions of section 151 of the Trade Act of 1974 (in this Act referred to as "trade authorities procedures") apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this Act be referred to as an "implementing bill".

(B) The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement; and

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 5(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2005.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than March 1, 2005, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this Act, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) REPORT TO CONGRESS BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains—

(A) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this Act; and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(4) STATUS OF REPORTS.—The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term

"extension disapproval resolution'' means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the   disapproves the request of the President for the extension, under section 3(c)(1)(B)(i) of the Trade Promotion Authority Act of 2001, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 3(b) of that Act after June 30, 2005.'', with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of sections 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(d) COMMENCEMENT OF NEGOTIATIONS.—In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the principal negotiating objectives set forth in section 2(b).

SEC. 4. CONSULTATIONS AND ASSESSMENT.

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—The President, with respect to any agreement that is subject to the provisions of section 3(b), shall—

(1) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement; and

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the Congressional Oversight group convened under section 7.

(b) NEGOTIATIONS REGARDING AGRICULTURE.—Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 2(b)(9)(A)(i) with any country, the President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(c) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under section 3(b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement; and

(C) the Congressional Oversight Group convened under section 7.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of this Act; and

(C) the implementation of the agreement under section 5, including the general effect of the agreement on existing laws.

(d) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 3(a) or (b) of this Act shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 3(a)(1) or 5(a)(1)(A) of the President's intention to enter into the agreement.

(e) ITC ASSESSMENT.—

(1) IN GENERAL.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 3(b), shall provide the International Trade Commission (referred to in this subsection as "the Commission") with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ITC ASSESSMENT.—Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

SEC. 5. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 3(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits to the Congress a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 3(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this Act; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce;

(IV) how the implementing bill meets the standards set forth in section 3(b)(3); and

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 2(c) regarding the promotion of certain priorities.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 3(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(1) FOR LACK OF NOTICE OR CONSULTATIONS.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 3(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to that trade agreement, the other House separately agrees to a procedural disapproval resolution with respect to that agreement.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—For purposes of this paragraph, the term "procedural disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to notify or consult (as the case may be) with Congress in accordance with section 4 or 5 of the Trade Promotion Authority Act of 2001 on negotiations with respect to   and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to that trade agreement.", with the blank space being filled with a description of the trade agreement with respect to which the President is considered to have failed or refused to notify or consult.

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(A) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to procedural disapproval resolutions.

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) of this section and section 3(c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 6. TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN.

(a) CERTAIN AGREEMENTS.—Notwithstanding section 3(b)(2), if an agreement to which section 3(b) applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 4(a) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 5(b)(1)(B) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 4(a); and

(2) the President shall, as soon as feasible after the enactment of this Act—

(A) notify the Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 4(a)(2) and the Congressional Oversight Group.

SEC. 7. CONGRESSIONAL OVERSIGHT GROUP.

(a) MEMBERS AND FUNCTIONS.—

(1) IN GENERAL.—By not later than 60 days after the date of the enactment of this Act, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate shall convene the Congressional Oversight Group.

(2) MEMBERSHIP FROM THE HOUSE.—In each Congress, the Congressional Oversight Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking member of the Committee on Ways and Means, and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the House of Representatives which would have, under the Rules of the House of Representatives, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this Act would apply.

(3) MEMBERSHIP FROM THE SENATE.—In each Congress, the Congressional Oversight Group shall also be comprised of the following members of the Senate:

(A) The chairman and ranking Member of the Committee on Finance and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the Senate which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this Act would apply.

(4) ACCREDITATION.—Each member of the Congressional Oversight Group described in paragraph (2)(A) and (3)(A) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in negotiations for any trade agreement to which this Act applies. Each member of the Congressional Oversight Group described in paragraph (2)(B) and (3)(B) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in the negotiations by reason of which the member is in the Congressional Oversight Group. The Congressional Oversight Group shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

(5) CHAIR.—The Congressional Oversight Group shall be chaired by the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate.

(b) GUIDELINES.—

(1) PURPOSE AND REVISION.—The United States Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative and the Congressional Oversight Group established under this section; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) CONTENT.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of the Congressional Oversight Group regarding negotiating objectives, including the promotion of certain priorities referred to in section 2(c), and positions and the status of the applicable negotiations, beginning as soon as practicable after the Congressional Oversight Group is convened, with more frequent briefings as trade negotiations enter the final stage;

(B) access by members of the Congressional Oversight Group, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials;

(C) the closest practicable coordination between the Trade Representative and the Congressional Oversight Group at all critical periods during the negotiations, including at negotiation sites; and

(D) after the applicable trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments under the trade agreement.

SEC. 8. ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.

(a) IN GENERAL.—At the time the President submits to the Congress the final text of an agreement pursuant to section 5(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement. The implementation and enforcement plan shall include the following:

(1) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, and such other agencies as may be necessary.

(3) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by the United States Customs Service.

(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) BUDGET SUBMISSION.—The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress after the submission of the plan.

SEC. 9. DEFINITIONS.

In this Act:

(1) AGREEMENT ON AGRICULTURE.—The term "Agreement on Agriculture" means the agreement referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(2) CORE LABOR STANDARDS.—The term "core labor standards" means—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) a prohibition on the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(3) GATT 1994.—The term "GATT 1994" has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(4) ILO.—The term "ILO" means the International Labor Organization.

(5) UNITED STATES PERSON.—The term "United States person" means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(6) URUGUAY ROUND AGREEMENTS.—The term "Uruguay Round Agreements" has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(7) WORLD TRADE ORGANIZATION; WTO.—The terms "World Trade Organization" and "WTO" mean the organization established pursuant to the WTO Agreement.

(8) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

The SPEAKER pro tempore. The amendment printed in the bill, modified by the amendment printed in House Report 107–323? is adopted.

The text of H.R. 3005, as amended, as modified, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Trade Promotion Authority Act of 2001".

(b) FINDINGS.—The Congress makes the following findings:

(1) The expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity. Trade agreements today serve the same purposes that security pacts played during the Cold War, binding nations together through a series of mutual rights and obligations. Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.

(2) The national security of the United States depends on its economic security, which in turn is founded upon a vibrant and growing industrial base. Trade expansion has been the engine of economic growth. Trade agreements maximize opportunities for the critical sectors and building blocks of the economy of the United States, such as information technology, telecommunications and other leading technologies, basic industries, capital equipment, medical equipment, services, agriculture, environmental technology, and intellectual property. Trade will create new opportunities for the United States and preserve the unparalleled strength of the United States in economic, political, and military affairs. The United States, secured by expanding trade and economic opportunities, will meet the challenges of the twenty-first century.

SEC. 2. TRADE NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 3 are—

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trading disciplines and procedures, including dispute settlement;

(4) to foster economic growth, raise living standards, and promote full employment in the United States and to enhance the global economy;

(5) to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources;

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the International Labor Organization (as defined in section 11(2)) and an understanding of the relationship between trade and worker rights;

(7) to seek provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) TRADE BARRIERS AND DISTORTIONS.—The principal negotiating objectives of the United States regarding trade barriers and other trade distortions are—

(A) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, with particular attention to those tariff categories covered in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States regarding trade in services is to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operations of service suppliers.

(3) FOREIGN INVESTMENT.—The principal negotiating objective of the United States regarding foreign investment is to reduce or eliminate artificial or trade-distorting barriers to trade-related foreign investment and, recognizing that United States law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, to secure for investors important rights comparable to those that would be available under United States legal principles and practice, by

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

(E) providing meaningful procedures for resolving investment disputes;

(F) seeking to improve mechanisms used to resolve disputes between an investor and a government through—

(i) mechanisms to eliminate frivolous claims; and

(ii) procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

(G) providing an appellate or similar review mechanism to correct manifestly erroneous interpretations of law; and

(H) ensuring the fullest measure of transparency in the dispute settlement mechanism, to the extent consistent with the need to protect information that is classified or business confidential, by—

(i) ensuring that all requests for dispute settlement are promptly made public;

(ii) ensuring that—

(I) all proceedings, submissions, findings, and decisions are promptly made public;

(II) all hearings are open to the public; and

(iii) establishing a mechanism for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(4) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding trade-related intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i)(I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), particularly with respect to meeting enforcement obligations under that agreement; and

(II) ensuring that the provisions of any multilateral or bilateral trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works; and

(v) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms; and

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

(5) TRANSPARENCY.—The principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency through—

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions;

(B) increased openness at the WTO and other international trade fora by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and

(C) increased and more timely public access to all notifications and supporting documentation submitted by parties to the WTO.

(6) ANTI-CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are—

(A) to obtain high standards and appropriate domestic enforcement mechanisms applicable to persons from all countries participating in the applicable trade agreement that prohibit such attempts to influence acts, decisions, or omissions of foreign governments; and

(B) to ensure that such standards do not place United States persons at a competitive disadvantage in international trade.

(7) IMPROVEMENT OF THE WTO AND MULTILATERAL TRADE AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of the World Trade Organization, the Uruguay Round Agreements, and other multilateral and bilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and such agreements to products, sectors, and conditions of trade not adequately covered; and

(B) to expand country participation in and enhancement of the Information Technology Agreement and other trade agreements.

(8) REGULATORY PRACTICES.—The principal negotiating objectives of the United States regarding the use of government regulation or other practices by foreign governments to provide a competitive advantage to their domestic producers, service providers, or investors and thereby reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and

(D) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

(9) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are—

(A) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization apply to electronic commerce;

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and

(ii) the classification of such goods and services ensures the most liberal trade treatment possible;

(C) to ensure that governments refrain from implementing trade-related measures that impede electronic commerce;

(D) where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(10) RECIPROCAL TRADE IN AGRICULTURE.—(A) The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by—

(i) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(I) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(II) providing reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations;

(ii) reducing tariffs to levels that are the same as or lower than those in the United States;

(iii) reducing or eliminating subsidies that decrease market opportunities for United States exports or unfairly distort agriculture markets to the detriment of the United States;

(iv) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(v) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices;

(vi) eliminating Government policies that create price-depressing surpluses;

(vii) eliminating state trading enterprises whenever possible;

(viii) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, particularly with respect to import-sensitive products, including—

(I) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(II) unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology;

(III) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(IV) other unjustified technical barriers to trade; and

(V) restrictive rules in the administration of tariff rate quotas;

(ix) eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;

(x) ensuring that the use of import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;

(xi) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(xii) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements;

(xiii) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;

(xiv) taking into account the impact that agreements covering agriculture to which the United States is a party, including the North American Free Trade Agreement, have on the United States agricultural industry; and

(xv) maintaining bona fide food assistance programs and preserving United States market development and export credit programs.

(B)(i) Before commencing negotiations with respect to agriculture, the United States Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of seasonal and perishable agricultural products to be employed in the negotiations in order to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area.

(ii) During any negotiations on agricultural subsidies, the United States Trade Representative shall seek to establish the common base year

for calculating the Aggregated Measurement of Support (as defined in the Agreement on Agriculture) as the end of each country's Uruguay Round implementation period, as reported in each country's Uruguay Round market access schedule.

(iii) The negotiating objective provided in subparagraph (A) applies with respect to agricultural matters to be addressed in any trade agreement entered into under section 3(a) or (b), including any trade agreement entered into under section 3(a) or (b) that provides for accession to a trade agreement to which the United States is already a party, such as the North American Free Trade Agreement and the United States-Canada Free Trade Agreement.

(11) LABOR AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party after entry into force of a trade agreement between those countries;

(B) to recognize that parties to a trade agreement retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor or environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise of such discretion, or results from a bona fide decision regarding the allocation of resources; and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection;

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 11(2));

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services; and

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade.

(12) DISPUTE SETTLEMENT AND ENFORCEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments;

(C) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(D) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(E) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and

(F) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(13) WTO EXTENDED NEGOTIATIONS.—The principal negotiating objectives of the United States regarding trade in civil aircraft are those set forth in section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3355(c)) and regarding rules of origin are the conclusion of an agreement described in section 132 of that Act (19 U.S.C. 3552).

(c) PROMOTION OF CERTAIN PRIORITIES.—In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) seek greater cooperation between the WTO and the ILO;

(2) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 11(2)), and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(3) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(4) conduct environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 of November 16, 1999 and its relevant guidelines, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such reviews;

(5) review the impact of future trade agreements on United States employment, modeled after Executive Order 13141, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review;

(6) take into account other legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto;

(7) have the Secretary of Labor consult with any country seeking a trade agreement with the United States concerning that country's labor laws and provide technical assistance to that country if needed;

(8) with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor;

(9) preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping and countervailing duty laws, and avoid agreements which lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions;

(10) continue to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under Article XX of the GATT 1994;

(11) report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than 12 months after the imposition of a penalty or remedy by the United States permitted by a trade agreement to which this Act applies, on the effectiveness of the penalty or remedy applied under United States law in enforcing United States rights under the trade agreement; and

(12) seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government is engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade. The report under paragraph (11) shall address whether the penalty or remedy was effective in changing the behavior of the targeted party and whether the penalty or remedy had any adverse impact on parties or interests not party to the dispute.

(d) CONSULTATIONS.—

(1) CONSULTATIONS WITH CONGRESSIONAL ADVISERS.—In the course of negotiations conducted under this Act, the United States Trade Representative shall consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Congressional Oversight Group convened under section 7 and all committees of the House of Representatives and the Senate with jurisdiction over laws that would be affected by a trade agreement resulting from the negotiations.

(2) CONSULTATION BEFORE AGREEMENT INITIALED.—In the course of negotiations conducted under this Act, the United States Trade Representative shall—

(A) consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 161 of the Trade Act of 1974 (19 U.S.C. 2211), the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Congressional Oversight Group convened under section 7; and

(B) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

SEC. 3. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this Act will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) notwithstanding paragraph (6), reduces the rate of duty below that applicable under the Uruguay Round Agreements, on any agricultural product which was the subject of tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty, pursuant to such Agreements, was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994; or

(C) increases any rate of duty above the rate that applied on the date of the enactment of this Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 5 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B), (2)(A), (2)(C), and (3) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect;

and that the purposes, policies, priorities, and objectives of this Act will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A), or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 2(a) and (b) and the President satisfies the conditions set forth in section 4.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.—(A) The provisions of section 151 of the Trade Act of 1974 (in this Act referred to as "trade authorities procedures") apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this Act be referred to as an "implementing bill".

(B) The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement; and

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 5(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2005.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than March 1, 2005, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this Act, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) REPORT TO CONGRESS BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains—

(A) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this Act; and

(B) a statement of its views, and the reasons therefore, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(4) STATUS OF REPORTS.—The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term "extension disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the   disapproves the request of the President for the extension, under section 3(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2001, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 3(b) of that Act after June 30, 2005.", with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(d) COMMENCEMENT OF NEGOTIATIONS.—In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the principal negotiating objectives set forth in section 2(b).

SEC. 4. CONSULTATIONS AND ASSESSMENT.

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—The President, with respect to any agreement that is subject to the provisions of section 3(b), shall—

(1) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement;

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the Congressional Oversight Group convened under section 7; and

(3) upon the request of a majority of the members of the Congressional Oversight Group under section 7(c), meet with the Congressional Oversight Group before initiating the negotiations or at any other time concerning the negotiations.

(b) NEGOTIATIONS REGARDING AGRICULTURE.—

(1) IN GENERAL.—Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 2(b)(10)(A)(i) with any country, the President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(2) SPECIAL CONSULTATIONS ON IMPORT SENSITIVE PRODUCTS.—(A) Before initiating negotiations with regard to agriculture, and, with respect to the Free Trade Area for the Americas and negotiations with regard to agriculture under the auspices of the World Trade Organization, as soon as practicable after the enactment of this Act, the United States Trade Representative shall—

(i) identify those agricultural products subject to tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994;

(ii) consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(I) whether any further tariff reductions on the products identified under clause (i) should be appropriate, taking into account the impact of any such tariff reduction on the United States industry producing the product concerned; and

(II) whether the products so identified face unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(iii) request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the United States industry producing the product concerned and on the United States economy as a whole; and

(iv) upon complying with clauses (i), (ii), and (iii), notify the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate of those products identified under clause (i) for which the Trade Representative intends to seek tariff liberalization in the negotiations and the reasons for seeking such tariff liberalization.

(B) If, after negotiations described in subparagraph (A) are commenced—

(i) the United States Trade Representative identifies any additional agricultural product described in subparagraph (A)(i) for tariff reductions which were not the subject of a notification under subparagraph (A)(iv), or

(ii) any additional agricultural product described in subparagraph (A)(i) is the subject of a request for tariff reductions by a party to the negotiations,

the Trade Representative shall, as soon as practicable, notify the committees referred to in subparagraph (A)(iv) of those products and the reasons for seeking such tariff reductions.

(c) NEGOTIATIONS REGARDING TEXTILES.—Before initiating or continuing negotiations the subject matter of which is directly related to textiles and apparel products with any country, the President shall assess whether United States tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under section 3(b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement; and

(C) the Congressional Oversight Group convened under section 7.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of this Act; and

(C) the implementation of the agreement under section 5, including the general effect of the agreement on existing laws.

(e) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 3(a) or (b) of this Act shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 3(a)(1) or 5(a)(1)(A) of the President's intention to enter into the agreement.

(f) ITC ASSESSMENT.—

(1) IN GENERAL.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 3(b), shall provide the International Trade Commission (referred to in this subsection as "the Commission") with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ITC ASSESSMENT.—Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

SEC. 5. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 3(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters

into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits to the Congress, on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 3(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this Act; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce;

(IV) how the implementing bill meets the standards set forth in section 3(b)(3); and

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 2(c) regarding the promotion of certain priorities.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 3(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(1) FOR LACK OF NOTICE OR CONSULTATIONS.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement or trade agreements entered into under section 3(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to such trade agreement or agreements, the other House separately agrees to a procedural disapproval resolution with respect to such trade agreement or agreements.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—(i) For purposes of this paragraph, the term "procedural disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2001 on negotiations with respect to and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to that trade agreement or agreements.", with the blank space being filled with a description of the trade agreement or agreements with respect to which the President is considered to have failed or refused to notify or consult.

(ii) For purposes of clause (i), the President has "failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2001" on negotiations with respect to a trade agreement or trade agreements if—

(I) the President has failed or refused to consult (as the case may be) in accordance with section 4 or 5 with respect to the negotiations, agreement, or agreements;

(II) guidelines under section 7(b) have not been developed or met with respect to the negotiations, agreement, or agreements;

(III) the President has not met with the Congressional Oversight Group pursuant to a request made under section 7(c) with respect to the negotiations, agreement, or agreements; or

(IV) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this Act.

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(A) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate may be introduced by any Member of the Senate.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to a procedural disapproval resolution introduced with respect to a trade agreement if no other procedural disapprovement resolution with respect to that trade agreement has previously been considered under such provisions of section 152 of the Trade Act of 1974 in that House of Cougress during that Congress".

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) of this section and section 3(c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 6. TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN.

(a) CERTAIN AGREEMENTS.—Notwithstanding section 3(b)(2), if an agreement to which section 3(b) applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 4(a) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 5(b)(1)(B) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 4(a); and

(2) the President shall, as soon as feasible after the enactment of this Act—

(A) notify the Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 4(a)(2) and the Congressional Oversight Group.

SEC. 7. CONGRESSIONAL OVERSIGHT GROUP.

(a) MEMBERS AND FUNCTIONS.—

(1) IN GENERAL.—By not later than 60 days after the date of the enactment of this Act, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate shall convene the Congressional Oversight Group.

(2) MEMBERSHIP FROM THE HOUSE.—In each Congress, the Congressional Oversight Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking member of the Committee on Ways and Means, and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the House of Representatives which would have, under the Rules of the House of Representatives, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this Act would apply.

(3) MEMBERSHIP FROM THE SENATE.—In each Congress, the Congressional Oversight Group shall also be comprised of the following members of the Senate:

(A) The chairman and ranking Member of the Committee on Finance and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the Senate which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this Act would apply.

(4) ACCREDITATION.—Each member of the Congressional Oversight Group described in paragraph (2)(A) and (3)(A) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in negotiations for any trade agreement to which this Act applies. Each member of the Congressional Oversight Group described in paragraph (2)(B) and (3)(B) shall be accredited by the United States Trade Representative on behalf of the President as official

advisers to the United States delegation in the negotiations by reason of which the member is in the Congressional Oversight Group. The Congressional Oversight Group shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

(5) CHAIR.—The Congressional Oversight Group shall be chaired by the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate.

(b) GUIDELINES.—

(1) PURPOSE AND REVISION.—The United States Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative and the Congressional Oversight Group established under this section; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) CONTENT.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of the Congressional Oversight Group regarding negotiating objectives, including the promotion of certain priorities referred to in section 2(c), and positions and the status of the applicable negotiations, beginning as soon as practicable after the Congressional Oversight Group is convened, with more frequent briefings as trade negotiations enter the final stage;

(B) access by members of the Congressional Oversight Group, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials;

(C) the closest practicable coordination between the Trade Representative and the Congressional Oversight Group at all critical periods during the negotiations, including at negotiation sites; and

(D) after the applicable trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments under the trade agreement.

(c) REQUEST FOR MEETING.—Upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Congressional Oversight Group before initiating negotiations with respect to a trade agreement, or at any other time concerning the negotiations.

SEC. 8. ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.

(a) IN GENERAL.—At the time the President submits to the Congress the final text of an agreement pursuant to section 5(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement. The implementation and enforcement plan shall include the following:

(1) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, and such other agencies as may be necessary.

(3) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by the United States Customs Service.

(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) BUDGET SUBMISSION.—The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress after the submission of the plan.

SEC. 9. COMMITTEE STAFF.

The grant of trade promotion authority under this Act is likely to increase the activities of the primary committees of jurisdiction in the area of international trade. In addition, the creation of the Congressional Oversight Group under section 7 will increase the participation of a broader number of Members of Congress in the formulation of United States trade policy and oversight of the international trade agenda for the United States. The primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

SEC. 10. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows:

(1) IMPLEMENTING BILL.—

(A) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking "section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act" and inserting "section 282 of the Uruguay Round Agreements Act, or section 5(a)(1) of the Bipartisan Trade Promotion Authority Act of 2001".

(B) Section 151(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking "or section 282 of the Uruguay Round Agreements Act" and inserting ", section 282 of the Uruguay Round Agreements Act, or section 5(a)(1) of the Bipartisan Trade Promotion Authority Act of 2001".

(2) ADVICE FROM INTERNATIONAL TRADE COMMISSION.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 123 of this Act or section 3(a) or (b) of the Bipartisan Trade Promotion Authority Act of 2001,"; and

(ii) in paragraph (2), by striking "section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 3(b) of the Bipartisan Trade Promotion Authority Act of 2001";

(B) in subsection (b), by striking "section 1102(a)(3)(A)" and inserting "section 3(a)(3)(A) of the Bipartisan Trade Promotion Authority Act of 2001"; and

(C) in subsection (c), by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 3 of the Bipartisan Trade Promotion Authority Act of 2001,".

(3) HEARINGS AND ADVICE.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988," each place it appears and inserting "section 3 of the Bipartisan Trade Promotion Authority Act of 2001,".

(4) PREREQUISITES FOR OFFERS.—Section 134(b) (19 U.S.C. 2154(b)) is amended by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 3 of the Bipartisan Trade Promotion Authority Act of 2001".

(5) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 3 of the Bipartisan Trade Promotion Authority Act of 2001";

(B) in subsection (e)(1)—

(i) by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" each place it appears and inserting "section 3 of the Bipartisan Trade Promotion Authority Act of 2001"; and

(ii) by striking "section 1103(a)(1)(A) of such Act of 1988" and inserting "section 5(a)(1)(A) of the Bipartisan Trade Promotion Authority Act of 2001"; and

(C) in subsection (e)(2), by striking "section 1101 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 2 of the Bipartisan Trade Promotion Authority Act of 2001".

(6) TRANSMISSION OF AGREEMENTS TO CONGRESS.—Section 162(a) (19 U.S.C. 2212(a)) is amended by striking "or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "or under section 3 of the Bipartisan Trade Promotion Authority Act of 2001".

(b) APPLICATION OF CERTAIN PROVISIONS.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 3 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 3 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

SEC. 11. DEFINITIONS.

In this Act:

(1) AGREEMENT ON AGRICULTURE.—The term "Agreement on Agriculture" means the agreement referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(2) CORE LABOR STANDARDS.—The term "core labor standards" means—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) a prohibition on the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(3) GATT 1994.—The term "GATT 1994" has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(4) ILO.—The term "ILO" means the International Labor Organization.

(5) UNITED STATES PERSON.—The term "United States person" means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(6) URUGUAY ROUND AGREEMENTS.—The term "Uruguay Round Agreements" has the meaning

given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(7) WORLD TRADE ORGANIZATION; WTO.—The terms "World Trade Organization" and "WTO" mean the organization established pursuant to the WTO Agreement.

(8) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Any bill of this magnitude that comes to the floor will always have a history of would have, could have, should have; but what is more difficult about this bill than most is that my colleagues on the other side of the aisle have been forced to diminish the contribution from my colleague, the gentleman from California (Mr. DOOLEY), the very brave and knowledgeable members of the Committee on Ways and Means, the gentleman from Tennessee (Mr. TANNER), and the gentleman from Louisiana (Mr. JEFFERSON).

Both the gentleman from Tennessee (Mr. TANNER) and the gentleman from Louisiana (Mr. JEFFERSON) are members of the Subcommittee on Trade of the Committee on Ways and Means, that subcommittee that deals on an ongoing, everyday basis with this issue. They are among the most knowledgeable in the House. But because some of my friends on the other side are so driven to deny the President the use of this legislative tool, that somehow the fact that the gentleman from Michigan (Mr. LEVIN), working with the gentleman from Nebraska (Mr. BEREUTER), someone who is not on the Committee on Ways and Means, is to be held up as an example of the way we should operate, but when members of the Committee on Ways and Means get together to work on this problem, that is a model to blast, to argue it is not bipartisan, to argue the product is not any good and whether they mean to or not.

I took this time at the beginning, regardless of what the vote is at the end, to thank the gentleman from California (Mr. DOOLEY), to thank the gentleman from Tennessee (Mr. JEFFERSON), to thank the gentleman from Louisiana (Mr. TANNER), and to thank their staffs. For almost 5 months we have worked on what was said to be an impossible project, to resolve the differences that drove us not to provide this power to the President previously. I voted for that. I will vote it for any President, but to trash my colleagues who are powerful enough in terms of their belief that something needed to be done, for my colleagues to carry the day by defeating this is unworthy of any Member.

Attack me, I understand it. I am one of the targets and the symbols; but do not, do not, do not derogate the contribution of those Democrats who were strong enough and who believed enough in this to work together in an intellectually honest way, to produce a product that ironically is better than any product that has ever been brought to this floor in a number of ways, which we will talk about.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I ask unanimous consent to yield 4 minutes to the gentleman from Louisiana (Mr. JEFFERSON) to allocate as he sees fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MATSUI), a senior member, one who has worked so hard on the alternative to the majority bill.

Mr. MATSUI. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL), the ranking Democrat member of the committee, for yielding me the time.

Let me just say this. I am holding in my hands two volumes. These are pieces of legislation that was passed in 1994. It was to implement the Uruguay Rounds and basically put in place the World Trade Organization. I do not say this as somebody who actually produced this legislation along with my colleague the gentleman from Illinois (Mr. CRANE).

I have been a free trader for the last 23 years, since I have been in the United States Congress. I show my colleagues these documents, mainly because we took an up or down vote in 1994, after about 5 hours of debate, and passed this legislation, 5,000 pages.

The Uruguay Round, which passed 7 years ago, was basically about reducing tariffs and eliminating quotas. We had a little about intellectual property, but it was basically about tariffs and quotas.

This next round, the round that we just witnessed in Doha, the beginning of, will be a round in which we not only talk about tariffs and quotas, which will be a small part of it, but it will be about antitrust laws. It will be about food safety laws. It will be about changes in hundreds of government regulations in the United States.

The United States Trade Representative will be able to go through the back door, through the World Trade Organization, and make major changes in domestic regulations and domestic laws; and if my colleagues think these volumes are big, wait till we see 4 or 5 years from now when these negotiations are continued. We will see a volume four or five times larger than this, and we will have 4 hours of debate on the floor of the House, and we have to vote yes or no; and I will guarantee my colleagues they will not know for 2 or 3 years what will be in this legislation.

We might find that there will be a situation where basically we will be making major changes in antitrust laws, and we will not even know whether the consumer will be protected. This is why the legislation should go down, and we should review it again.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

What we will hear from the other side all day is would have, could have, should have. Would have, could have, should have; would have, could have, should have; would have, could have, should have; would have, could have, should have.

At some point my colleagues have to decide whether or not the President needs this power. It is going to have to be done in a bipartisan way, and we have a bipartisan product in front of us.

Mr. Speaker, I place in the RECORD the "Statement of Administration Policy," which begins: "The Administration strongly supports H.R. 3005."

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, December 5, 2001.

STATEMENT OF ADMINISTRATION POLICY

H.R. 3005—BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2001

(REP. THOMAS (R) CA AND 5 COSPONSORS)

The Administration strongly supports H.R. 3005 and looks forward to working with the Congress to provide the President with the authority and flexibility to secure the greatest possible trade opportunities for America's farmers, workers, producers, and consumers. H.R. 3005 would provide Trade Promotion Authority for the President and would establish special procedures for the consideration of legislation to implement trade agreements.

Trade Promotion Authority (TPA) is about asserting American leadership, strengthening the American economy, and creating American jobs.

A congressional grant of TPA takes on renewed importance with the launch of new global trade negotiations. These negotiations can open markets and provide job creating opportunities for every sector of the American economy. But the President can strike the best deal for American workers and families only with approval of TPA. TPA's enactment will send a powerful signal to our trading partners that the United States is committed to free and open trade.

TPA is also essential to put the United States back at the table to help set the rules of the trading game. Our global influence diminished in recent years as other countries moved ahead while we have been stalled. There are currently more than 130 free trade agreements in the world. The United States is party to only three.

The Bush Administration is committed to consultations with Congress to help ensure that the Administration's negotiating objectives reflect the views of our elected representatives, and that they will have regular opportunities to provide advice throughout the negotiating process. H.R. 3005 deepens the traditional partnership between the Executive branch and the Congress through the creation of a joint Congressional Oversight Group with broad bipartisan representation from all the Committees that have jurisdiction over a part of a trade negotiation.

Without TPA, the United States will fall behind in shaping the rules of globalization, our new momentum for trade will be undercut, and the confidence and growth necessary for economic recovery will be weakened.

Passage of H.R. 3005 will send a strong signal of U.S. leadership in trade liberalization.

What does this package do? Obviously it creates the power to negotiate specific agreements, which will come to us later, without ability to equivocate or disagree. This legislation is the best in terms of agricultural objectives we have ever seen. It is the best in foreign investment we have ever seen. It is the best in electronic commerce we have ever seen. It is the best in intellectual property. It is the best in foreign relations, and for the first time treated equally with trade is labor and the environment. It is the best we have ever seen in a dispute resolution, and it is the most comprehensive oversight and scrutiny ever presented to the Congress. It is more bipartisan, more representative, and more effective in terms of expanding the number of Members who are able to deal with these issues.

In addition to that, after we took the product, put together by my friends that I had mentioned earlier, we then went and talked to additional Members. Through this process of talking to Members, what do they think of this work product, and from their perspective how can it be improved, they said we want to make sure there is not a race to the bottom on the labor and the environmental standards. We did that.

They said we want to make sure that no foreign investors when we go to court have greater rights than any U.S. citizen. Okay. We did that.

They said they want to make sure that if there is foreign currency changes, that it is not foreign currency manipulation for the purpose of getting a trade advantage. We said that is a good idea. It is in the bill.

Members asked for special consideration in terms of import-sensitive products. They have gotten it in three different locations because clearly they are threatened if they are import sensitive.

Members asked that the administration not reduce textile tariffs when they are negotiating with another country that, as the gentleman from California (Mr. MATSUI) held up in terms of the Uruguay Round, where other countries said they would reduce their tariff and they have not. We said they are right. We are going to make sure that our negotiators do not lower our tariffs when the other country they are negotiating with have higher tariffs.

Members asked for an improved consultation and opportunity to actually withdraw trade promotion authority if the administration failed to consult. In a number of ways, we said, they are right; we will enhance it.

Finally, on the oversight, not just the committee's of jurisdiction, but every committee whose jurisdiction would be affected by the potential legislation, the administration has to come to us at the beginning of the process, during the process, and at the end of the process. They have to satisfy the Members of Congress on transparency and information transfer.

The administration does not determine when they are through. The administration does not determine how much information is to be made available. For the first time in any agreement, it is the Congress that controls how much information the administration has to provide.

In every aspect, this is a better negotiating tool than we have ever seen in the past. It is bipartisan. It is something that the President has said he desperately needs for a number of reasons; and there is no solid, substantial reason that this should not pass today.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that we extend the time for debate for 1 hour in view of the fact that the Committee on Rules did not see fit to give the Democrats a substitute, in view of the fact that the gentleman from California (Mr. THOMAS) put this bill together in the middle of the night without a hearing, and we are now finding sometimes for the first time what is in it.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DREIER. Mr. Speaker, reserving the right to object, and I do plan to object, I am very proud of the way the Committee on Rules has put together this package, and I do not believe that this was done in the middle of the night.

I believe, as I said in my statement during the debate on the rule, we are faced with an up or down vote on whether or not we are going to grant the President this very important Trade Promotion Authority, and I happen to believe that we have been talking about this for a long period of time. During debate of the Committee on Rules, the gentleman from Ohio (Mr. HALL) said let us move ahead and let us vote.

So, Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. RANGEL. Mr. Speaker, with deep disappointment, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I rise in opposition to this legislation.

Ladies and Gentlemen, Trade Promotion Authority is being sold to Americans as a few different things. The Bush Administration has called today's vote an act of patriotism, now more necessary than ever. House Republican leaders, in a suspicious midnight conversion, are now feverishly promising gifts to its critics in return for their support. Well folks, you can wrap this vote up in red, white and blue. You can tie it with a bow and put it under the tree. But either way, this trade bill is neither patriotic nor a gift. It is a dagger into our basic rights and our standard of living.

Americans are being asked to make three sacrifices in exchange for President Bush's trade policy. They are being asked to give up their middle-class lifestyle, their environmental concerns, and their public health. For all those Americans who think that sounds like a raw deal—and they are right—I urge my colleagues to vote a resounding "no" on this very bad trade deal.

When NAFTA was passed in 1993, its supporters promised nothing but blue skies for hard-working Americans. Using fast-track authority. President Clinton hurdled the bill through Congress without a truly meaningful debate in Congress on the effects of such a trade agreement. Millions of Americans have paid a high price for that lack of candor eight years ago. A recent report shows that 3 million actual and potential jobs disappeared from the American economy between 1994 and 2000 due to NAFTA and the accelerated trade deficits it caused. In my home State of California, over 300,000 manufacturing jobs—good jobs, well-paying jobs—crossed the border during the last 6 years. The economic surge and booming stock market of the 1990s masked a harsh reality for millions of American workers—for them, NAFTA has meant nothing more than a pink slip.

Despite this, President Bush and others in Congress would expand NAFTA further. If this bill passes, it would allow the Administration to eventually spread NAFTA's misery to over 30 other nations in our hemisphere and further exacerbate job losses in our own country. America's workers had hoped for a different kind of generosity from the American government. After losing their jobs to NAFTA a few years ago, they waited for training programs. In the wake of September 11, they waited for help that instead went to corporations. And they are waiting still, listening to empty promises that TPA will help bring back their jobs.

In the last day, realizing that they are perilously close to losing this vote on fast track, Republican leaders have suddenly become concerned about the needs of America's working men and women. They are now promising more trade adjustment assistance, for example. That would be nice. But their bill does not guarantee more trade adjustment assistance, it just authorizes it. We've been there before. Their bill continue to fail to address the deeper pitfalls that fast track poses for working families.

Fast Track also poses a serious threat to the environment. Frankly, it is insulting to my colleagues and all Americans when fast track proponents claim that their bill includes strong language that adequately addresses environmental concerns. One look at NAFTA shows why we should be terrified at extending current trade rules to future agreements.

Chapter 11, a provision intended to protect multinational corporations from their host states, has been abused by corporations that refuse to be bound by lawfully decided and publicly supported environmental regulations. California was one of the first states to run into the chapter 11 problem when it tried to protect its environment from the harmful effects of MTBE. When California halted the use of the gasoline additive, a Canadian corporation called Methanex sued the United States under NAFTA's chapter 11 for almost one billion dollars because of lost revenue it said it would incur from California's decision to protect its environment. Luckily, however, America remains a democracy where important environmental decisions are reached in a fair, open manner.

Consider this frightening, fast track reality: If foreign companies operating in the U.S. don't want to play by our rules, they get their cases decided before a secret tribunal accountable to no one. This lack of democracy doesn't bother the administration. The environment has become a defendant without rights. Rights are reserved for multi-national corporations.

Like pharmaceutical companies, for example. According to the Bush administration, demanding higher labor standards in our trade agreements is an imposition of values. On the other hand, when we force other countries to rigidly adhere to our own intellectual property laws, this is sound policy. A principal negotiating objective in this bill is to achieve the elimination of, "price controls and reference pricing which deny full market access for United States products". I don't think such a narrow-minded, market-driven approach is justifiable in the face of an HIV/AIDS pandemic that has decimated much of Africa.

Since the horrible events of September 11, public health experts have warned that our country must reduce its vulnerability to potential biological and chemical terrorism. The American Public Health Association doesn't support this bill because it represents a risk to the safety of America's food supply.

Let me quote Dr. Mohammad Akhter, Executive Director of the American Public Health Association:

> With our system of imported food safety so flimsy, the last thing we need is an executive mandate for more porous borders.

Executive mandate is exactly what this bill is. It stomps on the constitutional authority granted to Congress over international commerce. On these grounds alone, this bill is unconstitutional. But add to that criticism the hostility that this bill shows toward labor rights, environmental protection and public health, and you have a bill that is indefensible and should be voted down here today. A vote against fast track is a vote to defend the rights and liberties that we hold so dear. It is a vote to support working men and women in America. It is a vote to protect our environment, our public health and our values.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. NEAL), a member of the Committee on Ways and Means.

Mr. NEAL of Massachusetts. Mr. Speaker, the gentleman from California (Mr. THOMAS) said, "would have, could have and should have." Let us add another part of that, "want to," because as a free trader here I strongly urge my colleagues today to vote against this particular version of Fast Track Authority. The bill, put together by the gentleman from New York (Mr. RANGEL) and the gentleman from Michigan (Mr. LEVIN) is far superior, and I hope that that version will pass by the end of the hour we have to debate.

While being more modern perhaps than their previous offerings, the Republican bill still fails to give adequate voice to the new realities of trade negotiations, that decisions made impact our constituents in many more ways than they used to, because the negotiations no longer simply attempt to lower tariffs or to reduce direct restraints on trade.

Hence, the goals the United States should pursue need to be more clearly articulated in any legislation, the issues that we do not always see at the surface in Fast Track Authority. The role of Congress needs to be far more extensive in order to bring about a successful conclusion.

These new realities are knitted together in a far more comprehensive manner by the Rangel-Levin version of Fast Track Authority than the Republicans have proposed. We all would be better off in the long run by a decision to negotiate, in a meaningful way, bipartisan legislation rather than forcing this through this afternoon.

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Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of H.R. 3005.

This bill is about arming the President and his team with the authority to achieve trade agreements written in the best interest of U.S. farmers, companies, and workers. It ensures that the President will negotiate according to clearly defined goals and objectives written by Congress.

Trade is fundamental to our relations with other nations. As the President strives to neutralize international threats to our security, TPA is an essential tool for him to have to use in the campaign to build coalitions around the world that work with us to guard freedom.

H.R. 3005 strikes a two-way partnership between the President and Congress on our common objectives for international trade negotiations in which the United States participates. Its passage will ensure that the world knows that Americans speak with one voice on issues vital to our economic security.

My colleagues know I am not one who is enthusiastic about putting labor and environmental matters on the trade agenda, and my original TPA bill, H.R. 2149, which had 100 cosponsors, was completely clean in this respect. But to protect our country's interests internationally, I acknowledged the necessity of forging a meeting of minds on these sensitive issues with our colleagues on the other side of the aisle. The final result of difficult compromises over 5 months is the bill before us today.

TPA simply offers the opportunity for us to negotiate from a position of strength, and does not in any way constitute final approval of any trade agreement. Under this bill, Congress and the American people retain full authority to approve or disapprove any trade agreement at the time the President presents it to Congress.

While we have delayed these last 7 years to pass TPA, other countries have accelerated their claims to new markets. The U.S. is the world's greatest exporter, sending almost $1 trillion worth of goods and services to foreign consumers. Expanding trade remains the linchpin of any successful strategy to increase long-term noninflationary economic growth.

In my home State of Illinois, over 400,000 jobs are tied directly to exports. These jobs are more secure and pay over 15 percent more than nontrade-related jobs. According to a study by the National Association of Manufacturers, companies that manufacture for export are almost 10 percent less likely to go out of business than others. These firms pay better benefits. In Illinois, these good, high paying, trade-related jobs are often in the machinery, agriculture, information technology, and chemical sectors. These are the types of jobs that will not be created if we reject the opportunities of the international marketplace by voting no on H.R. 3005.

In these times of economic dislocation, we cannot afford to deny President Bush a primary tool of economic growth. Americans have never been reluctant to compete head to head with our trading partners. We should not dash the best chance we have of creating a better future of dynamic economic growth and success for our workers, businesses, and farmers in international markets.

I urge a "yes" vote on H.R. 3005.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I rise in opposition to the measure before us, confident that we can do better.

Mr. Speaker, I bring credentials to this discussion.

I have supported trade initiatives since I came to Congress. And I continue to believe that Presidential trade negotiating authority is an important tool. But it must be the right kind of authority, suited to our time. And the bill before us does not provide that.

Trade negotiations have moved far beyond the issue of tariffs. These negotiations now affect our nation's tax laws, intellectual property standards, insurance system, and agricultural programs. These are issues that would not have occurred to Congress when we launched GATT after World War II. Our trade laws must change with the times. The volume and content of international trade has expanded enormously in the past decade. And the scope of trade agreements has expanded well beyond the jurisdiction of the Committee on Ways and Means in the last quarter century. Trade affects all of our constituents on a daily basis, and we must strengthen our responsibility to speak for them.

Congress must now expand its capacity to engage negotiators over the often long and complex course of modern trade agreements. We need an expanded, independently informed, and active set of Congressional advisers. And if the President's negotiators are obviously not fulfilling their stated objectives, Members must have an opportunity to vote on a resolution of disapproval that does not have to be passed first by the Ways and Means Committee. Congress must have an integral role, more than just more vague promises from the Administration to consult with us. If the consultations, or rather lack of them, that bring us to this juncture today are an example of what our colleagues have in mind, it is an empty promise indeed. Giving Congress real participatory oversight of the negotiations is the best way to build Congressional support for the agreements that are ultimately reached.

It is simply not true to say that opponents of the Thomas bill are opponents of free trade. That statement ignores the honest effort led by Mr. Rangel to craft a bill that will accomplish the objective of promoting trade without sacrificing our capacity to continue to work towards basic environmental and labor standards.

A vote against today's bill is not an attempt to hold free trade hostage until the rest of the world matches our labor standards. The Rangel alternative expects nothing of the sort. A vote against the bill is a vote to go back to work on legislation that will engage our partners in a real dialogue. We must ensure, at a minimum, that countries do not weaken their labor and environment laws to attract investment. It is a vote to go back to work on a bill that will create the relationship that should naturally exist between the World Trade Organization and the International Labor Organization. It is a vote to ensure that the rules we set up do not give foreign investors greater rights in America than Americans themselves enjoy.

I look to the future, and I know we can build a bipartisan consensus for trade promotion authority. That is crucial because any trade negotiating framework must have the confidence of more than a narrow, partisan majority in order to command real respect for trade agreements that flow from it. The bill before us today, regrettably, does not do that. We can do better.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. Cardin), a distinguished member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, I support granting the President Trade Promotion Authority, but I oppose the bill we are considering today. I have supported fast track authority for NAFTA, for GATT, I supported PNTR, but I oppose this bill.

The reason I oppose it is that the landscape for trade legislation has changed, yet our delegation of authority to our President has not. Let me just cite one example.

We talk about putting in our authority that we expect to make progress on labor standards by enforcing one's own laws. Yet when we accomplished that for Jordan, the first thing we did was to weaken our ability to enforce those standards.

Let us take a look at antidumping laws. We passed legislation in this body that said we would not weaken our antidumping and countervailing duty laws. Yet in Doha we put that on the table for negotiations. So at least we would think that this underlying bill would make a principal objective of trade that we do not weaken our own laws in this regard. But, no, we put it as a third priority. What message is that to our trading partners? We can do better.

Support the motion to recommit with the Rangel bill, then we really will give the right authority to the President. I urge rejecting the underlying bill and supporting the motion to recommit.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from California (Mr. Herger), a member of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, this is without a doubt one of the most important votes any of us will cast this Congress. Today we are deciding whether or not we will give American workers and American companies the support they need to open international markets.

Nowhere is trade more important than on the farm. Last year, more than $140 million worth of dried plums, $600 million worth of almonds, were exported from the State of California, much of it from my northern California district. California exports 80 percent of its cotton, 70 percent of its almonds, and 40 percent of its rice, yet our farmers face an average tariff rate of 62 percent. These barriers will never be eliminated until we give the President Trade Promotion Authority.

I strongly urge my colleagues to support TPA.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield an additional 2 minutes to the gentleman from Louisiana (Mr. Jefferson.)

The SPEAKER pro tempore (Mr. LaHood). Without objection, the gentleman from Louisiana will control 2 additional minutes.

There was no objection.

Mr. JEFFERSON. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. Moran).

Mr. THOMAS. Mr. Speaker, I yield 30 seconds to the gentleman from Virginia (Mr. Moran).

Mr. MORAN of Virginia. Mr. Speaker, I want to address myself particularly to the Democratic side of the aisle, not necessarily to all of the Democratic Caucus, because I understand that many of us are in districts that have high concentrations of organized labor, have high concentrations of textiles and other industries that could be adversely affected by trade. But I know that there are at least 60 Members who represent districts that are highly dependent upon trade, that in fact represent the highest economic growth sectors of this economy; technology, telecommunications, professional services products throughout the manufacturing sector benefit from international trade.

All of our constituents benefit by lower prices in products and services as a result of trade. In fact, all of us have constituents whose incomes are 15 percent greater because they are in export-related jobs.

The reality is that this bill in fact, is bipartisan, and nobody outside the boundaries of the Beltway cares about personalities or process. They look at policy. From a policy standpoint, we have enforceable standards on labor and the environment. We have the availability of the use of sanctions for all such negotiating objectives. We have transparency in all commercial transactions.

This is the most substantial progress in U.S. trade policy with respect to labor and the environment that we have ever had the opportunity to vote for. This is a good bill. It is one we should all support. I urge its approval.

Mr. JEFFERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. Dicks).

Mr. DICKS. Mr. Speaker, I rise in strong support of the Trade Promotion Authority Act of 2001. This is outstanding legislation.

Mr. Speaker, H.R. 3005 is legislation that will grant to the President Fast Track negotiating authority for certain trade agreements. I am convinced, Mr. Speaker, that this authority is necessary to ensure that the United States remains a global leader on free trade, and to enable this President and future Presidents to continue to work to open foreign markets to American goods.

Clearly in today's global economy, our Nation has a major interest in reducing barriers to international trade, with more and more American jobs dependent upon our ability to market our goods and services to overseas customers. And certainly in my State of Washington, which is the most trade-dependent in the Nation, our ability to trade freely with foreign nations sustains an enormous portion of our economy. In Washington, we exported more than $33 billion in goods each year, estimated to sustain more than 1 million jobs. The Puget Sound area of our State was recently described as the most export-dependent U.S. metropolitan area. So this is an issue that relates very much to the creation of new jobs in our region, and certainly it plays a major role in the national economy as well, helping to improve our balance of trade and provide jobs for American workers in the 21st century.

And these are good jobs. These are not low wage service jobs that have been generated from the growth of international trade in my State. They are family-wage jobs that pay substantially greater than the national average. We are talking about thousands of union machinists making airplanes at the Boeing Company, about software developers at Microsoft, mill workers who fabricate aluminum at Kaiser, chipmakers at Intel, and workers at Weyerhauser who produce lumber wood products.

Trade is not just important to large businesses and big corporations. In my state, there are many more small businesses than big ones that owe their income to international trade.

There are many small companies that supply machine and airplane parts that go into the aircraft that we sell overseas, thousands of farmers that grow apples and wheat, and countless small, family-owned mills that process timber and sell the products in Asian and other overseas markets. And there are jobs that are sustained by these exporters: Bankers, teachers, restaurant workers, plumbers, lawyers and countless others.

The economic recession has had a severe impact on the State of Washington. The end of the high technology boom and the effect that the attacks on September 11 have had on the aircraft industry has been devastating. Currently, we are suffering the highest unemployment rate in the Nation—6.6 percent.

My highest priority as a Member of Congress has always been jobs. Increasing our trade and exports with other countries means jobs for Americans and jobs for people in Washington State. In my judgment, the fastest way out of this recession is to tear down the barriers other nations have put up against American goods and services, enabling our manufacturers and other businesses to access new markets. I believe in the ability of our workers and businesses to compete against anybody and win.

Some of my colleagues claim that Trade Promotion Authority is not needed; that the President can already conduct trade negotiations without expedited authority granted by Congress. This is true, the President can negotiate an agreement with other nations. However, what we have found since Fast Track authority lapsed in 1994 is that other nations are unwilling to negotiate with us knowing that any agreement reached with the administration would likely be changed by Congress without consultation or consideration of the views of the other party to the agreement. This is why President Clinton strongly urged Congress to extend Fast Track authority several years ago.

We are falling behind. Of the more than 130 free trade agreements in the world today, the United States is a party to only three. The European Union, by contrast, is a party to more than 27. Because they cannot negotiate a fair deal with the United States, other countries are choosing to buy European-made manufactured goods and agricultural commodities, putting our factory workers and farmers at a distinct disadvantage.

I urge my colleagues to consider very seriously how a vote against this bill will affect our nation's ability to compete in the global marketplace. I also ask that you think about how important this bill is to enable our economic recovery. For both of these reasons, I encourage my colleagues to join me in support of H.R. 3005.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SHAW), a member of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, "Made in the USA" is a badge of pride. It is a symbol of quality. It is a symbol of good workmanship. It is not a symbol of protectionism. The greatest, largest economy in the world cannot be afraid of free trade. The most free country, the strongest country in the world, cannot be afraid to give to their President the same authority that every other President and Prime Minister in this world has today.

Let us give this authority to the President. We are not voting on a treaty. We are simply voting on the authority of the President to go forward. The rest of the world is going towards free trade. We are going to lose markets to the countries that have free trade. Let us support this bill. It is very important to give the President this authority.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I thank my colleague for yielding me this time, and I rise reluctantly in opposition to H.R. 3005 today.

I say reluctantly, because I believe in trade, the necessity for it to achieve economic growth and expanded opportunities for all of our workers, I believe the President needs this authority, and I have supported all trade agreements in Congress since I have been here; this debate today, however, is not about being for trade or against trade, it is about establishing the rules of trade in the 21st century.

The world is very different than it has been in the past when trade negotiations were, by and large, about reducing trade barriers, quotas, and tariffs. There are many more complex and evolving issues involving trade: labor and environmental standards, antitrust, health and safety standards, privacy standards. The major issue for trade in the 21st century will be the harmonization of these different standards. And the question is do we harmonize upwards or downwards? Do we improve standards around the globe or is it a race to the bottom?

That is why I, along with the gentleman from California (Mr. MATSUI), believe there needs to be a greater institutional role for Congress to have consistent with our Article I, section 8 responsibilities in the Constitution. But I resent the fact that many of us have had to come begging in the 11th hour to get the majority party and the administration to do right by American workers today with an adequate worker relief package which is the right thing to do anyway. That should not occur. It should have been dealt with months ago, but instead it came to this. Trade policy should not be partisan or personality driven. Let's instead do it right.

So unfortunately I rise in opposition and encourage support for the motion to recommit.

As our Nation leads the world into the 21st century, we should not shy from opportunities to guide and expand global trade. Opening up foreign markets to American goods not only provides economic growth potential, but also exposes American ideals to people around the globe. I cannot, however, support the majority's trade authority legislation because it does little service to real problems facing this Nation, refuses to guide trade negotiations in a positive way, and unnecessarily maintains a weak constitutional role for Congress in regulating international commerce, which is our obligation under article 1, section 8 of the Constitution.

In a world fused by global integration and communication, international trade has become a linchpin of not only our national economy, but also the economies of most nations. We must remember that today's vote, however, is not about promoting or suppressing trade between the United States and other nations. This vote is about how our Federal Government goes about the process of regulating commerce between nations.

Our Founding Fathers deliberately put Congress in control of regulating commerce with foreign nations. With the impact of tariffs and duties directly affecting their diverse constituencies, Members have a responsibility to weigh in on the regional impacts of these mechanisms. Today's trade environment is constantly changing, with nontariff trade issues impacting all aspects of our economy and law. Issues including antitrust law, intellectual property, and pharmaceutical costs, along with concerns over regulatory harmonization, require intense negotiations at a new level. Nonetheless, the role of Congress should not be ignored as it is in H.R. 3005, but reestablished in recognition of these new challenges. To this end, I encourage my colleagues to consider the establishment of a Congressional Trade Office that could analyze the implications of trade negotiations, and address the concerns of Congress. Such an office would also be able to provide all Members, not just certain committee leaders, with information on the range of issues facing each region in a nonpartisan, objective fashion.

In formulating a trade authority bill that will help establish how America engages the rest of the world in the 21st century, I had hoped this Congress would seize the opportunity to move toward positive, fundamental changes in world trade agreements. Unfortunately, by forcing a partisan trade bill, the House leadership dismissed this opportunity, effectively limiting our Nation's ability to advance international labor, health, safety, and environmental standards, as well as improve transparency in international organizations.

Developing trade relations between the United States and foreign nations is often mutually beneficial on economic, societal, and political fronts. We cannot, however, ignore that with such engagement, competition increases and can result in winners and losers.

In my home town of La Crosse, WI, Isola Laminate Systems recently laid off 190 skilled workers due in part to a worsening economy, but also due to government trade policies relating to textiles. These laid off workers should have every opportunity to receive adequate benefits, including health and training, through Trade Adjustment Assistance. While the majority has thrown a bone to workers in regard to increased TAA assistance, the shortcomings of TAA have not been resolved.

Moreover, it is important that any real Trade Adjustment Assistance reform provide benefits to our Nation's agricultural producers. America's family farmers are impacted by our trade agreements through markets being both gained and lost. Unfortunately, agricultural producers are not currently eligible for trade adjustment assistance even though family farms are going out of business at record levels. Providing income assistance and job employment skills should be as important for America's farmers as it is for our Nation's industrial workers.

As recent reports have indicated, our Nation's economy has been in recession since March 2001. In combination with immediate and long-term economic losses associated with the terrorist attacks of September 11, the economy's downturn has resulted in faltered businesses and laid-off workers. In response, Congress has done little to come to the aid of displaced workers throughout the country, despite demands by Members and promises from the House leadership. In an effort to push unemployment legislation I, along with some of my colleagues, sent a letter on October 24, 2001 to the majority leadership stating our refusal to support Trade Promotion Authority unless displaced worker aide is addressed beforehand. The 11th hour promise to recommend action on unemployment benefits for our Nation's affected workers is not concrete, not encouraging, and not enough.

As a supporter of increased trade opportunity, I consider this vote very important. H.R. 3005 as it currently stands, however, does not provide assurances that the concerns of western Wisconsin residents will be adequately addressed in future trade negotiations. If Congress is going to cede some of its authority over the regulation of commerce with foreign nations, such a proposal should be based on deliberate policy and not partisan politics. The failure of the House leadership to come to the negotiating table and work in a bipartisan manner on this important issue is shameful. I strongly encourage my colleagues to pass the motion to recommit and include language from the Rangel-Levin-Matsui Comprehensive Trade Negotiating Authority Act, which more accurately addresses the issues of international labor and environmental concerns, and strengthens the critical role Congress should play formulating trade.

Mr. JEFFERSON. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM), the ranking member of the Committee on Agriculture.

Mr. STENHOLM. Mr. Speaker, I rise in support of Trade Promotion Authority and the bill before us today. The truth about trade is that there always are both successes and failures, winners and losers. But for our Nation as a whole, the indisputable fact is trade is a net positive.

When it comes to agriculture, the successes have outweighed the failures. American farmers and ranchers now make a quarter of our sales to overseas markets. Next year, agriculture exports are expected to exceed $54.5 billion, making a net trade surplus of $14.5 billion. That is just a fraction of what could be possible if we had freer and fairer markets.

For workers who have lost in trade in the past, I sincerely believe that the best and perhaps only way to fix what has failed is through new negotiations that level the playing field. We must speak and act with a united voice and a unified voice that is forged through a close partnership between Congress and the executive branch. That is the vision of the compromise bill before us today.

There is a dear price to be paid for delay. American farmers and ranchers cannot afford for us to stand by and watch the rest of the world unite behind trade. We need to participate. Support this bill today.

Mr. THOMAS. Mr. Speaker, it is my privilege to yield 1 minute to the gentleman from Iowa (Mr. NUSSLE), a member of the Committee on Ways and Means and the chairman of the Committee on the Budget in the House of Representatives.

Mr. NUSSLE. Mr. Speaker, promoting international trade is essential to our economy and to our ability to secure America's future. Granting the President authority to improve and expand trade agreements is essential to securing America's future. We cannot say that we are for trade if we vote against promoting trade authority for the President.

Let me talk about agriculture. Agriculture would probably be the biggest beneficiary under this agreement and under this legislation. Thirty-five percent of agricultural goods from my district alone are exported. If you walk out into a corn field and count the rows, 1 of every 5 corn rows in Iowa is exported.

But it is not just agriculture. In my district, 217 manufacturers in little old Iowa, in the Second District, export on a regular basis. John Deere, 1 of every 4 green tractors that come off the line is exported overseas. Thirty-five thousand jobs nationwide are export dependent.

Revitalize our economy, create jobs, pass Trade Promotion Authority.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise to support the Rangel-Levin bill and oppose the Thomas bill, which contains provisions favoring the pharmaceutical industry that will make it harder for Americans and our trading partners to get access to affordable medicines.

The Thomas bill will force the Third World's poorest countries to move more quickly to pay the First World's high drug prices in order to treat diseases like AIDS. Unlike the Rangel-Levin bill, the Thomas bill completely ignores the health needs of developing countries.

The Thomas bill directs the elimination of government measures, such as price controls and reference pricing, used by many trading partners, to keep prescription drugs affordable. This is not a proper trade objective, it is a greed objective for the pharmaceutical industry.

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By forcing higher drug prices in Canada, it could deprive many American seniors of an inexpensive source of drugs. In the U.S., it could force repeal of the deep discounts available for veterans and those on Medicaid. In the name of free trade, the Thomas bill protects the monopolies of this country's most profitable industry, and hurts the world's poorest disease-ridden countries. Vote down this bill.

Mr. JEFFERSON. Mr. Speaker, I yield 30 seconds to the gentleman from Oklahoma (Mr. CARSON).

Mr. THOMAS. Mr. Speaker, I yield 30 seconds to the gentleman from Oklahoma (Mr. CARSON).

Mr. CARSON of Oklahoma. Mr. Speaker, I thank the gentlemen for yielding me this time.

Mr. Speaker, I rise today as one of the distressingly few Democrats in support of a grant of Trade Promotion Authority to President Bush. My support of TPA springs from the recognition that trade is really part of a larger debate on the proper role of America in the world today. It is a debate that echoes in the halls of the Pentagon and the National Security Council, as well as those of our trade representatives, and that is waged with arguments in Doha but with arms in the Hindu Kush.

Many of my colleagues in the Democratic Party state their belief in free trade, but nonetheless refuse to support TPA unless it includes provisions mandating other nations' compliance with our own environmental and labor standards. Alas, this notion, if enacted, would render TPA a nullity, a mere piece of paper that in the prelude expresses support for trade but which, in the details, mocks that claim. None of the developing nations with which we aspire to negotiate new trade agreements will accept strict labor and environmental provisions.

And equally as important, the best way to improve labor and environmental standards, given many nations' social conditions, is to increase the wealth of the developing world, which trade will do, while also increasing our own wealth. It is a no-lose proposition.

To reject TPA is, in the end, to reject trade itself, which is a disaster for the country and the world, and, for my own party, a refusal to live up to its historic obligation to support free trade.

Mr. Speaker, I rise today as one of the distressingly few Democrats in support of a grant of Trade Promotion Authority to President Bush. My support of TPA springs from the recognition that trade is really part of a larger debate on the proper role of America in the world today. It is a debate that echoes in the halls of the Pentagon and National Security Council, as well as those of our trade representatives, and that is waged with arguments in Doha but with arms in the Hindu Kush.

Since Adam Smith first articulated the case for free trade in the 18th century, economists, no matter whether liberal or conservative, have acknowledged with near-unanimity the merits of trade liberalization. Trade increases wealth for participating countries, ensures access to high-quality products, and guarantees the efficient use of resources. As Smith recognized, it pays for a country to specialize in what it does best, even if that country can do everything better than its trading partners. This is the essence of comparative advantage.

Many of my colleagues in the Democratic Party state their belief in free trade, but nonetheless refuse to support TPA unless it includes provisions mandating other nation's compliance with our own environmental and labor standards. Alas, this notion, if enacted, would render TPA a nullity—a mere piece of paper that, in the prelude, expresses support for trade but which, in the details, mocks that claim. None of the developing nations with which we aspire to negotiate new trade agreements will accept strict labor and environmental provisions. And, equally as important, the best way to improve labor and environmental standards, given many nation's social conditions, is to increase the wealth of the developing world, which trade will do, while also increasing our own wealth. It's no-lose proposition.

It is true that, while the nation tremendously benefits from trade, certain sectors of our economy can be hurt. That is why, as Democrats, we must support and expand Trade Adjustment Assistance, the portability of health insurance benefits, more assistance to the International Labor Organization and other non-governmental organizations that do the heavy lifting on labor and environmental issues, and even wage insurance for displaced workers. But at no cost should we scuttle one of the great achievements of the post-war era: the liberalization of trade. To reject TPA is, in the end, to reject trade itself, which is a disaster for the country and the world, and, for my own party, a refusal to live up to our historic obligation to reach out to the world, bringing prosperity to our own workers and those abroad, too.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, I represented 700,000 in the suburbs of Seattle and Tacoma. One-third of the jobs held by these people are related to trade. Reducing trade barriers has never been more important in the Puget Sound area. If we do not expand exports and open new markets for Boeing jets and Microsoft software, we lose more jobs in the Northwest. For Boeing workers, TPA means keeping the aircraft industry viable in our community. Over $18 billion worth of aircrafts were exported last year. Traditionally, half of Boeing's aircraft sales are for overseas customers, a trend that will continue in the future.

For our farmers, TPA means that more people will have access to the finest products in the world; 33 percent of Washington State commodities, valued at $1.8 billion go to the international market.

For our high-tech firms, TPA means strengthening intellectual property standards. The software industry loses $12 billion annually due to counterfeiting and piracy. Reducing piracy in China alone could generate $1 billion of revenue for the Northwest.

For women entrepreneurs, women-owned businesses involved in international trade have higher growth rates, develop more innovations, and create more jobs in their communities. Support TPA.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I urge a "no" vote on the Thomas bill so we can ultimately bring up the Rangel-Levin bill which takes an important step to restore this body's constitutional mandate in trade making so that trade regimes lift all people. Why pass another same-old same-old trade bill that will bring us more lost jobs, more bankrupt farmers with the lowest prices in history with growing trade deficits every single year.

Fast Track procedures simply do not work. This Congress has the ability to write trade agreements that leaves no sector behind, recognizes worker rights, and a clean safe environment for each of the world's citizens. Put a human face on globalization: vote "no" on the Thomas bill and let us meet our constitutional obligations in this Chamber to write trade bills that work for everyone.

Mr. JEFFERSON. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DOOLEY), who has been a real leader in forging a bipartisan effort on this bill.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Speaker, it was a pleasure to work with the gentleman from Louisiana (Mr. JEFFERSON), the gentleman from California (Mr. THOMAS), the gentleman from Tennessee (Mr. TANNER), and many others in drafting what I believe is a significant step forward in developing Trade Promotion Authority.

Mr. Speaker, why is this important? It is important so the United States can maximize its influence and maximize its leadership internationally. It is important for the United States to demonstrate how we can lead and expand not only economic opportunities for the working people and the businesses in our country, but also demonstrate through this policy of economic engagement, which is embodied in our trade agreements, that we can do more to empower people throughout the world.

When we look at those individuals in the developing world, every dollar in their per capita income that they see improved gives them greater purchasing power; but also with the improvement in their quality of life and their economy, we see the advancement of human rights, of civil liberties, and also the advancement of democracy.

What we are able to do in this Trade Promotion Authority is to ensure that we are not only going to make progress in expanding the economic opportunities; but also for the first time, we are going to be able to provide the ability to see the enhancement of environmental and labor standards internationally through our trade agreements.

What was also important for all of us to realize was that the only way we can again provide that leadership is to ensure that we can get these countries to the negotiating tables. A lot of the alternative proposals that have been offered for Trade Promotion Authority, unfortunately, would result in very few countries being interested to participate in negotiations with the United States.

A failure to pass Trade Promotion Authority will have significant impacts. In the last few weeks we have heard that Brazil and Bolivia would fail to participate in a Free Trade Area to the America agreement without the passage of TPA.

Following the Doha agreement, we have France that made a strong statement that they would not be interested in participating in the next round of negotiations if the United States President did not have TPA. This is important to our economy and workers, and also to the developing world.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Texas

(Mr. DOGGETT), member of the Committee on Ways and Means.

Mr. DOGGETT. Mr. Speaker, here we have the "fast" Fast Track being rammed through Congress, with all amendments and alternatives blocked and 1 hour for 435 Members to debate this bill. When the House Republican leadership acts in such a high-handed manner before the bill is even passed it can hardly be expected to cooperate and collaborate after Fast-Track authority is granted.

As a strong advocate for more international commerce, I have supported trade agreements with China, the Caribbean Basin, Africa, Jordan and most recently, the Andean region. The real issue today is not whether to expand trade, but how. In the Ways and Means Committee I sought unsuccessfully to obtain one simple guarantee: that foreign investors would not be given more rights than American citizens. Foreign investors should not be granted the right to eviscerate our environmental, health, safety and consumer laws, in secret investor tribunals beyond the review of the press, public, and watchdog groups.

I cannot support unlimited authority to negotiate international agreements impacting the environment for an Administration whose environmental record has ranged from indifference to outright hostility. That is why the Sierra Club, Friends of the Earth, the League of Conservation voters and every major environmental group in this country is opposing this legislation. It relegates the role of Congress to little more than preparing a Christmas wish list, hoping that an Executive Santa Claus will deliver. I am not against taking a fast track to more trade; I am against any proposal that does not give the Congress a steering wheel and a brake when the Administration takes the wrong track for the environment.

Mr. JEFFERSON. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. TANNER), who has been a real partner in this effort.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I thank the gentlemen for yielding me this time.

Mr. Speaker, this has been an honest, intellectual exercise in a negotiation to try to do something for this country which desperately needs to be done. The irony of part of this argument today is the very means by which we address child labor, labor and environmental standards of all sorts, is through a vehicle just like we have the vote on today. It is the only way Congress can participate, and it ought to be done. The irony is if we turn it down, what have we done? Nothing. Absolutely nothing, and Congress has no voice at all in what goes on around the world in the area of the world marketplace. That is really pathetic.

The other thing I would like to say, if Members believe, as I think everyone has to, that we can grow more food in this country than we can consume, that we can make more products and stuff than we can sell and buy from one another, then it is an economic fact of life, not a political argument, that those engaged in surplus production are going to lose their jobs. That is not a political argument; that is an economic fact.

How do we save those jobs, how do we create new jobs, is by exports so that people in this country can work to make, as an earlier speaker said, tractors in Iowa to send to the rest of the world. That is what this is about: jobs in this country.

Mr. Speaker, if we turn this down, we are going to wait awhile, 1, 2, 3 years, I will tell Members what is going to happen. Maybe 4, 5 years from now we are going to wake up and the economic partnerships which have been created between the Asians, the South Americans and the European Union, we are going to be wondering what happened to the United States leadership, to the United States jobs and to the United States role as a leader in the world.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BECERRA), a member of the Committee on Ways and Means.

Mr. BECERRA. Mr. Speaker, I would support Fast Track legislation that meaningfully addresses the areas of labor and the environment, and provides an effective mechanism for congressional participation. This bill does not. I urge my colleagues to vote against H.R. 3005.

Mr. Speaker, article 1 of the Constitution empowers this body, Congress, to regulate commerce with foreign nations. Over the past 250 years of our Nation's existence, for only 20 of those years, from 1974 to 1994, has this body granted the President authority for fast tracking any trade agreement. In those 20 years, five agreements were signed. In contrast, during the 8 years of the Clinton administration, 300 agreements were signed with countries from Belarus to Japan to Uzbekistan.

We can do this without Fast Track. We should have Fast Track, but it should be a Fast Track that gives us a clear road map of where this authority will take us.

We owe it to the American people not to abandon the American worker or consumer. Until we have Fast Track legislation that guarantees where we will protect our workers and consumers, we should not support Fast Track legislation. Vote "no" on H.R. 3005.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I am someone who has never voted against trade legislation on this floor. But unfortunately, the President and the Republican leadership have missed an opportunity to move beyond the partisan and narrow ideological divide.

The provisions of the bill of the gentleman from New York (Mr. RANGEL) which dealt with labor standards, multilateral environmental agreements and the elimination of the chapter 11 imbalance could have produced a bill which would have provided 250 "yes" votes on this floor.

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But, instead, we are not even allowed to vote on it. We are only given 30 minutes to debate it. It is a travesty. Instead, the majority will be created by horse trading on citrus, on textiles, and on whatever else we will find out when we read the paper over the next 1 or 2 weeks. It is a terrible way to create trade policy. At a time when our Nation expects the best, we are falling short. It is shameful, it is unnecessary.

I urge a "no" vote. Come back, do it right. There will be an opportunity.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. MCDERMOTT), one of the active Members on trade.

Mr. MCDERMOTT. Mr. Speaker, I rise today in opposition to H.R. 3005, the Trade Promotion Authority Act of "Fast Track" as it is commonly called.

Let me first say that there probably isn't a Member in the House that has voted in favor of more trade legislation that I have. No part of the country is more dependent on trade than the district I represent in Congress. Almost one fourth of the jobs in the greater Seattle area are generated through trade. Trade fosters peaceful international relations, raised the quality of life of working families in our country as well as those in our partner nations. I have supported many trade agreements—MFN for China, NAFTA, AGOA and the Reciprocal Trade Agreement Authorities Act of 1998—but like any trader, I try to learn from experience, and be careful that I only endorse agreements that advance our national goals.

In the past year, our country lost more than one million manufacturing jobs. We have an economy in very deep trouble. Weak prior to September 11th, on that terrible day, it began to hemorrhage.

Mr. Speaker, during the 8 years of prosperity of the Clinton administration, the United States negotiated more than 300 treaties. In fact, only 4 years ago, there were those who said on this floor that without Fast Track, Chile would never negotiate a treaty with us. At the end of President Clinton's administration, Chile said they will. And several months ago the President of Costa Rica announced his country would negotiate with the United States, again without Fast Track. Brazil's Minister Councilor stated at a

New America Forum that the slow pace of current FTAA negotiations, begun without Fast Track, has nothing to do with the absence of Fast Track, and everything to do with the United States' refusal to negotiate about citrus, meat and steel, products with which Brazil feels it has a competitive advantage on the table.

Now, there are a lot of us who have never voted against trade bills. Never. Nobody has a district more dependent on trade than me. One out of four jobs in my district comes from foreign trade. But when you keep Congress out of it, when you do not give us a meaningful role, I cannot support it.

A major problem with Representative THOMAS' bill is its failure to constrain trade negotiators from repeating the mistakes in NAFTA's chapter 11 on investment. Foreign corporations are using NAFTA's investment chapter to challenge core governmental functions such as California's power to protect groundwater and the application of punitive damages by a Mississippi jury to deter corporate fraud. At the time of its ratification, few supporters of NAFTA realized that its investment chapter opened the door to such challenges. Now we know the potential impact of language being considered for inclusion in the FTAA and other agreements. H.R. 3005 fails to address the danger that the mistakes of NAFTA's chapter 11 will be repeated in negotiations for a Free Trade Area for the Americas and other future agreements.

The Thomas bill would not protect multilateral environmental agreements from being challenged as barriers to trade. These critical agreements safeguard biodiversity, regulate trade in endangered species, protect the ozone layer and control persistent organic pollutants. The Thomas bill does nothing to discourage countries from lowering or eliminating their environmental standards to gain unfair trade advantages. It also fails to promote meaningful improvement in environmental protection and cooperation.

The executive branch—and its Office of U.S. Trade Representative—must not be given fast track authority that allows it to negotiate more agreements that provide sweeping and controversial protections of property rights at the expense of traditional government authority to protect fair business competition, the environment, public health, worker safety and similar public responsibilities. Rather than compromising these legitimate governmental regulations, international trade and investment agreements should pursue standards of nondiscrimination that put U.S. companies and foreign companies on a level playing field.

I urge rejection of the Thomas bill and urge you to vote for the Levin-Rangel substitute.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Mrs. THURMAN), a member of the Committee on Ways and Means.

Mrs. THURMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in opposition to the Thomas bill today. The amendment that was approved by the Committee on Rules last night recognizes some the issues facing Florida agriculture, but, regrettably, this is not the real deal.

As we have seen in the past, the administration can still trade away America's specialty ag products to gain market access for other products abroad. This is the same empty promise. It did not work in 1998 and it will not work now. Florida farmers have a very long memory. They are families who have fed this country for generations. They have struggled against the tide of NAFTA and the Uruguay Round agreements, and many of them have lost.

I would like to close with just a letter sent yesterday by the Florida Fruit and Vegetable Association. Unlike some others in this who continue to talk about it being good for agriculture, this is what Florida agriculture says: "Agriculture provides Florida with a strong economic foundation, which is especially important during this economic uncertainty. That foundation could be seriously jeopardized as a result of trade agreements, most notably the Free Trade Area of the Americas, that would be negotiated under TPA."

Please vote against this bill.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. SHERMAN).

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Will the gentleman take the sticker off his lapel, please, as he addresses the House.

Mr. SHERMAN. Mr. Speaker, over the last decades, we have moved from the largest creditor Nation to the largest debtor Nation in the world. We now run a trade deficit of nearly half a trillion dollars every year. The dollar is on the road to crashing sometime in the next decade or so, and this bill makes it all more certain and makes it happen faster.

It provides access to the American markets to those with the very lowest labor standards and the lowest environmental standards. It will pressure us to see our trade deficit even get larger, or to cut our own environmental standards, labor standards and wage rates in order to compete. It deprives us of the opportunity to demand trade bills that are fair and to involve Congress in making sure that the trade bills do not simply increase trade, but increase exports more than imports. The nonlegal barriers imposed, particularly by China, but other countries as well, will ensure large trade deficits if we pass Fast Track now.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, during my time in this body, I have generally supported trade agreements and the granting of so-called Fast Track negotiating authority to the President. The vigorous pursuit of bilateral and regional and world trade agreements is an essential adaptation to the economic reality our country faces.

But not just any agreements will suffice. As we consider giving negotiating authority to the President, it is important to make certain our negotiating framework has kept pace with changes in the scope and impact of trade. In my judgment, the bill before us today fails that test.

It is not a totally deficient bill. In fact, it takes some important steps towards addressing labor and environmental standards. But the bill that the gentleman from California (Mr. THOMAS) and his collaborators produced should have been a starting point for wider collaboration and negotiation, not a take-it-or-leave-it end point. Had that occurred, this bill would give greater weight to basic labor standards, would have stronger nonderogation provisions, and would more adequately protect our environmental laws from challenges by foreign investors.

We also, Mr. Speaker, need more assertive involvement by the President, both in urging all parties on Capitol Hill toward accommodation and in making his own negotiating objectives clear. It would be easier to vote for this bill, despite its deficiencies, had we heard from the President a convincing declaration that he is determined not to put our country at a disadvantage by virtue of the labor and environmental standards we maintain, and that he will instruct his negotiators to give these matters high priority.

Mr. Speaker, we should defeat this bill and do the job right early next year.

Mr. Speaker, I rise as a supporter of free and fair trade and of an expansive American trade policy. Entrepreneurs, corporate leaders, workers, and farmers in my North Carolina district have proven their ability to compete in the new world marketplace, and although our state has also seen more than its share of job losses and industrial decline, a great deal of our growth and expanding prosperity have been generated by international trade.

Therefore, during my time in this body, I have generally supported trade agreements, the granting of normal trading relationship status to China and other countries, and the granting of so-called "fast track" negotiating authority to the President. My view is and has been that we cannot continue to grow and to bring better jobs and expanding opportunity to our country by isolating ourselves or protecting ourselves from competition. We must confidently and aggressively enter the world marketplace, and the vigorous pursuit of bilateral, regional and world trade agreements is an essential adaption to the economic reality that we face.

Not just an agreements will suffice, however. As we anticipate the challenges we face in the next five years, we must understand that trade has greatly increased in volume and in value, that it will increasingly involve nations with very different economic and social structures from ours, and that the labor, environmental, safety, and other policies and standards that we and other countries uphold are highly relevant to the advantages or disadvantages we may experience as we trade. Moreover, our ability to protect and improve such standards in the context of trade agreements will greatly affect the impact of trade on our own quality of life and on conditions in the countries with which we do business.

So as we consider critically important legislation to give negotiating authority to the President and to specify our negotiating objectives, it is important to get it right—to understand these changes in the scope and impact of trade and to make certain our negotiating framework has kept pace. In my judgment, the bill before us today fails that test.

It is not a totally deficient bill; in fact, it takes important steps toward addressing labor and environmental standards and giving them a status commensurate with other negotiating objectives. The bill that Mr. THOMAS and his collaborators produced should have been seen as the starting point for wider collaboration and negotiation, not a take-it-or-leave-it end-point. Had that broader, bipartisan collaboration taken place, the bill would have given greater weight to the ILO's core labor standards in bilateral and regional negotiations and would have mandated the pursuit of a WTO working group on labor. It would have more strongly stipulated that agreements should have non-derogation clauses—that is, understanding that parties should not relax their labor or environmental laws in order to gain a trading advantage. It would have reduced barriers to investment while ensuring the integrity of our environmental law, by providing that foreign investors would have no greater rights in the U.S. than U.S. investors. And it would have given Congress a stronger role in overseeing negotiations and holding negotiators accountable. In all of these areas, the Rangel-Levin substitute offers reasonable alternatives that deserve more consideration than they got.

Mr. Speaker, the flawed process and flawed product are intertwined. If this bill passes today, it will be by the narrowest of margins on a largely partisan basis. That does not bode well for future trade agreements or for our country's trading posture. And it did not have to be this way. A more inclusive bipartisan process would produce a far superior bill that would pass by a large bipartisan majority, and that in turn would greatly strengthen the hand of the President and his representatives as they enter critical negotiations. That is the kind of outcome we can have if we defeat this bill and do it right early next year.

In this endeavor, we need more assertive involvement by the President, both in urging all parties on Capitol Hill toward accommodation and in making his own negotiating objectives clear. Proponents of TPA rightly point out that we are not writing actual trade agreements here and that the enabling legislation should not be overly prescriptive. Considerable presidential discretion is necessary and desirable. But that also places a burden of responsibility and accountability on the President to inform Congress and the public as to how he intends to use his discretion and what negotiating objectives he will vigorously pursue. It would be easier to vote for the bill before us today, despite its deficiencies, had we heard from the President a convincing declaration that he is determined not to put our country at a disadvantage by virtue of the labor and environmental standards we maintain, and that he will instruct his negotiators to give these matters high priority.

But we have not heard such a declaration, and so the deficiencies of this enabling legislation become all the more troubling. The Rangel-Levin substitute, while not perfect, is a better alternative. And if the motion to recommit fails, I ask my colleagues to vote against this version of TPA, so that early next year we can produce legislation that more adequately expressed this body's and this country's bipartisan support for expanded trade and that puts our future trade negotiations on the firmest possible footing.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I rise in opposition to the bill.

The TPA bill does not require countries to implement any meaningful standards on labor rights. The bill simply requires that a country enforce its existing laws—however weak they may be.

The TPA bill does not contain any meaningful protections for the environment. The bill does nothing to prevent countries from lowering their environmental standards to gain unfair trade advantages.

The TPA bill is gross abdication of Congress' power. Congress may vote on a disapproval resolution, but only to certify that the Administration has "failed to consult" with Congress. Furthermore, unlike current Jackson-Vanik disapproval resolutions on trade, no floor vote is even allowed unless the disapproval resolution is first approved by the Ways and Means and Finance Committees—thereby bottling up the resolution in committee.

The U.S. has now officially entered an economic recession, and millions of workers are suffering. Neither the Administration nor the Republican-controlled House has made any attempt to help unemployed workers find new jobs, get unemployment benefits, or maintain health coverage. Yet, here we stand again on the floor of the House—presented with legislation that helps huge companies at the expense of American workers.

This bill is bad for America. Defeat this bill and let's get to work on helping American workers and the American economy.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to my good friend the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, I want to congratulate the gentleman from New York (Mr. RANGEL), first, for always fighting for the working men and women of this great country.

Mr. Speaker, I am concerned, like a lot of people, about the lack of opportunity to debate on this important issue, but I stand here in opposition to Fast Track, to H.R. 3005.

After several years of unprecedented growth, technological advancements, medical and scientific innovations, increased globalization, our economy is undergoing a dramatic slowdown.

We know about layoffs, we know about bankruptcies, and people are really concerned about their jobs and about their future. And we need to be concerned right now about the future of American workers and protecting our environment. All must be factored into the TPA vote and the long-term equation for the U.S. trade agenda.

I have always supported trade bills, but I cannot support this. We have got this legislation before us now, and I question the Constitutional authority concerning this bill because it affects our Congress and our involvement in trade issues. Vote no.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Michigan (Mr. CAMP), a member of the Committee on Ways and Means.

Mr. CAMP. Mr. Speaker, Michigan ranks fourth in exports. Our family farmers export 40 percent of what they produce. I will vote yes on TPA, because fair and free trade means a secure economy and better jobs.

It's official. Our country is in a recession, but Congress is working to help turn our economy around. One way we can do that is to expand our nation's trading opportunity by giving the president Trade Promotion Authority (TPA). This legislation will provide him the ability to negotiate sound trade agreements that will give our economy the boost it greatly needs.

Today we will vote on this important trade legislation which will open more markets by eliminating and reducing trade barriers, benefitting family farmers, employers small businesses, manufacturers, working men and women, and consumers. A vote today for fair free trade today would be the equivolent of a $1,300 to $2,000 tax cut for the average American family. This is good news for local economies in all 50 states, including Michigan.

My state has much to gain from free trade. We've already seen that with the North American Trade Agreement (NAFTA), which helped Michigan exports grow faster than overall U.S. exports. Michigan ranked the fourth highest in exports in 2000 with exports sales of merchandise totaling $51.6 billion, up more than 24 percent from 1999. We live in an export-dependent state with export sales of $5,193 for every state resident. Opening more markets through free trade will only encourage more economic growth in Michigan through exporting.

Economic growth from free trade also translates into more better, high-paying jobs. Export-related jobs pay 13 to 18 percent higher than the national average. Additionally, workers in exporting plants have greater job security because they are 9 percent less likely to shut down than those plants that do not export. In Michigan, we have 372,900 jobs directly dependent upon manufactured exports, in addition to the more than 370,000 they support directly and indirectly.

Michigan farmers, who exported an estimated $868 million in agricultural products last year, are also important to the entire state's economy. Our state exports about 22 percent to 32 percent of what Michigan farmers produce. Already we have seen the benefits of free trade on our farmers who sell more soybean oil in South Korean now that the country is reducing its tariff by 14.5 percent from 1995 to 2004. In the Philippines, they too are reducing their tariffs on soybean mean from 10 percent to 3 percent.

While we have made progress in bringing down trade barriers, more must be done. Fair, free trade means a secure economy, and more and better jobs for Michigan residents as well as all Americans. This week I will vote to give the president Trade Promotion Authority because we will all win from passing this legislation. This trade bill will provide him with the tools he needs to pull us out of this recession and put our economy back on the right track.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Georgia (Mr. COLLINS), an extremely valuable member of the committee and one who helped us out in bringing this trade bill to where it is today.

Mr. COLLINS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, as I have traveled throughout the Third District of Georgia, touring textile plants, talking to small business people in towns where textile plants have closed, I have repeatedly heard from those people that they are tired of trade agreements that have exported more jobs in their area than it has exported products. They are tired of agreements that have exported plants, seeing those plants relocated offshore, outside of the United States, all because of weak trade agreements.

In many ways, we have been our own worst enemy when it comes to the textile areas because we have repeatedly said no, no, no. But this time we took a different direction, because I have at this point to commend the gentleman from California (Chairman THOMAS), the President, the USTR Representative and Secretary Don Evans of Commerce, because as we went to them and expressed our concerns and our problems, they listened. Not only did they listen, Mr. Speaker, but they reacted to those problems.

Many of the things that you heard the chairman repeat and talk about earlier are provisions that strengthen this bill, provisions in this bill that will strengthen not only the bill, but strengthen future trade agreements, so that we do promote the exporting of goods.

This President needs the authority to be able to negotiate, to be at the table to sell our products. And that is what it is all about, products that are manufactured and produced and services that are rendered by people of this country.

Mr. Speaker, I urge my colleagues, support the President on this. He has a good track record in the few months that he has been in office. He has already addressed the dumping of steel in this country that hurts steelworkers, the dumping of softwood from Canada that hurt many mill workers across this country. In Doha he resisted the pressure from those who wanted to accelerate the phaseout of quotas and tariffs on textiles. He has a good record. He is our leader. He can be the leader and promoter of goods from this country in the international trade market.

I urge support and passage of this Trade Promotion Authority.

Mr. Speaker, I rise to support Trade Promotion Authority to allow the President to sell American goods and services. That's right, Mr. Speaker. The President is and should be the number one salesperson for American goods and services. He must be a leader in International trade, promoting America the same way he is leading in the international fight against terrorism. American workers need a salesperson.

Now, I say to you, Mr. Speaker and to the leadership in the Congress, the American worker has grown tired and weary of trade agreements which export American jobs rather than American goods and services. The American worker is tired of deep pocket CEO's of major corporations sending their Washington lobbyists to urge the passage of trade agreements and then within a short time announcing a plant closing in the U.S., only to relocate to Mexico or some other country. The American worker deserves trade agreements which promote the products they produce or services they deliver. To assist and ensure the President promotes the American worker, this bill contains legislative language and report language requiring the President, when negotiating with other nations to do the following:

First, it requires reciprocating trade agreements. In exchange for allowing the selling of international products in our nation, it requires the same consideration for American goods.

Second, it requires the President to negotiate on rules of origin for U.S. content in products to be assembled elsewhere and sold back in the U.S.

Third, it requires the President to discuss and monitor the difference in value of currency in the negotiating country when compared to the strong U.S. Dollar.

Mr. Speaker, parameters, such as these are instructions to the President that American workers want to be engaged in the International marketplace. But such engagement must be fair to all, not free to some at the expense of American jobs.

Mr. Speaker, I have full confidence the President will follow these and other instructions set forth by Congress. He has already shown tremendous support for American jobs by calling the hand of those nations which have dumped steel in the United States at the expense of the steel worker. He has called Canada's hand for exporting subsidized soft wood lumber to the U.S. by proving they were engaged in dumping excess lumber at the expense of the American worker. He placed a tariff on lumber from Canada rather than negotiating a new agreement at the expense of the American worker.

Yes, Mr. Speaker, American workers standing on the assembly line need to and want to trade in an international market. But they want to be able to sell their products, not just buy from other countries. This bill will give the President the authority to negotiate and provide instructions on how to approach those negotiations.

I urge passage of Trade Promotion Authority so we can assist American workers with their jobs, sell their goods and services, and keep our economy strong.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, consider the tale of two of my constituents. Greg is a computer software genius at Microsoft. His intellectual property is frequently stolen from him overseas, and he could use a President with Trade Promotion Authority to try to prevent that theft.

And now consider my constituent, John, who came up to me in the lobby of a building the other day and said, "I just got laid off from Boeing. I am 56 years old. I am worried. I don't know what I am going to do, and I need help."

For the last 2 months, while we have passed bailout after bailout, this Congress has done nothing for the American worker. Nothing. And we have to learn if we are going to advance a trade agenda, we have to make sure we respect both the Gregs and the Johns of the world.

Yes, you can run over the Democrats on the floor of this House, but you cannot run over the legitimate needs of working people and the environment time after time, and then expect us to develop a trade agenda with the support of the American people.

Vote no on this today. Come back, develop a realistic package of worker protection, and we will pass what we need for our international agenda.

Mr. THOMAS. Mr. Speaker, it is a real pleasure for me to yield 1 minute to my colleague and friend from California (Mr. HUNTER) to speak on this issue since some of you have known his history.

Mr. HUNTER. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, in early September, I was gearing up as usual to oppose this Fast Track. And then our country was attacked, and today as we all know, we have Marine expeditionary forces, American carrier battle groups, tactical aircraft, Special Operations forces, in theater, in combat in Afghanistan.

Heading those forces, those American forces, is one man, the American President, and for the next couple of months, in my estimation, more than ever, his successes are going to be our successes, his losses are going to be our losses.

I, as all my colleagues know, do not like Fast Track, I do not like free trade. But I like less the idea of weakening this President in this time of great national emergency.

For that reason, this time, this once, I am voting yes.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. HOYER), a distinguished leader of Congress.

Mr. HOYER. Mr. Speaker, I thank the ranking member for yielding me time.

Mr. Speaker, first, I want to adopt the remarks of the gentleman from North Carolina (Mr. PRICE): One minute is too short a time to substantively discuss obviously so important an issue. But I want to say that I reject the rationale of the gentleman from California who spoke immediately before me. I do not believe that a vote "no" will weaken the President. What a vote "no" will do is strengthen the process in this House.

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The American public elected 435, not 221 or 222, but 435 of us; and they expected us to come together, to work together, to reason together, and to produce a product. I believe had that process been followed, this product would be better.

Like the gentleman from North Carolina (Mr. PRICE) who spoke before me, I have supported Fast Track, PNTR, and NAFTA. Why? Because I believe that trade is an important aspect of the economic well-being of our country and of our workers. But I believe that this process needs to be open; and if so, it will be a better one. Reject this bill.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 30 seconds to the gentleman from Florida (Mr. WELDON) for the purpose of engaging in a colloquy.

Mr. WELDON of Florida. Mr. Speaker, the amendments in section 3 dealing with trade-sensitive commodities would limit the President's proclamation authority so that tariff reductions could not be implemented without specific congressional approval. It is also my understanding that the bill restricts the ability of the administration to reduce tariffs on sensitive agricultural industries. Finally, the bill requires that import-sensitive agricultural products such as citrus be fully evaluated by the ITC prior to tariff negotiations and that any probable adverse effects be the subject of remedial proposals by the administration. Is that the gentleman's understanding?

Mr. THOMAS. Mr. Speaker, if the gentleman will yield, yes, that is my understanding as well.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

In the first year of the Bush Presidency, we have lost 1 million manufacturing jobs. We are officially in a recession. The stock market has dropped precipitously. This body has done little for the economy, and this body has done nothing for laid-off workers. They promised us during the airline bailout bill that they would help laid-off workers. They promised us during the stimulus package and the tax cuts for the richest Americans and the largest corporations in this country that they would help laid-off workers. They did not deliver. Now, during Trade Promotion Authority, they are promising again to help laid-off workers.

Mr. Speaker, our history of flawed trade agreements has led to a trade deficit with the rest of the world that has surged to a record $435 billion. The Department of Labor reported that NAFTA alone is responsible, and these are conservative estimates, for the loss of approximately 300,000 U.S. jobs.

Our trade agreements go to great lengths to protect investors. Our trade agreements go to great lengths to protect property rights. But these agreements never include enforceable provisions for public health, for the environment, and for laid-off workers.

Mr. Speaker, I ask for a "no" vote on Fast Track Trade Promotion Authority.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman for yielding me this time.

Today's vote on Trade Promotion Authority is a critical test of our leadership and commitment to creating jobs in this country. Trade equals jobs.

In my home State of Michigan, 372,000 jobs are dependent, dependent upon manufactured exports; and those jobs pay upwards of 18 percent more than the average job. That is good for America.

But here is what is bad. We have a serious problem. Look at the white; look at the red. This map shows that America is becoming isolated, America is isolated, while others expand trade around us.

There are exactly 133 trade agreements that are in place today, but the U.S. is party to only three. That is where we are today. How about tomorrow?

We are leading the world in an effort to eradicate terrorism. We must lead the world in expanding free markets and creating new jobs through trade. Look at this again. This is the U.S., in case my colleagues cannot see. The red is all of those countries, 111 countries that are involved with free trade agreements. We must pass TPA. Let us vote for TPA.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), a national leader.

Ms. PELOSI. Mr. Speaker, I thank the distinguished ranking member for yielding me this time and for his initiative that he is presenting here today. I, unfortunately, rise in opposition to the legislation before us.

Mr. Speaker, today we have the opportunity to create a new trade framework for a new century. I had hoped to be able to support Fast Track Authority for President Bush, as I had supported Fast Track Authority for his father, President Bush, at an earlier time. I wanted to do this, and I had hopes that we could do so with a trade promotion act that reflected our Nation's concerns about the importance of the environment and workers' rights. If this bill had done so, it would have passed this House overwhelmingly. Instead, if it passes at all, it will squeak through based on a handful of promises. I wish my colleagues to consider the true value of those promises as they cast their votes.

So here we are with an economy in recession and hundreds of thousands of American families struggling with the realities of unemployment.

Mr. Speaker, I urge my colleagues to oppose this legislation. Anyone who does not see the connection between the economy and the environment is on the wrong side of the future. Vote "no" on this trade promotion.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Speaker, there are some in this Chamber who will not vote for any kind of trade agreement, and there are others that will vote for every kind of trade agreement, thinking it is a panacea. As a New Democrat, I believe in incorporating new ideas into our trade agreements, especially to help our workers.

When I voted for the African Trade Agreement, I heard we would help workers. When I voted for the Caribbean Basin initiative, I heard, we will not forget about the workers. When I voted for the China agreement I heard, once again, we will eventually get to the workers.

Well, it is time now to help American workers and their families. In the Tokyo Round we introduced tariff levels as a new idea. In the Uruguay Round we introduced intellectual property as a new idea. In the Doha rounds we introduced antitrust laws as a new idea, and now we should have the new idea of saying there should be a floor of protecting against child labor, not mandating a minimum wage, but saying, child labor is wrong and it is not going to be in future trade agreements between the United States and other countries. Defeat this bill.

Mr. THOMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I rise in support of this bipartisan effort to help Illinois farmers, workers, and small businesses expand their business opportunities.

Mr. Speaker, trade promotion authority or TPA gives the President the authority to negotiate and bring back trade agreements to Congress with assurances of an up or down vote.

Now more than ever, our President needs the clout to negotiate trade agreements to protect both the economic and national security of our nation.

America's workers and businesses now export over $1.8 million of goods and services per minute, which fuels economic growth, job creation, and technological innovation. 12 million Americans owe their jobs to foreign exports and more than 25 percent of our $8 trillion economy is tied to foreign trade.

The high tech industry is the largest manufacturing sector in the U.S. by employment, sales, and exports. The high tech sector is also the largest merchandise exporter in the U.S. In 2000, high tech exports accounted for 29 percent of U.S. merchandise exports. TPA allows the access to new markets overseas that the high tech industry needs to expand and grow.

Since 1994, the U.S. has failed to implement a single free trade agreement with any nation. 130 free trade agreements exist worldwide, with the U.S. participating in only two. Open trade will create new markets for our workers, including workers in the high tech industry. TPA will not only spur economic growth, but it will create new jobs and new income.

Mr. Speaker, TPA is especially important to our friends in the agriculture community. My home state of Illinois ranks 5th in nationwide exports of agricultural products by exporting $2.7 billion in 1999 alone. Income from Illinois exports equates to $110 per acre for corn and soybeans.

Even with its huge output of agricultural products, demand for the top five agricultural products from Illinois is growing. NAFTA and GAAT trade agreements help prove that TPA will increase this demand further.

America's farmers export about one-third of their total crop production. Future sales and growth are directly tied to whether the U.S. can negotiate trade agreements with foreign countries. If we don't supply other countries' needs, someone else will!

The time is now to give the President TPA, which has lapsed since 1994. TPA is good for small businesses, the high tech sector, agriculture, and for the economy in general.

I urge my colleagues to vote for H.R. 3005 and give the President the trade negotiating authority that is needed to help jumpstart our economy.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Oklahoma (Mr. WATTS), the chairman of the Republican Conference and someone who understands that this bill is about jobs, about helping the unemployed and, for the first time in the history of a trade agreement, includes labor and the environment.

Mr. WATTS of Oklahoma. Mr. Speaker, the question before us today is the following: Should we vote to stop small businesses and farmers from exporting more of their goods, or should we vote to grow America's export market? Should we ignore the new economy, or should we look for new ways to open new markets?

My home State of Oklahoma is the third largest producer of wheat in the country. We export half of our wheat out of the United States. By giving the President Trade Promotion Authority, farmers will have more opportunities to export their products to new consumers and new markets.

Mr. Speaker, opponents of giving the President Trade Promotion Authority may have had a mainstream argument 50 years ago, but we are in a new century. The arguments being made by foes of expanded trade is rooted in what was, not what is; and it certainly does not think about what can be.

The choice is simple. We can continue business as usual. Our economy is in a recession, corporate profits are down, unemployment is up, and the gross domestic product has dropped at the fastest rate in 10 years. Companies are even skipping their Christmas party this year, trying to save a few bucks.

Or we can look for new ways to give our economy a boost. Allowing the President to have the freedom and flexibility to negotiate down trade barriers and tariffs is good for the economy, good for jobs, good for farmers, good for small businesses, and good for the consumer.

Mr. Speaker, this is about the old versus the new, yesterday versus tomorrow, walls versus bridges, fear versus competence. It is about America. Our character, our ingenuity, our employees are the best in the world. We can compete with anybody in the world, but we must give the President the authority and the flexibility to trade or to negotiate these barriers and tariffs down that hurt American products.

I ask my colleagues to vote for international trade. Vote "yes."

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to my dear misguided friend, the gentleman from Louisiana (Mr. JEFFERSON).

Mr. JEFFERSON. Mr. Speaker, I think I thank the gentleman for the extra 30 seconds.

I want to thank the gentleman from California (Mr. THOMAS) for his efforts to reach a bipartisan consensus on this bill and the gentleman from New York (Mr. RANGEL) and the gentleman from Michigan (Mr. LEVIN) for the comity that they have shown us in our efforts, along with the gentleman from California (Mr. DOOLEY) and the gentleman from Tennessee (Mr. TANNER) for the unique partnership that we have been able to forge on this bill.

I rise in strong support of the legislation. Why should Democrats support this bill? I think the first reason, Mr. Speaker, is because of our legacy. Earlier this week, Jeff Sachs commented in the Wall Street Journal that Democrats have a strong legacy of promoting democracy and free trade, highlighting the efforts of Woodrow Wilson, F.D.R.'s initiation of trade liberalization in the Great Depression, Truman's postwar launch of multilateral trade in the GATT, JFK's call for deep tariff reductions, and Bill Clinton's completion of the Uruguay Round and the leadership in founding of the World Trade Organization.

Regarding the multilateral trade negotiations, Sachs pointed out that while this round is being launched under a Republican administration, it might well be completed by a Democratic one. The Dillon Round was launched by Eisenhower and finished by Kennedy. The Tokyo Round was launched by Nixon, but completed by Carter, and the Uruguay Round was launched by Reagan and completed by Clinton.

History tells us, Mr. Speaker, this issue is about how our Nation engages the world over trade issues through the institution of the Presidency, not about a particular President. That is why I supported Fast Track under former President Bush, former President Clinton; and that is why I support granting Trade Promotion Authority now.

Why should Democrats support this bill? Because it advances Democratic trade principles in a meaningful and balanced way. For the first time, ILO Core Labor standards will now be considered on par with commercial interests in the context of trade agreements and negotiations. For the first time, our proposal provides meaningful ways for the U.S. to assist countries in improving their labor standards. Principal negotiating objectives require the President to assist in building the capacities for countries to respect worker rights, the right of association, the right to bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for employment of children, and acceptable worker conditions. The bill also requires countries to enforce the labor and environmental laws. Our bill includes substantive and enforceable standards on labor and the environment.

Mr. THOMAS. Mr. Speaker, I yield 30 seconds to the gentleman from Louisiana (Mr. JEFFERSON).

Mr. JEFFERSON. Mr. Speaker, I thank the gentleman for the time.

Why should Democrats support this bill? Because this debate is not one of pure philosophy. It has meaningful and powerful implications for the United States and the world, and we can be sure that the world is watching and waiting for our leadership on this important issue.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. BONIOR), the minority whip.

Mr. BONIOR. Mr. Speaker, what are we doing here today? In the midst of a recession, we are debating a bill that will cost even more American workers their hard-earned paychecks that they pour their hearts and their souls into every single day. We have lost over 150,000 jobs in Michigan, 3 million across the country with these bad trade deals over the last decade.

When a factory closes in Detroit or Saginaw or Flint or Kalamazoo, we not only lose those good-paying jobs, we cripple a whole community. We take away the tax base so there is no money there for fire and police and schools and businesses. No one goes unaffected.

Our trade agreements should promote human rights and democracy, they should improve working conditions across the world, and they should protect our environment and the quality of life.

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If we give the President Fast Track Authority, we will have no opportunity to push for these protections. We will abandon our constitutional responsibility. For the American people, Fast Track will be a bullet train to the unemployment line.

Vote "no" on the Thomas Fast Track and preserve the voice of the people in our trade decisions.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Minnesota (Mr. RAMSTAD), a member of the committee.

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman for yielding time to me.

On behalf of Minnesota jobs, Minnesota businesses, Minnesota farmers, and Minnesota's future, I rise in strong support of Trade Promotion Authority.

Mr. Speaker, the vote before us today is absolutely critical to America's economic recovery and security. It is no exaggeration to call it one of the most important votes we will cast this decade.

Our President needs Trade Promotion Authority so he can open markets for American products, create jobs and get the best deal possible for our businesses and workers.

Every President since President Ford had this important tool in his trade arsenal until it expired in 1994.

Now more than ever, TPA is vital to our economic security. The U.S. economy is increasingly international in scope, and it is clear that expanding trade is absolutely imperative to spur economic growth.

Over 25 percent of the growth in our national economy over the last decade is tied directly to international trade. Last year alone, my home state of Minnesota exported over $17.5 billion in goods and services. This is an increase of over $6 billion in the last decade. Over 270,000 jobs in Minnesota manufacturing exist because of trade, and trade-related jobs pay 13 to 18 percent more than other jobs.

The U.S. is rapidly falling behind in our efforts to sell our products abroad. We are a party to just 3 of the nearly 130 free trade agreements currently in force around the world. And while Europe, our main competitor, continues to negotiate free trade agreements with the rest of the world, the U.S. remains outside the process. Our interests are being ignored.

Mr. Speaker, TPA will help our President negotiate trade agreements that open up international markets for U.S. goods and services. Let's give the President the tool he needs to create jobs, help workers and rescue our ailing economy.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Arizona (Mr. KOLBE), someone who has been a stalwart on trade.

Mr. KOLBE. Mr. Speaker, I rise in strong support of Trade Promotion Authority.

Mr. Speaker, much has been made here today about how trade promotion authority can be a real shot in the arm for a struggling economy.

Other members have pointed out how TPA is a critical tax cut for American consumers, workers, and companies. That, too, is true.

However, I want to talk about 3 other reasons why TPA is so critical for America.

First, TPA strengthens our national security. Capitalism, trade, and the rule of law support freedom. Freedom and stable economies support the growth of democracies. And democracies conduct peaceful commerce among themselves. TPA for President Bush is vital to bolster the global trading system. That system is critical to US national security.

Second, TPA is critical if we are going to do more than spout rehtoric about helping the developing world. Each year we pass a foreign operations bill. While countries appreciate it, it is pennies on the dollar compared to the resources they need and compared to the benefits that might flow from a new round of trade liberalization. Open markets, capitalism, and foreign direct investment are the real tools they need—not foreign aid.

And third, passing TPA is critical to US global leadership. We stand at a pivotal moment in world history. Our country fought two world wars, defeated the Soviet Empire in the Cold War, and adopted a foreign policy to spread democratic values, ideas, and beliefs around the world. We achieved much in the 20th century. We must not put that at risk in the 21st century.

Secretary of State Colin Powell says Trade Promotion Authority (TPA) is "an essential part of our diplomatic tool kit." He urges that we not allow our "broader foreign policy agenda to be hijacked by the terrorists," and points out that "trade helps create a secure international environment within which Americans can prosper."

Trade promotion authority is critical for our national security, foreign policy, and US leadership abroad. Vote "yes" on H.R. 3005.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as she may consume to gentlewoman from Connecticut (Mrs. JOHNSON), a member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, our security interests are global. Our economic interests are global.

As we stand here today, since 1990, the European community has negotiated 27 free trade agreements. Do Members understand that every one of those free trade agreements socks in European products. European standards? Their electrical outlets are different than ours. They get into that market, they get their goods in and our goods are out.

We act here on this more as if there are not negotiations that are going to go forward. They are going to go forward. The issue is, will America lead or will America follow. Are we going to allow jobs to be created in America, or are we going to let them go to Europe?

Watch this standards issue. Soon to enter the EU is Croatia. They are about to pass a bill that bans biotech materials. What will that do to agricultural exports from America? Do we not want a President at that table demanding science-based standards?

This is about trade of American products to grow our economy and create jobs. I urge support.

Mr. Speaker, as our security interests are global, so are our economic interests. If we want to create new jobs and protect existing jobs at home, we must open new markets to American products abroad.

Since traditional trading authority expired in 1994, we have lost customers to other countries because they can now sell their goods without high tariffs simply because they have been at the negotiating table and have made trade agreements that shut us out.

Of the 130 existing free trade agreements, America is a party to only 2—with Israel and the NAFTA countries. Since 1990, the EU has completed negotiations on 27 free trade agreements and is currently negotiating 15 more.

The United States has missed out on dozens of opportunities to create economic pacts with other nations that want to buy goods made by American workers. We are now not only losing markets and customers, one by one, but are losing our position as a leader at the table that shapes the international trading system.

By not being there, we allow Europe to set standards that work against American products, slowing U.S. economic growth now and for decades ahead. According to the USDA's Foreign Agricultural Service, Croatia, a country that aspires to future EU membership, currently plans to go further than the EU on biotech Croatia has a draft law in process that would institute an outright ban on any products containing biotech materials. So we simply must have our President at the table to insist on science-based standards to protect and open markets to American products.

TPA is essential for our nation to remain prosperous, and passage will have a great impact on the workers I represent. Connecticut's economy is very export-dependent. Last year, Connecticut's export sales of merchandise totaled $13.2 billion, supporting more than 180,000 jobs. Viewed on a per capita basis, Connecticut ranks 6th nationally, with export sales of $3,860 for every state resident. 85 percent of our exporters were small and medium-sized businesses.

Export-related jobs tend to be good, high-paying jobs. Wages of workers in jobs supported by exports are 13 to 18 percent higher than the national average. Export-related jobs are also more secure, as exporting plants are 9 percent less likely to shut down than comparable non-exporting plants.

Trade agreements do work: Total exports from Connecticut to NAFTA countries (Mexico and Canada) in 1999 were 44 percent higher than 1993, before NAFTA.

They are also good for consumers and are equivalent to tax cuts, as trade agreements reduce tariffs and provide lower-priced goods. The average American family of four could see an annual income gain of nearly $2500 from a global reduction in tariffs and trade barriers—the objective of negotiations.

TPA is good for workers, and good for consumers alike. Furthermore, world trade negotiations are going to proceed. The only issue is will America lead—or follow. At the very moment when our President has provided strong and able leadership, diplomatic skill and sound judgement to unite the world against terrorism and create a more peaceful future, why would we not empower him to provide the same leadership to the economic discussions on which our prosperity and the economic growth of the nation depends?

I urge my colleagues to support passage of this needed legislation.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. ESHOO), a gentlewoman who has worked hard over the years on trade issues.

Ms. ESHOO. Mr. Speaker, I thank the distinguished ranking member of the committee, the gentleman from New York (Mr. RANGEL), for yielding time to me.

Mr. Speaker, I have but a few brief moments to come to the microphone today, not to urge Members one way or the other on the issue that is before us, but to state why, with really a heavy heart, why I am not supporting the first trade issue since I have come to the Congress since 1992.

In my congressional district, which is the home to Silicon Valley, we have scores of unemployed workers. They are part of that two-thirds of the American work force that are not eligible for unemployment benefits because they are contract workers.

I know what the new economy produced. I have faith in the industrial leaders in my congressional district and other places. I believe they will help restore the economic well-being of our country.

But we in the Congress have an obligation to stand next to those workers in my district and across the country that are part of the economic collateral of 9–11 and before that. That is why I rise. I asked for a vote on an economic package that would deal with them first, and on the heels of that, support trade assistance.

So it is with a great deal of regret that I state that I cannot and will not vote for the bill because of it.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Texas (Mr. COMBEST), the chairman of the Committee on Agriculture.

Mr. COMBEST. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in strong support of H.R. 3005. Trade Promotion Authority is a win for American agriculture. It is a vital tool that the Bush administration must have in order to fight for the American farmers and ranchers in the global marketplace.

In all of my 17 years in Congress, I have never seen a President more committed and focused on American agriculture. President Bush has stated that it is his intention that agriculture remains at the cornerstone of his administration's trade program, that his commitment to the American farmers and ranchers in all aspects is constant and strong.

The President has firmly stated to me that the American farmer and rancher will be the beneficiaries of Trade Promotion Authority, and I intend to work with the administration and the U.S. Department of Agriculture to ensure that the best interests of our farmers and ranchers are kept in the minds of American trade negotiators.

H.R. 3005 clearly provides that the Committee on Agriculture must be involved in all discussions and consultations during negotiations and immediately prior to signing any agreement. As chairman of that committee, I intend to make sure that that happens. I will continue to work with the administration to make sure that American agriculture uses all the tools necessary to compete on the global stage.

I rise today in support of H.R. 3005. Trade Promotion Authority (TPA) is a win for American agriculture and is a vital tool that the Bush administration must have in order to fight for the American farmers and ranchers in the global marketplace. In all of my 17 years of Congress, I have never seen a President more committed to and focused on American agriculture. President Bush has stated that it is his intention that agriculture remains the cornerstone of his administration's trade program and that his commitment to American farmers and ranchers in all aspects is strong and constant. Therefore I support granting the President trade negotiating authority and urge my colleagues to do the same.

The President has firmly stated to me that America's farmers and ranchers will be the beneficiaries of trade promotion authority. I intend to work with the administration and the U.S. Department of Agriculture to ensure that the best interests of our farmers and ranchers are kept in mind as agricultural trade negotiations proceed. Since U.S. farmers and ranchers produce much more than is consumed in the United States, exports are vital to the prosperity and success of U.S. farmers and ranchers. TPA will give the President the flexibility to take advantage of market-opening opportunities, while maintaining the closest possible consultation with Congress. It is important that American farmers and ranchers see agriculture trade and new trade agreements as a positive force. Officials administering trade issues must both understand production agriculture here at home and the fierce competition in worldwide agricultural trade.

H.R. 3005 clearly provides that the Committee on Agriculture must be involved in all discussions and consultations during trade negotiations and immediately prior to signing any trade agreement. As chairman of the committee I intend to make sure that happens. I will continue to work with the administration to make sure that American agriculture uses all the tools necessary to compete on the global stage, while maintaining our international obligations.

As President Bush has said, the success of agriculture contributes to the strength of this Nation. Our President recognizes that the worldwide agricultural market has been rigged against farmers who play fair. Through trade negotiations we can achieve a more level playing field . . . and, as President Bush says, that is good news for the world's most productive food producers—the American farmers. I urge my colleagues to support H.R. 3005 and grant the President trade promotion authority.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, there are so many problems with the fast-track trade negotiating authority legislation under consideration today that it's hard to know where to begin. In short, H.R. 3005 will cede blanket authority to the President to negotiate future trade agreements that perpetuate and expand the failed U.S. trade policies of the most recent administrations with no meaningful checks and balances from Congress.

These failed trade policies, including the North American Free Trade Agreement (NAFTA), the World Trade Organization (WTO), and most-favored nation status for China, all of which I opposed, have, to varying degrees, contributed to massive job loss and job dislocation, soaring trade deficits, eroding U.S. sovereignty, plummeting farm commodity prices, and degraded environmental conditions. I will speak more about these issues in a minute. But first, I'd like to address the more fundamental question of whether fast-track is an appropriate or necessary delegation of constitutional authority. Proponents of fast-track and H.R. 3005 would have you believe that if Congress fails to grant this special negotiating authority to the President that the U.S. economy and the global economy will come to a screeching halt and allies will refuse to negotiate new trade agreements with us. That is sheer nonsense.

Article I, section 8 of the U.S. Constitution grants Congress the exclusive authority "to regulate commerce with foreign nations." Fast-track negotiating authority, which allows the President to negotiate trade agreements with virtually no input from Congress and forces Congress to vote yes or no on the agreement without the opportunity for amendments, destroys the checks and balances built into the Constitution. This is not a partisan issue for me. I helped defeat legislation twice to grant former President Clinton fast-track trade negotiating authority. My opposition to fast-track is due to my desire to protect the constitutional prerogatives of Congress, as well as my belief that American workers and the U.S. economy have not been well-served by current U.S. trade policies. In essence, in one 62 page bill and one single vote, fast-track delegates four critical constitutional powers of Congress regarding trade. Under the fast-track process envisioned in H.R. 3005, Congress gives up:

The authority to decide the terms for trade—any negotiating objectives set by Congress are not binding on the Administration or enforceable by Congress in any practical way; the ability to enter into trade pacts of its own design—the Administration will sign an agreement, thus locking in commitments, before Congress votes up or down, leaving no opportunity for amendment; the authority to draft laws—the administration will have the authority to write implementing legislation for trade agreements that can change federal laws to conform to the agreement without any additional congressional checks; and, the ability to set the congressional schedule—H.R. 3005 per-sets the floor procedures for final consideration of any trade agreements negotiated with fast-track.

Given this wholesale delegation of our constitutional responsibilities, it stands to reason that fast-track proponents must be under the assumption that all wisdom on trade matters rests with those at the White House, the U.S. Trade Representative's office, and the Department of Commerce. I find that insulting, and given the pathetic record of previous trade agreements, absolutely incorrect.

Mr. Speaker, it is useful to step back and look at the historical basis for fast-track. Fast-track was a Nixon-era presidential power grab. While proponents say that every president since Gerald Ford has had fast-track negotiating authority, what they don't say is that it has only been used a handful of times—to negotiate the General Agreement on Tariffs and Trade (GATT) Tokyo Round and Uruguay Round, the U.S.-Israel Free Trade Agreement (FTA), the U.S.-Canada FTA, and the NAFTA. The Clinton administration alone claimed to have negotiated nearly 300 separate trade agreements. Of these, only the GATT Uruguay Round and NAFTA were done using fast-track. Further, it is not just minor trade agreements that have been negotiated without fast-track. Major agreements like the Jordan FTA, our bilateral agreement on China's accession to the WTO, the Information Technology Agreement, the Financial Services Agreement, and the Basic Telecommunications Agreement were all negotiated without fast-track.

Rather than granting the executive branch carte blanche negotiating authority, it seems that Congress would be well-advised to reassert its constitutional prerogatives and rein in the freelance negotiating done by successive administrations without clear authorization from Congress. This is particularly true since trade agreements now deal with far more than just setting tariff and quota levels, which were primarily of interest to industry. Today's international commercial agreements impact much broader areas of public policy, including the environment, consumer and worker safety, and a vast array of domestic regulatory standards. The public and America's congressional representatives have a greater need to monitor negotiations and have meaningful input into the outcome. That is impossible under the legislation on the floor today.

H.R. 3005 eviscerates Congress' constitutional role on trade. It includes essentially worthless provisions requiring "consultation" with Congress by the executive branch. This type of requirement has been routively ignored in recent trade negotiative, and no doubt will be disregarded under the current administration. Proponents of fast-track also claim that the President needs this authority to negotiate trade agreements that will be good for the U.S. economy. If that's what the President was actually going to do, it might make some sense to provide him some leeway. Unfortunately, the record of U.S. trade policy shows otherwise. For example, consider our runaway trade deficit. Last year, the U.S. trade deficit reached a record $435 billion, up from $271 billion in 1999. The trade deficit currently stands at an unprecedented 4.5 percent of the overall U.S. economy. Including interest payments, our net foreign debt is 22 percent of GDP and is on a trajectory to reach 40 percent of GDP in 5 years. Argentina's experience should serve as a warning. Argentina, whose economy is suffering a total collapse with the government threatening to default on its debt, has a net foreign debt of 50 percent of GDP.

Why does the trade deficit matter? The U.S. trade deficit is financed by borrowing, often from foreign investors and foreign countries. This is money that future generations of people living in the U.S. will have to pay back to people living elsewhere, with interest. And when foreign creditors begin to call in their loans, it will be the American worker and the American family who pay the price caused by the indifference of policymakers in Washington. Just ask workers in Argentina.

Is this really a problem? Yes. In December of 1999, well-known market-watcher Standard & Poor's put the U.S. financial system on its watch list of 20 countries that are "vulnerable to a credit bust." Surprisingly, the International Monetary Fund (IMF), which is generally recognized as a tool of the U.S. Treasury Department, has acknowledged the teetering nature of the present U.S. financial condition. In a recent consultation with the U.S., the IMF noted, "The sustainability of the large U.S. current account deficit hinges on the ability of the United States to continue to attract sizable capital inflows. Up to now, these inflows in large part have reflected the perceived attractiveness of the U.S. investment environment, but such perceptions are subject to continuous reappraisal." In other words, foreign investors could wake up tomorrow, look at the large U.S. current accounts deficit, question whether we'll be able to pay our bills, change their minds about the attractiveness of the U.S. investment environment, and plunge the U.S. into a financial and economic crisis.

As an article in the Wall Street Journal on August 14, 2000, pointed out, "Although he's often credited with omniscience, Federal Reserve Chairman Alan Greenspan admitted his uncertainty about the trade deficit in testimony before the House of Representatives last month." Greenspan testified "At some point, something has got to give, and we don't know what it's going to be."

The Chief Economist at Deutsche Bank Research was quoted in the Wall Street Journal saying, "Confidence in the U.S.A. could abruptly collapse before the rest of the world is firmly back on its feet." Mr. Walter went on to say, "It is, at any rate, not out of the question that capital flows into the U.S.A. will dry up, and that the dollar will take a rapid dive . . ."

Paul Krugman, a mainstream, establishment economist wrote in his column in the New York Times on March 26, 2000, that ". . . even the most successful economy must sooner or later export enough to pay for its imports. Our current position, where we pay for many of our imports by attracting inflows of capital—in effect by selling the rest of the world claims on our future exports—cannot go on forever." Krugman went on to write something that could turn out to be prophetic, "The trouble, you see, is that in economics, as in life, what you don't pay attention to can hurt you."

It may not be so far in the future that foreign investors lose confidence in the U.S. economy and the dollar and flee to other currencies as has happened in England, Mexico, Southeast Asia, Brazil, and Russia in the past few years. Of course, then the IMF can come to the rescue, force a structural adjustment program on us, and demand export-led economic growth. Maybe then we can reduce our trade deficit.

Catherine Mann of the Institute for International Economics (IIE) has done research to try to determine at what point deficits become unsustainable. The IIE is a respected, non-partisan research organization that generally supports unfettered globalization. Ms. Mann examined Canada, Australia, and Finland and seven other economically advanced nations with big trade deficits during the past 20 years. What she found should be a wake-up call to American policymakers. According to her research, 4.2 percent of GDP is the limit a current accounts deficit can research before the economy begins to implode. The U.S. deficit has already reached and surpassed this benchmark.

It is also worth providing a bit of historical perspective. It the early 1970s, the deteriorating trade balance was considered so severe that in August 1971, the Nixon administration made the historic decision to abandon the dollar's gold convertibility and allowed it to float other currencies. What were these shockingly high deficits that led to this decision? A mere 0.1 percent and 0.5 percent of GDP in 1971 and 1972, respectively, minuscule compared to today's deficits. Even the widely heralded "new economy", which sacrifices manufacturing in favor of high-technology products and the service sector, is unlikely to improve the trade deficit. So-called post-industrial businesses earn very little from exports and therefore will contribute little to improving our balance of payments problem. Microsoft's exports typically only account for one-quarter of its total sales revenue.

Merrill Lynch is a classic service business. While the firm generates about one-quarter of its revenue outside the U.S., most of it doesn't count as U.S. exports since it generally serves foreign customers from offices in the markets concerned. According to an article in the American Prospect on August 14, 2000, ". . . it is apparent, that even in a good year, less than 5 percent of the firm's revenues contribute to the American balance of payments."

Ignoring U.S. trade deficits and continuing to pursue the same-old failed trade policies is not sound policy, and could lead to an economic catastrophe. For this reason, Congress must maintain its constitutional prerogatives on trade, and oppose fast track. Failed U.S. trade policies and subsequent trade deficits have also cost millions of high-paying jobs across the country. H.R. 3005 will help accelerate this job loss by continuing to force U.S. workers—who are the highest educated, best trained, most productive workers in the world—to compete with exploited workers in developing countries who often make only a few dollars a day in dangerous work environments.

Various analysts have identified many negative consequences of massive, persistent trade deficits: a sharp rise in income inequality and stagnation of incomes for average workers; the shifting composition of employment away from high-paying manufacturing jobs with benefits to lower-wage service sector jobs; and decreased research and development spending, which hurts our long-term economic competitiveness; among other problems. According to the Economic Policy Institute, the U.S. has lost 3 million jobs from 1994–2000 due to the U.S. trade deficit. Jobloss associated with the trade deficit increased six times more rapidly between 1994–2000 than between 1989–1994. Every state and the District of Columbia has suffered significant losses. Ten states, led by California, lost over 100,000 jobs each. My home State of Oregon has lost more than 41,000 jobs.

There are many parts of my district in Southwest Oregon that never benefitted from the so-called economic boom of the 1990's. So, while proponents of fast-track will argue that trade has led to a net increase in jobs that proclamation rings hollow to many communities in Southwest Oregon. We've seen our friends and neighbors lose high-paying, family-wage jobs with health care benefits. If they've been able to find work at all after being laid-off, it's for less pay, more hours, and fewer benefits.

In addition to these sometimes abstract, macro-level impacts, U.S. trade policies that sacrifice U.S. jobs and industrial capacity have main street impacts. The micro-level impact of factories leaving small, often single company towns is devastating on families and communities. The domino effect of plant closures has been linked to: increased domestic violence and substance abuse, reduced purchasing power for other businesses in the area that used to depend on higher wage factory workers as their customer base, a reduced tax base that decreases the ability of the local government to provide necessary services, and eventually, population flight that exacerbates the latter two problems.

Of course, it's not just workers who have lost as Congress delegated complete authority to negotiate trade agreements to the executive branch. Farmers and rural communities have been utterly devastated. NAFTA and other trade agreements were held out as a beacon of hope for America's farmers. New market openings were promised in which farmers could sell their surplus crops. All would become rich. This never happened.

While giant agribusinesses exporters have certainly benefitted, the vast majority of family farmers have struggled against a flood of cheap imports from developing nations. In addition, U.S. farmers have, despite commitments to the contrary, been unable to open new markets for their products as other nations stubbornly maintain both tariff and nontariff barriers to U.S. agriculture products. In addition, trade rules discourage country-of-origin labeling, which could allow consumers to pick U.S. grown produce, beef, or other commodities.

The statistics pointing to the failure of U.S. trade policy for farmers are clear: The U.S. balance of trade in farm products has fallen 57 percent since 1996. Prices for major commodities have fallen nearly 50 percent. 72,000 family farms disappeared in the mid to late 1990s. U.S. farm income is projected to decline nine percent in the next year.

Farmers should be wary of predictions that granting fast track will lead to new export markets. We've heard this all before, and farmers are falling further and further behind. Various forecasts by government agencies, private researchers, and lobbyists predicted steady growth in exports through the 1990s. These forecasts all proved to be backwards. U.S. farm exports dropped 22 percent between 1996–2000. At the same time, farm imports rose by nearly 10 percent.

A series of articles in The Oregonian highlighted the plight of farmers in my state. One article detailed the unfair trade practices by Chilean fruit growers that is causing Oregon farmers to go out of business. U.S. imports of Chilean red raspberries more than doubled between 1998 and 2000. That increased Chile's share of the U.S. market to 36 percent, up from 27 percent in 1998. The U.S. International Trade Commission issued a preliminary ruling in favor of U.S. growers on the allegation of illegal dumping, but the ruling came too late for many family farmers. On the whole, Chile exports $900 million worth of agriculture products to the U.S. every year, around six times as much as it imports.

The story is the same for many other commodities and many other trading partners. Oregon wheat farmers had asked me to support permanent most-favored-nation status for China because of the supposed huge market opportunities. However, China has a massive surplus of wheat and no need to buy U.S. wheat. Shipments by Oregon wheat growers have sat and rotted in Chinese ports.

It is worth quoting Dr. Willard Cochrane, former chief economist at the Department of Agriculture, at length on the folly of U.S. trade policy as it relates to agriculture. He recently wrote:

> It does not make sense to pursue a strategy of pushing exports when the global demand is weak. To sell more of our farm commodities in that situation requires us to price them below the going market price, and thereby pull sales away from our competitors. This would, of course, invite retaliation in which those competitors (like Brazil and Argentina) came back at us by cutting their prices still further. This is not the way to profit from the export market—it is the formula for an expensive price war.
>
> For the U.S., this is a terrible solution. The world prices for products like soybeans and corn are already below the costs of production for most U.S. producers. To expand your sales by selling more at still lower price is no way to get well financially and to stay in business. This practice can only transfer the costs to the U.S. taxpayer, as we are continually forced to provide emergency payments to farmers because of extremely low prices.
>
> The global demand for American farm products cannot be manipulated at the beck and call of American policy makers. Foreign importers are not going to increase their purchase of American food products because U.S. policymakers want them to do so. Imports of American farm products will increase again only as those importing countries pull out of their economic slump and consumer incomes begin to rise.
>
> Fantisizing about solving the price and income problems of American farmers through instantaneous global demand expansion is life fantasizing over winning the Power-ball Lottery. The chances of success are about the same. Farmers generally, and family farmers in particular, would be better served by forgetting about fixing the broken export market for farm commodities, and concentrating their energies on enacting legislation designed to strengthen rural communities, reduce the pollution of America's farmland and rivers, and increase competition among suppliers of non-farm produced inputs on the production side, and among handlers and processors on the marketing side.

I am also opposed to the fast-track legislation drafted by Chairman THOMAS because it will help accelerate the destruction of the environment both here at home and around the world. Further, it will do nothing to ensure basic labor rights for workers around the world. Proponents of fast-track would have us believe that incorporating labor rights and environmental protections that are enforceable in the exact same manner as the commercial provisions in trade agreements is an inappropriate mixture of economic issues with so-called "social" issues. That is, at best, a shallow and disingenuous analysis.

Representative SANDER LEVIN, one of the leading Democratic supporters of previous trade agreements, put it best when he said labor and environmental issues "are fundamentally economic issues that are directly relevant to the structure of international competition. In the domestic context, we don't hesitate to say that 'right to work' laws or emissions standard, to pick two examples, are issues that affect economic competition. Indeed, it was the economic relevance of the right of workers to associate, organize and bargain that made it so central in early, decades-long struggles in our nation. Accordingly, it is illogical and inconsistent to suggest these issues are irrelevant with respect to international commerce and competition. Certainly, labor or environmental issues can have 'social' aspects that may involve humanitarian or human rights considerations, or considerations about conservation of natural resources. But it is unrealistic to suggest that as the issues operate among nations, they are not in substantial measure economic in their nature. Indeed, the intensity of the controversy over them, especially between nations, is in good part because they are economic, and not just 'social.'"

The Economic Strategy Institute (ESI), a pro-trade think-tank that includes former officials of the Reagan administration has also concluded that these are economic issues and that labor standards are appropriate. ESI economist Peter Morici wrote in his book Labor Standards and the Global System that, "An international regime that permitted importing countries to embargo or impose tariffs on goods made with exploited labor would increase wages, speed development and increase growth in countries where labor is exploited if these measures caused governments or producers to take corrective actions. . . . Better enforcement of [core worker] rights would likely promote trade that increases incomes and growth, both in industrialized and developing countries." He went on to write, "Permitting workers to bargain collectively reduces distortions in the economy and results in a more efficient allocation of resources, more exports, and higher GDP. In contrast, denying workers the right to bargain collectively perpetuates distortions in the labor market, and results in an inferior allocation of resources."

That being the case, why do fast-track proponents who oppose guaranteed workers rights favor a lower GDP for developing countries, a distorted labor market, and an inferior allocation of resources? Free traders pride themselves on promoting economic efficiency. Yet, economic efficiency depends on workers having rights. The Thomas bill, H.R. 3005, does not even guarantee that trade agreements will recognize the five core International Labor Organization standards: the right to freely associate, the right to bargain collectively, and bans on child labor, compulsory labor, and discrimination.

Environmental protection receives similarly shabby treatment under H.R. 3005. The bill includes no provisions that prevent countries from lowering their environmental standards to produce an economic advantage. The bill does not require the negotiation of trade agreements that improve environmental standards. Environmental protections negotiated via multilateral environmental agreements (MEA) are put at-risk. Citizens have few, if any, rights to protest when governments fail to enforce environmental laws, or labor laws for that matter. Even the language in H.R. 3005 that supposedly promotes environmental consideration is meaningless since it is non-binding on the administration's trade negotiators.

I have visited the U.S.-Mexico border since the enactment of NAFTA. It is a virtual wasteland. Environmental protection is not a natural result of so-called free trade agreements. Environmental protection must be a mandatory objective, enforceable through the same dispute resolution process as commercial provision in trade agreements. H.R. 3005 falls far short of that standard.

Finally, as if destroying American jobs, rural communities, and the environment weren't enough, the misguided U.S. trade policies that would be perpetuated by the fast-track bill before us today represent a frontal assault on U.S. sovereignty.

H.R. 3005 proposes to expand NAFTA's notorious chapter 11 provision, for the first time, allows a private company to sue a sovereign foreign government in the event a country takes an action that is "tantamount to expropriation." Unfortunately, the definition of "tantamount to expropriation" turned out to be extraordinarily broad. In other words, if federal, state, or local elected officials take action, such as through passing a law or regulation, that a company believes unfairly limits their ability to make a profit, that company can sue to get the law or regulation overturned or to get monetary compensation for "lost profits" resulting from the action.

We have over seven years of experience with the radical investment deregulation included in chapter 11 of NAFTA. During the NAFTA debate, critics of the treaty, like myself, were told that fears about the forced overturning of consumer safety, health, or environmental laws or regulations were unfounded. Unfortunately, events have proven those fears to have been quite prophetic. A string of chapter 11 cases has forced the repeal of public health and environmental laws in Canada and Mexico, and, at least two cases have been filed against the United States. There may be more, but because of the secrecy surrounding these proceedings, it is hard to know.

In Methanex v. U.S., a Canadian corporation is suing to overturn a California law enacted to protect its clean water supply, and thus the health of its citizens. In Loewen v. U.S., another Canadian company is essentially arguing that the U.S. tort system—whereby juries are able to send strong messages via large damage awards to businesses who abuse, defraud, or endanger their customers—is illegal. In other cases, Canada has been forced to overturn a ban on a suspected toxin, the United Parcel Service has sued challenging the existence of the Canadian postal service, and a Canadian steel company has sued over "Buy American" laws for highway construction projects in the United States.

The investor protections included in NAFTA, and those envisioned by H.R. 3005, are much broader than previous investment provisions in international agreements. These investor rights are exercised in secretive tribunals that issue binding decisions without regard to consumer health and safety or the environment. And, these investor protections are increasingly being used by businesses as a first resort to influence the sovereign lawmaking and regulatory processes of individual countries rather than as a last resort for egregious conduct by governments. The end-result forces taxpayers to fork over their hard-earned dollars to compensate corporations for our sovereign right as citizens to protect our health and safety. I believe that federal, state, and local governments should be able to act to protect the public interest without being unnecessarily restrained by trade agreements. Unfortunately, H.R. 3005 says otherwise.

Mr. Speaker, the American people are far ahead of their elected officials in understanding the need to halt and reverse the race to the bottom in labor, human rights, and environmental standards around the world.

A recent study by the School of Public Affairs at the University of Maryland found 93 percent of Americans agree that "countries that are part of international trade agreements should be required to maintain minimum standards for working conditions." Further, over 80 percent wanted to bar products made by children under the age of 15. Seventy-eight percent said the WTO should consider labor standards and the environment when it makes decisions on trade. Seventy-four percent said countries should be able to restrict the imports of products if they are produced in a way that damages the environment. Seventy-four percent also said we have a moral obligation to ensure foreign workers do not have to work in harsh or unsafe working conditions. Polls by other independent organizations have drawn similar conclusions.

Our current trade policies allow multinational corporations to receive all the benefits of expanded trade with no corresponding obligations to workers, public health, or the environment. We must reject the claims of proponents of H.R. 3005 that the choice is between unfettered "free" trade or no trade at all.

Let's be clear. Fast-track, and the agreements that would be negotiated with it, are not about "free" trade. No one will be arguing for the complete removal of tariffs, quotas, or other barriers to trade. No one will be arguing for the uninhibited movement of citizens. And, no one will propose doing away with patents, copyrights or other intellectual property protections which, while they have an economic rationale, are protectionist and violate the dictates of "free" trade. Rather, the debate today is about who will write the rules for trade and who those rules will benefit. I believe Congress must not abdicate our constitutional duty to write the rules, and to do so in a way that benefits average working families, public health and safety, the environment, and the U.S. economy.

I urge my colleagues to oppose H.R. 3005.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. McDERMOTT), a member of the Committee on Ways and Means and an active member on trade.

Mr. McDERMOTT. Mr. Speaker, the last round of negotiations came down with 5,000 pages of rules and regulations. We have today out here in 1 hour set up the process by which we are going to do this all over again.

The majority would have us believe that it is not even worth taking the time to look at any alternative. They say, well, you can have a motion to recommit. We can have 5 minutes to talk about the process by which we arrive at 5,000 pages of trade legislation.

If Members think that is fair, if Members think that is what people sent the 435 of us here to do, they ought to vote for this. But if Members think we need a little more time, and we have been here for almost 11 months, and we come down here at the last minute and we have less than an hour for 5,000 pages.

It does not work. They are going to have to come back again.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, which shares jurisdiction over trade packages, including this one.

Mr. DREIER. Mr. Speaker, on this, the 60th birthday of our friend, the chairman of the Committee on Ways and Means, it is important to note that we are on the verge of casting the single most important vote of the 107th

Congress. Why? Because it deals with the two very important issues of our economy and the U.S. role in the world, our leadership role.

We know that the attack that was launched on the United States first hit the World Trade Center, where people from 80 nations around the world were killed, and it was the worst attack on our civilian population ever. They knew exactly what they were doing. They were trying to undermine the leadership role we are playing.

The fact is, the world is moving dramatically towards free trade. The President of Brazil said in a speech just a couple of months ago in Portuguese, "Exportamos o moremos," export or die. He understands that very well.

We as a Congress need to give this authority to the President so that he can pry open new markets for U.S. workers, producers, farmers, and businesses.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope the worst thing that happens today on the birthday of the gentleman from California (Mr. THOMAS) is defeat of this bill and that the rest of the day goes well for him.

But the best thing that could happen for the country is that we defeat the bill and try to do it the right way.

Mr. Speaker, I yield the balance of my time to the gentleman from Missouri (Mr. GEPHARDT), the minority leader.

Mr. GEPHARDT. Mr. Speaker, first I want to recognize the gentleman from New York (Mr. RANGEL), the gentleman from Michigan (Mr. BONIOR), the gentleman from California (Mr. MATSUI), and the gentleman from Michigan (Mr. LEVIN) for a tremendous job in putting together the motion to recommit that we will be talking about in a few moments. They are truly hard workers, and they truly care about a good trade policy for our country. I thank them for the hard work that they did to put this together.

Mr. Speaker, I rise today to ask Members to vote yes on the motion to recommit; and if it does not prevail, I ask Members to vote no on the underlying bill that has been presented here by the Committee on Ways and Means.

Let me first say that I would have hoped that we could have been on the floor today with worker relief. We are 11-plus weeks since September 11. We have thousands of workers who have lost their jobs.

While we seem to find time for insurance company relief and airline company relief, and now a big trade bill, and lots of appropriation bills, all of which are important and all of which have great support, we cannot seem to find time to take care of the most important thing in front of us.

I said last week, I guess it is because we are not unemployed. If one is unemployed, unemployment is the biggest problem. They cannot get health insurance today. They cannot support their families. I talk to unemployed workers every day. Their problems are right now, this week, today. I would hope that we would get relief for them soon. They need it. We have to do it. They deserve it. Rather than taking up every other manner of bill, I hope we would take that up.

But let me direct my remarks to the bill from the Committee on Ways and Means and why I think it is ill-advised and why the kind of bill that will be presented on the motion to recommit I think is the right way to go.

Let me say that over 20 years now, we have made great progress, in my view, on trade policy in America. Trade policy today is not what it was 20 years ago. There is a good reason for that. In trade negotiations, 20 years ago the only thing that was ever really considered were tariffs. It was a matter of trying to get down high protective tariffs all over the world so that trade would take place between countries.

Today, we have moved way down the road and the issues are not just tariffs, the issues are really about compatibility: how do we get intellectual property laws in countries to be properly enforced; how do we get capital laws to be enforced.

What we have brought to the table and tried to get on the table is the question of whether or not labor laws, human rights laws, environmental laws, health and safety laws, should be just as much a part of trade negotiations as intellectual property laws and capital laws.

Now, we have made a lot of progress. We had a treaty with Jordan that was recently brought to the Congress that dealt with those matters, to the satisfaction of the Government of Jordan and to the satisfaction of the United States.

We now go to another WTO Round. There are lots of other free trade treaties that we want to negotiate, that we should negotiate; but it is vital and important that the full range of issues that should be in those negotiations are on the table in the core text of the treaties.

I was at Microsoft last week, and one of the executives at Microsoft said to me, our intellectual property is still being pirated in China. We are not being paid for our Windows software in China. They can buy it on the street corner, pirated copies. You need to do more, he said, to enforce the intellectual property agreements that are in the treaties with the WTO and now China.

Labor unions, workers, people concerned about the environment, people worried about health and safety laws have the same feeling about things they care about. At the end of the day, I think what this comes down to is what one worries about.

What do Members care about? If they care about getting wages up in countries abroad, if they think trade is a long march to bring about compatibility across the world so that we have real compatibility in countries, if we really worry about having consumption as well as production, if Members believe we have to build economies all over the world from the bottom up so people have enough money in their pocket to really buy things, then they would agree with me that we need to have a little bit different trade policy that I think is suggested in the motion to recommit, and not suggested in the bill the Committee on Ways and Means brought forward.

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Now, let me end with this. I was in Pueblo, Mexico recently and I met with people in a factory there that went on strike, put together an independent union, something that has not often happened. And they won their strike because the leader of the new independent union, a woman, went to each house of every worker in that plant and got them to support the strike. And they said to me, when I met with them, how great it would have been had we had a provision in a trade treaty with Mexico that they could have used to try to get labor laws in Mexico to be properly enforced so it would have been easier for them to succeed in what they finally succeeded in. One of the first times that it has happened.

I think we need to help people like that in our own self-interest and in the interest of our economy. Trade is a critical issue going forward for this country.

I agree with a lot of the statements that have been made on the other side of the aisle. We are the leader, we are the one that needs to bring trade policies to the world. But in order to do it correctly we have to insist that all the right issues be on the table. And that is what this debate is about.

I urge Members to vote yes on the motion to recommit. I urge Members to vote no if that motion to recommit does not succeed. We can come back here, I am confident if we turn down this ill-advised bill, and we can reach a bipartisan consensus on a trade bill that should get 400 votes on the floor of this House of Representatives. Let us do that and do it very soon.

Mr. THOMAS. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois (Mr. HASTERT), the Speaker of the House of Representatives.

Mr. HASTERT. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, it is always an honor to take this floor. It is an honor to have these debates because, let no one be fooled, this is one of the defining debates of this Congress. The gentleman who stood up and spoke before, just prior to my taking the floor, is a person who leads the other side of the aisle, a person who I have a great deal of respect for. We do not always agree. As a matter of fact, there are a lot of times we do not agree. But some of the things he talked about today I do agree with.

We talked about unemployed workers. We have seen 700,000 workers in this country lose their jobs since September 11. We need to stimulate our economy. We need to support those things that make this economy work. And one of the ways to do that is to be aggressive, something that we have not been able to do for a number of years; go overseas, make the agreements, make the deals that we have to, sell our products, put our people to work, create jobs in this country, and stimulate and pass legislation that gives the President of the United States the abilities to go out and make those agreements.

We have talked about maybe this bill does not have all of the good things in it maybe other bills did. We have talked about the Jordan trade agreement we just passed a short time ago. But I can tell you, this bill has those agreements in it that were in the Jordan trade agreement. The issues of workers, the issues of environment are put into this agreement, put in this bill.

They talk about being able to negotiate on the international property rights. I understand the problems of trading with China and trading with other places that do not quite have the laws that we have. But unless you have the structure so that our administration and others can go forward and negotiate and lay down the agreements so that we can protect ourselves with international property rights and others, we will never get them, because you cannot do it by waving a wand and you cannot do it by coercion. You have to do it by negotiation, and you have to have the ability to do that.

I stood on this floor 5 years ago to give then President Clinton the ability for Fast Track authority. I did that because I thought it was the right thing to do. I did it because I thought the President of the United States, regardless of party, ought to be able to go out to make agreements and negotiations and then bring them back to this Congress for us to agree with or to disagree with.

Today I rise in support of this legislation giving a new President Trade Promotion Authority. And I urge all of my colleagues to do it. As I said, this is a defining vote for this Congress. This Congress will either support our President, who is fighting a courageous war on terrorism and redefining American world leadership, or it will undercut the President at the worst possible time.

David McCurdy, a former member of this body, now head of a high-tech trade group, said, this vote is every bit as important as our vote to give the President the authority to fight the war on terrorism; this vote is being watched today closely by our allies and by our adversaries.

Ironically, there is more at stake here if we fail than if we succeed. If this vote prevails, the President has the authority to negotiate further trade agreements. That is it. The President still has to bring those agreements back to Congress for approval. If we do not like those deals we can still reject them. But if we vote down this legislation, we send a terrible signal to the rest of the world. We say to the world that the Congress will not trust the President to lead on trade. We say to the world that Congress is not interested in promoting trade. We say to the world that we fight a war around this world on terrorism, that we would rather retreat to splendid isolationism than engage in the world economy.

That is the wrong choice. The world keeps spinning without us. There are 170 free trade agreements around the world that have been negotiated in the last several years. We have been party to two, two, T-W-O, two, one, two, of those agreements out of 170. That means that we have not engaged. We are not there.

We can either watch from the sidelines or we can get in the game. Our high-tech communities, our farmers, our manufacturing sectors, our sectors, they all want us to be in the game. They understand that American leadership on trade means more than American jobs and a better standard of living for our workers.

Many of you are concerned about your constituents. You have a right to be concerned about your constituents. But the constituents in this Nation want us to take steps now to promote long-term economic security now and for the future. American leadership on trade means better economic security for our workers.

Let me conclude by simply saying, reject isolationism, reject protectionism. Vote instead for the American leadership. Vote for American jobs. Vote for better economic growth. Vote to support the President this time, especially in a time of war. Vote for Trade Promotion Authority.

Mr. BENTSEN. Mr. Speaker, I rise in reluctant support of this legislation, which would provide trade promotion authority to the President. Every President since 1974 has had expanded trade authority, but Congress allowed the provision to expire in 1994, and our subsequent efforts to pass TPA have been unsuccessful.

As someone who has supported free and fair trade throughout my Congressional career, the vote on this issue has been particularly difficult because of the process the House Leadership utilized to draft this legislation. More specifically, I believe while real progress was made, more could have been done to address the Democratic concerns in trade negotiations.

I also object to the timing of this measure, which is being considered prior to enactment of unemployment insurance legislation for those affected by the recession and the September 11 terrorist attacks. I also wish this legislation had incorporated more meaningful language on reform of the trade adjustment assistance program. Only after intense pressure and the prospect of failure did the House Leadership and the White House concede that more must be done to meet the needs of American workers suffering from the recession and those who lose their job as a direct result of trade. With my colleague, Anna Eshoo, I have offered legislation that presents a real reform of the TAA program, and I am hopeful that the Senate companion to this bill—S. 1209—is considered in short order by the full Senate, and serves as the primary vehicle for conference consideration.

Despite these concerns, I believe passage of this legislation is needed to produce strong trade agreements that open and expand markets for U.S. goods and service. To create new opportunities for American workers and their families, Congress must support policies that encourage growth and increased living standards in the U.S. Passage of this legislation will send a strong signal to the rest of the world that the President and Congress are prepared to work together to reaffirm U.S. leadership on global trade, and provides much needed momentum to advance new and existing trade negotiations around the world.

While I do not believe the underlying bill went far enough in creating Congressional consultation, I was pleased with the inclusion of language creating a Congressional Oversight Group, comprised of members from all relevant committees, who are the briefed regularly, have access to negotiating documents and become accredited members to the U.S. delegation to ongoing trade negation. This measure also allows Congress to limit the ability of TPA procedures as a result of an Administration's failure to consult. And at the end of every negotiation, Congress retains the most important protection against an agreement that is not in our nation's interest—the right to approve or disapprove the final agreement.

I also believe passage of this legislation is needed to continue to foster economic growth worldwide. Indeed, trade and economic growth provides the mechanism to help our developing countries expand their middle class and improve their standard of living. Since the end of World War II, the liberalization of trade has helped to produce a six-fold increase in growth in the world economy and a tripling of per capita income that has enable hundreds of million of families escape from poverty and establish a higher standard of living. I believe passage of this bill helps us to continue to advance those goals which support not only our economic growth potential, but also helps preserve our national security.

This bill does provide for issue related to enforcement of labor and environmental laws to be principal objectives in any trade agreement negotiated under TPA and that there can be no backsliding on current law. This is a strong achievement when compared to earlier versions including the original Crane bill. This measure requires the President to determine a remedy to meet any non-enforcement, and I believe such a provision provides an Administration with the latitude necessary to negotiate reasonable enforcement provision, without mandating specific penalties—an action that would keep many of our prospective trading partners away from the negotiating table.

It would be wrong to ignore the public ambivalence regarding globalization, and we must recognize that while trade provides an overall benefit, there are those who lose, and the result can be devastating to working families and entire committees. It is important that as the bill works it way through the legislative process, that there is clear followthrough on commitments to provide enhanced unemployment assistance and health benefits. Further, I strongly urge that any final package include an enhanced and expanded TAA provision like that proposed in H.R. 3359. Lacking that, I and others, I believe, will find it hard to support a conference report.

Mr. MANZULLO. Mr. Speaker, as we debate trade authority, let's not forget the fastest growing and most exciting segment of American exporters—our small business exporters. Trade Promotion Authority surely will assist our negotiators in lowering barriers for this most promising engine of our exporting industries. Small businesses and family farmers in America will especially benefit from new trade agreements because exporting is the only sure way they can do business overseas. With Trade Promotion Authority, the President can more quickly ink foreign trade deals that will give our small businesses new markets to sell their goods and services.

The role of small business in our domestic economy is well documented. America's 25 million-plus small companies are the backbone of our economy. They create three of every four new jobs, produce most innovations, and generate over half of the nation's private gross domestic product.

The role of small business in international trade is less well known. In fact, small businesses account for nearly 97 percent of the total number of all U.S. exporters. The number of small business exporters has tripled over the past decade or so, increasing to over 224,000 small businesses directly involved in exporting. Small businesses now account for 29 percent of total merchandise export sales spread throughout every industrial classification. What is more surprising is that the fastest growth among small business exporters has been with companies employing fewer than 20 employees. These very small businesses represented 69 percent of all exporting companies in 1999. Obviously, trade is essential to their future and to all they employ—particularly at a time when our economy is facing difficulties. That's why groups like the Small Business Exporters Association has strongly endorsed H.R. 3005. Please find enclosed a copy of their letter to me.

Our nation also is poised to expand its exports in services, which is the fastest growing sector of our economy and one in which small firms thrive. In fact, the service sector accounts for 80 percent of U.S. Gross Domestic Product and U.S. employment—83 million jobs. These service jobs are good paying jobs—their average annual income of $32,865 a year slightly exceeds the average annual income of manufacturing jobs. Although we in Congress tend to think of trade primarily in terms of goods, our services trade is where we have our competitive edge. The U.S. is the world's largest exporter of services—services such as telecommunications and information technology, insurance, securities, banking and funds management, energy, legal and educational services, accounting, express delivery, travel and tourism. This sector has created more than 20 million new jobs since 1998, generates a $76.5 billion annual trade surplus, and provides the greatest opportunity to increase American prosperity through international trade. To capitalize on our competitive edge and gain the benefits in economic prosperity and jobs, we need to remove the many kinds of complex barriers that now block our trade.

In my own district in northern Illinois, small manufacturers are learning that if they want to remain in business they must begin tapping new markets in Canada, Mexico, and overseas. In 1999, the Rockford metropolitan area exported $857.2 million worth of goods and services, an increase of 64 percent since 1993, to practically every area of the world. As exporting opportunities become known, northern Illinois small and family owned businesses are taking advantage of them. For example, a tool and die business with 40 employees attended a successful trade mission to Mexico with the Administrator of the U.S. Small Business Administration.

Despite these encouraging statistics and trends, there is much more work to do. While small business exporters have more than tripled in number, they still form less than one percent of all small businesses in the United States. Even among these cutting-edge small firms, nearly two-thirds sold to just one foreign market in 1999. In fact, 76 percent of small business exporters sold less than $250,000 worth of goods abroad. In other words, many of these small firms are "casual" exporters.

The key is to encourage more small businesses to enter the trade arena and then to prod the "casual" small business exporters into becoming more active. If we were able to move in this direction, it could boost our exports by several billion dollars. We need to get these engines of our domestic economic growth fully engaged in the global marketplace. Hopefully, when Trade Promotion Authority is returned from the other chamber, it will contain a provision to create an Assistant United States Trade Representative for Small Business.

Trade barriers are insurmountable for small business. While most large companies can either export or set up a factory overseas, most small business exporters have only one choice—that is to export from America. In addition, there are many complicated issues that face small business exporters, such as streamlining foreign customs practices. Trade Promotion Authority will give the President the tools he needs to negotiate away these unfair trade barriers.

Trade Promotion Authority has been granted to the last six American Presidents. It simply gives the President the ability to negotiate trade agreements in a timely fashion. Once a trade deal is inked, the House and Senate have 90 days to approve it on an up or down vote. Under the version considered today, Congress will be more involved than ever in foreign trade deals because the bill creates a Congressional Oversight Group to oversee negotiations and consult with the Administration throughout the process.

Currently, more than 134 trade agreements exist in the world and the United States is party to only two of them. Trade Promotion Authority would help the President open new markets to American products, knocking down unfair tariffs and foreign trade practices and preserving and creating more high-paying jobs in the United States. American jobs that involve exporting pay 13 to 18 percent more than other jobs.

Expanded trade is needed now more than ever. In these tough economic times, American workers need work. This legislation will not only preserve jobs, but it will give our employers new markets to increase their business so they can put unemployed Americans back to work where they belong.

Economic studies show that a new World Trade Organization (WTO) round would produce enormous benefits for the United States. If the round reduced existing tariffs and all service barriers by one-third, it has the potential to add $177 billion to the U.S. economy. Removal of all trade barriers would add $537 billion to the U.S. economy, $450 billion of which would be from services.

Services and agricultural negotiations need to be re-energized by a successful new trade round. Nothing would assist American success in these talks, and continuing bilateral and multilateral negotiations, than the passage of Trade Promotion Authority. Without a new round, these negotiations will run out of steam, and our companies, economy, and job-creation potential will suffer.

Renewing TPA will show our trading partners that we have the political will to start and conclude serious negotiations. I urge my colleagues' support of H.R. 3005.

SMALL BUSINESS EXPORTERS ASSOCIATION,
Washington, DC, December 5, 2001.

Rep. DON MANZULLO,
House Small Business Committee, 2361 Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR REP. MANZULLO: As the Chairman of the House Small Business Committee, you are one of Congress, most committed advocates of small business growth and prosperty. The Small Business Exporters Association urges you to act on that commitment tomorrow—by voting for Trade Promotion Authority for this and future Presidents.

This issue is sometimes seen as a struggle between the priorities of big business and big labor. It is anything but. As the nation's oldest and largest association dedicated exclusively to small and mid-size US exporters, SBEA is hearing loud and clear from its members that TPA may well make or break their ability to compete globally.

Though the number of small business exporters in the US has tripled, reaching more than 200,000, smaller exporters face huge new challenges, and our progress is at risk. The high cost of the dollar in foreign currencies and the worldwide economic softening have dealt serious blows to our ability to sell abroad.

We're also losing customers as free trade agreements spread around the world—without the US—and our products grow more expensive as a result.

Big businesses can deal with the high dollar and the free trade agreements by shifting production overseas. Small business can't. Price us out of a market and we're out. America loses the sales, jobs and economic growth.

The vote on TPA tomorrow will send a powerful signal—whether Congress intends to strengthen a strategic growth area of the American economy, or accentuate a downward economic spiral.

SBEA understands that compromises will be necessary in the months ahead. There are many interests affected by US trade agreements. We support those compromises. But a vote against TPA is not a vote for compromise. It is a vote to end the discussion.

We hope that you will stand with small business tomorrow.

Regards,

JAMES MORRISON.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise not in opposition to free trade, or trade promotion authority. I come to the floor today to register my opposition to the form Chairman THOMAS and the Republican leadership have chosen H.R. 3005. For the "Bipartisan Trade Promotion Authority Act of 2001" is anything but, simply does not fully address the well founded concerns many Americans have about international trade policy.

Let me begin by stating that I am in favor of sensible, sustainable international trade. The United States is a major part of the global economy, and the health of this nation and its workers depends upon the ability of American producers and service providers to have access to markets to conduct business. It was Democratic President John F. Kennedy who stated, "A rising tide lifts all boats." I firmly believe that in the case of international trade, this sentiment rings true, and that an economically stable world where every nation can aspire to a standard of living that reflects the elbow grease and ingenuity of its people is within our reach.

Mr. Speaker, I have genuine concerns about the current state of the global economy. Over the last two years economic slowdown has impacted the entire world. The Bush administration has finally acknowledged that not only are we in a recession, but that we have been a recession since March. The recent tragedies associated with September 11 and the U.S. Postal Service have shaken the confidence of this nation's workforce even more, and despite the thousands of jobs that have been lost, the families who have suffered the most from the sum total of events have been least on the agenda of the Republican Majority in this Congress.

My own district, Texas' 18th is a glaring example of the competition that exists between ensuring the stability of working families and adapting to the realities of the new global economy. Recently, the economic tide caught up with Enron, a major global employer in my district. Though I have every confidence in Houston to set the ship back on course, thousands of families will be the losers in the interim, and that weighs heavily on my mind.

International trade is vital to the health of my district. The Business Roundtable estimates that exports directly support 10,000 jobs in my district. Another 55,000 jobs with wholesalers and service providers either wholly or partially depend upon export sales. By the same token, though NAFTA has lead to a 100 percent increase in Texas exports to Canada and Mexico, this trade agreement has resulted in severe distress to America's steel industry. It has cost literally thousands of U.S. jobs and forced district manufacturers like Maas Flange to seek and obtain a remedy from the International Trade Commission.

Every Member here today can outline a similar set of tensions when determining the best course of action for their district. In the years since Trade Promotion Authority, or Fast Track, expired in 1994, we have had the opportunity to witness the need for free trade. We have also learned the reality that the trade rules can have a profound impact on labor forces as well as the local and global environments. As a legislator, I take seriously my constitutional obligations to balance these competing interests. Thus, I believe that any system of trade guidelines dispensed to the President should fully discharge our constitutional obligations and responsibilities to our respective districts.

H.R. 3005—railroaded through committee by Chairman THOMAS—does not strike this balance. At best, the legislation pays lip service to the concerns of the labor and environmental communities, and fails to substantively address the concerns of the American people that our trade policy be constitutionally sound.

To begin, H.R. 3005 does not require countries to implement any of the five core ILO standards; the right of association; the right to collective bargaining; bans on child labor; compulsory labor; or discrimination. H.R. 3005 requires only that a country enforce its existing law—whatever law that happens to be. Through proponents of the legislation claim that H.R. 3005 does require countries to consider labor standards, the bill constructs these core standards as mere "general negotiating objectives."

Thus, negotiation on, or implementation of, labor considerations in trade agreements enacted under this formula would not be subject to the economic realities of a global trade regime. Instead, they would be subject to the whims of the negotiators and their political agenda. The bill also requires countries to continue to enforce whichever labor standards they have, rather than recognizing the ILO conventions. Consequently, rather than ensuring that we foster positive labor standards with our trading partners in order to keep multinational corporations from exploiting foreign workforces to the detriment of their domestic workers, this bill would encourage it. No greater incentive to stabilize worker conditions around the world is contained in this bill, than in previous versions of Trade Promotion Authority that were voted down by this Body. Yet this bill is supposed to help create and keep American Jobs.

H.R. 3005 also falls severely short of incorporating the environmental externalities associated with international trade as a component part of the trade regime. This bill considers environmental objectives to be "general negotiating objectives as well.

However, H.R. 3005 does not require any concrete action from U.S. negotiators. The bill requires only that the President "consult" with other countries and "promote consideration" of Multilateral Environmental Agreements. Thus, the bill contains no real assurances that the environment will be respected. H.R. 3005 would also allow greater rights for foreign investors in U.S. than U.S. firms due to its mimicry of NAFTA's chapter 11 rules regarding expropriation and takings, and it does not address key concerns raised under NAFTA investment rules that allow for the challenge of laws which are "tantamount to expropriation." Last Minute changes to H.R. 3005 in this area are an indication of the flawed philosophy behind the Thomas legislation; the Leadership has paid too little attention too late in this process to convince this Body that labor and the environment are legislative priorities of U.S. international trade, and they should be.

Finally, this bill does not fully discharge Congress' Constitutional obligations regarding U.S. trade. Simply put, H.R. 3005 includes no effective mechanism for congressional participation in developing international trade. The bill includes only more consultations and a recycled oversight mechanism from the 1988 law that was never used, which requires the Ways and Means and Finance Committees to act as gatekeepers. This function has never previously been utilized effectively, and there is no reason to assume this will change.

The Leadership of this House has made a mistake with this legislation. Recent trade agreements with Jordan and the Andean countries prove that Congressional priorities and international trade can be reconciled. Thus, to send a bill to the floor which does not ensure that the recent trends in U.S. Law are respected is an irresponsible way to conduct trade policy. As such, despite my support of free trade, I cannot support the trade regime fostered by this legislation.

Only H.R. 3019 fosters trade in a manner that considers its effects on workforces, the environment, our national sovereignty, and our constitutional obligations as members of Congress. The bill makes international labor standards a specific negotiating objective of the Free Trade Area of the Americas, and it requires the creation of a Working Group on Trade and Labor within the WTO. H.R. 3019 also provides a real mechanism for members of Congress to play an ongoing role in this increasingly important sector by structuring a review process of ongoing negotiations and increasing congressional oversight of negotiating objectives.

International trade is vital to the people of the 18th district of Texas. So too are their jobs, the environment, and the freedom of our nation. It is our mandate as legislators to balance these interests for the good of our nation. The H.R. 3005 version of trade promotion authority does not do this, and I therefore cannot support it. By putting politics before policy, the Republican leadership has ruined an opportunity to "lift all boats," for only the H.R. 3019 version of Trade Promotion Authority has the opportunity to ride a "rising tide" of support to passage.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to H.R. 3005, the "Fast Track" Trade Promotion Authority bill and in support of the Rangel substitute in the motion to recommit.

As a member of this House and as a member of the California Assembly prior to my election to the House, I have been a long-time supporter of free trade policies. As a Californian, I understand very well the many advantages that come from open markets, the lowering of tariffs, and the elimination of other trade barriers that prevent American products from competing on a level playing field in overseas markets.

American workers are the most productive workers in the world, and consumers around the world desire quality American products. I strongly believe that given a level playing field, American companies will thrive in overseas markets.

I am also well aware of the value of open markets to American consumers. Americans are shrewd consumers. Their open-minded attitude in considering and purchasing quality goods produced in other countries instills competition in both American and foreign companies which, in turn, lowers prices for American families and increases their real income.

Knowing the many benefits of increased trade between the U.S. and other countries, I voted for the North American Free Trade Agreement (NAFTA), and for many years, I have supported legislation to increase trade, such as "most favored nation" status for China. I did so because of promises made to address the negative impacts of free trade agreements on U.S. workers and industries. However, once the trade agreement passed these promises were ignored and forgotten.

Since the passage of NAFTA, on numerous occasions, I have loudly voiced my concerns to Cabinet officials and trade negotiators about the necessity to live up to the promises to help displaced workers.

One such promise was the establishment of the Community Adjustment and Investment Program—CAIP—which was intended to provide financial assistance for American companies located in NAFTA trade-affected areas. In practice however, CAIP did little to help these companies. In fact, CAIP was never of any assistance to the garment industry located in my district, which experienced enormous job losses after the passage of NAFTA. CAIP's overly stringent eligibility requirements completely overlooked textile manufacturing companies too small to qualify or who did not meet the job loss threshold requirements. This essentially makes the CAIP program meaningless and ineffective.

Meanwhile, last year the Los Angeles Times reported that employment in the Los Angeles garment trade dipped below 100,000 for the first time since NAFTA was enacted in 1994, with nearly 13,000 jobs lost since 1997 alone. The jobs lost have almost exclusively been blue-collar sewing jobs.

Knowing that adequate and appropriate safeguards are not currently in place to help our nation's displaced workers, I cannot support extending Trade Promotion Authority to the President. I also cannot support this bill, because it does not sufficiently address my growing concerns regarding issues of labor standards, environmental protections, and congressional oversight on trade negotiations.

I regret that the Rules Committee has recommended a closed rule on this bill specifically blocking Democrats from offering amendments to address the concerns regarding this bill.

However, while I will oppose the Thomas bill, I will support the Rangel substitute in the motion to recommit. The Rangel bill includes provisions that address many of my concerns about labor rights, environmental protections, and congressional review. First, the Rangel substitute sets out clear negotiating objectives for labor standards. The Rangel substitute forbids slave labor, and outlines strict rules on the use of child labor, and on the freedom of workers to associate and bargain collectively. The Thomas bill, in contrast, has no requirement that a country's laws include any of the five core International Labor Organization standards.

Second, the Rangel substitute sets out clear negotiating objectives for environmental standards. The Rangel substitute would commit countries to enforcing their own national environmental laws and prevent them from waiving existing standards for the purpose of gaining a competitive advantage. The Thomas bill does little to ensure that environmental rules established by Multilateral Environmental Agreements have equal status to other provisions of trade agreements.

Third, the Rangel bill ensures a continuing and active role for Congress in setting U.S. trade policy. It does this by replacing the ineffective mechanisms included in the 1988 "fast track" law with a procedure for structured biennial review of ongoing trade negotiations subject to fast track. It also gives Congress an opportunity to pass a resolution of disapproval if the U.S. decides to inaugurate a new regional or multilateral trade negotiation. The Rangel bill helps to ensure that Congress is an active participant in important negotiations. The Thomas bill's approach is to view Congress as an occasional consultant.

In short, although it is not perfect, I believe the Rangel substitute addresses most of the legitimate concerns that have been raised about the negotiation of free-trade agreements.

Free trade agreements and free trade policies are desirable goals, but we should never forget that they also impact many Americans adversely. By requiring implementation of labor and environmental standards, together with the active involvement of Members of Congress both Republican and Democratic administrations are likely to construct trade policies consistent with our principles as a society.

The Rangel substitute is the best vehicle for achieving this goal. I urge my colleagues to support the motion to recommit and oppose the Thomas bill.

Mr. LIPINSKI. Mr. Speaker, trade is clearly an important component of our national economy. Accordingly, I strongly support fair trade laws that ensure a competitive foundation for American exports by promoting American values. Fair trade laws ensure that workers and the environment do not get exploited for short-sighted profits; free and unfettered trade agreements trade away American jobs. The language in H.R. 3005 provides hollow promises to the environment and American workers. For years, supporters of these agreements have argued that trade is the cure-all for the American economy. To the contrary, the U.S. economy has been struggling for some time now, and we have empty trade accords to thank for it. We simply cannot have free trade at any cost.

Clearly, now is not the time to pass fast-track authority. In the third quarter of this year, economic activity fell 1.1%; there is virtual agreement that the United States economy is in recession. Last year, the U.S. trade deficit reached a record $435 billion. Including interest payments, the United State's net foreign debt is 22% of the gross domestic product.

Not surprisingly, personal bankruptcies hit an all-time high of 1.4 million this year. The unemployment rate has been rising steadily, and the number of laid-off workers receiving unemployment benefits rose to 3.8 million last month, the highest level since I came to Congress. But there's more: Industrial construction is at its lowest level in 7 years. Since last July, 1.5 million U.S. manufacturing jobs have been lost, and 26 steel companies have gone bankrupt.

These conditions hit too close to home for my constituents. In my home state of Illinois, the fourth-largest economy in the union, economic activity has fallen for seven straight months. Output at factories in the Chicago area has contracted for 14 straight months. Last month, a Clorox plant in my district closed and laid off 95 workers. Furthermore, a 3M tape production facility announced it would be shutting down as well, displacing 270 hard-working Chicagoans. Both companies cited the global economic downturn as the reason for these closures.

Mr. Speaker, given a fair environment, our workers will out-perform any competitors. But we cannot compete with countries that subjugate their environment and pay their workers 90 cents per day. Now, in the midst of a recession, we are asked to vote to further these problems. I urge a "no" vote on H.R. 3005. Now is definitely not the time for fast track authority.

Mr. ROEMER. Mr. Speaker, I rise today to voice strong support for free and fair trade but also my opposition to the Representative THOMAS' Fast-Track bill. As a cofounder and a current leader of the New Democrats, I am dedicated to finding new and innovative approaches to expanding our trade opportunities. Over the course of my six terms in Congress, I have demonstrated a strong record on free trade by voting for the General Agreement on Tariffs and Trade (GATT), the Africa Growth and Opportunity Act, the Caribbean Basin Initiative (BCI), Permanent Normal Trade Relations with China (PNTR), and most recently the Andean Trade Promotion Act.

The global landscape for trade among nations continues to grow in complexity, however, as more nations enter the international market to trade goods and services. Just as we advocate more efficient, fiscally responsible government that encourages economic growth, so must we support free and fair trade agreements that recognize the challenges faced by American workers in the age of globalization. The opportunity exists for the United States to act as a world leader by enacting strong trade provisions that protect the American worker and the environment. The Thomas bill missed this opportunity by failing to enact meaningful labor and environmental standards.

If you look at past free trade negotiations leading up to the Doha Ministerial Conference of the World Trade Organization last month, the incremental increase in complexity and detail involved in trade negotiations is striking. In 1979, the Tokyo Round Agreement included only six areas for negotiation. Some of these issued areas included tariff levels, government procurement, and technical product standards. In 1994, the Uruguay Round negotiations integrated upwards of sixteen areas for trade negotiation including new issues such as intellectual property rights and trade in agriculture. In November 2001, the Doha Ministerial WTO Negotiations included upwards of 26 areas for debate. Among the issues open for negotiation were anti-trust laws, electronic commerce, and product labeling to name a few.

As trade negotiations between nations involve more issues, there is absolutely no excuse to exclude new compliance standards regarding labor and the environment. This is the time for the United States to take the lead to ensure that American jobs are protected at home and that human rights laws are enforced by our trading partners.

The Thomas bill falls well short of a guarantee for strong labor standards. By merely requiring a country to enforce its own existing labor laws, the Thomas bill provides no U.S. leadership on the treatment of the world's laborers. In fact, the five core International Labor Organization (ILO) standards are not even enforced. A commitment to principles like opposition to forced labor and child labor should be non-negotiable priorities of any future trade deals. The Fast-Track proposal does not require that our trade partners agree to these basic standards. Furthermore, an incentive must be in place for our trading partners to achieve fair and responsible labor standards and under the Thomas bill this will not happen.

The Thomas bill falls short of any meaningful protections for the environment, as well. Because only voluntary negotiating objectives are in place, trading partners can lower their environmental standards to gain unfair trade advantages. Furthermore, the Thomas bill does not block foreign investors lawsuits from challenging domestice environmental laws.

In conclusion, Mr. Speaker, during these times of uncertainty brought about by the war on terrorism and an apparent economic slowdown, we must heed the challenge to think anew when it comes to U.S. Trade Policy. We must balance our commitment to trading our goods and services abroad while also ensuring the protection and well-being of our workers. The Thomas bill is unbalanced and would represent a step backwards in our pursuit for free and fair trade.

Mr. GILMAN. Mr. Speaker, I commend the diligent efforts of the distinguished chairman of the Ways and Means Committee, the gentleman from California, Mr. THOMAS, my colleagues and their staff members in drafting and sponsoring H.R. 3005, the Bipartisan Trade Promotion Authority Act of 2001.

This measure has been referred to as the most environmentally and labor responsive legislation regarding Trade Promotion Authority (i.e. Fast Track) to be sponsored by the Congress. However, I share the concerns raised by my constituents in that H.R. 3005's labor and environmental standards do not go far enough to ensure a level playing field in trade agreements. H.R. 3005 refers to environmental and labor provisions as negotiating objectives. Nevertheless, our trade history reveals that during the past 25 years including labor rights, and now environmental rights, as "negotiating objectives" do not guarantee that these provisions will actually be included in trade agreements. The geopolitical and trade landscape has changed. Of the 142 members comprising the World Trade Organization (WTO), 100 are classified as developing nations and 30 are referred to as lesser-developed nations. Why is this important? It is important because with China's accession into the WTO, those 130 nations will then become more forceful in promoting their own trade agendas. What H.R. 3005 does is create an incentive for a nation to create a more favorable trade agreement for itself by lowering its environmental and labor standards. At best, many of these nations' labor and environmental standards are substandard.

As drafted, the overall negotiating objective of H.R. 3005 is to promote respect for worker rights. My constituents are concerned that the worker rights provisions do not guarantee that "core" labor standards are included in the corpus of prospective trade agreements. By core labor standards, I refer to the International Labor Organization's 1998 Declaration on Fundamental Principles and Rights at Work: freedom of association, the right to organize and for collective bargaining, and the rights to be free from child labor, forced labor and employment discrimination, which many people throughout the world are confronted with.

My constituents are troubled that H.R. 3005 does not require any signatory to an agreement to improve or even to maintain that its domestic laws comply with the standards of the International Labor Organization. Among H.R. 3005's principal objectives is a provision entitled labor and the environment, which calls for the signatories to trade agreements to enforce their own environment and labor laws. Our nation as a leader in the global trade community must set the example by encouraging our prospective trading partners to raise their labor and environmental standards before we enter into any trade agreements with them. In the end, it will be the United States which is called upon to provide the resources to clean up environmental disasters and to bail out collapsed economies that failed as a result of substandard labor conditions.

Through their first-hand accounts, my constituents report that workers in many nations in which we seek to enter into bilateral and multilateral trade agreements are subjected to exploitation, harassment and worse for exercising their rights to collective bargaining, and are forced to work under harsh conditions. For example, in our own hemisphere more than 33 percent of the complaints filed with the International Labor Organization's Committee on Free Association originate in the Andean region. I understand that new labor laws in Bolivia, Ecuador, Colombia, and Peru undermine the right to collective bargaining, and there are scores of reports from NGO's regarding unconscionable violations of the most fundamental rights for workers and their union representatives. The AFL–CIO reports that since January 2001, more than 93 union members in Colombia have been murdered, while the perpetrators have gone unpunished.

How the United States engages in trade negotiations and its practices are crucial not only for our future, but for our democratic process. Since our Nation's conduct is scrutinized worldwide we should set the right example. Events during the recent World Trade Organization negotiations in Doha, Qatar have made this fact even more apparent. That organization is seeking to adopt a worldwide "Investor-State Clause" during its next round of discussions. This clause was written into Chapter 11 of the North American Free Trade Agreement (NAFTA) for the purpose of protecting businesses from expropriation by foreign governments. However, its application deviates from its original purpose of protecting signatories from expropriations.

NAFTA Chapter 11 cases such as Methanex v. United States, allow a foreign investor to sue a signatory government if their company's assets, including lost profits and other intangibles are damaged by our laws or regulations. The provisions of Chapter 11 call for an arbitration panel, which meets in secret, and its findings are not subject to public disclosure.

NAFTA's Chapter 11 standard of proof is much lower than what our own courts would require in a commercial case. The standard is whether the regulation illegitimately injured a company's investments and can be construed as an expropriation, which generally requires a physical taking of property or assets, even though in Chapter 11 cases no assets were physically taken. By virtue of this provision, our laws may be challenged in ways not foreseen by our Congress and in ways that are inconsistent with our own court's judicial interpretation, which are rendered irrelevant by NAFTA's Chapter 11 provision. Methanex is seeking 970 million dollars.

Mr. Speaker, we must seek out ways to make trade compatible with conservation of the environment and by adhering to core labor and environmental standards that are both incorporated into the body of a trade agreement and enforceable.

Accordingly, I am not able to support H.R. 3005.

Mr. TIAHRT. Mr. Speaker, I rise in strong support of the Trade Promotion Authority Act of 2001. This important legislation will allow the United States to negotiate trade agreements in order to increase exports and stimulate our economic recovery here at home. It will also enable the President and Congress to work together to advance our interests around the world by guaranteeing Congress substantial participation in trade negotiations and allowing the President the authority to sign meaningful agreements.

Today's economy is dependent on global trade. Therefore, American businesses must have access to foreign markets. There must be a level playing field. Farmers throughout my state of Kansas depend on foreign markets to purchase significant portions of their crops and livestock. And in a time where productivity exceeds the ability of the domestic market to absorb current production levels, the need to create overseas customers is more important than ever. In fact, Agriculture must export one-third of its production because it is nearly three times more dependent on exports than other sectors.

Mr. Speaker, it's not just agriculture which benefits from free trade. Boeing, the largest exporter in the United States, sells more than half of its commercial planes to overseas customers. Last year, the company, which employs nearly 200,000 Americans, reported that one-third of its sales were to international customers.

Expanded trade has never been more important. Economists agree that America is in a recession and we must work to get our economy moving again, This is an opportunity to boost the economy by opening new markets.

This bill ultimately saves American consumers money, it increases American exports, it creates American jobs, and it guarantees that the United States will remain the world's economic leader.

I urge my colleagues to vote "yes" on the Bipartisan Trade Promotion Authority Act.

Ms. HARMAN. Mr. Speaker, this has been a long day in a needlessly partisan fight.

I support Trade Promotion Authority and have voted for it in the past. The bill I voted for in 1998 is not as good as the text before us today.

I represent a trade-dependent district, and understand very well why trade helps our economy.

But context matters. Our country was in a serious economic recession before September 11, and now faces enormous hardships just as the holiday season arrives. Forty-one thousand workers are out of jobs in the communities surrounding Los Angeles International Airport. Their airline and airport-affiliated jobs evaporated in the aftermath of 9–11.

Workers first, Mr. Chairman. Those workers and those negatively impacted by September 11 and trade must be helped first before we pass TPA.

I support the package of worker benefits that the House leadership supports: $20 billion for unemployment, health insurance and worker training. The President has told me he supports it too.

My wish was that working together we could vote and pass it first as evidence that we would keep our promises to workers.

Sadly we didn't. Sadly I can't support TPA today until we do.

Mr. STENHOLM. Mr. Speaker, I rise in support of Trade Promotion Authority. As a lifelong supporter of improved trade opportunities for American producers, my inclination always is to begin with a favorable disposition toward trade bills which come before Congress. I am convinced that American producers can, and do, win with freer and fairer trade. Certainly, not every conceivable trade bill deserves support but, in general, I am strongly persuaded that increased trade opportunities improve the lives and pocketbooks of American workers. I also believe that enhanced trade is a potent mechanism for America to export our values, practices and democracy along with our products.

Unfortunately, early messages from the current administration forced me to question whether enhanced trade authority would be prudently used if granted this year. In particular, I was sorely disappointed by statements by the current Administration which made me doubt their understanding of both domestic and international farm policies and, particularly, the impact of those policies on the producers of our Nation's food and fiber. I am not going to be party to a unilateral disarmament of our farmers and ranchers for someone else's partisan philosophical reasons.

Furthermore, the early handling of this issue by both the Administration and the House leadership confirmed what has appeared to me throughout the year as legislative arrogance. While it may be numerically possible to pass bills with Republican-only votes, ultimately there is a price to be paid for this sort of shortsighted partisanship by either party. Successful trade legislation always has required bipartisan support; when the well of good will has been drained by earlier legislative battles fought entirely on partisan grounds, issues like trade arrive with inadequate troops supporting the effort.

All of that being said, I am reassured both by several conversations I personally have had and by those which have been reported to me from colleagues who share some of my concerns. As a naturally optimistic person, I am willing to hope that this experience might signal an awakening to political and legislative realities by some important players in both the executive and legislative branches.

With my chairman on the Agriculture Committee, I am supporting the trade promotion authority legislation before us today. I do believe that the enhanced congressional consultation and oversight in the current bill are vital for ensuring that our constituents' views and needs are respected by our trade negotiators. I highly commend this and other improvements made by my colleagues JOHN TANNER, BILL JEFFERSON, and CARL DOOLEY.

The truth about trade is that there always are both successes and failures, winners and losers. But for the Nation as a whole, trade is a net positive.

When it comes to agriculture, the successes have outweighed the failures. American farmers and ranchers now make a quarter of their sales to overseas markets; U.S. agriculture consistently enjoys a trade surplus; and next year agricultural exports are expected to reach $54.5 billion, producing a trade surplus of $14.5 billion. But that is just a fraction of what could be possible with freer and fairer markets.

According to the U.S. Trade Representative, NAFTA, and the Uruguay Round have resulted in higher incomes and lower prices for goods, with benefits amounting to $1,300 to $2,000 a year for an average American family of four, NAFTA has also produced a dramatic increase in trade between the United States and Mexico. In 1993, United States-Mexico trade totaled $81 billion. Last year, our trade hit $247 billion—nearly half a million dollars per minute.

U.S. exports to our NAFTA partners increased 104 percent between 1993 and 2000; U.S. trade with the rest of the world grew only half as fast.

Increased trade supports good jobs. In the five years following the implementation of NAFTA, employment grew 22 percent in Mexico, and generated 2.2 million jobs. In Canada, employment grew 10 percent, and generated 1.3 million jobs. And in the United States, employment grew more than 7 percent, and generated about 13 million jobs.

But as I said before, I acknowledge that there are those who do not win in the short run under certain trade situations. For workers who have lost in trade in the past, I also believe that the best—and perhaps only—way to fix what has failed is through new negotiations, which level the playing field. We must speak with a unified voice that is forged through a close partnership between Congress and the executive branches. That is envisioned in the compromise bill.

We in agriculture have only begun to reap the benefits of a half century of trade negotiations under GAIT and the WTO, which have reduced the average tariff on industrial goods to about 4 percent. That is a fraction if the 62 percent tariff that is imposed on our exports of agricultural products.

Indeed, reform of agricultural trade policies begun in the Uruguay Round provided not only additional market access for agriculture but, perhaps more importantly, it provided the necessary framework to improve market access in future negotiations.

Now is the time to press forward with additional trade reforms that will improve market access for our agricultural products.

In addition to tariff barriers, U.S. agricultural exports must compete with subsidies from foreign governments. Europe alone spends 75 times more in agricultural export subsidies than does the United States. In fact, Europe spent $91 billion last year to support agriculture, almost twice the $49 billion spent by the United States.

Europe is aggressively pursuing trade agreements with other countries, already securing free-trade or special customs agreements with 27 countries, 20 of which it completed in the last 10 years. And the EU is negotiating another 15 accords right now. Last year, the European Union and Mexico—the second-largest market for American exports—entered into a free trade agreement. Japan is negotiating a free-trade agreement with Singapore, and is exploring free trade agreements with Mexico, Korea, and Chile.

There is a price to pay for our delay in negotiating new trade agreements. For example, U.S. exports to Chile face an 8-percent tariff, but Canada exports to Chile without the tariff because of the Canada-Chile trade agreement. As a result, United States wheat and potato farmers are now losing market share in Chile to Canadian exports.

American farmers and ranchers can't afford for us to stand by and watch the world write new trade rules. The United States needs to lead a new round of negotiations, and we need trade promotion authority to do it.

I encourage my colleague to support the compromise bill today and you will be supporting American farmers and ranchers as well as other business men and women who have the capacity to strengthen our economy as well as their own livelihoods if they are just given the chance.

With millions of jobs and billions of dollars at stake, we cannot afford to be partisan or cavalier with this vote. My hope is that this week we will produce not only a legislative victory on Trade Promotion Authority but also a blueprint for greater respect and improved working relations between the parties on substantive national policy.

Mr. UDALL of Colorado. Mr. Speaker, I cannot vote for this bill.

I believe in free trade and am philosophically opposed to protectionism. I am particularly sensitive to the economic challenges faced by the "high technology" sector of our economy, and believe that there was an opportunity to craft a bill that would have secured broad bipartisan support on trade. Unfortunately, this bill falls short of that bipartisan promise.

The stakes on trade promotion authority—or "fast track"—have changed, along with the global trade landscape. Easing barriers to trade no longer simply involves tariffs or quotas. In our increasingly globalized world, trade negotiations involve areas that used to be considered U.S. domestic law—from regulatory standards and antitrust laws to food safety and prescription drug patents, to name just a few.

And because the trade landscape has changed, I—along with many of my colleagues—believe that the way in which we go about negotiating those trade agreements should be different than it has been in the past, when Congress agreed to limit its role in this important aspect of national policy.

Now, even more than before, broad support is needed for any bill that would relinquish the authority of Congress to represent the nation by reviewing agreements or decisions reached by the Executive. If we are going to vote to reduce congressional review and give favorable treatment to trade agreements, we should at least provide that these agreements meet certain minimum standards. The stakes—for American workers and for the environment—are too high for us to do otherwise.

In June of this year, the gentleman from Illinois, Mr. CRANE introduced a fast-track bill that was roundly criticized as not providing a strong enough role for Congress and not addressing concerns about labor or environmental standards. As Ways and Means Chairman THOMAS prepared his revised legislation, many of my colleagues and I had hoped that he might have better understood that building a bipartisan consensus requires consultation of Members on both sides of the aisle. Only then could Chairman THOMAS's bill have correctly been named the "Bipartisan Trade Promotion Authority Act."

So I was disappointed when H.R. 3005 was introduced, as it was clear that Chairman THOMAS wasn't willing to work to gain broad support for his bill. In contrast, in my view, the version of the legislation introduced by Ways and Means Ranking Member RANGEL and Trade Subcommittee Ranking Member LEVIN would take important steps in the right direction and would provide a better foundation for developing sound legislation.

But the rule under which this bill is being debated does not even provide for consideration of the Rangel-Levin bill as an alternative. Although the rule does make some slight improvements to the Thomas bill, the changes are too little and too late.

It is incumbent on us in Congress to continue to work to update our trade policy to take account of this changed landscape. That means we need a trade promotion bill that includes a stronger role for Congress, and stronger environmental and labor provisions. The Thomas bill before us does not measure up, and I cannot support it.

Mr. MURTHA. Mr. Speaker, I urge the House of Representatives to reject this "fast-track" trade legislation—this bill will not meet our trade goals, and will hurt rather than help our needed economic recovery.

Many industries, such as the U.S. steel industry, are being hard-hit by subsidized foreign imports, yet this bill does not require U.S. negotiators to seek wide protections such as the United States needs from such dumping by foreign countries in key areas such as steel, lumber, cement, and agriculture products.

Moreover, this bill will not attack the key trade steps we need to take—rather, we need a revised U.S. trade policy that will eliminate the record-level trade deficit, protect U.S. jobs and the U.S. economy, and promote U.S. exports. This bill before the House of Representatives will only mean more U.S. jobs lost to overseas, subsidized manufacturers.

The U.S. can compete with any nation in the world as long as the competition is fair, but this legislation will actually encourage other countries to avoid U.S. anti-dumping laws, and worsen rather than strengthen our economy. It also fails to strengthen overseas worker rights and require environmental progress.

Yes, we need a revised U.S. trade policy, but we need one that protects U.S. jobs and stimulates economic growth. This bill does not reach that goal at all, and it should be rejected by the House of Representatives as a statement that we will stand-up for the U.S. economy and protect U.S. jobs rather than sending business and jobs overseas.

Mr. STARK. Mr. Speaker, I rise today in strong opposition to H.R. 3005, a bill to grant the President fast track trade negotiating authority. The bill before us today is weaker on labor and environmental language than the 1988 fast track bill used to negotiate the North American Free Trade Agreement (NAFTA). As witnessed by the surge of imports and loss of millions of jobs since NAFTA's enactment, Congress must hold the President accountable for negotiating trade agreements that are stronger than that of NAFTA—not weaker.

While gross U.S. exports rose 61.5% between 1994 and 2000, presumably as a result of NAFTA, imports rose by 80.5% over the same period resulting in over 3 million trade-related job losses. California led the states in job losses with over 300,000 jobs lost to NAFTA's explosion in imports. Proponents of the last fast track bill assured us that more jobs would be created than would be lost. Clearly, this is not the case. Now, Mr. THOMAS is asking Congress to support a bill that is weaker than the fast track language used to negotiate NAFTA. I warn my colleagues not to be fooled into believing that promises made to provide benefits in an economic stimulus package to workers who have recently lost their jobs, will come close to justly compensating the millions of workers who have already lost their high-paying manufacturing jobs. Nor will it suffice in protecting those who have yet to see unemployment from the trade negotiations that have yet to be signed.

I want to make one thing clear: H.R. 3005 does not help U.S. workers. This bill is intended to protect and promote multinational investments. The bill neglects to provide any enforceable requirements that the U.S. Trade Representative (USTR) negotiate any of the five core International Labour Organization standards. We need USTR to negotiate an agreement that commits countries to implement and enforce in their domestic laws both the right to associate and bargain collectively, and prohibitions on child labor, compulsory labor and discrimination in hiring. When workers are not given these basic rights, they are exploited. This is what has happened with NAFTA. Workers in the U.S. are given these rights but this is not the case in Mexico. So rather than continue to pay a decent wage to a U.S. union worker, a factory owner can move the business to a country where there are no labor laws and labor costs are lower than in the U.S. Although Mexico has seen a significant increase in manufacturing with NAFTA, Mexican manufacturing workers have seen a 21% decrease in their wages. Mexico's burgeoning middle class has yet to materialize and the working poor have spiraled deeper into poverty. Clearly, the 1988 fast track negotiating authority hurt U.S. workers as much as it hurt Mexican workers. Congress must insist on stronger trade negotiating objectives to protect U.S. workers as well as the exploited workers around the globe. The Thomas proposal fails to do so.

Under NAFTA's Chapter 11, corporations have been given unprecedented immunity from domestic statute through global trade agreements. H.R. 3005 embraces NAFTA's Chapter 11 provisions, which vitiate U.S. statute in deference to foreign corporations. This has the consequences of hurting the environment as well as public safety. Intended as an investor protection measure, Chapter 11 allows foreign-based corporations to seek damages from governments that engage in protectionist behavior and interfere with corporations' abilities to fully realize anticipated profits.

Californians have confronted the ludicrous protections Chapter 11 provides for investors while consumer safety and the environment are made to suffer. The Canadian-based Methanex Corporation has sued the U.S. under NAFTA's Chapter 11 provisions, because California's phase-out of the harmful gasoline additive, MTBE, has hurt the price of Methanex stock. MTBE contaminated California's drinking water due to underground gasoline storage tank leaks. Logically, California lawmakers have ordered the additive out of their gasoline, even if it means slightly higher gas prices at the pump. However, if the closed-door NAFTA dispute panel decides in favor of Methanex, taxpayers could be slapped with a billion dollar fine. The Thomas proposal before us does nothing to address this egregious flaw in the NAFTA agreement. In fact, it encourages similar provisions in future trade agreements.

The current fast track bill being considered does nothing to protect U.S. jobs, does nothing to protect the environment and does nothing to protect U.S. consumers. Until such issues are addressed in binding legislative language. I cannot support fast track trade negotiating authority. I encourage my colleagues to do join me and vote no on H.R. 3005.

Mr. PAUL. Mr. Speaker, we are asked today to grant the President so-called trade promotion authority, authority that has nothing to do with free trade. Proponents of this legislation claim to support free trade, but really they support government-managed trade that serves certain interests at the expense of others. True free trade occurs only in the absence of interference by government, that's why it's called "free"—it's free of government taxes, quotas, or embargoes. The term "free-trade agreement" is an oxymoron. We don't need government agreements to have free trade; but we do need to get the federal government out of the way and unleash the tremendous energy of the American economy.

Our founders understood the folly of trade agreements between nations; that is why they expressly granted the authority to regulate trade to Congress alone, separating it from the treaty-making power given to the President and Senate. This legislation clearly represents an unconstitutional delegation of congressional authority to the President. Simply put, the Constitution does not permit international trade agreements. Neither Congress nor the President can set trade policies in concert with foreign governments or international bodies.

The loss of national sovereignty inherent in government-managed trade cannot be overstated. If you don't like GATT, NAFTA, and the WTO, get ready for even more globalist intervention in our domestic affairs. As we enter into new international agreements, be prepared to have our labor, environmental, and tax laws increasingly dictated or at least influenced by international bodies. We've already seen this with our foreign sales corporation tax laws, which we changed solely to comply with a WTO ruling. Rest assured that TPA will accelerate the trend toward global government, with our Constitution fading into history.

Congress can promote true free trade without violating the Constitution. We can lift the trade embargo against Cuba, end Jackson-Vanik restrictions on Kazakhstan, and repeal sanctions on Iran. These markets should be opened to American exporters, especially farmers. We can reduce our tariffs unilaterally—taxing American consumers hardly punishes foreign governments. We can unilaterally end the subsidies that international agreements purportedly seek to reduce. We can simply repeal protectionist barriers to trade, so-called NTB's, that stifle economic growth.

Mr. Speaker, we are not promoting free trade today, but we are undermining our sovereignty and the constitutional separation of powers. We are avoiding the responsibilities with which our constituents have entrusted us. Remember, congressional authority we give up today will not be restored when less popular Presidents take office in the future. I strongly urge all of my colleagues to vote NO on TPA.

Mr. OXLEY. Mr. Speaker, a vote in favor of Trade Promotion Authority today will be a vote in favor of U.S. workers, it will be a vote in favor of increased exports, and it will be a vote in favor of economic growth.

This bill will have a positive effect on all aspects of the U.S. economy, not the least of which will be the services sector.

Last year the U.S. exported $295 billion in services, compared to imports of $215 billion, leading to an $80 billion surplus in services trade.

Between 1989 and 1999, 20.6 million new U.S. jobs were added to the economy in service related industries. These knowledge-based jobs account for 80% of the total private sector employment in the U.S.

Today we have the opportunity to either expand this number by voting in favor of H.R. 3005, or to begin to erode these impressive figures by denying the President the tools he needs to negotiate strong free trade agreements.

As Chairman of the Financial Services Committee I understand how important this bill is to maintain our competitiveness in the international arena. Earlier this year, the Committee held hearings in which representatives from the insurance, banking and securities industries testified that barriers to overseas markets will severely affect their ability to compete with foreign based financial service providers.

Financial services firms contributed more than $750 billion to U.S. Gross domestic Product in 1999, nearly 8% of total GDP. Over 6 million employees support the products and services these firms offer. TPA will eliminate impediments to foreign markets and enable financial service providers to continue to act as the engine that drives economic growth.

Approximately 80 percent of the world's GDP and half of the world's equity and debt markets are located outside the U.S. More than 96% of the world's population resides overseas, with India and China alone accounting for 2.3 billion people. Many of the best future growth opportunities lie in "non-U.S." markets.

If U.S. service providers cannot access these markets or operate on a level playing field overseas we will be left behind by foreign financial service providers.

I strongly urge my colleagues to join me in supporting H.R. 3005. Our workers need it, our exporters need it and our economy needs it.

Mr. SHAYS. Mr. Speaker, trade promotion authority enhances the United States' ability to negotiate agreements that help American workers and businesses. Just as we can't repeal the laws of gravity, we can't ignore the fact that we live in a world with a global economy.

It is estimated if global trade barriers could be cut by just one-third, the world economy would grow more than $600 billion each year. Talk about economic stimulus—this is it!

Trade promotion authority will open new markets. Without this authority, trading partners will not put forth meaningful offers. Tariffs on American products won't be reduced, and our economy will grow at a much slower rate.

Passing this bill signals to the world we are committed to global trade and free markets. It allows the United States to take a leadership role in building international trading systems based on American principles of market-based economics and fair play.

Giving the President the authority to negotiate trade agreements is good for Connecticut, the United States and every country involved.

Exports accounted for almost one quarter of all U.S. economic growth in the last 10 years. Trade promotion authority should pass without delay.

Mr. PALLONE. Mr. Speaker, this debate on "Fast Track" is not about whether or not the U.S. should be participating in the global economy—we all agree on that. This debate is about HOW we are going to participate in that economy.

In this time of economic recession, I feel that we have responsibility to the American worker and the workers around the globe to ensure that American labor standards are enforced globally. It is unacceptable that American jobs are being shipped overseas to countries that refuse to pass or enforce minimal labor protections.

As many of us can remember all too well, Fast Track Trade Authority was last used to pass the North American Free Trade Agreement (NAFTA) in 1993. While the Administration claims that NAFTA is a resounding success, I contend that this is far from the truth.

It is estimated that NAFTA has cost nearly 1 million U.S. manufacturing jobs and tens of thousands of family owned farms to go out of business. In my home state of New Jersey, alone, it is estimated by the U.S. Department of Labor that more than 20,000 jobs were directly lost due to NAFTA's scope.

NAFTA has also been a disaster in the area of environment protection and public health. Since passage, pollution also in the U.S. Mexico border has created worsening environmental and public health threats in the area. Along the border, the occurrence of some environmental diseases, including hepatitis, is two or three times the national average, due to lack of sewage treatment and safe drinking water.

This is unacceptable. In my mind, no matter what this Administration promises, Fast Track only causes the quality of life in America to be compromised.

My friends—I say, fool me once, shame on you. Fool me twice, shame on me. I urge my colleagues—don't be fooled again. We have already allowed the word of past Administrations cost thousands of American jobs and further destroy our environment. Let's not make the same mistake again.

Vote "no" on Fast Track.

Mr. DAVIS of Florida. Mr. Speaker, I rise in support of H.R. 3005, the Bipartisan Trade Promotion Authority Act ("TPA"), which will open up new markets for our businesses here in the United States. This bill is about breaking down trade barriers abroad and expanding opportunities for American workers. This legislation recognizes the reality of today's global economy and equips our country with the tools necessary to maintain America's leadership throughout the world.

I would be remiss if I did not voice my concern about the timing of today's debate. At times like this, we must work together. Yet for a number of understandable reasons, this bill is far from enjoying bi-partisan support. Nevertheless, I do not control the agenda; thus, here we are debating the bill without the fullest support it could enjoy.

The evolving nature of the trade debate is evident. Instead of discussing whether to address labor and environmental issues in the text of TPA and future trade agreements, Congress is discussing how to address these concerns. I believe this bill has taken a giant step forward since the last floor vote in 1998. While not perfect, for the first time ever in a TPA bill labor and environmental standards will receive parity in enforcement alongside subjects covered in trade agreements such as foreign investment and intellectual property. This is in stark contrast to the Archer TPA bill which called for preventing countries from weakening labor and environmental standards to attract investment but was silent on enforcement. Clearly, H.R. 3005 moves the trade debate forward.

Mr. Speaker, the simple fact that 96 percent of the world's consumers live outside of our borders is irrefutable evidence that in order to grow our economy, we must grow our exports. Hence, international trade is critical to our nation's continued economic expansion.

An estimated 12 million jobs in the United States depend on exports of goods and services. Furthermore, opening markets has created more than 20 million new jobs in the US since 1992. Jobs related to exports generally pay as much as 18 percent more than the national average. Consumers also benefit in the form of affordable prices for many products. In fact, our existing trade agreements provide annual benefits of $1,300 to $2,000 for the average American family of four from the combined effects of lower prices and increased income.

Free trade is not exclusively for the giant business conglomerates. Our trade agreements enable small (less than 100 employees) and medium size businesses (less than 500 employees) to compete in international markets. According to the Department of Commerce, in 1998, more than 92 percent of Florida's 22,295 exporting companies were small and medium sized businesses. In the district I represent, 85 percent of exporters are small businesses that employ fewer than 100 employees.

Mr. Speaker, international markets are vital to my state's economic well-being. Florida's economy is export-dependent, with export sales of $1,515.00 for every state resident. Florida merchandise and agricultural exports support an estimated 183,700 jobs, while service industry exports support an estimated 364,000 jobs. Last year, in the Tampa Bay area alone, nearly 500 local companies and independent business people profited from approximately $2.6 billion in exports to international markets.

My fellow colleagues, we need to pass TPA as soon as possible. Unless we pass TPA, our businesses and workers will be forced to sit on the sideline and watch our global competitors take advantage of free trade agreements. Of the more than 130 free trade agreements (FTAs) in force worldwide, only 3 include our country. One of our main trade competitors, the European Union, has free trade agreements with 27 countries.

Mr. Speaker, the Free Trade Area of the Americas (FTAA) will be virtually impossible to negotiate by 2005 without TPA. The FTAA is setting the stage for significant trade opportunities—particularly, the opportunity to assure that the rules of trade that will be developed are fair and sufficiently advantageous to our country. It is an agreement that will benefit 34 countries, consisting of 800 million people with a combined GDP of $13 trillion. The potential benefits of increased trade with Latin America for our nation and the State of Florida are tremendous. In Florida, Latin America and the Caribbean are our most important markets, accounting for about 80 percent of all exports from the state. Furthermore, over the past three years, eight of the top 10 Florida-origin export destinations were FTAA countries. As for Brazil, one of Florida's largest export destinations, the average Brazilian tariff on U.S. goods is almost 14 percent, compared with under 3 percent for Brazilian products entering the U.S.

Mr. Speaker, as I have said in the past, I recognize that increased global competition will put some industries at risk and that with the overwhelming number of winners there will be some losers. We will have to work harder to ensure every American worker can participate in our global economy, and the government has an important role to play in educating, training and retraining today's and tomorrow's workers with the skills they need not just to survive but to prosper in an increasingly global economy.

By passing TPA, the Congress is delegating a significant amount of authority to the executive branch. Thus, it is essential that the Congress have a meaningful role during the trade negotiating process, while recognizing the importance of providing flexibility necessary to the United States Trade Representative (USTR) to negotiate the best deal possible for America. In the future, I expect the executive branch to work closely with the Congress throughout any trade negotiations as required by this legislation.

Mr. Speaker, in conclusion, this legislation is critical for the United States. TPA will empower the President to negotiate trade agreements that will open more markets for American goods and services, create jobs, and reduce costs for farmers, workers, consumers, and entrepreneurs. Refusal to pass TPA would put American workers at a disadvantage.

I urge my colleagues to vote "yes" on H.R. 3005.

Mr. EVANS. Mr. Speaker, my district is composed of hard working Americans who build tractors, refrigerators, and furnaces. Blood, sweat and tears are what brings home the bacon in my district. But their way of life is endangered by both this bill and our flawed trade policy.

This year, two steel mills in my district closed their doors forever. I have witnesses numerous other manufacturing plants close because they are not allowed to compete fairly against foreign imports. Some of these very companies have reopened facilities overseas only to export their products back into the U.S.

In the past few months, I have assisted hundreds of my layed-off constituents in filing for unemployment and TAA benefits. These hard working folks have lost their jobs because we have set course on a flawed trade policy that puts cheap imports ahead of their good paying jobs. Trade Promotion Authority is a dangerous leap of faith for an administration that has pursed a unsound trade policy.

Our flawed trade policy has most recently led to the demise of our nation's steel industry. The inaction of Congress and the willingness of the President's chief trade negotiator to eliminate anti-dumping regulations has driven US steel into the ground. And we want to give them even more authority to negotiate trade agreements?

Mr. Speaker, my district is blessed with thousands of acres of the most fertile farmland in the country where John Deere revolutionized agriculture with the invention of the steel plow. The farmers in my district have struggled as corn and soybean prices have dropped in half over the last five years. In these times of rock bottom crop prices, they depend more than ever on farm subsidies. But, in the infinite wisdom of our trade policy we have offered to eliminate these indispensable price supports. I cannot in good faith support a fast track bill at the same time the administration tries to kill the price supports that my farmers depend on.

I am further ashamed our flawed trade policy does little to further human rights. We blindly turn our heads when countries use children, prisoners, and slave labor to undercut American workers. This does not represent the values of the people I represent, but it represents the trade policy of an administration that now wants even more latitude in trade negotiations.

Mr. Speaker, I am proud to represent a working class district, where folks still make a living by the sweat of their brow. I made a promise to protect their jobs and support their economic security. This administration has instead pursued a flawed trade policy and has let them down at every major trade negotiation. They now want even more latitude in negotiating trade agreements. My Colleagues, I cannot and will not support this administration's request for fast track authority and urge you to vote against this bill.

Mr. POMEROY. Mr. Speaker, I rise in opposition to H.R. 3005, a bill to provide the President with the authority to negotiate international agreements and submit them to Congress for and up-or-down vote, without amendment.

Last month, the United States and other members of the World Trade Organizations launched a new round of trade negotiations. The members agreed to a far-reaching agenda, covering topics from e-commerce to manufactured goods to financial services and, most importantly to North Dakota, agriculture. With such an ambitious agenda to tackle, an agreement is not expected for at least four years.

For agriculture, the new agenda gives us cause for both hope and concern. On the positive side, the agenda calls for the eventual elimination of export subsidies, which the Europeans have used to rob market share from U.S. farmers. In addition, the efforts of some countries to reopen prior agreements in order to erect scientifically unjustified barriers to U.S. commodities were rejected. The agenda's commitment to achieve substantial new market opening measures also stands to benefit U.S. farmers, who earn $1 out of very $3 from export sales.

On the hand, I am troubled that U.S. trade officials have so freely offered to negotiate our export credit guarantee program, which is not an export subsidy but a program to help finance U.S agriculture exports at commercial rates. I am concerned that the new round of negotiations could expose our sugar beet industry—worth $1 billion annually to the Red River Valley—to unlimited imports of subsidized product sold dump market prices. What's worse, even as our government was putting the export credit and sugar programs squarely on the table, the Europeans were staunchly defending their own subsidies and the Canadian government was declaring the Wheat Board to be off-limits. Although U.S. attempts to "lead by example" in trade negotiations may win points with free-trade theorists, it will not in win trade agreements. We should vigorously defend our programs and yield concessions only when we receive concessions in exchange.

The farm bill debate has also reflected what I believe to be the Administration's flawed approach to trade policy. Among its reasons for opposing the House farm bill, the Administration said that restoring a price safety net for family farmers would undermine our trade negotiating position. I believe, quite the contrary, that a renewed commitment to our farmers in the form of strong farm bill improves our negotiating position. If the U.S. withdraws support for our farmers unilaterally, what incentive do the Europeans have to negotiate away their tremendous subsidy advantage?

The negotiations launched earlier this month have a long way to go. Only time will tell whether our hopes for American agriculture will be realized or our concerns will prove well founded. Before these negotiations have even begun, however, Congress is being asked to approve fast track, a bill authorizing the President to negotiate trade agreements and submit them to Congress for an up-or-down vote, without amendment.

I believe it would be unwise to approve fast track before we know whether these negotiations are headed in a positive direction for American agriculture. Let's make sure that the Europeans will not be allowed to maintain their overwhelming subsidy advantage and that the Canadian Wheat Board won't be able to continue to exploit its monopoly position to the detriment of our farmers. Let's make sure that our sugar industry won't be hung out to dry and that the Administration won't try to undo our domestic farm program in trade negotiations.

Once we have greater confidence that these trade negotiations are serving the interests of our farmers, we can move forward with fast track authority. Until our concerns have been addressed, however, we should not give our trade negotiators the blank-check they are seeking. For now, there are too many open questions for us to give up our right to amend future trade agreements.

Mr. STEARNS. Mr. Speaker, this country is in a new era. We have not faced such times of trepidation since the Cuban Missile Crisis. It is well established that countries who trade, who are engaged in business with one another, are less inclined to fight, and more willing to cooperate among mutual beneficial matters. Ultimately, trade is about freedom and economic prosperity. And in some cases, prosperity has been the case for certain sectors of the American economy.

Unfortunately, such has not been the case in my district in Florida. There are number of small farmers and businesses who were decimated by NAFTA and imports from Mexico. Promises made by our government were promises un-kept. The specific provisional relief promised to the tomato growers, for instance, was applied for after implementation of NAFTA, and subsequently these farmers were denied that relief.

Under NAFTA, Florida exports in total agriculture products dropped from $6.1 million to 1.9 million between 1993 and 1996. Only in the year 2000, did exports climb above the 1993 level—but the damage was done.

Earlier today, the House voted to reauthorize the Trade Adjustment Assistance program, a program designed to aid workers and firms who have been affected by the impact of foreign trade. This program alone serves as a reminder that not everyone in our country benefits from free trade . . . including small farmers and businesses in my district.

Now I understand the need to engage in free trade and I support free trade. However, I also support fair trade. Additional provisions have been included in HR 3005 that allows for greater consultation among Congressional committees regarding import sensitive commodities. The language also recognizes the need to treat such products in a different manner during trade negotiations than other products. Though I am grateful for the attempt at addressing these issues, I believe it does not go far enough.

Without adequate protection and enforcement of our trade laws, and the ability to provide sufficient relief for affected markets—such provisions are less than meaningful.

I have had the opportunity to speak with the President regarding my concerns and those of my constituents. I understand the need to use Trade Promotion Authority as a tool in the war against terrorism and to address our faltering economy. We are at war. And for that reason these are special circumstances. The President needs to be supported and he can use this agreement to help America in its fight against terrorism. For this reason I am voting for Trade Promotion Authority.

Mr. ETHERIDGE. Mr.. Speaker, I rise today to speak about H.R. 3005, the Trade Promotion Authority Act.

The vote on this bill has been a very difficult decision for me. My home county and my hometown have been hit hard in recent months by layoffs and closures of textile manufacturing plants. In many of these towns, several generations of families have worked at these textile plants, and when the plants closed our way of life was shaken and our hometown identities were forever changed.

I hurt for each and every worker who has lost a textile job and for each and every family that faces economic uncertainty as a result of these layoffs. We must provide them generous assistance to meet their short-term needs. We must provide them the education and training to equip them with the skills to fill 21st century jobs. And we must pass policies for economic growth that will create those employment opportunities.

But, Mr. Speaker, the fact is that defeating Trade Promotion authority will not bring back a single textile job that we've lost. Defeating Trade Promotion Authority instead will wave a white flag of surrender to our economic competitors around the world and will mean fewer jobs to replace the ones we've lost.

The workers in my home state have proven that we can compete and win in the world economic arena. Last year, my state's export sales totaled $15 billion, a 10.3 percent increase in one year. In the seven-year period between 1993 and 2000, North Carolina's exports grew by 88 percent. Those exports fueled tremendous economic growth, created unprecedented employment opportunities and placed North Carolina at the forefront of America's global economic leadership.

In the latest available data, North Carolina depends on manufactured exports for 285,600 jobs. That is the seventh highest total in the United States. 6,869 companies—including 5,609 small and medium-sized businesses—export from North Carolina. The number of companies exporting from North Carolina rose 79 percent between 1992 and 1998. Our state is truly export-dependent, and we need Trade Promotion Authority to break down barriers to overseas markets so that our technology, agriculture, manufacturing and other sectors can expand on our progress in international competition. If we fail to gain access to these markets, it is a guaranteed fact that our overseas economic competitors will exploit that opportunity and deal a huge blow to our global economic leadership. Every $1 billion in exports creates 20,000 jobs here in America, and a successful multilateral trade agreement could reasonably result in expanding exports by $200 billion a year producing 4 million new jobs here in America. And jobs supported by exports pay significantly higher wages than jobs that only support domestic markets. Clearly, expanding exports is the key to expanding prosperity for American workers, and Trade Promotion Authority is the key to expanding exports.

It is important to note that this bill is not itself a trade agreement. It simply provides the President the authority past Presidents, both Democrats and Republicans, have traditionally enjoyed to negotiate with our trading partners to obtain the best deal possible for America's economy. I want the President to know that I intend to hold his feet to the fire to make sure he looks out for the best interests of my constituents in those negotiations. And I want the committees of jurisdiction to exercise their Congressional oversight role vigilantly. I certainly reserve the right to oppose any trade deal that is not in the best interests of North Carolina, and I will not hesitate to exercise that right. I have voted against trade deals in the past. In short, I'm going to be watching these negotiations like a hawk.

Finally, Mr. Speaker, I am compelled by the fact that we are a nation at war. All Americans are united behind the President as he and our nation's military seek to rid the world of the terrorist threat. Although I may disagree with the President on some of his domestic policies, this is a matter of major international importance.

In conclusion, I will vote "yes" on H.R. 3005, and I urge my colleagues to join me in doing so.

Mrs. MORELLA. Mr. Speaker, I rise to express my support for H.R. 3005, the Bipartisan Trade Promotion Authority Act of 2001.

I have the honor to represent Montgomery County, Maryland, a county rich in high technology such as communications technology and biotechnology. Trade is important to our economy.

I believe Trade Promotion Authority will be good for the economy of Montgomery County and the State of Maryland as well as our country. Trade is important to our economy; last year Maryland sold more than $5 billion worth of exports to nearly 200 foreign markets.

Trade is also good for Maryland's entrepreneurs and small businesses. The number of Maryland companies exporting increased 51 percent from 1992 to 1998. This is significant; more than 81 percent of Maryland's 3,472 companies that export are small- and medium-sized businesses. Trade data also shows that an estimated 58,900 Maryland jobs depend on manufactured exports. One in every seven manufacturing jobs in Maryland—24,700 jobs—is tied to exports. Wages of workers in jobs supported by exports are 13 to 18 percent higher than the national average. Maryland exported an estimated $200 million in agricultural products in 1999.

Indeed, Maryland has benefited from previous trade agreements. For example, total exports from Maryland to NAFTA countries (Mexico and Canada) in 1999 were 56 percent higher than 1993, before NAFTA.

This negotiating authority expired in 1994, and during that time other countries have been moving forward with trade agreements while the United States has been stalled. There are more than 130 preferential trade and investments agreements in the world today, and the United States is a party to only two.

The European Union has free trade or special customs agreements with 27 countries, 20 of which it completed in the last 10 years. And the EU is negotiating another 15 accords right now. Our inaction hurts American businesses, farmers, ranchers, and workers as they find themselves shut out of the many preferential trade and investment opportunities.

Mr. Speaker, I believe in free and fair trade and a strong economy. In times of growth our Nation has been able to move forward on important social issues and make the world a better place for all.

Mr. COSTELLO. Mr. Speaker, I rise today to discuss the trade policy of the United States. We are scheduled to vote in the House of Representatives this week on approving Trade Promotion Authority (TPA), what used to be called "Fast Track" Authority. I will vote against it, as I did in 1998. I will do so for several reasons, but primarily because the United States has signed few effective trade pacts in recent memory. Since the early 1980s the United States has become the greatest debtor nation in the world, and that trade deficit continues to grow, with devastating impacts for the working men and women of this country. While corporate CEOs continue to earn record-breaking salaries, their employees face reduced wages and benefits or worse—they are laid off while their jobs are moved abroad. We continue to export good, high-paying American manufacturing jobs to places like Mexico and China, where workers are paid little and enjoy few protections from abuse.

I agree that we need to create export markets for our goods, especially our agricultural products. To that end, I have voted to end the trade embargo against Cuba. However, this must be done on terms that are fair to the United States. The list of unfair reciprocal trade agreements we currently have with other countries boggles the mind. Our products are taxed at extremely high rates in those countries, while their products enter our markets virtually tax-free.

The supporters of TPA will tell you that the President needs this authority to negotiate trade pacts, such as the next round of world trade talks that has been put in motion by the recently concluded conference in Doha, Qatar. But TPA is not necessary to negotiate trade pacts. In fact, TPA expired in 1994, and we have reached several bad agreements since then, notably terms to allow China to enter the World Trade Organization, a deal I also did not support. The only thing TPA guarantees is that Congress is shut out of the negotiating process, left to ratify whatever agreement the President negotiates. And when the time comes to vote, Congress is told that while this might not be the best deal, it is the only one on the table and that we cannot waste the years it took to reach it by it voting down. It is a vicious cycle that imprisons American workers, and I will not vote to revive it.

The North American Free Trade Agreement is a good example of this process. Eight years ago, the passage of NAFTA brought many promises: 200,000 new jobs annually in the United States; higher wages for Mexican workers; an increased trade surplus with Mexico and a cleaner environment and improved health in the boarder regions. In fact, the opposite has happened—none of these promises have materialized.

Supporters of NAFTA promised great things for America's trade surplus with Mexico and Canada. These, too, have failed to materialize. While gross exports to NAFTA countries have increase dramatically—147 percent to Mexico and 66 percent to Canada—imports from these countries have increased more dramatically. U.S. imports have increased 248 percent from Mexico and 79 percent from Canada. The trade deficit with Mexico and Canada was nine billion dollars in 1993; by 2000, it had ballooned to $60 billion. NAFTA was supposed to reduce these numbers. Instead, the trade deficit has increased.

Instead of creating 1.6 million jobs over eight years, NAFTA has eliminated 766,000 jobs. In my home state of Illinois, over 37,000 people have lost their jobs as a result of NAFTA. These were the good paying manufacturing jobs I referenced above. Most of these jobs have been relocated to Mexico, where the labor and environmental standards are lower than in America.

Even if American jobs were not relocated to Mexico and elsewhere, many companies have leveled this threat at their employees. Workers are told if they do not agree to the company's terms, their jobs will go to Mexico. As a result, workers settle for contracts with lower wages and fewer benefits in collective bargaining. This occurred recently with the Tower Automotive plant in my congressional district. A recent newspaper article described it this way, "Earlier this month, Tower Automotive has said in order to save money, it was subcontracting the Lincoln Aviator program to Metalsa, a company in Monterey, Mexico." Fortunately, Tower Automotive decided to stay in the U.S., but the threat to move remains as an option for Tower and other businesses.

Since the enactment of NAFTA, wages for industrial workers in the United States have decreased. These workers comprise 73% of our nation's industrial workforce and account for most of our middle- and low-wage workers. When manufacturing jobs leave the country, displaced workers who can find work generally receive pay that is 13% less than they received in their previous job. These jobs are primarily in the service industry, where wages pay only 77% of those in the manufacturing sector. The jobs lost as a result of NAFTA were good paying jobs held by individuals who most likely do not have a college education. These workers have a harder time finding reemployment and need these jobs the most.

The trade deficit is not only a problem of the rich getting richer and the poor poorer—it is a national security issue. Our nation is currently at war. In the aftermath of the terrorist attacks of September 11th, the U.S. military is engaged in military actions against the Taliban and Osama Bin Laden. Young Americans are putting their lives on the line every day to defend the values of this great nation. Does it make sense that while American troops are in harm's way, the U.S. is rapidly losing its ability to produce steel due to the flood of illegally imported steel? If the current trend continues, we will not have a steel industry in the U.S., leaving our national defense vulnerable.

In September, I testified before the International Trade Commission regarding the Section 201 investigation into U.S. steel imports. I represent the 12th Congressional District of Illinois, which includes Alton, Granite City, and other areas with great steel traditions. Sadly, Alton is no longer a steel town. Laclede Steel announced in July that it will shut its doors permanently, ending an 86-year history in Alton and throwing 550 employees out of work. The impact on the local economy has been severe. Of course, Laclede is not alone. Since 1997, 26 domestic mills have filed for bankruptcy. This trend must not be allowed to continue. The hardworking men and women of the United States and their families cannot bear the price of misguided foreign industrial policies any longer.

However, the U.S. representatives at the Doha conference did not see it that way. Even after the House of Representatives passed a resolution requesting that the president preserve the ability of the U.S. to rigorously enforce its trade laws, particularly anti-dumping laws, the American representatives at Doha permitted the anti-dumping regulations to be re-examined. If allowed to happen, this will further damage American steel producers.

So where does U.S. trade policy stand on the week of the vote to grant the president TPA? A record of unfair trade agreements that ignore worker rights and environmental protections, hundreds of thousands of good, high paying manufacturing jobs continuing to leave the country, and vital American interest left close to extinction. Not a pleasant picture.

Mr. Speaker, given this bleak backdrop, I will not vote for TPA. It will minimize the role that Congress plays in trade agreements at a time when congressional oversight is needed most. The Bush administration has demonstrated by its action in Doha that it does not have the best interests of American workers in mind. Congress must work to ensure that more damage is not done. I urge my colleagues to join me in fighting for the American worker by opposing Trade Promotion Authority.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in reluctant opposition to H.R. 3005, the Trade Promotion Authority Act.

Words probably cannot fully convey how disappointed I am in being forced to vote "No" on H.R. 3005. Up to now, since coming to Congress in 1993, I have compiled a pro-trade voting record that is second to none. I have supported NAFTA, U.S. entry into the WTO, normalizing trading relations with China and Vietnam, expanding trading relations with the countries of sub-Sahara Africa and the Carribean, and most recently to establish free trade with Jordan. I strongly believe that, our nation has the most to gain from opening new markets and improving upon a rules-based trading system.

I am also disappointed because I fully appreciate the extraordinary effort put forth by my friends, Mr. JEFFERSON, Mr. TANNER, and Mr. DOOLEY, in helping to craft this bill. Throughout this process, they were willing to listen to concerns that I and other members expressed. They performed admirably in pushing forward Democratic principles in negotiating this bill with the majority. Their steadfastness produced a great deal of progress in addressing concerns on how trade impacts labor and the environment and in addressing the plight of recently displaced workers.

The majority has represented enactment of trade promotion authority as economic stimulus that will help pull the nation out of the current recession. I also recall the Administration representing this bill as something we must pass in the context of our war against terrorism. I don't doubt that expanding trade is in the national interest, but both of those arguments are exaggerated and misplaced. Trade does create better jobs for American workers that pay higher wages and add more to the economy. However, trade's benefits manifest themselves over the long-term; passing this bill will have very little effect on pulling the economy out of the current recession.

It is in the context of this recession and the September 11 tragedy that I have weighed my vote on trade promotion authority. Passing trade authority may well be in our national interest, but over the short term, it will not do anything except add to the anxiety that workers who have been or are on the verge of being laid off are experiencing now. Conscience dictates that before I support granting trade promotion, I must ensure that their immediate needs and concerns are addressed. I have concluded that Congress and the Administration has fallen well short of what we must do in this area, and for this reasons, I must vote against H.R. 3005.

On September 21, we passed a bill to provide immediate financial assistance to the airline industry in the wake of the September 11 tragedy. Some of my colleagues objected on the grounds that we should provide assistance contemporaneously to the workers laid off by the airlines. I supported that bill because I understood that maintaining the viability of the airline industry was necessary to preserve the jobs of those who were not laid off. I was also assuaged by assurances that we would have a bill on the floor the following week to provide assistance to airline workers. That promise was not kept.

September 11 also exacerbated the recession that the country has apparently been experiencing since Spring. Following the tragedy, there was bipartisan agreement that Congress should pass an economic stimulus package to speed recovery and to provide broad safety net assistance to workers affected by the recession. Instead, the majority rammed through the House a tax package providing tax breaks on offshore profits, accelerated capital gains, and retroactively repealing a provision in the tax code that ensures that corporations are not able to wholly avoid paying taxes. At the same time, the bill provided a minimal level of unemployment and health care assistance to laid off workers. Besides not bringing our country out of recession, the bill was essentially a slap in the fact to working class Americans.

Now, we are on the verge of voting on H.R. 3005. Several weeks ago, I indicated to its principal supporters that in order to attract my support, I would have to witness real progress on helping displaced workers, and not just vague promises and commitments. In response, Chairman THOMAS unveiled several new items. Principal among them is a provision in the TAA bill to provide $2 billion over 2 years for workers affected by the September 11 attacks. The Chairman also signaled his intention to offer proposals relating to health insurance and extension of unemployment benefits in the context of the ongoing negotiations with the Senate over the stimulus package. I appreciate Chairman THOMAS' good faith efforts, particularly his willingness to include a provision to suspend federal income taxes on unemployment benefits. This is actually a bill that I personally introduced earlier this Congress.

These proposals fall short of what I would like but they do appear to be substantial progress. Unfortunately, since they do come at the last minute, there is a great deal of uncertainty regarding whether this is enough. Furthermore, the bulk of these proposals would need to be included in a final stimulus package, in which negotiations are ongoing over contentious issues. I am basically being asked to trust that these proposals will be improved upon where necessary and enacted into law, in spite of the fact that we have had months to do complete work on these items.

I have concluded that I owe it to working class Americans that I should not simply take a leap of faith. For too long, they have been suffering while Congress has sat on its hands. I do not think it is unreasonable for us to wait on passing TPA legislation until we have passed legislation to help the unemployed.

I am fully willing to revisit this issue if, later in this Congress, we do in fact provide the relief that displaced workers deserve. Today, however, my vote is "no."

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in opposition to H.R. 3005, the Fast Track Trade Authority bill.

The President has requested Fast Track Trade Authority whereby Congress agrees to consider trade agreements without amendment and with limited debate. The administration says that unless we pass this bill, it will not be able to finalize a new round of worldwide trade talks or complete smaller trade deals.

This is simply not true. Without Fast Track Trade Authority, the Clinton administration negotiated more than 300 trade agreements. President Bush has finalized the Vietnam-U.S. Bilateral Trade Agreement and begun work on the Free Trade Agreement of the Americaas.

Denying Fast Track Trade Authority at this time will not hinder the president's ability to negotiate large multi-national trade agreements. The World Trade Organization will not finalize the next round of the General Agreement on Tariffs and Trade (GATT) for at least another five years.

Fast Track Trade Authority is actually a tool to aid powerful corporations searching the globe for cheap labor by ignoring basic workers' rights, environmental safeguards, enforceable sanctions, and Congressional input.

H.R. 3005 includes negotiating objectives promoting worker rights, yet these objectives are hollow. The bill relies on the self-enforcement of a country's worker rights laws.

This bill does not require trade agreements with clear provisions to protect workers' rights. It does not require countries to agree to adhere to the International Labor Organization's core labor standards, including bans on child and slave labor.

American needs trade agreements that instantly go before a dispute settlement panel if a country violates internationally recognized labor standards, such as the right to collective bargaining. All trade agreements need enforcement provisions which allow for prompt and full compliance with a dispute settlement panel's decisions.

Proponents of Fast Track Trade Authority believe that the Trade Adjustment Assistance program we reauthorized today will assist individuals who will lose their jobs to future trade agreements. Workers who lost their jobs to NAFTA will vouch that this program cannot replace their jobs and does not provide the health benefits that they desperately need while looking for new jobs. All of us want to help workers and should support this program, but the reauthorization does not overcome the weaknesses of Fast Track Trade Authority.

H.R. 3005 states that environmental concerns are a negotiating objective of trade agreements, but it only requires consultative mechanisms for strengthening trading partner's environmental and human health standards.

The Thomas fast-track bill will expand controversial "investor" rules that empower foreign corporations to sue over environmental laws if laws, regulations, or court orders interfere in any way with a company's ability to do business.

H.R. 3005 requires the president to consult with Congressional committees and prepare reports about child labor and the effectiveness of enforcing workers rights. These provisions do not give Congress the power to ensure that trade agreements conform to basic international labor provisions and environmental policies.

With the economy in a recession and 7.7 million unemployed Americans looking for work, we cannot expose working families to unfair trade agreements that allow corporations to move into countries with weak labor standards.

We cannot expose workers to flawed trade agreements such as NAFTA that cost American workers 766,030 jobs in the steel textile, apparel, manufacturing, and other sectors of our economy.

I urge my colleagues to vote against H.R. 3005 and protect our environment and American workers from unfair trade agreements.

Ms. SOLIS. Mr. Speaker, For my colleagues pondering their vote on Fast Track Trade Negotiating Authority. And for the American public. I ask you to envision this scene. It was August, 1995. In my district—El Monte, California.

Not two years after the North American Free Trade Agreement narrowly passed this House.

During a pre-dawn raid, the Immigration and Naturalization Service comes to the rescue, literally, of seventy-two Thai immigrants working in a garment factory.

I say "working," but what I really mean is involuntary servitude. These women, forced into slave labor, worked eighteen hours a day in a seven-unit apartment building that served as a sweatshop. Actually, a prison. Some of the women had not been let out of the filthy factory surrounded by razor wire for seven years.

Now, many of you find it hard to believe this kind of horrific scene could take place in the United States. Well, it did happen. And not only did it happen in my community, it happens in communities throughout the world.

The United States should not reinforce the existence of such horrific practices. And yet, we do—at the behest of a global economy. The presence of sweatshops here and abroad corresponds directly with trade levels.

The number of workers employed by maquiladoras in Mexico has tripled since the passage of NAFTA. Now, that may sound good to some. But, you must look close at the picture.

Workers caught in maquiladoras on our Southern border are faced daily with extremely low wages and unsafe labor practices. Take the Han Young factory in Tijuana, Mexico for instance. The Han Young factory manufactures parts for Hyundai trucks. This factory has repeatedly failed to provide a safe working environment for its employees. The company refused to provide safety shoes and glasses, chemical resistant gloves, respirators, and face shields. There are even puddles of water beneath high-powered cables—and faulty cranes that repeatedly dropped tractor trailer chassis while they were being worked on. And when the workers tried to band together to create a bargaining unit in order to remedy these serious health risks—the company engaged in a campaign of intimidation in order to stop unionization.

Our unbridled pursuit of trade is leading to the further exploitation of the poor throughout the world. I agree that we must engage in trade. However, the most powerful country in the world should be committed to engaging only in fair trade. Our trade agreements must include labor and environmental protections. For, if we do not take the lead on these issues, who will? And, if the plight of the working poor is not enough to persuade you to support a fair trade agreement, please consider the harm that will come to our environment. Many of my Republican colleagues understand the importance of protecting our global environment.

And we need only look to the Qatar World Trade Organization negotiations to understand that our U.S. Trade Representative does not consider the environment to be priority. In fact, while in Qatar, the USTR agreed to revisit the status of international environmental treaties already in effect. These negotiations could lead to further destruction of our environment by enabling the WTO to review these agreements. Environmental agreements should not be subject to review by an organization whose sole purpose is to promote business and trade. As we have learned from our environmental movement here, business interests many times conflict with environmental interests. Trade agreements and environmental agreements should remain independent of each other in order to maintain the integrity of both.

Join me in opposing H.R. 3005. This version of Fast Track does not ensure safety to workers nor safety to our environment. The world looks to us as leaders in trade. Therefore, we should fulfill that role responsibly and include enforceable labor and environmental protections in all of our trade deals.

Ms. LOFGREN. Mr. Speaker, From the debate thus far on Trade Promotion Authority (TPA), it is clear to me that the legislative process works best when Democrats and Republicans move forward together. Unfortunately, the effort to pass TPS this Congress is a poor demonstration of Congress' ability to cooperate and compromise. At this particular moment in American history, I find that troubling.

I would like nothing better than to vote for the passage of TPA. Over the past several years, I have supported almost every free trade measure to come before the House of Representatives because I believe that the health of the American economy is dependent on new and more open markets. I believe that the future wages of the American worker are dependent on our ability to do two things: secure new markets for American goods and services and enhance the education and skills of our current workforce.

But markets do not open overnight. Negotiating new and more open markets is a complicated process made even more complicated by the procedural process in Congress. Without a straight up or down vote on a trade agreement, Congress could be bogged down forever in amendments and in congressional politics. If the congressional amendment process came into play, our President would no longer have the credibility to negotiate agreements. All 435 Members of the House cannot be the American trade negotiators.

I understand this. I believe that the President, Democrat or Republican, should have the flexibility that TPA affords to negotiate and pass trade agreements.

But the details of TPA do matter. The USTR has moved from negotiating tariffs to non-tariff barriers to trade. What this means is that instead of just negotiating reductions in tariffs, our trade negotiators will be negotiating substantive changes in American law.

In the next round, the plan is to make changes in antitrust laws. The protections currently provided by the American patent system may also be amended through trade. Copyright protection is up for discussion. These laws, antitrust and intellectual property, are enormously important to the economic viability of the United States. Just as American laws are harmonized in trade negotiations, the role of Congress's Congressional Committees must evolve from procedural consultations to ones that are substantively consultative.

While I have raised this issue again and again over the past several months, the Thomas bill has left this issue unaddressed. Interestingly, a role is provided for review of agricultural policy as well as for financial services. But are potatoes and rice more important that patents and antitrust laws? I think not.

The USTR must submit to the relevant Congressional Committees, including the Judiciary Committee, and not just to the Ways and Means Committee, information that informs Members which provisions of existing US law are being changed.

Just a few years ago, I was surprised as a Member of the Judiciary Committee to find that I could not insert a salary floor amendment into a bill pertaining to H–1B nonimmigrants because we had made a trade commitment in the General Agreement on Trade in Services not to put in such a condition. An alternative system that was negotiated, but not approved by Congress, was inserted by GATT. This made it impossible for Members of Congress to make changes to domestic law without violating US trade obligations. When I asked my colleagues on the Committee if they had heard of such a change in the law, I got a lot of blank looks. They were as surprised as I was.

And I'm not surprised that they didn't know because the implementing legislation of the Uruguay Round Agreements was hundreds of pages long.

Such changes are not limited to immigration law. The same thing could happen in a area like antitrust if an agreement on competition policy is reached. Professor Daniel Tarullo, a Professor of Law at Georgetown University wrote in a letter to Senator LEAHY that a "competition agreement in the WTO could seriously compromise the integrity of US antitrust policy and for that matter the competition policies of other nations."

We know that antitrust law is explicitly "on the table" for the next round. While I don't disagree that this is an appropriate topic for discussion, I cannot agree that US antitrust laws should be changed without the review and involvement of the Judiciary Committee.

The Judiciary Committee should have the same access to these issues as the Agriculture Committee has relative to agricultural issues in the Thomas bill. While I do not support a unduly burdensome process, I believe there must be a happy medium between the Rangel and Thomas approaches. That is why I believe we should wait to vote on TPA.

Again, I would like nothing more than to vote for a Trade Promotion Authority measure that takes into consideration the proper role of Congress and its Committees. I appreciate the ways & Means Committee's work on this bill, but we are not there yet.

Mrs. McCARTHY of New York. Mr. Speaker, I rise in opposition to H.R. 3005, which is similar to a bill that failed two years ago, that establishes expedited procedures for congressional consideration of trade agreements negotiated by the President. Under H.R. 3005, the Trade Promotion Authority Act (TPA), the Administration would be required to consult with Congress before signing a trade agreement, but once the agreement is formally submitted to Congress, both houses must consider the agreement within 90 days without amending the tentative agreement.

As a New Democrat, I believe in the fundamental concept of free trade. Eliminating unfair foreign trade barriers leads to greater exports by the United States and potential increases in production. It is important that America not be left on the sidelines as trade agreements are negotiated without our participation. However, free trade must occur on an equal playing field.

Unfortunately, this particular, H.R. 3005, does not sufficiently address important concerns that were expressed two years ago. For example, this legislation does not require countries to implement any meaningful standards on labor rights. These include the five core International Labor Organization (ILO) standards: the rights of association and collective bargaining, bans against child labor, compulsory labor, and discrimination.

The bill simply details negotiating objectives on labor rights, but does nothing to ensure that any final trade agreement will actually include those provisions. In addition, this legislation simply requires a country to enforce its existing law—however weak that law may be.

Furthermore, this bill contains only voluntary negotiating objectives on the environment. It does nothing to prevent countries from lowering their environmental standards to gain unfair trade advantages, and would do nothing to protect multilateral environmental agreements from trade challenges. Moreover, it does nothing to block foreign investor lawsuits from challenging domestic environmental laws. Future trade agreements could include provisions like Chapter 11 of the North American Free Trade Agreement (NAFTA) which allow foreign investors to undermine U.S. environmental, safety, and health law on the basis of unfair trade.

Lastly, I am concerned over the lack of congressional action prior to the signing of any trade agreement; only consultations. Congress may vote on a disapproval resolution, but only to certify that the Administration has "failed to consult" with Congress. Moreover, under this bill Congress would give up the right to amend trade agreements—even those that are controversial and which dramatically alter domestic law—in exchange for optional negotiating objectives. Any trade agreement should be under the purview of the House of Representatives, not the House of Consultants.

I am disappointed that these issues were not resolved prior to floor consideration. The trade policy of the United States must benefit the entire country, not simply select interest groups. We must strive and enter into trade agreements that are not only free, but fair. Unfortunately, H.R. 3005, like its predecessor, fails to remedy the concerns associated with expedited trade agreements.

Mr. MATSUI. Mr. Speaker, I rise in strong opposition to this bill. And let me say right up front: I stand here before you today as a free trader.

Those of you who know me know that I believe in the principles of free trade and global commerce. I have fought to open and expand markets for US goods and services time and time again, right here in this chamber.

Those who know me know that I believe that the freedom to trade across borders, if handled responsibly, is a wonderful way to raise living standards, create jobs, and protect the environment around the world—particularly in those countries that need help the most.

But this vote is about much more than that. It's about the fact that the very nature of international trade has changed radically.

Trade is no longer primarily about tariffs and quotas. It's about changing domestic laws. The constitutional authority to make law is at the heart of our role as a Congress and of our sovereignty as a nation.

When international trade negotiators sit down to hammer out agreements, they are talking about harmonizing 'non-tariff barriers to trade' that may include everything from anti-trust laws to food safety.

Now, I believe the President and the USTR should be able to negotiate trade deals as efficiently as possible. There's no questions about that.

But that does not mean that Congress must concede to the Executive Branch its constitutional authority over foreign commerce and domestic law without adequate assurances that Congress will be an active participant in the process.

Congress should be a partner, not a mere spectator or occasional consultant to the process. The Thomas bill does not ensure that.

Think about what may be bargained away at the negotiating table: our own domestic environmental protections . . . food safety laws . . . competition policies.

That's the air we breathe, the food our children eat, and the way Americans do business.

With all due respect to Robert Zoellick, I want GEORGE MILLER, JOHN CONYERS, and JOHN DINGELL in on those discussions.

Now, Chairman THOMAS says that he has fixed the problem of Congressional participation by adding a bit of technical language here and there.

Of course, these changes do nothing to affect the labor and environmental provisions in this bill, which we all know are sorely lacking.

But let me be clear: these amendments are pure window-dressing.

Beneath the jargon, all he's done is give himself, as Chairman of the Ways and Means Committee, the ability to bottle up any attempt to revoke fast track authority, no matter how far the negotiators have strayed from Congressional trade objectives.

With all due respect to the Chairman, I cannot cede my constitutional responsibility to his stewardship.

Mr. Speaker, the nature of trade has changed, and fast track authority must change with it. I ardently believe in the principles of free trade. But I will not put my constitutional authority over domestic law and my responsibility to my own constituents on a fast track to the executive branch.

I urge my colleagues to vote no on this legislation. Thank you.

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I urge my colleagues to vote no on this legislation.

Mr. WELDON of Florida. Mr. Speaker, as I have conveyed to you, my concern is that as we pursue international trade agreements, we must enter those negotiations recognizing the special needs of our fruit and vegetable sector, and Florida citrus in particular. While many of our commodities enjoy significant federal subsidies, fruit and vegetable producers do not have these same subsidies. Florida's $9 billion citrus industry potentially faces significant competition from Brazil. Brazil enjoys a cost-of-production far below that of U.S. agricultural producer. Today's tariffs on Brazilian orange juice account for the wide difference in cost-of-production between the U.S. and Brazil. Also, Brazilian fruit can be treated with pesticides that are banned in the U.S. This raises issues of safety, double standards, and competitive advantages. Any further reduction in the tariff schedule for Brazilian orange juice under FTAA could cause significant harm to Florida's citrus industry.

Mr. Speaker, we had requested the inclusion of language in the bill specifically excluding export sensitive products such as perishable fruits and vegetables, and related products such as frozen orange juice. That specific language is not in your bill.

Mr. Speaker, it is my understanding that the amendments in section three dealing with trade sensitive commodities, would limit the President's proclamation authority so that tariff reductions could not be implemented without specific Congressional approval.

It is also my understanding that these special provisions provide a strong indication that these sensitive agriculture industries, such as citrus, should not be the subject of further tariff reductions in negotiations covered under this act?

Finally, it is my understanding that these provisions require that the Administration identify that the import sensitive agriculture products, such as citrus, be fully evaluated by the ITC prior to any tariff negotiations and that any probable adverse effects be the subject of remedial proposals by the Administration.

As this bill moves from the House to the other body and to conference, there will be additional opportunity to address the concerns of this industry. I am pleased that the Chairman has indicated he is willing to work with me and other members of the Florida Congressional delegation to address any additional concerns.

Mr. CROWLEY. Mr. Speaker, I rise today in strong opposition to the Trade Promotion Authority bill offered by Chairman THOMAS.

My problem here is not with the concept of giving the President trade promotion authority, my problem is with passing a TPA bill that fails to address basic labor and congressional oversight requirements.

The labor provisions in this bill are a sham.

This legislation calls only for the non-degradation of a potential trading partner's labor laws.

Under this bill, Malaysian companies could continue to pay a ten year old child, five cents for a day's work.

In this example, the Malaysian firm would only be in violation if it paid the same child four cents for a day's work.

The Thomas labor requirements run counter to common sense.

There is a reason that the International Labor Organization established the five core labor standards.

The rights of association and collective bargaining, and bans on child labor, compulsory labor and discrimination are essential components to all trade agreements.

We must insist that our trade partners respect and abide by these standards without exception.

The notion of Congressional oversight has fallen short in this bill, as well.

H.R. 3005 provides no effective mechanism for Congressional participation. It only includes an element of the 1988 law that was never implemented.

Congress must have the authority to oversee these agreements on a periodic basis, and have the ability to present resolutions of disapproval should the need arise.

The bottom line is that this bill is totally deficient on many levels.

The Ranking Member, Mr. RANGEL, had a substitute that would have met the requirements necessary to negotiate trade agreements in good faith.

Unfortunately, the Republicans would not allow the Democratic bill to see the light of day.

Let's pass a TPA bill that makes sense.

This bill certainly does not.

Therefore, I urge my colleagues to oppose this bill.

Mr. KLECZKA. Mr. Speaker, almost 11 weeks have passed since the Speaker indicated that the House would take up legislation to help those who were unemployed due to the September 11th attacks and the slowing economy. To date we have not completed action on proposals to extend unemployment compensation, to address health insurance for people who lost coverage through their former employer, or to provide health insurance coverage for those who did not have health benefits through their employer.

Today we are asked to consider another bill that would benefit large businesses at the expense of the American worker. The legislation before us would grant the President the ability to negotiate trade agreements with other countries and then send them to the Congress for it's up or down vote.

Congress should be part of careful and deliberate negotiations on all trade agreements. They should not be put on the fast-track. Such a take-it-or-leave-it approach strongly favors any agreement submitted by the Administration, regardless of its flaws or impact on our workers and the environment. A recent trade agreement between the United States and Jordan was not subject to fast-track procedures, but was approved by Congress nevertheless. This measure required labor and environmental issues to be part of the core negotiating objectives. If Congress has not been a part of constructing that agreement, those objectives would surely have been left out of the accord.

The most appalling aspect of this bill is the fact that it fails to address the continuing problem of varying labor and environmental standards throughout the world. The bill requires only that a country enforce its own laws—however bad they may be in terms of worker rights and working conditions. There is no real requirement that a country's law include any of the five core labor standards—bans on child labor, discrimination, slave labor and the rights to associate and to bargain collectively.

Therefore, this bill would allow countries that do not provide basic protections to children under 14 who work in factories, that allow the use of slave labor, or that deny workers the basic right to associate and bargain collectively, to continue to do so. It is nearly impossible for American companies and their employees to compete against foreign businesses that pay poverty wages.

Nor does the bill direct that concrete steps be taken to integrate existing or future multilateral environmental agreements with trade agreements. Instead, the bill says we do not care whether your companies pollute the water or poison the air. This bill says we do not care how safe your products are and it allows foreign investors in the U.S. to challenge our own right to enact environmental and other public interest laws within our borders.

Our trade agreements should not forsake the interests of U.S. workers and industries, for the option of foreign companies flooding our markets with cheap products, forcing American businesses to close there doors and send their workers to the unemployment line.

Trade agreements have far-reaching effects on the U.S. economy, workers and the environment and at a time when the economy is in a recession and America is waging a war overseas, the jobs of American workers should not be put at additional risk by this legislation.

This bill differs little from the fast track bill voted down by the House in 1998 and it should be voted down today as well.

Mr. BLUMENAUER. Mr. Speaker, One of my priorities in Congress is the support of trade policies that require environmental protections, support human rights and fair labor conditions while strengthening the economies of my community and of nations around the world.

Trade has tremendous potential for achieving these objectives, but only if our trade policy is carefully crafted. We must ensure that we are using our maximum leverage to achieve the above goals. We need to appreciate how the world is chaning—in regards to the positive transformative powers trade can have for societies around the world as well as the potential negative impact trade can have here at home. International trade provisions can now undermine other U.S. provisions of law ranging from immigration to anti-trust. One example is the provisions in NAFTA that appear to place foreign investors in a position superior to their American counterparts, potentially enabling them to evade our environmental protections.

I believe these problems are not insurmountable or even all that difficult to tackle. The provisions of HR 3019, authored by Ranking Member RANGEL, would establish core labor standards as the point of departure for any new free trade agreement in the Americas. In HR 3019 foreign investors would not be given greater rights than domestic investors, and the United States would be empowered to enforce multilateral environmental agreements where both parties have accepted their obligations.

With a determined expression of outreach and commitment on the part of the President and the Speaker of the House, we can and should have a trade bill that garners at least 250 votes, helping lift trade above today's fiercely ideological partisan contention. Instead, if this bill passes, it will win a narrow majority over bitter opposition from many people who are actually leaders for international trade. Bringing this legislation to the House floor in this form, under these conditions, borders on the irresponsible. There is no reason to play "Russian roulette" with our national trade policy in order to accentuate partisan differences. Securing votes with incremental concessions on items like citrus and steel, and backing away form agricultural reform is a poor way to pass legislation and is no way to form an enduring coalition in support of trade promotion. I have implored the President to defuse the situation. I fear it will come back to haunt him and his Administration and make progress in the trade arena needlessly difficult for years to come.

The decision to attempt a narrow partisan victory continues a troubling trend in the House of Representatives. Legislation dealing with terrorism, airline security, insurance protection and economic stimulus did not need to be partisan and indeed there were strong bipartisan bills available. The decision by the House Republican leadership to push for narrow partisan victories at the expense of sound bipartisan policy, with the acquiescence or in some cases the outright support of the Administration, is not just bad policy, it's the wrong thing to do, when the country desperately wants to be united solving our problems.

I sadly but resolutely vote against this legislation. I will continue to speak out in support of the importance of Trade Promotion Authority. I will work with people on both sides of the aisle and our talented Trade Representative Robert Zoellick to secure a true bipartisan solution to other trade related issues.

Ms. LEE. Mr. Speaker, I rise today to voice my strong opposition to H.R. 3005, the Thomas Fast Track bill.

I strongly support free trade, but it must be fair and not at the expense of American jobs, workers' rights, the environment, or our Constitution.

We cannot sacrifice jobs in the pursuit of imaginary profits, especially now with our economy stumbling.

We are losing jobs every day, while our trade deficits get larger and larger. And those deficits have expanded since NAFTA was passed.

The Economic Policy Institute reports that Americans have lost 3 million actual and potential jobs since NAFTA.

California alone has suffered over 300,000 jobs in trade-related losses.

We must stem this tide and signing over Congress' trade authority is not the way to do that.

Nor should we sacrifice our environment or the public health.

Under the terms of Chapter 11 of NAFTA, California is currently being sued by a Canadian corporation because our state's efforts to phase out MTBE from our gasoline and eliminate that potential carcinogen from our water supply have cut into their profits.

Fast track would open up our environmental laws to foreign lawsuits.

It would undermine efforts to let consumers know if they are eating genetically modified foods.

It would threaten international environmental protections.

Finally, fast track undercuts the authority of this very Congress to protect our constituents.

The Constitution specifically grants Congress "the power to regulate Commerce with foreign Nations."

We should not vote to give that power away.

I urge you to oppose this bill. We don't have to jump on to a fast track that will lead to a train wreck.

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his very strong support for H.R. 3005, the Bipartisan Trade Promotion Authority Act of 2001. This Member would like to thank the distinguished Chairman of the House Ways and Means Committee from California (Mr. THOMAS) for both introducing this legislation and for his efforts in moving this legislation forward to today's House Floor debate. Additional appreciation is expressed to the distinguished Chairman of the House Rules Committee from California (Mr. DREIER) for his efforts in expediting the consideration of this legislation.

Under the Bipartisan Trade Promotion Authority Act of 2001, Congress would agree to vote "yeas" or "no" on any trade agreement in its entirety, without amendments. This Member in the past has always supported Trade Promotion Authority (TPA), or "Fast-Track Authority" as it was previously called, because this Member is fully convinced it is required for the President, acting through the United States Trade Representative, to conclude trade agreements with foreign nations. Certainly, TPA is necessary to give our trading partners confidence that the agreements which the U.S. negotiates will not be changed by Congress. Without the enactment of TPA, the United States will continue to fall further behind in expanding its export base and that will cost America thousands of potential jobs. Granting TPA to the President is absolutely essential for America to reach towards its export potential.

TPA will enhance Nebraska's agricultural exports. According to estimates from the U.S. Department of Agriculture, Nebraska ranked fourth among all states with agricultural exports of $3.1 billion in 2000. These exports represented about 35 percent of the state's total farm income of $8.9 billion in 2000. In addition to increasing farm prices and income, agricultural exports support about 44,800 jobs both on and off the farm. The top three agricultural exports in 2000 were live animals and red meats ($1 billion), feed grains and products ($769 million) and soybeans and products ($454 million). However, Nebraska agricultural exports still encounter high tariff and a whole range of significant nontariff barriers worldwide.

At the recent World Trade Organization (WTO) ministerial in Doha, Qatar, trade ministers representing over 140 countries agreed to a Declaration which launched a comprehensive multilateral trade negotiation that covered a variety of areas including agriculture. The trade objectives in this Declaration called for a reduction of foreign agriculture export subsidies, as well as improvements in agriculture market access. In order to help meet these trade negotiation objectives, TPA would give the President through the United States Trade Representative the authority to conclude trade agreements which are in the best interest of American farmers and ranchers.

This legislation is very important for Nebraska because our states economy is very export-dependent. According to the U.S. Department of Commerce International Trade Administration, Nebraska has export sales of $1,835 for every state resident. Moreover, 1,367 companies, including 998 small and medium-sized businesses with under 500 employees, exported from Nebraska in 1998. Therefore, TPA is critical to help remove existing trade barriers to exports of Nebraska goods and services.

To illustrate the urgency for TPA, it must be noted that the U.S. is only party to free trade agreements with Mexico and Canada through NAFTA and with Israel and Jordan. However, Europe currently has entered 27 free trade agreements and it is currently negotiating 15 more such agreements. In addition, there are currently over 130 preferential trade agreements in the world today. Without TPA, many American exporters will continue to lose important sales to countries which have implemented preferential trade agreements. For example, many American exporters are currently losing export sales to Chile because Canadian exporters face lower tariffs there under a Canada-Chile trade agreement.

This Member would like to focus on the following five subjects are they relate to the Bipartisan Trade Promotion Authority Act of 2001: financial services; labor and the environment; congressional consultation; the constitutionality of TPA; and the foreign policy and national security implications of TPA.

First, as the Chairman of the House Financial Services Subcommittee on International Monetary Policy and Trade, this Member has focused on the importance of financial services trade, which includes banking, insurance, and securities. This Subcommittee was told in a June 2001 hearing that U.S. trade in financial services equaled $20.5 billion in 2000. This is a 26.7 percent increase from the U.S.'s 1999 financial services trade data. Unlike the current overall U.S. trade deficit, U.S. financial services trade had a positive balance of $8.8 billion in 2000.

The numbers for U.S. financial services trade have the potential to significantly increase if TPA is enacted into law. The U.S. is the preeminent world leader in financial services. TPA would further empower the United States Trade Representative to negotiate with foreign nations to open these insurance, banking, and securities markets and to expand access to these diverse financial service products.

Certainly, TPA would particularly benefit U.S. financial services trade as it relates to the Free Trade Area of the Americas since many of the involved countries are emerging markets where there will be an increasing demand for sophisticated financial services. Furthermore, TPA would also benefit financial services trade as it is part of the larger framework of the World Trade Organization (WTO) General Agreement on Trade in Services (GATS). In 2000, GATS members began a new round of service negotiations.

Second, the Bipartisan Trade Promotion Authority Act of 2001 includes important labor and environmental provisions. For example, among other provisions, TPA adds a principal U.S. negotiating objective to ensure that a party to a trade agreement does not fail to effectively enforce its own labor or environmental laws. This type of provision was also included in the U.S.-Jordan Free Trade Agreement which was signed into law on September 28, 2001 (Public Law No. 107–43).

Third, it is important to note that this legislation has strong congressional consultation provisions for before, during, and after the negotiations of trade agreements. For example, the President is required, before initiating negotiations, to provide written notice and to consult with the relevant House and Senate committees of jurisdiction and a Congressional Oversight Group at least 90 calendar days prior to entering into trade negotiations. This Congressional Oversight Group, who would be accredited as official advisers to the United States Trade Representative, would provide advice regarding formulation of specific objectives, negotiating strategies and positions, and development of the trade agreement. In addition, TPA would not apply to an agreement if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration has failed to consult Congress.

Fourth, enactment of TPA is required to secure a constitutionally sound basis for American trade policy in the globalized economic environment focusing our country today. Under Article II of the U.S. Constitution, the President is given the authority to negotiate treaties and international agreements. However, under Article I of the U.S. Constitution, Congress is given the power to regulate foreign commerce. In this TPA legislation, any trade agreement still has to be approved by Congress by a "yes" or "no" vote, without any amendments, by both the House and the Senate before it can be signed into law. As a result, TPA does not impinge upon the exclusive power of Congress to regulate foreign commerce. Furthermore, the U.S. Constitution does not ban the adoption of a Senate or House rule which prohibits amendments from being offered to a bill during Floor consideration. In fact, the House considers bills almost every legislative week which cannot be amended on the Suspension Calendar.

Fifth, extending TPA to the President has critical national security implications. Indeed, the terrorist attacks of September 11th highlight the extend to which American security is placed at risk when the U.S. fails to remain engaged in areas around the world. Many countries of Central America, South America, Asia, and Africa have fragile democratic institutions and market economies. They remain in peril of falling into the hands of unfriendly regimes unless the U.S. helps to develop the kind of economic stability underpinning democratic societies that enhanced trading opportunities can provide.

In conclusion, for the above stated reasons and many others, this Member strongly supports TPA because it is absolutely critically important to the health and the future growth of the U.S. economy. Therefore, this Member very strongly urges his colleagues to support H.R. 3005. This is probably the most important vote of the 107th Congress.

Mr. HYDE. Mr. Speaker, I rise in strong support of the Bipartisan Trade Promotion Authority Act of 2001, H.R. 3005, a measure granting Trade Promotion Authority, TPA, to President Bush, an authority which lapsed in 1994. One of the most important votes we will be asked to cast in this Congress, the enactment of this measure is essential to our national interest and our long-term economic growth and prosperity.

Without this authority, U.S. negotiators will continue to find themselves outside looking in on trade competitors concluding one trade agreement after another that protects their interests and ignores ours. There are over 130 such preferential agreements in place today and the U.S. is a party to only three.

Our trade competitors have clearly taken advantage of our inability to negotiate without this authority. Our NAFTA trade partners, Canada and Mexico, have, for example, signed preferential trade agreements with other countries of South and Central America ensuring that our exporters are at a competitive disadvantage.

Our hopes for this hemisphere rest upon the economic advancement of all. And during the past decade there were many positive signs as almost every country in the region embraced the free market and implemented a far-reaching series of economic reforms, thereby laying the foundation for sustained growth. We are only at the beginning of this process, however.

Too many in this rich hemisphere remain poor; too many countries remain underdeveloped; and too many workers are denied access to increased economic opportunities. There are many obstacles that need to be overcome in this effort, but one easy way to expand economic opportunity for every country in this hemisphere is to remove its outdated and self-limiting barriers to trade. This is what the Free Trade Area of Americas (FTAA) represents: the recognition that protectionism is a dead end street and that the economic interests of each country are best advanced through cooperation and an openness to the world.

President Bush has rightly made the FTAA the centerpiece of U.S. policy towards the hemisphere, but we cannot succeed in this effort without trade promotion authority.

We now find ourselves in the ironic situation that the greatest advocates of this agreement are the countries of Central and South America which formerly blockaded themselves virtually every U.S. proposal for expanded cooperation. Now it is they who are knocking on our door, preaching the benefits of cooperation.

A "no" voted today will only ties the hands of our trade negotiators who are trying to lower tariff and non-tariff barriers, to increase economic opportunity here and abroad, and to jump-start the global economy.

NAFTA and the most recent global trade agreement (the "Uruguay Round") have saved the average American family $1,300 to $2,000 each year from the combined effect of income increases and lower prices for imports. These two agreements are estimated to have increased overall U.S. national income by approximately $50 billion a year.

Many Members, on the Republican as well as Democratic side of the aisle, are concerned, however, that granting the President "a blank check" to negotiate trade agreements could compromise our values and set back efforts to reform the World Trade Organization.

But the text of the proposed trade legislation clearly spells out our commitment to democracy, improved trade and environmental policies, respect for worker rights and the rights of children consistent with the core labor standards of the International Labor Organization.

It also includes our commitment to greater openness and transparency inside the global rule-making body, the World Trade Organization and to much greater public access to its dispute settlement proceedings.

For those members who remain unconvinced that the President would put his TPA authority to good use, I emphasize that Congress retains the right to approve or disapprove any trade agreement negotiated under the TPA authority. Any Member can vote down any future trade agreement if he or she feels that it doesn't promote our economic security.

Our failure to grant the President this vitally needed authority will lead to the continuing loss of American influence in global trade debates and a continuation of the global economic recession. The U.S. has long been the engine of the global economy and without this key trade authority we will be hard pressed to lead Europe and Asia back onto the growth path of the 1990s.

At this critical point in our global anti-terrorism battle, it is also essential, in my view, that we enable the President to build stable trade relationships with our key coalition partners.

We can—and should—esnure that the views of our committee are fully taken into account in the drafting of any future trade negotiations, and I will help to ensure that this takes place.

Without TPA, we won't have the tools needed to jump start the global economy to help lift us out of economic recession.

With TPA, they can finish the task of building a Free Trade Area of the Americas and negotiating a new trade round. With TPA, our President can once again exercise leadership to foster open markets, democracy and economic development.

Security and trade issues are increasingly linked. Bringing China, and eventually Russia, into the world trading system will help to ensure that these and other countries will strengthen the rule of law and promote more open economic systems.

NATO's role in the world is only as strong as the economies of its members and without TPA and a new round of trade negotiations the global recession is likely to be that much longer and deeper.

Support the President and pass H.R. 3005.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise to support H.R. 3005, the Trade Promotion Authority Act of 2001.

I believe passage of this important legislation is crucial to America's economic interest, especially in light of the recession. H.R. 3005 is significant because it seeks to renew the President's fast track or trade promotion authority (TPA) to negotiate trade agreements with other nations. This legislation would ensure that the United States can effectively negotiate away foreign tariff barriers as well as non-tariff barriers that now exclude U.S. products. It gives the U.S. credibility to negotiate tough trade deals while preserving Congress' right to approve or disapprove them. More importantly, if the U.S. fails to be a leading participant in future negotiations on multilateral, bilateral and sectoral agreements, we will see a negative effect on our competitive ability to sell our goods in overseas markets. Our global economy demands that the President have TPA to open up foreign markets to United States products and ensure continued economic prosperity for American consumers and workers. For this reason, I fully support giving the President this important tool that every President, except for President Bill Clinton, has had since 1974.

TPA allows the President to enter into trade agreements reducing, eliminating, or otherwise affecting U.S. tariff and non-tariff barriers. It essentially commits the Congress to vote on those agreements (without amendments or revisions) within a limited period of time. Under H.R. 3005, the President must also consult and coordinate with Congress throughout the negotiating process. In any event, if Congress does not like the end result, members can simply vote against the total package.

Mr. Speaker, 95 percent of the world's consumers living outside of the United States. Let me repeat: 95 percent of the world's consumers live outside the U.S. That means quite simply, that the continued growth of the U.S. economy depends upon our success in eliminating trade barriers around the globe. Since 1993, U.S. exports have contributed to nearly one-third of the nation's economic growth and have increased three times faster than overall income. Moreover, between 1986 and 1994, jobs supported by exports rose 63 percent more than four times faster than overall private industry job growth.

Free trade is especially important to the Commonwealth of Virginia. In 1996, Virginia exported goods worth $10.9 billion, 4.8 percent higher than in 1995. As the 16th largest exporter among the 50 states, Virginia industries have benefitted tremendously from international trade, particularly in the high-tech, industrial machinery, transportation equipment, and chemical and fabricated metal products exporting sectors.

U.S. technology companies are the single largest merchandise exporters in the United States, accounting for 20 percent of all merchandise exports. Exports from the U.S. have more than doubled during the last decade. In particular, high-tech services such as computer, data processing and other information services are booming. While these exports are vital, imports are also important. They help keep inflation in check, give consumers greater choice, create jobs, and allow U.S. companies to use the best technology available so they can increase their productivity and competitiveness.

Since TPA lapsed in 1993, the U.S. has been forced to sit on the sidelines while our foreign competitors aggressively pursued their own economic interests through trade agreements. For example: both Canada and Mexico now have free trade agreements with Chile; the Latin American Southern Cone Common Market ("Mercosur"), which consists of Brazil, Argentina, Paraguay, and Uruguay, has agreements with Chile and Bolivia and is negotiating trade arrangements with other countries in Latin America; Japan and the European Union are working toward trade arrangements with countries in Latin America and Asia; and Members of the Association of Southeast Asian Nations (ASEAN) are implementing a free trade area.

The President must have the authority to begin hammering out fair and balanced trade agreements that will clinch America's leadership role in the world market and improve the standard of living for American families. H.R. 3005 is a reasonable compromise that will enable the United States to stimulate economic growth, exercise leadership, and provide new opportunities for American companies, workers and their families. The U.S. is not keeping pace with our foreign competitors in opening up markets. We are party to only two of the more than 130 free trade agreements, and 43 of the 1,800 bilateral investment agreements in force today. The impact of U.S. inaction cannot be overstated: we face discriminatory tariffs; our service sectors are often at a competitive disadvantage against their foreign rivals; product standards are established that favor our foreign competitors; and foreign companies are often granted more favorable investment terms.

By granting the President this authority we will guarantee that the U.S. remains both the political and economic world leader. Right now, while the U.S. stands on the sidelines, other nations have gotten the jump on negotiating trade agreements that benefit their domestic interest.

U.S. exporters lose out on investment opportunities while the Congress debates whether we as a nation should be engaged in serious world trade. The time for debate is over; the time for action is now.

Without the authority provided by this legislation, U.S. negotiators will not be able to sit across the table from our largest trading partners and reach agreements that lower tariffs, increase transparency and lessen onerous regulations in prospective markets. Instead, it will be our trading partners who negotiate free trade pacts among themselves, excluding U.S. workers and businesses from the benefits of open markets. We cannot afford to sit idly by while other nations seize the mantle of leadership on trade matters from the United States.

The September 11th attacks on America and the ensuing sluggish economy make it more important than ever for Congress to give the President unfettered authority to tear down barriers to trade and investment, expand markets for U.S. farmers and businesses, and create higher-skilled, higher-paying jobs for American workers. Because TPA is crucial to these objectives, I urge all of my colleagues to vote in favor of H.R. 3005

Mr. CANTOR. Mr. Speaker, I rise today in support of H.R. 3005, the Bipartisan Trade Promotion Authority and encourage its overwhelming passage.

Mr. Speaker, my colleagues on the other side of the aisle claim that trade promotion authority will result in a diminished quality of life while creating low paying jobs in countries around the world.

This could not be further from the truth and our trade with Mexico is the perfect example to illustrate this point.

Since NAFTA, wages in Mexico increased at an average annual rate of 10.3 percent from 1995–2000.

The standard of living in Mexico between 1993–1999 increased at an average annual rate of 8 percent.

Approximately 1.7 million jobs have been created in Mexico since mid-1995, according to Mexican government figures.

Moreover unemployment in Mexico fell from nearly 6.3 percent in 1995 to just over 2.5 percent in 1999.

In the year 2000, U.S. companies have had direct investment worth $35 million in Mexico, up from $17 billion in 1994.

Not only is NAFTA raising the standard of living and creating jobs in Mexico, but it is doing so in the United States as well.

NAFTA allowed U.S. exports to Canada and Mexico to rise by $149 billion, leading to new sales that helped create nearly three million jobs.

Export-related jobs pay on average 13–16 percent more than comparable domestic jobs.

United States trade interests will continue to suffer if we do not grant the President trade promotion authority.

In an editorial that appeared in the Wall Street Journal, European Union commissioner for trade, Pascal Lamy, was quoted as saying that, "If the United States does not get this mandate quickly, then no one will negotiate."

Brazilian Ambassador Rubens Barbosa has warned that a TPA failure would all but sink talks for a new 34-country Free Trade Area of the Americas.

In Chile, United States exports are being displaced as Chilean buyers switch away from United States made products and increasingly buy goods from suppliers in countries with which Chile has a free trade agreement.

The United States has lost 6 percentage points of the Chilean import market since 1997, resulting in the loss of more than $800 million annually in exports to Chile.

This represents a loss of more than 10,000 American Jobs. The point is clear.

Increased international trade and investments will create opportunities for American companies and American workers, lifting the world's standard of living and creating even more demand for American goods and services.

I urge passage of the bill.

The SPEAKER pro tempore (Mr. LaHood). All time for debate has expired.

Pursuant to House Resolution 306, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. RANGEL. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Rangel moves to recommit the bill H.R. 3005 to the Committee on Ways and Means with instructions that the Committee report back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Comprehensive Trade Negotiating Authority Act of 2001".

(b) Table of Contents.—The table of contents for this Act is the following:

Sec. 1. Short title; table of contents.
Sec. 2. Negotiating objectives.
Sec. 3. Congressional trade advisers.
Sec. 4. Trade agreements authority.
Sec. 5. Commencement of negotiations.
Sec. 6. Congressional participation during negotiations.
Sec. 7. Implementation of trade agreements.
Sec. 8. Treatment of certain trade agreements.
Sec. 9. Additional report and studies.
Sec. 10. Additional implementation and enforcement requirements.
Sec. 11. Technical and conforming amendments.
Sec. 12. Definitions.

SEC. 2. NEGOTIATING OBJECTIVES.

(a) Overall Trade Negotiating Objectives.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 4 are the following:

(1) To obtain clear and specific commitments from trading partners of the United States to fulfill existing international trade obligations according to existing schedules.

(2) To obtain more open, equitable, and reciprocal market access for United States agricultural products, manufactured and other nonagricultural products, and services.

(3) To obtain the reduction or elimination of barriers to trade, including barriers that result from failure of governments to publish laws, rules, policies, practices, and administrative and judicial decisions.

(4) To ensure effective implementation of trade commitments and obligations by

strengthening the effective operation of the rule of law by trading partners of the United States.

(5) To oppose any attempts to weaken in any respect the trade remedy laws of the United States.

(6) To increase public access to international, regional, and bilateral trade organizations in which the United States is a member by developing such organizations and their underlying agreements in ways that make the resources of such organizations more accessible to, and their decision-making processes more open to participation by, workers, farmers, businesses, and nongovernmental organizations.

(7) To ensure that the dispute settlement mechanisms in multilateral, regional, and bilateral agreements lead to prompt and full compliance.

(8) To ensure that the benefits of trade extend broadly and fully to all segments of society.

(9) To pursue market access initiatives that benefit the world's least-developed countries.

(10) To ensure that trade rules take into account the special needs of least-developed countries.

(11) To promote enforcement of internationally recognized core labor standards by trading partners of the United States.

(12) To promote the ongoing improvement of environmental protections.

(13) To promote the compatibility of trade rules with national environmental, health, and safety standards and with multilateral environmental agreements.

(14) To identify and pursue those areas of trade liberalization, such as trade in environmental technologies, that also promote protection of the environment.

(15) To ensure that existing and new rules of the WTO and of regional and bilateral trade agreements support sustainable development, protection of endangered species, and reduction of air and water pollution.

(16) To ensure that existing and new rules of the WTO and of regional and bilateral agreements are written, interpreted, and applied in such a way as to facilitate the growth of electronic commerce.

(b) PRINCIPAL NEGOTIATING OBJECTIVES UNDER THE WTO.—The principal negotiating objectives of the United States under the auspices of the WTO are the following:

(1) RECIPROCAL TRADE IN AGRICULTURE.—The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets equal to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by doing the following:

(A) Reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports, giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries and providing reasonable adjustment periods for import sensitive products of the United States, in close consultation with the Congress.

(B) Eliminating disparities between applied and bound tariffs by reducing bound tariff levels.

(C) Enhancing the transparency of tariff regimes.

(D) Tightening disciplines governing the administration of tariff rate quotas.

(E) Eliminating export subsidies.

(F) Eliminating or reducing trade distorting domestic subsidies.

(G) When negotiating reduction or elimination of export subsidies or trade distorting domestic subsidies with countries that maintain higher levels of such subsidies than the United States, obtaining reductions from other countries to United States subsidy levels before agreeing to reduce or eliminate United States subsidies.

(H) Preserving United States market development programs, including agriculture export credit programs that allow the United States to compete with other foreign export promotion efforts.

(I) Maintaining bona fide food aid programs.

(J) Allowing the preservation of programs that support family farms and rural communities but do not distort trade.

(K) Eliminating state trading enterprises, or, at a minimum, adopting rigorous disciplines that ensure transparency in the operations of such enterprises, including price transparency, competition, and the end of discriminatory policies and practices, including policies and practices supporting cross-subsidization, price discrimination, and price undercutting in export markets.

(L) Eliminating practices that adversely affect trade in perishable or seasonal products, while improving import relief mechanisms to recognize the unique characteristics of perishable and seasonal agriculture. Before commencing negotiations with respect to agriculture, the Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of perishable and seasonal food products to be employed in the negotiations in order to develop an international consensus on the treatment of such products in antidumping, countervailing duty, and safeguard actions and in any other relevant area.

(M) Taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements.

(N) Taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements.

(O) Taking into account the impact that agreements covering agriculture to which the United States is a party, including NAFTA, have had on the agricultural sector in the United States.

(P) Ensuring that countries that accede to the WTO have made meaningful market liberalization commitments in agriculture.

(Q) Treating the negotiation of all issues as a single undertaking, with implementation of early agreements in particular sectors contingent on an acceptable final package of agreements on all issues.

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States with respect to trade in services is to further reduce or eliminate barriers to, or other distortions of, international trade in services by doing the following:

(A) Pursuing agreement by WTO members to extend their commitments under the General Agreement on Trade in Services (in this section also referred to as "GATS") to—

(i) achieve maximum liberalization of market access in all modes of supply, including by removing restrictions on the legal form of an investment or on the right to own all or a majority share of a service supplier, subject to national security exceptions;

(ii) remove regulatory and other barriers that deny national treatment, or unreasonably restrict the establishment or operations of service suppliers in foreign markets;

(iii) reduce or eliminate any adverse effects of existing government measures on trade in services;

(iv) eliminate additional barriers to trade in services, including restrictions on access to services distribution networks and information systems, unreasonable or discriminatory licensing requirements, the administration of cartels or toleration of anticompetitive activity, unreasonable delegation of regulatory powers to private entities, and similar government acts, measures, or policies affecting the sale, offering for sale, purchase, distribution, or use of services that have the effect of restricting access of services and service suppliers to a foreign market; and

(v) grandfather existing concessions and liberalization commitments.

(B) Strengthening requirements under GATS to ensure that regulation of services and service suppliers in all respects, including by rulemaking, license-granting, standards-setting, and through judicial, administrative, and arbitral proceedings, is conducted in a transparent, reasonable, objective, and impartial manner and is otherwise consistent with principles of due process.

(C) Continuing to oppose strongly cultural exceptions to obligations under GATS, especially relating to audiovisual services and service providers.

(D) Preventing discrimination against a like service when delivered through electronic means.

(E) Pursuing full market access and national treatment commitments for services sectors essential to supporting electronic commerce.

(F) Broadening and deepening commitments of other countries relating to basic and value added telecommunications, including by—

(i) strengthening obligations and the implementation of obligations to ensure competitive, nondiscriminatory access to public telecommunication networks and services for Internet service providers and other value-added service providers; and

(ii) preventing anticompetitive behavior by major suppliers, including service suppliers that are either government owned or controlled or recently government owned or controlled.

(G) Broadening and deepening commitments of other countries relating to financial services.

(3) TRADE IN MANUFACTURED AND NONAGRICULTURAL GOODS.—The principal negotiating objectives of the United States with respect to trade in manufactured and nonagricultural goods are the following:

(A) To eliminate disparities between applied and bound tariffs by reducing bound tariff levels.

(B) To negotiate an agreement that includes reciprocal commitments to eliminate duties in sectors in which tariffs are currently approaching zero.

(C) To eliminate tariff and nontariff disparities remaining from previous rounds of multilateral trade negotiations that have put United States exports at a competitive disadvantage in world markets, especially tariff and nontariff barriers in foreign countries in those sectors where the United States imposes no significant barriers to imports and where foreign tariff and nontariff barriers are substantial.

(D) To obtain the reduction or elimination of tariffs on value-added products that provide a disproportionate level of protection compared to that provided to raw materials.

(E) To eliminate additional nontariff barriers to trade, including—

(i) anticompetitive restrictions on access to product distribution networks and information systems;

(ii) unreasonable or discriminatory inspection processes;

(iii) the administration of cartels, or the promotion, enabling, or toleration of anticompetitive activity;

(iv) unreasonable delegation of regulatory powers to private entities;

(v) unreasonable or discriminatory licensing requirements; and

(vi) similar government acts, measures, or policies affecting the sale, offering for sale, purchase, transportation, distribution, or use of goods that have the effect of restricting access of goods to a foreign market.

(4) TRADE IN CIVIL AIRCRAFT.—The principal negotiating objectives of the United States with respect to civil aircraft are those contained section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3555(c)).

(5) RULES OF ORIGIN.—The principal negotiating objective of the United States with respect to rules of origin is to conclude the work program on rules of origin described in Article 9 of the Agreement on Rules of Origin.

(6) DISPUTE SETTLEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement are the following:

(A) To improve enforcement of decisions of dispute settlement panels to ensure prompt compliance by foreign governments with their obligations under the WTO.

(B) To strengthen rules that promote cooperation by the governments of WTO members in producing evidence in connection with dispute settlement proceedings, including copies of laws, regulations, and other measures that are the subject of or are directly relevant to the dispute, other than evidence that is classified on the basis of national security, and evidence that is business confidential.

(C) To pursue rules for the management of translation-related issues.

(D) To require that all submissions by governments to dispute settlement panels and the Appellate Body be made available to the public upon submission, providing appropriate exceptions for only that information included in a submission that is classified on the basis of national security or that is business confidential.

(E) To require that meetings of dispute settlement panels and the Appellate Body with parties to a dispute are open to other WTO members and the public and provide for in camera treatment of only those portions of a proceeding dealing with evidence that is classified on the basis of national security or that is business confidential.

(F) To require that transcripts of proceedings of dispute settlement panels and the Appellate Body be made available to the public promptly, providing appropriate exceptions for only that information included in the transcripts that is classified on the basis of national security or that is business confidential.

(G) To establish rules allowing for the submission of amicus curiae briefs to dispute settlement panels and the Appellate Body, and to require that such briefs be made available to the public, providing appropriate exceptions for only that information included in the briefs which is classified on the basis of national security or that is business confidential.

(H) To strengthen rules protecting against conflicts of interest by members of dispute settlement panels and the Appellate Body, and promoting the selection of such members with the skills and time necessary to decide increasingly complex cases.

(I) To pursue the establishment of formal procedures under which dispute settlement panels, the Appellate Body, and the Dispute Settlement Body seek advice from other fora of competent jurisdiction, such as the International Court of Justice, the ILO, representative bodies established under international environmental agreements, and scientific experts.

(J) To ensure application of the requirement that dispute settlement panels and the Appellate Body apply the standard of review established in Article 17.6 of the Antidumping Agreement and clarify that this standard of review should apply to cases under the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards.

(7) SANITARY AND PHYTOSANITARY MEASURES.—The principal negotiating objectives of the United States with respect to sanitary and phytosanitary measures are the following:

(A) To oppose reopening of the Agreement on the Application of Sanitary and Phytosanitary Measures.

(B) To affirm the compatibility of trade rules with measures to protect human health, animal health, and the phytosanitary situation of each WTO member by doing the following:

(i) Reaffirming that a decision of a WTO member not to adopt an international standard for the basis of a sanitary or phytosanitary measure does not in itself create a presumption of inconsistency with the Agreement on the Application of Sanitary and Phytosanitary Measures, and that the initial burden of proof rests with the complaining party, as set forth in the determination of the Appellate Body in EC Measures Concerning Meat and Meat Products (Hormones), AB-1997-4, WT/DS26/AB/R, January 16, 1998.

(ii) Reaffirming that WTO members may take provisional sanitary or phytosanitary measures where the relevant scientific evidence is insufficient, so long as such measures are based on available pertinent information, and members taking such provisional measures seek to obtain the additional information necessary to complete a risk assessment within a reasonable period of time. For purposes of this clause, a reasonable period of time includes sufficient time to evaluate the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins, or disease-causing organisms in food, beverages, or feedstuffs.

(8) TECHNICAL BARRIERS TO TRADE.—The principal negotiating objectives of the United States with respect to technical barriers to trade are the following:

(A) To oppose reopening of the Agreement on Technical Barriers to Trade.

(B) Recognizing the legitimate role of labeling that provides relevant information to consumers, to ensure that labeling regulations and standards do not have the effect of creating an unnecessary obstacle to trade or are used as a disguised barrier to trade by increasing transparency in the preparation, adoption, and application of labeling regulations and standards.

(9) TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS.—The principal negotiating objectives of the United States with respect to trade-related aspects of intellectual property rights are the following:

(A) To oppose extension of the date by which WTO members that are developing countries must implement their obligations under the Agreement on Trade Related Aspects of Intellectual Property Rights (in this section also referred to as the "TRIPs Agreement"), pursuant to paragraph 2 of Article 65 of that agreement.

(B) To oppose extension of the moratorium on the application of subparagraphs 1(b) and 1(c) of Article XXIII of the GATT 1994 to the settlement of disputes under the TRIPs Agreement, pursuant to paragraph 2 of Article 64 of the TRIPs Agreement.

(C) To oppose any weakening of existing obligations of WTO members under the TRIPs Agreement.

(D) To ensure that standards of protection and enforcement keep pace with technological developments, including ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works.

(E) To prevent misuse of reference pricing classification systems by developed countries as a way to discriminate against innovative pharmaceutical products and innovative medical devices, without challenging legitimate reference pricing systems not used as a disguised restriction on trade.

(F)(i) To clarify that under Article 31 of the TRIPs Agreement WTO members are able to adopt measures necessary to protect the public health and to respond to situations of national emergency or extreme urgency, including by taking actions that have the effect of increasing access to essential medicines and medical technologies.

(ii) In situations involving infectious diseases, to encourage WTO members that take actions described under clause (i) to also implement policies—

(I) to address the underlying causes necessitating the actions, including, in the case of infectious diseases, encouraging practices that will prevent further transmission and infection;

(II) to take steps to stimulate the development of the infrastructure necessary to deliver adequate health care services, including the essential medicines and medical technologies at issue;

(III) to ensure the safety and efficacy of the essential medicines and medical technologies involved; and

(IV) to make reasonable efforts to address the problems of supply of the essential medicines and medical technologies involved (other than by compulsory licensing), consistent with the obligation set forth in Article 31 of the TRIPs Agreement.

(iii) To encourage members of the Organization for Economic Cooperation and Development and the private sectors in their countries to work with the United Nations, the World Health Organization, and other relevant international organizations, including humanitarian relief organizations, to assist least-developed and developing countries, in all possible ways, in increasing access to essential medicines and medical technologies including through donations, sales at cost, funding of global medicines trust funds, and developing and implementing prevention efforts and health care infrastructure projects.

(10) TRANSPARENCY.—The principal negotiating objectives of the United States with respect to transparency are the following:

(A) To pursue the negotiation of an agreement—

(i) requiring that government laws, rules, and administrative and judicial decisions be published and made available to the public so that governments, businesses, and the public have adequate notice of them;

(ii) requiring adequate notice before new rules are promulgated or existing rules amended;

(iii) encouraging governments to open rulemaking to public comment;

(iv) establishing that any administrative proceeding conducted by the government of any WTO member relating to any of the WTO Agreements and applied to the persons, goods, or services of any other WTO member shall be conducted in a manner that—

(I) gives persons of any other WTO member affected by the proceeding reasonable notice, in accordance with domestic procedures, of when the proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issues in controversy;

(II) gives such persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and

(III) is in accordance with domestic law; and

(v) requiring each WTO member—

(I) to establish or maintain judicial, quasi-judicial, or administrative tribunals (impartial and independent of the office or authority entrusted with administrative enforcement) or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by any of the WTO Agreements;

(II) to ensure that, in such tribunals or procedures, parties to the proceeding are afforded a reasonable opportunity to support or defend their respective positions; and

(III) to ensure that such tribunals or procedures issue decisions based on the evidence and submissions of record or, where required by domestic law, the record compiled by the office or authority entrusted with administrative enforcement.

(B) To pursue a commitment by all WTO members to improve the public's understanding of and access to the WTO and its related agreements by—

(i) encouraging the Secretariat of the WTO to enhance the WTO website by providing improved access to a wider array of WTO documents and information on the trade regimes of, and other relevant information on, WTO members;

(ii) promoting public access to council and committee meetings by ensuring that agendas and meeting minutes continue to be made available to the public;

(iii) ensuring that WTO documents that are most informative of WTO activities are circulated on an unrestricted basis or, if classified, are made available to the public more quickly;

(iv) seeking the institution of regular meetings between WTO officials and representatives of nongovernmental organizations, businesses and business groups, labor unions, consumer groups, and other representatives of civil society; and

(v) supporting the creation of a committee within the WTO to oversee implementation of the agreement reached under this paragraph.

(11) GOVERNMENT PROCUREMENT.—The principal negotiating objectives of the United States with respect to government procurement are the following:

(A) To seek to expand the membership of the Agreement on Government Procurement.

(B) To seek conclusion of a WTO agreement on transparency in government procurement.

(C) To promote global use of electronic publication of procurement information, including notices of procurement opportunities.

(12) TRADE REMEDY LAWS.—The principal negotiating objectives of the United States with respect to trade remedy laws are the following:

(A) To preserve the ability of the United States to enforce vigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and not enter into agreements that lessen in any respect the effectiveness of domestic and international disciplines—

(i) on unfair trade, especially dumping and subsidies, or

(ii) that address import increases or surges, such as under the safeguard remedy,

in order to ensure that United States workers, farmers and agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions.

(B) To eliminate the underlying causes of unfair trade practices and import surges, including closed markets, subsidization, government practices promoting, enabling, or tolerating anticompetitive practices, and other forms of government intervention that generate or sustain excess, uneconomic capacity.

(13) TRADE AND LABOR MARKET STANDARDS.—The principal negotiating objectives of the United States with respect to trade and labor market standards are the following:

(A) To achieve a framework of enforceable multilateral rules as soon as practicable that leads to the adoption and enforcement of core, internationally recognized labor standards, including in the WTO and, as appropriate, other international organizations, including the ILO.

(B) To update Article XX of the GATT 1994, and Article XIV of the GATS in relation to core internationally recognized worker rights, including in regard to actions of WTO members taken consistent with and in furtherance of recommendations made by the ILO under Article 33 of the Constitution of the ILO.

(C) To establish promptly a working group on trade and labor issues—

(i) to explore the linkage between international trade and investment and internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974), taking into account differences in the level of development among countries;

(ii) to examine the effects on international trade and investment of the systematic denial of those worker rights;

(iii) to consider ways to address such effects; and

(iv) to develop methods to coordinate the work program of the working group with the ILO.

(D) To provide for regular review of adherence to core labor standards in the Trade Policy Review Mechanism established in Annex 3 to the WTO Agreement.

(E) To establish a working relationship between the WTO and the ILO—

(i) to identify opportunities in trade-affected sectors of the economies of WTO members to improve enforcement of internationally recognized core labor standards;

(ii) to provide WTO members with technical and legal assistance in developing and enforcing internationally recognized core labor standards; and

(iii) to provide technical assistance to the WTO to assist with the Trade Policy Review Mechanism.

(14) TRADE AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to trade and the environment are the following:

(A) To strengthen the role of the Committee on Trade and Environment of the WTO, including providing that the Committee would—

(i) review and comment on negotiations; and

(ii) review potential effects on the environment of WTO Agreements and future agreements of the WTO on liberalizing trade in natural resource products.

(B) To provide for regular review of adherence to environmental standards in the Trade Policy Review Mechanism of the WTO.

(C) To clarify exceptions under Article XX(b) and (g) of the GATT 1994 to ensure effective protection of human, animal, or plant life or health, and conservation of exhaustible natural resources.

(D) To amend Article XX of the GATT 1994 and Article XIV of the GATS to include an explicit exception for actions taken that are in accordance with those obligations under any multilateral environmental agreement accepted by both parties to a dispute.

(E) To amend Article XIV of the GATS to include an exception for measures relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

(F) To give priority to trade liberalization measures that promote sustainable development, including eliminating duties on environmental goods, and obtaining commitments on environmental services.

(G) To reduce subsidies in natural resource sectors (including fisheries and forest products) and export subsidies in agriculture.

(H) To improve coordination between the WTO and relevant international environmental organizations in the development of multilaterally accepted principles for sustainable development, including sustainable forestry and fishery practices.

(15) INSTITUTION BUILDING.—The principal negotiating objectives of the United States with respect to institution building are the following:

(A) To strengthen institutional mechanisms within the WTO that facilitate dialogue and coordinate activities between nongovernmental organizations and the WTO.

(B) To seek greater transparency of WTO processes and procedures for all WTO members by—

(i) promoting the improvement of internal communication between the Secretariat and all WTO members; and

(ii) establishing points of contact to facilitate communication between WTO members on any matter covered by the WTO Agreements.

(C) To improve coordination between the WTO and other international organizations such as the International Bank for Reconstruction and Development, the International Monetary Fund, the ILO, the Organization for Economic Cooperation and Development, the United Nations Conference on Trade and Development, and the United Nations Environment Program to increase the effectiveness of technical assistance programs.

(D) To increase the efforts of the WTO, both on its own and through partnerships with other institutions, to provide technical assistance to developing countries, particularly least-developed countries, to promote the rule of law, to assist those countries in complying with their obligations under the World Trade Organization agreements, and to address the full range of challenges arising from implementation of such obligations.

(E) To improve the Trade Policy Review Mechanism of the WTO to cover a wider array of trade-related issues.

(16) TRADE AND INVESTMENT.—The principal negotiating objectives of the United States with respect to trade and investment are the following:

(A) To pursue further reduction of trade-distorting investment measures, including—

(i) by pursuing agreement to ensure the free transfer of funds related to investments;

(ii) by pursuing reduction or elimination of the exceptions to the principle of national treatment; and

(iii) by pursuing amendment of the illustrative list annexed to the WTO Agreement on Trade-Related Investment Measures (in this section also referred to as the "TRIMs Agreement") to include forced technology transfers, performance requirements, minimum investment levels, forced licensing of intellectual property, or other unreasonable barriers to the establishment or operation of investments as measures that are inconsistent with the obligation of national treatment provided for in paragraph 4 of Article III of the GATT 1994 or the obligation of general elimination of quantitative restrictions provided for in paragraph 1 of Article XI of the GATT 1994.

(B) To seek to strengthen the enforceability of and compliance with the TRIMs Agreement.

(17) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are the following:

(A) Make permanent and binding the moratorium on customs duties on electronic transmissions declared in the WTO Ministerial Declaration of May 20, 1998.

(B) Ensure that current obligations, rules, disciplines, and commitments under the WTO apply to electronically delivered goods and services.

(C) Ensure that the classification of electronically delivered goods and services ensures the most liberal trade treatment possible.

(D) Ensure that electronically delivered goods and services receive no less favorable treatment under WTO trade rules and commitments than like products delivered in physical form.

(E) Ensure that governments refrain from implementing trade-related measures that impede electronic commerce.

(F) Where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are nondiscriminatory, transparent, and promote an open market environment.

(G) Pursue a procompetitive regulatory environment for basic and value-added telecommunications services abroad, so as to facilitate the conduct of electronic commerce.

(H) Focus any future WTO work program on electronic commerce on educating WTO members regarding the benefits of electronic commerce and on facilitating the liberalization of trade barriers in areas that directly impede the conduct of electronic commerce.

(18) DEVELOPING COUNTRIES.—The principal negotiating objectives of the United States with respect to developing countries are the following:

(A) To enter into trade agreements that promote the economic growth of both developing countries and the United States and the mutual expansion of market opportunities.

(B) To ensure appropriate phase-in periods with respect to the obligations of least-developed countries.

(C) To coordinate with the World Bank, the International Monetary Fund, and other international institutions to provide debt relief and other assistance to promote the rule of law and sound and sustainable development.

(D) To accelerate tariff reductions that benefit least-developed countries.

(19) CURRENT ACCOUNT SURPLUSES.—The principal negotiating objective of the United States with respect to current account surpluses is to develop rules to address large and persistent global current account imbalances of countries, including imbalances that threaten the stability of the international trading system, by imposing greater responsibility on such countries to undertake policy changes aimed at restoring current account equilibrium, including expedited implementation of trade agreements where feasible and appropriate or by offering debt repayment on concessional terms.

(20) TRADE AND MONETARY COORDINATION.—The principal negotiating objective of the United States with respect to trade and monetary coordination is to foster stability in international currency markets and develop mechanisms to assure greater coordination, consistency, and cooperation between international trade and monetary systems and institutions in order to protect against the trade consequences of significant and unanticipated currency movements.

(21) ACCESS TO HIGH TECHNOLOGY.—The principal negotiating objectives of the United States with respect to access to high technology are the following:

(A) To obtain the elimination or reduction of foreign barriers to, and of acts, policies, or practices by foreign governments which limit, equitable access by United States persons to foreign-developed technology.

(B) To seek the elimination of tariffs on all information technology products, infrastructure equipment, scientific instruments, and medical equipment.

(C) To pursue the reduction of foreign barriers to high technology products of the United States.

(D) To enforce and promote the Agreement on Technical Barriers to Trade, and ensure that standards, conformity assessments, and technical regulations are not used as obstacles to trade in information technology and communications products.

(E) To require all WTO members to sign the Information Technology Agreement of the WTO, and to expand and update product coverage under that agreement.

(22) CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are the following:

(A) To obtain standards applicable to persons from all countries participating in the applicable trade agreement that are equivalent to, or more restrictive than, the prohibitions applicable to issuers, domestic concerns, and other persons under section 30A of the Securities and Exchange Act of 1934 and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977.

(B) To implement mechanisms to ensure effective enforcement of the standards described in subparagraph (A).

(23) IMPLEMENTATION OF EXISTING COMMITMENTS AND IMPROVEMENT OF THE WTO AND THE WTO AGREEMENTS.—The principal negotiating objectives of the United States with respect to implementation of existing commitments under the WTO are the following:

(A) To ensure that all WTO members comply fully with existing obligations under the WTO according to existing commitments and timetables.

(B) To strengthen the ability of the Trade Policy Review Mechanism within the WTO to review implementation by WTO members of commitments under the WTO.

(C) To undertake diplomatic and, as appropriate, dispute settlement efforts to promote compliance with commitments under the WTO.

(D) To extend the coverage of the WTO Agreements to products, sectors, and conditions of trade not adequately covered.

(c) NEGOTIATING OBJECTIVES FOR THE FTAA.—The principal negotiating objectives of the United States in seeking a trade agreement establishing a Free Trade Area for the Americas are the following:

(1) RECIPROCAL TRADE IN AGRICULTURE.—The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets equal to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by doing the following:

(A) Reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports, giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries and providing reasonable adjustment periods for import sensitive products of the United States, in close consultation with Congress.

(B) Eliminating disparities between applied and bound tariffs by reducing bound tariff levels.

(C) Enhancing the transparency of tariff regimes.

(D) Tightening disciplines governing the administration of tariff rate quotas.

(E) Establishing mechanisms to prevent agricultural products from being exported to FTAA members by countries that are not FTAA members with the aid of export subsidies.

(F) Maintaining bona fide food aid programs.

(G) Allowing the preservation of programs that support family farms and rural communities but do not distort trade.

(H) Eliminating state trading enterprises or, at a minimum, adopting rigorous disciplines that ensure transparency in the operations of such enterprises, including price transparency, competition, and the end of discriminatory practices, including policies supporting cross-subsidization, price discrimination, and price undercutting in export markets.

(I) Eliminating technology-based discrimination against agricultural commodities, and ensuring that the rules negotiated do not weaken rights and obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures.

(J) Eliminating practices that adversely affect trade in perishable or seasonal products, while improving import relief mechanisms to recognize the unique characteristics of perishable and seasonal agriculture. Before proceeding with negotiations with respect to agriculture, the Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of perishable and seasonal food products to be employed in the negotiations in order to develop a consensus on the treatment of such products in dumping or safeguard actions and in any other relevant area.

(K) Taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements.

(L) Taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements.

(M) Taking into account the impact that agreements covering agriculture to which the United States is a party, including NAFTA, have on the United States agricultural industry.

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States with respect to trade in services is to achieve, to the maximum extent possible, the elimination of barriers to, or other distortions of, trade in services in all modes of supply and across the broadest range of service sectors by doing the following:

(A) Pursuing agreement to treat negotiation of trade in services in a negative list manner whereby commitments will cover all services and all modes of supply unless particular services or modes of supply are expressly excluded.

(B) Achieving maximum liberalization of market access in all modes of supply, including by removing restrictions on the legal form of an investment or on the right to own all or a majority share of a service supplier, subject to national security exceptions.

(C) Removing regulatory and other barriers that deny national treatment, or unreasonably restrict the establishment or operations of service suppliers in foreign markets.

(D) Eliminating additional barriers to trade in services, including restrictions on access to services distribution networks and information systems, unreasonable or discriminatory licensing requirements, administration of cartels or toleration of anticompetitive activity, unreasonable delegation of regulatory powers to private entities, and similar government acts, measures, or policies affecting the sale, offering for sale, purchase, distribution, or use of services that have the effect of restricting access of services and service suppliers to a foreign market.

(E) Grandfathering existing concessions and liberalization commitments.

(F) Pursuing the strongest possible obligations to ensure that regulation of services and service suppliers in all respects, including by rulemaking, license-granting, standards-setting, and through judicial, administrative, and arbitral proceedings, is conducted in a transparent, reasonable, objective, and impartial manner and is otherwise consistent with principles of due process.

(G) Strongly opposing cultural exceptions to services obligations, especially relating to audiovisual services and service providers.

(H) Preventing discrimination against a like service when delivered through electronic means.

(I) Pursuing full market access and national treatment commitments for services sectors essential to supporting electronic commerce.

(J) Broadening and deepening existing commitments by other countries relating to basic and value-added telecommunications, including by—

(i) strengthening obligations and the implementation of obligations to ensure competitive, nondiscriminatory access to public telecommunication networks and services for Internet service providers and other value-added service providers; and

(ii) preventing anticompetitive behavior by major suppliers, including service suppliers that are either government owned or controlled or recently government owned or controlled.

(K) Broadening and deepening existing commitments of other countries relating to financial services.

(3) TRADE IN MANUFACTURED AND NONAGRICULTURAL GOODS.—The principal negotiating objectives of the United States with respect to trade in manufactured and nonagricultural goods are the following:

(A) To eliminate disparities between applied and bound tariffs by reducing bound tariff levels.

(B) To negotiate an agreement that includes reciprocal commitments to eliminate duties in sectors in which tariffs are currently approaching zero.

(C) To eliminate tariff and nontariff disparities remaining from previous rounds of multilateral trade negotiations that have put United States exports at a competitive disadvantage in world markets, especially tariff and nontariff barriers in foreign countries in those sectors where the United States imposes no significant barriers to imports and where foreign tariff and nontariff barriers are substantial.

(D) To obtain the reduction or elimination of tariffs on value-added products that provide a disproportionate level of protection compared to that provided to raw materials.

(E) To eliminate additional nontariff barriers to trade, including—

(i) anticompetitive restrictions on access to product distribution networks and information systems;

(ii) unreasonable or discriminatory inspection processes;

(iii) the administration of cartels, or the promotion, enabling, or toleration of anticompetitive activity;

(iv) unreasonable delegation of regulatory powers to private entities;

(v) unreasonable or discriminatory licensing requirements; and

(vi) similar government acts, measures, or policies affecting the sale, offering for sale, purchase, transportation, distribution, or use of goods that have the effect of restricting access of goods to a foreign market.

(4) DISPUTE SETTLEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement are the following:

(A) To provide for a single effective and expeditious dispute settlement mechanism and set of procedures that applies to all FTAA agreements.

(B) To ensure that dispute settlement mechanisms enable effective enforcement of the rights of the United States, including by providing, in all contexts, for the use of all remedies that are demonstrably effective to promote prompt and full compliance with the decision of a dispute settlement panel.

(C) To provide rules that promote cooperation by the governments of FTAA members in producing evidence in connection with dispute settlement proceedings, including copies of laws, regulations, and other measures that are the subject of or are directly relevant to the dispute, other than evidence that is classified on the basis of national security, and evidence that is business confidential.

(D) To require that all submissions by governments to FTAA dispute panels and any appellate body be made available to the public upon submission, providing appropriate exceptions for only that information included in a submission that is classified on the basis of national security or that is business confidential.

(E) To require that meetings of FTAA dispute panels and any appellate body with the parties to a dispute are open to other FTAA members and the public and provide for in camera treatment of only those portions of a proceeding dealing with evidence that is classified on the basis of national security or that is business confidential.

(F) To require that transcripts of proceedings of FTAA dispute panels and any appellate body be made available to the public promptly, providing appropriate exceptions for only that information included in the transcripts that is classified on the basis of national security or that is business confidential.

(G) To establish rules allowing for the submission of amicus curiae briefs to FTAA dispute panels and any appellate body, and to require that such briefs be made available to the public, providing appropriate exceptions for only that information included in the briefs that is classified on the basis of national security or that is business confidential.

(H) To pursue rules protecting against conflicts of interest by members of FTAA dispute panels and any appellate body, and promoting the selection of members for such panels and appellate body with the skills and time necessary to decide increasingly complex cases.

(I) To pursue the establishment of formal procedures under which the FTAA dispute panels and any appellate body seek advice from other fora of competent jurisdiction, such as the International Court of Justice, ILO, representative bodies established under international environmental agreements, and scientific experts.

(5) TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS.—The principal negotiating objectives of the United States with respect to trade-related aspects of intellectual property rights are the following:

(A) To ensure that the provisions of a regional trade agreement governing intellectual property rights that is entered into by the United States reflects a standard of protection similar to that found in United States law.

(B) To provide strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property.

(C) To prevent or eliminate discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights.

(D) To ensure that standards of protection and enforcement keep pace with technological developments, including ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works.

(E) To provide strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms.

(F) To secure fair, equitable and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

(G) To prevent misuse of reference pricing classification systems by developed countries as a way to discriminate against innovative pharmaceutical products and innovative medical devices, without challenging valid reference pricing systems not used as a disguised restriction on trade.

(H)(i) To ensure that FTAA members are able to adopt measures necessary to protect the public health and to respond to situations of national emergency or extreme urgency, including taking actions that have the effect of increasing access to essential medicines and medical technologies, where such actions are consistent with obligations set forth in Article 31 of the TRIPs Agreement.

(ii) In situations involving infectious diseases, to encourage FTAA members that take actions described under clause (i) to also implement policies—

(I) to address the underlying causes necessitating the actions, including, in the case of infectious diseases, encouraging practices that will prevent further transmission and infection;

(II) to take steps to stimulate the development of the infrastructure necessary to deliver adequate health care services, including the essential medicines and medical technologies at issue;

(III) to ensure the safety and efficacy of the essential medicines and medical technologies involved; and

(IV) to make reasonable efforts to address the problems of supply of the essential medicines and medical technologies involved (other than by compulsory licensing).

(iii) To encourage FTAA members and the private sectors in their countries to work with the United Nations, the World Health Organization, the Inter-American Development Bank, the Organization of American States, and other relevant international organizations, including humanitarian relief organizations, to assist least-developed and developing countries in the region in increasing access to essential medicines and medical technologies through donations, sales at cost, funding or global medicines trust funds, and developing and implementing prevention efforts and health care infrastructure projects.

(6) TRANSPARENCY.—The principal negotiating objectives of the United States with respect to transparency are the following:

(A) To pursue the negotiation of an agreement—

(i) requiring that government laws, rules, and administrative and judicial decisions be published and made available to the public so that governments, businesses and the public have adequate notice of them;

(ii) requiring adequate notice before new rules are promulgated or existing rules amended;

(iii) encouraging governments to open rulemaking to public comment;

(iv) establishing that any administrative proceeding by any FTAA member relating to any of the FTAA agreements and applied to the persons, goods, or services of any other FTAA member shall be conducted in a manner that—

(I) gives persons of any other FTAA member affected by the proceeding reasonable notice, in accordance with domestic procedures, of when the proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issues in controversy;

(II) gives such persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and

(III) is in accordance with domestic law; and

(v) requiring each FTAA member—

(I) to establish or maintain judicial, quasi-judicial, or administrative tribunals (impartial and independent of the office or authority entrusted with administrative enforcement) or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by any of the FTAA agreements;

(II) to ensure that, in such tribunals or procedures, parties to the proceeding are afforded a reasonable opportunity to support or defend their respective positions; and

(III) to ensure that such tribunals or procedures issue decisions based on the evidence and submissions of record or, where required by domestic law, the record compiled by the office or authority entrusted with administrative enforcement.

(B) To require the institution of regular meetings between officials of an FTAA secretariat, if established, and representatives of nongovernmental organizations, businesses and business groups, labor unions, consumer groups, and other representatives of civil society.

(C) To continue to maintain, expand, and update an official FTAA website in order to disseminate a wide range of information on the FTAA, including the draft texts of the agreements negotiated pursuant to the FTAA, the final text of such agreements, tariff information, regional trade statistics, and links to websites of FTAA member countries that provide further information on government regulations, procedures, and related matters.

(7) GOVERNMENT PROCUREMENT.—The principal negotiating objectives for the United States with respect to government procurement are the following:

(A) To seek the acceptance by all FTAA members of the Agreement on Government Procurement.

(B) To seek conclusion of an agreement on transparency in government procurement.

(C) To promote global use of electronic publication of procurement information, including notices of procurement opportunities.

(8) TRADE REMEDY LAWS.—The principal negotiating objectives for the United States with respect to trade remedy laws are the following:

(A) To preserve the ability of the United States to enforce vigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and not enter into agreements that lessen in any respect the effectiveness of domestic and international disciplines—

(i) on unfair trade, especially dumping and subsidies, or

(ii) that address import increases or surges, such as under the safeguard remedy, in order to ensure that United States workers, farmers and agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions.

(B) To eliminate the underlying causes of unfair trade practices and import surges, including closed markets, subsidization, promoting, enabling, or tolerating anticompetitive practices, and other forms of government intervention that generate or sustain excess, uneconomic capacity.

(9) TRADE AND LABOR MARKET STANDARDS.—The principal negotiating objectives of the United States with respect to trade and labor market standards are the following:

(A) To include enforceable rules that provide for the adoption and enforcement of the following core labor standards: the right of association, the right to bargain collectively, and prohibitions on employment discrimination, child labor, and slave labor.

(B) To establish as the trigger for invoking the dispute settlement process with respect to the obligations under subparagraph (A)—

(i) an FTAA member's failure to effectively enforce its domestic labor standards through a sustained or recurring course of action or inaction, in a manner affecting trade or investment; or

(ii) an FTAA member's waiver or other derogation from its domestic labor standards for the purpose of attracting investment, inhibiting exports by other FTAA members, or otherwise gaining a competitive advantage, recognizing that—

(I) FTAA members retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor matters determined to have higher priorities; and

(II) FTAA members retain the right to establish their own domestic labor standards, and to adopt or modify accordingly labor policies, laws, and regulations, in a manner consistent with the core labor standards identified in subparagraph (A).

(C) To provide for phased-in compliance for least-developed countries comparable to mechanisms utilized in other FTAA agreements.

(D) To create an FTAA work program that—

(i) will provide guidance and technical assistance to FTAA members in supplementing and strengthening their labor laws and regulations, including, in particular, laws and regulations relating to the core labor standards identified in subparagraph (A); and

(ii) includes commitments by FTAA members to provide market access incentives for the least-developed FTAA members to improve adherence to and enforcement of the core labor standards identified in subparagraph (A), and to meet their schedule for phased-in compliance on or ahead of schedule.

(E) To provide for regular review of adherence to core labor standards.

(F) To create exceptions from the obligations under the FTAA agreements for—

(i) products produced by prison labor or slave labor, and products produced by child labor proscribed by Convention 182 of the ILO; and

(ii) actions taken consistent with, and in furtherance of, recommendations made by the ILO.

(10) TRADE AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to trade and the environment are the following:

(A) To obtain rules that provide for the enforcement of environmental laws and regulations relating to—

(i) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;

(ii) the control of environmentally hazardous or toxic chemicals, substances, materials and wastes, and the dissemination of information related thereto; and

(iii) the protection of wild flora or fauna, including endangered species, their habitats, and specially protected natural areas, in the territory of FTAA member countries.

(B) To establish as the trigger for invoking the dispute settlement process—

(i) an FTAA member's failure to effectively enforce such laws and regulations through a sustained or recurring course of action or inaction, in a manner affecting trade or investment, or

(ii) an FTAA member's waiver or other derogation from its domestic environmental laws and regulations, for the purpose of attracting investment, inhibiting exports by other FTAA members, or otherwise gaining a competitive advantage,

recognizing that—

(I) FTAA members retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other environmental matters determined to have higher priorities; and

(II) FTAA members retain the right to establish their own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly environmental policies, laws, and regulations.

(C) To provide for phased-in compliance for least-developed countries, comparable to mechanisms utilized in other FTAA agreements.

(D) To create an FTAA work program that—

(i) will provide guidance and technical assistance to FTAA members in supplementing and strengthening their environmental laws and regulations based on—

(I) the standards in existing international agreements that provide adequate protection; or

(II) the standards in the laws of other FTAA members if the standards in international agreements standards are inadequate or do not exist; and

(ii) includes commitments by FTAA members to provide market access incentives for the least-developed FTAA members to strengthen environmental laws and regulations.

(E) To provide for regular review of adherence to environmental laws and regulations.

(F) To create exceptions from obligations under the FTAA agreements for—

(i) measures taken to provide effective protection of human, animal, or plant life or health;

(ii) measures taken to conserve exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption; and

(iii) measures taken that are in accordance with obligations under any multilateral environmental agreement accepted by both parties to a dispute.

(G) To give priority to trade liberalization measures that promote sustainable development, including eliminating duties on environmental goods, and obtaining commitments on environmental services.

(11) INSTITUTION BUILDING.—The principal negotiating objectives of the United States with respect to institution building are the following:

(A) To improve coordination between the FTAA and other international organizations such as the Organization of American States, the ILO, the United Nations Environment Program, and the Inter-American Development Bank to increase the effectiveness of technical assistance programs.

(B) To ensure that the agreements entered into under the FTAA provide for technical assistance to developing and, in particular, least-developed countries that are members of the FTAA to promote the rule of law, enable them to comply with their obligations under the FTAA agreements, and minimize disruptions associated with trade liberalization.

(12) TRADE AND INVESTMENT.—The principal negotiating objectives of the United States with respect to trade and investment are the following:

(A) To reduce or eliminate artificial or trade-distorting barriers to foreign investment by United States persons and, recognizing that United States law on the whole provides a high level of protection for investments, consistent with or greater than the level required by international law, to secure for investors the rights that would be available under United States law, but no greater rights, by—

(i) ensuring national and most-favored nation treatment for United States investors and investments;

(ii) freeing the transfer of funds relating to investments;

(iii) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(iv) establishing standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice, including by clarifying that expropriation does not arise in cases of mere diminution in value;

(v) codifying the clarifications made on July 31, 2001, by the Free Trade Commission established under Article 2001 of the NAFTA with respect to the minimum standard of treatment under Article 1105 of the NAFTA such that—

(I) any provisions included in an investment agreement setting forth a minimum standard of treatment prescribe only that level of treatment required by customary international law; and

(II) a determination that there has been a breach of another provision of the FTAA, or of a separate international agreement, does not establish that there has been a breach of the minimum standard of treatment;

(vi) ensuring, through clarifications, presumptions, exceptions, or other means in the text of the agreement, that the investor protections do not interfere with an FTAA member's exercise of its police powers under its local, State, and national laws (for example legitimate health, safety, environmental, consumer, and employment opportunity laws and regulations), including by a clarification that the standards in an agreement do not require use of the least trade restrictive regulatory alternative:

(vii) providing an exception for actions taken in accordance with obligations under a multilateral environmental agreement agreed to by both countries involved in the dispute;

(viii) providing meaningful procedures for resolving investment disputes;

(ix) ensuring that—

(I) no claim by an investor directly against a state may be brought unless the investor first submits the claim for approval to the home government of the investor;

(II) such approval is granted for each claim which the investor demonstrates is meritorious;

(III) such approval is considered granted if the investor's home government has not acted upon the submission within a defined reasonable period of time; and

(IV) each FTAA member establishes or designates an independent decisionmaker to determine whether the standard for approval has been satisfied; and

(x) providing a standing appellate mechanism to correct erroneous interpretations of law.

(B) To ensure the fullest measure of transparency in the dispute settlement mechanism established, by—

(i) ensuring that all requests for dispute settlement are promptly made public, to the extent consistent with the need to protect information that is classified or business confidential;

(ii) ensuring that—

(I) all proceedings, submissions, findings, and decisions, are promptly made public; and

(II) all hearings are open to the public, to the extent consistent with need to protect information that is classified or business confidential; and

(iii) establishing a mechanism for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(13) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are the following:

(A) To make permanent and binding on FTAA members the moratorium on customs duties on electronic transmissions declared in the WTO Ministerial Declaration of May 20, 1998.

(B) To ensure that governments refrain from implementing trade-related measures that impede electronic commerce.

(C) To ensure that electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form.

(D) To ensure that the classification of electronically delivered goods and services ensures the most liberal trade treatment possible.

(E) Where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are nondiscriminatory, transparent, and promote an open market environment.

(F) To pursue a regulatory environment that encourages competition in basic telecommunications services abroad, so as to facilitate the conduct of electronic commerce.

(14) DEVELOPING COUNTRIES.—The principal negotiating objectives of the United States with respect to developing countries are the following:

(A) To enter into trade agreements that promote the economic growth of both developing countries and the United States and the mutual expansion of market opportunities.

(B) To ensure appropriate phase-in periods with respect to the obligations of least-developed countries.

(C) To coordinate with the Organization of American States, the Inter-American Development Bank, and other regional and international institutions to provide debt relief and other assistance to promote the rule of law and sound and sustainable development.

(D) To accelerate tariff reductions that benefit least-developed countries.

(15) TRADE AND MONETARY COORDINATION.—The principal negotiating objective of the United States with respect to trade and monetary coordination is to foster stability in international currency markets and develop mechanisms to assure greater coordination, consistency, and cooperation between international trade and monetary systems and institutions in order to protect against the trade consequences of significant and unanticipated currency movements.

(16) ACCESS TO HIGH TECHNOLOGY.—The principal negotiating objectives of the United States with respect to access to high technology are the following:

(A) To obtain the elimination or reduction of foreign barriers to, and of acts, policies, or practices by foreign governments that limit, equitable access by United States persons to foreign-developed technology.

(B) To seek the elimination of tariffs on all information technology products, infrastructure equipment, scientific instruments, and medical equipment.

(C) To pursue the reduction of foreign barriers to high technology products of the United States.

(D) To enforce and promote the Agreement on Technical Barriers to Trade, and ensure that standards, conformity assessment, and technical regulations are not used as obstacles to trade in information technology and communications products.

(E) To require all parties to sign the Information Technology Agreement of the WTO and to expand and update product coverage under such agreement.

(17) CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage are—

(A) to obtain standards applicable to persons from all FTAA member countries that are equivalent to, or more restrictive than, the prohibitions applicable to issuers, domestic concerns, and other persons under section 30A of the Securities and Exchange Act of 1934 and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977; and

(B) to implement mechanisms to ensure effective enforcement of the standards described in subparagraph (A).

(d) BILATERAL AGREEMENTS.—

(1) PRINCIPAL NEGOTIATING OBJECTIVES.—The principal negotiating objectives of the United States in seeking bilateral trade agreements are those objectives set forth in subsection (c), except that in applying such subsection, any references to the FTAA or FTAA member countries shall be deemed to refer to the bilateral agreement, or party to the bilateral agreement, respectively.

(2) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

(e) DOMESTIC OBJECTIVES.—In pursuing the negotiating objectives under subsections (a) through (d), United States negotiators shall take into account legitimate United States domestic (including State and local) objectives, including, but not limited to, the protection of health and safety, essential security, environmental, consumer, and employment opportunity interests and the laws and regulations related thereto.

SEC. 3. CONGRESSIONAL TRADE ADVISERS.

Section 161(a)(1) of the Trade Act of 1974 (19 U.S.C. 2211(a)(1)) is amended to read as follows:

"(1) At the beginning of each regular session of Congress—

"(A) the Speaker of the House of Representatives shall—

"(i) upon the recommendation of the chairman and ranking member of the Committee on Ways and Means, select 5 members (not more than 3 of whom are members of the same political party) of such committee,

"(ii) upon the recommendation of the chairman and ranking member of the Committee on Agriculture, select 2 members (from different political parties) of such committee, and

"(iii) upon the recommendation of the majority leader and minority leader of the House of Representatives, select 2 members of the House of Representatives (from different political parties), and

"(B) the President pro tempore of the Senate shall—

"(i) upon the recommendation of the chairman and ranking member of the Committee on Finance, select 5 members (not more than 3 of whom are members of the same political party) of such committee,

"(ii) upon the recommendation of the chairman and ranking member of the Committee on Agriculture, Nutrition, and Forestry, select 2 members (from different political parties) of such committee, and

"(iii) upon the recommendation of the majority leader and minority leader of the Senate, select 2 members of the Senate (from different political parties),

who shall be designated congressional advisers on trade policy and negotiations. They shall provide advice on the development of trade policy and priorities for the implementation thereof. They shall also be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegations to international conferences, meetings, dispute settlement proceedings, and negotiating sessions relating to trade agreements.".

SEC. 4. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, and objectives of this Act will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) the date that is 5 years after the date of the enactment of this Act, or

(ii) the date that is 7 years after such date of enactment, if fast track procedures are extended under subsection (c), and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment; or

(B) increases any rate of duty above the rate that applied on such date of enactment.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 7 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B) and (2) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization or as part of an interim agreement leading to the formation of a regional free-trade area.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy, or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect,

and that the purposes, policies, and objectives of this Act will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A), or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) the date that is 5 years after the date of the enactment of this Act, or

(ii) the date that is 7 years after such date of enactment, if fast track procedures are extended under subsection (c).

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement substantially achieves the applicable objectives described in section 2 and the conditions set forth in sections 5, 6, and 7 are met.

(3) BILLS QUALIFYING FOR FAST TRACK PROCEDURES.—(A) The provisions of section 151 of the Trade Act of 1974 (in this Act referred to as "fast track procedures") apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this Act be referred to as an "implementing bill".

(B) The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement;

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority; and

(iii) provisions to provide trade adjustment assistance to workers, firms, and communities.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL FAST TRACK PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 5(c), 6(c), and 7(b)—

(A) the fast track procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before the date that is 5 years after the date of the enactment of this Act; and

(B) the fast track procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) on or after the date specified in subparagraph (A) and before the date that is 7 years after the date of such enactment if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (6) before the date specified in subparagraph (A).

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the fast track procedures should be extended to implementing bills to carry out trade agreements under subsection (b), the President shall submit to the Congress, not later than 3 months before the expiration of the 5-year period specified in paragraph (1)(A), a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, and objectives of this Act, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) REPORT TO CONGRESS BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than 2 months before the expiration of the 5-year period specified in paragraph (1)(A), a written report that contains—

(A) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, and objectives of this Act; and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(4) REPORT TO CONGRESS BY CONGRESSIONAL TRADE ADVISERS.—The President shall promptly inform the congressional trade advisers of the President's decision to submit a report to the Congress under paragraph (2). The congressional trade advisers shall submit to the Congress as soon as practicable, but not later than 2 months before the expiration of the 5-year period specified in paragraph (1)(A), a written report that contains—

(A) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, and objectives of this Act; and

(B) a statement of their views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(5) REPORTS MAY BE CLASSIFIED.—The reports under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate, and the report under paragraph (4), or any portion thereof, may be classified.

(6) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term "extension disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the   disapproves the request of the President for the extension, under section 4(c)(1)(B)(i) of the Comprehensive Trade Negotiating Authority Act of 2001, of the fast track procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 4(b) of that Act after the date that is 5 years after the date of the enactment of that Act.", with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after the date that is 5 years after the date of the enactment of this Act.

SEC. 5. COMMENCEMENT OF NEGOTIATIONS.

(a) IN GENERAL.—In order to contribute to the continued economic expansion of the United States and to benefit United States workers, farmers, and businesses, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. The President shall commence negotiations—

(1) to expand existing sectoral agreements to countries that are not parties to those agreements; and

(2) to promote growth, open global markets, and raise standards of living in the United States and other countries and promote sustainable development.

Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products.

(b) CONSULTATION REGARDING NEGOTIATING OBJECTIVES.—With respect to any negotiations for a trade agreement under section 4(b), the following shall apply:

(1) The President shall, in developing strategies for pursuing negotiating objectives set forth in section 2 and other relevant negotiating objectives to be pursued in negotiations, consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(B) the congressional trade advisers; and

(C) other appropriate committees of Congress.

(2) The President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by the country or countries with which the negotiations will be conducted. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than

United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(c) Notice of Initiation; Disapproval Resolutions.—

(1) Notice.—The President shall—

(A) provide, at least 90 calendar days before initiating the proposed negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific negotiating objectives to be pursued in the negotiations, and whether the President intends to seek an agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, the congressional trade advisers, and such other committees of the House of Representatives and the Senate as the President deems appropriate.

(2) Resolutions disapproving initiation of negotiations.—

(A) Inapplicability of fast track procedures to agreements of which certain notice given.—Fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 4(b) pursuant to negotiations with 2 or more countries of which notice is given under paragraph (1)(A) if, during the 90-day period referred to in that subsection, each House of Congress agrees to a disapproval resolution described in subparagraph (B) with respect to the negotiations.

(B) Disapproval resolutions.—For purposes of this paragraph, the term "disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the   disapproves the negotiations of which the President notified the Congress on   , under section 5(c)(1) of the Comprehensive Trade Negotiating Authority Act of 2001 and, therefore, the fast track procedures under that Act shall not apply to any implementing bill submitted with respect to any trade agreement entered into pursuant to those negotiations.", with the first blank space being filled with the name of the resolving House of Congress, and the second blank space being filled with the appropriate date.

(3) Procedures for considering resolutions.—(A) Disapproval resolutions to which paragraph (2) applies—

(i) in the House of Representatives—

(I) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(II) may not be amended by either Committee; and

(ii) in the Senate shall be referred to the Committee on Finance.

(B) The provisions of section 152 (c), (d), and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (c), (d), and (e)) (relating to the consideration of certain resolutions in the House and Senate) apply to any disapproval resolution to which paragraph (2) applies. In applying section 152(c)(1) of the Trade Act of 1974, all calendar days shall be counted.

(C) It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged pursuant to subparagraph (B); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged pursuant to subparagraph (B).

SEC. 6. CONGRESSIONAL PARTICIPATION DURING NEGOTIATIONS.

(a) Consultations With Congressional Trade Advisers and Committees of Jurisdiction.—In the course of negotiations conducted under this Act, the Trade Representative shall—

(1) consult closely and on a timely basis with, and keep fully apprised of the negotiations, the congressional trade advisers, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate;

(2) with respect to any negotiations and agreement relating to agriculture, also consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

(3) consult closely and on a timely basis with other appropriate committees of Congress.

(b) Guidelines for Consultations.—

(1) Guidelines.—The Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the congressional trade advisers—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative, the committees referred to in subsection (a), and the congressional trade advisers; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) Content.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of each committee referred to in subsection (a) and the congressional trade advisers regarding negotiating objectives and positions and the status of negotiations, with more frequent briefings as trade negotiations enter the final stages;

(B) access by members of each such committee, the congressional trade advisers, and staff with proper security clearances, to pertinent documents relating to negotiations, including classified materials; and

(C) the closest practicable coordination between the Trade Representative, each such committee, and the congressional trade advisers at all critical periods during negotiations, including at negotiation sites.

(c) Disapproval Resolutions With Respect to Ongoing Negotiations.—

(1) Negotiations of which notice given.—Fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 4(b) pursuant to negotiations of which notice is given under section 5(c)(1) if, at any time after the end of the 90-day period referred to in section 5(c)((1), during the 120-day period beginning on the date that one House of Congress agrees to a disapproval resolution described in paragraph (3)(A) disapproving the negotiations, the other House separately agrees to a disapproval resolution described in paragraph (3)(A) disapproving those negotiations. The disapproval resolutions of the two Houses need not be in agreement with respect to disapproving any other negotiations.

(2) Prior negotiations.—Fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement to which section 8(a) applies if, during the 120-day period beginning on the date that one House of Congress agrees to a disapproval resolution described in paragraph (3)(B) disapproving the negotiations for that agreement, the other House separately agrees to a disapproval resolution described in paragraph (3)(B) disapproving those negotiations. The disapproval resolutions of the two Houses need not be in agreement with respect to disapproving any other negotiations.

(3) Disapproval resolutions.—(A) For purposes of paragraph (1), the term "disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the   disapproves the negotiations of which the President notified the Congress on   , under section 5(c)(1) of the Comprehensive Trade Negotiating Authority Act of 2001 and, therefore, the fast track procedures under that Act shall not apply to any implementing bill submitted with respect to any trade agreement entered into pursuant to those negotiations.", with the first blank space being filled with the name of the resolving House of Congress, and the second blank space being filled with the appropriate date or dates (in the case of more than 1 set of negotiations being conducted).

(B) For purposes of paragraph (2), the term "disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the   disapproves the negotiations with respect to   , and, therefore, the fast track procedures under the Comprehensive Trade Negotiating Authority Act of 2001 shall not apply to any implementing bill submitted with respect to any trade agreement entered into pursuant to those negotiations.", with the first blank space being filled with the name of the resolving House of Congress, and the second blank space being filled with a description of the applicable trade agreement or agreements.

(4) Procedures for considering resolutions.—(A) Any disapproval resolution to which paragraph (1) or (2) applies—

(i) in the House of Representatives—

(I) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(II) may not be amended by either Committee; and

(ii) in the Senate shall be referred to the Committee on Finance.

(B) The provisions of section 152 (c), (d), and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (c), (d), and (e)) (relating to the consideration of certain resolutions in the House and Senate) apply to any disapproval resolution to which paragraph (1) or (2) applies if—

(i) there are at least 145 cosponsors of the resolution, in the case of a resolution of the House of Representatives, and at least 34 cosponsors of the resolution, in the case of a resolution of the Senate; and

(ii) no resolution that meets the requirements of clause (i) has previously been considered under such provisions of section 152 of the Trade Act of 1974 in that House of Congress during that Congress.

In applying section 152(c)(1) of the Trade Act of 1974, all calendar days shall be counted.

(C) It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged pursuant to subparagraph (B); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged pursuant to subparagraph (B).

(5) COMPUTATION OF CERTAIN TIME PERIODS.—Each period of time referred to in paragraphs (1) and (2) shall be computed without regard to—

(A) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House of Congress is not in session.

(d) ENVIRONMENTAL ASSESSMENT.—

(1) INITIATION OF ASSESSMENT.—Upon the commencement of negotiations for a trade agreement under section 4(b), the Trade Representative, jointly with the Chair of the Council on Environmental Quality, and in consultation with other appropriate Federal agencies, shall commence an assessment of the effects on the environment of the proposed trade agreement.

(2) CONTENT.—The assessment under paragraph (1) shall include an examination of—

(A) the potential effects of the proposed trade agreement on the environment, natural resources, and public health;

(B) the extent to which the proposed trade agreement may affect the laws, regulations, policies, and international agreements of the United States, including State and local laws, regulations, and policies, relating to the environment, natural resources, and public health;

(C) measures to implement, and alternative approaches to, the proposed trade agreement that would minimize adverse effects and maximize benefits identified under subparagraph (A); and

(D) a detailed summary of the manner in which the results of the assessment were taken into consideration in negotiation of the proposed trade agreement, and in development of measures and alternative means identified under subparagraph (C).

(3) PROCEDURES.—The Trade Representative shall commence the assessment under paragraph (1) by publishing notice thereof, and a request for comments thereon, in the Federal Register and transmitting notice thereof to the Congress. The notice shall be given as soon as possible after sufficient information exists concerning the scope of the proposed trade agreement, but in no case later than 30 calendar days before the applicable negotiations begin. The notice shall contain—

(A) the principal negotiating objectives of the United States to be pursued in the negotiations;

(B) the elements and topics expected to be under consideration for coverage by the proposed trade agreement;

(C) the countries expected to participate in the agreement; and

(D) the sectors of the United States economy likely to be affected by the agreement.

(4) CONSULTATIONS WITH CONGRESS.—The Trade Representative shall submit to the Congress—

(A) within 6 months after the onset of negotiations, a preliminary draft of the environmental assessment conducted under this subsection; and

(B) not later than 90 calendar days before the agreement is signed by the President, the final version of the environmental assessment.

(5) PARTICIPATION OF OTHER FEDERAL AGENCIES AND DEPARTMENTS.—(A) In conducting the assessment required under paragraph (1), the Trade Representative and the Chair of the Council on Environmental Quality shall draw upon the knowledge of the departments and agencies with relevant expertise in the subject matter under consideration, including, but not limited to, the Environmental Protection Agency, the Departments of the Interior, Agriculture, Commerce, Energy, State, the Treasury, and Justice, the Agency for International Development, the Council of Economic Advisors, and the International Trade Commission.

(B) The heads of the departments and agencies identified in subparagraph (A), and the heads of other departments and agencies with relevant expertise shall provide such resources as are necessary to conduct the assessment required under this subsection.

(6) CONSULTATIONS WITH THE ADVISORY COMMITTEE.—(A) Section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) is amended in the first sentence—

(i) by striking "may establish" and inserting "shall establish"; and

(ii) by inserting "environmental issues," after "defense".

(B) In developing measures and alternatives means identified under paragraph (2)(C), the Trade Representative and the Chair of the Council on Environmental Quality shall consult with the environmental general policy advisory committee established pursuant to section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)), as amended by subparagraph (A) of this paragraph.

(7) PUBLIC PARTICIPATION.—The Trade Representative shall publish the preliminary and final environmental assessments in the Federal Register. The Trade Representative shall take into account comments received from the public pursuant to notices published under this subsection and shall include in the final assessment a discussion of the public comments reflected in the assessment.

(e) LABOR REVIEW.—

(1) INITIATION OF REVIEW.—Upon the commencement of negotiations for a trade agreement under section 4(b), the Trade Representative, jointly with the Secretary of Labor and the Commissioners of the International Trade Commission, and in consultation with other appropriate Federal agencies, shall commence a review of the effects on workers in the United States of the proposed trade agreement.

(2) CONTENT.—The review under paragraph (1) shall include an examination of—

(A) the extent to which the proposed trade agreement may affect job creation, worker displacement, wages, and the standard of living for workers in the United States;

(B) the scope and magnitude of the effect of the proposed trade agreement on the flow of workers to and from the United States;

(C) the extent to which the proposed agreement may affect the laws, regulations, policies, and international agreements of the United States relating to labor; and

(D) proposals to mitigate any negative effects of the proposed trade agreement on workers, firms, and communities in the United States, including proposals relating to trade adjustment assistance.

(3) PROCEDURES.—The Trade Representative shall commence the review under paragraph (1) by publishing notice thereof, and a request for comments thereon, in the Federal Register and transmitting notice thereof to the Congress. The notice shall be given not later than 30 calendar days before the applicable negotiations begin. The notice shall contain—

(A) the principal negotiating objectives of the United States to be pursued in the negotiations;

(B) the elements and topics expected to be under consideration for coverage by the proposed trade agreement;

(C) the countries expected to participate in the agreement; and

(D) the sectors of the United States economy likely to be affected by the agreement.

(4) CONSULTATIONS WITH CONGRESS.—The Trade Representative shall submit to the Congress—

(A) within 6 months after the onset of negotiations, a preliminary draft of the labor review conducted under this subsection; and

(B) not later than 90 calendar days before the agreement is signed by the President, the final version of the labor review.

(5) PARTICIPATION OF OTHER DEPARTMENTS AND AGENCIES.—(A) In conducting the review required under paragraph (1), the Trade Representative, the Secretary of Labor, and the International Trade Commission shall draw upon the knowledge of the departments and agencies with relevant expertise in the subject matter under consideration.

(B) The heads of the departments and agencies referred to in subparagraph (A) shall provide such resources as are necessary to conduct the review required under this subsection.

(6) CONSULTATION WITH THE ADVISORY COMMITTEE.—In developing proposals under paragraph (2)(D), the Trade Representative and the Secretary of Labor shall consult with the labor general policy advisory committee established pursuant to section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)), as amended by subsection (d)(6)(A) of this section.

(7) PUBLIC PARTICIPATION.—The Trade Representative shall publish the preliminary and final labor reviews in the Federal Register. The Trade Representative shall take into account comments received from the public pursuant to notices published under this subsection and shall include in the final review a discussion of the public comments reflected in the review.

(f) NOTICE OF EFFECT ON UNITED STATES TRADE REMEDIES.—

(1) NOTICE.—In any case in which negotiations being conducted to conclude a trade agreement under section 4(b) could affect the trade remedy laws of the United States or the rights or obligations of the United States under the Antidumping Agreement, the Agreement on Subsidies and Countervailing Measures, or the Agreement on Safeguards, except insofar as such negotiations are directly and exclusively related to perishable and seasonal agricultural products, the Trade Representative shall, at least 90 calendar days before the President signs the agreement, notify the Congress of the specific language that is the subject of the negotiations and the specific possible impact on existing United States laws and existing United States rights and obligations under those WTO Agreements.

(2) DEFINITION.—In this subsection, the term "trade remedy laws of the United

States" means section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.), chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.), section 406 of the Trade Act of 1974 (19 U.S.C. 2436), and chapter 2 of title IV of the Trade Act of 1974 (19 U.S.C. 2451 et seq.).

(g) Report on Investment Dispute Settlement Mechanism.—If any agreement concluded under section 4(b) with respect to trade and investment includes a dispute settlement mechanism allowing an investor to bring a claim directly against a country, the President shall submit a report to the Congress, not later than 90 calendar days before the President signs the agreement, explaining in detail the meaning of each standard included in the dispute settlement mechanism, and explaining how the agreement does not interfere with the exercise by a signatory to the agreement of its police powers under its national (including State and local) laws, including legitimate health, safety, environmental, consumer, and employment opportunity laws and regulations.

(h) Consultation With Congress Before Agreements Entered Into.—

(1) Consultation.—Before entering into any trade agreement under section 4(b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(B) the congressional trade advisers; and

(C) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) Scope.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of this Act; and

(C) the implementation of the agreement under section 7, including the general effect of the agreement on existing laws.

(i) Advisory Committee Reports.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 4(a) or (b) of this Act shall be provided to the President, the Congress, and the Trade Representative not later than 30 calendar days after the date on which the President notifies the Congress under section 7(a)(1)(A) of the President's intention to enter into the agreement.

(j) ITC Assessment.—

(1) In general.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 4(b), shall provide the International Trade Commission (referred to in this subsection as "the Commission") with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ITC assessment.—Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) Review of empirical literature.—In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

(k) Rules of House of Representatives and Senate.—Section 4(c), section 5(c), and subsection (c) of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 7. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) In General.—

(1) Notification, submission, and enactment.—Any agreement entered into under section 4(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 120 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, certifies to the Congress the trade agreement substantially achieves the principal negotiating objectives set forth in section 2 and those developed under section 5(b)(1);

(C) within 60 calendar days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(D) after entering into the agreement, the President submits to the Congress a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill;

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(E) the implementing bill is enacted into law.

(2) Supporting information.—The supporting information required under paragraph (1)(D)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement substantially achieves the applicable purposes, policies, and objectives of this Act; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement substantially achieves the applicable purposes, policies, and objectives referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives;

(II) how the agreement serves the interests of United States commerce; and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement;

(iii) describing the efforts made by the President to obtain international exchange rate equilibrium and any effect the agreement may have regarding increased international monetary stability; and

(iv) describing the extent, if any, to which—

(I) each foreign country that is a party to the agreement maintains non-commercial state trading enterprises that may adversely affect, nullify, or impair the benefits to the United States under the agreement; and

(II) the agreement applies to or affects purchases and sales by such enterprises.

(3) Reciprocal benefits.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 4(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(b) Limitations on Fast Track Procedures; Concurrence by Congressional Trade Advisers in President's Certification.—

(1) Concurrence by congressional trade advisers.—The fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement of which notice was provided under subsection (a)(1)(A) unless a majority of the congressional trade advisers, by a vote held not later than 30 days after the President submits the certification to Congress under subsection (a)(1)(B) with respect to the trade agreement, concur in the President's certification. The failure of the congressional trade advisers to hold a vote within that 30-day period shall be considered to be concurrence in the President's certification.

(2) Computation of time period.—The 30-day period referred to in paragraph (1) shall be computed without regard to—

(A) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House of Congress is not in session.

SEC. 8. TREATMENT OF CERTAIN TRADE AGREEMENTS.

(a) Certain Agreements.—Notwithstanding section 4(b)(2), if an agreement to which section 4(b) applies—

(1) is entered into under the auspices of the World Trade Organization regarding the

rules of origin work program described in article 9 of the Agreement on Rules of Origin,

(2) is entered into otherwise under the auspices of the World Trade Organization,

(3) is entered into with Chile,

(4) is entered into with Singapore, or

(5) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) Treatment of Agreements.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the fast track procedures to implementing bills shall be determined without regard to the requirements of section 5; and

(2) the President shall consult regarding the negotiations described in subsection (a) with the committees described in section 5(b)(1) and the congressional trade advisers as soon as feasible after the enactment of this Act.

(c) Applicability of Environmental Assessment.—

(1) Uruguay round agreements and FTAA.—With respect to agreements identified in paragraphs (2) and (5) of subsection (a)—

(A) the notice required under section 6(d)(3) shall be given not later than 30 days after the date of the enactment of this Act; and

(B) the preliminary draft of the environmental assessment required under section 6(d)(4) shall be submitted to the Congress not later than 18 months after such date of enactment.

(2) Chile and Singapore.—With respect to agreements identified in paragraphs (3) and (4) of subsection (a), the Trade Representative shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate to determine the appropriate time frame for submission to the Congress of an environmental assessment meeting the requirements of section 6(d)(2).

(3) Rules of origin.—The requirements of section 6(d)(1) shall not apply to an agreement identified in subsection (a)(1).

(d) Applicability of Labor Review.—

(1) Uruguay round agreements and FTAA.—With respect to agreements identified in paragraphs (2) and (5) of subsection (a)—

(A) the notice required under section 6(e)(3) shall be given not later than 30 days after the date of the enactment of this Act; and

(B) the preliminary draft of the labor review required under section 6(e)(4) shall be submitted to the Congress not later than 18 months after such date of enactment.

(2) Chile and Singapore.—With respect to agreements identified in paragraphs (3) and (4) of subsection (a), the Trade Representative shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate to determine the appropriate time frame for submission to the Congress of an environmental assessment meeting the requirements of section 6(e)(2).

(3) Rules of origin.—The requirements of section 6(e)(1) shall not apply to an agreement identified in subsection (a)(1).

SEC. 9. ADDITIONAL REPORT AND STUDIES.

(a) Report on Trade-Restrictive Practices.—Not later than 1 year after the date of the enactment of this Act, the President shall transmit to the Congress a report on trade-restrictive practices of foreign countries that are promoted, enabled, or facilitated by governmental or private entities in those countries, or that involve the delegation of regulatory powers to private entities.

(b) Annual Study on Fluctuations in Exchange Rate.—The Trade Representative shall prepare and submit to the Congress, not later than of each year, a study of how fluctuations in the exchange rate caused by the monetary policies of the trading partners of the United States affect trade.

SEC. 10. ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.

At the time the President submits to the Congress the final text of an agreement pursuant to section 7(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement. The implementation and enforcement plan shall include the following:

(1) Border personnel requirements.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) Agency staffing requirements.—A description of additional personnel required by Federal agencies responsible for monitoring, implementing, and enforcing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to evaluate sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, the Environmental Protection Agency, the Department of the Interior, the Department of Labor, and such other departments and agencies as may be necessary.

(3) Customs infrastructure requirements.—A description of the additional equipment and facilities needed by the United States Customs Service.

(4) Impact on state and local governments.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) Cost analysis.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

SEC. 11. TECHNICAL AND CONFORMING AMENDMENTS.

(a) In General.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows: .

(1) Implementing bill.—

(A) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking "section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act" and inserting "section 282 of the Uruguay Round Agreements Act, or section 7(a)(1) of the Comprehensive Trade Negotiating Authority Act of 2001".

(B) Section 151(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking "or section 282 of the Uruguay Round Agreements Act" and inserting ", section 282 of the Uruguay Round Agreements Act, or section 7(a)(1) of the Comprehensive Trade Negotiating Authority Act of 2001".

(2) Advice from international trade commission.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 123 of this Act or section 4(a) or (b) of the Comprehensive Trade Negotiating Authority Act of 2001,"; and

(ii) in paragraph (2), by striking "section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 4(b) of the Comprehensive Trade Negotiating Authority Act of 2001";

(B) in subsection (b), by striking "section 1102(a)(3)(A)" and inserting "section 4(a)(3)(A) of the Comprehensive Trade Negotiating Authority Act of 2001" before the end period; and

(C) in subsection (c), by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 4 of the Comprehensive Trade Negotiating Authority Act of 2001,".

(3) Hearings and advice.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988," each place it appears and inserting "section 4 of the Comprehensive Trade Negotiating Authority Act of 2001,".

(4) Prerequisites for offers.—Section 134(b) (19 U.S.C. 2154(b)) is amended by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 4 of the Comprehensive Trade Negotiating Authority Act of 2001".

(5) Advice from private and public sectors.—Section 135 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 4 of the Comprehensive Trade Negotiating Authority Act of 2001";

(B) in subsection (e)(1)—

(i) by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" each place it appears and inserting "section 4 of the Comprehensive Trade Negotiating Authority Act of 2001"; and

(ii) by striking "section 1103(a)(1)(A) of such Act of 1988" and inserting "section 7(a)(1)(A) of the Comprehensive Trade Negotiating Authority Act of 2001"; and

(C) in subsection (e)(2), by striking "section 1101 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 2 of the Comprehensive Trade Negotiating Authority Act of 2001".

(6) Transmission of agreements to Congress.—Section 162(a) (19 U.S.C. 2212(a)) is amended by striking "or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "or under section 4 of the Comprehensive Trade Negotiating Authority Act of 2001".

(b) Application of Certain Provisions.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 4 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 4 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

SEC. 12. DEFINITIONS.

In this Act:

(1) Agreements.—Any reference to any of the following agreements is a reference to that same agreement referred to in section 101(d) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)):

(A) The Agreement on Agriculture.

(B) The Agreement on the Application of Sanitary and Phytosanitary Measures.

(C) The Agreement on Technical Barriers to Trade.

(D) The Agreement on Trade-Related Investment Measures.

(E) The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

(F) The Agreement on Rules of Origin.

(G) The Agreement on Subsidies and Countervailing Measures.

(H) The Agreement on Safeguards.

(I) The General Agreement on Trade in Services.

(J) The Agreement on Trade-Related Aspects of Intellectual Property Rights.

(K) The Agreement on Government Procurement.

(2) ANTIDUMPING AGREEMENT.—The term "Antidumping Agreement" means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

(3) APPELLATE BODY; DISPUTE SETTLEMENT BODY; DISPUTE SETTLEMENT PANEL; DISPUTE SETTLEMENT UNDERSTANDING.—The terms "Appellate Body", "Dispute Settlement Body"; "dispute settlement panel", and "Dispute Settlement Understanding" have the meanings given those terms in section 121 of the Uruguay Round Agreements Act (35 U.S.C. 3531).

(4) BUSINESS CONFIDENTIAL.—Information or evidence is "business confidential" if disclosure of the information or evidence is likely to cause substantial harm to the competitive position of the entity from which the information or evidence would be obtained.

(5) CONGRESSIONAL TRADE ADVISERS.—The term "congressional trade advisers means the congressional advisers for trade policy and negotiations designated under section 161(a)(1) of the Trade Act of 1974 (19 U.S.C. 2211(a)(1)).

(6) FTAA.—The term "FTAA" means the Free Trade Area of the Americas or comparable agreement reached between the United States and the countries in the Western Hemisphere.

(7) FTAA AGREEMENT.—The term "FTAA agreements" means any agreements entered into to establish or carry out the FTAA.

(8) FTAA MEMBER; FTAA MEMBER COUNTRY.—The terms "FTAA member" and "FTAA member country" mean a country that is a member of the FTAA.

(9) GATT 1994.—The term "GATT 1994" has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(10) ILO.—The term "ILO" means the International Labor Organization.

(11) IMPLEMENTING BILL.—The term "implementing bill" has the meaning given that term in section 151(b)(1) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)).

(12) NAFTA.—The term "NAFTA" means the North American Free Trade Agreement.

(13) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(14) UNITED STATES PERSON.—The term "United States person" means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(15) URUGUAY ROUND AGREEMENTS.—The term "Uruguay Round Agreements" has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(16) WTO.—The term "WTO" means the organization established pursuant to the WTO Agreement.

(17) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

Mr. RANGEL (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. RANGEL) is recognized for 5 minutes on his motion to recommit.

Mr. RANGEL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, this is a very emotional time for me, because our Speaker said that this bill is just as important as fighting the war against terrorism. I think that is a big stretch, to compare the loss of American lives at Ground Zero to the passage of this bill as being on the same level. We cannot bring back those lives at Ground Zero, but we can get another chance to give the President the authority that so many of us believe that he wants and he deserves in order to have an effective trade policy.

We do not believe that under our government and the democratic way that we expect to legislate, that what we are doing is undercutting the President of the United States. We believe in our democratic world that the majority and the minority should have an opportunity to express themselves,, and the fact that someone can pick up some Democratic friends in the middle of the night does not mean that the process of having bills and having hearings on bills and amendments on bills and having the people on the Committee on Ways and Means have an opportunity to discuss these things means to take away these rights, and for us to stand up for what we know is morally and legislatively right, that we are undercutting the President of the United States.

If the Committee on Rules says that we cannot express ourselves, we will fight on this. But we will salute that flag just as high as anybody else. And to infer that to vote against this piece of legislation, which we have no idea where it is going in the Senate, that it is the end of the day and that we are not fighting, that we are not as patriotic as the next American, wrong.

I will tell you this: This is just the beginning of our fight against terrorism, and this should be the beginning of us continuing to fight hard to maintain bipartisanship in this House and on the other side. We should not use our fight against terrorism loosely, and we should not compare the bill before us as the same thing in fighting the war against terrorism.

I just hope we recognize that we can defeat this bill before us. We can vote on the motion to recommit. We can make certain that we are concerned about the rights of kids, that they do not have to be involved in working in foreign governments and labor and be abused; protecting the environment; make certain we protect the constitutional rights of the Members of the House.

We can do all of those things. We can be patriots. We can be Americans and we can do these things.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, this debate is about trade and not about terrorism. It is not about American leadership. America must lead in trade in the right direction. Trade must expand, and it has to be shaped as that happens, and that is what we have been doing these last years. We have voted on these bills. Do not pretend they do not exist.

The Thomas bill would turn back the clock in key areas including those relating to labor.

☐ 1530

I am an internationalist. This is not about isolationism. It is about how we shape our role as internationalists. It is not about protectionism. We are beyond that. Trade is so important that the role of Congress has to change. We cannot be rubber stamps or silent partners or consultants. We must be participants.

The Thomas bill falls so far short in that way. Vote, vote for the motion to recommit; and if that fails, vote against Thomas; and then if Thomas goes down and the recommittal motion goes down, we will come back and do it the right way.

Mr. RANGEL. Mr. Speaker, I yield the balance of my time to the minority leader.

Mr. GEPHARDT. Mr. Speaker, as I said previously, I want to commend the gentleman from New York (Mr. RANGEL) and the gentleman from California (Mr. MATSUI) and the gentleman from Michigan (Mr. LEVIN) for their hard work on this alternative. They have worked endlessly to put together what they believe to be the right trade policy for our country.

I agree with it entirely. I think it is the kind of vision that we need in trade. I think it is the kind of vision that we will ultimately come to in trade, and I urge Members to seriously consider voting for it.

The only way we will get these changes made in trade policy is if we have the votes to pass this kind of a motion. So I strongly recommend it to Members.

I honor their hard work and scholarship, their seriousness of purpose. It is a remarkable job that they have done, and I urge Members to vote for what I believe to be the right vision on trade for America now and in the future.

Mr. THOMAS. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California is recognized for 5 minutes.

Mr. THOMAS. Mr. Speaker, most others would oppose this if they had told us what was in it during their 5 minutes; but that usually is my job, to tell people what is in the motion to recommit.

First of all, that is the motion to recommit, and I do have to compliment the gentleman from New York (Mr. RANGEL) in which he utilized patriotism by condemning others using patriotism to urge that my colleagues support his motion to recommit. Nicely done.

What the minority leader said was that this position contains all the right issues.

The gentleman from Michigan (Mr. LEVIN), who is the author of this, says that it moves in the right direction; and in fact, the key phrase from the gentleman from Michigan is it says it is how we should shape our world.

I want my colleagues to think about a document which the minority asks us to vote for, which more than 75 pages consists of mandates, of requirements that others must meet. To give my colleagues the flavor of the 75 pages of mandates, we only have to get to page 6 when it says any agreement that comes back must maintain bona fide food aid programs. Now, what is a bona fide food aid program? Whatever it is, the agreement between whoever country works with us must maintain a bona fide food aid program.

My colleagues can imagine 75 pages of maintaining, to preserve, to promote, to eliminate, to achieve, to explore, to develop, to identify, to clarify and on and on, that an agreement has to meet these because they are mandates, and if they do not meet them, guess what? There is a structure that will judge whether or not those mandates have been met.

First of all, to get an agreement through Congress in this package, requires that my colleagues vote not once, remember, normally, this is called Fast Track, that we do not vote once, that we do not have to vote twice, but we have to vote three times; and every time we have to achieve a majority.

On those 75 pages of mandates, this is the structure to determine whether or not the agreement has met the particular mandate. It takes nine Members of the House and nine Members of the Senate, and it constructs them so that the nine and the nine just happen to be nine Democrats and nine Republicans, and if they hold their party line, if the AFL-CIO is able to hold the party line, any agreement goes down because to get an agreement not only requires us to go through those three separate votes, but we then have to on any one of these 75 pages of mandates, have to get a majority of that structure to go forward.

I know that sometimes bringing countries together over the negotiating table is difficult to do; and that is why, in committee, when this was offered as a substitute, with 17 Democrats on the committee, the leadership of the Committee on Ways and Means, laying this in front of their Democratic colleagues, did not get 17 vote, did not get 16 votes, did not get 14 vote, did not get 13 votes. They were able to muster 12 of the 17 in support of this; and once my colleagues know what is inside of it, we begin to wonder about the 12 that voted for it.

That is why they would not spend one minute of their time telling us what is in this document; but if my colleagues examine it, what it is is a guarantee that unless and until one or two people's vision over there of how we shape our world is in each and every document, we will not have a trade agreement. That is not the way a trade agreement arrangement should work.

I want to compliment the Democrats that voted against it in Ways and Means. I want to compliment the Democrats who will vote down the motion to recommit, and I want to compliment all of those who will support Trade Promotion Authority for the President.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. RANGEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair announces that he will reduce to 5 minutes the period of time within which a vote by electronic device will be taken on the question of the passage of the bill.

The vote was taken by electronic device, and there were—ayes 162, noes 267, not voting 5, as follows:

[Roll No. 480]

AYES—162

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boswell
Boucher
Brown (FL)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
Deutsch
Doggett
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
Levin
Lewis (GA)
Lipinski
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Nadler
Napolitano
Neal
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Solis
Spratt
Stark
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wynn

NOES—267

Aderholt
Akin
Armey
Baca
Bachus
Baker
Baldwin
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
DeMint
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Larsen (WA)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Manzullo
Mascara
Matheson
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary

Miller, Jeff
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Riley
Rivers
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Traficant
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Wu
Young (FL)

NOT VOTING—5

Hostettler
Meek (FL)
Quinn
Roukema
Young (AK)

☐ 1559

Mr. GREENWOOD, Mr. WALSH, Mrs. CUBIN, Messrs. BROWN of South Carolina, COX, STRICKLAND, HERGER, BORSKI, MURTHA, Ms. VELÁZQUEZ, Messrs. DOYLE, MASCARA, BRADY of Pennsylvania, RAHALL, HOLDEN, and KANJORSKI changed their vote from "aye" to "no."

Mr. MEEHAN changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

☐ 1600

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Notwithstanding the Chair's earlier announcement, the time for electronic vote on passage, if ordered, will be 15 minutes.

The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCDERMOTT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 214, not voting 5, as follows:

[Roll No. 481]

AYES—215

Akin
Armey
Bachus
Baker
Ballenger
Barr
Barton
Bass
Bentsen
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Carson (OK)
Castle
Chabot
Chambliss
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCrery
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Radanovich
Ramstad
Rehberg
Reynolds
Riley
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (TX)
Snyder
Souder
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (FL)

NOES—214

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Duncan
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Foley
Ford
Frank
Frost
Gephardt
Gilman
Gonzalez
Goode
Gordon
Graham
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Murtha
Nadler
Napolitano
Neal
Norwood
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Putnam
Rahall
Rangel
Regula
Reyes
Rivers
Rodriguez
Roemer
Rogers (KY)
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Walsh
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Hostettler
Meek (FL)
Quinn
Roukema
Young (AK)

☐ 1637

Mr. DEMINT changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2883, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2002

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, December 6, 2001, to file a conference report on the bill (H.R. 2883) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Florida?

There was no objection.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 2944, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2002

Mr. LINDER. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider the conference report to accompany the bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes; that all points of order against the conference report and against its consideration be waived; that the conference report be considered as read when called up; and that H. Res. 307 be laid on the table.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

GENERAL LEAVE

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2944, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON H.R. 2944, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2002

Mr. KNOLLENBERG. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report accompanying the bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the previous order of the House, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 5, 2001, at page H8914.)

The SPEAKER pro tempore. The gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to bring to the House the conference report for H.R. 2944, the fiscal year 2002, the District of Columbia Appropriations Act. When I took the helm of the Subcommittee on the District of Columbia of the Committee on Appropriations in January, I said I wanted to be a partner with the District of Columbia as we jointly developed an agenda that promotes the continued renaissance of the city. Our subcommittee held several hearings covering a broad range of issues that I believe were tremendous assets as we crafted the bill. Our focus then, as it is now, was on economic development, education, and public safety, and they remain my focus, as they will in the future.

□ 1645

I believe this conference agreement reflects this commitment and the hard work of each and every member of the Subcommittee on the District of Columbia of the Committee on Appropriations. Their collective and individual dedication and expertise is to be commended.

As I wrap up the first year as chairman of the subcommittee, I want to thank two of my colleagues in particular. First, I wish to thank the gentleman from Pennsylvania (Mr. FATTAH) for all the great work he has done as a member of the committee from Pennsylvania.

We have worked, I think, very well in this process. There have been open channels of communication. His advice and counsel have been very valuable to me, and I think truly we have a better bill because of him.

I also want to thank the District of Columbia and the gentlewoman from the District of Columbia (Ms. NORTON). She is a tireless advocate for the city, and the District's residents are lucky to have her. She has been very open and candid with me, and has been a very valuable source of information.

Before I move the bill, I would like to thank the many staff members: Migo Miconi and Mary Porter of the subcommittee staff, and also Jeff Onizuk and Candra Symonds from my own staff; Tom Forhan from the minority staff has been a great help, and William Miles of Mr. FATTAH'S staff, as well. There have been many long days and long nights, and their dedication and professionalism has been something worthy of a lot of praise.

I want to also salute Mary Porter, who has been staffing this bill for 40 years. Mary is behind me here somewhere.

I believe this is a fiscally responsible conference report, and I will not go into all the details; there are many. But I can tell the Members this: We were all, I believe, very pleased with what did develop here. It is a bipartisan effort, and one that myself and the gentleman from Pennsylvania (Mr. FATTAH) have worked to bring about.

I just want to emphasize that this legislation does eliminate approximately half of the general provisions contained in last year's legislation, and it does some things that simplify things, I believe, for us in the future.

Obviously, the events of 9-11 were a concern for all of us, and D.C., outside of New York City, was the most focused-upon city in the country because of the terrorist attacks.

Mr. Speaker, I include for the RECORD a chart relating to H.R. 2944, District of Columbia Appropriations Act, 2002:

H.R. 2944 - District of Columbia Appropriations Act, 2002

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
FEDERAL FUNDS						
Federal payment for Resident Tuition Support	17,000	17,000	17,000	17,000	17,000	
Capitol City Career Dev & Job Training Partnership			1,500		500	+500
Federal payment to Capitol Education Fund					500	+500
Federal payment to Metropolitan Kappa Youth Development Foundation, Inc					450	+450
Federal payment for World Bank/IMF meeting		15,918				
Fed payment to the Fire & Emergency Med Services Dept			500		500	+500
Federal payment to the Chief Medical Examiner			585		585	+585
Federal payment to the Youth Life Foundation			250		250	+250
Federal payment to Food and Friends			2,000		2,000	+2,000
Federal payment to the City Administrator			300		300	+300
Federal payment to Southeastern University			500		500	+500
Fed payment to the Voyager Universal Literacy System			1,000			
Federal payment to DCPS	500			2,750	2,500	+2,000
Fed payment to the Office of the Chief Tech Officer			500			
Federal Law Enforcement Mobile Interoperability project				1,400	1,400	+1,400
Federal payment for Emergency Planning and Security Costs in the District of Columbia			16,058	16,058	16,058	+16,058
Federal Payment to the Chief Financial Office of the District of Columbia	1,250		2,350	5,900	8,300	+7,050
(Supplemental funding)	750					-750
(By transfer, supplemental funding)	(250)					(-250)
Federal payment to the District of Columbia Corrections Trustee Operations	134,200	32,700	32,700	32,700	30,200	-104,000
Federal payment to the District of Columbia Courts	105,000	111,378	111,238	140,181	112,180	+7,180
Miscellaneous appropriations (P.L. 106-554)	400					-400
Crime victims fund (misc appropriations P.L. 106-554) 1/	18,000					-18,000
Federal payment for Family Court Act			23,316		24,016	+24,016
Defender Services in District of Columbia Courts	34,387	34,311	34,311	39,311	34,311	-76
Federal payment to the Court Services and Offender Supervision Agency for the District of Columbia	112,527	147,300	147,300	147,300	147,300	+34,773
Children's National Medical Center	500		5,500	3,200	5,500	+5,000
St. Coletta of Greater Washington Expansion Project	1,000		1,000		2,000	+1,000
Federal payment to Faith and Politics Institute			50		50	+50
Federal payment to the Thurgood Marshall Academy Charter School				1,000	1,000	+1,000
Federal payment to the George Washington University Center for Excellence in Municipal Management				250	250	+250
Federal payment for Child and Family Services Computer Integration Plan				200		
Federal payment to the District of Columbia Court Appointed Special Advocates Unit				250	250	+250
Federal payment to the Child and Family Agency				500		
Federal Contribution for Enforcement of Law Banning Possession of Tobacco Products by Minors (Sec. 130)	100		100		100	
Federal payment for Commercial Revitalization program	1,500					-1,500
Federal payment for Metropolitan Police Department	100					-100
Contribution to Covenant House Washington	500					-500
Federal payment of Washington Interfaith Network	1,000					-1,000
Federal payment for Plan to Simplify Employee Compensation Systems	250					-250
Metrorail construction	25,000					-25,000
Federal payment for Brownfield remediation	3,450					-3,450
Presidential Inauguration	5,961					-5,961
Child Advocacy Center	500					-500
District of Columbia Special Olympics	250					-250
Total, Federal funds to the District of Columbia	464,125	358,607	398,058	408,000	408,000	-56,125
DISTRICT OF COLUMBIA FUNDS						
Operating Expenses						
District of Columbia Financial Responsibility and Management Assistance Authority	(3,140)					(-3,140)
Governmental direction and support	(195,771)	(284,559)	(285,359)	(307,117)	(286,138)	(+90,367)
(Supplemental funding)	(5,150)					(-5,150)
Economic development and regulation	(205,638)	(230,878)	(230,878)	(230,878)	(230,878)	(−25,240)
(Supplemental funding)	(1,685)					(-1,685)
Public safety and justice	(762,546)	(632,668)	(633,853)	(632,668)	(633,853)	(-128,693)
(Supplemental funding)	(8,871)					(-8,871)
Public education system	(998,918)	(1,106,165)	(1,106,165)	(1,108,915)	(1,108,665)	(+109,747)
(Supplemental funding)	(13,000)					(-13,000)
Human support services	(1,535,654)	(1,803,923)	(1,803,923)	(1,803,923)	(1,803,923)	(+268,269)
(Supplemental funding)	(28,000)					(-28,000)
Public works	(278,242)	(300,151)	(300,151)	(300,151)	(300,151)	(+21,909)
(Supplemental funding)	(131)					(-131)
Receivership Programs	(389,528)	(403,368)	(403,368)	(403,868)	(403,868)	(+14,340)
Workforce Investments		(42,896)	(42,896)	(42,896)	(42,896)	(+42,896)
(Supplemental funding)	(40,500)					(-40,500)
Reserve	(150,000)	(150,000)	(150,000)	(120,000)	(120,000)	(-30,000)
Reserve Relief				(30,000)	(30,000)	(+30,000)

H.R. 2944 - District of Columbia Appropriations Act, 2002 — continued

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Repayment of Loans and Interest	(243,238)	(247,902)	(247,902)	(247,902)	(247,902)	(+4,664)
Repayment of General Fund Recovery Debt	(39,300)	(39,300)	(39,300)	(39,300)	(39,300)	....
Payment of Interest on Short-Term Borrowing	(1,140)	(500)	(500)	(500)	(500)	(-640)
Presidential Inauguration	(5,961)	....	....	....	....	(-5,961)
Certificates of Paticipation	(7,950)	....	....	....	....	(-7,950)
Emergency Planning and Security Costs	....	....	(16,058)	....	(16,058)	(+16,058)
Security for meetings	....	(15,918)	....	....	....	....
Wilson Building	(8,409)	(8,859)	(8,859)	(8,859)	(8,859)	(+450)
(Supplemental funding)	(7,100)	....	....	....	....	(-7,100)
Optical and Dental Insurance Payments	(2,675)	....	....	....	....	(-2,675)
Management Supervisory Services	(13,200)	....	....	....	....	(-13,200)
Emergency Reserve Fund Transfer	(61,406)	(33,254)	(33,254)	(33,254)	(33,254)	(-28,152)
Operational Improvements Savings (including Managed Competition)	(-10,000)	....	....	....	....	(+10,000)
Management Reform Savings	(-37,000)	....	....	....	....	(+37,000)
Cafeteria Plan Savings	(-5,000)	....	....	....	....	(+5,000)
Non-Department Agency	....	(5,799)	(5,799)	(5,799)	(5,799)	(+5,799)
Total, operating expenses, general fund	(4,955,153)	(5,306,140)	(5,308,265)	(5,316,030)	(5,312,044)	(+356,891)
Enterprise Funds						
Water and Sewer Authority	(275,705)	(244,978)	(244,978)	(244,978)	(244,978)	(-30,727)
Washington Aqueduct	....	(46,510)	(46,510)	(46,510)	(46,510)	(+46,510)
(Supplemental funding)	(2,151)	....	....	....	....	(-2,151)
Stormwater Permit Compliance	....	(3,100)	(3,100)	(3,100)	(3,100)	(+3,100)
Lottery and Charitable Games Control Board	(223,200)	(229,688)	(229,688)	(229,688)	(229,688)	(+6,488)
Sports and Entertainment Commission	(10,968)	(9,127)	(9,127)	(9,127)	(9,527)	(-1,341)
Public Benefit Corporation	(78,235)	....	....	....	....	(-78,235)
D.C. Retirement Board	(11,414)	(13,388)	(13,388)	(13,388)	(13,388)	(+1,974)
Correctional Industries Fund	(1,808)	....	....	....	....	(-1,808)
Washington Convention Center	(52,726)	(57,278)	(57,278)	(57,278)	(57,278)	(+4,552)
Housing Finance Agency	....	(4,711)	(4,711)	(4,711)	(4,711)	(+4,711)
National Capital Revitalization Corporation	....	(2,673)	(2,673)	(2,673)	(2,673)	(+2,673)
Total, Enterprise Funds	(656,207)	(611,453)	(611,453)	(611,453)	(611,953)	(-44,254)
Total, operating expenses	(5,611,360)	(5,917,593)	(5,919,718)	(5,927,483)	(5,923,997)	(+312,637)
Capital Outlay						
General fund 2/	(1,022,074)	(1,074,605)	(1,074,605)	(1,074,604)	(1,074,605)	(+52,531)
Water and Sewer Fund	(140,725)	(152,114)	(152,114)	(152,114)	(152,114)	(+11,389)
Total, Capital Outlay	(1,162,799)	(1,226,719)	(1,226,719)	(1,226,718)	(1,226,719)	(+63,920)
Total, District of Columbia funds	(6,774,159)	(7,144,312)	(7,146,437)	(7,154,201)	(7,150,716)	(+376,557)
Total:						
Federal Funds to the District of Columbia	464,125	358,607	398,058	408,000	408,000	-56,125
District of Columbia funds	(6,774,159)	(7,144,312)	(7,146,437)	(7,154,201)	(7,150,716)	(+376,557)

1/ Section 403 P.L. 106-554, 114 Stat. 2763a-188

2/ Rounded

Mr. Speaker, I reserve the balance of my time.

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the chairman, who has led us to this moment. We have a much-improved product from previous years, and it is because of the leadership that the gentleman from Michigan has put forward in this effort.

I want to also thank a number of the people on the staff on our side: Tom Forhan and William Miles on my personal staff. I would also like to thank Migo Miconi and Mary Porter on the chairman's staff, and also Jeff Onizuk on the personal staff of the gentleman from Michigan (Chairman KNOLLENBERG), who have all played a very important role in this bill.

This is not a perfect bill, and there are things in it that we would like to improve even further. But I would have to say that we have done a very good job in terms of addressing many of the concerns, and I note that the mayor of the city has had very kind things to say about the work of the conference committee.

I would like to also thank his staff, and in particular, Sabrina McNeil, who worked very hard to make sure that we understood the needs of the District.

Mr. Speaker, I reserve the balance of my time.

Mr. KNOLLENBERG. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CUNNINGHAM), the longest-serving member of this subcommittee.

Mr. CUNNINGHAM. Mr. Speaker, I volunteered to stay on this committee because I think, of all the areas in which Congress can improve, it is in Washington, D.C., our Nation's Capital.

We have made great strides, and Mr. Speaker, the chairmen have made great strides. But for the first time since I have been on the committee, I am not going to vote for this bill with some good things in it.

Mr. Speaker, I speak, I think, from authority. I was chairman on authorization for the Subcommittee on Labor, Health and Human Services and Education, and forwarded the legislation to President Clinton on IDEA, the Individuals With Disabilities Education Act.

For 5 years I worked to take money out of lawyers' hands and pockets and shift it to children. We were able to save over $10 million a year, and instead of going to lawyers, it went to hire special education teachers. It set forth new programs for special education. It worked.

In one setting, the chairman totally wiped out 5 years of everything that I have worked for. Am I upset? Yes, especially since it was staff-driven. Who is supposed to control this Chamber, the staff or the Members?

Mr. Speaker, I want to say one lawyer in D.C. earned $1.4 million suing the city of D.C. over special education; a firm, $5 million. Those are just two individuals.

I want to say I have spent my life working for children and getting the money down. I have been through no less than 20 hearings on this particular issue, from when I was in the subcommittee on authorization, since I listened to the gentleman from Indiana (Mr. BURTON) who ran hearings this year, to the gentleman from Ohio (Mr. BOEHNER), to the rest of it. I cannot tell the Members my contempt on the outcome of this issue.

I am not going to speak for the full 5 minutes, since there are a lot of people trying to catch planes. But I state again my opposition to this bill.

Mr. Speaker, I rise in opposition to the conference report on the floor today. This will be the first District of Columbia Appropriations Act I will vote against since I came to serve on the Committee.

I want to be clear, it is an honor to serve on the Appropriations Committee and especially the District of Columbia Subcommittee, where I am currently the longest active serving member. In addition, I commend Chairman KNOLLENBERG for his leadership on this committee. In his first year as a Cardinal he has proven up to the difficult task of shaping an appropriations bill. For the last few years, I have resided here in the District and have seen first hand the problems that citizens here face in dealing with their own city government. I am pleased to have had the honor to work on this committee during what is truly the "rebirth" of the District's financial condition.

When I came to the committee, the District was in financial ruin. Congress left no choice but to create the D.C. Control Board to oversee the city's budget to help bring order to the budget of the District of Columbia. I am pleased that the budget before us today was the sole responsibility of the elected officials of the District. Working together Congress and city officials have created a good budget that balances the needs of the people of the District with the financial constraints facing all governmental bodies.

This $5.3 billion conference agreement provides new money for education and public safety—including public and charter schools, college tuition aid, a new court charged to protect abused children, emergency preparedness and ex-offender supervision. It includes a provision that is critical to public safety in the District, $500,000 for the repair of the D.C. Fireboat, the John Glenn. This historic fireboat has served this city well for many years but is in need of repair. In total, this bill will help the people of the District in many ways.

SPEC ED ATTYS FEES

Yet, with all that is in this agreement, I can not, in good conscience, vote for this bill. Since 1998, the D.C. Appropriations Act has carried a provision limiting the amount of money D.C. Public Schools (DCPS) will pay to special education attorneys. This provision restricted the amount of money lawyers could be reimbursed for the representation of children under IDEA. In this bill today, we will vote to remove this restriction.

Let me state for the record, I believe a yes vote will reward trial attorneys with millions of additional dollars at the expense of the special education needs and programs for the children of the District of Columbia. Moreover, we were informed by the District that many of these fees were excessive. Before the caps, an attorney made $1.4 million in fees in 1 year suing the District of Columbia schools. Another law firm billed over $5 million in a single year to the District of Columbia schools. Submission of a variety of questionable expenses, including flowers, ski trips, and even a trip to New Orleans ostensibly made to scout out private schools far from the District that might be able to accommodate special needs students.

The reason we put reasonable caps on these attorneys fees is so the money will go into education. This cap was, and continues to be reasonable. An average citizen working 40 hour weeks would earn $300,000 a year, a rate which is entirely adequate, even in the District of Columbia. Our goal and our achievement since 1998 was to help the District of Columbia schools and children. In this effort we have been eminently successful.

Since we instituted the cap the city has spent about $3.5 million per year in attorney's fees. This has resulted in savings of $10 million a year to continue the good works of the District's Special Education services. The DCPS has used this money to hire new special education attorneys and create special education programs to help the children of the district.

Specifically DCPS has: Created almost 1,000 new placements within the public schools for special education students; arranged for the funding of 1,614 additional placements through the Weighted Student Formula for the 2001–2002 school year; reduced the number of children awaiting initial assessments from over 2,000 to less than 200; reduced the backlog of hearing requests from 900 to 20; facilitated understanding and communication through the development of several concise well-written documents detailing the special education process and published proposed revisions in municipal regulation in support of the special education process; held two citywide Child Find fairs, which are state level functions that had not been conducted for nearly five years. These fairs provide for developmental screening in order to identify children who have specific learning disorders; held training for new teachers and veteran teachers to assist them in the use of the automated SETS database that is the backbone of the delivery of services to children with special needs; participated in a year-long Continuous Improvement Monitoring Process with the Department of Education's Office of Special Education Programs with the support of 14 schools; implemented the proven effective Fast Forward and Failure Free Reading programs to promote reading among children who are at risk of being non-readers; and made monthly training available for new teachers to increase their understanding of the special education process and held system-wide training to expand the awareness of special education.

DCPS has done all this with money that would have gone to trial lawyers instead of these good programs and opportunities. I would challenge anyone opposed to this cap to explain to me how cutting these programs will help special education children; how spending millions more for attorneys will help our teachers educate our children.

Opponents to this cap contend that this provision keeps children from being represented. However, no one has ever shown evidence that any child in D.C. is not receiving adequate, quality representation. Furthermore, I would question the values of any trial lawyer who is unwilling to represent a child in a special education proceeding because they would only be paid $300,000 a year. That is the real issue. The lawyers are here telling us that if we don't allow them unlimited expenses and fees, paid for directly from the District's budget they will not continue to represent the children of the district. This callous position is beyond my comprehension, and I cannot in good conscience support a bill which endorses it.

That these trial lawyers could look into the face of parents of a special needs child and turn them away from service because the lawyer can not take more than $150 an hour from the District Public School budget is appalling. That is the position we vote for today my friends. That is the position taken by the conference. The only people who were hurt by the cap were the trial lawyers who charged millions to the school district. The only people helped are the children, the schoolteachers, the principals, the Superintendent, the parents and ultimately the people of the District of Columbia.

Because we will not protect those teachers and children from the trial lawyers, I can not support this bill. Next year, we will revisit the issue and I hope, no I pray, that we have not irreparably harmed the special education children and programs in the District of Columbia Public Schools.

Mr. FATTAH. Mr. Speaker, I yield 5 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding time to me. I would like to thank those who have contributed to the bill.

I thank the chairman of the full committee, the gentleman from Florida (Mr. YOUNG) for his great patience and efforts every single year to get my bill through here. He has been extraordinary in understanding that this is a city we are working with.

I thank our ranking member, the gentleman from Wisconsin (Mr. OBEY), who not only does his appropriation work to a fare-thee-well, but never forgets to have respect for self-government and the right of D.C. residents to vote.

I want to especially thank this year's chairman, the gentleman from Michigan (Mr. KNOLLENBERG), for the wonderfully cooperative and collegial spirit he has given to our work; his strong interest in the city; the way he has immersed himself in the issues of the city and in the facts and programs of the city.

I am particularly grateful to the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), who is a member known for his mastery of complex urban issues, especially finances and schools. We felt particularly lucky to have the gentleman from Pennsylvania (Mr. FATTAH) as the ranking member, inasmuch as he led his own city, Philadelphia, through precisely the kind of recovery we have had to go through. He was an architect of the control board there in the reconstruction of his own city, Philadelphia. He has an instinctive and encyclopedic understanding of cities in general, and of the District in particular. We feel very lucky to have him here.

Before I proceed, if I could have Members' indulgence for my remarks on this budget, I feel compelled to put on the RECORD what we are going through, and to indicate the great pain this House has put my city through this year and puts us through every year.

For those here for the first time, I always warn them they may feel like they are going through an out-of-body experience. Many have come out of State legislature and now somebody is telling them to look at the budget of what amounts to a State, somebody else's budget; to ask them to vote on a local budget. It is beneath them, it really is. I am going to ask Members to vote for it and try to understand that that is what the Congress makes us do.

But I want to tell this House that it is almost Christmas, and the District of Columbia has not been able to spend a single cent of its budget because this House has just gotten around to spending its money. I wonder how many would be left standing if their State, and this is the functional equivalent of a State, could not spend any of its money for 3 months into the budget year? I ask Members to put themselves, for a change, into the position of the city I represent.

With all of the plaudits I want to offer today, I want to take the time, because I have a remedy for this and it is important for me to put this on the RECORD. It happens year after year. This is just the worst of it, because it is Christmas. On October 1 we should have had a budget, and it should have been before then. We passed the budget in June.

I have a way to correct this, Mr. Chairman. It is a budget autonomy bill that would still let this House put all their attachments on it, do all the things to the District that they will not let anybody do to their districts; but at least they would say, when the District passes its budget, as much of it as they pass, that they can now go ahead and spend their own money.

These people cannot even forecast. They make mistakes all the time because their budget has to be done 18 months ahead of everybody else's budget. D.C. is terribly handicapped this year because there has been a war, and so other cities, our neighboring cities, Maryland and Virginia, are now in the process of taking the surplus; and we have a bigger surplus than Maryland or Virginia, and using it to shore up the deficits that have been created by the recession, problems that have come up unexpectedly because of September 11.

Do Members know what happened to the surplus of the District of Columbia? It falls to the bottom line because the District of Columbia is treated like a Federal agency. We let it fall to the bottom of the line of a Federal agency because it goes back into the Federal Treasury.

There is no reason not to let people who have been prudent in using their own money, saving their money, use their money in time of emergency. That is the demeaning position in which Members put the city that I happen to represent. Members must free us from this problem. Let us take care of ourselves by using our own money.

Mr. Speaker, I have a bill for budget autonomy which still lets Members put their own bills in and change the budget of the District of Columbia, but it would let us spend our own money when our own budget is passed. I have a budget autonomy bill, and I am going to beg this House to next year pass that bill.

I want to say to the gentlewoman from Maryland (Mrs. MORELLA), the Republican co-chair of my committee, how much I appreciate the principal things she has done in cosponsoring that bill with me.

Mr. Speaker, to move on to the budget itself, this is such a significant budget for the District of Columbia. It is the first budget on its own without a control board. Yet, in very many ways, it is the most successful in many years. Less contentious. We have had disputes here and there. We have all found ways to settle them like ladies and gentlemen.

I want to focus on just three issues, among the dozens in this bill:

First is the way in which the committee has allowed the budget numbers put forward by the District of Columbia to be the budget for the District of Columbia. I want to thank this Congress for the funds for a new Family Court Division, and I want to have a brief discussion on breakthroughs in and unacceptable home rule losses.

First, let me thank the committee for making sure that the District's own budget numbers became the budget numbers in this bill. The Congress has no expertise to deal with the budget priorities in anybody else's bill. There were some concerns at first about how the District and the mayor had agreed to certain kinds of attachments to the budget.

When all was said and done, people finally understood: It is not for us to say. If the Mayor and the City Council have agreed, let the Mayor and the City Council do their own budget, as long as it is balanced.

Second, let me go to the family court. There is $24 million in extra money in this bill for the first revision of D.C.'s Family Court Division in 30 years. I am the coauthor of the authorizing bill, with the gentleman from Texas (Mr. DELAY).

I want to thank him for working with me on the bill. He and I had many disputes, but we simply worked them out. But I think he deserves great praise today, because that additional $24 million would not be in this bill if the gentleman from Texas (Mr. DELAY) had not gotten the extra money to put in this bill.

I want to thank him both for his coauthorship of the bill and for working to get the money in the bill. That, of course, is important, because we have read about the great problems we have with foster care; typical of foster care problems around the country, but we know about them in the District of Columbia.

□ 1700

The District, of course, appreciates the $16 million for emergency preparedness in this bill. That is an important start. But for all the help those funds bring, I do want to remind this House that you have understood that you should give extra money to the Capitol Police because they are first responders of a kind. But I want to remind the Congress that you really have only one first responder. You have only one fire department and you have one big city police department. That is the District of Columbia. We have very little money in the House bill.

The District is vastly underprepared for any emergency in the District of Columbia that involves the Federal presence. But I want to remind you that your first responder for this House, for this Capitol, for the White House, and for the entire Federal presence is the District of Columbia first responders. And while I appreciate the start we have with the $16 million, this is money that is urgently needed if you are serious about emergency preparedness.

Finally, Mr. Speaker, I must speak about an important breakthrough and unacceptable attachments on this bill. This is a huge breakthrough in this bill with the commonsense decision of 41 Republicans to join Democrats in allowing the District to use its own funds for implementing its own domestic partnership bill. I want to thank my friends on both sides of the aisle for this expression of bipartisanship.

The limited and moderated legislation allows partners to sign on to the city's health plan of the partner, at the full expense of the partner, with no public expense. It is especially important to mention it this year because it is compassionate and necessary at a time when there are there are already 40 million people without health insurance, many being added as I speak, of course, because there are such a large number of people with AIDS and with infections climbing every day.

Having praised the House for that wonderful breakthrough, let me speak about two unacceptable losses.

I appreciate that we have eliminated some of the busy work for police on the needle exchange private program in the District. But barring the city from spending its own money to keep AIDS from being transmitted throughout the community, especially where it is growing most, among women and children, is the functional equivalent of a death sentence, and this House ought to understand it. It adds to the incursion into our business the notion of a life-and-death issue, and it shows that the House is refusing to value the human life involved, even though every reputable scientific authority has advised and 115 localities have indeed allowed these programs.

I just put the House on notice, I will simply not give up until we are allowed to use our own money to save the lives of our own residents the way other Americans are.

Finally, we have done something in this bill that we should be especially ashamed of. We have said, look, D.C., you can spend your own money on lobbying anything you want to lobby on. You want to lobby on some more money for this or some more money for that, go ahead. But you do not spend one red dime to lobby for your own rights. Not a dime to lobby for statehood and not a dime to lobby for voting rights.

My friend, this Congress has just failed, at least this House has, the test of credibility of all that rhetoric of the past few months on the fight for freedom; and a way of life central to our way of life, surely central to our freedom, is full voting representation in the Congress for all taxpaying Americans and full democracy and equal treatment as that of other States. Be on notice of that one, too. We will not rest until the ban on spending our own money raised from our own taxpayers to pursue our own rights is lifted.

With that I want to thank both the chairman and the ranking member for their long and great patience until we finally arrived here to the best bill in many years.

Mr. KNOLLENBERG. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia (Mr. TOM DAVIS) a member of the authorizing committee.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise in support of the conference report. Let me just say I want to thank the gentleman from Michigan (Mr. KNOLLENBERG), the chairman of the full committee. I think he has done a very good job in shepherding this through the House and through a long conference.

For the record, it is sad that the city has had to wait until December to get their appropriations. It should not have to work that way. This body passed the bill September 25. We were ready to go to conference the next day. It was the Senate, the other body, that held up this legislation and has kept this long-protracted discourse before we could reach agreement on the conference report.

I would also remind my colleagues that just about 3 or 4 years ago, we passed a D.C. Revitalization Act. This was part of the Balanced Budget Act. In that, as we were putting that together, we offered the city the opportunity to do away with the annual appropriations for the city. In place of that, we replaced the city's responsibilities for felony prisoners, for the court system, and took care of what had been longstanding obligations that they owed in other areas, over a billion dollars in some cases; and in place of that, to do away with the annual appropriations.

In taking care of the fastest growing part of the budget and basically moving those responsibilities to the Federal Government, we felt you would not need the annual appropriations. But the city understandably was reluctant to part with that because they knew there would come a time that they would need additional Federal dollars and did not want to do the annual appropriations.

The gentlewoman from the District of Columbias' (Ms. NORTON) object here is a noble cause, and we ought to look very closely at how we can do that. Every other city in America, when they pass their budget it goes right into operation, and if the Congress has a problem with it we can step forward and say we have a problem with it. But under this protracted procedure, we end up ironically hurting a city that has a limited tax base as it is.

This legislation is pretty good. It fully funds the D.C. Scholarship Act. This allows city residents to go to State universities at in-State tuition costs, and get the same kind of deal that people in other States get. I think this is very important for the city.

The gentlewoman from the District of Columbia (Ms. NORTON) said the District of Columbia Juvenile Court revisions are very, very important. We have worked long and hard together to bring that. I think, by and large, this goes further in respecting District of Columbia home rule than many other appropriations bills that have come before this body.

If we want democracy in this city to succeed, however, we should not continue to second-guess the mayor and the council. I disagree with some of the things that the council has done, as I do with things my home city council and county board of supervisors do. But if we want democracy to flourish, we have to give them the responsibility; and that means not constantly looking over their back. I urge adoption of this.

Mr. FATTAH. Mr. Speaker, I yield myself 30 seconds.

I thank the gentleman for his comments. The issue of budget autonomy is one that I support, and I am the cosponsor of the bill, but it is also a matter of having the city be able to reach the revenues that are here. The city is prohibited from taxing sales that happen on Federal property. It cannot go after suburbanites who earn wages in the city, because we prohibit the city from, as other cities, mine and others are able, to attach those wage earners.

So if we are going to talk about the fact that the city has a limited tax base, we need to understand why it is limited. It is limited because of our own actions.

Mr. KNOLLENBERG. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Maryland (Mrs. MORELLA), who is the chairman of the authorizing committee.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I want to preface my comments by thanking the chairman, the gentleman from Michigan (Mr. KNOLLENBERG) and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH) and the D.C. appropriations subcommittee staff, as well as Senator MARY LANDRIEU and the Senate staff who worked tirelessly and in a very open manner in developing this year's appropriations bill for the District of Columbia.

This budget marks a turning point for the District. It is the first budget approved by Congress since the District of Columbia Financial Responsibility and Management Assistance Authority, known as the Control Board, ended its tenure. And it is truly a home rule budget as it protects many of the spending priorities of Mayor Williams and the city council.

The appropriators have done an admirable job in providing responsible oversight while generally resisting the urge to micromanage the city government.

Next year we hope to take this a step further as the gentlewoman from the District of Columbia (Ms. NORTON) and I will continue to push our bill to return a local autonomy budget all to the city. The District of Columbia should not have to wait until December to have its budget passed by Congress. That bill would also safeguard the powers of the chief financial office, and I want to thank the gentleman from Michigan (Mr. KNOLLENBERG) and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH) for including in this conference report a temporary extension of the CFO's powers until July 1. That would give us all the more time to ensure that the CFO does not become a paper tiger.

The bill provides $17 million for the very successful District of Columbia tuition access program which gives District of Columbia students the opportunity to get a high-quality university education at virtually any public university in the United States. I am also happy that the legislation allows for the first time the District of Columbia to use its own money on domestic partners for benefits on city government employees.

The bill reserves more than $24 million to reform the city's Family Court and Child and Family Services Agency, an effort that many of us who care about the city's children have worked on long and hard.

Let me point out a few other highlights: $16 million to improve emergency preparedness; $2.5 million for the innovative literacy programs in the District of Columbia schools; $2 million for Foods and Friends charity; $2 million for the expansion of St. Coletta's, which does such wonderful work training mentally retarded and disabled youngsters and adults; $500,000 to promote high-tech education at the city's Southeastern University; and 300.000 toward the newly constituted Criminal Justice Coordinated Council, which will foster cooperation among the various Federal and local criminal justice agencies that operate in the district.

Finally, the appropriations bill greatly reduces the amount of money the District government must hold in reserve from $120 million in fiscal year 2002 to $70 million in fiscal year 2003. This is a great leap forward because it will allow the city to use more of its money for providing services to its citizens.

Overall, this is a good appropriations bill. The gentleman from Michigan (Mr. KNOLLENBERG), when he took the reins, said he wanted to come up with as clean a bill as possible. He has come very close to that. He made clear that he wanted to produce a clean budget, devoid of the many troublesome riders that have so disturbed city residents in the past. He and the committee have accomplished that to a remarkable degree, and I think this is a budget bill we can all be proud of. I urge a favorable vote.

Mr. FATTAH. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, I want to thank Chairman KNOLLENBERG and Ranking Member FATTAH for their hard work on this bill, they have given us the best bill in years. However, while the bill is greatly improved I cannot in good conscience support the gratuitous and mean spirited restrictions in continues to impose on taxpayers of our nation's capitol.

Over 94% of the budget that we're voting on today is City tax revenue locally raised. It's one thing for Members to decry the use of their constituents' tax dollars for purposes they find distasteful, but to subject local DC taxpayers to the politics of far flung districts is simply disgraceful.

What's worse is that the people who we are pushing around in this bill, don't have a vote in this House and under this bill they cannot use even their own locally raised taxes to promote their right to representation in this House.

I am particularly concerned about the rider forbidding the use of local funds for needle exchanges. Washington has the highest rate of HIV/AIDS in the nation. Approximately one-third of reported AIDS cases occurred among injection drug users, their sexual partners and children.

Former Surgeon General, C. Everett Koop, former Secretary of Health and Human Services, Donna Shalala, the CDC, and the AMA are among the individuals and organizations that have endorsed needle exchange as an effective strategy to fight the spread of HIV/AIDS.

Needle exchanges exist all over this country and nobody is suggesting that we alter federal law to forbid them. We are attacking one city's—our Capital city's—efforts to reduce the spread of AIDS and leaving cities in the rest of the country to do what they think is right and effective in fighting that health epidemic.

I cannot support the continuation of this policy, in spite of the progress we have made in the rest of the bill.

I again thank the Chairman and Ranking Member for their hard work but I am voting no on this conference report.

Mr. FATTAH. Mr. Speaker, again I want to thank all who have been involved, but mainly the chairman of the subcommittee.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KNOLLENBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will close with a very quick comment. This conference report is a good bipartisan bill that reflects all the priorities that the ranking member and I worked together to make sure that were in the bill. It fully funds every penny of the city's budget. It ensures that all Federal obligations are met.

I would just say that, having been the chairman of this committee, it has been a great experience particularly in terms of the city. The response I have gotten from the folks that run this city, the leadership, the residents, they have all been very kind to me in helping me develop this legislation and helping us bring about what I believe is a good bill.

Mr. WELDON of Florida. Mr. Speaker, the bill before us includes a $2 million earmark for an organization whose Executive Director, according to the attached Washington Post article, was sentenced in 1995 for taking over $4,000 from the Jewish Community Center of Greater Washington. He was given a suspended five year prison sentence and ordered to perform several hundred hours of community service. He now draws an annual salary of $183,000 from Food and Friends, an organization that is supposed to be spending its money providing meals to those suffering from HIV/AIDS.

I am very concerned about the $2 million earmark of taxpayer money. This special $2 million carve out is for this one organization, and is not subject to competition. No other groups, including groups who may offer much better services or who may be much more efficient, were not allowed an opportunity to compete for these funds. There will also be little oversight and accountability of how this organization spends these funds.

This special $2 million earmark was not requested by the city of the District of Columbia and it was not in the President's budget request. There will be little if any oversight of how this $2 million will be spent. I believe this is an inappropriate earmark and am troubled by it's inclusion. I was deeply disappointed that the Senate, even after being made aware of these concerns, decided to go along with putting this in the final bill. I had hoped that they would have allowed a competition for these funds, rather than earmarking them for one organization.

I have also included a letter from a local AIDS advocacy organization in Washington that has expressed opposition to this special earmark of fund.

AIDS COALITION
TO UNLEASH POWER,
Washington, DC, November 12, 2001.

DISTRICT OF COLUMBIA APPROPRIATIONS CONFERENCE COMMITTEE,
U.S. Capitol,
Washington, DC.

DEAR CONFERENCE COMMITTEE MEMBERS: As a non-partisan HIV/AIDS advocacy organization, ACT UP Washington, DC has long fought for greater accountability in federal HIV/AIDS spending. During the past several years, we have tracked mounting incidences of waste, fraud and abuse of hard fought for taxpayer dollars intended to combat HIV/AIDS, so that similar transgressions never occur again.

These efforts, thanks to the support of former Representative Dr. Tom Coburn, and Senators Charles Grassley and Max Baucus, have led to a commitment from the newly confirmed Inspector General for the Department of Health and Human Services to conduct audits of programs funded by the Ryan White CARE Act. Senator Sessions has added his leadership by calling for further federal auditing of HIV prevention programs in the pending Labor-HHS Appropriations Bill.

We hope you agree that accountability, and oversight at the local and federal levels are crucial components to insure that federal dollars to alleviate the suffering of HIV/AIDS patients are spent wisely and effectively. For this reason, we have deepening concerns over the $2 million included in the Chairman's mark to the DC Appropriations Bill, earmarked for a DC AIDS charity, Food and Friends.

Unlike other appropriations for DC area AIDS service organizations allocated through competitive grants, this earmark was never subject to the same, open process whereby spending priorities are determined through the input and needs of the community. This sets a terrible precedent, whereby dozens, if not hundreds of other local charities will now turn to Congress for their individual funding needs. Furthermore, as a direct payment, this $2 million is not subject to appropriate local and federal oversight authorities.

We therefore urge you to agree with the Senate DC Appropriations Bill, and delete the $2 million earmark from the final version.

This is not to, in any way, disparage the important services provided by Food and Friends, and the dedication of its volunteers. It is worth noting, however, that the current Executive Director of Food and Friends, Craig Shniderman, was involved in an embezzlement scandal with his previous employers at the Montgomery County Jewish Community Center. Enclosed you will find the Washington Post article from October 1995, in which Mr. Schniderman pleads guilty on a charge of misappropriation of funds.

It is, of course, encouraging to see ex-offenders like Mr. Shniderman turn their lives around. According to Food and Friends 990 tax forms for FY 2000 (available online at www.guidestar.com), he earned $183,000.

However, given the Executive Director's criminal record, the lack of oversight or accountability, and no public input into the allocation of these funds, it seems the wisest choice for Congress would be to delete the $2 million earmark in the final version of the DC Appropriations Bill.

Thank you for your consideration.

WAYNE TURNER.

Enclosure.

[From the Washington Post, Oct. 2, 1995]

EX-AGENCY HEAD SENTENCED IN THEFT FROM JEWISH CENTER

The former head of Montgomery County's Jewish Social Services Agency has been ordered to serve six months of home detention and 18 months of probation for taking nearly $4,000 from the Jewish Community Center of Greater Washington.

Former social services agency executive director Craig M. Schniderman was charged with taking items from the Rockville JCC gift shop from 1987 to 1993 and allowing the agency to be billed for phony consulting services.

The community center's former executive director, Lester I. Kaplan, and three other JCC officials were ousted last summer and accused of looting their agency of nearly $1 million as it was struggling to provide services for elderly and disabled members.

Kaplan pleaded guilty last month to seven counts, including theft and compiracy, and is scheduled to be sentenced today.

Shniderman, who officials said was not aware of the embezzlement scheme at the neighboring agency, pleaded guilty Wednesday to a single count of misappropriation by a fiduciary. He was given a suspended five-year prison term by Circuit Court Judge Ann S. Harrington and ordered to perform 200 hours of community service.

Ms. DELAURO. Mr. Speaker, I rise in support of this bill because it strengthens programs that serve the residents and workers of the District of Columbia. The residents of the District deserve to have control over their local government and this bill takes the first steps in returning authority to the residents and elected officials of the District.

This bill represents an improvement in the District of Columbia Appropriations bill over past years. It contains important resources for the city's health care system, brownfield remediation and local road repairs. It finally grants the District the autonomy to use its own funds to provide health benefits for domestic partners and improve access to health care services for District residents.

However, Mr. Speaker, I am concerned because this bill does not allow the District to use its own funds for one of its highest public health priorities—the needle exchange program—to reduce the spread of HIV and AIDS.

The needle exchange program has been endorsed by the Mayor of the District but for the past year the District has been prohibited from using local funds to implement it. Not only does this infringe on local autonomy, but it reduces access to a truly life-saving program.

There have been several government reviews and hundreds of scientific studies all demonstrating that needle exchange programs are effective in reducing HIV transmission and do not encourage drug use. The American Medical Association, the American Public Health Association, and other medical associations have all called for government support of needle exchange programs. My own hometown of New Haven has a needle exchange program that has proven to be highly successful in reducing the transmission of HIV/AIDS without increasing the number of drug users.

The District of Columbia has the highest rate of HIV/AIDS in the nation and it must be able to pursue an aggressive, targeted program. Currently, the District is the only city in the nation barred by federal law from investing its own locally raised tax dollars to support needle exchange programs.

To continue to impair the District's ability to carry out a responsible HIV prevention program flies in the face of sound public health policy. Local health departments must be free to determine which public health interventions will best address their local problems—including the District of Columbia. We cannot afford to turn our backs on something that can help us beat the AIDS epidemic.

Mr. KNOLLENBERG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—ayes 302, noes 84, not voting 47, as follows:

[Roll No. 482]

YEAS—302

Abercrombie
Aderholt
Allen
Andrews
Baca
Bachus
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Collins
Condit
Conyers
Cooksey
Cramer
Crenshaw
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart

Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Ford
Frank
Frelinghuysen
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Graham
Granger
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Harman
Hart
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCollum
McCrery
McDermott
McGovern
McIntyre
McKeon
McKinney
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Mink
Mollohan
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Nethercutt
Ney
Northup
Nussle
Oberstar
Ortiz
Osborne
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Phelps
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Toomey
Towns
Traficant
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Vitter
Walden
Walsh
Waters
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Wexler
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)
Moore
Moran (KS)
Norwood
Obey
Olver
Otter
Paul
Peterson (MN)
Petri
Pickering
Platts
Ramstad
Roemer
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Sensenbrenner
Shadegg
Shimkus
Shows
Shuster
Smith (NJ)
Stearns
Stenholm
Strickland
Stump
Tancredo
Taylor (MS)
Thornberry
Thune
Tiahrt
Turner
Upton
Wamp
Weldon (FL)
Weller
Whitfield

NAYS—84

Akin
Barr
Bartlett
Berry
Blunt
Boozman
Brady (TX)
Bryant
Chabot
Coble
Combest
Cox
Crane
Culberson
Cunningham
Davis, Jo Ann
DeMint
Duncan
Forbes
Fossella
Frost
Gephardt
Goode
Goodlatte
Goss
Graves
Green (WI)
Hansen
Hayes
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Israel
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kilpatrick
LaHood
Lucas (KY)
Manzullo
Miller, Jeff

NOT VOTING—47

Ackerman
Armey
Baker
Barton
Bereuter
Bonior
Cannon
Costello
Coyne
Cubin
Deal
Emerson
Everett
Flake
Gallegly
Green (TX)
Hall (TX)
Hastings (WA)
Hostettler
Kelly
Kingston
Largent
Lofgren
McCarthy (MO)
McCarthy (NY)
McHugh
McInnis
McNulty
Meek (FL)
Miller, Gary
Murtha
Neal
Oxley
Pence
Pitts
Quinn
Riley
Rodriguez
Rogers (MI)
Roukema
Sessions
Smith (MI)
Smith (WA)
Taylor (NC)
Tiberi
Watkins (OK)
Young (AK)

☐ 1737

Messrs. RYAN of Wisconsin, GOODLATTE, PICKERING, and TURNER changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. McCARTHY of New York. Mr. Speaker, for personal reasons I was unable to cast my vote for the District of Columbia Appropriations Conference Report (H.R. 2944). Had I been present, I would have voted "yea".

Stated against:

Ms. McCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 482, D.C. Conference Report FY '02 Appropriations. I was unavoidably detained. Had I been present, I would have voted "nay."

GENERAL LEAVE

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3005.

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I rise to inquire about next week's schedule.

Mr. GOSS. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Florida.

Mr. GOSS. I thank the gentlewoman from Connecticut for yielding, and I am pleased to announce, Mr. Speaker, that the House has completed its legislative business for the week. The majority leader has announced the following legislative program for next week:

The House will next meet for legislative business on Tuesday, December 11, at 12:30 p.m. for morning hour and at 2 p.m. for legislative business. The House will consider a number of measures under suspension of the rules, a list of which will be distributed to Members' offices tomorrow. On Tuesday, no recorded votes are expected before 6:30 p.m.

On Wednesday and the balance of the week, the House will consider H.R. 3129, the Customs Border Security Act of 2001, subject to a rule. We are also hopeful to be ready to consider the Education conference report, the Intelligence Authorization conference report, the Labor-HHS Appropriations Conference Report, and broadband legislation, all next week.

And I thank the gentlewoman for yielding.

Ms. DELAURO. Reclaiming my time, Mr. Speaker, if I might ask the gentleman one or two questions about the schedule for next week.

Do we anticipate that election reform legislation would be coming to the floor next week?

Mr. GOSS. If the gentlewoman will continue to yield.

Ms. DELAURO. I yield to the gentleman.

Mr. GOSS. I would be pleased to inform her that, as far as I know, the committee of jurisdiction, the Committee on the Judiciary, still has that under consideration and we have not been advised whether it in fact will be ready for next week.

Ms. DELAURO. So we do not believe it will be ready for next week.

Mr. GOSS. We do not know at this point.

Ms. DELAURO. Can we qualify it further?

Mr. GOSS. So far.

Ms. DELAURO. So far. Okay.

Do we anticipate that there will be votes on Friday or into the weekend?

Mr. GOSS. It is my understanding at this time, if the gentlewoman will continue to yield, that there is a strong possibility of votes on Friday and, if the business is not completed by Friday evening, that the intention is that we might well have to continue on into the weekend.

Ms. DELAURO. And if we continue on, is that an indication that we would try to finish before the end of the weekend, or stay until we are finished with business through some time next weekend or the following week?

Mr. GOSS. If the gentlewoman will continue to yield.

Ms. DELAURO. I do continue to yield.

Mr. GOSS. It would be my fondest wish to be able to give a date certain to the gentlewoman from Connecticut. The best I can say is that it is the intention to finish up by the end of next week. Whether or not that will be possible, we do not know. Clearly, when we start out with a good intention, it enhances the possibility that we will succeed at that good intention. But Members need to know we may in fact be working through next week, and then plan accordingly.

Ms. DELAURO. Through the weekend. And a final question. On which day do you expect the broadband legislation to come to the floor of the House?

Mr. GOSS. If the gentlewoman will continue to yield, I understand two committees of jurisdiction are still putting some final touches on that, and that that will be announced next week, early on in the week, as far as I know.

Ms. DELAURO. So we can anticipate that it would be at the beginning? We come back in on Tuesday night; so Wednesday, Thursday?

Mr. GOSS. It is unlikely that that legislation would show up before Wednesday.

Ms. DELAURO. Meaning that we will not be here before Wednesday. I thank the gentleman.

Mr. GOSS. I hope the gentlewoman will be here before Wednesday, because there will be votes Tuesday night at 6:30.

Ms. DELAURO. I understand. So it will not be Tuesday night.

ADJOURNMENT TO MONDAY, DECEMBER 10, 2001

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

HOUR OF MEETING ON TUESDAY, DECEMBER 11, 2001

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, December 10, 2001, it adjourn to meet at 12:30 p.m. on Tuesday, December 11, 2001, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMUNICATION FROM THE HONORABLE RICHARD A. GEPHARDT, DEMOCRATIC LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable RICHARD A. GEPHARDT, Democratic Leader:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, December 4, 2001.

The Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 3(b) of the Public Safety Officer Medal of Valor Act of 2001 (P.L. 107-12), I hereby appoint the following people to the Medal of Valor Review Board:

Mr. Oliver "Glenn" Boyer—Hillsboro, MO.

Mr. Richard "Smokey" Dyer—Kansas City, MO.

Yours Very Truly,
RICHARD A. GEPHARDT.

WELCOME TO SOUTH FLORIDA RECEPTION IN HONOR OF DONNA SHALALA

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, tonight the Humane Society of Greater Miami is hosting a "Welcome to South Florida" reception. The event is being held to welcome University of Miami President Donna Shalala and her dog, Cheka, to south Florida.

President Shalala was the longest-serving Secretary for Health and Human Services in U.S. history. Before that, she served as Chancellor of the University of Wisconsin-Madison, the first woman to head a Big 10 university.

She is now at a new job that she loves, President of the University of Miami, a major and leading research university in the southeastern United States, located in my congressional district.

□ 1745

President Shalala says that Cheka "speaks English and Spanish and is a perfect fit for south Florida, the Gateway of the Americas."

We thank Kelly Grimm and the Humane Society of Greater Miami for their dedication to helping homeless animals, and Donna Shalala as president of the University of Miami.

ENACT INTERSTATE WASTE LEGISLATION

(Mrs. JO ANN DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I come to the floor this afternoon to call attention to yet another trash truck accident on Interstate 95. On Tuesday, a possibly overloaded 18-wheeler hauling trash almost snapped in half on the Woodrow Wilson Bridge because of its cargo shifting en route, and it consequently snarled Washington rush hour traffic for several hours and caused a 9-mile backup. Fortunately, it appears no one was hurt.

This incident is only a symptom of a larger problem. Specifically, millions of tons of garbage are being shipped across State lines without States having the right to limit its importation. It makes our highways less safe and fouls the land and air in the communities surrounding the landfills. It is a health and safety matter that Congress should empower States to regulate.

Currently, the hands of the States are tied. I urge the 107th Congress to enact meaningful interstate waste legislation that will enable States to protect their citizens and their environment from this continuous flood of out-of-state trash.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SCHROCK). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HONOR THE FALLEN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) is recognized for 5 minutes.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, today I would like to pick up where I left off yesterday in reading the names and paying tribute to those who perished as a result of the attacks on September 11, 2001. The fallen deserve our recognition, our remembrance, and our respect. Reading these names cannot make up for the pain and the devastation that the families of the victims have experienced. But I hope that by reading these names, we will show that we honor the victims; we will not forget:

Francis Nazario; Marcus Neblett; Glenroy Neblett; Jerome O. Nedd; Laurence Nedell; Luke Nee; Pete Negron; Laurie Ann Neira; Yu Neixing; Peter A. Nelson; James Arthur Nelson; Ann Nicole Nelson; David William Nelson; Michelle Ann Nelson; Oscar Nesbitt; Gerard Terence Nevins; Renee Newell; Christopher Newton; Christopher Newton-Carter; Nancy Yuen Ngo; Khang Nguyen; Jodie Nicolos; Kathleen Nicosia; Alfonse Joseph Niedermeyer, III; Martin Stewart Nierderer; Frank John Niestadt, Jr.; Juan Nieves, Jr.;

Gloria Nieves; Troy Nilsen; Paul R. Nimbley; Mark Nindy; John Ballantine Niven; Curtis Noel; Michael Allen Noeth; Daniel Robert Nolan; Robert Walter Noonan; Jacqueline Norton; Robert Norton; Daniela R. Notaro; Brian Novotny; Soichi Numata; Jose R. Nunez; Brian Nunez; Jeffrey Nussbaum; Timothy Michael O'Brien; Michael O'Brien; Scott J. O'Brien; James O'Brien; Daniel O'Callaghan; Keith Kevin O'Connor; Diana J. O'Connor; Dennis J. O'Connor, Jr.; Richard J. O'Connor; Marni Pont O'Doherty; Amy O'Doherty; James Andrew O'Grady; Thomas O'Hagan; William O'Keefe; Patrick J. O'Keefe; Leslie Thomas O'Keefe; Gerald O'Leary; Matthew Timothy O'Mahony; Seamus L. O'Neal.

Mr. Speaker, I will continue this effort when the House convenes next week, and I intend to read these names for as many days as it takes to bring honor and recognition to those individuals who lost their lives or are still missing. I invite my colleagues to join me in this effort.

CONGRATULATING BENTONVILLE HIGH SCHOOL TIGERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. BOOZMAN) is recognized for 5 minutes.

Mr. BOOZMAN. Mr. Speaker, I rise today to congratulate the Bentonville High School Tigers on winning the 2001 Arkansas 5A football championship. The Tigers recently defeated El Dorado 23 to 16 to claim this honor after compiling a 12 to 1 record on the season and defeating two conference champions, including top-ranked Cabot High School en route to the State title.

Under the mentoring of head coach Gary Wear, the Tigers set a variety of school records and had a number of players named all-state and all-conference.

The Tigers' performance surprised many, including some folks in Bentonville itself, but it certainly did not surprise Coach Wear. He had his players in a winning mind-set from the start of the year and then worked hard to ensure that they maintained a positive attitude and work ethic that prepared them for the championship game last Saturday.

Mr. Speaker, I am delighted to see how this team's winning effort has brought the community of Bentonville together. I am very proud of these student athletes, their coaches, parents and supporters who worked so hard to achieve this goal.

HONOR MATTERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. SHOWS) is recognized for 5 minutes.

Mr. SHOWS. Mr. Speaker, on a recent Sunday afternoon I was driving to my mom and dad's home in Moselle. I have driven this road from Bassfield a thousand times. I passed our community's beautiful old cemetery, one I have driven by a thousand time.

On this Sunday, as always, I could see the grave of one of our Congressional Medal of Honor recipients, Roy Wheat, who fought in Vietnam. He was a hero and received the Congressional Medal of Honor. This is one of our highest honors and has been awarded only 3,455 times since the Civil War.

An old torn, faded, and battered American flag was flying at Roy's grave. I thought about his bravery. I thought about my father and his service in World War II. He was a Prisoner of War, and captured at the Battle of the Bulge. I thought about our veterans and military retirees and the men and women who are right now heroically standing down terrorism and defending our way of life.

Our flag has a way of making us think about it. Honor matters. Giving honor means providing great respect because of great worth and noble deeds done. I did not like seeing a faded, torn, and battered flag flying on Roy's grave. Honor matters.

Mr. Speaker, today I am introducing a bipartisan resolution to make sure we are properly honoring our war heroes. This resolution will make sure that our country's greatest military heroes, recipients of the Congressional Medal of Honor, are appropriately honored with the display of the American flag at their grave sites.

Currently flags are available for placement at grave sites of veterans cemeteries that are maintained by the Federal Government. But families of Congressional Medal of Honor winners who are privately buried do not have the assurance of always seeing the American flag at their grave sites.

This resolution simply states that the Secretary of Veterans Affairs should make American flags available to immediate family members of deceased Medal of Honor recipients, and to veterans' organizations and others responsible for maintaining these private grave sites.

Why? Because honor matters. It matters for those who have protected us as a memorial, and for those who do and will protect us as a reminder that their service is not in vain.

Our military is America's first line of defense from aggression and those who oppose freedom. Just like keeping our promise of health care, making sure the Montgomery GI bill is strong, and providing support for our current soldiers and those who have already served, this does matter.

If we do not honor our veterans and military retirees in both words and deeds, we dishonor their service. I will not ignore America's veterans and retirees. They have already given of themselves to us, and for that we owe them an incredible debt.

SIXTIETH ANNIVERSARY OF ATTACK ON PEARL HARBOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, tomorrow, December 7, the people of the United States will take the time to remember the attack on Pearl Harbor, which occurred nearly 60 years ago. In ceremonies at Pearl Harbor and particularly at the USS Arizona Memorial, we will take the time to remember the attack on our country, and we will pay tribute to those who died during that fateful Sunday morning. Our tribute and our effort will be made more significant as we simultaneously reflect on the heinous attack on our people made nearly 3 months ago in New York City and at the Pentagon across the river from Washington, D.C.

On the same day that Pearl Harbor was attacked, an American territory was also attacked at Wake Island and the then Commonwealth of the Philippines and my home island of Guam. Guam endured some 32 months of a brutal enemy occupation in which my people were tested and proved their loyalty and steadfastness to the principles that make America great.

But that day was December 8, 1941, on the other side of the international dateline, and it is that day that brings back the thoughts of struggle and bravery and patriotism and sacrifice which marks the World War II experience of the people of Guam.

But there is another story which needs to be told and which links the attacks on Guam and Pearl Harbor in a unique way. The people of Guam were present at Pearl Harbor. The people of Guam fought at Pearl Harbor, and the people at Guam, died at Pearl Harbor. We know of at least 12 American sailors who were from Guam and who perished during that fateful morning. Six were aboard the USS *Arizona* and their names are on the solemn Arizona Memorial alongside their shipmates. Their sacrifice and devotion to duty have never specifically been recognized, and I will do so this weekend in Honolulu with a solemn wreath-laying at the Arizona Memorial.

The 12 Chamorro men who perished have a unique story to tell. All were mess attendants. All were part of a military institution at the time which allowed Chamorro men from Guam to join the U.S. Navy only as officers' mess attendants, cooks and stewards. However, they were not bitter, and they performed their duties and responsibilities in an exemplary way. They were grateful for the opportunity to join because only a limited number of men were accepted from Guam annually into the Navy during the decade prior to World War II. This provided an opportunity for them to become U.S.

citizens and the chance to prove themselves, their devotion to duty and sacrifices made more special because of the circumstances of their service. They were not yet American citizens, they were denied the opportunity to serve in a different capacity, and they were sometimes not given the respect which they deserved. Yet they proudly served; and they passed along their patriotism, love of service, and pride of island to succeeding generations.

It is no longer remarkable to see Chamorro men from Guam serve in the military in a wide variety of capacities. It is not even remarkable to see so many Chamorros today serving as officers who themselves are the children and the grandchildren of these mess attendants. In fact, the master of ceremonies for this weekend's ceremony is Commander Peter Gumataotao, the son of Afustin Gumataotao, one of the mess attendants who survived the attack on Pearl Harbor. The people of Guam stand taller today because they stood on the shoulders of these men, and I certainly would like to pay them a tribute by reading the names of our elders: Gregorio San Nicolas Aguon, Nicolas San Nicolas Fegurgur, Francisco Reyes Mafnas, Vicente Gogue Meno, Jose Sanchez Quinata, Francisco Unpingco Rivera, Ignacio Camacho Farfan, Jose San Nicolas Flores. Jesus Francisco Garcia, Andres Franquez Mafnas, Jesus Manalisay Mata, Enrique Castro Mendiola.

□ 1800

On Guam, we will never forget these men. In many Chamorro families around the country, we will not forget these men. We must make sure that every time we remember Pearl Harbor, we remember all of the men who were there and who gave the ultimate sacrifice.

The wreath will be inscribed "Ti manmaleffa ham—ningaian." We will never forget—never.

In this, the 60th anniversary of the attack on Pearl Harbor, we will not forget.

TRULY STIMULATIVE ECONOMIC STIMULUS PACKAGE NEEDED

The SPEAKER pro tempore (Mr. SCHROCK). Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, I rise today in support of an economic stimulus package that will benefit the growing number of unemployed and uninsured Americans and will thus be truly stimulative, while also fiscally and socially responsible.

As a long-time businessman, I can tell you that an economic recession results from a lack of demand for the goods and services that businesses produce. Our Nation is not suffering from a recession because businesses lack available workers, technology or equipment, but because they lack demand for their products.

However, the House has passed an economic stimulus bill composed largely of tax cuts and payments from large corporations that would do nothing to increase demand for their products and would have no stimulative effect in the near future.

If we are to stimulate the economy and end the recession, Congress must pass an economic stimulus bill that creates new jobs and provides assistance to unemployed workers. In doing so, we not only provide assistance to those in need, but we truly stimulate the economy by putting money into the hands of those people who are most likely to spend it immediately. This approach increases demand for goods and services, causing businesses to employ more workers and invest in more capital.

Mr. Speaker, some of the cash-rich multinational corporations that would receive billions of dollars from the House-passed economic stimulus bill have publicly stated that they have no plans to increase the amount they invest in plants, in workers and in new products. Writing large checks to these corporations does not stimulate the economy.

However, I can assure you that there are many vital projects in Congressional districts such as mine that are ready to be funded and would create badly needed jobs now. This kind of real economic stimulus would greatly improve the economy, the infrastructure and quality of life for countless Americans. Additionally, there are large numbers of unemployed workers who are anxious to enter the labor market and to earn money that they can spend on basic needs right now, providing an immediate stimulus to the economy.

Let us look at this employment chart. As you can see, Mr. Speaker, Hidalgo County, which is in my South Texas Congressional district, has seen its unemployment rate decrease substantially in recent years from the nearly 20 percent rate of unemployment in the past. However, even during the 10 year period of prosperity, from 1990 to the year 2000, and during the same period of lowest national unemployment, Hidalgo County's unemployment rate did not fall into a single digit.

Let us look at this Hidalgo County population growth chart. As the recession deepens and the population continues to explode, as shown in this chart, thousands of workers are likely to join the tens of thousands who are already desperately looking for jobs. These people constitute a potential source of economic stimulus should they be brought into the workforce to earn and spend their money.

If we do not reverse the course that the House of Representatives has taken, the exploding population and high unemployment rate in counties such as Hidalgo County will stretch available resources. If thousands of unemployed workers do not receive assistance, they will lack the basic necessities to receive health care, to send their children to school and to obtain housing and transportation. This situation only spirals downward to make it even more difficult for a large segment of the population to enter the workforce and fully contribute to the Nation's economy.

Congress has a chance to do something meaningful for the economy and the people of this Nation. Our economy is in recession because of insufficient demand. Creating jobs by funding needed projects and providing assistance to unemployed workers puts money in the pockets of people who will put it back into the economy immediately, stimulating demand and giving the economy an immediate boost.

However, writing a $1 billion check to a multinational corporation with over $8 billion in unused cash on its books does not increase demand, it does not stimulate the economy, and it is not fiscally responsible. In fact, firms that are faced with reduced demand for their products will lay off workers, regardless of how much cash they have.

In closing, Mr. Speaker, funding for any stimulus package will now come directly from the Social Security trust fund. Therefore, the stakes are incredibly high. We must pass the most socially and fiscally responsible economic stimulus possible. We must ensure that every dollar we spend goes to those who need it most, and to those who will most quickly and efficiently put it back into the economy.

HONORING WALT DISNEY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SANCHEZ) is recognized for 5 minutes.

Ms. SANCHEZ. Mr. Speaker, today I rise to honor a man who has shown people all over the world that "when you wish upon a star, dreams really can come true."

One hundred years ago yesterday, on December 5, 1901, Walt Elias Disney was born in Chicago, Illinois. One hundred years later his legacy lives in the hearts and in the minds of children of all ages. Walt has impacted people from all over the world through his films, his theme parks and his incredible imagination.

Growing up in Anaheim, California, I was fortunate to have Disneyland in my own backyard. Now, as the Congresswoman from the Forty-sixth Congressional District, I get to represent Disneyland to the rest of the world.

I can still remember my first visit to Disneyland. One of my fondest memories was riding in the "It's a Small World" ride, a bunch of little dolls dancing around, singing in different languages, getting along together in perfect harmony. What a way to view the world, and what a way to teach a child about what the world is that we aspire to.

Imagine, people in the world sharing this laughter, their tears, their hopes, their fears. Walt envisioned a world where happiness transcended borders, a world where hate was nonexistent, and where joy and laughter cured all things.

After September 11, America has lost its innocence. And, unfortunately, the terrorist attacks have had a terrible toll on America's psyche and tourism in general. However, in this time of hardship, the hopes and the dreams of Americans are stronger than ever, and, thanks to Walt, Americans will always believe that "anything their hearts desire will come to them."

DEMOCRATIC PROCESS DISHONORED IN TRADE DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, through the tenure that I have had here in this body, I have had the opportunity to discuss and to engage in a vigorous debate on trade. On many instances I saw fit to vote for some forms of international trade. But, at that time, Mr. Speaker, there was engagement, bipartisan engagement. Under the leadership of President Clinton, every issue that was expressed by a Democrat or a Republican or an Independent was given full airing throughout the process.

Today, I believe we dishonored the democratic process in this House. There was no open discussion. There was simply an attempt to get someone's way, and it was evidenced by a vote of 215 to 214.

This is because in the Committee on Rules they would not allow a full debate and allow a very full and adequate substitute, which many business persons supported, authored by the gentleman from New York (Mr. RANGEL); one that expanded trade, opened new markets for U.S. workers, farmers and businesses; that had effective worker protections; that protected realistically the environment; and then held to the constitutional premise that when it comes to protecting the American people as to whether or not we would lose thousands of jobs, there must be Congressional oversight, which the Constitution mandates.

That is what the Rangel substitute had, and, Mr. Speaker, the Committee on Rules denied us the opportunity to have a full debate on that substitute, a substitute that would protect the American people. Instead, what we did is bring forth the Thomas bill, that had no sense of commitment to some of these very important issues.

I believe in what Democratic President John F. Kennedy said, "a rising tide lifts all boats," and that we in the United States Congress have a responsibility to work on behalf of the Nation.

My district, in fact, is a district that has in some instances advocated trade because of the business community. But I have many constituents, Mr. Speaker, and right now I am shocked that anybody in the business community is focusing on anything but the thousands of people who have lost their jobs over these last couple of weeks, maybe 10,000 in and around the 18th Congressional District. I believe Houston will come back. But I would think that this White House, with a president from Texas, would have more concern about passing an economic stimulus package that would in fact have extended relief for those individuals who tragically, through no fault of their own, have lost their jobs.

This trade bill could have been a trade bill that would have included everyone, but, yet, no one was involved who had a different perspective. No one was involved who wanted to see more labor protections, wanted to see the protocols that include protection of human rights, the environment, making sure that there were labor standards.

We realize when you have international trade that some jobs will be lost, but more jobs are lost because the labor standards are diminished, and many corporations will rush to those places overseas in order to pay those unbelievably diminishing and demeaning hourly wages. So we do lose good American jobs.

But I do believe trade can be a boost to the economy. How can it be a boost to the economy? Only when we sit down and negotiate together.

We now face a declining economy, and we also are in jeopardy with our own environment. We still have issues dealing with clean water and clean air. Do we not hold to the premise that what is good for the goose is good for the gander? If we are fighting for clean air and clean water and the protection of our water, in light of what we are going through, would it not be appropriate for those countries to do the same where those corporations that carry our name rush to set up their institutions?

I am very saddened that the debate went to the level it did, that we are all fighting international terrorism. We are doing that. So many of us gave the authority to our President in unity because our soil was violated, our people lost their lives. I claim and will not in any way take a back seat to my patriotism.

But this bill had nothing to do with patriotism or fighting terrorism. In fact, I am more fearful of this bill than I am supportive of this bill as having anything to do with helping us fight terrorists around the world. I would much rather shore up this declining economy and provide the opportunities for constituents to have a bridge, so that they can find work.

Mr. Speaker, I believe we did not do what was right today on behalf of all of the American people. I say to my business community in an open letter, we have worked together, and I will not again take a back seat to my concern about the economy and boosting opportunities for trade. But we cannot do it by denying our own constituency, those who work hard, who labor, those who want a cleaner environment, and those who promote the Constitution, requiring Congressional oversight.

Mr. Speaker, I yield back the balance of my time, hoping we will be able to fix this very unseemly bill.

□ 1814

H.R. 3365 TO ALLOW BUSINESSES TO TEMPORARILY WITHDRAW FUNDS FROM THEIR IRAS WITHOUT PENALTY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, For weeks Congress had debated various economic stimulus plans. Meanwhile, the economy has continued to dive deeper into a recession.

In the third quarter, the economy collapsed at an annual rate of 1.1 percent, its worst showing since 1991. The Commerce Department reported that corporate profits fell 8.3 percent during the third quarter and decreased 22.2 percent compared with last year.

The economic downturn has hurt working families throughout the country. The number of unemployed persons increased by 732,000 to 7.7 million in October. The unemployment rate rose by 0.5 percentage points to 5.4 percent, the highest level since December 1996.

We need meaningful legislation to stimulate the economy, help unemployed workers, and assist struggling families.

On November 28, 2001 I introduced a bill allowing individuals suffering from the recession to withdraw funds from their Individual Retirement Accounts without penalty until September 12, 2002.

My bill temporarily waives the 10 percent Individual Retirement Account withdraw penalty fee for people who: Have received unemployment compensation for 12 consecutive weeks, have at least 10 percent stake in a small business that has suffered significant economic injury since September 11th, or lost a family member in a terrorist attack.

Congress cannot wait for the economy to recover on its own. We cannot wait for a stimulus plan whose effects may not been seen for months. We must pass legislation that immediately helps workers who have lost their jobs.

My bill will assist those who desperately need our help.

I urge my colleagues to help individuals during this recession by cosponsoring this important legislation.

CONFERENCE REPORT ON H.R. 2883

Mr. GOSS, submitted the following conference report and statement on the bill (H.R. 2883), to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes:

CONFERENCE REPORT (H. REPT. 107-328)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2883), to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 2002".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Intelligence Community Management Account.
Sec. 105. Codification of the Coast Guard as an element of the intelligence community.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Sense of Congress on intelligence community contracting.
Sec. 304. Requirements for lodging allowances in intelligence community assignment program benefits.
Sec. 305. Modification of reporting requirements for significant anticipated intelligence activities and significant intelligence failures.
Sec. 306. Report on implementation of recommendations of the National Commission on Terrorism and other entities.
Sec. 307. Judicial review under Foreign Narcotics Kingpin Designation Act.
Sec. 308. Modification of positions requiring consultation with Director of Central Intelligence in appointments.
Sec. 309. Modification of authorities for protection of intelligence community employees who report urgent concerns to Congress.
Sec. 310. Review of protections against the unauthorized disclosure of classified information.
Sec. 311. One-year suspension of reorganization of Diplomatic Telecommunications Service Program Office.
Sec. 312. Presidential approval and submission to Congress of National Counterintelligence Strategy and National Threat Identification and Prioritization Assessments.
Sec. 313. Report on alien terrorist removal proceedings.
Sec. 314. Technical amendments.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Modifications of central services program.
Sec. 402. One-year extension of Central Intelligence Agency Voluntary Separation Pay Act.
Sec. 403. Guidelines for recruitment of certain foreign assets.
Sec. 404. Full reimbursement for professional liability insurance of counterterrorism employees.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Authority to purchase items of nominal value for recruitment purposes.
Sec. 502. Funding for infrastructure and quality-of-life improvements at Menwith Hill and Bad Aibling stations.
Sec. 503. Modification of authorities relating to official immunity in interdiction of aircraft engaged in illicit drug trafficking.
Sec. 504. Undergraduate training program for employees of the National Imagery and Mapping Agency.
Sec. 505. Preparation and submittal of reports, reviews, studies, and plans relating to Department of Defense intelligence activities.
Sec. 506. Enhancement of security authorities of National Security Agency.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The National Reconnaissance Office.

(11) The National Imagery and Mapping Agency.

(12) The Coast Guard.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2002, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 2883 of the One Hundred Seventh Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2002 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall notify promptly the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 2002 the sum of $200,276,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the advanced research and development committee shall remain available until September 30, 2003.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of Central Intelligence are authorized 343 full-time personnel as of September 30, 2002. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2002 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2003.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2002, there are hereby authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2002 any officer or employee of the United States or a member of the Armed Forces who is detailed to the

staff of the Intelligence Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) National Drug Intelligence Center.—

(1) In general.—Of the amount authorized to be appropriated in subsection (a), $44,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2003, and funds provided for procurement purposes shall remain available until September 30, 2004.

(2) Transfer of funds.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) Limitation.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

(4) Authority.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

SEC. 105. CODIFICATION OF THE COAST GUARD AS AN ELEMENT OF THE INTELLIGENCE COMMUNITY.

Section 3(4)(H) of the National Security Act of 1947 (50 U.S.C. 401a(4)(H) is amended—

(1) by striking "and" before "the Department of Energy"; and

(2) by inserting ", and the Coast Guard" before the semicolon.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2002 the sum of $212,000,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.

SEC. 304. REQUIREMENTS FOR LODGING ALLOWANCES IN INTELLIGENCE COMMUNITY ASSIGNMENT PROGRAM BENEFITS.

Section 113(b) of the National Security Act of 1947 (50 U.S.C. 404h(b) is amended—

(1) by inserting "(1)" before "An employee"; and

(2) by adding at the end the following new paragraph:

"(2) The head of an agency of an employee detailed under subsection (a) may pay a lodging allowance for the employee subject to the following conditions:

"(A) The allowance shall be the lesser of the cost of the lodging or a maximum amount payable for the lodging as established jointly by the Director of Central Intelligence and—

"(i) with respect to detailed employees of the Department of Defense, the Secretary of Defense; and

"(ii) with respect to detailed employees of other agencies and departments, the head of such agency or department.

"(B) The detailed employee maintains a primary residence for the employee's immediate family in the local commuting area of the parent agency duty station from which the employee regularly commuted to such duty station before the detail.

"(C) The lodging is within a reasonable proximity of the host agency duty station.

"(D) The distance between the detailed employee's parent agency duty station and the host agency duty station is greater than 20 miles.

"(E) The distance between the detailed employee's primary residence and the host agency duty station is 10 miles greater than the distance between such primary residence and the employees parent duty station.

"(F) The rate of pay applicable to the detailed employee does not exceed the rate of basic pay for grade GS–15 of the General Schedule.".

SEC. 305. MODIFICATION OF REPORTING REQUIREMENTS FOR SIGNIFICANT ANTICIPATED INTELLIGENCE ACTIVITIES AND SIGNIFICANT INTELLIGENCE FAILURES.

Section 502 of the National Security Act of 1947 (50 U.S.C. 413a) is amended—

(1) by inserting "(a) In General.—" before "To the extent"; and

(2) by adding at the end the following new subsections:

"(b) Form and Contents of Certain Reports.—Any report relating to a significant anticipated intelligence activity or a significant intelligence failure that is submitted to the intelligence committees for purposes of subsection (a)(1) shall be in writing, and shall contain the following:

"(1) A concise statement of any facts pertinent to such report.

"(2) An explanation of the significance of the intelligence activity or intelligence failure covered by such report.

"(c) Standards and Procedures for Certain Reports.—The Director of Central Intelligence, in consultation with the heads of the departments, agencies, and entities referred to in subsection (a), shall establish standards and procedures applicable to reports covered by subsection (b).".

SEC. 306. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF THE NATIONAL COMMISSION ON TERRORISM AND OTHER ENTITIES.

(a) In General.—Not later than 120 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report concerning whether, and to what extent, the Intelligence Community has implemented recommendations relevant to the Intelligence Community as set forth in the following:

(1) The report prepared by the National Commission on Terrorism established by section 591 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277).

(2) The report prepared by the United States Commission on National Security for the 21st Century, Phase III, dated February 15, 2001.

(3) The second annual report of the advisory panel to assess domestic response capabilities for terrorism involving weapons of mass destruction established pursuant to section 1405 of the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 2301 note).

(b) Recommendations Determined Not To Be Adopted.—In a case in which the Director determines that a recommendation described in subsection (a) has not been implemented, the report under that subsection shall include a detailed explanation of the reasons for not implementing that recommendation.

SEC. 307. JUDICIAL REVIEW UNDER FOREIGN NARCOTICS KINGPIN DESIGNATION ACT.

Section 805 of the Foreign Narcotics Kingpin Designation Act (title VIII of Public Law 106–120; 113 Stat. 1629; 21 U.S.C. 1904) is amended by striking subsection (f).

SEC. 308. MODIFICATION OF POSITIONS REQUIRING CONSULTATION WITH DIRECTOR OF CENTRAL INTELLIGENCE IN APPOINTMENTS.

Section 106(b)(2) of the National Security Act of 1947 (50 U.S.C. 403–6(b)(2)) is amended by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) The Director of the Office of Intelligence of the Department of Energy.

"(D) The Director of the Office of Counterintelligence of the Department of Energy.".

SEC. 309. MODIFICATION OF AUTHORITIES FOR PROTECTION OF INTELLIGENCE COMMUNITY EMPLOYEES WHO REPORT URGENT CONCERNS TO CONGRESS.

(a) Authority of Inspector General of Central Intelligence Agency.—Section 17(d)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(5)) is amended—

(1) in subparagraph (B), by striking the second sentence and inserting the following new sentence: "Upon making such a determination, the Inspector General shall transmit to the Director notice of that determination, together with the complaint or information."; and

(2) in subparagraph (D)(i), by striking "does not transmit," and all that follows through "subparagraph (B)," and inserting "does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B),".

(b) Authorities of Inspectors General of the Intelligence Community.—Section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking the second sentence and inserting the following new sentence: "Upon making such a determination, the Inspector General shall transmit to the head of the establishment notice of that determination, together with the complaint or information."; and

(2) in subsection (d)(1), by striking "does not transmit," and all that follows through "subsection (b)," and inserting "does not find credible under subsection (b) a complaint or information submitted to the Inspector General under

subsection (a), or does not transmit the complaint or information to the head of the establishment in accurate form under subsection (b).".

SEC. 310. REVIEW OF PROTECTIONS AGAINST THE UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION.

(a) REQUIREMENT.—The Attorney General shall, in consultation with the Secretary of Defense, Secretary of State, Secretary of Energy, Director of Central Intelligence, and heads of such other departments, agencies, and entities of the United States Government as the Attorney General considers appropriate, carry out a comprehensive review of current protections against the unauthorized disclosure of classified information, including—

(1) any mechanisms available under civil or criminal law, or under regulation, to detect the unauthorized disclosure of such information; and

(2) any sanctions available under civil or criminal law, or under regulation, to deter and punish the unauthorized disclosure of such information.

(b) PARTICULAR CONSIDERATIONS.—In carrying out the review required by subsection (a), the Attorney General shall consider, in particular—

(1) whether the administrative regulations and practices of the intelligence community are adequate, in light of the particular requirements of the intelligence community, to protect against the unauthorized disclosure of classified information; and

(2) whether recent developments in technology, and anticipated developments in technology, necessitate particular modifications of current protections against the unauthorized disclosure of classified information in order to further protect against the unauthorized disclosure of such information.

(c) REPORT.—(1) Not later than May 1, 2002, the Attorney General shall submit to Congress a report on the review carried out under subsection (a). The report shall include the following:

(A) A comprehensive description of the review, including the findings of the Attorney General as a result of the review.

(B) An assessment of the efficacy and adequacy of current laws and regulations against the unauthorized disclosure of classified information, including whether or not modifications of such laws or regulations, or additional laws or regulations, are advisable in order to further protect against the unauthorized disclosure of such information.

(C) Any recommendations for legislative or administrative action that the Attorney General considers appropriate, including a proposed draft for any such action, and a comprehensive analysis of the Constitutional and legal ramifications of any such action.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 311. ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

Notwithstanding any provision of subtitle B of title III of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567; 114 Stat. 2843; 22 U.S.C. 7301 et seq.), relating to the reorganization of the Diplomatic Telecommunications Service Program Office, no provision of that subtitle shall be effective during the period beginning on the date of the enactment of this Act and ending on October 1, 2002.

SEC. 312. PRESIDENTIAL APPROVAL AND SUBMISSION TO CONGRESS OF NATIONAL COUNTERINTELLIGENCE STRATEGY AND NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENTS.

The National Counterintelligence Strategy, and each National Threat Identification and Prioritization Assessment, produced under Presidential Decision Directive 75, dated December 28, 2000, entitled "U.S. Counterintelligence Effectiveness—Counterintelligence for the 21st Century", including any modification of that Strategy or any such Assessment, may only take effect if approved by the President. The Strategy, each Assessment, and any modification thereof, shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

SEC. 313. REPORT ON ALIEN TERRORIST REMOVAL PROCEEDINGS.

Section 504 of the Immigration and Nationality Act (8 U.S.C. 1534) is amended by adding after subsection (k) the following new subsection:

"(l) Not later than 3 months from the date of the enactment of this subsection, the Attorney General shall submit to Congress a report concerning the effect and efficacy of alien terrorist removal proceedings, including the reasons why proceedings pursuant to this section have not been used by the Attorney General in the past and the effect on the use of these proceedings after the enactment of the USA PATRIOT Act of 2001 (Public Law 107–56).".

SEC. 314. TECHNICAL AMENDMENTS.

(a) FISA.—The Foreign Intelligence Surveillance Act of 1978 is amended as follows:

(1) Section 101(h)(4) (50 U.S.C. 1801(h)(4)) is amended by striking "twenty-four hours" and inserting "72 hours".

(2) Section 105 (50 U.S.C. 1805) is amended—

(A) by inserting ", if known" in subsection (c)(1)(B) before the semicolon at the end;

(B) by striking "twenty-four hours" in subsection (f) each place it appears and inserting "72 hours";

(C) by transferring the subsection (h) added by section 225 of the USA PATRIOT Act (Public Law 107–56; 115 Stat. 295) so as to appear after (rather than before) the subsection (h) redesignated by section 602(b)(2) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106–567; 114 Stat. 2851) and redesignating that subsection as so transferred as subsection (i); and

(D) in the subsection transferred and redesignated by subparagraph (C), by inserting "for electronic surveillance or physical search" before the period at the end.

(3) Section 301(4)(D) (50 U.S.C. 1821(4)(D)) is amended by striking "24 hours" and inserting "72 hours".

(4) Section 304(e) (50 U.S.C. 1824(e)) is amended by striking "24 hours" each place it appears and inserting "72 hours".

(5) Section 402 (50 U.S.C. 1842) is amended—

(A) in subsection (c), as amended by paragraphs (2) and (3) of section 214(a) of the USA PATRIOT Act (115 Stat. 286), by inserting "and" at the end of paragraph (1); and

(B) in subsection (f), by striking "of a court" and inserting "of an order issued".

(6) Subsection (a) of section 501 (50 U.S.C. 1861), as inserted by section 215 of the USA PATRIOT Act (115 Stat. 287), is amended by inserting "to obtain foreign intelligence information not concerning a United States person or" in paragraph (1) after "an investigation".

(7) Section 502 (50 U.S.C. 1862), as inserted by section 215 of the USA PATRIOT Act (115 Stat. 288), is amended by striking "section 402" both places it appears and inserting "section 501".

(8) The table of contents in the first section is amended—

(A) by inserting "Sec." at the beginning of the items relating to sections 401, 402, 403, 404, 405, 406, and 601; and

(B) by striking the items relating to sections 501, 502, and 503 and inserting the following:

"Sec. 501. Access to certain business records for foreign intelligence and international terrorism investigations.
"Sec. 502. Congressional oversight.".

(b) TITLE 18, UNITED STATES CODE.—Paragraph (19) of section 2510 of title 18, United States Code, as added by section 203(b)(2)(C) of the USA PATRIOT Act (115 Stat. 280), is amended by inserting ", for purposes of section 2517(6) of this title," before "means".

(c) USA PATRIOT ACT.—Effective as of the enactment of such Act and as if included therein as originally enacted, the USA PATRIOT Act (Public Law 107–56) is amended—

(1) in section 207(b)(1) (115 Stat. 282), by striking "105(d)(2)" and "1805(d)(2)" and inserting "105(e)(2)" and "1805(e)(2)", respectively; and

(2) in section 1003 (115 Stat. 392), by inserting "of 1978" after "Act".

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. MODIFICATIONS OF CENTRAL SERVICES PROGRAM.

(a) ANNUAL AUDITS.—Subsection (g)(1) of section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u) is amended—

(1) by striking "December 31" and inserting "January 31"; and

(2) by striking "conduct" and inserting "complete".

(b) PERMANENT AUTHORITY.—Subsection (h) of that section is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) in paragraph (1), as so redesignated, by striking "paragraph (3)" and inserting "paragraph (2)"; and

(4) in paragraph (2), as so redesignated, by striking "paragraph (2)" and inserting "paragraph (1)".

SEC. 402. ONE-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.

Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended—

(1) in subsection (f), by striking "September 30, 2002" and inserting "September 30, 2003"; and

(2) in subsection (i), by striking "or 2002" and inserting "2002, or 2003".

SEC. 403. GUIDELINES FOR RECRUITMENT OF CERTAIN FOREIGN ASSETS.

Recognizing dissatisfaction with the provisions of the guidelines of the Central Intelligence Agency (promulgated in 1995) for handling cases involving foreign assets or sources with human rights concerns and recognizing that, although there have been recent modifications to those guidelines, they do not fully address the challenges of both existing and long-term threats to United States security, the Director of Central Intelligence shall—

(1) rescind the existing guidelines for handling such cases;

(2) issue new guidelines that more appropriately weigh and incentivize risks to ensure that qualified field intelligence officers can, and should, swiftly and directly gather intelligence from human sources in such a fashion as to ensure the ability to provide timely information that would allow for indications and warnings of plans and intentions of hostile actions or events; and

(3) ensure that such information is shared in a broad and expeditious fashion so that, to the extent possible, actions to protect American lives and interests can be taken.

SEC. 404. FULL REIMBURSEMENT FOR PROFESSIONAL LIABILITY INSURANCE OF COUNTERTERRORISM EMPLOYEES.

Section 406(a)(2) of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567; 114 Stat. 2849; 5 U.S.C. prec. 5941 note) is amended by striking "one-half" and inserting "100 percent".

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES.

(a) AUTHORITY.—Section 422 of title 10, United States Code, is amended by adding at the end the following:

"(b) PROMOTIONAL ITEMS FOR RECRUITMENT PURPOSES.—The Secretary of Defense may use funds available for an intelligence element of the Department of Defense to purchase promotional items of nominal value for use in the recruitment of individuals for employment by that element.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§422. Use of funds for certain incidental purposes".

(2) Such section is further amended by inserting at the beginning of the text of the section the following:

"(a) COUNTERINTELLIGENCE OFFICIAL RECEPTION AND REPRESENTATION EXPENSES.—".

(3) The item relating to such section in the table of sections at the beginning of subchapter I of chapter 21 of such title is amended to read as follows:

"422. Use of funds for certain incidental purposes.".

SEC. 502. FUNDING FOR INFRASTRUCTURE AND QUALITY-OF-LIFE IMPROVEMENTS AT MENWITH HILL AND BAD AIBLING STATIONS.

(a) AUTHORITY.—

(1) In addition to funds otherwise available for such purpose, the Secretaries of the Army, Navy, and Air Force may each transfer or reprogram such funds as are necessary—

(A) for the enhancement of the capabilities of the Menwith Hill Station and Bad Aibling Station, including improvements of facility infrastructure and quality of life programs at those installations; and

(B) at the appropriate time, for costs associated with the closure of the Bad Aibling Station.

(2) The authority provided in paragraph (1) may be exercised notwithstanding any other provision of law.

(b) SOURCE OF FUNDS.—Funds available for any of the military departments for operation and maintenance shall be available to carry out subsection (a).

(c) BUDGET REPORT.—The Secretary of each military department shall ensure—

(1) that the annual budget request of that military department reflects any funds transferred or reprogrammed under this section for the preceding fiscal year; and

(2) that a copy of the portion of the budget request showing each such transfer or reprogramming is transmitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to modify or obviate existing law or practice with regard to the transfer or reprogramming of funds from the Department of the Army, the Department of the Navy, or the Department of the Air Force to the Menwith Hill Station at the Bad Aibling Station.

SEC. 503. MODIFICATION OF AUTHORITIES RELATING TO OFFICIAL IMMUNITY IN INTERDICTION OF AIRCRAFT ENGAGED IN ILLICIT DRUG TRAFFICKING.

(a) CERTIFICATION REQUIRED FOR IMMUNITY.—Subsection (a)(2) of section 1012 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 22 U.S.C. 2291–4) is amended by striking ", before the interdiction occurs, has determined" in the matter preceding subparagraph (A) and inserting "has, during the 12-month period ending on the date of the interdiction, certified to Congress".

(b) ANNUAL REPORTS.—That section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) ANNUAL REPORT.—(1) Not later than February 1 each year, the President shall submit to Congress a report on the assistance provided under subsection (b) during the preceding calendar year. Each report shall include for the calendar year covered by such report the following:

"(A) A list specifying each country for which a certification referred to in subsection (a)(2) was in effect for purposes of that subsection during any portion of such calendar year, including the nature of the illicit drug trafficking threat to each such country.

"(B) A detailed explanation of the procedures referred to in subsection (a)(2)(B) in effect for each country listed under subparagraph (A), including any training and other mechanisms in place to ensure adherence to such procedures.

"(C) A complete description of any assistance provided under subsection (b).

"(D) A summary description of the aircraft interception activity for which the United States Government provided any form of assistance under subsection (b).

"(2) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.".

SEC. 504. UNDERGRADUATE TRAINING PROGRAM FOR EMPLOYEES OF THE NATIONAL IMAGERY AND MAPPING AGENCY.

(a) AUTHORITY TO CARRY OUT TRAINING PROGRAM.—Subchapter III of chapter 22 of title 10, United States Code, is amended by adding at the end the following new section:

"§462. Financial assistance to certain employees in acquisition of critical skills

"The Secretary of Defense may establish an undergraduate training program with respect to civilian employees of the National Imagery and Mapping Agency that is similar in purpose, conditions, content, and administration to the program established by the Secretary of Defense under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"462. Financial assistance to certain employees in acquisition of critical skills.".

SEC. 505. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES.

(a) CONSULTATION IN PREPARATION.—The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations or a classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense shall be prepared or conducted in consultation with the Secretary of Defense or an appropriate official of the Department designated by the Secretary for that purpose.

(b) SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) The Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

SEC. 506. ENHANCEMENT OF SECURITY AUTHORITIES OF NATIONAL SECURITY AGENCY.

Section 11 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended to read as follows:

"SEC. 11. (a)(1) The Director of the National Security Agency may authorize agency personnel within the United States to perform the same functions as special policemen of the General Services Administration perform under the first section of the Act entitled 'An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes' (40 U.S.C. 318) with the powers set forth in that section, except that such personnel shall perform such functions and exercise such powers—

"(A) at the National Security Agency Headquarters complex and at any facilities and protected property which are solely under the administration and control of, or are used exclusively by, the National Security Agency; and

"(B) in the streets, sidewalks, and the open areas within the zone beginning at the outside boundary of such facilities or protected property and extending outward 500 feet.

"(2) The performance of functions and exercise of powers under subparagraph (B) of paragraph (1) shall be limited to those circumstances where such personnel can identify specific and articulable facts giving such personnel reason to believe that the performance of such functions and exercise of such powers is reasonable to protect against physical damage or injury, or threats of physical damage or injury, to agency installations, property, or employees.

"(3) Nothing in this subsection shall be construed to preclude, or limit in any way, the authority of any Federal, State, or local law enforcement agency, or any other Federal police or Federal protective service.

"(4) The rules and regulations enforced by such personnel shall be the rules and regulations prescribed by the Director and shall only be applicable to the areas referred to in subparagraph (A) of paragraph (1).

"(5) Not later than July 1 each year, the Director shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report that describes in detail the exercise of the authority granted by this subsection and the underlying facts supporting the exercise of such authority, during the preceding fiscal year. The Director shall make each such report available to the Inspector General of the National Security Agency.

"(b) The Director of the National Security Agency is authorized to establish penalties for violations of the rules or regulations prescribed by the Director under subsection (a). Such penalties shall not exceed those specified in the fourth section of the Act referred to in subsection (a) (40 U.S.C. 318c).

"*(c) Agency personnel designated by the Director of the National Security Agency under subsection (a) shall be clearly identifiable as United States Government security personnel while engaged in the performance of the functions to which subsection (a) refers.*".

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

PORTER J. GOSS,
DOUGLAS BEREUTER,
MICHAEL N. CASTLE,
SHERWOOD BOEHLERT,
JIM GIBBONS,
RAY LAHOOD,
DUKE CUNNINGHAM,
PETE HOEKSTRA,
RICHARD BURR,
SAXBY CHAMBLISS,
NANCY PELOSI,
SANFORD BISHOP,
JANE HARMON,
GARY CONDIT,
TIM ROEMER,
ALCEE L. HASTINGS,
LEONARD L. BOSWELL,
COLLIN C. PETERSON,
Managers on the Part of the House.

BOB GRAHAM,
JOHN D. ROCKEFELLER IV,
DIANNE FEINSTEIN,
RON WYDEN,
RICHARD DURBIN,
EVAN BAYH,
JOHN EDWARDS,
BARBARA MIKULSKI,
RICHARD SHELBY,
JON KYL,
JAMES INHOFE,
ORRIN G. HATCH,
PAT ROBERTS,
MIKE DEWINE,
FRED THOMPSON,
RICHARD G. LUGAR,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2883), to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The managers agree that the congressionally directed actions described in the House bill, the Senate amendment, the respective committee reports, and classified annexes accompanying H.R. 2883, should be undertaken to the extent that such congressionally directed actions are not amended, altered, or otherwise specifically addressed in either this Joint Explanatory Statement or in the classified annex to the conference report on the bill H.R. 2883.

Rebuilding the Nation's Intelligence Capabilities

The conferees note that the fiscal year 2002 budget request submitted by the President includes a substantial increase for programs funded in the National Foreign Intelligence Program. This authorization bill further enhances that investment. The conferees believe this funding increase should represent the first installment of at least a five-year effort to correct serious deficiencies that have developed over the past decade in the Intelligence Community. The conferees recognize that these deficiencies existed prior to the events of September 11th and, indeed, they have been consistently highlighting these shortfalls for the past seven years. Put simply, although the end of the Cold War warranted a reordering of national priorities, the steady decline in intelligence funding since the mid-1990s left the nation with a diminished ability to address the emerging threats and technological challenges of the 21st Century.

In this budget, the conferees seek to highlight four priority areas that must receive significant attention in the near term if intelligence is to fulfill its role in our national security strategy. Those are: (1) revitalizing the National Security Agency (NSA); (2) correcting deficiencies in human intelligence; (3) addressing the imbalance between intelligence collection and analysis; and (4) rebuilding a robust research and development program.

The conferees' top priority last year was the revitalization of the National Security Agency. This continues to be the conferees' number one concern. Within the next five years, the NSA must have the ability to collect and exploit electronic signals in a vastly differenct communications environment. Along with significant investment in technology, this means closer collaboration with clandestine human collectors. The computer and telecommunications systems that NSA employees use to accomplish their work must be state-of-the-art technology. Analysts must have sophisticated software tools to allow them to exploit fully the amount of data available in the future.

Correcting deficiencies in the area of human intelligence is critical for the Intelligence Community if it is to meet the increasingly complex and growing set of collection requirements within the next five years. The Central Intelligence Agency (CIA) will need to hire case officers capable of dealing with the explosion of technology, both as collection tools and as potential threats. These individuals must be able to operate effectively in the many places around the world. To do that, the CIA must place even greater emphasis on the diversity of the new recruits. As importantly, the emphasis of our human collection must change in such a way that places a priority on being able to access the types of information that reveal the plans and intentions of those who would harm U.S. interests. The human intelligence system also must be integrated more closely with our other collection capabilities.

As we do a better job of collecting intelligence, we also must enhance our ability to understand this information. The percentage of the intelligence budget devoted to processing and analysis has been declining steadily since 1990. Although collection systems are becoming more and more capable, our investment in analysis continues to decline. The disparity threatens to overwhelm our ability to effectively use the information collected. To address this problem, the conferees have added funds to finance promising all-source analysis initiatives across the Community. Over the next five years, the Intelligence Community must rebuild its all-source analytical capability, creating a force that can truly present a global coverage capability.

The conferees' fourth priority, a strong research and development program, supports all of the other initiatives and more. Over the past decade, agencies have allowed research and development accounts to be the "bill payer" for funding shortfalls, and have sacrificed modernization and innovation in the process. The conferees believe that over the next five years, there must be a review of several emerging technologies to determine what will provide the best long-term return on investment, while ensuring that sufficient incentives for "risk" are promoted in order to bring R&D to the "cutting edge." As part of such an effort, the conferees continue to support and encourage a symbiotic relationship between the Intelligence Community and the private sector using innovative approaches such as the Central Intelligence Agency's In-Q-Tel.

Although the conferees believe that this authorization represents a "down payment" for a five-year effort to rebuild our intelligence capabilities, they also believe that, in light of the horrible and tragic terrorist attacks, this year's authorization represents only a snapshot in time, and does not necessarily represent the critically needed long-term investments sufficient to bolster national security objectives. In fact, the conferees believe that this authorization is only the beginning of what must be a substantial investment if the nation is to have the intelligence capabilities required to protect national security and to provide the first line of defense against terrorism and other transnational issues.

Beyond the four priority areas mentioned above, significant attention is needed elsewhere as well. For example, designing and procuring the appropriate capabilities for technical collection to replace our aging systems must also be addressed. Additionally, there are areas that the Administration must address that are beyond financial investment, and go to instilling, within the Intelligence Community, a focus on ensuring anticipatory access, so as to be able to obtain information on plans and intentions in order to prevent crises. The Intelligence Community must create a "culture" that is less risk averse.

Finally, the conferees believe that any effort to invest in and expand intelligence capabilities will only be marginally successful, at best, if there is not a parallel effort to change the structure of the Community where appropriate. Today's intelligence structure is not suitable to address current and future challenges, and the conferees look forward to working with the Administration on this issue as well.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS

Section 101 of the conference report lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorizes appropriations for fiscal year 2001. Section 101 is identical to section 101 of the House bill and section 101 of the Senate amendment, except for the addition of the Coast Guard, see section 105, infra.

SEC. 102 CLASSIFIED SCHEDULE OF AUTHORIZATIONS

Section 102 of the conference report makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and applicable personnel ceilings covered under this title for fiscal year 2002 are contained in a classified Schedule of Authorizations. The classified Schedule of Authorizations is incorporated into the Act by this section. The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The classified annex provides the details of the Schedule. Section 102 is identical to section 102 of the House bill and section 102 of the Senate amendment.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS

Section 103 of the conference report authorizes the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, in fiscal year 2002 to authorize employment of civilian personnel in excess of the personnel ceilings applicable to the components of the Intelligence Community under section 102 by an amount not too exceed two percent of the total of the ceilings applicable under section 102. The Director of Central Intelligence may exercise this authority only if necessary to the performance of important intelligence functions. Any exercise of this authority must be reported to the intelligence committees of the Congress.

The managers emphasize that the authority conferred by section 103 is not intended to permit wholesale increases in personnel strength in any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees. The managers do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs that are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this bill. Section 103 is identical to section 103 of the House bill and section 103 of the Senate amendment.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

Section 104 of the conference report authorizes appropriations for the Community Management Account (CMA) of the Director of Central Intelligence (DCI) and sets the personnel end-strength for the Intelligence Community management staff for fiscal year 2002.

Subsection (a) authorizes appropriations of $200,276,000 for fiscal year 2002 for the activities of the CMA of the DCI.

Subsection (b) authorizes 343 full-time personnel for the Community Management Staff for fiscal year 2002 and provides that such personnel may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection (c) authorizes additional appropriations and personnel for the CMA as specified in the classified Schedule of Authorizations and permits these additional amounts to remain available through September 30, 2003.

Subsection (d) requires that, except as provided in Section 113 of the National Security Act of 1947, personnel from another element of the United States Government be detailed to an element of the CMA on a reimbursable basis, or for temporary situations of less than one year on a non-reimbursable basis.

Subsection (e) authorizes $44,000,000 of the amount authorized in subsection (a) to be made available for the National Drug Intelligence Center (NDIC). Subsection (e) requires the DCI to transfer these funds to the Department of Justice to be used for NDIC activities under the authority of the Attorney General and subject to section 103(d)(1) of the National Security Act. Subsection (e) is similar to subsection (e) of the House bill and subsection (e) of the Senate amendment.

The managers note that since Fiscal Year 1997 the Community Management Account has included authorization for appropriations for the National Drug Intelligence Center (NDIC). The committees periodically have expressed concern about the effectiveness of NDIC and its ability to fulfill the role for which it was created. The managers are encouraged by the NDIC's recent performance and by the refocused role for the organization. The conferees request that the Director of the NDIC provide a spending plan for fiscal year 2002 to the intelligence committees and to the appropriations committees within 90 days of enactment of this Act.

SEC. 105 CODIFICATION OF THE COAST GUARD AS AN ELEMENT OF THE INTELLIGENCE COMMUNITY

Section 105 is identical to Section 105 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Section 201 is identical to Section 201 of the Senate amendment and section 201 of the House bill.

TITLE III—GENERAL PROVISIONS

Subtitle A—Intelligence Community

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

Section 301 is identical to Section 301 of the Senate amendment and section 301 of the House bill.

SEC. 302 RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

Section 302 is identical to Section 302 of the Senate amendment and section 302 of the House bill.

SEC. 303 SENSE OF THE CONGRESS OF INTELLIGENCE COMMUNITY CONTRACTING

Section 303 is identical to Section 303 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

SEC. 304. REQUIREMENTS FOR LODGING ALLOWANCES IN INTELLIGENCE COMMUNITY ASSIGNMENT PROGRAM BENEFITS

Section 304 is identical to Section 304 of the House amendment. The Senate amendment had no similar provision. The Senate recedes.

SEC. 305. MODIFICATION OF REPORTING REQUIREMENTS FOR SIGNIFICANT ANTICIPATED INTELLIGENCE ACTIVITIES AND SIGNIFICANT INTELLIGENCE FAILURES

Section 305 is identical to Section 305 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 306. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF THE NATIONAL COMMISSION ON TERRORISM AND OTHER ENTITIES

Section 306 is similar to Section 307 of the House bill, which requires a report from the Director of Central Intelligence concerning whether and to what extent, the Intelligence Community has implemented the applicable recommendations set forth by the National Commission on Terrorism (Bremer Commission). The DCI report, which shall be due 120 days after enactment of this legislation, shall include a detailed explanation from the DCI as to the reasons for not implementing Intelligence Community-related recommendations contained within the three commission reports. The Senate amendment had no similar provision. The conferees agree to expand the DCI's reporting requirement to include applicable provisions of the US commission on National Security for the 21st Century and the second annual report of the so-called Gilmore Commission. The Senate amendment had no similar provision. The Senate recedes.

SEC. 307. JUDICIAL REVIEW UNDER FOREIGN NARCOTICS KINGPIN DESIGNATION ACT

Section 307 is identical to Section 303 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 308. MODIFICATION OF POSITIONS REQUIRING CONSULTATION WITH DIRECTOR OF CENTRAL INTELLIGENCE IN APPOINTMENTS

Section 308 is identical to Section 304 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 309. MODIFICATION OF AUTHORITIES FOR PROTECTION OF INTELLIGENCE COMMUNITY EMPLOYEES WHO REPORT URGENT CONCERNS TO CONGRESS

Section 309 is identical to Section 306 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 310. REVIEW OF PROTECTIONS AGAINST THE UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION

Section 310 is identical to Section 307 of the Senate amendment. The House bill had no similar provision. The House recedes. The conferees expect a report no later than May 1, 2002, from the Attorney General providing a comprehensive review of current protections against the unauthorized disclosure of classified information.

SEC. 311. ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE

Section 311 is identical to Section 309 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 312. PRESIDENTIAL APPROVAL AND SUBMISSION TO CONGRESS OF NATIONAL COUNTERINTELLIGENCE STRATEGY AND NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENTS

Section 312 is identical to Section 310 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 313. REPORT ON ALIEN TERRORIST REMOVAL PROCEEDINGS

Section 313 is identical to section 312 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 314. TECHNICAL AMENDMENTS

Extension of Time to Seek FISA Ratification of Attorney General-authorized Electronic Surveillance and Physical Searches

Under current law, the Attorney General may authorize electronic surveillance or a search without a court order when he concludes, first, that the factual basis for granting such an order exists and, second, that an emergency exists requiring action before a court order may be obtained. 50 U.S.C. §§1805(f), 1824(e). Current law requires the

Government to prepare a complete FISA application and present it to the FISA court for approval within 24 hours "after the Attorney General authorizes" the surveillance or search. Failure to do so results in the suppression of information from the surveillance or search.

Given the length and complexity of many FISA applications, the need to verify the accuracy of each FISA declaration by review in the field, the requirement that the Government obtain both a written certification from the director of the FBI (or a similar official) and the written approval of the Attorney General, it often is extremely difficult to meet the 24-hour deadline. This is especially true where—as often will be the case—the emergency authorization comes in the midst of a larger emergency requiring the personal attention of the Attorney General and the Director of the FBI. The emergency authorization provision of title III wiretaps, 18 U.S.C. §2518(7), sets a deadline of 48-hours, and starts the 48-hour clock not at the time of authorization, but only once the interception "has occurred, or begins to occur."

The conferees agreed to a provision to extend the time for judicial ratification of an emergency FISA surveillance or search from 24 to 72 hours. That would give the Government adequate time to assemble an application without requiring extraordinary effort by officials responsible for the preparation of those applications. The additional 48 hours for FISA applications is appropriate given their complexity and the need for higher-level approval for FISA applications than for applications under title III. The additional time is also appropriate given that the deadline for submission of applications under FISA begins when the Attorney General authorizes the surveillance or search, rather than when the surveillance or search actually occurs, as is the case under title III.

Multipoint Wiretaps

The multipoint wiretap amendment to FISA in the USA PATRIOT Act (section 206) allows the FISA court to issue generic orders of assistance to any communications provider or similar person, instead of to a particular communications provider. This change permits the Government to implement new surveillance immediately if the FISA target changes providers in an effort to thwart surveillance. The amendment was directed at persons who, for example, attempt to defeat surveillance by changing wireless telephone providers or using pay phones.

Currently, FISA requires the court to "specify" the "nature and location of each of the facilities or places at which the electronic surveillance will be directed." 50 U.S.C. §1805(c)(1)(B). Obviously, in certain situations under current law, such a specification is limited. For example, a wireless phone has no fixed location and electronic mail may be accessed from any number of locations.

To avoid any ambiguity and clarify Congress' intent, the conferees agreed to a provision which adds the phrase, "if known," to the end of 50 U.S.C. §1805(c)(1)(B). The "if known" language, which follows the model of 50 U.S.C. §1805(c)(1)(A), is designed to avoid any uncertainty about the kind of specification required in a multipoint wiretap case, where the facility to be monitored is typically not known in advance.

Non-conformity of FISA Subsections 501(a)(1) and 501(b)(2)

Section 215 of the USA PATRIOT Act of 2001 amended title V of the FISA, adding a new section 501. Section 501(a)(1) now authorizes the director of the FBI to apply for a court order to produce certain records "for an investigation to protect against international terrorism or clandestine intelligence activities." Section 501(b)(2) directs that the application for such records specify that the purpose of the investigation is to "obtain foreign intelligence information not concerning a United States person." However, section 501(a)(1), which generally authorizes the applications, does not contain equivalent language. Thus, subsections (a)(1) and (b)(2) now appear inconsistent.

The conferees agreed to a provision which adds the phrase "to obtain foreign intelligence information not concerning a United States person or" to section 501(a)(1). This would make the language of section 501(a)(1) consistent with the legislative history of section 215 of the USA PATRIOT Act (*see* 147 Cong. Res. S11006 (daily ed. Oct. 25, 2001) (sectional analysis)) and with the language of section 214 of the USA PATRIOT Act (authorizing an application for an order to use pen registers and trap and trace devices to "obtain foreign intelligence information not concerning a United States person").

Clarification of Intelligence Exception

Section 203(b)(2) of the USA PATRIOT Act added a definition of "foreign intelligence information" to chapter 119 of title 18, United States Code. The existing intelligence exception from certain chapters of title 18—i.e., chapters 119, 121, and 206—is contained in chapter 119 (at 18 U.S.C. §2511(2)(f)) and uses the term "foreign intelligence information" to define the scope of the exception. As a result, the new definition of "foreign intelligence information" added by section 203(b)(2) could potentially be read to limit the intelligence exception—particularly when compared to the National Security Act definition of "foreign intelligence" (50 U.S.C. §401(a)).

Other Technical Amendments

The conferees agreed to provisions correcting several drafting problems in the text of the USA PATRIOT Act. First, section 207(b)(1) of the PATRIOT ACT refers to section 105(d)(2) instead of section 105(e)(2) and to 50 U.S.C. §1805(d)(2) instead of 50 U.S.C. §1805(e)(2). Second, section 215 (creating new section 502 of FISA) refers to "section 402" instead of "section 501" in the last line of new section 502(a) and in the last line of new section 502(b)(1). Third, section 225 adds a new subsection (h) immediately following 50 U.S.C. §1805(g), but it should add a new subsection (i) immediately following 50 U.S.C. §1805(h).

Fourth, the title of section 225 is "Immunity for Compliance with FISA Wiretap" and it is an amendment to 50 U.S.C. §1805, both of which suggest that it applies only to electronic surveillance and not to physical searches or other activity authorized by FISA. However, the text of section 225 refers to court orders and requests for emergency assistance "under this Act," which makes clear that it applies to physical searches (and pen-trap requests—for which there already exists an immunity provision, 50 U.S.C. §1842(f)—and subpoenas) as well as to electronic surveillance.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. MODIFICATIONS TO CENTRAL INTELLIGENCE AGENCY'S CENTRAL SERVICE PROGRAM

Section 401 is identical to Section 401 of the House bill and Section 402 of the Senate amendment.

SEC. 402. ONE-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT

Section 402 is identical to Section 402 of the House bill and section 401 of the Senate amendment.

SEC. 403. GUIDELINES FOR RECRUITMENT OF CERTAIN FOREIGN ASSETS

Section 403 addresses the CIA's 1995 guidelines on recruitment of foreign assets and sources. The House bill noted the concern that excessive caution and a burdensome vetting process resulting from the 1995 guidelines have undermined the CIA's ability and willingness to recruit assets, especially those who would provide insights into terrorist organizations and other hard targets.

The conferees believe that the concerns expressed in the House bill are justified and that, despite the changes to the 1995 guidelines that the Director of Central Intelligence made in September, the current guidelines must be rescinded and replaced with new guidelines. The conferees intend that a new balance be struck between potential gain and risk, a balance that recognizes concerns about egregious human rights behavior and law breaking, while providing much needed flexibility to take advantage of opportunities to gather important information as those opportunities present themselves. Moreover, the conferees believe that the goals and priorities for human collection must be weighted toward collecting the type of information that will provide plans and intentions of those who would threaten American national security, in a timeframe that will allow maximum opportunity to prevent actions against American interests. The conferees acknowledge that it may not always be possible to collect such information in every case, but this must be a focus for planning future HUMINT collection efforts if such collection is going to be preventative in nature rather than reactive. The Senate amendment had no similar provision. The Senate recedes.

SEC. 404. FULL REIMBURSEMENT FOR PROFESSIONAL LIABILITY INSURANCE OF COUNTERTERRORISM EMPLOYEES

Section 404 is identical to Section 404 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES

Section 501 is identical to Section 501 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

SEC. 502. FUNDING FOR INFRASTRUCTURE AND QUALITY-OF-LIFE IMPROVEMENTS AT MENWITH HILL AND BAD AIBLING STATIONS

Section 502 is similar to Section 502 of the House bill. The provision is intended to facilitate the transfer or reprogramming of funds from the Departments of the Army, Air Force, and Navy as necessary to support the enhancement of the infrastructure of Menwith Hill and Bad Aibling stations. The Senate amendment had no similar provision. The Senate recedes.

SEC. 503. MODIFICATION OF AUTHORITIES RELATING TO OFFICIAL IMMUNITY IN INTERDICTION OF AIRCRAFT ENGAGED IN ILLICIT DRUG TRAFFICKING

Section 503 is identical to Section 503 of the House bill and Section 308 of the Senate amendment.

SEC. 504. UNDERGRADUATE TRAINING PROGRAM FOR EMPLOYEES OF THE NATIONAL IMAGERY AND MAPPING AGENCY

Section 504 is identical to Section 504 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

SEC. 505. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Section 505 is identical to Section 311 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 506. ENHANCEMENT OF SECURITY AUTHORITIES OF NATIONAL SECURITY AGENCY

Section 506 authorizes the National Security Agency (NSA) security protective officers to exercise their law enforcement functions 500 feet beyond the confines of NSA facilities. At present, NSA's protective jurisdiction does not extend beyond the territorial bounds of its perimeter fences. Additionally, NSA has to rely on several federal, state, and local jurisdictions to respond to threats that occur just outside its fence line. With so many jurisdictions involved, there is a chance that a necessary response could be slowed and thus ineffective. In addition, under current law (Section 11 of the National Security Agency Act of 1959) the Administrator of General Services, upon the application of the Director of NSA, may provide for the protection of those facilities that are under the control of or use by the National Security Agency. The General Services Administration has delegated this authority to NSA. This amendment to the National Security Agency Act would provide NSA with the organic authority needed to protect its facilities and personnel without having to obtain a delegation of authority from the General Services Administration. This section parallels authority the Central Intelligence Agency currently has in section 15 of the CIA Act of 1949 (50 U.S.C. 403o).

The attacks of September 11, 2001 demonstrated the growing threat of terrorism in the United States. The conferees believe the NSA's authority to have a protective detail should be clarified and enhanced 500 feet beyond the confines of NSA's facilities, but were sensitive to the public's reaction to an unlimited grant of law enforcement jurisdiction outside NSA's borders. Therefore, the exercise of this new authority is expressly limited to only those circumstances where NSA security protective officers can identify specific and articulable facts giving them reason to believe that the exercise of this authority is necessary to protect against physical damage or injury to NSA installations, property, or employees. This provision also expressly states that the rules and regulations prescribed by the Director of the NSA for agency property and installations do not extend into the 500 foot area established by this provision. Thus, there will be no restrictions, for example, on the taking of photographs within the 500 foot zone.

The conferees do not envision a general grant of police authority in the 500 foot zone, but do envision NSA security protective officers functioning as federal police, for limited purposes, within the 500 foot zone with all attendant authorities, capabilities, immunities, and liabilities. The conferees expect the Director of NSA to coordinate and establish Memoranda of Understanding with all federal, state, or local law enforcement agencies with which NSA will exercise concurrent jurisdiction in the 500 foot zones. The Director of NSA shall submit such Memoranda of Understanding to the Select Committee on Intelligence and the Armed Services Committee of the Senate and the Permanent Select Committee on Intelligence and the Armed Services Committee of the House of Representatives. The Director of NSA is also expected to develop a training plan to familiarize the Agency's security protective officers with their new authorities and responsibilities. The Director of NSA shall submit such plan to the Select Committee on Intelligence and the Armed Services Committee of the Senate and the Permanent Select Committee on Intelligence and the Armed Services Committee of the House of Representatives not later than 30 days after the enactment of this provision.

Section 506 also includes a reporting requirement so that the intelligence committees may closely scrutinize the exercise of this new authority.

Items Not Included

Section 306 of the House bill contained a provision establishing, with respect to the terrorist attacks of September 11, 2001, a federal commission on the national security readiness of the United States. The Senate bill had no similar provision. The House recedes.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

PORTER J. GOSS,
DOUGLAS BEREUTER,
MICHAEL N. CASTLE,
SHERWOOD BOEHLERT,
JIM GIBBONS,
RAY LAHOOD,
DUKE CUNNINGHAM,
PETE HOEKSTRA,
RICHARD BURR,
SAXBY CHAMBLISS,
NANCY PELOSI,
SANFORD BISHOP,
JANE HARMAN,
GARY CONDIT,
TIM ROEMER,
ALCEE L. HASTINGS,
LEONARD L. BOSWELL,
COLLIN C. PETERSON,
Managers on the Part of the House.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today after 4:30 p.m. on account of personal business.

Mr. GREEN of Texas (at the request of Mr. GEPHARDT) for today after 5:00 p.m. on account of personal business.

Mrs. MORELLA (at the request of Mr. ARMEY) for today until 12:00 noon on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. SHOWS, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

Ms. SANCHEZ, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

ENROLLED JOINT RESOLUTION SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 76. Joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

ADJOURNMENT

Ms. JACKSON-LEE of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until Monday, December 10, 2001, at 2 p.m.

NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, November 13, 2001.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 ("VEOA") (2 U.S.C. §1316a(4)) and section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. §1384(b)), I am submitting on behalf of the Office of Compliance, U.S. Congress, this notice of proposed rulemaking for publication in the Congressional Record. This notice seeks comment on substantive regulations being proposed to implement section 4(c) of VEOA, which affords to covered employees of the legislative branch the rights and protections of selected provisions of veterans' preference law.

Very truly yours,

SUSAN S. ROBFOGEL,
Chair of the Board.

OFFICE OF COMPLIANCE

The Veterans Employment Opportunities Act of 1998: Extension of Rights and Protections Relating to Veterans' Preference Under Title 5, United States Code, to Covered Employees of the Legislative Branch

NOTICE OF PROPOSED RULEMAKING

Summary: The Board of Directors of the Office of Compliance ("Board") is publishing proposed regulations to implement section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 ("VEOA"), Pub. L. 105-339, 112 Stat. 3186, codified at 2 USC §1316a, as applied to covered employees of the House of

Representatives, the Senate, and certain Congressional instrumentalities.

The VEOA applies to the legislative branch the rights and protections pertaining to veterans' preference established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code ("USC").

This Notice proposes that identical regulations be adopted for the Senate, the House of Representatives, and the six Congressional instrumentalities and for their covered employees. Accordingly:

(1) *Senate.* It is proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Senate and employees of the Senate, and this proposal regarding the Senate and its employees is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) *House of Representatives.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the House of Representatives and employees of the House of Representatives, and this proposal regarding the House of Representatives and its employees is recommended by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) *Certain Congressional instrumentalities.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance, and their employees; and this proposal regarding these six Congressional instrumentalities is recommended by the Office of Compliance's Executive Director.

Dates: Interested parties may submit comments within 30 days after the date of publication of this Notice of Proposed Rulemaking in the Congressional Record.

Addresses: Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, DC 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile machine to (202) 426–1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Memorial Building, Washington, DC, Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact: Executive Director, Office of Compliance at (202) 724–9250. This notice is also available in the following formats: large print, Braille, audiotape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Director, Central Operations Department, Office of the Senate Sergeant at Arms, (202) 224–2705.

Supplementary Information:

Background

The Veterans Employment Opportunities Act of 1998[1] "strengthen[s] and broadens"[2] the rights and remedies available to military veterans who are entitled, under the Veterans' Preference Act of 1944[3] (and its amendments), to preferred consideration in appointment to the Federal civil service of the executive branch and in retention during reductions in force ("RIFs"). In addition, and most relevant to this NPR, VEOA affords to "covered employees" of the legislative branch (as defined by section 101 of the Congressional Accountability Act ("CAA") (2 USC §1301)) the rights and protections of selected provisions of veterans' preference law. VEOA §4(c)(2). The selected statutory sections made applicable to such legislative branch employees by VEOA may be summarized as follows.

A definitional section prescribes the categories of military veterans who are entitled to preference ("preference eligible"). 5 USC §2108. Generally, a veteran must be disabled or have served on active duty in the Armed Forces during certain specified time periods or in specified military campaigns to be entitled to preference. In addition, certain family members (mainly spouses, widow[er]s, and mothers) of preference eligible veterans are entitled to the same rights and protections.

In the appointment process, a preference eligible individual who is tested or otherwise numerically evaluated for a position in the competitive service is entitled to have either 5 or 10 points added to his/her score, depending on his or her military service, or disabling condition. 5 USC §3309. Where experience is a qualifying element for a job in the competitive service, a preference eligible individual is entitled to credit for having relevant experience in the military or in various civic activities. 5 USC §3311. Where physical requirements (age, height, weight) are a qualifying element for a position in the competitive service, preference eligible individuals (including those who are disabled) may obtain a waiver of such requirements in certain circumstances. 5 USC §3312. For certain positions in the competitive service (guards, elevator operators, messengers, custodians), only preference eligible individuals can be considered for hiring so long as such individuals are available. 5 USC §3310.

Finally, in prescribing retention rights during RIFs for positions in both the competitive and in the excepted service, the sections in subchapter I of chapter 35 of Title 5, USC, with a slightly modified definition of "preference eligible," require that employing agencies give "due effect" to the following factors: (a) employment tenure (i.e., type of appointment); (b) veterans' preference; (c) length of service; and, (d) performance ratings. 5 USC §§3501, 3502. Such considerations also apply where RIFs occur in connection with a transfer of agency functions from one agency to another. 5 USC §3503. In addition, where physical requirements (age, height, weight) are a qualifying element for retention, preference eligible individuals (including those who are disabled) may obtain a waiver of such requirements in certain circumstances. 5 USC §3504.

On February 28, 2000, and March 9, 2000, an Advanced Notice of Proposed Rulemaking ("ANPR") was published in the Congressional Record (144 Cong. Rec. S862 (daily ed., Feb. 28, 2000), H916 (daily ed., Mar. 9, 2000)). The ANPR identified a number of interpretative issues on which the Board sought public comment in order to assist it in proposing the substantive regulations mandated under section 4(c)(4) of VEOA. The Board had sought to obtain an array of information regarding the employment policies and practices in the various employing offices affected by VEOA. In addition, the Board sought to gain any relevant information that might aid the Board in interpreting VEOA. In response to the ANPR, the Board received two written comments, one of which was from a local unit of a labor organization and the other of which was from the national office of the same labor organization. Both comments focused on the issue of whether the term *guard* in section 3310 of 5 USC, applied by VEOA, should be interpreted to included officers and other employees of the U.S. Capitol Police. The Board received no further public input to assist it in resolving the other issues outlined in the ANPR. Therefore, the Board upon its own further research and study has decided to propose substantive regulations implementing the relevant portions of VEOA. What follows is a discussion of how the Board, tentatively at least, proposes to address the thirteen interpretative issues identified in the ANPR.

Discussion of interpretative issues

Interpretation of term "competitive service" and "excepted service" as applied to the legislative branch [Issues (1)–(7)].

The ANPR observed that VEOA confers upon covered employees the statutory rights and protections of veterans' preference in appointments to the "competitive service." The ANPR also explained that veterans" preference rights in the context of a reduction in force, as provided in the application of subchapter I of chapter 35 of title 5, USC and under VEO, are, with one exception, applicable to both the competitive service and to the excepted service. Moreover, OPM's implementing regulations regarding reductions in force, set forth in 5 CFR part 351, are couched in terms that assume application to the "competitive service" and the "excepted service." Thus the definitions of these two terms, as applied to the legislative branch by virtue of VEOA, are central to a determination of the substantive veterans' preference rights which now apply to covered employees.

The Board received no written comments in response to a series of questions exploring how to interpret these statutory categories of Federal service. In the absence of illuminating comment or contrary definitions in VEOA, the Board believes that it must define these terms in accordance with their meaning under derivative sections of title 5, USC, made applicable by VEOA. This conclusion is supported by a directive in VEOA to issue regulations that are consistent with section 225 of the CAA (2 USC §1361), one of whose subsections embraces a rule of construction that "definitions and exemptions in the laws made applicable by this [Congressional Accountability] Act shall apply under this [Congressional Accountability] Act." This section enables the Board to flesh out the meaning and scope of the various federal employment laws made applicable under the CAA by referring to their respective definitions and exemptions even though they are not expressly cited in the CAA.[4]

Section 2102 of Title 5 USC, as applied under VEOA, presents a three-fold definition of the term "competitive service": First, the competitive service consists of "all civil service positions in the *executive branch*," with exceptions for (a) positions specifically excepted from the competitive service by statute , (b) positions requiring Senate confirmation, and (c) positions in the Senior Executive Service.[5] 5 USC §2102(a)(1)(A)–(C) (emphasis added). Second, the competitive service includes "civil positions not in the executive branch which are specifically included in the competitive service by statute." 5 USC §2102(a)(2). Third, the competitive service encompasses those "positions in the government of the District of Columbia which are specifically included in the competitive service by statute." 5 USC §2102(a)(3).

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[1] Pub. L. 105-339, 112 Stat. 3186 (Oct. 31, 1998).

[2] Sen. Rept. 105-340, 105 Cong., 2d Sess. at 19 (Sept. 21, 1998).

[3] Act of June 27, 1944, ch. 287, 58 Stat. 387, amended and codified in various provisions of Title 5, USC.

[4] *Compare* Notice of Proposed Rulemaking [Fair Labor Standards Act regulations under Congressional Accountability Act], 141 CONG. REC. S17603, S17604 (Daily Ed. Nov. 28, 1995)(in proposing the substantive regulations of the FLSA, 29 USC §201 *et seq.*, the Board cited section 225(f)(1) of the CAA as requiring the application of the FLSA definition of "wages" in 29 USC §203(m).

Section 2103 of Title 5 further defines the "excepted service" to include all "civil service positions which are not in the competitive or the Senior Executive Service." 5 U.S.C. §2103. And section 2101 of that Title defines the "civil service" to include "all appointive positions in the executive, judicial, and legislative branches of the Government of the United States, except positions in the uniformed services." 5 U.S.C. §2101(1).

As applied under VEOA, it would seem that section 225 requires the Board to issue regulations that take into account the definitions (and exemptions) accompanying the civil service laws from which the rights and protections of veterans' preference are derived. Accordingly, the Notice proposes a section, in the form of a proviso, requiring that the terms "competitive service" and "excepted service" in the proposed regulations be defined in reference to their statutory meaning in Title 5, USC. Where an applied regulation refers to the "competitive service," such term shall have the meaning as provided in 5 USC §2102(a)(2). Where an applied regulation refers to the "exempted service," such term shall have the meaning as provided in 5 USC §2103. Consistent with the definition under section 2103, it is the position of the Board that all "covered employees"[6] holding civil service positions in the legislative branch are within the definition of excepted service, unless otherwise designated by statute as being competitive service or Senior Executive Service positions.[7]

The Board recognizes that the adoption of these definitions, consistent with the mandate of section 225, yields an unusual result in that no "covered employee" in the legislative branch currently satisfies the definition of "competitive service." Moreover, as the substantive protections of veterans' preference in legislative branch appointment apply only to "competitive service" positions, the regulations which the Board proposes regarding preference in appointment would with one noted exception, currently apply to no one.[8] However, should Congress, by statute, hereinafter designate any civil service positions in the legislative branch as "competitive service" positions, then consistent with the second definition of section 2102(a)(2) and the parallel regulation proposed herein, the substantive regulations regarding veterans' preference in appointment would apply.

Authority of Board to exercise powers and responsibilities similar to that of OPM in executing, administering, and enforcing the federal service system [Issues (8)–(10)].

The ANPR contrasted the regulatory authority vested in OPM and in the Board of Directors of the Office of Compliance with respect to personnel management matters. Congress has established OPM as an independent agency in the executive branch and authorized it to exercise broad powers administering the civil service laws. See 5 U.S.C. §§1101, 1103–04, 1301–04.[9] It has a number of significant responsibilities, including the promulgating of rules and regulations that implement the various civil service laws and the classifying of positions in the executive branch for purposes of appointment, pay, and promotion. In addition, OPM exercises broad administrative powers over the competitive service, including the authority to develop and conduct examinations for the appointment of applicants into the competitive service and the authority to administer rules exempting positions from the competitive service.[10]

The ANPR concluded that VEOA does not vest the Board of Directors with authority comparable to that of OPM to execute, administer, and enforce a civil service system within the legislative branch. This is most clearly evident from the fact that VEOA did not make applicable to the Board the powers and responsibilities exercised by OPM under 5 U.S.C. §§1103–04, 1301–04, among other sections.

Insofar as the Board's authority under VEOA is not coextensive with that of OPM, the ANPR identified two legal implications. First, the Board's power to promulgate veterans' preference regulations that are the "same as" those of OPM may be circumscribed to some degree. To illustrate, if OPM has promulgated a regulation under the combined authority of two statutory sections, A and B, but the Board is given authority only under section A, any corresponding regulation proposed by the Board must be tailored to reflect only the standard, directive, or power of section A. Thus, some regulations of OPM may have to be adopted with modifications to reflect their narrower statutory basis. Other OPM regulations may not be adopted at all simply because the Board does not have the underlying statutory authority.

The second implication identified by the ANPR was that where the veterans' preference regulations contemplate a role by OPM,[11] the Board of Directors might not be empowered to exercise a comparable administrative role with respect to personnel matters in the legislative branch.

The Board received no written comments addressing these issues. Upon further study and reflection, the Board has concluded that the if the provisions of VEOA are to be given their plain meaning, the Board must propose only those OPM regulations, modified as necessary, that can be linked to those statutory sections whose rights and protections have been made applicable to covered employees in the legislative branch. The Board further concludes that VEOA does not vest the Board of Directors of the Office of Compliance with the broad-ranging authority to execute, administer, and enforce a civil service system in the legislative branch.[12] Accordingly, in certain of the proposed regulations the references to OPM have been deleted. To the extent that the executive

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[5] These generally are high-level, managerial positions in the executive department whose appointment does not require Senate confirmation. *See* 5 USC §3123 (a)(2), which defines the term "Senior Executive Service position."

[6] The definition of "covered employee" under section VEO §4(c)(1) has the same meaning as the term under section 101 of the CAA, 2 USC §1302, which includes any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment. Under VEO §4(c)(5), the following employees are excluded from the term "covered employee": (A) presidential appointees confirmed by the Senate, (B) employees appointed by a Member of Congress or by a committee or subcommittee of either House of Congress, and (C) employees holding positions the duties of which are equivalent to those in Senior Executive Service.

[7] In the ANPR the Board had initially suggested that no "covered employees", as defined by VEOA, fall within the meaning of "excepted service." Upon further review of the governing statutes, the Board herein submits that many "covered employees" within the legislative branch are encompassed by the term "excepted service" as discussed above. The definition of "covered employee" under section VEO §4(c)(1) has the same meaning as the term under section 101 of the CAA, 2 USC §1302, which includes any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment. Under VEO §4(c)(5), the following employees are excluded from the term "covered employee": (A) presidential appointees confirmed by the Senate, (B) employees appointed by a Member of Congress or by a committee or subcommittee of either House of Congress, and (C) employees holding positions the duties of which are equivalent to those in Senior Executive Service. Consistent with the definition at section 2103 of title 5, USC, any covered employee within the legislative branch who holds a civil service position which is not in the Senior Executive Service and which is not in the competitive service is encompassed within the definition of "excepted service." The regulations which the Board here proposes reflect this interpretation of the governing statutes.

[8] The Board proposes the potential application of the substantive regulations regarding veterans' preference in the appointment process insofar as the Office of the Architect of the Capital, pursuant to the Architect of the Capital Human Resources Act, has established a personnel management system with features analogous to the "competitive service" as defined in §2102(a)(2) of Title 5, USC. See Section 1.106 *infra*.

[9] *See also* 5 CFR §5.1, issued by the President, which states that the "Director, Office of Personnel Management, shall promulgate and enforce regulations necessary to carry out the provisions of the Civil Service Act and the Veterans' Preference Act, as reenacted in Title 5, United States Code, the Civil Services Rules, and all other statutes and Executive orders imposing responsibilities on the Office."

[10] The following summary explains in part the role of the OPM in the appointment of employees to competitive service positions in executive branch agencies:

"An employee typically becomes a member of the "competitive service" by taking an examination administered by the Office of Personnel Management ("OPM"). See 5 U.S.C. §3304 (1976 & Supp. V 1981). An applicant who meets the minimum requirements for entrance to an examination, and who receives a rating of 70 or more on the examination, is known as an "eligible." 5 C.F.R. §§210.102(b)(5), 337.101(a) (1983). OPM is required to enter on a civil service "register" the names of all eligibles in accordance with their numerical rankings. 5 C.F.R. §332.401 (1983).

"An agency seeking to hire an employee must submit a request to OPM for a "certificate" of eligibles. When OPM receives a request for certification of eligibles, it prepares a certificate by selecting names from the head of the appropriate register. This certificate consists of a sufficient number of names to permit the agency to consider three eligibles for each vacancy, 5 C.F.R. §332.402 (1983), the so-called "rule-of-three." A hiring official from the agency, known as the "appointing officer," 5 C.F.R. §210.102(b)(1) (1983), is obliged to fill each vacancy "with sole regard to merit and fitness" from the three eligibles ranking highest on the certificate who are available for appointment. 5 C.F.R. §332.404 (1983)." *Hondros* v. *Unites States Civil Service Commission*, 720 F.2d 278, 280–82 (3d Cir. 1983) (footnotes omitted).

[11] *See, e.g.*, 5 CFR §§330.401 (OPM's role in competitive examination in restricted positions), 330.403 (OPM's role in filling restricted positions by noncompetitive action of a nonpreference eligible), 332.401 (OPM's responsibility to maintain registers of eligibles), 337.101 (OPM's role in rating applicants).

[12] *Compare* Notice of Proposed Rulemaking [Fair Labor Standards Act regulations under Congressional Accountability Act], 141 Cong. Rec. S17603.

Continued

branch regulations directed OPM to exercise certain responsibilities, including setting of standards, exercising review of agency determinations, and engaging in oversight, those duties have been eliminated in the proposed regulations.

Interpretation of provision restricting certain positions, including guards, to preference eligibles [Issue (11)].

With respect to "competitive service" positions restricted to preference eligible individuals under 5 USC §3310, as applied by VEOA, namely guards, elevator operators, messengers, and custodians, the Board sought information and comment on a series of issues, including the identity, in the legislative branch, of guard, elevator operator, messenger, and custodian positions within the meaning of these statutory terms. A specific question was posed whether police officers and other employees of the United State Capitol Police should be considered "guards." As noted previously, the only two written comments received in response to the ANPR addressed this latter issue.

Both comments argued that the term "guard" should not be interpreted to include officers of the U.S. Capitol Police. One comment contrasted the use of key terms within chapter 33 of Title 5, USC, which governs the examination, selection, and placement of personnel in the competitive service and from which selected provisions made applicable under VEOA to the legislative branch are drawn. Section 3310, which is made applicable by VEOA, uses the term "guard." In contrast, section 3307, which addresses maximum-age requirements in the competitive service and which is not made applicable under VEOA, refers to "law enforcement officer." Because of this differentiation within the same chapter of the U.S. Code, the commenter suggests that Congress could not have intended to treat a "guard" under section 3310 as analogous to a "law enforcement officer." Since U.S. Capitol police officers have the authority of law enforcement officers (see 40 USC §§212–212a), they are not "guards" for purposes of section 3310 as applied.

The other comment makes a similar distinction between guards and law enforcement officers, relying upon the interpretations of OPM, which is responsible for administering the Federal government's occupation classification system. The commenter cites to two OPM publications, *Grade Evaluation Guide for Police and Security Guard Positions, GS–0083/GS–0085* and *Digest of Significant Classification Decisions and Opinions*, No. 8, April 1986. Together, these publications establish a distinction between police officers and guards in the executive branch.

The Board finds that the comments make a persuasive case for not equating officers of the U.S. Capitol Police with "guards" under section 3310 as applied by VEOA. The proposed rule includes a provision that explicitly excludes law enforcement officer positions of the U.S. Capitol Police from the substantive regulations implementing section 3310 as applied by VEOA.

Executive branch regulations that either should not be adopted or should be adopted with modification [Issues (12)–(13)].

The Board received no written comments addressing the questions posed in the ANPR as to which substantive regulations should not be adopted because they are based on statutory provisions that have not been made applicable under VEOA. Similarly, no comments were received on what modifications should be adopted to make the regulations more effective for the implementation of the rights and protections made applicable under VEOA.

Nevertheless, as explained above in the discussion concerning its authority to exercise powers comparable to OPM's, the Board has concluded that it may not propose regulations that are not based on statutory rights and protections made applicable under VEOA. Conversely, the Board believes that the regulations proposed in this Notice most appropriately fulfill the statutory mandate to adopt regulations that are the "same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions" of VEOA. To the extent that modifications are being proposed, the Board believes that they are warranted to reflect the more limited statutory authority which VEOA vests in the Board.

Special provision for coverage of Architect of the Capitol

While drafting the proposed regulations following the receipt of written comments to the ANPR, it came to the attention of the Board that the Office of the Architect of the Capitol has been under a special statutory mandate with respect to managing and supervising its human resources. Because AOC is part of the legislative branch, it has not generally been subject to many of the statutes that regulate personnel policy for Federal agencies. As a consequence, the General Accounting Office reported in 1994 that AOC's personnel system was deficient in many respects. GAO, "Federal Personnel: Architect of the Capitol's System Needs Improvement," B–256160 (April 29, 1994). Congress responded by enacting the Architect of the Capitol Human Resources Act (AOCHRA). P.L. 103–283, 108 Stat. 1444 (July 22, 1994), codified at 40 U.S.C. §166b–7. This law did not directly bring the AOC within the purview of the various Federal personnel laws. Rather, the AOC was directed to establish its own personnel management system. As stated in AOCHRA, Congress found that the Architect should "develop human resources management programs that are consistent with the practices common among other Federal and private sector organizations," and to that end, the Architect was directed "to establish and maintain a personnel management system that incorporates fundamental principles that exist in other modern personnel systems." 40 U.S.C. §166b–7(b)(1),(2). The law then sets out in broad terms eight subject areas that a model personnel management system must address, leaving it to the Architect to develop a detailed plan for implementing these model policy goals no later than fifteen months after enactment. 40 U.S.C. §166b–7(c)(2)(A)–(H), (d)(1)(B),(C). Among these objectives is the requirement that the personnel management system "ensure[] that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of *merit* and fitness after fair and equitable consideration of all applicants and employees through *open competition*." 40 U.S.C. §166b–7(c)(2)(A) (emphasis added).

The notion of merit selection based on open competition, of course, is a bedrock principle of the federal civil service system, particularly its competitive service component, as described in the ANPR, 146 Cong. Rec. S864 (Daily ed. February 29, 2000)(ANPR). Thus, instead of formally placing the job positions of the Architect's Office within the federal competitive service, which is contemplated under 5 U.S.C. §2101(a)(2),[13] Congress authorized the Architect's Office to devise its own personnel system independent of the competitive service (and of the oversight responsibilities of the Office of Personnel Management) but consistent with its animating principles.

AOCHRA did not specifically mandate that the Architect's Office incorporate veterans' preference principles into its merit selection system. And there is nothing in the public record to indicate that the AOC in practice affords qualified veterans some form of preference in the selection process. However, it seems equally true that there is nothing in AOCHRA to preclude the Architect from taking veterans' preference into account in making appointments, promotions, and assignments, the same way that an executive branch agency must afford veterans' preference to appointments to positions in the competitive service. Thus, the issue arises whether VEOA may be read *in pari materia* with AOCHRA, so as to make the substantive VEOA regulations concerning appointments applicable to AOC's merit selection system notwithstanding the fact that job positions subject to that system are not technically part of the "competitive service."

As noted above, the Board has tentatively concluded that it must limit the application of the substantive, veterans' preference appointment regulations to those legislative branch positions that are within the "competitive service," as the latter term is defined in 5 U.S.C. §2102. As a practical matter, this may significantly limit the group of "covered employees" who will benefit from VEOA, since it appears that the vast majority of "covered employees" hold civil service positions in the legislative branch, including those in the Office of AOC, that are within the definition of excepted service.

However, the congressional policy declared in the enactment of AOCHRA may warrant the promulgation of a special regulation tailoring the application of the VEOA appointment regulations to positions in Office of the AOC, for it is a general rule of statutory construction that statutes on the same subject matter are to be construed together.[14] In this case, the specific obligations under VEOA to afford veterans' preference in connection with merit appointments would be interpreted in conjunction with the preexisting, general obligations under AOCHRA to establish a merit selection personnel system. If read together, the two statutes would seem to authorize the application of substantive VEOA regulations, at least those governing appointments, insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.[15]

S17604 (Daily Ed. Nov. 28, 1995)(explaining that because the CAA did not incorporate the notice posting and recordkeeping requirements of section 11 of the FLSA, 29 USC §211, the Board determined that it may not impose by substantive regulations such requirements on employing offices).

[13] "The 'competitive service' consists of— . . ."(2) civil service positions not in the executive branch which are specifically included in the competitive service by statute;"

[14] N. Singer, Statutes and Statutory Construction §51.02, at 176–178 (6th ed. 2000). See, e.g., *United States* v. *Stewart*, 311 U.S. 60 (1940) ("It is clear that 'all acts in pari materia are to be taken together, as if they were one law.'").

[15] CF. *United States* v. *Jefferson Electric Mfg. Co.*, 291 U.S. 386, 396 (1934) ("As a general rule, where the legislation dealing with a particular subject consists of a system of related general provisions indicative of

The Board has made no final determination on the soundness of this interpretation, in part due the fact that this has insufficient information on the elements of the merit selection system which the AOC has established under AOCHRA. The Board therefore believes that it is appropriate to solicit comments on what are the elements of the AOC's current merit selection system established under 40 U.S.C. §166b–7(c)(2)(A), and on whether in particular the AOC has a policy of giving preference to qualified veterans. Aside from the factual issue, the Board believes that comments should be solicited on the legal issue whether VEOA may be interpreted *in pari materia* with AOCHRA. In addition, the Board invites comments on the related question of how substantive regulations promulgated under VEOA may be applied to AOC's personnel management system, even assuming that it currently does not include a veterans' preference component, being mindful that the Board is authorized under VEOA to propose modifications for the more effective implementation of the rights and protections under VEOA. 2 U.S.C. §1316a(c)(4)(B).

In order to frame the issues for comment, the Board has decided to include in this NPR a proposed new section §1.106, which would apply the appointment regulations governing veterans' preference to appointments made pursuant to the merit selection system under AOCHRA. This section would apply the proposed regulations notwithstanding the fact that the job positions within the AOCHRA merit selection system are not technically within the "competitive service." Insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition, the Architect of the Capitol would be required to afford to a covered employee, including an applicant veterans' preference, in a manner and to the extent consistent with these proposed regulations.

Recommended Method of Approval

The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 13th day of November, 2001.

SUSAN S. ROBFOGEL,
Chair of the Board,
Office of Compliance.

EXTENSION OF RIGHTS AND PROTECTIONS RELATING TO VETERANS' PREFERENCE UNDER TITLE 5, UNITED STATES CODE, TO COVERED EMPLOYEES OF THE LEGISLATIVE BRANCH (SECTION 4(C) OF THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998)

PART 1—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 4 OF THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998

Sec.

1.101 Purpose and scope
1.102 Definitions
1.103 Exclusion
1.104 Adoption of regulations
1.105 Coordination with Section 225 of Congressional Accountability Act
1.106 Application of regulations to certain positions of the Office of the Architect of the Capitol

§1.101. Purpose and scope

(a) *Section 4(c) of the VEOA.* The Veterans Employment Opportunities Act (VEOA) applies the rights and protections of sections 2108, 3309 through 3312, and subchapter I of chapter 35 of title 5 USC, to covered employees within the legislative branch.

(b) *Purpose and scope of regulations.* The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 4(c)(4) of VEOA, in accordance with the rulemaking procedure set forth in section 304 of the CAA.

§1.102. Definitions

Except as otherwise provided in these regulations, as used in these regulations:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *VEOA* means the Veterans Employment Opportunities Act of 1998 (Pub. L. 105–339, 112 Stat. 3182).

(c) Except as provided by §1.103, the term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means: (1) the personal office of a Member of the House of Representatives or the Senate or a joint committee; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(j) *Board* means the Board of Directors of the Office of Compliance.

(k) *Office* means the Office of Compliance.

(l) *General Counsel* means the General Counsel of the Office of Compliance.

(m) The term *agency* means employing office as defined by subsection (i).

§1.103. Exclusions from definition of covered employee

The term *covered employee* does not include an employee

(a) whose appointment is made by the President with the advice and consent of the Senate;

(b) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or,

(c) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

§1.104. Authority of the Board

(a) *Adoption of regulations.* Section 4(c)(4)(A) of VEOA generally authorizes the Board to issue regulations to implement section 4(c). In addition, 4(c)(4)(B) of VEOA directs the Board to promulgate regulations that are "the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)" of section 4(c) of VEOA. Those statutory provisions are section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of VEOA requires a regulation to be issued. Specifically, it is the Board's considered judgment based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)" of section 4(c) of VEOA that need be adopted.

(b) *Technical and nomenclature changes.* In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the executive branch. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the executive branch from which they are derived except to the extent that a modification is necessary to more effectively implement the rights and protections made applicable under VEOA.

(c) *Modification of substantive regulations.* As a qualification of the statutory obligation to issue regulations that are "the same as the most substantive regulations (applicable with respect to the executive branch)," section 4(c)(4)(B) of VEOA authorizes the Board

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a settled policy, new enactments of a fragmentary nature on that subject are to be taken as intended to fit into the existing system and the carried into effect conformably to it, excepting as a different purpose is plainly shown.").

to "determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under" section 4(c) of VEOA. In examining the relevant regulations of the executive branch, which were promulgated by the Office of Personnel Management, the Board has concluded that a number of sections were issued under a combination of statutory authorities, some of which were made applicable under section 4(c)(2) of VEOA and some of which were not made applicable under that section. The Board has accordingly determined that given the selective application of statutory provisions, some regulations of the executive branch are not applicable to the legislative branch and some regulations must be modified in order to be made applicable.

(d) *Retention of section numbering.* Except for the sections in Part 1, the regulations adopted herein are numbered to correspond with the section numbering of the substantive regulations of the executive branch as they appear in title 5 of the Code of Federal Regulations (CFR) on which they are based.

§ 1.105. Coordination with Section 225 of Congressional Accountability Act

(a) *Statutory directive.* Section 4(c)(4)(D) of the VEOA requires that regulations promulgated must be consistent with section 225 of the CAA. Among the relevant provisions of section 225 are subsection (f)(1), which prescribes as a rule of construction that definitions and exemptions in the laws made applicable by the CAA shall apply under the CAA, and subsection (f)(3), which states that the CAA shall not be construed to authorize enforcement of the CAA by the executive branch.

(b) *Provisos necessary to satisfy statutory directive.* The Board determines that in order for certain regulations applied under VEOA to be consistent with subsections (f)(1) and (f)(3) of section 225 of the CAA, the such regulations shall be subject to the following provisos:

(1) Where an applied regulation refers to the "competitive service," such term shall have the meaning as provided in 5 USC §2102(a)(2). Where an applied regulation refers to the "exempted service," such term shall have the meaning as provided in 5 USC §2103.

(2) Where an applied regulation refers to the "excepted service," such term shall have the meaning as provided in 5 USC §2103. Consistent with the definition provided by section 2103, the Board determines that "excepted service" encompasses all civil service positions within the legislative branch which are neither in the "competitive service" nor have duties that are equivalent to the Senior Executive Service as those terms are defined in Title 5, USC.

§ 1.106. Application of regulations to certain positions of the Office of the Architect of the Capitol

(a) The Office of the Architect of the Capitol, pursuant to the provisions of the Architect of the Capitol Human Resources Act (AOCHRA), P.L. 103-283, 108 Stat. 1444 (July 22, 1994), as codified and amended in 40 USC §166b–7, is required to establish a personnel management system that in part "ensures that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition." 40 USC §166b–7(c)(2)(A).

(b) Insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition, the Architect of the Capitol shall provide veterans' preference to a covered employee, including an applicant, in a manner and to the extent consistent with these regulations.

PART 211—VETERAN PREFERENCE

Sec.
211.101 Purpose
211.102 Definitions
211.103 Administration of preference

§ 211.101. Purpose

The purpose of this part is to define veterans' preference and the administration of preference in Federal employment in the legislative branch. (5 U.S.C. 2108, as applied by VEOA)

§ 211.102. Definitions

For purposes of preference in Federal employment the following definitions apply:

(a) Veteran means a person who was separated with an honorable discharge or under honorable conditions from active duty in the armed forces performed—

(1) In a war; or,

(2) In a campaign or expedition for which a campaign badge has been authorized; or

(3) During the period beginning April 28, 1952, and ending July 1, 1955; or,

(4) For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning February 1, 1955, and ending October 14, 1976.

(b) Disabled veteran means a person who was separated under honorable conditions from active duty in the armed forces performed at any time and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pensions because of a public statute administered by the Department of Veterans Affairs or a military department.

(c) Preference eligible means veterans, spouses, widows, or mothers who meet the definition of "preference eligible" in 5 U.S.C. 2108. Preference eligibles in the competitive service are entitled to have 5 or 10 points added to their earned score on a civil service examination (see 5 U.S.C. 3309). They are also accorded a higher retention standing in the event of a reduction in force in positions in either the competitive service or in the excepted service (see 5 U.S.C. 3502). Preference does not apply, however, to inservice placement actions such as promotions.

(d) Armed forces means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(e) Uniformed services means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(f) Active duty or active military duty means full-time duty with military pay and allowances in the armed forces, except for training or for determining physical fitness and except for service in the Reserves or National Guard.

(g) Separated under honorable conditions means either an honorable or a general discharge from the armed forces. The Department of Defense is responsible for administering and defining military discharges.

§ 211.103. Administration of preference

Agencies are responsible for making all preference determinations.

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL) IN THE COMPETITIVE SERVICE

Sec.
330.401 Competitive examination
330.402 Direct recruitment

Subpart D—Positions Restricted to Preference Eligibles

§ 330.401. Competitive examination

In each entrance examination for the positions of custodian, elevator operator, guard, and messenger in the competitive service (referred to hereinafter in this subpart as restricted positions), competition shall be restricted to preference eligibles as long as preference eligibles are available. For purposes of this part, the term *guard* does not include law enforcement officer positions of the U.S. Capitol Police Board.

§ 330.402. Direct recruitment

In direct recruitment by an agency under delegated authority, the agency shall fill each restricted position by the appointment of a preference eligible as long as preference eligibles are available.

PART 332—RECRUITMENT AND SELECTION IN THE COMPETITIVE SERVICE THROUGH COMPETITIVE EXAMINATION

Sec.
332.401 Order on registers

Subpart D—Consideration for Appointment

§ 332.401. Order on registers

Subject to apportionment, residence, and other requirements of law, the names of eligibles shall be entered on the appropriate register in accordance with their numerical ratings, except that the names of:

(a) Preference eligibles shall be entered in accordance with their augmented ratings and ahead of others having the same rating; and

(b) Preference eligibles who have a compensable service-connected disability of 10 percent or more shall be entered at the top of the register in the order of their ratings unless the register is for professional or scientific positions in pay positions comparable to GS–9 and above and in comparable pay levels under other pay-fixing authorities.

PART 337—EXAMINING SYSTEM FOR THE COMPETITIVE SERVICE

Sec.
Sec. 337.101 Rating applicants

Subpart A—General Provisions

§ 337.101. Rating applicants

(a) The relative weights shall be given subjects in an examination, and shall assign numerical ratings on a scale of 100. Each applicant who meets the minimum requirements for entrance to an examination and is rated 70 or more in the examination is eligible for appointment.

(b) There shall be added to the earned numerical ratings of applicants who make a passing grade:

(1) Five points for applicants who are preference eligibles under section 2108(3)(A) and (B) of title 5, United States Code; as applied by VEOA and

(2) Ten points for applicants who are preference eligibles under section 2108(3)(C)–(G) of that title, as applied by VEOA.

(c) When experience is a factor in determining eligibility, a preference eligible shall be credited with:

(1) Time spent in the military service (i) as an extension of time spent in the position in which he was employed immediately before his entrance into the military service, or (ii) on the basis of actual duties performed in

the military service, or (iii) as a combination of both methods. Time spent in the military service shall be credited according to the method that will be of most benefit to the preference eligible.

(2) All valuable experience, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether pay was received therefor.

PART 339—MEDICAL QUALIFICATION DETERMINATIONS IN THE COMPETITIVE SERVICE

Sec.
Sec. 339.204 Waiver of standards and requirements

Subpart B—Physical and Medical Qualifications

§339.204. Waiver of standards and requirements

Agencies must waive a medical standard or physical requirement when there is sufficient evidence that an applicant or employee, with or without reasonable accommodation, can perform the essential duties of the position without endangering the health and safety of the individual or others.

PART 351—REDUCTION IN FORCE IN THE COMPETITIVE SERVICE AND THE EXCEPTED SERVICE

Sec.
351.201 Use of regulations
351.202 Coverage
351.203 Definitions
351.204 Responsibility of agency
351.301 Applicability
351.302 Transfer of employees
351.303 Identification of positions with a transferring function
351.401 Determining retention standing
351.402 Competitive area
351.403 Competitive level
351.404 Retention register
351.405 Demoted employees
351.501 Order of retention—competitive service
351.502 Order of retention—excepted service
351.503 Length of service
351.504 Credit for performance
351.505 Records
351.506 Effective date of retention standing
351.601 Order of release from competitive level
351.602 Prohibitions
351.603 Actions subsequent to release from competitive level
351.604 Use of furlough
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351.606 Mandatory exceptions
351.607 Permissive continuing exceptions
351.608 Permissive temporary exceptions
351.701 Assignment involving displacement
351.702 Qualifications for assignment
351.703 Exception to qualifications
351.704 Rights and prohibitions
351.705 Administrative assignment
351.801 Notice period
351.802 Content of notice
351.803 Notice of eligibility for reemployment and other placement assistance
351.804 Expiration of notice
351.805 New notice required
351.806 Status during notice period
351.807 Certification of Expected Separation
351.902 Correction by agency

Subpart B—General Provisions

§351.201. Use of regulations

(a)(1) Each agency is responsible for determining the categories within which positions are required, where they are to be located, and when they are to be filled, abolished, or vacated. This includes determining when there is a surplus of employees at a particular location in a particular line of work.

(2) Each agency shall follow this part when it releases a competing employee from his or her competitive level by furlough for more than 30 days, separation, demotion, or reassignment requiring displacement, when the release is required because of lack of work; shortage of funds; insufficient personnel ceiling; reorganization; the exercise of reemployment rights or restoration rights; or reclassification of an employee's position due to erosion of duties when such action will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days.

(b) This part does not require an agency to fill a vacant position. However, when an agency, at its discretion, chooses to fill a vacancy by an employee who has been reached for release from a competitive level for one of the reasons in paragraph (a)(2) of this section, this part shall be followed.

(c) Each agency is responsible for assuring that the provisions in this part are uniformly and consistently applied in any one reduction in force.

§351.202. Coverage

(a) *Employees covered.* Except as provided in paragraph (b) of this section, this part applies to covered employees as defined by section 1.102(c) of these Regulations.

(b) *Employees excluded.* This part does not apply to an employee who is within the exclusion set forth in section 1.103 of these Regulations.

(c) *Actions excluded.* This part does not apply to:

(1) The termination of a temporary or term promotion or the return of an employee to the position held before the temporary or term promotion or to one of equivalent grade and pay.

(2) A change to lower grade based on the reclassification of an employee's position due to the application of new classification standards or the correction of a classification error.

(3) A change to lower grade based on reclassification of an employee's position due to erosion of duties, except that this exclusion does not apply to such reclassification actions that will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days. This exception ends at the completion of the reduction in force.

(4) Placement of an employee serving on an intermittent, part-time, on-call, or seasonal basis in a nonpay and nonduty status in accordance with conditions established at time of appointment.

(5) A change in an employee's work schedule from other-than-full-time to full-time. (A change from full-time to other than full-time for a reason covered in Sec. 351.201(a)(2) is covered by this part.)

§351.203. Definitions

In this part:

Competing employee means an employee in tenure group I, II, or III.

Current rating of record is the rating of record for the most recently completed appraisal period as provided in Sec. 351.504(b)(3).

Days means calendar days.

Function means all or a clearly identifiable segment of an agency's mission (including all integral parts of that mission), regardless of how it is performed.

Furlough under this part means the placement of an employee in a temporary nonduty and nonpay status for more than 30 consecutive calendar days, or more than 22 workdays if done on a discontinuous basis, but not more than 1 year.

Local commuting area means the geographic area that usually constitutes one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual employment.

Modal rating is the summary rating level assigned most frequently among the actual ratings of record that are:

(1) Assigned under the summary level pattern that applies to the employee's position of record on the date of the reduction in force;

(2) Given within the same competitive area, or at the agency's option within a larger subdivision of the agency or agencywide; and

(3) On record for the most recently completed appraisal period prior to the date of issuance of reduction in force notices or the cutoff date the agency specifies prior to the issuance of reduction in force notices after which no new ratings will be put on record.

Rating of record means the officially designated performance rating, as provided for in the agency's appraisal system.

Reorganization means the planned elimination, addition, or redistribution of functions or duties in an organization.

Representative rate means the fourth step of the grade for a position subject to the General Schedule, the prevailing rate for a position under a wage-board or similar wage-determining procedure, and for other positions, the rate designated by the agency as representative of the position.

Transfer of function means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area.

Undue interruption means a degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, a work program would generally not be unduly interrupted even if an employee needed more than 90 days after the reduction in force to perform the optimum quality or quantity of work. The 90-day standard may be extended if placement is made under this part to a low priority program or to a vacant position.

§351.204. Responsibility of agency

Each agency covered by this part is responsible for following and applying the regulations in this part when the agency determines that a reduction in force is necessary.

Subpart C—Transfer of Function

§351.301. Applicability

(a) This subpart is applicable when the work of one or more employees is moved from one competitive area to another as a transfer of function regardless of whether or not the movement is made under authority of a statute, reorganization plan, or other authority.

(b) In a transfer of function, the function must cease in the losing competitive area and continue in an identical form in the gaining competitive area (i.e., in the gaining competitive area, the function continues to be carried out by competing employees rather than by noncompeting employees).

§ 351.302. Transfer of employees

(a) Before a reduction in force is made in connection with the transfer of any or all of the functions of a competitive area to another continuing competitive area, each competing employee in a position identified with the transferring function or functions shall be transferred to the continuing competitive area without any change in the tenure of his or her employment.

(b) An employee whose position is transferred under this subpart solely for liquidation, and who is not identified with an operating function specifically authorized at the time of transfer to continue in operation more than 60 days, is not a competing employee for other positions in the competitive area gaining the function.

(c) Regardless of an employee's personal preference, an employee has no right to transfer with his or her function, unless the alternative in the competitive area losing the function is separation or demotion.

(d) Except as permitted in paragraph (e) of this section, the losing competitive area must use the adverse action procedures found in 5 CFR part 752 if it chooses to separate an employee who declines to transfer from his or her function.

(e) The losing competitive area may, at its discretion, include employees who decline to transfer with their function as part of a concurrent reduction in force.

(f) An agency may not separate an employee who declines to transfer with the function any sooner than it transfers employees who chose to transfer with the function to the gaining competitive area.

(g) Agencies may ask employees in a canvass letter whether the employee wishes to transfer with the function when the function transfers to a different local commuting area. The canvass letter must give the employee information concerning entitlements available to the employee if the employee accepts the offer to transfer, and if the employee declines the offer to transfer. An employee may later change and initial acceptance offer without penalty. However, an employee may not later change an initial declination of the offer to transfer.

§ 351.303. Identification of positions with a transferring function

(a) The competitive area losing the function is responsible for identifying the positions of competing employees with the transferring function. A competing employee is identified with the transferring function on the basis of the employee's official position. Two methods are provided to identify employees with the transferring function:

(1) Identification Method One; and

(2) Identification Method Two.

(b) Identification Method One must be used to identify each position to which it is applicable. Identification Method Two is used only to identify positions to which Identification Method One is not applicable.

(c) Under Identification Method One, a competing employee is identified with a transferring function if—

(1) The employee performs the function during at least half of his or her work time; or

(2) Regardless of the amount of time the employee performs the function during his or her work time, the function performed by the employee includes the duties controlling his or her grade or rate of pay.

(3) In determining what percentage of time an employee performs a function in the employee's official position, the agency may supplement the employee's official position description by the use of appropriate records (e.g., work reports, organizational time logs, work schedules, etc.).

(d) Identification Method Two is applicable to employees who perform the function during less than half of their work time and are not otherwise covered by Identification Method One. Under Identification Method Two, the losing competitive area must identify the number of positions it needed to perform the transferring function. To determine which employees are identified for transfer, the losing competitive area must establish a retention register in accordance with this part that includes the name of each competing employee who performed the function. Competing employees listed on the retention register are identified for transfer in the inverse order of their retention standing. If for any retention register this procedure would result in the separation or demotion by reduction in force at the losing competitive area of any employee with higher retention standing, the losing competitive area must identify competing employees on that register for transfer in the order of their retention standing.

(e)(1) The competitive area losing the function may permit other employees to volunteer for transfer with the function in place of employees identified under Identification Method One or Identification Method Two. However, the competitive area may permit these other employees to volunteer for transfer only if no competing employee who is identified for transfer under Identification Method One or Identification Method Two is separated or demoted solely because a volunteer transferred in place of him or her to the competitive area that is gaining the function.

(2) If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, the losing competitive area may give preference to the volunteers with the highest retention standing, or make selections based on other appropriate criteria.

Subpart D—Scope of Competition

§ 351.401. Determining retention standing

Each agency shall determine the retention standing of each competing employee on the basis of the factors in this subpart and in subpart E of this part.

§ 351.402. Competitive area

(a) Each agency shall establish competitive areas in which employees compete for retention under this part.

(b) A competitive area must be defined solely in terms of the agency's organizational unit(s) and geographical location, and it must include all employees within the competitive area so defined. A competitive area may consist of all or part of an agency. The minimum competitive area is a subdivision of the agency under separate administration within the local commuting area.

§ 351.403. Competitive level

(a)(1) Each agency shall establish competitive levels consisting of all positions in a competitive area which are in the same grade (or occupational level) and classification series, and which are similar enough in duties, qualification requirements, pay schedules, and working conditions so that an agency may reassign the incumbent of one position to any of the other positions in the level without undue interruption.

(2) Competitive level determinations are based on each employee's official position, not the employee's personal qualifications.

(b) Each agency shall establish separate competitive levels according to the following categories:

(1) *By service.* Separate levels shall be established for positions in the competitive service and in the excepted service.

(2) *By appointment authority.* Separate levels shall be established for excepted service positions filled under different appointment authorities.

(3) *By pay schedule.* Separate levels shall be established for positions under different pay schedules.

(4) *By work schedule.* Separate levels shall be established for positions filled on a full-time, part-time, intermittent, seasonal, or on-call basis. No distinction may be made among employees in the competitive level on the basis of the number of hours or weeks scheduled to be worked.

(5) *By trainee status.* Separate levels shall be established for positions filled by an employee in a formally designated trainee or developmental program having all of the characteristics covered in Sec. 351.702(e)(1) through (e)(4) of this part.

(c) An agency may not establish a competitive level based solely upon:

(1) A difference in the number of hours or weeks scheduled to be worked by other-than-full-time employees who would otherwise be in the same competitive level;

(2) A requirement to work changing shifts;

(3) The grade promotion potential of the position; or

(4) A difference in the local wage areas in which wage grade positions are located.

§ 351.404. Retention register

(a) When a competing employee is to be released from a competitive level under this part, the agency shall establish a separate retention register for that competitive level. The retention register is prepared from the current retention records of employees. Upon displacing another employee under this part, an employee retains the same status and tenure in the new position. Except for an employee on military duty with a restoration right, the agency shall enter on the retention register, in the order of retention standing, the name of each competing employee who is:

(1) In the competitive level;

(2) Temporarily promoted from the competitive level by temporary or term promotion.

(b)(1) The name of each employee serving under a time limited appointment or promotion to a position in a competitive level shall be entered on a list apart from the retention register for that competitive level, along with the expiration date of the action.

(2) The agency shall list, at the bottom of the list prepared under paragraph b(1) of this section, the name of each employee in the competitive level with a written decision of removal under part 432 or 752 in this chapter.

§ 351.405. Demoted employees

An employee who has received a written decision under part 432 or 752 of this chapter to demote him or her competes under this part from the position to which he or she will be or has been demoted.

Subpart E—Retention Standing

§ 351.501. Order of retention—competitive service

(a) Competing employees shall be classified on a retention register on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as follows:

(1) By tenure group I, group II, group III; and

(2) Within each group by veteran preference subgroup AD, subgroup A, subgroup B; and

(3) Within each subgroup by years of service as augmented by credit for performance under Sec. 351.504, beginning with the earliest service date.

(b) Groups are defined as follows:

(1) Group I includes each career employee who is not serving a probationary period. An employee who acquires competitive status and satisfies the service requirement for career tenure when the employee's position is brought into the competitive service is in group I as soon as the employee completes any required probationary period for initial appointment.

(2) Group II includes each career-conditional employee, and each employee serving a probationary period.

(3) Group III includes all employees serving under indefinite appointments, temporary appointments pending establishment of a register, status quo appointments, term appointments, and any other nonstatus nontemporary appointments which meet the definition of provisional appointments.

(c) Subgroups are defined as follows:

(1) Subgroup AD includes each preference eligible employee who has a compensable service-connected disability of 30 percent or more.

(2) Subgroup A includes each preference eligible employee not included in subgroup AD.

(3) Subgroup B includes each nonpreference eligible employee.

(d) A retired member of a uniformed service is considered a preference eligible under this part only if the member meets at least one of the conditions of the following paragraphs (d)(1), (2), or (3) of this section, except as limited by paragraph (d)(4) or (d)(5):

(1) The employee's military retirement is based on disability that either:

(i) Resulted from injury or disease received in the line of duty as a direct result of armed conflict; or

(ii) Was caused by an instrumentality of war incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

(2) The employee's retired pay from a uniformed service is not based upon 20 or more years of full-time active service, regardless of when performed but not including periods of active duty for training.

(3) The employee has been continuously employed in a position covered by this part since November 30, 1964, without a break in service of more than 30 days.

(4) An employee retired at the rank of major or above (or equivalent) is considered a preference eligible under this part if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, as applied by VEOA, and meets one of the conditions covered in paragraph (d)(1), (2), or (3) of this section.

(5) An employee who is eligible for retired pay under chapter 67 of title 10, United States Code, and who retired at the rank of major or above (or equivalent) is considered a preference eligible under this part at age 60, only if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, as applied by VEOA.

§351.502. Order of retention—excepted service

(a) Competing employees shall be classified on a retention register in tenure groups on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as set forth under Sec. 351.501(a) for competing employees in the competitive service.

(b) Groups are defined as follows:

(1) Group I includes each permanent employee whose appointment carries no restriction or condition such as conditional, indefinite, specific time limit, or trial period.

(2) Group II includes each employee:

(i) Serving a trial period; or

(ii) Whose tenure is equivalent to a career-conditional appointment in the competitive service in agencies having such excepted appointments.

(3) Group III includes each employee:

(i) Whose tenure is indefinite (i.e., without specific time limit), but not actually or potentially permanent;

(ii) Whose appointment has a specific time limitation of more than 1 year; or

(iii) Who is currently employed under a temporary appointment limited to 1 year or less, but who has completed 1 year of current continuous service under a temporary appointment with no break in service of 1 workday or more.

§351.503. Length of service

(a) Each agency shall establish a service date for each competing employee.

(b) An employee's service date is whichever of the following dates reflects the employee's creditable service:

(1) The date the employee entered on duty, when he or she has no previous creditable service;

(2) The date obtained by subtracting the employee's total creditable previous service from the date he or she last entered on duty; or

(3) The date obtained by subtracting from the date in paragraph (b)(1) or (b)(2) of this section, the service equivalent allowed for performance ratings under Sec. 351.504.

(c) An employee who is a retired member of a uniformed service is entitled to credit under this part for:

(1) The length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) The total length of time in active service in the armed forces if the employee is considered a preference eligible under Sec. 351.501(d) of this part.

(d) Each agency shall adjust the service date for each employee to withhold credit for noncreditable time.

§351.504. Credit for performance

(a) *Ratings used.* Only ratings of record as defined in Sec. 351.203 shall be used as the basis for granting additional retention service credit in a reduction in force.

(b)(1) An employee's entitlement to additional retention service credit for performance under this subpart shall be based on the employee's three most recent ratings of record received during the 4-year period prior to the date of issuance of reduction in force notices, except as otherwise provided in paragraphs (b)(2) and (c) of this section.

(2) To provide adequate time to determine employee retention standing, an agency may provide for a cutoff date, a specified number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used for purposes of this subpart. When a cutoff date is used, an employee will receive performance credit for the three most recent ratings of record received during the 4-year period prior to the cutoff date.

(3) To be creditable for purposes of this subpart, a rating of record must have been issued to the employee, with all appropriate reviews and signatures, and must also be on record (i.e., the rating of record is available for use by the office responsible for establishing retention registers).

(4) The awarding of additional retention service credit based on performance for purposes of this subpart must be uniformly and consistently applied within a competitive area, and must be consistent with the agency's appropriate issuance(s) that implement these policies. Each agency must specify in its appropriate issuance(s):

(i) The conditions under which a rating of record is considered to have been received for purposes of determining whether it is within the 4-year period prior to either the date the agency issues reduction in force notices or the agency-established cutoff date for ratings of record, as appropriate; and

(ii) If the agency elects to use a cutoff date, the number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used for purposes of this subpart.

(c) *Missing ratings.* Additional retention service credit for employees who do not have three actual ratings of record during the 4-year period prior to the date of issuance of reduction in force notices or the 4-year period prior to the agency-established cutoff date for ratings of record permitted in paragraph (b)(2) of this section shall be determined as appropriate, and as follows:

(1) An employee who has not received any rating of record during the 4-year period shall receive credit for performance based on the modal rating for the summary level pattern that applies to the employee's official position of record at the time of the reduction in force.

(2) An employee who has received at least one but fewer than three previous ratings of record during the 4-year period shall receive credit for performance on the basis of the value of the actual rating(s) of record divided by the number of actual ratings received. If an employee has received only two actual ratings of record during the period, the value of the ratings is added together and divided by two (and rounded in the case of a fraction to the next higher whole number) to determine the amount of additional retention service credit. If an employee has received only one actual rating of record during the period, its value is the amount of additional retention service credit provided.

§351.505. Records

Each agency shall maintain the current correct records needed to determine the retention standing of its competing employees. The agency shall allow the inspection of its retention registers and related records by an employee of the agency to the extent that the registers and records have a bearing on a specific action taken, or to be taken, against the employee. The agency shall preserve intact all registers and records relating to an employee for at least 1 year from the date the employee is issued a specific notice.

§351.506. Effective date of retention standing

Except for applying the performance factor as provided in Sec. 351.504:

(a) The retention standing of each employee released from a competitive level in the order prescribed in Sec. 351.601 is determined as of the date the employee is so released.

(b) The retention standing of each employee retained in a competitive level as an exception under Sec. 351.606(b), Sec. 351.607, or Sec. 351.608, is determined as of the date the employee would have been released had the exception not been used. The retention standing of each employee retained under any of these provisions remains fixed until completion of the reduction in force action which resulted in the temporary retention.

(c) When an agency discovers an error in the determination of an employee's retention standing, it shall correct the error and adjust any erroneous reduction-in-force action to accord with the employee's proper retention standing as of the effective date established by this section.

Subpart F—Release From Competitive Level

§ 351.601. Order of release from competitive level

(a) Each agency shall select competing employees for release from a competitive level under this part in the inverse order of retention standing, beginning with the employee with the lowest retention standing on the retention register. An agency may not release a competing employee from a competitive level while retaining in that level an employee with lower retention standing except:

(1) As required under Sec. 351.606 when an employee is retained under a mandatory exception or under Sec. 351.806 when an employee is entitled to a new written notice of reduction in force; or

(2) As permitted under Sec. 351.607 when an employee is retained under a permissive continuing exception or under Sec. 351.608 when an employee is retained under a permissive temporary exception.

(b) When employees in the same retention subgroup have identical service dates and are tied for release from a competitive level, the agency may select any tied employee for release.

§ 351.602. Prohibitions

An agency may not release a competing employee from a competitive level while retaining in that level an employee with:

(a) A specifically limited temporary appointment;

(b) A specifically limited temporary or term promotion.

§ 351.603. Actions subsequent to release from competitive level

An employee reached for release from a competitive level shall be offered assignment to another position in accordance with subpart G of this part. If the employee accepts, the employee shall be assigned to the position offered. If the employee has no assignment right or does not accept an offer under subpart G, the employee shall be furloughed or separated.

§ 351.604. Use of furlough

(a) An agency may furlough a competing employee only when it intends within 1 year to recall the employee to duty in the position from which furloughed.

(b) An agency may not separate a competing employee under this part while an employee with lower retention standing in the same competitive level is on furlough.

(c) An agency may not furlough a competing employee for more than 1 year.

(d) When an agency recalls employees to duty in the competitive level from which furloughed, it shall recall them in the order of their retention standing, beginning with highest standing employee.

§ 351.605. Liquidation provisions

When an agency will abolish all positions in a competitive area within 180 days, it must release employees in group and subgroup order consistent with Sec. 351.601(a). At its discretion, the agency may release the employees in group order without regard to retention standing within a subgroup, except as provided in Sec. 351.606. When an agency releases an employee under this section, the notice to the employee must cite this authority and give the date the liquidation will be completed. An agency may also apply Secs. 351.607 and 351.608 in a liquidation.

Sec. 351.606. Mandatory exceptions

(a) Armed Forces restoration rights. When an agency applies Sec. 351.601 or Sec. 351.605, it shall give retention priorities over other employees in the same subgroup to each group I or II employee entitled under 38 U.S.C. 2021 or 2024 to retention for, as applicable, 6 months or 1 year after restoration, as provided in part 353 of this chapter.

(b) Use of annual leave to reach initial eligibility for retirement or continuance of health benefits. (1) An agency shall make a temporary exception under this section to retain an employee who is being involuntarily separated under this part, and who elects to use annual leave to remain on the agency's rolls after the effective date the employee would otherwise have been separated by reduction in force, in order to establish initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or to establish initial eligibility under 5 U.S.C. 8905 to continue health benefits coverage into retirement.

(2) An agency shall make a temporary exception under this section to retain an employee who is being involuntarily separated under authority of part 752 of this chapter because of the employee's decision to decline relocation (including transfer of function), and who elects to use annual leave to remain on the agency's rolls after the effective date the employee would otherwise have been separated by adverse action, in order to establish initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or to establish initial eligibility under 5 U.S.C. 8905 to continue health benefits coverage into retirement.

(3) An employee retained under paragraph (b) this section must be covered by chapter 63 of title 5, United States Code.

(4) An agency may not retain an employee under this section past the date that the employee first becomes eligible for immediate retirement, or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements.

(5) Except as permitted by 5 CFR 351.608(d), an agency may not approve an employee's use of any other type of leave after the employee has been retained under a temporary exception authorized by paragraph (b) of this section.

(6) Annual leave for purposes of paragraph (b) of this section is described in Sec. 630.212 of Title 5, CFR.

(c) Documentation. Each agency shall record on the retention register, for inspection by each employee, the reasons for any deviation from the order of release required by Sec. 351.601 or Sec. 351.605.

§ 351.607. Permissive continuing exceptions

An agency may make exception to the order of release in Sec. 351.601 and to the action provisions of Sec. 351.603 when needed to retain an employee on duties that cannot be taken over within 90 days and without undue interruption to the activity by an employee with higher retention standing. The agency shall notify in writing each higher-standing employee reached for release from the same competitive level of the reasons for the exception.

§ 351.608. Permissive temporary exceptions

(a) *General.* (1) In accordance with this section, an agency may make a temporary exception to the order of release in Sec. 351.601, and to the action provisions of Sec. 351.603, when needed to retain an employee after the effective date of a reduction in force. Except as otherwise provided in paragraphs (c) and (e) of this section, an agency may not make a temporary exception for more than 90 days.

(2) After the effective date of a reduction in force action, an agency may not amend or cancel the reduction in force notice of an employee retained under a temporary exception so as to avoid completion of the reduction in force action.

(b) *Undue interruption.* An agency may make a temporary exception for not more than 90 days when needed to continue an activity without undue interruption.

(c) *Government obligation.* An agency may make a temporary exception to satisfy a Government obligation to the retained employee without regard to the 90-day limit set forth under paragraph (a)(1) of this section.

(d) *Sick leave.* An agency may make a temporary exception to retain on sick leave a lower standing employee covered by an applicable leave system for Federal employees, who is on approved sick leave on the effective date of the reduction in force, for a period not to exceed the date the employee's sick leave is exhausted. Use of sick leave for this purpose must be in accordance with the requirements in part 630, subpart D of this chapter (or other applicable leave system for Federal employees). An agency may not approve an employee's use of any other type of leave after the employee has been retained under this paragraph (d).

(e)(1) An agency may make a temporary exception to retain on accrued annual leave a lower standing employee who:

(i) Is being involuntarily separated under this part;

(ii) Is covered by a Federal leave system under authority other than chapter 63 of title 5, United States Code; and,

(iii) Will attain first eligibility for an immediate retirement benefit under 5 U.S.C. 8336, 8412, or 8414 (or other authority), and/or establish eligibility under 5 U.S.C. 8905 (or other authority) to carry health benefits coverage into retirement during the period represented by the amount of the employee's accrued annual leave.

(2) An agency may not approve an employee's use of any other type of leave after the employee has been retained under this paragraph (e).

(3) This exception may not exceed the date the employee first becomes eligible for immediate retirement or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements.

(4) Accrued annual leave includes all accumulated, accrued, and restored annual leave, as applicable, in addition to annual leave earned and available to the employee after the effective date of the reduction in force. When approving a temporary exception under this provision, an agency may not advance annual leave or consider any annual leave that might be credited to an employee's account after the effective date of the reduction in force other than annual leave earned while in an annual leave status.

(f) *Other exceptions.* An agency may make a temporary exception under this section to extend an employee's separation date beyond the effective date of the reduction in force when the temporary retention of a lower standing employee does not adversely affect the right of any higher standing employee who is released ahead of the lower standing employee. The agency may establish a maximum number of days, up to 90 days, for which an exception may be approved.

(g) *Notice to employees*. When an agency approves an exception for more than 30 days, it must:

(1) Notify in writing each higher standing employee in the same competitive level reached for release of the reasons for the exception and the date the lower standing employee's retention will end; and

(2) List opposite the employee's name on the retention register the reasons for the exception and the date the employee's retention will end.

Subpart G—Assignment Rights (Bump and Retreat)

351.701 Assignment involving displacement

(a) General. When a group I or II competitive service employee with a current annual performance rating of record of minimally successful (Level 2) or equivalent, or higher, is released from a competitive level, an agency shall offer assignment, rather than furlough or separate, in accordance with paragraphs (b), (c), and (d) of this section to another competitive position which requires no reduction, or the least possible reduction, in representative rate. The employee must be qualified for the offered position. The offered position shall be in the same competitive area, last at least 3 months, and have the same type of work schedule (e.g., full-time, part-time, intermittent, or seasonal) as the position from which the employee is released. Upon accepting an offer of assignment, or displacing another employee under this part, an employee retains the same status and tenure in the new position. The promotion potential of the offered position is not a consideration in determining an employee's right of assignment.

(b) Lower subgroup—bumping. A released employee shall be assigned in accordance with paragraph (a) of this section and bump to a position that:

(1) Is held by another employee in a lower tenure group or in a lower subgroup within the same tenure group; and

(2) Is no more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released.

(c) Same subgroup—retreating. A released employee shall be assigned in accordance with paragraphs (a) and (d) of this section and retreat to a position that:

(1) Is held by another employee with lower retention standing in the same tenure group and subgroup;

(2) Is not more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released, except that for a preference eligible employee with a compensable service-connected disability of 30 percent or more the limit is five grades (or appropriate grade intervals or equivalent); and

(3) Is the same position, or an essentially identical position, formerly held by the released employee as a competing employee in a Federal agency (i.e., when held by the released employee in an executive, legislative, or judicial branch agency, the position would have been placed in tenure groups I, II, or III, or equivalent). In determining whether a position is essentially identical, the determination is based on the competitive level criteria found in Sec. 351.403, but not necessarily in regard to the respective grade, classification series, type of work schedule, or type of service, of the two positions.

(d) Limitation. An employee with a current annual performance rating of record of minimally successful (Level 2) or equivalent may be assigned under paragraph (c) of this section only to a position held by another employee with a current annual performance rating of record no higher than minimally successful (Level 2) or equivalent.

(e) Pay rates. (1) The determination of equivalent grade intervals shall be based on a comparison of representative rates.

(2) Each employee's assignment rights shall be determined on the basis of the pay rates in effect on the date of issuance of specific reduction-in-force notices, except that when it is officially known on the date of issuance of notices that new pay rates have been approved and will become effective by the effective date of the reduction in force, assignment rights shall be determined on the basis of the new pay rates.

(f)(1) In determining applicable grades (or grade intervals) under Secs. 351. 701(b)(2) and 351.701(c)(2), the agency uses the grade progression of the released employee's position of record to determine the grade (or interval) limits of the employee's assignment rights.

(2) For positions covered by the General Schedule, the agency must determine whether a one-grade, two-grade, or mixed grade interval progression is applicable to the position of the released employee.

(3) For positions not covered by the General Schedule, the agency must determine the normal line of progression for each occupational series and grade level to determine the grade (or interval) limits of the released employee's assignment rights. If the agency determines that there is no normal line of progression for an occupational series and grade level, the agency provides the released employee with assignment rights to positions within three actual grades lower on a one-grade basis. The normal line of progression may include positions in different pay systems.

(4) For positions where no grade structure exists, the agency determines a line of progression for each occupation and pay rate, and provides assignment rights to positions within three grades (or intervals) lower on that basis.

(5) If the released employee holds a position that is less than three grades above the lowest grade in the applicable classification system (e.g., the employee holds a GS–2 position), the agency provides the released employee with assignment rights up to three actual grades lower on a one-grade basis in other pay systems.

§351.702. Qualifications for assignment

(a) Except as provided in Sec. 351.703, an employee is qualified for assignment under Sec. 351.701 if the employee:

(1) Meets the standards and requirements for the position, including any minimum educational requirement, and any selective placement factors established by the agency;

(2) Is physically qualified, with reasonable accommodation where appropriate, to perform the duties of the position;

(3) Has the capacity, adaptability, and special skills needed to satisfactorily perform the duties of the position without undue interruption. This determination includes recency of experience, when appropriate.

(b) An employee who is released from a competitive level during a leave of absence because of a corpensable injury may not be denied an assignment right solely because the employee is not physically qualified for the duties of the position if the physical disqualification resulted from the compensable injury.

(c) If an agency determines, on the basis of evidence before it, that a preference eligible employee who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of a position to which the employee would otherwise have been assigned under this part, the agency must notify the employee of the reasons for the determination.

(e) An agency may formally designate as a trainee or developmental position a position in a program with all of the following characteristics:

(1) The program must have been designed to meet the agency's needs and requirements for the development of skilled personnel;

(2) The program must have been formally designated, with its provisions made known to employees and supervisors;

(3) The program must be developmental by design, offering planned growth in duties and responsibilities, and providing advancement in recognized lines of career progression; and

(4) The program must be fully implemented, with the participants chosen through standard selection procedures. To be considered qualified for assignment under Sec. 351.701 to a formally designated trainee or developmental position in a program having all of the characteristics covered in paragraphs (e)(1), (2), (3), and (4) of this section, an employee must meet all of the conditions required for selection and entry into the program.

§351.703. Exception to qualifications

An agency may assign an employee to a vacant position under Sec. 351.201(b) or Sec. 351.701 of this part if:

(a) The employee meets any minimum education requirement for the position; and

(b) The agency determines that the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.

§351.704. Rights and prohibitions

(a)(1) An agency may satisfy an employee's right to assignment under Sec. 351.701 by assignment to a vacant position under Sec. 351.201(b), or by assignment under any applicable administrative assignment provisions of Sec. 351.705. to a position having a representative rate equal to that the employee would be entitled under Sec. 351.701. An agency may also offer an employee assignment under Sec. 351.201(b) to a vacant position in lieu of separation by reduction in force under 5 CFR part 351. Any offer of assignment under Sec. 351.201(b) to a vacant position must meet the requirements set forth under Sec. 351.701.

(2) An agency may, at its discretion, choose to offer a vacant other-than-full-time position to a full-time employee or to offer a vacant full-time position to an other-than-full-time employee in lieu of separation by reduction in force.

(b) Section 351.701 does not:

(1) Authorize or permit an agency to assign an employee to a position having a higher representative rate;

(2) Authorize or permit an agency to displace a full-time employee by an other-than-full-time employee, or to satisfy an other-than-full-time employee's right to assignment by assigning the employee to a vacant full-time position.

(3) Authorize or permit an agency to displace an other-than-full-time employee by a full-time employee, or to satisfy a full-time employee's right to assignment by assigning the employee to a vacant other-than-full-time position.

(4) Authorize or permit an agency to assign a competing employee to a temporary position (i.e., a position under an appointment not to exceed 1 year), except as an offer of assignment in lieu of separation by reduction in force under this part when the employee has no right to a position under Sec. 351.701 or Sec. 351.704(a)(1) of this part. This option does not preclude an agency from, as an alternative, also using a temporary position to reemploy a competing employee following separation by reduction in force under this part.

(5) Authorize or permit an agency to displace an employee or to satisfy a competing employee's right to assignment by assigning the employee to a position with a different type of work schedule (e.g., full-time, part-time, intermittent, or seasonal) than the position from which the employee is released.

§351.705. Administrative assignment

(a) An agency may, at its discretion, adopt provisions which:

(1) Permit a competing employee to displace an employee with lower retention standing in the same subgroup consistent with Sec. 351.701 when the agency cannot make an equally reasonable assignment by displacing an employee in a lower subgroup;

(2) Permit an employee in subgroup III–AD to displace an employee in subgroup III–A or III–B, or permit an employee in subgroup III–A to displace an employee is subgroup III–B consistent with Sec. 351.701; or

(3) Provide competing employees in the excepted service with assignment rights to other positions under the same appointing authority on the same basis as assignment rights provided to competitive service employees under Sec. 351.701 and in paragraphs (a) (1) and (2) of this section.

(b) Provisions adopted by an agency under paragraph (a) of this section:

(1) Shall be consistent with this part;

(2) Shall be uniformly and consistently applied in any one reduction in force;

(3) May not provide for the assignment of an other-than-full-time employee to a full-time position;

(4) May not provide for the assignment of a full-time employee to an other-than-full-time position;

(5) May not provide for the assignment of an employee in a competitive service position to a position in the excepted service; and

(6) May not provide for the assignment of an employee in an excepted position to a position in the competitive service.

Subpart H—Notice to Employee

§351.801. Notice period

(a)(1) Except as provided in paragraph (b) of this section, each competing employee selected for release from a competitive level under this part is entitled to a specific written notice at least 60 full days before the effective date of release.

(2) At the same time an agency issues a notice to an employee, it must give a written notice to the exclusive representative(s), as defined in 5 U.S.C. 7103(a)(16), as applied by the CAA, of each affected employee at the time of the notice. When a significant number of employees will be separated, an agency must also satisfy the notice requirements of Secs. 351.803 (b) and (c).

(b) When a reduction in force is caused by circumstances not reasonably foreseeable, an agency may provide a notice period of less than 60 days, but the shortened notice period must cover at least 30 full days before the effective date of release.

(c) The notice period begins the day after the employee receives the notice.

(d) When an agency retains an employee under Sec. 351.607 or Sec. 351.608, the notice to the employee shall cite the date on which the retention period ends as the effective date of the employee's release from the competitive level.

§351.802. Content of notice

(a)(1) The action to be taken, the reasons for the action, and its effective date;

(2) The employee's competitive area, competitive level, subgroup, service date, and three most recent ratings of record received during the last 4 years;

(3) The place where the employee may inspect the regulations and record pertinent to this case;

(4) The reasons for retaining a lower-standing employee in the same competitive level under Sec. 351.607 or Sec. 351.608;

(5) Information on reemployment rights, except as permitted by Sec. 351.803(a); and

(6) The employee's right, as applicable, to grieve under a negotiated grievance procedure.

(b) When an agency issues an employee a notice, the agency must, upon the employee's request, provide the employee with a copy of retention regulations found in part 351 of this chapter.

§351.803. Notice of eligibility for reemployment and other placement assistance

(a) The employee must be given a release to authorize, at his or her option, the release of his or her resume and other relevant employment information for employment referral to State dislocated worker unit(s) and potential public or private sector employers. The employee must also be given information concerning how to apply both for unemployment insurance through the appropriate State program and benefits available under the State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act, and an estimate of severance pay (if eligible).

(b) When 50 or more employees in a competitive area receive separation notices under this part, the agency must provide written notification of the action, at the same time it issues specific notices of separation to employees, to:

(1) The State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act;

(2) The chief elected official of local government(s) within which these separations will occur; and

(c) The notice required by paragraph (b) of this section must include:

(1) The number of employees to be separated from the agency by reduction in force (broken down by geographic area);

(2) The effective date of the separations.

§351.804. Expiration of notice

(a) A notice expires when followed by the action specified, or by an action less severe than specified, in the notice or in an amendment made to the notice before the agency takes the action.

(b) An agency may not take the action before the effective date in the notice; instead, the agency may cancel the reduction in force notice and issue a new notice subject to this subpart.

§351.805. New notice required

(a) An employee is entitled to a written notice of, as appropriate, at least 60 or 120 full days if the agency decides to take an action more severe than first specified.

(b) An agency must give an employee an amended written notice if the reduction in force is changed to a later date. A reduction in force action taken after the date specified in the notice given to the employee is not invalid for that reason, except when it is challenged by a higher-standing employee in the competitive level who is reached out of order for a reduction in force action as a result of the change in dates.

(c) An agency must give an employee an amended written notice and allow the employee to decide whether to accept a better offer of assignment under subpart G of this part that becomes available before or on the effective date of the reduction in force. The agency must give the employee the amended notice regardless of whether the employee has accepted or rejected a previous offer of assignment, provided that the employee has not voluntarily separated from his or her official position.

§351.806. Status during notice period

When possible, the agency shall retain the employee on active duty status during the notice period. When in an emergency the agency lacks work or funds for all or part of the notice period, it may place the employee on annual leave with or without his or her consent, or leave without pay with his or her consent, or in a nonpay status without his or her consent.

§351.807. Certification of Expected Separation

(a) For the purpose of enabling otherwise eligible employees to be considered for eligibility to participate in dislocated worker programs under the Job Training Partnership Act administered by the U.S. Department of Labor, an agency may issue a Certificate of Expected Separation to a competing employee who the agency believes, with a reasonable degree of certainty, will be separated from Federal employment by reduction in force procedures under this part. A certification may be issued up to 6 months prior to the effective date of the reduction in force.

(b) This certification may be issued to a competing employee only when the agency determines:

(1) There is a good likelihood the employee will be separated under this part;

(2) Employment opportunities in the same or similar position in the local commuting area are limited or nonexistent;

(3) Placement opportunities within the employee's own or other Federal agencies in the local commuting area are limited or nonexistent; and

(4) If eligible for optional retirement, the employee has not filed a retirement application or otherwise indicated in writing an intent to retire.

(c) A certification is to be addressed to each individual eligible employee and must be signed by an appropriate agency official. A certification must contain the expected date of reduction in force, a statement that each factor in paragraph (b) of this section has been satisfied, and a description of Job Training Partnership Act programs, the Interagency Placement Program, and the Reemployment Priority List.

(d) A certification may not be used to satisfy any of the notice requirements elsewhere in this subpart.

Subpart I—Appeals and Corrective Action

§351.902. Correction by agency

When an agency decides that an action under this part was unjustified or unwarranted and restores an individual to the former grade or rate of pay held or to an intermediate grade or rate of pay, it shall make the restoration retroactively effective to the date of the improper action.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4736. A letter from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule—Assessment of Fees [Docket No. 01-23] (RIN: 1557-ACOO) received November 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4737. A letter from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Department of Education, transmitting the Department's final rule—Rehabilitation Short-Term Training—received November 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4738. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

4739. A letter from the Chief Counsel, Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Additional Designations and Removal of Persons Listed in Appendix A to 31 CFR Chapter V and Appendix I to 31 CFR Part 539, Weapons of Mass Destruction Trade Control Regulations—received November 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

4740. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Montana Regulatory Program [SPATS No. MT-022-FOR] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4741. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Utah Regulatory Program [SPATS No. UT-037-FOR] received November 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4742. A letter from the Acting Director, Office of Surface Mining, Department of Interior, transmitting the Department's final rule—Illinois Regulatory Program [SPATS No. IL-100-FOR] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4743. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Civil Penalty Adjustments (RIN: 1029-ACOO) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4744. A letter from the Director, Office of Regulations Management, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting the Department's final rule—Written and Oral Information or Statements Affecting Entitlement to Benefits (RIN: 2900-AK25) received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4745. A letter from the Director, Office of Regulations Management, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting the Department's final rule—Written and Oral Information or Statements Affecting Entitlement to Benefits (RIN: 2900-AK25) received November 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4746. A letter from the Director, Office of Regulations Management, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting the Department's final rule—Extension of the Presumptive Period for Compensation for Gulf War Veterans' Undiagnosed Illnesses (RIN: 2900-AK98) received November 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4747. A letter from the Director, Office of Regulations Management, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting the Department's final rule—Extension of the Presumptive Period for Compensation for Gulf War Veterans' Undiagnosed Illnesses (RIN: 2900-AK98) received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4748. A letter from the Chair of the Board, Office of Compliance, transmitting notice of proposed rulemaking for publication in the Congressional Record, pursuant to section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 and section 304(b) of the Congressional Accountability Act of 1995; jointly to the Committees on Education and the Workforce and House Administration.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 38. A bill to provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska, and for other purposes; with an amendment (Rept. 107-325). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 2742. A bill to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma (Rept. 107-326). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 2234. A bill to revise the boundary of the Tumacacori National Historical Park in the State of Arizona; with an amendment (Rept. 107-327). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee of Conference. Conference report on H.R. 2883. A bill to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 107-328). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HAYWORTH:

H.R. 3420. A bill to direct the Secretary of the Treasury to issue appropriate guidance for use by victims of disasters in their application to charitable organizations for relief; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RADANOVICH:

H.R. 3421. A bill to provide adequate school facilities within Yosemite National Park, and for other purposes; to the Committee on Resources, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DeFAZIO:

H.R. 3422. A bill to establish a Congressional Trade Office; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself, Mr. Bilirakis, Mr. Buyer, Mr. Simpson, Mr. Baker, Mr. Simmons, Mr. Wolf, and Mr. Tom Davis of Virginia):

H.R. 3423. A bill to amend title 38, United States Code, to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery; to the Committee on Veterans' Affairs.

By Mr. CALVERT (for himself, Mr. Kanjorski, Mr. LaTourette, Ms. Waters, Mr. Lewis of California, Mr. Sherman, Mr. Cantor, Mr. Ford, Mr. Hobson, Mr. Sandlin, Mr. Saxton, Mr. Andrews, Mr. Reynolds, Mr. Barcia, Mr. Wamp, Ms. Baldwin, Mr. Isakson, Mr. Towns, Mr. Riley, Mr. Deutsch, Mrs. Jo Ann Davis of Virginia, Mr. Rodriguez, Mrs. Bono, Mr. Pascrell, Mr. Stump, Mr. Rothman, Mr. Kingston, Ms. McKinney, Mr. Foley, Mr. Holden, Mr. Green of Texas, Ms. DeGette, and Mrs. Capito):

H.R. 3424. A bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes; to the Committee on Financial Services.

By Mr. RADANOVICH:

H.R. 3425. A bill to direct the Secretary of the Interior to study the suitability and feasibility of establishing Highway 49 in California, known as the "Golden Chain Highway", as a National Heritage Corridor; to the Committee on Resources.

By Mr. TOM DAVIS of Virginia (for himself and Mr. Weldon of Pennsylvania):

H.R. 3426. A bill to provide increased flexibility Governmentwide for the procurement of property and services to facilitate the defense against terrorism, and for other purposes; to the Committee on Government Reform.

By Mr. LANTOS (for himself, Ms. Ros-Lehtinen, Mr. Ackerman, Mr. Berman, Mr. Pitts, Mr. Faleomavaega, Mrs. Jo Ann Davis of Virginia, Mr. Payne, Mr. Crowley, Mr. Hoeffel, Mrs. Napolitano, Ms. Lee, Mr. Meeks of New York, Mr. Wexler, Mr. Rohrabacher, and Ms. Millender-McDonald):

H.R. 3427. A bill to provide assistance for the relief and reconstruction of Afghanistan, and for other purposes; to the Committee on International Relations.

By Mr. LaTOURETTE (for himself, Mr. Kucinich, Mrs. Jones of Ohio, and Mr. Traficant):

H.R. 3428. A bill to amend the Emergency Steel Loan Guarantee Act of 1999 to revise eligibility and other requirements for loan guarantees under that Act; to the Committee on Financial Services.

By Mr. YOUNG of Alaska (for himself, Mr. Oberstar, Mr. Petri, Mr. Borski, Mr. LaTourette, Mr. Ehlers, Mr. Graves, Ms. Eddie Bernice Johnson of Texas, Mr. Lipinski, Mr. Mascara, Mr. Holden, Mr. Rahall, Mr. Honda, Mr. Pascrell, Mr. Larsen of Washington, Mr. Costello, Mr. McGovern, Mr. Filner, and Ms. Millender-McDonald):

H.R. 3429. A bill to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BILIRAKIS:

H.R. 3430. A bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war; to the Committee on Veterans' Affairs.

By Mrs. CAPPS (for herself, Mr. Pickering, Mr. Dingell, Mr. Greenwood, Mr. Brown of Ohio, Mr. Shimkus, Mr. Waxman, Mr. Foley, Mr. Stark, Mr. Norwood, Mr. Rangel, Ms. Dunn, Mr. Towns, Mr. Wicker, Mr. Kennedy of Rhode Island, Mr. Platts, Mr. Farr of California, Mr. Baker, Mr. Engel, Mr. Cunningham, Mr. Green of Texas, Mr. Calvert, Mrs. McCarthy of New York, Mr. Wamp, Mr. Serrano, Mr. Wolf, Mr. Gutierrez, Mr. Thune, Mr. Meeks of New York, Mr. Dicks, Mr. Lantos, Mr. Wynn, Mr. Jefferson, Mr. McGovern, Mr. McNulty, Ms. McCollum, Mr. Ackerman, Mr. Baldacci, Mr. Pallone, Mr. Markey, Mr. Israel, Mrs. Christensen, Ms. Watson, Mr. Holt, Mr. Matsui, Mr. Lipinski, Ms. Carson of Indiana, Mr. Price of North Carolina, Ms. Lee, Mr. Kind, Mr. Moore, Ms. Eshoo, Ms. Harman, Mr. Filner, Mr. Stenholm, Mr. Frost, Mr. Jackson of Illinois, Ms. Schakowsky, Mr. Pascrell, Mrs. Tauscher, Ms. McKinney, Mr. Oberstar, Mr. Udall of New Mexico, Mr. Inslee, Mr. Davis of Florida, Ms. DeGette, Mr. Hall of Texas, Mr. Davis of Illinois, Mr. Abercrombie, Mr. Gordon, Mr. Pomeroy, and Mr. Rush):

H.R. 3431. A bill to amend the Public Health Service Act to provide programs for the prevention, treatment, and rehabilitation of stroke; to the Committee on Energy and Commerce.

By Mr. COOKSEY:

H.R. 3432. A bill to require that the Coast Guard Sea Marshal program be carried out in the 20 ports in the United States considered by the Secretary of Transportation to be the most vulnerable to attack by use of a commercial vessel as a terrorist instrument, to authorize additional personnel and funds for such program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. TOM DAVIS of Virginia (for himself, Mr. Moran of Virginia, Mr. Wolf, Mrs. Jo Ann Davis of Virginia, and Ms. Norton):

H.R. 3433. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain terrorist attack zone compensation of civilian uniformed personnel; to the Committee on Ways and Means.

By Ms. HOOLEY of Oregon (for herself, Mr. Wu, Mr. Walden of Oregon, Mr. Blumenauer, Mr. DeFazio, and Mr. Baird):

H.R. 3434. A bill to authorize the Secretary of the Interior to acquire the McLoughlin House National Historic Site in Oregon City, Oregon, and to administer the site as a unit of the National Park System, and for other purposes; to the Committee on Resources.

By Mrs. MALONEY of New York (for herself, Mr. Stupak, Mr. Andrews, Mrs. McCarthy of New York, Ms. Hooley of Oregon, Mr. McNulty, Mr. Snyder, Mr. Maloney of Connecticut, Mr. Gutierrez, Mr. Wynn, Mr. Frost, Mr. Murtha, and Mr. Owens):

H.R. 3435. A bill to provide for grants to local first responder agencies to combat terrorism and be a part of homeland defense; to the Committee on the Judiciary, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RAMSTAD:

H.R. 3436. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to treat certain National Guard duty as military service under that Act; to the Committee on Veterans' Affairs.

By Mr. SHAW (for himself, Mr. Cardin, Mr. Pallone, Mr. Deutsch, Ms. Ros-Lehtinen, Mr. Goode, Mr. Filner, Mr. Ehlers, Mr. Grucci, Mr. Hastings of Florida, Mr. Souder, Mr. Calvert, Mr. Davis of Florida, Mr. Weldon of Florida, Mr. Green of Wisconsin, and Mr. Brown of South Carolina):

H.R. 3437. A bill to amend the Merchant Marine Act, 1936 to establish a program to ensure greater security for United States Seaports, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Judiciary, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SIMPSON (for himself, Mr. Otter, and Mr. Rehberg):

H.R. 3438. A bill to authorize the State committees appointed to carry out agricultural credit programs under the Consolidated Farm and Rural Development Act to permit the emergency commercial use of land enrolled in the conservation reserve program; to the Committee on Agriculture.

By Mr. WATKINS:

H.R. 3439. A bill to authorize the President to present a gold medal on behalf of the Congress to the Choctaw Code Talkers in recognition of their contributions to the Nation, and for other purposes; to the Committee on Financial Services.

By Mr. SHAW:

H. Con. Res. 282. Concurrent resolution expressing the sense of Congress that the Social Security promise should be kept; to the Committee on Ways and Means.

By Mr. SHOWS:

H. Con. Res. 283. Concurrent resolution expressing the sense of Congress that Parker Dykes deserves to be recognized for his years of commitment to football and his community and is extremely worthy of the award of National Junior College Coach of the Year; to the Committee on Education and the Workforce.

By Mr. SHOWS (for himself, Mr. Frost, Mr. Gibbons, Mr. Gilman, Mr. Grucci, Ms. Hart, Mr. McGovern, Mr. Pascrell, Mr. Platts, Ms. Ros-Lehtinen, Mr. Stearns, and Mr. Wexler):

H. Con. Res. 284. Concurrent resolution expressing the sense of the Congress that the Secretary of Veterans Affairs should provide the flag of the United States for placement on the grave sites of recipients of the Medal of Honor; to the Committee on Veterans' Affairs.

By Ms. SLAUGHTER (for herself, Ms. DeGette, Mr. Greenwood, and Mrs. Morella):

H. Con. Res. 285. Concurrent resolution condemning the more than 500 anthrax threats sent to reproductive health centers and abortion providers since October 14, 2001; to the Committee on the Judiciary.

By Mr. GRUCCI:

H. Res. 308. A resolution expressing the sense of the House of Representatives regarding the establishment of a National Motivation and Inspiration Day; to the Committee on Government Reform.

By Ms. LEE (for herself, Mr. Shimkus, Mr. Ney, and Mr. Hoyer):

H. Res. 309. A resolution honoring the United States Capitol Police for their commitment to security at the Capitol; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 80: Mr. Shimkus.
H.R. 286: Ms. Lofgren.
H.R. 292: Ms. Rivers.
H.R. 303: Mr. Gekas.
H.R. 331: Mr. Flake.
H.R. 439: Mr. Diaz-Balart.
H.R. 440: Mr. Diaz-Balart.
H.R. 442: Ms. Hooley of Oregon.
H.R. 535: Mr. Linder.
H.R. 760: Mr. Souder.
H.R. 1143: Ms. McCollum.
H.R. 1155: Ms. Waters.
H.R. 1172: Mr. Chambliss.
H.R. 1212: Mr. Baca.
H.R. 1296: Mr. Smith of New Jersey.
H.R. 1305: Mr. Carson of Indiana and Mr. Stearns.
H.R. 1351: Mr. Rogers of Michigan
H.R. 1353: Mr. Blunt and Mr. Abercrombie.
H.R. 1377: Mr. Watts of Oklahoma.
H.R. 1405: Ms. Carson of Indiana.
H.R. 1433: Mr. Owens.
H.R. 1455: Mr. Hayworth.
H.R. 1464: Mr. Ackerman.
H.R. 1522: Mr. Lucas of Kentucky.
H.R. 1527: Mr. Sununu and Mr. Akin.
H.R. 1577: Mr. Ganske and Mr. Bonior.
H.R. 1649: Ms. Lofgren.
H.R. 1733: Mr. Wynn, Mr. Lantos, and Mr. Pastor.
H.R. 1773: Mr. Souder.
H.R. 1795: Mr. Vitter.
H.R. 1810: Ms. Carson of Indiana.
H.R. 1822: Mr. Baird.
H.R. 1935: Mr. Israel, Mr. Stearns, and Mr. Goodlatte.
H.R. 1948: Mr. Kleczka.
H.R. 1984: Mr. Payne.
H.R. 2071: Mr. Diaz-Balart.
H.R. 2117: Mr. Watkins.
H.R. 2162: Mr. Acevedo-Vila and Mr. Becerra.
H.R. 2173: Mr. Hilliard and Mr. Pallone.
H.R. 2284: Mr. Goodlatte.
H.R. 2348: Mr. Gephardt, Mr. Evans, and Mr. Blagojevich.
H.R. 2352: Mrs. Mink of Hawaii.
H.R. 2357: Mr. Reynolds and Mr. Tom Davis of Virginia.

H.R. 2372: Mr. LEACH.

H.R. 2374: Mr. COLLINS.

H.R. 2380: Ms. McCARTHY of Missouri and Mr. ACKERMAN.

H.R. 2442: Ms. LEE.

H.R. 2576: Mr. HINOJOSA and Mr. RAMSTAD.

H.R. 2618: Mr. NEAL of Massachusetts.

H.R. 2629: Mr. HUNTER and Mr. WEXLER.

H.R. 2709: Mr. DELAHUNT.

H.R. 2714: Mr. HASTINGS of Washington.

H.R. 2735: Mr. GOODLATTE.

H.R. 2908: Mrs. NAPOLITANO, Mr. WYNN, and Mr. PASCRELL.

H.R. 2955: Mr. MALONEY of Connecticut.

H.R. 3020: Mr. FERGUSON.

H.R. 3054: Mrs. CHRISTENSEN, Ms. RIVERS, Mr. McHUGH, Mrs. KELLY, Ms. WATERS, Mr. UDALL of New Mexico, Mr. JEFFERSON, Mr. TANNER, Mr. TURNER, Mrs. DAVIS of California, Mr. HONDA, Ms. JACKSON-LEE of Texas, Mrs. JONES of Ohio, Ms. KILPATRICK, Mrs. MINK of Hawaii, Mrs. NAPOLITANO, Ms. NORTON, Ms. PELOSI, Ms. SOLIS, Mrs. TAUSCHER, Mr. EVANS, Mr. ACKERMAN, Mr. STRICKLAND, Mr. BECERRA, Mr. KENNEDY of Rhode Island, Mr. MALONEY of Connecticut, Mr. PAYNE, Mr. TANCREDO, and Mr. SANDLIN.

H.R. 3058: Mr. HONDA, Mr. PASCRELL, Mr. GRUCCI, and Mr. ALLEN.

H.R. 3099: Mr. HINCHEY.

H.R. 3121: Mr. McDERMOTT.

H.R. 3143: Ms. KILPATRICK.

H.R. 3166: Mr. WATT of North Carolina.

H.R. 3171: Mr. BARR of Georgia.

H.R. 3175: Mr. MARKEY.

H.R. 3185: Mr. McGOVERN, Mr. WYNN, Mr. BAIRD, and Mr. HOLDEN.

H.R. 3215: Mr. BARCIA, Mr. REHBERG, Mr. THORNBERRY, Mr. BURTON of Indiana, Mr. WHITFIELD, Mr. HEFLEY, Mr. GREEN of Wisconsin, Mr. LUCAS of Kentucky, Mr. EDWARDS, Mr. GANSKE, Mr. BILIRAKIS, Mr. CHAMBLISS, Mr. SAXTON, Mr. WELDON of Florida, Mr. LINDER, Ms. DUNN, Mr. GEKAS, Mr. BRADY of Texas, Mr. TIAHRT, and Ms. ROS-LEHTINEN.

H.R. 3218: Mr. UDALL of Colorado and Mr. GONZALEZ.

H.R. 3230: Mr. McHUGH, Mr. ENGEL, and Ms. HART.

H.R. 3238: Mr. ISRAEL and Mr. KUCINICH.

H.R. 3244: Mrs. JO ANN DAVIS of Virginia, Mr. BOSWELL, and Mr. BILIRAKIS.

H.R. 3267: Mr. KUCINICH.

H.R. 3272: Mr. BONIOR, Mr. TOWNS, Mrs. MALONEY of New York, Mr. RANGEL, Mr. ISRAEL, Mrs. McCARTHY of New York, Mr. OWENS, and Mr. ACKERMAN.

H.R. 3284: Mr. WAXMAN, Mr. EVANS, and Mr. BONIOR.

H.R. 3289: Mr. FROST and Mr. RANGEL.

H.R. 3319: Mr. TIAHRT.

H.R. 3331: Mr. HINCHEY, Ms. LEE, and Mr. OWENS.

H.R. 3336: Mr. RANGEL, Mr. DOYLE, Ms. SCHAKOWSKY, Ms. CARSON of Indiana, Mr. BONIOR, Mr. WATT of North Carolina, and Mrs. NAPOLITANO.

H.R. 3347: Mr. TIAHRT, Mr. EHLERS, Mr. DUNCAN, Mr. McHUGH, Mr. GRAVES, Mr. McGOVERN, Mr. WYNN, Mr. GILCHREST, Mr. REHBERG, Mr. PETRI, Mr. PETERSON of Minnesota, Ms. HART, Mr. JONES of North Carolina, and Mr. LoBIONDO.

H.R. 3351: Mr. LoBIONDO, Mr. WEINER, Mr. BERRY, Mr. DOYLE, Mr. UDALL of New Mexico, Mr. PETERSON of Minnesota, Mr. CHAMBLISS, Mr. GUTKNECHT, Mrs. CLAYTON, Mr. SHERMAN, Mrs. MYRICK, Mr. SCHUSTER, Mr. STEARNS, Mrs. CAPITO, Ms. DeGETTE, Ms. ESHOO, Mr. ROTHMAN, Mrs. CUBIN, Mr. HOEFFEL, Mr. BISHOP, Mr. VITTER, and Mr. RODRIGUEZ.

H.R. 3353: Ms. HART.

H.R. 3360: Mr. BILIRAKIS, Mr. NORWOOD, Mr. ISAKSON, Mr. CHAMBLISS, Mr. LINDER, Mr. BARR of Georgia, Mr. KINGSTON, Mr. COLLINS, Mr. BISHOP, Mr. TOWNS, Mr. GREEN of Texas, Mr. PICKERING, Mrs. THURMAN, Mrs. McCARTHY of New York, Mr. ACKERMAN, Mr. SWEENEY, Ms. BROWN of Florida, Mr. NADLER, Mr. HINCHEY, Ms. MEEK of Florida, Mr. GILMAN, Mr. McNULTY, Mr. SMITH of New Jersey, Mr. WEINER, Ms. ROS-LEHTINEN, Mr. WALSH, Mrs. MALONEY of New York, Mr. BOYD, Mr. LUTHER, Mr. WHITFIELD, Mr. SERRANO, Mr. GRUCCI, Mr. LoBIONDO, Mr. PALLONE, Mr. FERGUSON, Mr. SKELTON, Mr. STEARNS, Mr. FOLEY, Mr. DIAZ-BALART, and Mr. KING.

H.R. 3363: Mrs. CAPPS.

H.R. 3364: Mr. JONES of North Carolina and Mr. NETHERCUTT.

H.R. 3368: Mr. KLECZKA and Mr. OWENS.

H.R. 3373: Ms. SLAUGHTER and Mr. ISRAEL.

H.R. 3376: Mr. PASCRELL.

H.R. 3389: Mr. KENNEDY of Rhode Island.

H.R. 3393: Mr. MORAN of Virginia, Mr. BOYD, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, and Mr. CLYBURN, and Mr. SERRANO.

H.R. 3402: Ms. MEEK of Florida, Mr. ISRAEL, Mrs. LOWEY, Ms. SLAUGHTER and Mr. SERTANA.

H.R. 3414: Mr. OWENS, Mr. BOEHLERT, Mr. MEEKS of New York, Mr. BOSWELL, Mr. SKELTON, Mrs. CLAYTON, and Mr. RUSH.

H.J. Res. 75: Mr. ROHRABACHER, Mr. SCHROCK, Mr. BURR of North Carolina, Mr. COOKSEY, Mr. WATKINS, and Mr. CANTOR.

H. Con. Res. 199: Mr. MATSUI, Mr. McNULTY, Mr. BORSKI, Mr. WYNN, Mr. KILDEE, Ms. KAPTUR, Mr. McHUGH, Ms. RIVERS, and Mr. FROST.

H. Con. Res. 222: Mrs. ROUKEMA and Mr. WEINER.

H. Con. Res. 249: Mr. MALONEY of Connecticut, Mrs. MEEK of Florida, Ms. BROWN of Florida, Mrs. JONES of Ohio, Ms. KILPATRICK, Mr. PAYNE, Mr. CONDIT, Mr. ACEVEDO-VILA, Ms. ROYBAL-ALLARD, Mr. FARR of California, Mr. DELAHUNT, Mr. ORTIZ, Mr. HALL of Ohio, Mr. GUTIERREZ, Mr. EVANS, Mr. HOYER, Ms. PELOSI, Ms. SANCHEZ, Mr. BOYD, Mr. BROWN of Ohio, Mr. DAVIS of Florida, Mr. NUSSLE, Mr. SPRATT, Mr. CLEMENT, Mr. MORAN of Virginia, Ms. HOOLEY of Oregon, Mr. HOEFFEL, and Mr. CAPUANO.

H. Con. Res. 260: Ms. SCHAKOWSKY.

H. Con. Res. 279: Mr. RODRIGUEZ, and Mr. ENGLISH.

H. Res. 295: Ms. HART.

SENATE—*Thursday, December 6, 2001*

The Senate met at 10:30 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, together we salute You as Lord of our lives, the one to whom we all must report, the only one we ultimately need to please, and the one who is the final judge of our leadership. We pray that our shared loyalty to You as our sovereign Lord will draw us closer to one another in the bond of service to our Nation. It is in fellowship with You that we find one another. Whenever we are divided in our differences over secondary issues, remind us of our oneness on essential issues: our accountability to You, our commitment to Your Commandments, our dedication to Your justice and mercy, our patriotism for our Nation, and our prayer that, through our efforts, You will provide Your best for our Nation. And there is something else, Lord: We all admit our total dependence on Your presence to give us strength and courage. So with one mind and a shared commitment, we humbly fall on the knees of our hearts and ask that You bless us and keep us, make Your face shine upon us, lift up Your countenance before us, and grant us Your peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, December 6, 2001.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Madam President, this morning the Senate will be in a period for morning business, with Senators permitted to speak for up to 10 minutes each. The majority leader has asked me to announce that he hopes to have as many as three rollcall votes on judicial nominations beginning at around 11 o'clock this morning. At noon, under the order previously entered, the Senate will begin consideration of the Department of Defense Appropriations Act. There will be rollcall votes on amendments to the Defense appropriations bill throughout the day.

As I announced last night for the majority leader, if there is any hope of getting out of here next Friday—and I think there is—we must complete our work on the Department of Defense appropriations bill this week. This week could be tonight, Friday, Saturday, or Sunday. But if there is any hope of getting us out of here, we have to get this bill to conference as quickly as we can so that the House and Senate conferees can report a conference report to both the House and Senate. If we do not finish the bill this week, our ability to leave here a week from tomorrow is very limited.

MEASURE PLACED ON THE CALENDAR—S. 1766

Mr. REID. Madam President, I understand S. 1766 is at the desk and is due for its second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. Madam President, I ask that S. 1766 be read for a second time, and then I would object at this time to any further proceedings.

The ACTING PRESIDENT pro tempore. The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

> A bill (S. 1766) to provide for the energy security of the Nation, and for other purposes.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Wyoming.

SENIORS MENTAL HEALTH ACCESS IMPROVEMENT ACT OF 2001

Mr. THOMAS. Madam President, I rise today to make a few comments on a bill introduced earlier this week and about which I have not had a chance to talk. I introduced it along with Senator LINCOLN of Arkansas. It is called the Seniors Mental Health Access Improvement Act of 2001.

I am very happy to have had an opportunity to introduce this bill. It is important legislation, particularly for seniors living in rural areas. The bill is designed to provide more opportunities for seniors under Medicare to have professional assistance in areas where often there are shortages of providers, and this is designed to help that situation.

It permits mental health counselors and marriage and family therapists to bill Medicare for their services, and it pays them at the rate of clinical social workers.

It is particularly important in rural States, such as my State of Wyoming, where often there is a shortage of mental health providers, and so it requires a good deal of travel. On the other hand, there are trained social workers who are prepared to provide these services if they have an opportunity to do it under the Medicare Program. That is what this bill does.

Currently, there are Medicare limitations on the types of mental health providers. Rural seniors are often forced to travel a good distance to take advantage of those services. Mental health counselors and marriage and family therapists are often the only mental health providers in a community. They have the same training and education as clinical social workers. Social workers have been recognized by Medicare for 10 years.

Seniors, of course, do have higher rates of suicide and depression than other populations. Therefore, it is very evident that this change is needed. We need to recognize the qualifications of these providers and ensure that seniors do have access to them.

The majority of Wyoming communities are mental health professional shortage areas and probably will continue to be that way for some time. Because Medicare recognizes a limited number of mental health providers, Wyoming seniors have access to 537 providers, 247 social workers, and 121 psychiatrists.

This bill will double the number of available Medicare mental health providers. Seventy-five percent of 518 national designated mental health professional shortage areas are in rural areas. Again, not a surprise.

One-fifth of rural counties have no mental health services of any kind.

Frontier counties, of course, as they are designated in terms of mental health providers, are in even more dire straits.

Ninety-five percent do not have psychiatrists, 68 percent do not have psychologists, and 78 percent do not have social workers.

I am proud to be an author of this bill, along with Senator LINCOLN. I hope we will make some progress as soon as possible. It will perhaps not be this year, I imagine, but it will be as we move on into Medicare reform, which I think we will certainly undertake next year.

DEFENSE APPROPRIATIONS

Mr. THOMAS. Mr. President, I want to make a comment or two about the subject we are going to debate this morning. It seems to me certainly there is nothing more important for us to undertake than the matter of appropriations for defense. I think the Senate needs to be responsive to the President's request for defense funding in not adding non-defense spending to this Defense appropriations bill.

Our men and women in the military are overseas defending this country, and we must support them. This appropriations bill, as other appropriations bills, obviously should have been passed back in August or September, the end of the fiscal year. We have gone 2 months now without increasing those dollars. So I hope we can move forward, and I hope we do not hold this bill hostage to some kind of fairly unrelated spending. We ought to get right to it and do what the President has asked us to do.

He has indicated what we did in the $40 billion in September is available. He has indicated when they need more money, whether it be for defense or domestic terrorism, he will request more money. So I certainly hope we do not spend a great deal of time trying to add more dollars to Defense appropriations than what the President had asked. He has made it quite clear he intends to veto it if it is that way. I think that would be a real disadvantage to us all and to the people we are intending to assist.

I look forward to being able to deal with that, to come up with something we can pass through the Senate and the House, get to the President, and that we can support the President in this area of defense. I think we find ourselves sometimes talking about spending money when there is not a plan yet to use it. Domestic security is one of those things. We have seen meetings where they are working together and Governor Ridge has said when we get the plan we will ask for the money that is necessary if it is not now in the $20 billion. So to go ahead and sort of put the money out there before those who are managing the program have had an opportunity to decide how that money can best be used is a mistake. I hope we do not do that.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSON. I ask unanimous consent to speak in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUPPORT THE ENERGY BILL AND THE RENEWABLE FUELS STANDARD

Mr. JOHNSON. Mr. President, I rise in strong support of the comprehensive energy bill that is being introduced today.

As we all know, there has been a great deal of discussion this year about the nation's energy situation. The increasing volatility in gasoline and diesel prices and the growing tension in the world from the terrorist attacks have affected all of us. There is a clear need for energy policies that ensure long term planning, homeland security, fuel diversity and a focus on new technologies.

To this end, I am very pleased that a comprehensive energy bill has been introduced in the Senate by my South Dakota colleague, Senator TOM DASCHLE. The bill is the result of many months of hard work by the Majority Leader and the chairmen of the committees of jurisdiction, including Senator JEFF BINGAMAN, the chairman of the Energy Committee, of which I am a member. We have listened to the concerns of both those who run our energy systems and our constituents in crafting the legislation. The result is a balanced and thorough product that addresses most of the major segments of the energy system and looks ahead to the needs of future.

The bill covers a number of important areas, including incentives to increase oil and gas production and the nation's supplies of traditional fuels, streamlining of electricity systems and regulations, important environmental and conservation measures, and provisions to increase efficiency of vehicles and appliances.

One of the key provisions in the bill is the inclusion of a renewable fuels standard. Earlier this year, I introduced a bill with Senator CHUCK HAGEL of Nebraska, the Renewable Fuels for Energy Security Act of 2001, S. 1006, to ensure future growth for ethanol and biodiesel through the creation of a new renewable fuels content standard in all motor fuel produced and used in the U.S. I am pleased the framework of this bill is included in the comprehensive energy legislation.

Today, ethanol and biodiesel comprise less than one percent of all transportation fuel in the United States. 1.8 billion gallons is currently produced in the U.S. The energy bill's language would require that five billions gallons of transportation fuel be comprised of renewable fuel by 2012—nearly a tripling of the current ethanol and renewable fuel production.

There are great benefits of ethanol and renewable fuels for the environment and the economies of rural communities. We have many ethanol plants in South Dakota and more are being planned. These farmer-owned ethanol plants in South Dakota, and in neighboring states, demonstrate the hard work and commitment to serve a growing market for clean domestic fuels.

Based on current projections, construction of new plants will generate $900 million in capital investment and tens of thousands of construction jobs all across rural America. For corn farmers, the price of corn is expected to rise between 20–30 cents per bushel. Farmers will have the opportunity to invest in these ethanol plants to capture a greater piece of the value-added profitability.

Combine this with the provisions of the energy bill and the potential economic impact for South Dakota is enormous.

Today, an important but underemphasized future is biodiesel, which is cheaply produced from excess soybean oil. We all know that soybean prices are hovering near historic lows. Biodiesel production is small but has been growing steadily. A renewable fuel standard would greatly increase the prospects for bioproduction and benefit soybean farmers from South Dakota and other states around the Nation.

Moreover, the enactment of renewable fuel standards would greatly increase the Nation's energy security. Greater usage of renewable fuels would displace the level of foreign oil that we currently use. During these difficult times it is imperative that we find ways to improve our Nation's energy security and reduce our overwhelming dependence on foreign oil. A renewable fuel standard would go a long way toward achieving this critically important goal.

The House has passed an energy bill without any provisions for renewable fuel standard. Moreover, I believe the other body looks backward by focusing too heavily on simple tax breaks for traditional fuel supplies without enough encouragement for new technologies. Where there are agriculturally based fuels, wind energy, and so on, we adequately provide for it in this Senate legislation. The House bill sets us on track for continued heavy reliance on imported petroleum from unstable nations all around the world.

I believe the Senate bill that is now introduced achieves the right balance for the Nation's future. I commend Senator DASCHLE AND SENATOR BINGAMAN for their efforts and I look forward to debate this coming year on this critical piece of legislation which directs our attention not only to energy needs of every kind in our Nation but to the energy independence and energy security that during these troubling times we all understand now more profoundly than ever is so badly needed.

ORDER OF PROCEDURE

Mr. REID. I ask unanimous consent that at 11:40 a.m. today the Senate proceed to executive session to consider Calendar No. 584, Harris Hartz, to be United States Circuit Court Judge; that the Senate immediately vote on confirmation of the nomination; and immediately following the disposition of the nomination, calendar Nos. 585 and 588 be confirmed; that any statements on the above nominations appear at the appropriate place in the RECORD; and upon the disposition of the above nominations, the President be immediately notified of the Senate's action and the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Madam President, as in executive session, I ask for the yeas and nays on Calendar No. 584.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEFENSE APPROPRIATIONS

Mr. REID. Madam President, in a short period of time we will take up the Defense appropriations bill. This is a bill the Chair and the ranking member, Senators INOUYE and STEVENS, have been working on as partners. A better term would be cochairs. They work so well together and have for so many years. They worked hard to get the bill to the point where it now is. We also have the full committee chair, Senator BYRD, who has worked very hard on this, with his counterpart, also, Senator STEVENS, to get to the point where the bill is.

One of the—and I am sorry to say this—controversial aspects of this legislation deals with something Senator BYRD has called homeland security. There will be efforts to strike this provision because it costs too much money, according to some, even though Governor Ridge, the homeland security czar, has stated that we need hundreds of millions of dollars for the things he has already recognized need to be done.

If we, in our mind's eye, fix the headlines of newspapers in recent weeks—Smallpox threat; subsequent headline: Cost of smallpox vaccinations more than originally anticipated; yesterday's headlines across the country: Osama bin Laden and the terrorists have recognized that they have what is called a dirty nuclear weapon, maybe—I hope we will be in a position to do something about this. That is what Senator BYRD has tried to do. That is what this legislation is all about, dealing with some of the things I mentioned, headlines around the country indicating we need to do something about homeland security.

Two of our Senators have been attacked with anthrax: Senator DASCHLE and Senator LEAHY. As we speak, we are trying to work with Senator LEAHY's letter to find out what should be done with that.

I hope when this legislation comes before us, which will be very soon, we will recognize we will have problems with anthrax and other biological agents such as smallpox, that our ports are unsafe and our nuclear plants are unsafe. Local government is really being hurt as a result of their spending all this money. So I hope we do something to keep that in the bill.

I see the majority leader has come to the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senate majority leader.

Mr. DASCHLE. Mr. President, I compliment the distinguished assistant Democratic leader for his comments just now and add my voice. He has said it so well. I know within the hour the distinguished chair of the Appropriations Committee, Senator BYRD, along with the Senator from Hawaii, our dear colleague, Mr. INOUYE, will lay down the Defense Appropriations Committee bill. Of course, a key part of that Defense Appropriations Committee bill is the homeland defense legislation incorporated within that bill.

The homeland defense bill is one-half of our economic stimulus plan, first and foremost. It responds to the economists across the country who have said, if you are going to improve the economy, if you are going to strengthen our economic circumstances, the very best way to do it—in fact, the only way to ensure that it happens—is to make sure the confidence level of all Americans improves.

Confidence has been shaken. The only way we can address it effectively is by ensuring that, regardless of where they travel, regardless of their circumstances at home, the mail they are now receiving—that under any circumstances we begin to put the safety back into our system, safety that we have lost since September 11. That is what homeland defense is all about.

Read the headlines in almost any daily newspaper. You don't need any more evidence than that, that we have a set of circumstances unlike this country has seen before. God forbid we have another event tomorrow, an attack within the week. I have no doubt, if we had any kind of additional terror activity, regardless of where it may be, even abroad, it would trigger the need, it would trigger the desire on the part of our colleagues, to ensure that we have the resources for homeland defense.

That is what we are saying. We should not be response oriented, we should be preventive in our desire to ensure the infrastructure is in place.

We have proposed a very narrowly drawn bill, a bill that addresses the need for bioterrorism response, the need for greater law enforcement, the need for protecting our infrastructure, the need for ensuring that we have the health facilities in place. That is what this bill does.

I don't know that you could make a better case than the New York Times editorial this morning about the need for homeland defense now. They simply make a statement, about two-thirds of the way through the editorial, that says basically: The American people want this protection now. They don't want to wait until next year. They know what we know: The terrorists do not operate on a fiscal year basis. Terrorists operate now. Terrorists will operate whenever it is convenient and appropriate for them.

There is no time to wait, when it comes to the homeland defense investments that are so important to us, as we look to restoring confidence, restoring safety, restoring the opportunities that we need in this country to be ready should something happen.

That is what this fight is going to be all about. I hope our colleagues will join with us in supporting it. I hope we are not going to be required to go through it piece by piece, which is what we will have to do if we have no other option; we will offer amendments piece by piece.

I asked my Republican friends, rhetorically, over the last several days: Tell us which part of it you do not support. Is it the effort at bioterrorism? We have 76 cosponsors on the Kennedy-Frist bill. I think there would be strong support for that. Is it efforts to provide greater resources to local law enforcement? If they are opposed to that, let's have an amendment. We'll take it out. Are you opposed to providing the new vaccine for smallpox and anthrax antibiotics? If that part is what you are opposed to, we will take that out. But we will be required, of course, to take each of these pieces step by step. I hope that will not be necessary.

I hope people understand this is going to be a very important debate, a debate that I think will give us our first chance to see how willing the Senate is to respond to the very critical need in this country for homeland defense. This is the first opportunity, and it is on the Defense bill. There could not be a more appropriate vehicle for it.

I hope my colleagues will support it, will work with us to get it. It has such import that it is my intention to stay on this bill until we finish it. If it takes Saturday to do it, I want to put my colleagues on notice. Because Monday is a Jewish holiday, Hanukkah, we really have to complete our work this week. So we will be on the bill this afternoon. We will be on the bill tomorrow. We will be on the bill Saturday if necessary. But we will stay on the bill and complete our work on it because it is that critical. We need to get in conference with our House colleagues, and we need to get this job done before we leave.

Clearly, because of the importance we must place on completing our work, we will have to accommodate whatever schedule is required to ensure that we complete it this week.

Mr. President, I ask unanimous consent the New York Times editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 6, 2001.]

THE HOME-FRONT EMERGENCY

The need to do more to guard against terrorism at home is obvious. Tom Ridge, the director of homeland defense, and members of Congress have certainly endorsed the idea—in principle. Yet today, when the Senate takes up a measure that would add $7.5 billion to the budget for items like airport security and defense against germ warfare, Republican leaders will be trying to block it. The appropriation is tacked onto a emergency military spending bill that no one opposes. But an emergency also exists at home. Senators should put the safety of their constituents first and vote for the entire package.

President Bush has threatened to veto the $7.5 billion measure if it reaches his desk, and Mr. Ridge has urged the senators to wait until next year, when he acknowledges he will be asking for more money for things like public health and food safety. Senators have been appropriately skeptical of his plea for delay. "That, simply stated, is too late," said Arlen Specter, a Pennsylvania Republican.

Why would the White House, which has issued another generalized terrorism warning, want to temporize on mounting an American response? The answer is old-fashioned budget politics. Earlier this year the administration and Congress settled on a ceiling of $686 billion in so-called discretionary spending for the current fiscal year. After Sept. 11, Mr. Bush and Congress agreed to add $40 billion to deal with the terrorist attacks, half of which was supposed to be set aside for New York. Not surprisingly, the money has been used up quickly. About $20 billion is going to the military to prosecute the war in Afghanistan. Only $10 billion may go to New York. Only $8.5 billion is set aside for homeland defenses.

It makes no sense to postpone help for the nation's health facilities to recognize and treat victims of biological or chemical attack when federal health officials have testified that their departments could use the money now. If the American people were asked whether they wanted to wait until next year to appropriate money to keep nuclear facilities secure and protect the nation's borders, they would undoubtedly opt for immediate action. The other great unmet need this year is New York City's recovery. The Bush administration argues that the promise of at least $20 billion to help the city will, eventually, be spent as costs are incurred. But that is beside the point. The Senate bill would give New York a further $7.5 billion for costs that would not be covered under those emergency procedures, such as grants to businesses to keep them from moving out of Lower Manhattan. It would also commit money to the Port Authority, the Metropolitan Transportation Authority and other agencies to start rebuilding now. Other parts of the package would help reimburse utilities for rewiring the area and hospitals for the emergency care they provided.

The only serious argument against the Senate package appears to be the president's opposition. Senator Ted Stevens of Alaska, the ranking Republican on the Appropriations Committee, says he would vote for the bill except that the White House asked him not to.

Mr. Bush has lately accused Congress of overspending, though lawmakers have stayed within all the agreed-upon-limits except those related to the emergency. Recently Mitchell Daniels, Mr. Bush's budget director, has been citing new deficit projections as evidence that Congress needs to keep spending down. But the administration has found room to expand the separate economic stimulus package to include huge giveaways to corporations and the wealthy. About $25 billion in the Republican stimulus bill would simply go to help the biggest corporations in America avoid taxes altogether.

This is a time for Senator Stevens, and all his colleagues, to vote on the merits. The merits dictate that the bill be passed.

Mr. REID. Will the Senator yield for a question?

Mr. DASCHLE. I am happy to yield to the Senator from Nevada.

Mr. REID. I say to the distinguished majority leader, so everyone within the sound of his voice recognizes this is not something we are trying to drum up for any reason other than the seriousness of it, I direct the Senator to today's newspaper—it is in all the newspapers—where the Ambassador from the Taliban to Pakistan said that any weapons the Taliban have they would use, including nuclear. He is not speaking for al-Qaida. If the Taliban, which we recognize as bad people and bad leaders, are willing to do that, will the Senator acknowledge that al-Qaida would be willing to do that, and more?

Mr. DASCHLE. I think it has been documented now in most of the newspapers and media that the terrorist cells which exist have produced information that would cause us to be concerned that some of these cells and some of these networks have weapons of mass destruction that they certainly intend to target towards the United States. There is no question they have made every attempt to acquire these weapons over the course of the last several years, and if they have been successful, I think it is a reasonable assumption the United States would be the first to experience those attacks.

That is why it is so critical for us to do all we can to prepare for whatever possibility there is that these weapons could be used against us. We are not there yet. We have a lot of work to do to create the kind of infrastructure required to provide the maximum degree of safety for all Americans. We don't have that today.

Director Ridge has indicated he is prepared to ask for additional resources next year. They have acknowledged that additional cost could entail upwards of a $200 billion commitment in homeland defense resources. But if we are going to require $200 billion, what is wrong with taking the first installment, $7.5 billion, and putting in place at least the foundation of this new homeland defense infrastructure?

We have to do it. We know we have to do it. Why do it responsively in reaction to incidents that have occurred? The time to do it is now, before these new incidents occur. That is really the essence of the debate in the Chamber this afternoon. But I thank the Senator for asking the question.

Mr. REID. Mr. President, it appears to me the Defense bill has been worked very much by Senators INOUYE and STEVENS, and they have come up with a great bill to meet the demands of this new war. The bill is about $340 billion. We are arguing over $7.5 billion for homeland security—the items the distinguished majority leader outlined. It doesn't seem to me we should be arguing about $7.5 billion compared to $340 billion. Some people in the administration say maybe we can deal with it in a supplemental next year. But that is next year. It is the same dollars. It would be a few months' difference. A few months, as far as my family is concerned, and the people of every State, could make a big difference.

Does the Senator agree?

Mr. DASCHLE. Mr. President, I agree with the Senator from Nevada.

Also, there really have been, as I understand, two basic concerns expressed by our Republican friends about their additional commitment to homeland defense. One was that we agreed to $68.6 billion in appropriations for this calendar year. The fact is that is true. We have agreed to $68.6 billion in overall money. But we also have always recognized that in cases of emergency there is a need for an additional commitment in resources. That agreement was reached before the anthrax attack. That agreement was reached before we had three specific incidents where we were put on high alert as a result of the potential for additional attacks somewhere in this country. Clearly, the circumstances have changed dramatically since that agreement. They certainly have in my office, and I think we could say across the country.

No. 1, I think we all have to recognize the changed circumstances, and the emergency circumstances. We need to at least begin to put in place the homeland defense structure that is so critical.

The second concern is that our Republican colleagues have said this really doesn't have anything to do with stimulus, and for that reason they are opposed to it. Yet that is contrary to what every single economist has told us—that there is a tremendous stimulus out there. In fact, there was an article on the front page of the Washington Post a few days ago which said as a direct result of the efforts we are now making on homeland defense, the economy has actually started to blossom again because of some of these new commitments we have made.

On both counts—No. 1, because the emergency circumstances have changed, and, No. 2, clearly there is a stimulative value to what it is we are doing beyond the security value to which we should all aspire—there is ample reason for us to be overwhelmingly supportive of homeland defense.

I only ask my colleagues: What would happen if we were attacked tomorrow? I have no doubt we would respond with not $7.5 billion, but we might respond with $70 billion, if another attack were to occur. We don't want to see another attack. God forbid that there would be another attack. But we have to assume that if it is up to the terrorists, because they do not look at fiscal years—they are not going to wait until after we put all of this in place—they are going to attack whenever they think it is right. And I don't want to see that happen to this country. I think it is critical that we be prepared for whatever comes.

Our Republican friends say we can't afford $7.5 billion right now. I find that the most illogical of all their arguments given their position. They say we can't commit $7.5 billion. But then they go out and commit $175 billion to an economic stimulus package all in the name of tax cuts, $23 billion of which goes in the form of retroactive AMT relief to the largest corporations in the country—General Motors, $1 billion; IBM, close to $1 billion; Ford, almost $1 billion in retroactive payments. Where is the stimulative value in retroactive payments of that magnitude to corporations that have billions of dollars of cash on hand?

Their notion is, we can't afford it, while at the same time our Republican friends will tell us, well, we still think we ought to be spending not $75 billion, which is what the President advocated for a stimulus package, but $175 billion—$100 billion more than what the President has acknowledged would be of stimulative value to us.

I have to say that argument doesn't hold much water either. Based on what opposition I have heard so far, I don't think the argument is even close.

The bottom line is that we have to be prepared. The bottom line is that for an economic stimulus package to work, people have to feel more secure. The bottom line is that we need these resources to put in place a homeland defense system that we recognize will be needed for all perpetuity—not just this year and not just next year.

I hope our colleagues will join with us in supporting this package in the recognition that we need to be just as cognizant of our needs here at home as we are abroad.

Mr. CONRAD. Mr. President, will the leader yield?

Mr. DASCHLE. I would be happy to yield to the Senator from North Dakota.

Mr. CONRAD. I saw their discussion occurring on the floor. I have been doing some calculations with my staff in the Budget Committee. I thought some of what we found might be useful in the discussion.

Over the next 3 years, the difference between the Republican stimulus plan and the Democratic stimulus plan is that the Republicans would add $140 billion more in deficits with their stimulus plan than with ours. And now they are talking about——

Mr. DASCHLE. Did the Senator from North Dakota say $140 billion over how long?

Mr. CONRAD. Just 3 years.

Mr. DASCHLE. Just 3 years? Not a 10-year difference but just 3 years?

Mr. CONRAD. That is correct. If one looks at the different fiscal outcomes based on the Republican stimulus plan and the Democratic stimulus plan just over the next 3 years, it is over $140 billion of additional deficits and additional debt with the Republican stimulus plan versus the Democratic stimulus plan.

Interestingly enough, they are criticizing adding $7.5 billion for homeland security to respond to the bioterrorism threat, to improve security at airports, to improve security at our harbors, to improve security for the rail system in this country—all things that are clearly necessary. I submit that terrorists are unlikely to wait for us.

But I also have learned that within the administration, they are working on a supplemental that would come to us early next year for as much as $20 billion for these same items. So what we have in terms of resistance on the other side to addressing the vulnerability of this country now on the terrorist threat rings pretty hollow—rings pretty hollow—when they say, on the one hand, gee, you are going to be adding $7.5 billion to the deficit and the debt, and yet when we examine their stimulus package over the next 3 years, compared to ours, they are going to be adding $140 billion to the deficit and debt and perhaps most revealing, all of their talk about how this represents big spending, and we have learned through sources in the administration they are working on their own additional spending plan to be brought before us next year in the amount of approximately $20 billion.

I did not know if the leader had heard of these calculations or of these reports, but I thought it might be useful to the discussion as to what the issue is going to be when we vote on these questions on the floor of the Senate.

Mr. DASCHLE. I really appreciate the Senator from North Dakota clarifying and reporting to the body about the intentions of the administration. I was not aware they are contemplating a supplemental of that magnitude. I find it all the more ironic, I guess, that at the very time they oppose $7.5 billion, they would be contemplating a supplemental of the magnitude the Senator has just announced—a $20 billion supplemental.

If $20 billion is good for February, why isn't $7.5 billion good for December? Where is the difference? Why is it that we must wait? And what happens between December and February if something, God forbid, would happen?

So it seems to me that it makes the case all the more that this isn't necessarily about money, it isn't about the need. It cannot be about the administration's intentions. I do not understand the basis for their opposition, if, in just 60 days, as the Senator from North Dakota reports, they could be preparing a supplemental of the magnitude he has just discussed.

So I hope our colleagues can clarify that because I think the $20 billion is a clear indication they, too, understand the importance of homeland defense. What we are arguing over is whether we ought to do it now or we ought to do it later.

What the Senator from North Dakota is saying is, we ought to do it now. This is the time when we ought to be putting much of the preventative infrastructure in place. So I appreciate very much the Senator's comments and his contribution to this colloquy.

Mr. CONRAD: I just say to my colleague, I was startled to hear the criticism coming from the other side on the question of $7.5 billion to deal with specific threats that we all know exist. After all, our vulnerability in these matters is not something we just discovered. We have had report after report made by very respected Members. In fact, the former Republican majority leader in the Senate, Howard Baker, did a report that alerted us to the need for tens of billions of dollars of expenditure to deal with weapons of mass destruction being developed in other parts of the world, specifically the former Soviet Union; and there are also the reports that were done on a bipartisan basis of the terrorist threats that existed to this country's infrastructure and the need to respond. It takes money to respond.

In light of what I have been told by people within the administration that they are, right now, working on a potential supplemental of $20 billion for early next year, perhaps in the March timeframe, that they would be bringing before us, they themselves know it is going to take more money to respond to bioterrorism; it is going to take more money to strengthen our airports against terrorist attack; it is going to take more money to provide defense for our harbors and to deal with the threats to the rail infrastructure of this country.

I do not think there is a person here that does not know there are these additional threats. When I couple that with what the Republicans are doing in terms of their stimulus package that would add, in comparison to our package, over $140 billion of additional deficit and debt over the next 3 years, and they are talking about defending the deficit on $7.5 billion of funding necessary to protect this Nation at the same time they are working on a plan for $20 billion of additional funding to protect this Nation, that kind of rings hollow.

Mr. DASCHLE. I say to the Senator from North Dakota, it does ring hollow. I would hope our colleagues could enlighten us as to the intentions of the administration. If, indeed, they are going to be requesting this $20 billion supplemental, we ought to know that. If they are going to be requesting it, how much would be dedicated to homeland defense? If they can tell us that, they ought to be explaining why it is important to do it in March but it is not important to do it in December.

Can they assure us that between December and March there will not be any need at all? I do not think anyone can do that. Nobody is that clairvoyant. So it is a risk. I do not think anybody ought to be willing to take that risk today.

Clearly, we could commit a lot more than $7.5 billion to our own personal security. But that is what we are doing in the name of reaching accommodation with our Republican friends. We started out with $15 billion, and we have cut it back in an effort to try to find a way to reach some compromise. What we have done is to cut it back to the bare essentials.

As the Senator from North Dakota pointed out, the essentials—which includes the fight against bioterrorism; the fight to ensure that our infrastructure, our nuclear facilities, our ports, our airports are secure; the fight to ensure that we have the health facilities in place—we were just apprised of a situation where somebody contracted West Nile disease in September. The diagnosis was sent to the Centers for Disease Control, and they were not informed as to what that diagnosis was until just this week because they are so backlogged because they do not have the resources, they do not have the personnel.

My goodness, that is a wakeup call of a magnitude about which everybody should be concerned. But that is what we are talking about with homeland security: ensuring that we have the resources to deal with diagnosis, ensuring we can work with local law enforcement officials.

To which part of what I have just described is our Republican caucus opposed? Which part of it do they want to take out? I think that is what we are going to have to try to figure out.

I think clearly within each one of those cases not only are we attempting to address it in as conservative a way as we can from a fiscal point of view but in as prudent a way as possible, taking what needs to be done first and dealing with those issues that could be dealt with later at a later date.

So I appreciate very much the Senator's comments this morning.

Mr. CONRAD. Will the Senator yield for an additional observation?

Mr. DASCHLE. I am happy to yield.

Mr. CONRAD. I thought I should report on testimony we had before the Budget Committee with respect to stimulus. We had a number of economists who appeared who said spending to strengthen security is perhaps the very best thing we could do to stimulate the economy. Not only would the spending itself be stimulative, but, more important, it would improve the security of people in the country.

One of the big problems we have is a lack of confidence.

People are feeling threatened. People are feeling vulnerable. That inhibits economic activity. We see that in airline travel. People don't feel safe flying. To the extent you can make expenditures that improve the security of airports and improve the security of rail operations and improve the security in ports, that is going to improve the psychological security factor that people feel. That is going to help the economy. They said you actually get a double hit: Not only the expenditures will be stimulative, but the additional security will make people feel safer and be safer.

I hope this does not become kind of a political debate, a partisan political debate, but that we deal with the underlying realities. The fact is, we know there are things that have to be done to strengthen our security. We can make that commitment now and get the work underway now. That makes sense instead of delaying.

We are talking about $7.5 billion, when our Republican friends are talking about a stimulus package that means $140 billion of additional debt over the next 3 years over and above what Democrats are advocating. This choice is going to be a relatively simple one.

Mr. DASCHLE. I thank the Senator from North Dakota for his contribution. I underscore what he said just now about the stimulative value of confidence. You can't calculate how much of an improvement in the economy it will make when people feel safe again. You know it is there; intuitively, you know that if people feel good about flying and traveling and doing all the things we did months ago, this economy is going to start improving. People are going to start putting their lives back together again with a sense of normalcy that we have not experienced in some time. They have to know it is safe to do so, that our airports and our ports and our nuclear facilities and all of our infrastructure are safer today than they were before.

That is, in essence, what we are talking about, creating that psychology, that confidence, that sense of normalcy that we have not had now for some time. I hope my colleagues will work with us in a way that will allow us to address this need. If we are going to do it next March, let's do it now. Let's do it in a way that we can agree ought to be done.

Homeland security is not a partisan issue, and it should not be in this case either.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the majority leader has outlined for us what we will take up the balance of today and possibly tomorrow as we debate the most important issue of Department of Defense appropriations.

There is something that has to be said in response to what the majority leader has just outlined because while he has opined with great emotion a frustration about the basis of opposition that those of us on this side are expressing to this particular bill, what he has failed to talk about are the very agreements he once made and once entered into with our President.

That agreement first started on October 2, well after September 11, as this country was beginning to assess its needs in light of a terrorist threat and how we might ultimately conclude our efforts in Congress for fiscal year 2002.

The President, the majority leader from South Dakota, the Republican leader, and the House met. They looked at all of these different issues and agreed on a couple of issues. First, they agreed that $686 billion in discretionary spending was an adequate level, plus $40 billion that would be dedicated to homeland defense and the very emergencies we are talking about and the effort to deal with the great tragedy in New York City. Forty billion had already been agreed to: $20 billion of it was to be spent immediately at the discretion of the President; $20 billion was to be worked out cooperatively with the Congress and the appropriating committees of the Congress. That work has been done.

What has gone on in the meantime is the breaking of a word. I come from Idaho. The majority leader comes from South Dakota. Out there is a ground level expression called "a deal is a deal." You walk up; you look your fellow person in the eye; you shake hands; you arrive at an agreement, and that is the way you operate. We went even beyond that.

The President, in a letter, wrote:

> This agreement is the result of extensive discussions to produce an acceptable bipartisan solution to facilitate the orderly enactment of appropriation measures. This agreement and the aggregate spending level are the result of a strong bipartisan effort at this critical time for our Nation, and I expect that all parties will now proceed expeditiously and in full compliance with the agreement.
>
> Sincerely,
>
> GEORGE W. BUSH.

Today the deal is not a deal; the deal has been broken. The DOD bill that comes before us this afternoon is a deal breaker.

What the majority leader did not say, as he opined the criticality of a homeland defense expenditure, was that it was not designed by the appropriate committees. It was not reviewed by all of the committees of jurisdiction. It was largely written in the back room of the chairman of the Appropriations Committee, Senator BOB BYRD. I am not at all here today to impugn the integrity of Senator BYRD. That is not my intent. I work with him on a daily basis. I have high regard for him.

But for the majority leader to come and say that $15 billion of spending is necessary in all of these categorized areas for homeland defense is totally ignoring the fact that darn few have seen all of where it goes. Our new Homeland Defense Director is at this moment developing an analysis of and an expression of need for a full implementation of homeland defense. That is where he talks, and the majority leader spoke, too—the issue of coming forth next year with recommendations, thoroughly vetted, looked at by all, examined by the committees of jurisdiction and not done in the back room of the Appropriations Committee of the Senate.

I am a bit surprised when the majority leader comes to the Chamber and suggests that Republicans are attempting to play politics with the issue of the stimulus package. It has been openly discussed. That is appropriate. It has been reviewed by the authorizing committees, and that is appropriate. But what has not gone on and that which is being brought to this committee this afternoon is a thorough and responsible examination by all involved. That is why we look at it with great concern, and the very reality that the money we are spending today crosses that line of a balanced budget and into deficit.

There is no question that a stimulus package that will be dealt with bipartisanly or not is going to have the impact of deficit spending or it likely could happen. But the reason we are willing to look at an investment in the economy today is the hopes of lessening that deficit, getting people back to work, causing things to happen out there.

Before the August recess, 1 million Americans had lost their jobs. We were already in recession by August.

The appropriate committees that examine it and the appropriate Federal agencies that examine it to make the official proclamation had not yet done so. That didn't occur until just a few weeks ago. Any of us going home, any of us spending time in our communities knew this country's economy had turned down dramatically. Now the figures show that it started well before George W. Bush came to town. It started in September of a year ago, and it was accelerating through the fall and into the winter months and across the summer. We now know that as a reality. It is important that we do a stimulus package. We responded to that when we did tax relief earlier this spring, and the then-chairman of the Budget Committee, who is now on the floor, spoke very eloquently as to why we did that. That is all part of the reason we are here.

I am extremely surprised we would now attempt to do what we are attempting to do in this. We will oppose this effort.

A deal is a deal. The President has said he will veto it. I am sorry the message did not get to the majority leader. I am sorry the agreement he once struck is no longer the deal because he says circumstances have changed.

No, frankly, circumstances have not changed. There is still a lot of money out there to spend. This afternoon we will thoroughly debate this issue, but it is important that the statements made this morning be responded to.

I yield the floor.

ECONOMIC STIMULUS

Mr. DOMENICI. Mr. President, before we are finished with the appropriations bill that will be before the Senate shortly and the economic stimulus package that someday will come up—I do not know when—I am very hopeful this will not end up being a partisan charade, but I can cite a couple items that do bother me.

I was reading Roll Call a couple days ago. I understood the majority leader made a statement that whoever was on that committee to produce a stimulus, they had gotten the message from the leadership and the Democrats that unless two-thirds of the Democrats were for the package, they could not take it out of this conference committee. It would not come out. That is an interesting statement. I assume it is pretty partisan, too.

Things operate in the Senate on a majority basis. We do not need two-thirds of Democrats and Republicans to produce a stimulus package. In any event, I hope that is not a sign that it is going to be partisan because we do have a chance to produce a stimulus package that will be worthwhile.

From my standpoint, I think I am going to put together a stimulus package—what would go this with that, that with this. I might do that in the next couple days and at least come to the Chamber and talk about a stimulus package and why it is a stimulus package.

It is important to not just work on what we choose to call a stimulus package. The occupant of the chair would like to know that it produces new jobs, that it puts people to work, along with the other issues, such as unemployment compensation, perhaps some health care activity.

Clearly, we have to put some provisions in the bill that will encourage this economy in a realistic way. I will be watching. Everyone else will be watching. I hope we can get it done in due course.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF HARRIS L. HARTZ TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the hour of 11:40 a.m. having arrived, the Senate will proceed to executive session to consider the nomination of Harris Hartz, to be U.S. Circuit Judge. The clerk will state the nomination.

The legislative clerk read the nomination of Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, is there some reason for 3 minutes or is it assumed I asked for 3 minutes?

The PRESIDING OFFICER. The Chair was under the impression the Senator wanted 3 minutes.

Mr. DOMENICI. Can I do this, so I will not feel too pressed: I ask unanimous consent that I be able to speak for up to 5 minutes, which I probably will not use.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I rise to pay credit to a very distinguished lawyer and judge. His name is Harris Hartz. Today when we vote, if a majority votes for him—and I do not see why we would not; it might be a unanimous vote—he will become the U.S. Circuit Judge for the Tenth Circuit.

To the extent a Senator, based upon observing and asking other people, can fill himself or herself with knowledge about a person, I have to say he is probably one of the most qualified persons I have ever asked the President to put on the bench.

His academic background is so superb that no one can challenge it. If Harvard Law School is a good law school, and he was among its best students—magna cum laude—all of the attributes of a great mind that was being moved and melded into a great leader mind, that happened to him. From that time on, he has been engaged in various activities that have made him a broad-based lawyer to take this job.

He was a circuit judge in New Mexico, which caused him over time to publish 300 opinions, Mr. President. If people do not know him, they have not bothered to read his opinions.

Whether it is being scholarly, whether he understands, whether he plays no favorites, whether he is truly a good judge, in what judges do besides knowing the law—adding all that together, the Senator from New Mexico recommended him to the President. He was thoroughly vetted at the executive branch, and obviously the background checks have occurred, and he came forth with all the right pluses attendant his name.

Today, the 5- or 6-month ordeal which all candidates face—families worrying, wives and children wondering how much longer—will come to an end, and he will be sitting on the bench in the southwestern United States.

I ask unanimous consent that his vitae and the Department of Justice analysis of his background be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HARRIS L. HARTZ

BIOGRAPHY

Harris L. Hartz is a magna cum laude graduate of Harvard Law School, where he was selected as Case and Developments Editor of the Harvard Law Review. He received his AB degree from Harvard College summa cum laude in physics. At Harvard he was one of 9 members of his class elected to Phi Beta Kappa in their junior year.

From 1989 to 1999, Hartz served as a judge on the New Mexico Court of Appeals for eleven years. During that time he authored approximately 300 published opinions. In 1997, Judge Hartz was elevated to the position of Chief Judge. During his last year on the Court, he was a member of the Executive Committee of the American Bar Association Council of Chief Judges.

In 1999 Judge Hartz resigned from the Court of Appeals to join the law firm of Stier, Anderson & Malone as special counsel to the International Brotherhood of Teamsters. He has worked with the Union to develop a Code of Conduct and an internal system for compliance and enforcement.

Before becoming a judge, most of Judge Hartz's legal career was as a lawyer in Albuquerque, New Mexico. During his first three years after law school he was an Assistant United States Attorney for the District of New Mexico. After teaching for a semester in 1976 at the University of Illinois College of Law, he spent three years with the New Mexico Governor's Organized Crime Prevention Commission, first as its attorney and then as Executive Director. For the following nine years he was in private practice, primarily in civil litigation.

Judge Hartz has been active in the American Law Institute since 1993 and now serves as an Adviser for the Restatement of the Law (Third) Agency. He has also participated in activities of the American Bar Association, including membership on the Appellate Practice Committee of the Appellate Judges Conference and the Advisory Committee to the ABA Standing Committee on Law and National Security.

His past civic activities have included being Chair of the New Mexico Racing Commission, where his efforts against drugging of racehorses led to his nomination for the Joan Pew Award and his being appointed co-chair of the Quality Assurance Committee of the National Association of State Racing Commissioners. For the past two years Judge Hartz has been chair of the New Mexico Rhodes Scholarship Selection Committee and chair of the Selection Committee for the New Mexico Ethics in Business Awards. He is active in Rotary, and has served as President of the Rotary Club of Albuquerque.

HARRIS L. HARTZ

RESUMÉ

Birth: January 20, 1974, Baltimore, Maryland

Legal Residence: New Mexico

Education: 1963-1967—Harvard College, A.B. degree, summa cum laude; 1969-1972—Harvard Law School, J.D. degree, magna cum laude

Bar Admittance: 1972—New Mexico; 2000—District of Columbia

Experience: 1972-1975—U.S. Attorney's Office for the District of New Mexico, Assistant U.S. Attorney; 1976—University of Illinois College of Law, Visiting Assistant Professor of Law; 1976-1979—New Mexico Governor's Organized Crime Prevention Commission, Counsel, 1976-1977 & Executive Director, 1977-1979; 1979-1982—Poole, Tinnin & Martin, PA Associate; 1982-1988—Miller, Stratvert & Torgerson, Associate, 1982-83 & Shareholder, 1983-88; 1988-1999—New Mexico Court of Appeals Judge (Chief Judge, 1997-99); 1999-present—Stier, Anderson & Malone, LLC Special Counsel

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HARRIS L. HARTZ

SUPPORT

Senator Jeff Bingaman, Democrat from New Mexico

"I have known Harris Hartz for many years, and I consider him to be qualified for this position."—The Albuquerque Journal, June 22, 2001.

Senator Peter Domenici, Republican from New Mexico

"I am extremely pleased President Bush has nominated Harris, who has an impressive record of achievement."—The Daily Times, June 22, 2001.

"He has truly outstanding credentials and will make New Mexico proud as a new fixture on the 10th Circuit."—The Albuquerque Journal, June 22, 2001.

Editorial, The Santa Fe New Mexican

"The cerebral and academic Hartz is everything America wants in its judiciary."

"But even though appointment-killing has become a popular sport among both parties, Hartz has the credentials—and the class—to overcome any political pettifoggery that might arise in the course of his confirmation."

"Hartz will be making 'case law' at a high level, setting precedents to which lawyers look as they build their own cases. Both are daunting tasks—but both are well within Hartz's grasp."—June 23, 2001.

Lance Liebman, Professor at Columbia Law School

"I have seen his contributions to half a dozen different areas of law. Just as he was as a student, Harris is smart, serious, balanced, and interesting. I am sure he was a good state judge and I am certain he will be a great addition [to the federal bench]. . . ."—Excerpt from letter to Senators Leahy and Hatch, August 3, 2001.

Roberta Ramo, Former President of the American Bar Association

"As a former president of the American Bar Association, I have had the honor of knowing many of our finest judges. Among the elements of American democracy of which I am most proud stands the quality of our Federal Judiciary. Should he be confirmed by the United States Senate, I believe Mr. Hartz will, in his service, make each of us proud that we had a part in placing him on the 10th circuit."—Excerpt from letter to Senator Hatch, August 9, 2001.

Mr. DOMENICI. Mr. President, I would like to share a quote from an editorial in one of our State's leading newspapers, the *Santa Fe New Mexican*:

> The cerebral and academic Hartz is everything America wants in its judiciary.

Before becoming a judge, most of Judge Hartz's legal career was as a lawyer in Albuquerque, NM. During his first 3 years after law school he was an Assistant United States Attorney for the District of New Mexico. After teaching for a semester in 1976 at the University of Illinois College of Law, he spent 3 years with the New Mexico Governor's Organized Crime Prevention Commission, first as its attorney and then as executive director.

I believe Judge Hartz will be an excellent U.S. circuit judge because above all he is a person with great strength of character. He has the courage to render decisions in accordance with the Constitution and the laws of the United States. More important, I believe Judge Hartz will respect both the rights of the individual and the rights of society and will be dedicated to providing equal justice under the law. He understands and appreciates the genius of our Federal system and the delicate checks and balances among the branches of our National Government.

Judge Hartz also understands New Mexico because he was raised in Farmington. Judge Hartz's 29 years of experience both as a lawyer and a judge have prepared him well for the Tenth Circuit Court of Appeals. I believe Judge Hartz will be a fine circuit judge. I count him among my friends, and I recommend him highly to the Senate.

Mr. LEAHY. Mr. President, today, the Senate is taking final action on three additional judicial nominations. There are a total of nine judicial nominees who have been voted out of committee and are awaiting final action by the Senate. Today's confirmation of 1 circuit court and 2 district court judges will bring the total number of judges confirmed this year to 21. When the Senate completes its action on the nomination of the remaining 6 district court judges, we will have confirmed 27 judges since July, including 6 to the Courts of Appeals.

I congratulate today's nominees and their families on their nominations, confirmations, and what is soon to be their appointments to the United States Court of Appeals for the Tenth Circuit and the United States District courts for Kentucky and the District of Oklahoma. I also commend each of the Senators who worked with the committee and the majority leader to help bring these nominations forward and to have the Senate act to confirm them.

The nominee to the Tenth Circuit Court of Appeals, Harris Hartz, comes to us with the strong support of both Senator DOMENICI and Senator BINGAMAN. He was the first nominee to a Court of Appeals received by the Senate this June. His nomination is an example of the sort of progress we can make on consensus nominees with bipartisan support. The Tenth Circuit is one of many Courts of Appeals with multiple vacancies, and which has had multiple vacancies long before this summer. My recollection is that President Clinton had at least two nominees for vacancies on the Tenth Circuit pending in 1999 and for several months last year, but neither was ever accorded a hearing or a vote before the Judiciary Committee or before the Senate. Had they and other previous nominees been acted upon promptly and favorably in years just past, of course, the circumstances in the Tenth Circuit and many other courts around the country would be different today. During 6½ years, the Republican majority in the Senate allowed only 46 nominees to be confirmed to the Courts of Appeals and left dozens of vacancies unfilled.

Just as we recently proceeded to confirm the first judge to the Fifth Circuit in 7 years, we are proceeding with Judge Hartz to provide some immediate relief to the Tenth Circuit. When confirmed, Judge Hartz will be the first new member of the Tenth Circuit in the last 6 years—since judges were confirmed to that Court in 1995 from Utah and Colorado.

Over the past 6½ years the average time it has taken for the Senate to consider and confirm Court of Appeals nominees had risen to almost 350 days. The time it has taken for Judge Hartz's nomination is about half of that, if measured from his initial nomination in June 2001. Of course, that nomination was returned to the White House when the Republican leader objected to keeping judicial nominations pending over the August recess. Accordingly, the nomination on which the Senate acts today was not received until this September. If measured from the time the committee received his ABA peer review to the time of his confirmation today, the process has taken only 112 days. He participated in one of the many October hearings and, having answered the written questions following his hearing, was reported by the committee in November.

The strong bipartisan support he has received from his Senate delegation paved the way for prompt action in one-third to one-half the time it used to take on average to consider Court of Appeals nominees. Both of the district court nominees, Danny Reeves from the Eastern District of Kentucky and Joe Heaton for the Western District of Oklahoma, whom I supported at the committee and am pleased to support today, have moved through the process with the support of Democrats and Republicans relatively quickly.

Since July 2001, when the Senate was allowed to reorganize and the committee membership was set, we have maintained a strong effort to consider judicial and executive nominees. There are a total of nine judicial nominees who have been voted out of committee and are awaiting final action by the Senate. Today's confirmation of one circuit court and two district court judges will bring the total number of judges confirmed to 21. When the Senate completes its action on the nomination of the remaining six district court judges, we will have confirmed 27 judges since July, including six to the Courts of Appeals. That will be almost twice the total number of judges that were confirmed in all of 1989, the first year of the first Bush administration, and will include twice as many judges to the Courts of Appeals as were confirmed in the first year of the Clinton administration. It is also more judges that were confirmed in all of the 1996 session. Thus, despite all the obstacles, we exceeded the number of confirmations of judges during the first year of the first Bush administration by six, the last year of the first Clinton term by four, and we are on pace to confirm as many judges as were confirmed in the first year of the Clinton administration.

Our total of six Court of Appeals confirmations doubles the number of appellate court judges confirmed in the entire first year of the Clinton administration, one more than the number of appellate court judges confirmed in the first full year of the first Bush administration, and six more than were confirmed in the entire 1996 session, the last year of President Clinton's first term.

When I assumed the chairmanship, the number of vacancies on the Federal Bench was over 100 and quickly rose to 111. Since July, we have made significant progress. In spite of the upheavals we have experienced this year with the shifts in chairmanship, the vacancies that have arisen since this summer, and the need to focus our attention on responsible action in the fight against international terrorism, with the confirmation of these 9 nominees we will have reduced the number of vacancies to below 100 for the first time since early this year.

During the time a Republican majority controlled the process over the past 6½ years, the vacancies rose from 65 to at least 103, an increase of almost 60 percent. We are making strides to improve on that record. The President has yet to send nominations to fill more than half of the current vacancies. This is a particular problem with the 71 district court vacancies, for which 49—that's 69 percent—do not have nominations pending.

We have been able to reduce vacancies over the last 6 months through hard work and a rapid pace of scheduling hearings. Until I became chairman of the Judiciary Committee, no judicial nominees had been given hearings this year. No judicial nominees had been considered by the Judiciary Committee or been voted upon by the Senate. After almost a month's delay in the reorganization of the Senate in June while Republicans sought leverage to change the way the judicial nominations had traditionally been considered and abruptly abandoned the practices that they had employed for the last 6½ years, I noticed our first hearing on judicial nominees within 10 minutes of the reorganization resolution being adopted by the Senate.

I have previously noted that during the 6½ years the Republican majority most recently controlled the confirmation process, in 34 of those months they held no confirmations for any judicial nominees at all, and in 30 other months they conducted only a single confirmation hearing involving judicial nominees. Since the committee was assigned its members in early July 2001, I have held confirmation hearings every months, including two in July, two during the August recess and three hearings during October. Only once during the previous 6½ years has the committee held as many as three hearings in a single month.

On the other hand, on at least three occasions during the past 6½ years the committee had gone more then 5 months without holding a single hearing on a pending judicial nominee. We have held more hearings involving judicial nominees since July 11, 2001, than our Republican predecessors held in all of 1996, 1997, 1999, or 2000. In the last 6 months of this extraordinarily challenging year, the committee has held 10 hearings involving judicial nominees. Just this week the committee held our tenth hearing on judicial nominations since I became chairman, when the Senate was allowed to reorganize and this committee was assigned its membership on July 10, 2001. Since September 11, the Judiciary Committee has held six judicial confirmation hearings.

We have held hearings on 33 judicial nominees, including 7 to the Courts of Appeals. Since September 11 we have held hearings on 26 judicial nominees, including 4 to the Courts of Appeals. Within 2 days of the terrible events of September 11, I chaired a confirmation hearing for the 2 judicial nominees who drove to Washington while air travel was still disrupted. Then on October 4, 2001, we held another confirmation hearing for five judicial nominees, which included a nominee from Nebraska who was unable to attend the earlier hearing because of the disruption in air travel.

On October 18, 2001, in spite of the closure of Senate office buildings in the wake of the receipt of a letter containing anthrax spores and in spite of the fact that Senate staff and employees were testing positive for anthrax exposure, the committee proceeded under extraordinary circumstances in the U.S. Capitol to hold a hearing for five more judicial nominees. The building housing the Judiciary Committee hearing room was closed, as were the buildings housing the offices of all the Senators on the committee. Still we persevered.

On October 25, 2001, while the Senate Republicans were shutting down the Senate with a filibuster preventing action on the bill that funds our Nation's foreign policy initiatives and provides funds to help build the international coalition against terrorism, the Judiciary Committee nonetheless proceeded with yet another hearing for four more judicial nominees. On November 7, 2001, we convened another hearing for judicial nominees within 8 extraordinary weeks—weeks not only interrupted by holidays, but by the aftermath of the terrorist attacks of September 11, the receipt of anthrax in the Senate, and the closure of Senate office buildings. The hearing on November 7 was delayed by another unfortunate and unforeseen event when one of the family members of a nominee grew faint and required medical attention. With patience and perseverance, the hearing was completed after attending to those medical needs.

On December 5, 2001, we convened another hearing for another group of five judicial nominees. I thank Senator DURBIN for volunteering to chair that hearing for nominees from Alabama, Colorado, Georgia, Nevada, and Texas. We have previously considered and reported other nominees from Alabama, Georgia, and Nevada, as well. We have accomplished more, and at a faster pace, than in years past. Even with the time needed by the FBI to follow up on the allegations that arose regarding Judge Wooten in connection with his confirmation hearing, we have proceeded much more quickly than at any time during the last 6½ years. Thus, while the average time from nomination to confirmation grew to well over 200 days for the last several years, we have considered nominees much more promptly. Measured from receipt of their ABA peer reviews, we have confirmed the judges this year, including the Court of Appeals nominees, on average in less than 60 days. So, we are working harder than ever on judicial nominations despite the difficulties being faced by the Nation, the Senate, and a number of members on the committee.

We have also completed work on a number of judicial nominations in a more open manner than ever before. For the first time, this committee is making public the "blue slips" sent to home State Senators. Until my chairmanship, these matters were treated as confidential materials and restricted from public view. We have moved nominees with little or no delay at all from hearing, on to the committee's business meeting agenda, and then out to the floor, where nominees have received timely rollcall votes and confirmations.

The past practices of extended unexplained anonymous holds on nominees after a hearing have not been evident in the last 6 months of this year as they were in the past. Indeed over the past 6½ years at least eight judicial nominees who completed a confirmation hearing were never considered by the committee but left without action. Just last year two of the three Court of Appeals nominees reported to the Senate, Bonnie Campbell of Iowa and Allen Snyder of the District of Columbia, were both denied committee consideration from their May hearings until the end of the year. Likewise the extended, unexplained, anonymous holds on the Senate Executive Calendar that characterized so much of the last 6½ years have not slowed the confirmation process this year.

Majority Leader DASCHLE has moved swiftly on judicial nominees reported to the calendar. And once those judicial nominees have been afforded a timely rollcall vote, the record shows that the only vote against any of President Bush's nominees to the Federal courts to date was cast by the Republican leader.

In addition to our work on judicial nominations, during the recent period since September 11, the committee also devoted significant attention and effort to expedited consideration of antiterrorism legislation. Far from taking a "time out" as some have suggested, the Judiciary Committee has been in overdrive since July and we have redoubled our efforts after September 11, 2001. With respect to law enforcement, I have noted that the administration was quite slow in making U.S. attorney nominations, although it had called for the resignations of U.S. attorneys early in the year.

Since we began receiving nominations just before the August recess, we have been able to report, and the Senate has confirmed, 57 of these nominations. We have only a few more U.S. attorney nominations received in November, and await approximately 30 nominations from the administration. These are the President's nominees based on the standards that he and the Attorney General have devised.

I note, again, that it is most unfortunate that we still have not received even a single nomination for any of the U.S. marshal positions. U.S. marshals are often the top Federal law enforcement officer in their district. They are an important front-line component in homeland security efforts across the country. We are near the end of the legislative year without a single nomination for these 94 critical law enforcement positions. It will likely be impossible to confirm any U.S. marshals this year having not received any nominations in the first 11 months of the year.

In the wake of the terrorist attacks on September 11, some of us have been seeking to join together in a bipartisan effort in the best interests of the country. For those on the committee who have helped in those efforts and assisted in the hard work to review and consider the scores of nominations we have reported this year, I thank them. As the facts establish and as our actions today and all year demonstrate, we are moving ahead to fill judicial vacancies with nominees who have strong bipartisan support. These include a number of very conservative nominees.

I am proud of the work the committee has done on nominations, and I am proud that by the end of the day we will have confirmed 21 judges. I hope that by the end of this session that total will rise to about 30 as the committee continues its work on the nominations heard this week and the Senate confirms the additional 6 nominees who were voted out of committee last week.

Mr. HATCH. Mr. President, I am pleased today we are considering the nominations of three extremely well-qualified individuals for the Federal bench.

Our circuit court nominee is the Honorable Harris Hartz of New Mexico, whom the President has selected to serve on the Tenth Circuit Court of Appeals. I have a personal interest in the confirmation of fair, qualified judges to serve on the Tenth Circuit since it encompasses the great state of Utah. In fact, there is an eminently well-qualified nominee from Utah for the Tenth Circuit, University of Utah Law Professor Michael McConnell, who is awaiting a hearing from the Judiciary Committee. His nomination has been pending for 211 days without a hearing. There are two other nominees for the Tenth Circuit who are also awaiting hearings on their nominations: Timothy Tymkovich of Colorado, who has been waiting 195 days, and Terrence O'Brien of Wyoming, who has been waiting 126 days.

Part of the holdup has unquestionably been due to lack of action by the Judiciary Committee, but the ABA must shoulder some of the blame as well. It took the ABA over 8 weeks to return its evaluation of Michael McConnell, which, incidentally, was a rating of unanimously well qualified, over 15 weeks for Timothy Tymkovich, and over 12 weeks for Terrence O'Brien. The last of these three ratings was submitted in October, so there is no excuse for any of these nominations stalling any longer. I look forward to the opportunity to consider their nominations at hearings so that the pending vacancies on the Tenth Circuit can be expediently filled.

Our consideration of Judge Hartz's nomination today is a positive step in that direction. His impressive legal career began—atypically—with a degree from Harvard College summa cum laude in physics. Later, he graduated magna cum laude from Harvard Law School, where he was selected as Case and Developments Editor of the Harvard Law Review.

Judge Hartz's legal experience began in Albuquerque, NM, as an Assistant United States Attorney. After that, he taught for a semester at the University of Illinois College of Law, and then returned to New Mexico to work with the New Mexico Governor's Organized Crime Prevention Commission. For the following 9 years he was in private practice, primarily in civil litigation, and then he served for 11 years as a judge on the New Mexico Court of Appeals. Currently, Judge Hartz works as special counsel to the International Brotherhood of Teamsters, developing a Code of Conduct and an internal system for compliance and enforcement. As you can see, he is a highly competent and hard-working person who is eminently well qualified to serve as a judge on the Tenth Circuit.

In addition to Judge Hartz, we have the privilege of considering the nomination of two district court nominees. One of these nominees is Joe Heaton for the U.S. District Court for the Western District of Oklahoma. Mr. Heaton is a native Oklahoman with an outstanding record of legal experience and public service. After graduating from the University of Oklahoma College of Law—where he was Order of the Coif—he maintained a general civil practice with an emphasis in business and commercial matters. For 8 years, Mr. Heaton served as a member of the Oklahoma House of Representatives, including several years as Minority Leader. Then, in 1996, Mr. Heaton began serving in his current position as the First Assistant U.S. Attorney for the Western District of Oklahoma, where he has earned a good reputation while handling a wide variety of legal matters.

Our second district court nominee is Danny C. Reeves for the U.S. District Court for the Eastern District of Kentucky. He began his legal career as a law clerk for then-district Judge Eugene Siler, who now sits on the Sixth Circuit. Mr. Reeves then joined the Lexington office of Greenebaum, Doll & McDonald, where he rose to the rank of partner in 1988. Despite his busy legal career, he has served as a director of the Volunteer Center of the Bluegrass, the Kentucky Museum of Natural History, and the Bluegrass Youth Hockey Association.

Again, Mr. President, I am pleased to see such well-qualified nominees being brought before the Senate for consideration. Each of these nominees received unanimous support from the Members of the Judiciary Committee, and I expect that they will receive similar treatment from the full Senate. I commend President Bush for nominating persons who will bring honor and dignity to the Federal bench, and I urge my colleagues to join me in supporting their nominations.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit? The yeas and nays have been ordered on the nomination. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) is necessarily absent.

The PRESIDING OFFICER (Mrs. MURRAY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 353 Ex.]

YEAS—99

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—1

Gramm

The nomination was confirmed.

Mr. LIEBERMAN. I move to reconsider the vote.

Mr. NICKLES. I move to lay that on the table.

The motion to reconsider was laid upon the table.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consider en bloc Executive Calendar Nos. 585 and 588.

Mr. NICKLES. May we have order.

The PRESIDING OFFICER. The Senator is correct, the Senate is not in order.

The nominations will be stated.

THE JUDICIARY

The legislative clerk read the nomination of Danny C. Reeves, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

The legislative clerk read the nomination of Joe L. Heaton, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

The PRESIDING OFFICER. Under the previous order, the nominations are confirmed. The President will be immediately notified of the Senate's action.

NOMINATION OF DANNY C. REEVES

Mr. BUNNING. Mr. President, I thank my colleagues for their support of the nomination of Danny Reeves to be a Federal District Judge for the Eastern District of Kentucky.

Danny is a Kentucky native. He grew up in Corbin in the eastern part of our Commonwealth, and later went to college at Eastern Kentucky University. He then graduated with honors from the Chase Law School in northern Kentucky, and clerked for one of Kentucky's leading jurists on the Federal bench, Gene Siler.

Since then, Danny has practiced exclusively at a prominent Kentucky firm, specializing in complex civil litigation. In that time, he has not only represented a number of Kentucky's leading businesses, but he has also done a great deal of community service work, focusing on title IX compliance for the Kentucky High School Athletic Association.

To be honest, I did not know Danny before I sat down earlier this year to talk with him about his interest in sitting on the Federal bench. But in the conversations we have had, it became clear that he is a bright, articulate lawyer who has the demeanor and integrity to be a fine judge. I enthusiastically support his nomination.

I thank my colleagues for voting for this nomination. Danny Reeves knows the people of eastern Kentucky, he knows the law and he knows how the Federal bench in the Eastern District works. He is going to be able to hit the ground running, and he is going to do an exemplary job. The President made a fine choice in nominating him, and the sooner the Senate can confirm him, the better it will be for justice in Kentucky.

NOMINATION OF JOSEPH L. HEATON

Mr. NICKLES. Mr. President, I am pleased the Senate has just confirmed Joe Heaton, an outstanding individual and a superb attorney, to be U.S. district court judge for Oklahoma's Western District.

President Bush could not have made a finer selection to serve our country as a district court judge. Joe Heaton is exceptionally well qualified and will prove to be a great asset to the judicial system in Oklahoma and our country.

Joe graduated from Northwestern State College in his home town of Alva, OK, in 1973. Even before his graduation, Joe's commitment to public service was already evident. While still in school, he was elected to the Alva City Council and later was elected to serve as council president. Following graduation from college, Joe attended the University of Oklahoma School of Law where he excelled, making Oklahoma Law Review and Order of the Coif. He was also on the Dean's honor roll and won American Jurisprudence Awards in Constitutional Law and Conflicts of Law. Upon his graduation from law school Joe continued to dedicate himself to public service, this time coming here to Washington to serve as Legislative Assistant to Senator Dewey Bartlett.

Returning to Oklahoma in 1977 he practiced law with the prestigious firm of Fuller, Tubb & Pomeroy. He is respected by his colleagues as an "honorable and trustworthy leader and friend." While engaged in civil practice, Joe was elected to the Oklahoma House of Representatives where he served until 1992. In this capacity as a State legislator, Joe served as the Republican leader for 3 years. His fellow legislators have described him as possessing the qualities needed on the Federal bench.

In 1991, I was pleased to recommend Joe's appointment to serve as U.S. attorney for the Western District of Oklahoma. He joined the U.S. attorney's office as a special assistant U.S. attorney and served in that capacity until 1992 when he became the U.S. attorney. In 1993, Joe returned to private practice until 1996 when then U.S. attorney, Patrick Ryan, asked him to return to the U.S. attorney's office. For the next 2 years, Joe was acting U.S. attorney while Mr. Ryan was in Denver in connection with the Oklahoma City bombing trials of Timothy McVeigh and Terry Nichols. Once again, Joe exhibited his strong commitment to serving Oklahoma and the Nation.

Joe and his wife Dee Anne are very active in their church where Joe serves as an Elder. They are proud of their two sons, Andrew and Adam. I congratulate Joe and his family on his having earned the position for which President Bush has selected him. I thank Chairman LEAHY and Ranking Member HATCH for their work on Joe Heaton's nomination. I applaud the Senate for confirming him as he will make an outstanding judge who will work diligently to administer justice while serving as a Federal district court judge.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

AGRICULTURAL CONSERVATION AND RURAL ENHANCEMENT ACT OF 2001—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will resume consideration of the motion to proceed to S. 1731, which the clerk will report.

The legislative clerk read as follows:

> Motion to proceed to consider S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, provide for farm credit, agricultural research, nutrition, and related programs, and to ensure consumers abundant food and fiber.

The PRESIDING OFFICER. The Senate will be in order. Under the previous order, the motion to proceed is agreed to. The motion to reconsider is laid upon the table.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 3338, which the clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

DIVISION A—DEPARTMENT OF DEFENSE APPROPRIATIONS, 2002

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $23,446,734,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social

Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $19,465,964,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $7,335,370,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $20,032,704,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,670,197,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,650,523,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $466,300,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,061,160,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,052,695,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,783,744,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $10,794,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $22,941,588,000.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,569,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $27,038,067,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $2,903,863,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,998,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $26,303,436,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $12,864,644,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $33,500,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,771,246,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,003,690,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $144,023,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,023,866,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $3,743,808,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital *treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $3,998,361,000.*

UNITED STATES COURTS OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $9,096,000, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $389,800,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $257,517,000, to remain available until transferred: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $385,437,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $23,492,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $230,255,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code), $44,700,000, to remain available until September 30, 2003.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $357,000,000, to remain available until September 30, 2004: Provided, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

SUPPORT FOR INTERNATIONAL SPORTING COMPETITIONS, DEFENSE

For logistical and security support for international sporting competitions (including pay and non-travel related allowances only for members of the Reserve Components of the Armed Forces of the United States called or ordered to active duty in connection with providing such support), $15,800,000, to remain available until expended.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,893,891,000, to remain available for obligation until September 30, 2004.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,774,154,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,174,546,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,171,465,000, to remain available for obligation until September 30, 2004.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, *support, and non-tracked combat vehicles; the purchase of not to exceed 29 passenger motor vehicles for replacement only; and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,160,186,000, to remain available for obligation until September 30, 2004.*

Aircraft Procurement, Navy

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $8,030,043,000, to remain available for obligation until September 30, 2004.

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $1,478,075,000, to remain available for obligation until September 30, 2004.

Procurement of Ammunition, Navy and Marine Corps

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $442,799,000, to remain available for obligation until September 30, 2004.

Shipbuilding and Conversion, Navy

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), $138,890,000;

SSGN (AP), $279,440,000;

NSSN, $1,608,914,000;

NSSN (AP), $684,288,000;

CVN Refuelings, $1,118,124,000;

CVN Refuelings (AP), $73,707,000;

Submarine Refuelings, $382,265,000;

Submarine Refuelings (AP), $77,750,000;

DDG–51 destroyer program, $2,966,036,000;

Cruiser.conversion (AP), $458,238,000;

LPD–17 (AP), $155,000,000;

LHD–8, $267,238,000;

LCAC landing craft air cushion program, $52,091,000;

Prior year shipbuilding costs, $725,000,000; and

For craft, outfitting, post delivery, conversions, and first destination transformation transportation, $307,230,000;

In all: $9,294,211,000, to remain available for obligation until September 30, 2006: Provided, That additional obligations may be incurred after September 30, 2006, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 152 passenger motor vehicles for replacement only, and the purchase of five vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per unit for two units and not to exceed $115,000 per unit for the remaining three units; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $4,146,338,000, to remain available for obligation until September 30, 2004.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 25 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $974,054,000, to remain available for obligation until September 30, 2004.

Aircraft Procurement, Air Force

For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $10,617,332,000, to remain available for obligation until September 30, 2004.

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $3,657,522,000, to remain available for obligation until September 30, 2004.

Procurement of Ammunition, Air Force

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $873,344,000, to remain available for obligation until September 30, 2004.

Other Procurement, Air Force

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 216 passenger motor vehicles for replacement only, and the purchase of three vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $8,144,174,000, to remain available for obligation until September 30, 2004.

Procurement, Defense-Wide

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to *exceed 115 passenger motor vehicles for replacement only; the purchase of 10 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $250,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $1,473,795,000, to remain available for obligation until September 30, 2004.*

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $15,000,000 to remain available until expended.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $560,505,000, to remain available for obligation until September 30, 2004: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $6,742,123,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $10,742,710,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $13,859,401,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $14,445,589,000, to remain available for obligation until September 30, 2003.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $216,855,000, to remain available for obligation until September 30, 2003.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds; $1,826,986,000: Provided, That during fiscal year 2002, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 330 passenger carrying motor vehicles for replacement only for the Defense Security Service.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), $407,408,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $18,376,404,000, of which $17,656,185,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2003; of which $267,915,000, to remain available for obligation until September 30, 2004, shall be for Procurement; of which $452,304,000, to remain available for obligation until September 30, 2003, shall be for Research, development, test and evaluation.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,104,557,000, of which $739,020,000 shall be for Operation and maintenance to remain available until September 30, 2003, $164,158,000 shall be for Procurement to remain available until September 30, 2004, and $201,379,000 shall be for Research, development, test and evaluation to remain available until September 30, 2003.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $865,981,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $152,021,000, of which $150,221,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,800,000 to remain available until September 30, 2004, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $212,000,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $144,776,000, of which $28,003,000 for the Advanced Research and Development Committee shall remain available until September 30, 2003: Provided, That of the funds appropriated under this heading, $27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2004, and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2003: Provided further, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities to conduct document exploitation of materials collected in Federal, State, and local law enforcement activity.

PAYMENT TO KAHO'OLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION FUND

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, $75,000,000, to remain available until expended.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII
GENERAL PROVISIONS—DEPARTMENT OF DEFENSE

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to March 31, 2002.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

C–17; and

F/A–18E and F engine.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to the Congress on September 30 of each year: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2002, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2002 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2003.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual: Provided further, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: Provided, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is *planned to be converted to performance by a qualified firm under 51 percent ownership by an Indian tribe, as defined in section 450b(e) of title 25, United States Code, or a Native Hawaiian organization, as defined in section 637(a)(15) of title 15, United States Code.*

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Funds available in this Act and hereafter may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8019. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: Provided, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: Provided further, That the Department of Defense's budget submission for fiscal year 2002 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: Provided further, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: Provided further, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8020. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8021. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8022. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a subcontractor at any tier shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

SEC. 8023. During the current fiscal year and hereafter, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5, United States Code, or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code, or the National Guard, as described in section 101 of title 32, United States Code;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, United States Code, or other provision of law, as applicable; or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, United States Code, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, United States Code, and such leave shall be considered leave under section 6323(b) of title 5, United States Code.

SEC. 8024. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8025. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8026. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8027. Of the funds made available in this Act, not less than $61,100,000 shall be available to maintain an attrition reserve force of 18 B–52 aircraft, of which $3,300,000 shall be available from "Military Personnel, Air Force", $37,400,000 shall be available from "Operation and Maintenance, Air Force", and $20,400,000 shall be available from "Aircraft Procurement, Air Force": Provided, That the Secretary of the Air Force shall maintain a total force of 94 B–52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2002: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2003 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8028. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

SEC. 8029. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8030. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8031. Of the funds made available in this Act, not less than $24,303,000 shall be available for the Civil Air Patrol Corporation, of which $22,803,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes $1,500,000 for the Civil Air Patrol counterdrug program: Provided, That funds identified for "Civil Air Patrol" under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8032. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2002 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2002, not more than 6,227 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,029 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2003 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $60,000,000.

SEC. 8033. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8034. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8035. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8036. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2001. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8037. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8039. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees by February 1, 2002, a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 2003 budget request was reduced because the Congress appropriated funds above the President's budget request for that specific activity for fiscal year 2002.

SEC. 8040. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8041. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8042. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8043. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $100,000.

SEC. 8044. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2003 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2003 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8045. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2003: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended.

SEC. 8046. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8047. Of the funds appropriated by the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8048. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year and hereafter pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

(TRANSFER OF FUNDS)

SEC. 8049. In addition to the amounts appropriated elsewhere in this Act, $10,000,000 is hereby appropriated to the Department of Defense: Provided, That at the direction of the Assistant Secretary of Defense for Reserve Affairs, these funds shall be transferred to the Reserve component personnel accounts in Title I of this Act: Provided further, That these funds shall be used for incentive and bonus programs that address the most pressing recruitment and retention issues in the Reserve components.

SEC. 8050. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8051. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8052. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8053. During the current fiscal year and hereafter, funds appropriated or made available by the transfer of funds in this or subsequent Appropriations Acts, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) until the enactment of the Intelligence Authorization Act for that fiscal year and funds appropriated or made available by transfer of funds in any subsequent Supplemental Appropriations Act enacted after the enactment of the Intelligence Authorization Act for that fiscal year are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 8054. Notwithstanding section 303 of Public Law 96–487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: Provided, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

(RESCISSIONS)

SEC. 8055. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded as of the date of the enactment of this Act from the following accounts in the specified amounts:

"Aircraft Procurement, Army, 2001/2003", $15,500,000;

"Aircraft Procurement, Air Force, 2001/2003", $43,983,000;

"Missile Procurement, Air Force, 2001/2003", $58,550,000;

"Procurement, Defense-Wide, 2001/2003", $64,170,000;

"Research, Development, Test and Evaluation, Air Force, 2001/2002", $13,450,000; and

"Research, Development, Test and Evaluation, Defense-Wide, 2001/2002", $5,664,000.

SEC. 8056. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8057. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8058. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8059. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8060. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act, for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8061. Of the funds made available under the heading "Operation and Maintenance, Air

Force", $12,000,000 shall be available to realign railroad track on Elmendorf Air Force Base and Fort Richardson.

SEC. 8062. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8063. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8064. None of the funds made available in this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8065. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8066. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8067. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8068. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8069. Of the funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide", up to $5,000,000 shall be available to provide assistance, by grant or otherwise, to public school systems that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments: Provided further, That up to $2,000,000 shall be available for DOD to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: Provided further, That to the extent a federal agency provides this assistance, by contract, grant or otherwise, it may accept and expend non-federal funds in combination with these federal funds to provide assistance for the authorized purpose, if the non-federal entity requests such assistance and the non-federal funds are provided on a reimbursable basis.

SEC. 8070. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8071. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: Provided, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: Provided further, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: Provided further, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8072. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8073. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8074. Up to $3,000,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems critical to base operations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8075. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8076. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8077. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation *account for the same purpose as the expired or closed account if—*

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8078. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: Provided, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8079. During the current fiscal year, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: Provided, That costs for which reimbursement is waived pursuant to this section shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8080. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8081. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8082. Notwithstanding 31 U.S.C. 3902, during the current fiscal year and hereafter, interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

SEC. 8083. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8084. Of the funds made available under the heading "Operation and Maintenance, Air Force", not less than $1,500,000 shall be made available by grant or otherwise, to the Council of Athabascan Tribal Governments, to provide assistance for health care, monitoring and related issues associated with research conducted from 1955 to 1957 by the former Arctic Aeromedical Laboratory.

SEC. 8085. In addition to the amounts appropriated or otherwise made available in this Act, $5,000,000, to remain available until September 30, 2002, is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $5,000,000 to the American Red Cross for Armed Forces Emergency Services.

SEC. 8086. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8087. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8088. Funds made available to the Civil Air Patrol in this Act under the heading "Drug Interdiction and Counter-Drug Activities, Defense" may be used for the Civil Air Patrol Corporation's counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State, and local government agencies; and for equipment needed for mission support or performance: Provided, That the Department of the Air Force should waive reimbursement from the Federal, State, and local government agencies for the use of these funds.

SEC. 8089. Section 8125 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259), is hereby repealed.

SEC. 8090. Of the funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Navy", up to $3,000,000 may be made available for a Maritime Fire Training Center at Barbers Point, including provision for laboratories, construction, and other efforts associated with research, development, and other programs of major importance to the Department of Defense.

SEC. 8091. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8092. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian health service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8093. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $140,591,000 to reflect savings from favorable foreign currency fluctuations, to be distributed as follows:

"Operation and Maintenance, Army", $89,359,000;

"Operation and Maintenance, Navy", $15,445,000;

"Operation and Maintenance, Marine Corps", $1,379,000;

"Operation and Maintenance, Air Force", $24,408,000; and

"Operation and Maintenance, Defense-Wide", $10,000,000.

SEC. 8094. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on *a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.*

SEC. 8095. Notwithstanding any other provision of law, the total amount appropriated in this Act under Title I and Title II is hereby reduced by $50,000,000: Provided, That during the current fiscal year, not more than 250 military and civilian personnel of the Department of Defense shall be assigned to legislative affairs or legislative liaison functions: Provided further, That of the 250 personnel assigned to legislative liaison or legislative affairs functions, 20 percent shall be assigned to the Office of the Secretary of Defense and the Office of the Chairman of the Joint Chiefs of Staff, 20 percent shall be assigned to the Department of the Army, 20 percent shall be assigned to the Department of the Navy, 20 percent shall be assigned to the Department of the Air Force, and 20 percent shall be assigned to the combatant commands: Provided further, That of the personnel assigned to legislative liaison and legislative affairs functions, no fewer than 20 percent shall be assigned to the Under Secretary of Defense (Comptroller), the Assistant Secretary of the Army (Financial Management and Comptroller), the Assistant Secretary of the Navy (Financial Management and Comptroller), and the Assistant Secretary of the Air Force (Financial Management and Comptroller).

SEC. 8096. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8097. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8098. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $171,296,000, to reduce cost growth in travel, to be distributed as follows:

"Operation and Maintenance, Army", $9,000,000;

"Operation and maintenance, Marine Corps", $296,000;

"Operation and Maintenance, Air Force", $150,000,000;

"Operation and Maintenance, Army Reserve", $2,000,000; and

"Operation and maintenance, Defense-wide" $10,000,000.

SEC. 8099. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8100. (a) REGISTERING INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. An information technology system shall be considered a mission critical or mission essential information technology system as defined by the Secretary of Defense.

(b) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—(1) During the current fiscal year, a major automated information system may not receive Milestone I approval, Milestone II approval, or Milestone III approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(3) The term "major automated information system" has the meaning given that term in Department of Defense Directive 5000.1.

SEC. 8101. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8102. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API–T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8103. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8104. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8105. During the current fiscal year, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance.

SEC. 8106. (a) The Department of Defense is authorized to enter into agreements with the Veterans Administration and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 8107. In addition to the amounts provided elsewhere in this Act, the amount of $10,000,000 is hereby appropriated for "Operation and Maintenance, Defense-Wide", to be available, notwithstanding any other provision of law, only for a grant to the United Service Organizations Incorporated, a federally chartered corporation under chapter 2201 of title 36, United States Code. The grant provided for by this section is in addition to any grant provided for under any other provision of law.

SEC. 8108. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $141,700,000 shall be made available for the Arrow missile defense program: Provided, That of this amount, $107,700,000 shall be made available for the purpose of continuing the Arrow System Improvement Program (ASIP), continuing ballistic missile defense interoperability with Israel, and establishing an Arrow production capability in the United States: Provided further, That the remainder, $34,000,000, shall be available for the purpose of adjusting the cost-share of the parties under the Agreement between the Department of Defense and the Ministry of Defense of Israel for the Arrow Deployability Program.

SEC. 8109. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8110. Of the amounts appropriated in this Act under the heading "Operation and Maintenance, Defense-Wide", $115,000,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

SEC. 8111. In addition to the amounts appropriated or otherwise made available in this Act, $1,300,000,000 is hereby appropriated to the Department of Defense for whichever of the following purposes the President determines to be in the national security interests of the United States:

(1) research, development, test and evaluation for ballistic missile defense; and

(2) activities for combating terrorism.

SEC. 8112. In addition to amounts appropriated elsewhere in this Act, $5,000,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of the Army shall make a grant in the amount of $5,000,000 to the Fort Des Moines Memorial Park and Education Center.

SEC. 8113. In addition to amounts appropriated elsewhere in this Act, $5,000,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $5,000,000 to the National D-Day Museum.

SEC. 8114. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2002.

SEC. 8115. (a) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106–79) is amended—

(1) by redesignating subsection (m) as subsection (o); and

(2) by adding after subsection (l) the following:

"(m) AUTHORITY TO ESTABLISH MEMORIAL.—

"(1) IN GENERAL.—The Commission may establish a permanent memorial to Dwight D. Eisenhower on land under the jurisdiction of the Secretary of the Interior in the District of Columbia or its environs.

"(2) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.).".

(b) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106–79) is amended—

(1) in subsection (j)(2), by striking "accept gifts" and inserting "solicit and accept contributions"; and

(2) by inserting after subsection (m) (as added by subsection (a)(2)) the following:

"(n) MEMORIAL FUND.—

"(1) ESTABLISHMENT.—There is created in the Treasury a fund for the memorial to Dwight D. Eisenhower that includes amounts contributed under subsection (j)(2).

"(2) USE OF FUND.—The fund shall be used for the expenses of establishing the memorial.

"(3) INTEREST.—The Secretary of the Treasury shall credit to the fund the interest on obligations held in the fund.".

(c) In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $3,000,000, to remain available until expended is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $3,000,000 to the Dwight D. Eisenhower Memorial Commission for direct administrative support.

SEC. 8116. In addition to amounts appropriated elsewhere in this Act, $8,000,000 shall be available only for the settlement of subcontractor claims for payment associated with the Air Force contract F19628–97–C–0105, Clear Radar Upgrade, at Clear AFS, Alaska: Provided, That the Secretary of the Air Force shall evaluate claims as may be submitted by subcontractors, engaged under the contract, and, notwithstanding any other provision of law shall pay such amounts from the funds provided in this paragraph which the Secretary deems appropriate to settle completely any claims which the Secretary determines to have merit, with no right of appeal in any forum: Provided further, That subcontractors are to be paid interest, calculated in accordance with the Contract Disputes Act of 1978, 41 U.S.C. Sections 601–613, on any claims which the Secretary determines to have merit: Provided further, That the Secretary of the Air Force may delegate evaluation and payment as above to the U.S. Army Corps of Engineers, Alaska District on a reimbursable basis.

SEC. 8117. Notwithstanding any other provision of this Act, the total amount appropriated in this Act is hereby reduced by $1,650,000,000, to reflect savings to be achieved from business process reforms, management efficiencies, and procurement of administrative and management support: Provided, That none of the funds provided in this Act may be used for consulting and advisory services for legislative affairs and legislative liaison functions.

SEC. 8118. In addition to amounts provided elsewhere in this Act, $21,000,000 is hereby appropriated for the Secretary of Defense to establish a Regional Defense Counter-terrorism Fellowship Program: Provided, That funding provided herein may be used by the Secretary to fund foreign military officers to attend U.S. military educational institutions and selected regional centers for non-lethal training: Provided further, That United States Regional Commanders in Chief will be the nominative authority for candidates and schools for attendance with joint staff review and approval by the Secretary of Defense: Provided further, That the Secretary of Defense shall establish rules to govern the administration of this program.

SEC. 8119. Notwithstanding any other provision of law, from funds appropriated in this or any other Act under the heading, "Aircraft Procurement, Air Force", that remain available for obligation, not to exceed $16,000,000 shall be available for recording, adjusting, and liquidating obligations for the C–17 aircraft properly chargeable to the fiscal year 1998 Aircraft Procurement, Air Force account: Provided, That the Secretary of the Air Force shall notify the congressional defense committees of all of the specific sources of funds to be used for such purpose.

SEC. 8120. Notwithstanding any provisions of the Southern Nevada Public Land Management Act of 1998, Public Law 105–263, or the land use planning provision of Section 202 of the Federal Land Policy and Management Act of 1976, Public Law 94–579, or of any other law to the contrary, the Secretary of the Interior may acquire non-federal lands adjacent to Nellis Air Force Base, through a land exchange in Nevada, to ensure the continued safe operation of live ordnance departure areas at Nellis Air Force Base, Las Vegas, Nevada. The Secretary of the Air Force shall identify up to 220 acres of non-federal lands needed to ensure the continued safe operation of the live ordnance departure areas at Nellis Air Force Base. Any such identified property acquired by exchange by the Secretary of the Interior shall be transferred by the Secretary of the Interior to the jurisdiction, custody, and control of the Secretary of the Air Force to be managed as a part of Nellis Air Force Base. To the extent the Secretary of the Interior is unable to acquire non-federal lands by exchange, the Secretary of the Air Force is authorized to purchase those lands at fair market value subject to available appropriations.

SEC. 8121. Of the amounts appropriated in this Act under the heading, "Shipbuilding and Conversion, Navy", $725,000,000 shall be available until September 30, 2002, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: Provided further, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1995/2002":

Carrier Replacement Program, $172,364,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2002":

LPD–17 Amphibious Transport Dock Ship Program, $172,989,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1997/2002":

DDG–51 Destroyer Program, $37,200,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002":

NSSN Program, $168,561,000;

DDG–51 Destroyer Program, $111,457,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1999/2002":

NSSN Program, $62,429,000.

(TRANSFER OF FUNDS)

SEC. 8122. Upon enactment of this Act, the Secretary of the Navy shall make the following transfers of funds: Provided, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1990/2002":

TRIDENT ballistic missile submarine program, $78,000;

SSN–21 attack submarine program, $66,000;

DDG–51 destroyer program, $6,100,000;

ENTERPRISE refueling modernization program, $964,000;

LSD–41 dock landing ship cargo variant ship program, $237,000;

MCM mine countermeasures program, $118,000;

Oceanographic ship program, $2,317,000;

AOE combat support ship program, $164,000;

AO conversion program, $56,000;

Coast Guard icebreaker ship program, $863,000;

Craft, outfitting, post delivery, and ship special support equipment, $529,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002":

DDG–51 destroyer program, $11,492,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1993/2002":

DDG–51 destroyer program, $3,986,000;

LHD–1 amphibious assault ship program, $85,000;

LSD–41 dock landing ship cargo variant program, $428,000;

AOE combat support ship program, $516,000;

Craft, outfitting, post delivery, and first destination transportation, and inflation adjustments, $1,034,000;

To:

Under the heading, "Shipbuilding, and Conversion, Navy, 1998/2002":

DDG–51 destroyer program, $6,049,000;

From:

Under the heading, "Other Procurement, Navy, 2001/2003":

Shallow Water MCM, $16,248,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 2001/2005":

Submarine Refuelings, $16,248,000.

SEC. 8123. (a) The Secretary of Defense shall convey to Gwitchyaa Zhee Corporation the lands withdrawn by Public Land Order No. 1996, Lot 1 of United States Survey 7008, Public Land Order No. 1396, a portion of Lot 3 of United States Survey 7161, lands reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916, Lot 13 of United States Survey 7161, Lot 1 of United States Survey 7008 described in Public Land Order No. 1996, and Lot 13 of the United States Survey 7161 reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916.

(b) Following site restoration and survey by the Department of the Air Force that portion of Lot 3 of United States Survey 7161 withdrawn by Public Land Order No. 1396 and no longer needed by the Air Force shall be conveyed to Gwitchyaa Zhee Corporation.

SEC. 8124. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the USS GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: Provided, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8125. (a) Not later than February 1, 2002, the Secretary of Defense shall report to the congressional defense committees on the status of the safety and security of munitions shipments that use commercial trucking carriers within the United States.

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) An assessment of the Department of Defense's policies and practices for conducting background investigations of current and prospective drivers of munitions shipments.

(2) A description of current requirements for periodic safety and security reviews of commercial trucking carriers that carry munitions.

(3) A review of the Department of Defense's efforts to establish uniform safety and security standards for cargo terminals not operated by the Department that store munitions shipments.

(4) An assessment of current capabilities to provide for escort security vehicles for shipments that contain dangerous munitions or sensitive technology, or pass through high-risk areas.

(5) A description of current requirements for depots and other defense facilities to remain open outside normal operating hours to receive munitions shipments.

(6) Legislative proposals, if any, to correct deficiencies identified by the Department of Defense in the report under subsection (a).

(c) Not later than six months after enactment of this Act, the Secretary shall report to Congress on safety and security procedures used for U.S. munitions shipments in European NATO countries, and provide recommendations on what procedures or technologies used in those countries should be adopted for shipments in the United States.

SEC. 8126. In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $15,000,000, to remain available until September 30, 2002 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $15,000,000 to the Padgett Thomas Barracks in Charleston, South Carolina.

SEC. 8127. (a) DESIGNATED SPECIAL EVENTS OF NATIONAL SIGNIFICANCE.—

(1) Notwithstanding any other provision of law, at events determined by the President to be special events of national significance for which the United States Secret Service is authorized pursuant to Section 3056(e)(1), title 18, United States Code, to plan, coordinate, and implement security operations, the Secretary of Defense, after consultation with the Secretary of the Treasury, shall provide assistance on a temporary basis without reimbursement in support of the United States Secret Service's duties related to such designated events.

(2) Assistance under this subsection shall be provided in accordance with an agreement that shall be entered into by the Secretary of Defense and the Secretary of the Treasury within 120 days of the enactment of this Act.

(b) REPORT ON ASSISTANCE.—Not later than January 30 of each year following a year in which the Secretary of Defense provides assistance under this section, the Secretary shall submit to Congress a report on the assistance provided. The report shall set forth—

(1) a description of the assistance provided; and

(2) the amount expended by the Department in providing the assistance.

(c) RELATIONSHIP TO OTHER LAWS.—The assistance provided under this section shall not be subject to the provisions of sections 375 and 376 of this title.

SEC. 8128. MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM. (a) The Secretary of the Air Force may, from funds provided in this Act or any future appropriations Act, establish a multi-year pilot program for leasing general purpose Boeing 767 aircraft in commercial configuration.

(b) Sections 2401 and 2401a of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

(c) Under the aircraft lease Pilot Program authorized by this section:

(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee, but only those that are not inconsistent with any of the terms and conditions mandated herein.

(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed 10 years, inclusive of any options to renew or extend the initial lease term.

(3) The Secretary may provide for special payments in a lessor if the Secretary terminates or cancels the lease prior to the expiration of its term. Such special payments shall not exceed an amount equal to the value of one year's lease payment under the lease.

(4) Subchapter IV of chapter 15 of Title 31, United States Code shall apply to the lease transactions under this section, except that the limitation in section 1553(b)(2) shall not apply.

(5) The Secretary shall lease aircraft under terms and conditions consistent with this section and consistent with the criteria for an operating lease as defined in OMB Circular A–11, as in effect at the time of the lease.

(6) Lease arrangements authorized by this section may not commence until:

(A) The Secretary submits a report to the congressional defense committees outlining the plans for implementing the Pilot Program. The report shall describe the terms and conditions of proposed contracts and describe the expected savings, if any, comparing total costs, including operation, support, acquisition, and financing, of the lease, including modification, with the outright purchase of the aircraft as modified.

(B) A period of not less than 30 calendar days has elapsed after submitting the report.

(7) Not later than 1 year after the date on which the first aircraft is delivered under this Pilot Program, and yearly thereafter on the anniversary of the first delivery, the Secretary shall submit a report to the congressional defense committees describing the status of the Pilot Program. The Report will be based on at least 6 months of experience in operating the Pilot Program.

(8) The Air Force shall accept delivery of the aircraft in a general purpose configuration.

(9) At the conclusion of the lease term, each aircraft obtained under that lease may be returned to the contractor in the same configuration in which the aircraft was delivered.

(10) The present value of the total payments over the duration of each lease entered into under this authority shall not exceed 90 percent of the fair market value of the aircraft obtained under that lease.

(d) No lease entered into under this authority shall provide for—

(1) the modification of the general purpose aircraft from the commercial configuration, unless and until separate authority for such conversion is enacted and only to the extent budget authority is provided in advance in appropriations Acts for that purpose; or

(2) the purchase of the aircraft by, or the transfer of ownership to, the Air Force.

(e) The authority granted to the Secretary of the Air Force by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter into leases under a provision of law other than this section.

(f) The authority provided under this section may be used to lease not more than a total of one hundred aircraft for the purposes specified herein.

SEC. 8129. From within amounts made available in the Title II of this Act, under the heading "Operation and Maintenance, Army National Guard", and notwithstanding any other provision of law, $2,500,000 shall be available *only for repairs and safety improvements to the segment of Camp McCain Road which extends from Highway 8 south toward the boundary of Camp McCain, Mississippi and originating intersection of Camp McCain Road; and for repairs and safety improvements to the segment of Greensboro Road which connects the Administration Offices of Camp McCain to the Troutt Rifle Range: Provided, That these funds shall remain available until expended: Provided further, That the authorized scope of work includes, but is not limited to, environmental documentation and mitigation, engineering and design, improving safety, resurfacing, widening lanes, enhancing shoulders, and replacing signs and pavement markings.*

SEC. 8130. From funds made available under Title II of this Act, the Secretary of the Army may make available a grant of $3,000,000 to the Chicago Park District for renovation of the Broadway Armory, a former National Guard facility in the Edgewater community in Chicago.

SEC. 8131. Notwithstanding any other provision of law, none of the funds in this Act may be used to alter specifications for insulation to be used on U.S. naval ships or for the procurement of insulation materials different from those in use as of November 1, 2001, until the Department of Defense certifies to the Appropriations Committees that the proposed specification changes or proposed new insulation materials will be as safe, provide no increase in weight, and will not increase maintenance requirements when compared to the insulation material currently used.

SEC. 8132. The provisions of S. 746 of the 107th Congress, as reported to the Senate on September 21, 2001, are hereby enacted into law.

SEC. 8133. (a)(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§2228. Department of Defense strategic loan and loan guaranty program

"(a) AUTHORITY.—The Secretary of Defense may carry out a program to make direct loans and guarantee loans for the purpose of supporting the attainment of the objectives set forth in subsection (b).

"(b) OBJECTIVES.—The Secretary may, under the program, make a direct loan to an applicant or guarantee the payment of the principal and interest of a loan made to an applicant upon the Secretary's determination that the applicant's use of the proceeds of the loan will support the attainment of any of the following objectives:

"(1) Sustain the readiness of the United States to carry out the national security objectives of the United States through the guarantee of steady domestic production of items necessary for low intensity conflicts to counter terrorism or other imminent threats to the national security of the United States.

"(2) Sustain the economic stability of strategically important domestic sectors of the defense industry that manufacture or construct products for low-intensity conflicts and counter terrorism to respond to attacks on United States national security and to protect potential United States civilian and military targets from attack.

"(3) Sustain the production and use of systems that are critical for the exploration and development of new domestic energy sources for the United States.

"(c) CONDITIONS.—A loan made or guaranteed under the program shall meet the following requirements:

"(1) The period for repayment of the loan may not exceed five years.

"(2) The loan shall be secured by primary collateral that is sufficient to pay the total amount of the unpaid principal and interest of the loan in the event of default.

"(d) EVALUATION OF COST.—As part of the consideration of each application for a loan or for a guarantee of the loan under the program, the Secretary shall evaluate the cost of the loan within the meaning of section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).".

(2) The table of sections at the beginning of such section is amended by adding at the end the following new item:

"2228. Department of Defense strategic loan and loan guaranty program.".

(b) Of the amounts appropriated by Public Law 107–38, there shall be available such sums as may be necessary for the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) of direct loans and loan guarantees made under section 2228 of title 10, United States Code, as added by subsection (a).

SEC. 8134. REGULATION OF BIOLOGICAL AGENTS AND TOXINS. (a) BIOLOGICAL AGENTS PROVISIONS OF THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996; CODIFICATION IN THE PUBLIC HEALTH SERVICE ACT, WITH AMENDMENTS.—

(1) PUBLIC HEALTH SERVICE ACT.—Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by inserting after section 351 the following:

"SEC. 351A. ENHANCED CONTROL OF BIOLOGICAL AGENTS AND TOXINS.

"(a) REGULATORY CONTROL OF BIOLOGICAL AGENTS AND TOXINS.—

"(1) LIST OF BIOLOGICAL AGENTS AND TOXINS.—

"(A) IN GENERAL.—The Secretary shall by regulation establish and maintain a list of each biological agent and each toxin that has the potential to pose a severe threat to public health and safety.

"(B) CRITERIA.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

"(i) consider—

"(I) the effect on human health of exposure to the agent or toxin;

"(II) the degree of contagiousness of the agent or toxin and the methods by which the agent or toxin is transferred to humans;

"(III) the availability and effectiveness of pharmacotherapies and immunizations to treat and prevent any illness resulting from infection by the agent or toxin; and

"(IV) any other criteria, including the needs of children and other vulnerable populations, that the Secretary considers appropriate; and

"(ii) consult with appropriate Federal departments and agencies, and scientific experts representing appropriate professional groups, including those with pediatric expertise.

"(2) BIENNIAL REVIEW.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall, through rulemaking, revise the list as necessary to incorporate additions or deletions to ensure public health, safety, and security.

"(3) EXEMPTIONS.—The Secretary may exempt from the list under paragraph (1)—

"(A) attenuated or inactive biological agents or toxins used in biomedical research or for legitimate medical purposes; and

"(B) products that are cleared or approved under the Federal Food, Drug, and Cosmetic Act or under the Virus-Serum-Toxin Act, as amended in 1985 by the Food Safety and Security Act.";

"(b) REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS AND TOXINS.—The Secretary shall by regulation provide for—

"(1) the establishment and enforcement of safety procedures for the transfer of biological agents and toxins listed pursuant to subsection (a)(1), including measures to ensure—

"(A) proper training and appropriate skills to handle such agents and toxins; and

"(B) proper laboratory facilities to contain and dispose of such agents and toxins;

"(2) safeguards to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

"(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

"(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

"(c) POSSESSION AND USE OF LISTED BIOLOGICAL AGENTS AND TOXINS.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of biological agents and toxins listed pursuant to subsection (a)(1) in order to protect the public health and safety, including the measures, safeguards, procedures, and availability of such agents and toxins described in paragraphs (1) through (4) of subsection (b), respectively.

"(d) REGISTRATION AND TRACEABILITY MECHANISMS.—Regulations under subsections (b) and (c) shall require registration for the possession, use, and transfer of biological agents and toxins listed pursuant to subsection (a)(1), and such registration shall include (if available to the registered person) information regarding the characterization of such biological agents and toxins to facilitate their identification and traceability. The Secretary shall maintain a national database of the location of such biological agents and toxins with information regarding their characterizations.

"(e) INSPECTIONS.—The Secretary shall have the authority to inspect persons subject to the regulations under subsections (b) and (c) to ensure their compliance with such regulations, including prohibitions on restricted persons under subsection (g).

"(f) EXEMPTIONS.—

"(1) IN GENERAL.—The Secretary shall establish exemptions, including exemptions from the security provisions, from the applicability of provisions of—

"(A) the regulations issued under subsection (b) and (c) when the Secretary determines that the exemptions, including exemptions from the security requirements, and for the use of attenuated or inactive biological agents or toxins in biomedical research or for legitimate medical purposes are consistent with protecting public health and safety; and

"(B) the regulations issued under subsection (c) for agents and toxins that the Secretary determines do not present a threat for use in domestic or international terrorism, provided the exemptions are consistent with protecting public health and safety.

"(2) CLINICAL LABORATORIES.—The Secretary shall exempt clinical laboratories and other persons that possess, use, or transfer biological agents and toxins listed pursuant to subsection (a)(1) from the applicability of provisions of regulations issued under subsections (b) and (c) only when—

"(A) such agents or toxins are presented for diagnosis, verification, or proficiency testing;

"(B) the identification of such agents and toxins is, when required under Federal or State law, reported to the Secretary or other public health authorities; and

"(C) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary in regulation.

"(g) SECURITY REQUIREMENTS FOR REGISTERED PERSONS.—

"(1) SECURITY.—In carrying out paragraphs (2) and (3) of subsection (b), the Secretary shall

establish appropriate security requirements for persons possessing, using, or transferring biological agents and toxins listed pursuant to subsection (a)(1), considering existing standards developed by the Attorney General for the security of government facilities, and shall ensure compliance with such requirements as a condition of registration under regulations issued under subsections (b) and (c).

"(2) LIMITING ACCESS TO LISTED AGENTS AND TOXINS.—Regulations issued under subsections (b) and (c) shall include provisions—

"(A) to restrict access to biological agents and toxins listed pursuant to subsection (a)(1) only to those individuals who need to handle or use such agents or toxins; and

"(B) to provide that registered persons promptly submit the names and other identifying information for such individuals to the Attorney General, with which information the Attorney General shall promptly use criminal, immigration, and national security databases available to the Federal Government to identify whether such individuals—

"(i) are restricted persons, as defined in section 175b of title 18, United States Code; or

"(ii) are named in a warrant issued to a Federal or State law enforcement agency for participation in any domestic or international act of terrorism.

"(3) CONSULTATION AND IMPLEMENTATION.—Regulations under subsections (b) and (c) shall be developed in consultation with research-performing organizations, including universities, and implemented with timeframes that take into account the need to continue research and education using biological agents and toxins listed pursuant to subsection (a)(1).

"(h) DISCLOSURE OF INFORMATION.—

"(1) IN GENERAL.—Any information in the possession of any Federal agency that identifies a person, or the geographic location of a person, who is registered pursuant to regulations under this section (including regulations promulgated before the effective date of this subsection), or any site-specific information relating to the type, quantity, or characterization of a biological agent or toxin listed pursuant to subsection (a)(1) or the site-specific security mechanisms in place to protect such agents and toxins, including the national database required in subsection (d), shall not be disclosed under section 552(a) of title 5, United States Code.

"(2) DISCLOSURES FOR PUBLIC HEALTH AND SAFETY; CONGRESS.—Nothing in this section may be construed as preventing the head of any Federal agency—

"(A) from making disclosures of information described in paragraph (1) for purposes of protecting the public health and safety; or

"(B) from making disclosures of such information to any committee or subcommittee of the Congress with appropriate jurisdiction, upon request.

"(i) CIVIL PENALTY.—Any person who violates any provision of a regulation under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding $250,000 in the case of an individual and $500,000 in the case of any other person. The provisions of section 1128A of the Social Security Act (other than subsections (a), (b), (h), and (i), the first sentence of subsection (c), and paragraphs (1) and (2) of subsection (f)) small apply to civil money penalties under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of the Social Security Act. The secretary may delegate authority under this section in the same manner as provided in section 1128A(j)(2) of the Social Security Act and such authority shall include all powers as contained in 5 U.S.C. App., section 6."

"(j) DEFINITIONS.—For purposes of this section, the terms 'biological agent' and 'toxin' have the same meaning as in section 178 of title 18, United States Code.".

(2) REGULATIONS.—

(A) DATE CERTAIN FOR PROMULGATION; EFFECTIVE DATE REGARDING CRIMINAL AND CIVIL PENALTIES.—Not later than 180 days after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate an interim final rule for carrying out section 351A(c) of the Public Health Service Act, which amends the Antiterrorism and Effective Death Penalty Act of 1996. Such interim final rule will take effect 60 days after the date on which such rule is promulgated, including for purposes of—

(i) section 175(b) of title 18, United States Code (relating to criminal penalties), as added by subsection (b)(1)(B) of this section; and

(ii) section 351A(i) of the Public Health Service Act (relating to civil penalties).

(B) SUBMISSION OF REGISTRATION APPLICATIONS.—A person required to register for possession under the interim final rule promulgated under subparagraph (A), shall submit an application for such registration not later than 60 days after the date on which such rule is promulgated.

(3) CONFORMING AMENDMENT.—Subsections (d), (e), (f), and (g) of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 262 note) are repealed.

(4) EFFECTIVE DATE.—Paragraph (1) shall take effect as if incorporated in the Antiterrorism and Effective Death Penalty Act of 1996, and any regulations, including the list under subsection (d)(1) of section 511 of that Act, issued under section 511 of that Act shall remain in effect as if issued under section 351A of the Public Health Service Act.

(b) SELECT AGENTS.—

(1) IN GENERAL.—Section 175 of title 18, United States Code, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following:

"(b) SELECT AGENTS.—

"(1) UNREGISTERED FOR POSSESSION.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulation issued under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

"(2) TRANSFER TO UNREGISTERED PERSON.—Whoever transfers a select agent to a person who the transferor has reasons to believe has not obtained a registration required by regulations issued under section 351A(b) or (c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.".

(2) DEFINITIONS.—Section 175 of title 18, United States Code, as amended by paragraph (1), is further amended by striking subsection (d) and inserting the following:

"(d) DEFINITIONS.—As used in this section:

"(1) The terms 'biological agent' and 'toxin' have the meanings given such terms in section 178, except that, for purposes of subsections (b) and (c), such terms do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, cultured, collected, or otherwise extracted from its natural source.

"(2) The term 'for use as a weapon' includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system, other than for prophylactic, protective, or other peaceful purposes.

"(3) The term 'select agent' means a biological agent or toxin, as defined in paragraph (1), that is on the list that is in effect pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), or as subsequently revised under section 351A(a) of the Public Health Service Act.".

(3) CONFORMING AMENDMENT.—

(A) Section 175(a) of title 18, United States Code, is amended in the second sentence by striking "under this section" and inserting "under this subsection".

(B) Section 175(c) of title 18, United States Code, (as redesignated by paragraph (1)), is amended by striking the second sentence.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with other appropriate Federal agencies, shall submit to the Congress a report that—

(1) describes the extent to which there has been compliance by governmental and private entities with applicable regulations under section 351A of the Public Health Service Act, including the extent of compliance before the date of the enactment of this Act, and including the extent of compliance with regulations promulgated after such date of enactment;

(2) describes the actions to date and future plans of the Secretary for updating the list of biological agents and toxins under section 351A(a)(1) of the Public Health Service Act;

(3) describes the actions to date and future plans of the Secretary for determining compliance with regulations under such section 351A of the Public Health Service Act and for taking appropriate enforcement actions; and

(4) provides any recommendations of the Secretary for administrative or legislative initiatives regarding such section 351A of the Public Health Service Act.

This division may be cited as the "Department of Defense Appropriations Act, 2002".

DIVISION B—TRANSFERS FROM THE EMERGENCY RESPONSE FUND PURSUANT TO PUBLIC LAW 107–38

The funds appropriated in Public Law 107–38 subject to subsequent enactment and previously designated as an emergency by the President and Congress under the Balanced Budget and Emergency Deficit Control Act of 1985, are transferred to the following chapters and accounts as follows:

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)", $39,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38: Provided, That of the amounts provided in this Act and any amounts available for reallocation in fiscal year 2002, the Secretary shall reallocate funds under section 17(g)(2) of the Child Nutrition Act of 1966, as amended, in the manner and under the formula the Secretary deems necessary to respond to the effects of unemployment and other conditions caused by the recession, and starting no later than March 1, 2002, such reallocation shall occur no less frequently than every other month throughout the fiscal year.

RELATED AGENCY

COMMODITY FUTURES TRADING COMMISSION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United

States, for "Commodity Futures Trading Commission", $10,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 2

DEPARTMENT OF JUSTICE

General Administration

PATRIOT ACT ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Patriot Act Activities", $25,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $2,000,000 shall be for a feasibility report, as authorized by Section 405 of Public Law 107–56, and of which $23,000,000 shall be for implementation of such enhancements as are deemed necessary: Provided, That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107–77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ADMINISTRATIVE REVIEW AND APPEALS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Administrative Review and Appeals", $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, General Legal Activities", $6,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, United States Attorneys", $74,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, United States Marshals Service", $11,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Federal Bureau of Investigation

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $538,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $10,283,000 is for the refurbishing of the Engineering and Research Facility and $14,135,000 is for the decommissioning and renovation of former laboratory space in the Hoover building.

Immigration and Naturalization Service

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for all costs associated with the reorganization of the Immigration and Naturalization Service, for "Salaries and Expenses", $399,400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Office of Justice Programs

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $236,900,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which $81,700,000 shall be for Northern Virginia, of which $81,700,000 shall be for New Jersey, and of which $56,500,000 shall be for Maryland, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

CRIME VICTIMS FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Crime Victims Fund", $68,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF COMMERCE

International Trade Administration

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Administration", $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Export Administration

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Administration", $1,756,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Economic Development Administration

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $335,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Telecommunications and Information Administration

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For emergency grants authorized by section 392 of the Communications Act of 1934, as amended, to respond to the September 11, 2001, terrorist attacks on the United States, $8,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

United States Patent and Trademark Office

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $3,360,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Institute of Standards and Technology

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Scientific and Technical Research and Services", $400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION OF RESEARCH FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction of Research Facilities", $1,225,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations, Research and Facilities", $2,750,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Departmental Management

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $881,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

THE JUDICIARY

Supreme Court of the United States

CARE OF THE BUILDINGS AND GROUNDS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Care of the Buildings and Grounds", $30,000,000, to remain available until expended for security enhancements, to be obligated from amounts made available in Public Law 107–38.

Court of Appeals, District Courts, and Other Judicial Services

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $5,000,000, is for Emergency Communications Equipment, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COURT SECURITY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Court Security", $57,521,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for security of the Federal judiciary, of which not less than $4,000,000 shall be available to reimburse the United States Marshals Service for a Supervisory Deputy Marshal responsible for coordinating security in each judicial district and circuit: Provided, That the funds may be expended directly or transferred to the United States Marshals Service.

Administrative Office of the United States Courts

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,879,000, to remain available until expended, to enhance security at the Thurgood Marshall Federal Judiciary Building, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,301,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Securities and Exchange Commission

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $20,705,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Small Business Administration

BUSINESS LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for "Business Loans Program Account", $75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DISASTER LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for "Disaster Loans Program Account", $75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 201. For purposes of assistance available under section 7(b)(2) and (4) of the Small Business Act (15 U.S.C. 636(b)(2) and (4)) to small business concerns located in disaster areas declared as a result of the September 11, 2001, terrorist attacks—

(i) the term "small business concern" shall include not-for-profit institutions and small business concerns described in United States Industry Codes 522320, 522390, 523210, 523920, 523991, 524113, 524114, 524126, 524128, 524210, 524291, 524292, and 524298 of the North American Industry Classification System (as described in 13 C.F.R. 121.201, as in effect on January 2, 2001);

(ii) the Administrator may apply such size standards as may be promulgated under such section 121.201 after the date of enactment of this provision, but no later than one year following the date of enactment of this Act; and

(iii) payments of interest and principal shall be deferred, and no interest shall accrue during the two-year period following the issuance of such disaster loan.

SEC. 202. Notwithstanding any other provision of law, the limitation on the total amount of loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) outstanding and committed to a borrower in the disaster areas declared in response to the September 11, 2001, terrorist attacks shall be increased to $10,000,000 and the Administrator shall, in lieu of the fee collected under section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)), collect an annual fee of 0.25 percent of the outstanding balance of deferred participation loans made under section 7(a) to small businesses adversely affected by the September 11, 2001, terrorist attacks and their aftermath, for a period of one year following the date of enactment and to the extent the costs of such reduced fees are offset by appropriations provided by this Act.

SEC. 203. Not later than April 1, 2002, the Secretary of State shall submit to the Committees on Appropriations, in both classified and unclassified form, a report on the United States-People's Republic of China Science and Technology Agreement of 1979, including all protocols. The report is intended to provide a comprehensive evaluation of the benefits of the agreement to the Chinese economy, military, and defense industrial base. The report shall include the following elements:

(1) an accounting of all activities conducted under the Agreement for the past five years, and a projection of activities to be undertaken through 2010;

(2) an estimate of the annual cost to the United States to administer the Agreement;

(3) an assessment of how the Agreement has influenced the policies of the People's Republic of China toward scientific and technological cooperation with the United States;

(4) an analysis of the involvement of Chinese nuclear weapons and military missile specialists in the activities of the Joint Commission;

(5) a determination of the extent to which the activities conducted under the Agreement have enhanced the military and industrial base of the People's Republic of China, and an assessment of the impact of projected activities through 2010, including transfers of technology, on China's economic and military capabilities; and

(6) recommendations on improving the monitoring of the activities of the Commission by the Secretaries of Defense and State.

The report shall be developed in consultation with the Secretaries of Commerce, Defense, and Energy, the Directors of the National Science Foundation and the Federal Bureau of Investigation, and the intelligence community.

CHAPTER 3

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

DEFENSE EMERGENCY RESPONSE FUND

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for "Defense Emergency Response Fund", $6,558,569,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38: Provided, That $20,000,000 shall be made available for the National Infrastructure Simulation and Analysis Center (NISAC): Provided further, That $500,000 shall be made available only for the White House Commission on the National Moment of Remembrance: Provided further, That—

(1) $35,000,000 shall be available for the procurement of the Advance Identification Friend-or-Foe system for integration into F–16 aircraft of the Air National Guard that are being used in continuous air patrols over Washington, District of Columbia, and New York, New York; and

(2) $20,000,000 shall be available for the procurement of the Transportation Multi-Platform Gateway for integration into the AWACS aircraft that are being used to perform early warning surveillance over the United States.

PROCUREMENT

OTHER PROCUREMENT, AIR FORCE

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for "Other Procurement, Air Force", $210,000,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 301. Amounts available in the "Defense Emergency Response Fund" shall be available for the purposes set forth in the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38): Provided, That the Fund may be used to reimburse other appropriations or funds of the Department of Defense only for costs incurred for such purposes between September 11 and December 31, 2001: Provided further, That such Fund may be used to liquidate obligations incurred by the Department under the authorities in 41 U.S.C. 11 for any costs incurred for such purposes between September 11 and September 30, 2001: Provided further, That the Secretary of Defense may transfer funds from the Fund to the appropriation, "Support for International Sporting Competitions, Defense", to be merged with, and available for the same time period and for the same purposes as that appropriation: Provided further, That the transfer authority provided by this section is in addition to any other transfer authority available to the Secretary of Defense: Provided further, That the Secretary of Defense shall report to the Congress quarterly all transfers made pursuant to this authority.

SEC. 302. Amounts in the "Support for International Sporting Competitions, Defense", may be used to support essential security and safety for the 2002 Winter Olympic Games in Salt Lake City, Utah, without the certification required under subsection 10 U.S.C. 2564(a). Further, the term "active duty", in section 5802 of Public Law 104–208 shall include State active duty and full-time National Guard duty performed by members of the Army National Guard and Air National Guard in connection with providing essential security and safety support to the 2002 Winter Olympic Games and logistical and security support to the 2002 Paralympic Games.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR PROTECTIVE CLOTHING AND BREATHING APPARATUS

For a Federal payment to the District of Columbia for protective clothing and breathing apparatus, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $7,144,000, of which $922,000 is for the Fire and Emergency Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, and $453,000 is for the Department of Public Works.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR SPECIALIZED HAZARDOUS MATERIALS EQUIPMENT

For a Federal payment to the District of Columbia for specialized hazardous materials equipment, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $1,032,000, for the Fire and Emergency Medical Services Department.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR CHEMICAL AND BIOLOGICAL WEAPONS PREPAREDNESS

For a Federal payment to the District of Columbia for chemical and biological weapons preparedness, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $10,355,000, of which $205,000 is for the Fire and Emergency Medical Services Department, $258,000 is for the Metropolitan Police Department, and $9,892,000 is for the Department of Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR PHARMACEUTICALS FOR RESPONDERS

For a Federal payment to the District of Columbia for pharmaceuticals for responders, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $2,100,000, for the Department of Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR RESPONSE AND COMMUNICATIONS CAPABILITY

For a Federal payment to the District of Columbia for response and communications capability, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $14,960,000, of which $7,755,000 is for the Fire and Emergency Medical Services Department, $5,855,000 is for the Metropolitan Police Department, $113,000 is for the Department of Public Works Division of Transportation, $58,000 is for the Office of Property Management, $60,000 is for the Department of Public Works, $750,000 is for the Department of Health, $309,000 is for the Department of Human Services, and $60,000 is for the Department of Parks and Recreation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR SEARCH, RESCUE AND OTHER EMERGENCY EQUIPMENT AND SUPPORT

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for search, rescue and other emergency equipment and support, $8,850,000, of which $5,442,000 is for the

Metropolitan Police Department, $208,000 is for the Fire and Emergency Medical Services Department, $398,500 is for the Department of Consumer and Regulatory Affairs, $1,178,500 is for the Department of Public Works, $542,000 is for the Department of Human Services, and $1,081,000 is for the Department of Mental Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR EQUIPMENT, SUPPLIES AND VEHICLES FOR THE OFFICE OF THE CHIEF MEDICAL EXAMINER

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for equipment, supplies and vehicles for the Office of the Chief Medical Examiner, $1,780,000.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR HOSPITAL CONTAINMENT FACILITIES FOR THE DEPARTMENT OF HEALTH

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for hospital containment facilities for the Department of Health, $8,000,000.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR THE OFFICE OF THE CHIEF TECHNOLOGY OFFICER

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for the Office of the Chief Technology Officer, $43,994,000, for a first response land-line and wireless interoperability project, of which $1,000,000 shall be used to initiate a comprehensive review, by a nonvendor contractor, of the District's current technology-based systems and to develop a plan for integrating the communications systems of the District of Columbia Metropolitan Police and Fire and Emergency Medical Services Departments with the systems of regional and federal law enforcement agencies, including but not limited to the United States Capitol Police, United States Park Police, United States Secret Service, Federal Bureau of Investigation, Federal Protective Service, and the Washington Metropolitan Area Transit Authority Police: Provided, That such plan shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2002.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR EMERGENCY TRAFFIC MANAGEMENT

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for emergency traffic management, $20,700,000, for the Department of Public Works Division of Transportation, of which $14,000,000 is to upgrade traffic light controllers, $4,700,000 is to establish a video traffic monitoring system, and $2,000,000 is to disseminate traffic information.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR TRAINING AND PLANNING

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for training and planning, $11,449,000, of which $4,400,000 is for the Fire and Emergency Medical Services Department, $990,000 is for the Metropolitan Police Department, $1,200,000 is for the Department of Health, $200,000 is for the Office of the Chief Medical Examiner, $1,500,000 is for the Emergency Management Agency, $500,000 is for the Office of Property Management, $500,000 is for the Department of Mental Health, $469,000 is for the Department of Consumer and Regulatory Affairs, $240,000 is for the Department of Public Works, $600,000 is for the Department of Human Services, $100,000 is for the Department of Parks and Recreation, $750,000 is for the Division of Transportation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR INCREASED SECURITY

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for increased facility security, $25,536,000, of which $3,900,000 is for the Emergency Management Agency, $14,575,000 for the public schools, and $7,061,000 for the Office of Property Management.

FEDERAL PAYMENT TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For a Federal payment to the Washington Metropolitan Area Transit Authority to meet region-wide security requirements, a contribution of $39,100,000, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, of which $5,000,000 shall be used for protective clothing and breathing apparatus, $17,200,000 shall be for completion of the fiber optic network project and an automatic vehicle locator system, and $16,900,000 shall be for increased employee and facility security.

FEDERAL PAYMENT TO THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

For a Federal payment to the Metropolitan Washington Council of Governments to enhance regional emergency preparedness, coordination and response, $5,000,000, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, of which $1,500,000 shall be used to contribute to the development of a comprehensive regional emergency preparedness, coordination and response plan, $500,000 shall be used to develop a critical infrastructure threat assessment model, $500,000 shall be used to develop and implement a regional communications plan, and $2,500,000 shall be used to develop protocols and procedures for training and outreach exercises.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 401. Notwithstanding any other provision of law, the Chief Financial Officer of the District of Columbia may transfer up to 5 percent of the funds appropriated to the District of Columbia in this chapter between these accounts: Provided, That no such transfer shall take place unless the Chief Financial Officer of the District of Columbia notifies in writing the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of such transfer.

SEC. 402. The Chief Financial Officer of the District of Columbia and the Chief Financial Officer of the Washington Metropolitan Area Transit Authority shall provide quarterly reports to the President and the Committees on Appropriations of the Senate and the House of Representatives on the use of the funds under this chapter beginning no later than March 15, 2002.

CHAPTER 5

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation and Maintenance, General", $139,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Water and Related Resources", $30,259,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for "Weapons Activities", $106,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OTHER DEFENSE RELATED ACTIVITIES

OTHER DEFENSE ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses necessary to support activities related to countering potential biological threats to civilian populations, for "Other Defense Activities", $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Defense Environmental Restoration and Waste Management", $8,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation of the National Park System", $10,098,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PARK POLICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "United States Park Police", $25,295,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", $21,624,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,205,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for the working capital fund of the Department of the Interior.

RELATED AGENCIES

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United

States, for "Salaries and Expenses", $21,707,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Gallery of Art

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,148,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

John F. Kennedy Center for the Performing Arts

OPERATIONS AND MAINTENANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Maintenance", $4,310,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Capital Planning Commission

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $758,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 7

DEPARTMENT OF LABOR

Employment and Training Administration

TRAINING AND EMPLOYMENT SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Training and employment services", $32,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That such amount shall be provided to the Consortium for Worker Education, established by the New York City Central Labor Council and the New York City Partnership, for an Emergency Employment Clearinghouse.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "State Unemployment Insurance and Employment Service Operations", $4,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

WORKERS COMPENSATION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Workers Compensation Programs", $175,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That, of such amount, $125,000,000 shall be for payment to the New York State Workers Compensation Review Board, for the processing of claims related to the terrorist attacks: Provided further, That, of such amount, $25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the terrorist attacks: Provided further, That, of such amount, $25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the first response emergency services personnel who were injured, were disabled, or died due to the terrorist attacks.

Pension and Welfare Benefits Administration

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Occupational Safety and Health Administration

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Departmental Management

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $5,880,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

DISEASE CONTROL, RESEARCH, AND TRAINING

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Disease control, research, and training" for baseline safety screening for the emergency services personnel and rescue and recovery personnel, $12,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Institutes of Health

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "National Institute of Environmental Health Sciences" for carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, $10,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Office of the Secretary

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, to provide grants to public entities, not-for-profit entities, and Medicare and Medicaid enrolled suppliers and institutional providers to reimburse for health care related expenses or lost revenues directly attributable to the public health emergency resulting from the September 11, 2001, terrorist acts, for "Public Health and Social Services Emergency Fund", $140,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That none of the costs have been reimbursed or are eligible for reimbursement from other sources.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

SCHOOL IMPROVEMENT PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "School Improvement Programs", for the Project School Emergency Response to Violence program, $10,000,000, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

Social Security Administration

LIMITATION ON ADMINISTRATIVE EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Limitation on Administrative Expenses", $7,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Labor Relations Board

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 8

LEGISLATIVE BRANCH

JOINT ITEMS

LEGISLATIVE BRANCH EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the terrorist attacks on the United States, $256,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That $34,500,000 shall be transferred to the "SENATE", "Sergeant at Arms and Doorkeeper of the Senate" and shall be obligated with the prior approval of the Senate Committee on Appropriations: Provided further, That $40,712,000 shall be transferred to "HOUSE OF REPRESENTATIVES", "Salaries and Expenses" and shall be obligated with the prior approval of the House Committee on Appropriations: Provided further, That the remaining balance of $180,869,000 shall be transferred to the Capitol Police Board, which shall transfer to the affected entities in the Legislative Branch such amounts as are approved by the House and Senate Committees on Appropriations: Provided further, That any Legislative Branch entity receiving funds pursuant to the Emergency Response Fund established by Public Law 107–38 (without regard to whether the funds are provided under this chapter or pursuant to any other provision of law) may transfer any funds provided to the entity to any other Legislative Branch entity receiving funds under Public Law 107–38 in an amount equal to that required to provide support for security enhancements, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

SENATE

Administrative Provisions

Sec. 801. (a) Acquisition of Buildings and Facilities.—Notwithstanding any other provision of law, in order to respond to an emergency situation, the Sergeant at Arms of the Senate may acquire buildings and facilities, subject to the availability of appropriations, for the use of the Senate, as appropriate, by lease, purchase, or such other arrangement as the Sergeant at Arms of the Senate considers appropriate (including a memorandum of understanding with the head of an Executive Agency, as defined in section 105 of title 5, United States Code, in the case of a building or facility under the control of such Agency). Actions taken by the Sergeant at Arms of the Senate must be approved by the Committees on Appropriations and Rules and Administration.

(b) Agreements.—Notwithstanding any other provision of law, for purposes of carrying out subsection (a), the Sergeant at Arms of the Senate may carry out such activities and enter into such agreements related to the use of any building or facility acquired pursuant to such subsection as the Sergeant at Arms of the Senate considers appropriate, including—

(1) agreements with the United States Capitol Police or any other entity relating to the policing of such building or facility; and

(2) agreements with the Architect of the Capitol or any other entity relating to the care and maintenance of such building or facility.

(c) Authority of Capitol Police and Architect.—

(1) ARCHITECT OF THE CAPITOL.—Notwithstanding any other provision of law, the Architect of the Capitol may take any action necessary to carry out an agreement entered into with the Sergeant at Arms of the Senate pursuant to subsection (b).

(2) CAPITOL POLICE.—Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a) is amended—

(A) by striking "The Capitol Police" and inserting "(a) The Capitol Police"; and

(B) by adding at the end the following new subsection:

"(b) For purposes of this section, 'the United States Capitol Buildings and Grounds' shall include any building or facility acquired by the Sergeant at Arms of the Senate for the use of the Senate for which the Sergeant at Arms of the Senate has entered into an agreement with the United States Capitol Police for the policing of the building or facility.".

(d) TRANSFER OF CERTAIN FUNDS.—Subject to the approval of the Committee on Appropriations of the Senate, the Architect of the Capitol may transfer to the Sergeant at Arms of the Senate amounts made available to the Architect for necessary expenses for the maintenance, care and operation of the Senate office buildings during a fiscal year in order to cover any portion of the costs incurred by the Sergeant at Arms of the Senate during the year in acquiring a building or facility pursuant to subsection (a).

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 802. (a) Notwithstanding any other provision of law—

(1) subject to subsection (b), the Sergeant at Arms of the Senate and the head of an Executive Agency (as defined in section 105 of title 5, United States Code) may enter into a memorandum of understanding under which the Agency may provide facilities, equipment, supplies, personnel, and other support services for the use of the Senate during an emergency situation; and

(2) the Sergeant at Arms of the Senate and the head of the Agency may take any action necessary to carry out the terms of the memorandum of understanding.

(b) The Sergeant at Arms of the Senate may enter into a memorandum of understanding described in subsection (a)(1) consistent with the Senate Procurement Regulations.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

OTHER LEGISLATIVE BRANCH

ADMINISTRATIVE PROVISIONS

SEC. 803. (a) Section 1(c) of Public Law 96–152 (40 U.S.C. 206–1) is amended by striking "but not to exceed" and all that follows and inserting the following: "but not to exceed $2,500 less than the lesser of the annual salary for the Sergeant at Arms of the House of Representatives or the annual salary for the Sergeant at Arms and Doorkeeper of the Senate.".

(b) The Assistant Chief of the Capitol Police shall receive compensation at a rate determined by the Capitol Police Board, but not to exceed $1,000 less than the annual salary for the chief of the United States Capitol Police.

(c) This section and the amendment made by this section shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

SEC. 804. (a) ASSISTANCE FOR CAPITOL POLICE FROM EXECUTIVE DEPARTMENTS AND AGENCIES.—Notwithstanding any other provision of law, Executive departments and Executive agencies may assist the United States Capitol Police in the same manner and to the same extent as such departments and agencies assist the United States Secret Service under section 6 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note), except as may otherwise be provided in this section.

(b) TERMS OF ASSISTANCE.—Assistance under this section shall be provided—

(1) consistent with the authority of the Capitol Police under sections 9 and 9A of the Act of July 31, 1946 (40 U.S.C. 212a and 212a–2);

(2) upon the advance written request of—

(A) the Chairman of the Capitol Police Board, or

(B) in the absence of the Chairman of the Capitol Police Board—

(i) the Sergeant at Arms and Doorkeeper of the Senate, in the case of any matter relating to the Senate; or

(ii) the Sergeant at Arms of the House of Representatives, in the case of any matter relating to the House; and

(3) either—

(A) on a temporary and non-reimbursable basis,

(B) on a temporary and reimbursable basis, or

(C) on a permanent reimbursable basis upon advance written request of the Chairman of the Capitol Police Board.

(c) REPORTS ON EXPENDITURES FOR ASSISTANCE.—

(1) REPORTS.—With respect to any fiscal year in which an Executive department or Executive agency provides assistance under this section, the head of that department or agency shall submit a report not later than 30 days after the end of the fiscal year to the Chairman of the Capitol Police Board.

(2) CONTENTS.—The report submitted under paragraph (1) shall contain a detailed account of all expenditures made by the Executive department or Executive agency in providing assistance under this section during the applicable fiscal year.

(3) SUMMARY OF REPORTS.—After receipt of all reports under paragraph (2) with respect to any fiscal year, the Chairman of the Capitol Police Board shall submit a summary of such reports to the Committees on Appropriations of the Senate and the House of Representatives.

(d) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 805. (a) The Chief of the Capitol Police may, upon any emergency as determined by the Capitol Police Board, deputize members of the National Guard (while in the performance of Federal or State service), members of components of the Armed Forces other than the National Guard, and Federal, State or local law enforcement officers as may be necessary to address that emergency. Any person deputized under this section shall possess all the powers and privileges and may perform all duties of a member or officer of the Capitol Police.

(b) The Capitol Police Board may promulgate regulations, as determined necessary, to carry out provisions of this section.

(c) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

SEC. 806. (a) Notwithstanding any other provision of law, the United States Capitol Preservation Commission established under section 801 of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a) may transfer to the Architect of the Capitol amounts in the Capitol Preservation Fund established under section 803 of such Act (40 U.S.C. 188a–2) if the amounts are to be used by the Architect for the planning, engineering, design, or construction of the Capitol Visitor Center.

(b) Any amounts transferred pursuant to subsection (a) shall remain available for the use of the Architect of the Capitol until expended.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

CHAPTER 9

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, DEFENSE-WIDE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Defense-wide", $510,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That of such amount, $35,000,000 shall be available for transfer to "Military Construction, Army".

MILITARY CONSTRUCTION, ARMY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Army", $20,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, NAVY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Navy", $2,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, AIR FORCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Air Force", $47,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 901. (a) AVAILABILITY OF AMOUNTS FOR MILITARY CONSTRUCTION RELATING TO TERRORISM.—Amounts made available to the Department of Defense from funds appropriated in Public Law 107–38 and this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

(b) NOTICE TO CONGRESS.—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection the Secretary shall notify the appropriate committees of Congress the following:

(1) The determination to use such amounts for the project.

(2) The estimated cost of the project.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section the term "appropriate committees of Congress" has the meaning given that term in section 2801 (4) of title 10, United States Code.

SEC. 902. Notwithstanding section 2808(a) of title 10, United States Code, the Secretary of Defense may not utilize the authority in that section to undertake or authorize the undertaking of, any military construction project described by that section using amounts appropriated or otherwise made available by the Military Construction Appropriations Act, 2002, or any act appropriating funds for Military Construction for a fiscal year before fiscal year 2002.

CHAPTER 10

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", for the Office of Intelligence and Security, $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United

States, in addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, to be derived from the Airport and Airway Trust Fund, $57,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COAST GUARD

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", $273,350,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations", $300,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Facilities and Equipment", $108,500,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research, Engineering, and Development", $12,000,000, to be derived from the Airport and Airway Trust Fund, to be obligated from amounts made available in Public Law 107–38.

FEDERAL HIGHWAY ADMINISTRATION

MISCELLANEOUS APPROPRIATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Miscellaneous Appropriations", including the operation and construction of ferrys and ferry facilities, $110,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Emergency Relief Program", as authorized by section 125 of title 23, United States Code, $75,000,000, to be derived from the Highway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Safety and Operations", $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $100,000,000, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

FEDERAL TRANSIT ADMINISTRATION

FORMULA GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Formula Grants", $23,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CAPITAL INVESTMENT GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Capital Investment Grants", $100,000,000, to be obligated from amounts made available in Public Law 107–38: Provided, That in administering funds made available under this paragraph, the Federal Transit Administrator shall direct funds to those transit agencies most severely impacted by the terrorist attacks of September 11, 2001, excluding any transit agency receiving a Federal payment elsewhere in this Act: Provided further, That the provisions of 49 U.S.C. 5309(h) shall not apply to funds made available under this paragraph.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and Special Programs", $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for other safety and security related audit and monitoring responsibilities, for "Salaries and Expenses", $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCY

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $836,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 11

DEPARTMENT OF THE TREASURY

INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,032,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $22,846,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $31,431,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $127,603,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38; of this amount, not less than $21,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation, Maintenance and Procurement, Air and Marine Interdiction Programs", $6,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Processing, Assistance and Management", $16,658,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

TAX LAW ENFORCEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Tax Law Enforcement", $4,544,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

INFORMATION SYSTEMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Information Systems", $15,991,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $104,769,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $29,193,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDING FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Federal Buildings Fund", $126,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", $4,818,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

REPAIRS AND RESTORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Repairs and Restoration", $2,180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 12

DEPARTMENT OF VETERANS AFFAIRS

CONSTRUCTION, MAJOR PROJECTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction, Major Projects", $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Community development fund", $2,000,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That such funds shall be subject to the first through sixth provisos in section 434 of Public Law 107–73: Provided further, That within 45 days of enactment, the State of New York, in conjunction with the City of New York, shall establish a corporation for the obligation of the funds provided under this heading, issue the initial criteria and requirements necessary to accept applications from individuals, nonprofits and small businesses for economic losses from the September 11, 2001, terrorist attacks, and begin processing such applications: Provided further, That the corporation shall respond to any application from an individual, nonprofit or small business for economic losses under this heading within 45 days of the submission of an application for funding: Provided further, That individuals, nonprofits or small businesses shall be eligible for compensation only if located in New York City in the area located on or south of Canal Street, on or south of East Broadway (east of its intersection with Canal Street), or on or south of Grand Street (east of its intersection with East Broadway): Provided further, That, of the amount made available under this heading, no less than $500,000,000 shall be made available for individuals, nonprofits or small businesses described in the prior three provisos with a limit of $500,000 per small business for economic losses.

MANAGEMENT AND ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Office of Inspector General", $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Science and Technology", $41,514,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Environmental Programs and Management", $32,194,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

HAZARDOUS SUBSTANCE SUPERFUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Hazardous Substance Superfund", $18,292,000; to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

STATE AND TRIBAL ASSISTANCE GRANTS

For making grants for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering potential biological and chemical threats to populations, for "State and Tribal Assistance Grants", $5,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia, and Pennsylvania on September 11, 2001, for "Disaster Relief", $5,822,722,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $30,000,000, to remain available until expended, for the Office of National Preparedness, to be obligated from amounts made available in Public Law 107–38.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Human Space Flight", $64,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Science, Aeronautics and Technology", $28,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and Related Activities", $300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 13

GENERAL PROVISIONS, THIS DIVISION

SEC. 1301. Amounts which may be obligated pursuant to this division are subject to the terms and conditions provided in Public Law 107–38.

SEC. 1302. No part of any appropriation contained in this division shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This division may be cited as the "Emergency Supplemental Act, 2002".

DIVISION C—ADDITIONAL SUPPLEMENTAL APPROPRIATIONS

TITLE I—HOMELAND DEFENSE

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $76,000,000.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $60,000,000.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", $150,000,000, to remain available until September 30, 2003.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION

For an additional amount for "Research and Education", $50,000,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses", $90,000,000, of which $50,000,000 may be transferred and merged with the Agriculture Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", $14,081,000, to remain available until September 30, 2003.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for "Food Safety and Inspection Service", $15,000,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $120,000,000.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

PATRIOT ACT ACTIVITIES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Patriot Act Activities", $75,000,000, to remain available until September 30, 2003, for implementation of such enhancements to the Federal Bureau of Investigation as are deemed necessary by the study required under chapter 2 of division B of this Act: Provided, That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107–77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, General Legal Activities", $15,000,000, to remain available until September 30, 2003.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, United States Marshals Service", $5,875,000, to remain available until September 30, 2003.

In addition, for an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for courthouse security *equipment, $9,125,000, to remain available until September 30, 2003.*

CONSTRUCTION

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", $35,000,000, to remain available until Stepember 30, 2003.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $200,000,000, to remain available until September 30, 2003.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $35,100,000, to remain available until September 30, 2003.

CONSTRUCTION

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", $300,000,000, to remain available until September 30, 2003.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $20,000,000, to remain available until September 30, 2003.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Justice Assistance", $550,000,000, to remain available until September 30, 2003, for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and for other counter terrorism programs.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, $35,000,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, to remain available until September 30, 2003.

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Scientific and Technical Research and Services", $30,000,000, to remain available until September 30, 2003.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Training", $11,000,000, for a port security program, to remain available until September 30, 2003.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, $12,000,000, to remain available until September 30, 2003: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $20,000,000, to remain available until September 30, 2003.

CHAPTER 3

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for "Weapons Activities", $179,000,000, to remain available until September 30, 2003.

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to improve nuclear nonproliferation and verification research and development, for "Defense Nuclear Nonproliferation", $286,000,000, to remain available until September 30, 2003.

INDEPENDENT AGENCY

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear power plants, for "Salaries and Expenses", $36,000,000, to remain available until September 30, 2003: Provided, That the funds appropriated herein shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214.

CHAPTER 4

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for emergency expenses necessary to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for "Public Health and Social Services Emergency Fund", $3,325,000,000, to remain available until September 30, 2003. Of this amount, $1,150,000,000 shall be for the Centers for Disease Control and Prevention for improving State and local capacity; $165,000,000 shall be for grants to hospitals, in collaboration with local governments, to improve capacity to respond to bioterrorism; $185,000,000 shall be for upgrading capacity at the Centers for Disease Control and Prevention, including research; $10,000,000 shall be for the establishment and operation of a national system to track biological pathogens; $95,000,000 shall be for the Office of the Secretary and improving disaster response teams; $125,000,000 shall be for the National Institute of Allergy and Infectious Diseases for bioterrorism-related research and development and other related needs; $96,000,000 shall be for the National Institute of Allergy and Infectious Diseases for the construction of biosafety laboratories and related infrastructure costs; $4,000,000 shall be for training and education regarding effective workplace responses to bioterrorism; $593,000,000 shall be for the National Pharmaceutical Stockpile; $829,000,000 shall be for the purchase, deployment and related costs of the smallpox vaccine, and $73,000,000 shall be for improving laboratory security at the National Institutes of Health and the Centers for Disease Control and Prevention. At the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures.

CHAPTER 5

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", $12,000,000, to remain available until September 30, 2003.

FEDERAL AVIATION ADMINISTRATION

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Research, Engineering, and Development", $38,000,000, to be derived from the Airport and Airway Trust Fund.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, notwithstanding any other provision of law, for "Grants-in-aid for airports", to enable the Federal Aviation Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, $200,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until September 30, 2003.

CHAPTER 6

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $270,972,000, to remain available until September 30, 2003; of this amount, not less than $120,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders, of which $10,000,000 shall be available for hiring inspectors along the Southwest border; not less than $15,000,000 shall be available for seaport security; and not less than $135,000,000 shall be available for the procurement and deployment of non-intrusive and counterterrorism inspection technology, equipment and infrastructure improvements to combat terrorism at the land and sea border ports of entry.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $20,847,000, to remain available until September 30, 2003.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For an additional payment to the Postal Service Fund to enable the Postal Service to build and establish a system for sanitizing and screening mail matter, to protect postal employees and postal customers from exposure to biohazardous material, and to replace or repair Postal Service facilities destroyed or damaged in New York City as a result of the September 11, 2001, terrorist attacks, $875,000,000, to remain available until September 30, 2003.

CHAPTER 7

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States and to support activities related to countering terrorism, for "Environmental Programs and Management", $6,000,000, to remain available until September 30, 2003.

HAZARDOUS SUBSTANCE SUPERFUND

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States and to support activities related to countering terrorism, for "Hazardous Substance Superfund", $23,000,000, to remain available until September 30, 2003.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States and to support activities related to countering terrorism, for "Emergency Management Planning and Assistance", $300,000,000, to remain available until September 30, 2003, for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.): Provided, That up to 5 percent of this amount shall be transferred to "Salaries and expenses" for program administration.

GENERAL PROVISION, THIS TITLE

SEC. 101. EMERGENCY DESIGNATION. (a) All amounts appropriated in this title are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(b) None of the funds in this title shall be available for obligation unless all of the funds in this title are designated as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, in an official budget request transmitted by the President to the Congress.

TITLE II—ASSISTANCE TO NEW YORK, VIRGINIA, AND PENNSYLVANIA

INDEPENDENT AGENCY

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster Relief", $7,500,000,000, to remain available until expended for disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia and Pennsylvania on September 11, 2001: Provided, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Deficit Control Act of 1985, as amended: Provided further, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISION, THIS DIVISION

SEC. 102. Notwithstanding section 257(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, the amount of discretionary budget authority for any account for fiscal year 2003 and subsequent years included in any baseline budget projections made by the Office of Management and Budget or the Congressional Budget Office pursuant to that section shall not reflect any appropriation for fiscal year 2002 provided in this division.

DIVISION D—SPENDING LIMITS AND BUDGETARY ALLOCATIONS FOR FISCAL YEAR 2002

SEC. 101. (a) DISCRETIONARY SPENDING LIMITS.—Section 251(c)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraph (A) and inserting the following:

"(A) for the discretionary category: $681,441,000,000 in new budget authority and $670,447,000,000 in outlays;".

(b) REVISED AGGREGATES AND ALLOCATIONS.—Upon the enactment of this section, the chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall each—

(1) revise the aggregate levels of new budget authority and outlays for fiscal year 2002 set in sections 101(2) and 101(3) of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress), to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a);

(2) revise allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations of their respective House as initially set forth in the joint explanatory statement of managers accompanying the conference report on that concurrent resolution, to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a); and

(3) publish those revised aggregates and allocations in the Congressional Record.

(c) REPEAL OF SECTION 203 OF BUDGET RESOLUTION FOR FISCAL YEAR 2002.—Section 203 of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress) is repealed.

(d) ADJUSTMENTS.—If, for fiscal year 2002, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category due to technical estimates made by the Director of the Office of Management and Budget, the Director shall make an adjustment equal to the amount of the excess, but not to exceed an amount equal to 0.2 percent of the sum of the adjusted discretionary limits on new budget authority for all categories for fiscal year 2002.

SEC. 102. PAY-AS-YOU-GO ADJUSTMENT.—In preparing the final sequestration report for fiscal year 2002 required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Director of the Office of Management and Budget shall change any balance of direct spending and receipts legislation for fiscal years 2001 and 2002 under section 252 of that Act to zero.

DIVISION E—TECHNICAL CORRECTIONS

SEC. 101. Title VI of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Public Law 107–76) is amended under the heading "Food and Drug Administration, Salaries and Expenses" by striking "$13,207,000" and inserting "$13,357,000".

SEC. 102. Title IV of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended in the third proviso of the first undesignated paragraph under the heading "Diplomatic and Consular Programs" by striking "this heading" and inserting "the appropriations accounts within the Administration of Foreign Affairs".

SEC. 103. Title V of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended in the proviso under the heading "Commission on Ocean Policy" by striking "appointment" and inserting "the first meeting of the Commission".

SEC. 104. Section 626(c) of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended by striking "1:00CV03110(ESG)" and inserting "1:00CV03110(EGS)".

SEC. 105. JICARILLA, NEW MEXICO, MUNICIPAL WATER SYSTEM. Public Law 107–66 is amended—

(1) under the heading of "Title I, Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Construction, General"—

(A) by striking "Provided further, That using $2,500,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico:"; and

(B) insert at the end before the period the following: ": Provided further, That using funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to transfer $2,500,000 to the Secretary of the Interior for the Bureau of Reclamation to proceed with the Jicarilla Municipal Water System in the town of Dulce, New Mexico"; and

(2) under the heading of "Title II, Department of the Interior, Bureau of Reclamation, Water and Related Resources, (Including the Transfer of Funds)"—

(A) insert at the end before the period the following: ": Provided further, That using $2,500,000 of the funds provided herein, the Secretary of the Interior is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico".

SEC. 106. (a) Public Law 107–68 is amended by adding at the end the following:

"This Act may be cited as the 'Legislative Branch Appropriations Act, 2002'.".

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of Public Law 107–68.

SEC. 107. Section 102 of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended—

(1) in subsection (a), by striking paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively;

(2) in subsection (g)(1)—

(A) in subparagraph (A), by striking "subsection (i)(1)(A)" and inserting "subsection (h)(1)(A)"; and

(B) in subparagraph (B), by striking "subsection (i)(1)(B)" and inserting "subsection (h)(1)(B)".

SEC. 108. (a) Section 209 of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended in the matter amending Public Law 106–173 by striking the quotation marks and period at the end of the new subsection (g) and inserting the following: "Any reimbursement under this subsection shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

"(h) EMPLOYMENT BENEFITS.—

"(1) IN GENERAL.—The Commission shall fix employment benefits for the Director and for additional personnel appointed under section 6(a), in accordance with paragraphs (2) and (3).

"(2) EMPLOYMENT BENEFITS FOR THE DIRECTOR.—

"(A) IN GENERAL.—The Commission shall determine whether or not to treat the Director as a Federal employee for purposes of employment benefits. If the Commission determines that the Director is to be treated as a Federal employee, then he or she is deemed to be an employee as *that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title. If the Commission determines that the Director is not to be treated as a Federal employee for purposes of employment benefits, then the Commission or its administrative support service provider shall establish appropriate alternative employment benefits for the Director. The Commission's determination shall be irrevocable with respect to each individual appointed as Director, and the Commission shall notify the Office of Personnel Management and the Department of Labor of its determination. Notwithstanding the Commission's determination, the Director's service is deemed to be Federal service for purposes of section 8501 of title 5, United States Code.*

"(B) DETAILEE SERVING AS DIRECTOR.—Subparagraph (A) shall not apply to a detailee who is serving as Director.

"(3) EMPLOYMENT BENEFITS FOR ADDITIONAL PERSONNEL.—A person appointed to the Commission staff under subsection (b)(2) is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title.".

(b) The amendments made by this section shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68).

SEC. 109. (a) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, $29,542,304 shall be set aside for the project as authorized under title IV of the National Highway System Designation Act of 1995, as amended: Provided, That, if funds authorized under these provisions have been distributed then the amount so specified shall be recalled proportionally from those funds distributed to the States under section 110(b)(4)(A) and (B) of title 23, United States Code.

(b) Notwithstanding any other provision of law, for fiscal year 2002, funds available for environmental streamlining activities under section 104(a)(1)(A) of title 23, United States Code, may include making grants to, or entering into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, authority, association nonprofit or for-profit corporation, or institution of higher education.

(c) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, and made available for the National motor carrier safety program, $5,896,000 shall be for State commercial driver's license program improvements.

SEC. 110. Notwithstanding any other provision of law, of the amounts appropriated for in fiscal year 2002 for the Research and Special Programs Administration, $3,170,000 of funds provided for research and special programs shall remain available until September 30, 2004; and $22,786,000 of funds provided for the pipeline safety program derived from the pipeline safety fund shall remain available until September 30, 2004.

SEC. 111. Item 1497 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 312), relating to Alaska, is amended by inserting "and construct capital improvements to intermodal marine freight and passenger facilities and access thereto" before "in Anchorage".

SEC. 112. Of the funds made available in H.R. 2299, the Fiscal Year 2002 Department of Transportation and Related Agencies Appropriations Act, of funds made available for the Transportation and Community and System Preservation Program, $300,000 shall be for the US–61 Woodville widening project in Mississippi and, of funds made available for the Interstate Maintenance program, $5,000,000 shall be for the City of Renton/Port Quendall, WA project.

SEC. 113. Section 652(c)(1) of Public Law 107–67 is amended by striking "Section 414(c)" and inserting "Section 416(c)".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

SEC. 114. Of the amounts made available under both this heading and the heading "Salaries and Expenses" in title II of Public Law 107–73, not to exceed $20,000,000 shall be for the recordation and liquidation of obligations and deficiencies incurred in prior years in connection with the provision of technical assistance authorized under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 ("section 514"), and for new obligations for such technical assistance: Provided, That of the total amount provided under this heading, not less than $2,000,000 shall be made available from salaries and expenses allocated to the Office of General Counsel and the Office of Multifamily Housing Assistance Restructuring in the Department of Housing and Urban Development: Provided further, That of the total amount provided under this heading, no more than $10,000,000 shall be made available for new obligations for technical assistance under section 514: Provided further, That from amounts made available under this heading, the Inspector General of the Department of Housing and Urban Development ("HUD Inspector General") shall audit each provision of technical assistance obligated under the requirements of section 514 over the last 4 years: Provided further, That, to the extent the HUD Inspector General determines that the use of any funding for technical assistance does not meet the requirements of section 514, the Secretary of Housing and Urban Development ("Secretary") shall recapture any such funds: Provided further, That no funds appropriated under title II of Public Law 107–73 and subsequent appropriations acts for the Department of Housing and Urban Development shall be made available for four years to any entity (or any subsequent entity comprised of significantly the same officers) that has been identified as having violated the requirements of section 514 by the HUD Inspector General: Provided further, That, notwithstanding any other provision of law, no funding for technical assistance under section 514 shall be available for carryover from any previous year: Provided further, That the Secretary shall implement the provisions under this heading in a manner that does not accelerate outlays.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, on Tuesday of this week the Appropriations Committee met to approve the Department of Defense appropriations bill for fiscal year 2002, by a vote of 29 to zero. I am pleased to present the recommendations to the Senate today, as division A of this bill, H.R. 3338.

I will focus my remarks on division A, the Defense portion of the bill. Later today, Chairman BYRD will describe the provisions of divisions B through E. I want to point out that I support the allocation of $7.4 billion for Defense contained in division B. Prompt action on this measure will ensure that our efforts to fight terrorism are fully supported.

The House passed its version of this bill just last week, so you can see we have acted as expeditiously as possible to bring it to the Senate. I want to note to all my colleagues that this would not have been possible without the tremendous cooperation that I have received from Senator STEVENS and his able staff.

The Defense appropriations bill as recommended by the committee provides a total of $317,623,483,000 in budget authority for mandatory and discretionary programs for the Department of Defense. This amount is $1,923,633,000 below the President's request.

The recommended funding is below the President's request by nearly $2 billion because the Senate has already acted to reallocated $500 million for military construction and $1.2 billion for nuclear energy programs under the jurisdiction of the Energy and Water Subcommittee.

The total discretionary funding recommended in division A of this bill is $317,208,000,000. This is the same amount as the subcommittee's 302B allocation, and the House level.

As such, my colleagues should be advised that any amendment that would seek to add funding to the recommendation would need to be accompanied by an acceptable offset in budget authority.

This measure is fully consistent with the objectives of this administration and the Defense authorization bill which passed the Senate in September and is now in conference. Our staffs have worked in close coordination with the Armed Services Committee to minimize differences between the bills.

In addition, we believe we have accommodated those issues identified by the Senate which would enhance our Nation's Defense while allowing us to stay within the limits of the budget resolution.

Our first priority in this bill is to provide for the quality of life of our men and women in uniform.

In that vein, we have fully funded a 5-percent pay raise for every military member and, as authorized, we recommend additional funding for targeted pay raises for those grades and particular skills which are hard to fill.

We believe these increases will significantly aid our ability to recruit, and perhaps more importantly, retain much needed military personnel.

We have also provided $18.4 billion for health care costs. This is $6.3 billion more than appropriated in FY 2001 and nearly $500 million more than requested by the President.

This funding will ensure that TRICARE costs are fully covered, that our military hospitals receive increased funding to better provide for their patients and, by providing funding for "TRICARE for life", we fulfill a commitment made to our retirees over 65. This will ensure that those Americans who were willing to dedicate their lives to the military will have quality health care in their older years.

This is most importantly an issue of fairness; it fulfills the guarantee DOD made to the military when they were on active duty.

We also believe it will signal to those willing to serve today that we will keep our promises. In no small part we see this as another recruiting and retention program.

In title II, the bill provides $106.5 billion for readiness and related programs. This is $9.6 billion more than appropriated for fiscal year 2001. The bill reallocates funding from the Secretary of Defense to the military services for the costs of overseas deployments in the Balkans in the same manner as the Pentagon does for the Middle East deployments.

Through this adjustment and because of other fact of life changes in the Balkans, the committee has identified $600 million in savings to reapply to other critical readiness and investment priorities.

For our investment in weapons and other equipment, the recommendation includes $60.9 billion for procurement, nearly $500 million more than requested by the President. The funding here will continue our efforts to recapitalize our forces, supporting the Army's transformation goals and purchasing much needed aircraft, missiles, and space platforms for the Air Force.

For the Navy, the bill provides full funding for those programs that are on tract and ready to move forward. In some cases, delays in contracting have allowed the subcommittee to recommend reallocating funds for other critical requirements.

Included in that, the committee has recommended $560 million for procurement to support our National Guard and Reserve forces.

In funding for future investment for research and development, the measure recommends $46 billion, a 10-percent increase over the amounts appropriated for fiscal year 2001.

The recommendation mirrors the Senate-passed authorization bill for ballistic missile defense. A total of $7 billion is provided under missile defense programs and an additional $1.3 billion is provided in a separate appropriation for the President to allocate either for missile defense or for counterterrorism.

This is a balanced bill that supports the priorities of the administration and the Senate. In order to cut spending by nearly $2 billion, some difficult decisions were required. The bill reduces funding for several programs that have been delayed or are being reconsidered because of the Secretary's Strategic Review, the Nuclear Posture Review, and the Quadrennial Defense Review.

The bill also makes adjustments that are in line with the reforms championed by the administration.

No. 1, a concerted effort was made at reducing reporting requirements in the bill.

No. 2, the bill also reduces funding for consultants and other related support personnel as authorized by the Senate.

No. 3, as requested, the bill provides $100 million for DOD to make additional progress in modernizing its financial management systems.

Finally, the bill places a cap on legislative liaison personnel which the Secretary of Defense has indicated are excessive.

I would like to take a few minutes to address a couple of items that some press reports have mischaracterized about our recommendations.

First, the committee has reduced funding for the Cooperative Threat Reduction Program by $46,000,000. Let me assure all of my colleagues that I strongly support the intent of this program.

The $356 million that we include for the program will assist the former Soviet Union countries to dismantle and safeguard their nuclear weapons. However, the Defense Department has had a history of being unable to use all of the funding that has been provided to it in a timely fashion.

As a result, at this time, the Pentagon has more than $700 million that it hasn't used yet. That is nearly 2 years worth of funds. In addition, under current law, the authorizers have limited the use of funding for certain activities. Even if this language is changed in the pending Defense conference, the Pentagon has not yet presented a plan for how they will use these funds.

The committee has taken its action without prejudice. We are required to reduce funding in this bill by nearly $2 billion. We simply must make this type of reduction where we know they can't efficiently obligate the funding no matter how much we support the overall objectives of the program.

Second, the bill provides discretionary authority to the Defense Department to lease tankers to replace the aging KC–135 fleet. This is a program that is strongly endorsed by the Air Force as the most cost effective way to replace our tankers.

Despite what has been reported, the language in the bill requires that the lease can only be entered into if the Air Force can show that it will be 10 percent less expensive to lease the aircraft than to purchase them. In addition, it stipulates that the aircraft must be returned to the manufacturer at the end of the lease period.

No business sector has suffered more from the events of September 11 than has our commercial aircraft manufacturers. The tragic events of that day have drastically reduced orders for commercial aircraft. We have been informed that Boeing, for example, will have to lay off approximately 30,000 people as a direct consequence of the terrorist attack.

We have provided funding to support the airlines as a result of that tragedy. We are including funds elsewhere in this bill to help in the recovery in New York and the Pentagon. The leasing authority which we have included in division A allows us to help assist commercial airline manufacturers while also solving a long-term problem for the Air Force.

I strongly endorse this initiative which was crafted by my good friend, Senator STEVENS, with the support of several other members, including Senators CANTWELL, MURRAY, and DURBIN. I believe it deserves the unanimous support of the Senate.

Today is December 6. Nearly one quarter of the fiscal year has passed.

The Defense Department is operating under a continuing resolution which significantly limits its ability to efficiently manage its funding—most particularly, procurement programs.

I don't need to remind any of my colleagues that we have men and women serving half way around the world defending us.

Less than 1 percent of Americans serve in today's military. These few are willing to sacrifice themselves for us. They are willing to stand in harm's way in our behalf. They deserve our support.

Nearly 3 months ago, our Nation was hit by a surprise attack delivered from out of blue. Forty years ago tomorrow we suffered a similar attack.

In 1941, our Nation rose up together and we worked diligently to defeat this threat. I have been gratified to see our Nation come together in the past few months in a similar fashion.

This is the bill, that allows us to act. This is the measure that we need to show our military forces that we support them.

I know there are disagreements among some of us with specific funding levels in the other divisions of this bill. But, we should not let us get bogged down in a partisan squabble over how we pay for the war on terrorism.

We have the Defense bill that is urgently needed to fight and win this war and to demonstrate to the world our resolve.

For the good of the Nation, I urge all my colleagues to look to our objective and to support this measure. Let us take the bill to conference where we can work out an agreement that can be endorsed by the President.

I urge all my colleagues to support this bill.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Madam President, I welcome the opportunity to join Senator INOUYE in presenting the fiscal year 2002 Defense Appropriations Act.

The chairman has just effectively described the bill before the Senate, and

I will add only a few comments that I want to make to endorse the presentation that he has made.

This bill before the Senate is a good bill. Section A of the bill Senator INOUYE and I have worked on for some time. Later today it is my intention to offer an amendment in the nature of a substitute. It is amendment No. 2743, substitute for divisions B and C that concern the allocation of funds from the previous emergency supplemental appropriations bill that relate to the September 11 attacks on our Nation.

For the defense portion, there I am referring specifically to section A of the bill before the Senate. I am especially pleased we succeeded in funding the 5-percent pay raise and the $9.5 billion increase in readiness funds in the O&M section of this bill.

Of special importance to me are three initiatives in the bill that will dramatically enhance our national security. First, the bill includes $143 million to continue the multiyear procurement contract for the C–17 airlifter. Our current deployment relies heavily on the C–17 fleet, and this initiative will continue the procurement of that aircraft—now the backbone of our strategy for deployment. As I said, we continue to rely on the C–17 fleet for our deployment policies of the Department of Defense, and we need as many of those as we can get.

Second, this bill fully accommodates the President's request of $8.3 billion for missile defense programs, and it carries out the conditions set forth in the Defense authorization bill for the allocation of that money.

The successful test earlier this week of the ground-based midcourse interceptor reflects the great progress made in this missile defense program by LTG Ron Kadish and the people in his command. I congratulate them. We are now talking about the ground-based midcourse interceptor program which is a portion of the missile defense program. That is what is in the bill before the Senate.

Third, the bill includes a new provision that authorizes the Secretary of the Air Force to lease 100 new air refueling tankers. If executed by the Department—that is, if these leases are followed through by the Department—these leased aircraft would replace the 136 KC–135E aircraft which are currently in use as air refueling tankers. They average in excess of 41 years of age. I notice the chairman said 42. I am sure he has more updated information than I.

This initiative, as the chairman said, endorsed by the Secretary of the Air Force, has been cleared by CBO as having no budgetary impact in fiscal year 2002.

Earlier this week I answered a question of the press and other Members of the Senate about this provision and told them this bill did not, at that time, specify the aircraft to be procured. Because of the clearance procedure of the CBO, we have now put in the bill a designation that these aircraft to be leased will be the Boeing 767s because there is adequate information upon which we can base the conclusion and really advance the argument that there will be a commercial market for these aircraft at the end of the lease involved.

What I really want to tell the Senate is that this bill reflects countless hours of collaboration by myself and Chairman INOUYE and the members of the committee and our staff. Both my chief of staff, Steve Cortese, and the chief of staff for Senator INOUYE, Charlie Houy, have really put in weekends and hours that cannot even be counted to be sure that this bill before the Senate is what we intend it to be.

Our allocation in this bill was $2 billion less than the President's amended request. The committee allocated additional funds for military construction and defense nuclear weapons programs. Those really are defense, in my judgment. I have supported and advocated the allocations to those programs. But I recognize the pressure everyone is working under to make certain we have an adequate allowance for defense.

I believe the priorities of Members of the Senate, as requested by them to both Senator INOUYE and myself, are reflected in this bill in a balanced and fair fashion. I state to the Senate that if I were still chairman of the Subcommittee on Defense, there really are very few changes I would recommend to the Senate in the bill. I recommend none now because the differences are so minor that they really should not affect the consideration of the bill.

There is, however, a long day ahead of us. It is my hope we can strike a compromise. For that purpose, I will offer the substitute and explain it further after Senator BYRD has presented his statement concerning the Senate amendments as reflected by the bill that has been reported from the full Committee on Appropriations and is before the Senate now.

I do appreciate every consideration that has been extended to me and my staff by Chairman INOUYE and his staff director, Charlie Houy, and the chairman of the full committee and his staff.

I wish I could say I look forward to this debate. At present, I think we are heading toward being in the position of being between a rock and a hard place. I will try to search out a way to move one or the other or both.

Thank you very much.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, before I suggest the absence of a quorum, I would like to have the RECORD show how pleased the subcommittee is with the initiative offered by Senator STEVENS, the Presiding Officer, and Senator CANTWELL, on the KC–135 leasing program. It took much time and, I would say, much creativity, but I am happy that these great Senators were able to resolve this matter. We find now that a measure that should have been contentious is no longer contentious. I once again thank Senator STEVENS, Senator MURRAY, and Senator CANTWELL.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSON). Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I rise to offer for the record the Budget Committee's official scoring of H.R. 3338, the Department of Defense Appropriations Act for Fiscal Year 2002.

H.R. 3338 provides $317.206 billion in nonemergency discretionary budget authority for defense activities and $13 million in nonemergency budget authority for general purpose activities. Those amounts will result in new outlays in 2002 of $213.063 billion. When outlays from prior-year budget authority are taken into account, nonemergency discretionary outlays for the Senate bill total $309.412 billion in 2002.

In addition, the bill includes $35 billion in emergency-designated budget authority. Of that total, $20 billion represents amounts previously authorized by and designated as emergency spending under Public Law 107–38, the Emergency Supplemental Appropriations Act for Recovery from and Response to Attacks on the United States, and $15 billion is for homeland defense. That budget authority will result in new outlays in 2002 of $12.123 billion. In accordance with standard budget practice, the budget committee will adjust the appropriations committee's allocation for emergency spending at the end of conference. Because the funds for homeland security include amounts for nondefense activities, the emergency designation violates section 205 of the budget resolution for fiscal year 2001 (H. Rept. 106–577).

The Senate bill also violates section 302(f) of the Congressional Budget Act of 1974 because it exceeds the subcommittee's Section 302(b) allocation for both budget authority and outlays. Similarly, because the committee's allocation is tied to the current law cap on discretionary spending, H.R. 3338 also violates section 312(b) of the Congressional Budget Act. The bill includes language that raises the cap on discretionary category spending to

$681.441 billion in budget authority and $670.447 billion in outlays. However, because that language is not yet law, the budget committee cannot increase the appropriations committee's allocation at this time, putting it in violation of the two points of order.

In addition, by including language that increases the cap on discretionary spending and adjusts the balances on the pay-as-you-go scorecard for 2001 and 2002 to zero, H.R. 3338 also violates section 306 of the Congressional Budget Act. Finally, the bill violates section 311(a)(2)(A) of the Congressional Budget Act by exceeding the spending aggregates assumed in the 2002 budget resolution for fiscal year 2002.

H.R. 3338 violates several budget act points of order; however, it is a good bill that addresses the nation's defense needs, including the defense of our homeland. The President and Congressional leaders from both parties agreed in the wake of the September 11th attack that more money was needed to respond to the terrorists and to protect our homeland. This bill follows that bipartisan agreement and includes language that raises the cap on discretionary spending to the necessary level. I commend Chairman BYRD and subcommittee Chairman INOUYE on their excellent work in bringing this important bill to the Senate floor.

I ask unanimous consent that a table displaying the budget committee scoring of H.R. 3338 be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 3338, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

[Spending comparisons—Senate-Reported Bill (in millions of dollars)]

	General purpose	Defense	Mandatory	Total
Senate-reported bill:				
Budget Authority	13	317,206	282	317,501
Outlays	13	309,399	282	309,694
Senate 302(b) allocation:[1]				
Budget Authority	....	181,953	282	182,235
Outlays	....	181,616	282	181,898
House-passed bill:				
Budget Authority	....	317,207	282	317,489
Outlays	....	308,873	282	309,155
President's request:				
Budget Authority	....	319,130	282	319,412
Outlays	....	310,942	282	311,224
SENATE-REPORTED BILL COMPARED TO:				
Senate 302(b) allocation:[1]				
Budget Authority	13	135,253	....	135,266
Outlays	13	127,783	....	127,796
House-passed bill:				
Budget Authority	13	−1	....	12
Outlays	13	526	....	539
President's request:				
Budget Authority	13	−1,924	....	−1,911
Outlays	13	−1,543	....	−1,530

[1] For enforcement purposes, the budget committee compares the Senate-reported bill to the Senate 302(b) allocation. The subcommittee's allocation reflects the current law cap on discretionary category spending. The Senate-reported bill includes language increasing that cap to $681.441 billion (consistent with the agreement reached between President Bush and Congressional leaders). Because the increase in the cap is not yet law, the committee cannot revise the committee's 302(a) allocation at this time.

Notes: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions. In addition to the amounts shown above, the Senate bill also includes $20 billion in budget authority and $8.25 billion in outlays to respond to the September 11th attack and $15 billion in budget authority and $3.873 billion for homeland security. Such amounts are designated as emergency. The budget committee increases the committee's 302(a) allocation for emergencies when a bill is reported out of conference.

Prepared by SBC Majority Staff, 12-6-01.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, friends, Senators, Americans, lend me your ears. It was just 56 days ago on a day like this day, as clear as the noon day Sun and a cloudless sky, that tragedy struck.

Until September 10 we thought of national defense in terms of the soldiers, sailors, airmen and marines that make up our military. We sought to provide them with the best training and equipment that money could buy, and when duty calls, we expect them to leave behind their families and loved ones to go into harm's way to protect our country and our citizens from aggression.

Our concept of national defense has now been radically altered as a result of the September 11 terrorist attacks. It is not just our military personnel in Afghanistan who are on the front lines, but all Americans here at home are on the front lines. This zone of conflict extends to where we live, where we work, and where we play. Judging by the horrendous loss of life in New York, our own cities are the battlefield of the 21st century.

The President has said that "we are fighting a two-front war . . . our enemy is fighting an army, not only overseas, but at home." Our domestic army against terrorism is made up of those who work to enforce our laws, those who work to secure our borders, those who manage the Public Health Service, and those who provide for the security of our Nation's airports and nuclear facilities. Just as we provide for the finest and most capable military, we must provide for the defense of our homeland because, as I say, here, too, is the front line.

On September 14, the Congress passed a $40 billion emergency supplemental appropriations bill in response to the September 11 attacks on the World Trade Center and the Pentagon. There was absolute bipartisanship. There was no aisle between the parties then.

At the time, we thought we could split those funds between our military needs abroad and those needed to rebuild New York City and the Pentagon. However, since September 14, we have seen a biological attack unleashed on the east coast in the form of anthrax. The specter of small pox has reemerged for the first time in almost 30 years.

The distinguished senior Senator from Alaska and I can remember very well those schooldays when we were vaccinated for smallpox at school. I remember the little two-room schoolhouse there in that ancient coal mining camp of Algonquin in Mercer County, southern West Virginia, in the heart of the coal fields. There it was that I received the needle.

We have seen National Guard troops patrolling the Golden Gate Bridge. We have had threats made against our nuclear facilities. We have gained new information that Osama bin Laden loyalists have progressed further than originally thought in producing chemical and nuclear weapons, and those stories, those headlines appeared in the Washington press. The Administration has issued three vague warnings to the American people urging them to be on a heightened state of alert.

We have learned so much more about our potential vulnerabilities here at home since September 14. We now know that these vulnerabilities must be addressed, and that additional security precautions must be taken.

Of the $40 billion emergency appropriations bill passed on September 14, the President has committed $21 billion to our military and intelligence primarily for needs abroad. That leaves $19 billion for the President to fulfill his promise to provide $20 billion to rebuild New York City and the Pentagon and other areas which were the subject of the terrorist attacks. And the other area is homeland defense, of which he, himself, has identified $6 billion in needs. Clearly, within the confines of that $40 billion package, we cannot do it all.

The reality is that budget deficits are on the horizon as far as the human eye and as far as our computers can see, and certainly as far as the end of the President's second term, if he should choose to run, if the electorate should choose to elect him, and if the Good Lord chooses to let him live.

Under the guise of budgetary discipline, the administration has chosen an arbitrary number—independent of whether or not that amount can provide for our homeland defense needs—and the administration has decided to oppose or to postpone until next year any spending above that line regardless of the need or purpose.

Osama bin Laden does not care one whit, not one snap of the finger, about our budget agreements. His loyalists are not concerned about whether we have a supplemental appropriations bill in the spring. They are plotting attacks right now, this very minute. Twenty-four hours a day they plot. They plot when you are sleeping. They plot when I am sleeping. They will not wait until next year, and if we do not make these small investments now to address our potential vulnerabilities, then we risk substantially larger losses in the future—not just financial and human casualties but also the loss of the American people's confidence in their Government, the American people's confidence in their President, the American people's confidence in their Congress.

We cannot shortchange our homeland defense. We cannot postpone these investments. Our citizens have a right to know that the police, the fire and the hospital personnel in their communities have the equipment, training, and medicine to respond to a terrorist attack.

I have, with the help of my staff and with the help of the witnesses who have appeared before the appropriations subcommittees, crafted a package that addresses our most immediate vulnerabilities at home. This package provides the President's full request for our military operations abroad. We do not cut one penny from defense, defense as understood in the usual sense. We do not cut one penny from the President's promise and our commitment to New York City. Not one penny do we cut. And we provide for homeland defense. That is as much defense as is the defense of our military people who are overseas.

Americans have spilled blood in Afghanistan. Americans have spilled blood in Lower Manhattan, and within our own sight out of the windows Americans have spilled blood at the Pentagon. Is there any difference in the spilling of American blood whether it is overseas or at home, when the cause of that spilling of American blood and that blood itself is on the hands of terrorists?

The major elements of my homeland defense package include bioterrorism prevention and response, which includes food safety.

Our current public health system is ill-funded, fragmented, and unprepared to respond adequately to the threats posed by bioterrorism. The anthrax-laced letters sent through the mail afforded us just a glimpse of the terror; the fear, the concern, the apprehension, that could result from a more serious biological attack involving smallpox or Ebola.

We know that rogue nations like Iraq, Iran, and North Korea are developing biological and chemical weapons. We know that bin Laden loyalists have conducted research on chemical and biological weapons at 40 sites in Afghanistan.

The Administration has proposed $1.6 billion for bioterrorism prevention, just barely enough to increase our supply of smallpox vaccine and other necessary pharmaceuticals alone. To fit into the President's budget request, the Health and Human Services Department even cut back on its repeatedly stated goal of purchasing 300 million small pox vaccine doses, choosing to rely instead on diluted versions of older vaccine doses left over from the 1970s.

The Administration's chief public health expert, the director of the Center for Disease Control and Prevention, Dr. Jeffrey Koplan, indicated that the Administration's proposal is "too little, too late."

Moreover, Dr. Koplan estimates that it will take at least $1 billion to bring state and local public health agencies up to speed to be able to recognize and respond to an incident of bioterrorism. Yet, the Administration has proposed a paltry $115 million to increase State and local health capacity. Our proposal includes over $1.3 billion for expanding State and local health capacity, twelve times the President's request.

State and local health departments are considered the weakest link in the Nation's defense against bioterrorism, and experts say they must take a range of steps to improve readiness, including increasing their laboratory capacity and hiring more epidemiologists to track disease.

The Secretary of HHS, Tommy Thompson, when he appeared before our appropriations subcommittee to speak about protecting the American people from an outbreak of smallpox, said every State should have at least one epidemiologist. Experts say they must take a range of steps to improve readiness, increasing their laboratory capacity and hiring more epidemiologists to track disease. Who will be the first to respond to a biological attack, the State and local health officials down in Beckley, WV, the local law enforcement officers at Sophia, population 1,182?

These are the people who will be first. The Feds may come within 6 hours, 8 hours, or 10 hours, but those who will respond first are those law enforcement and health officials, fire department people who are there on the spot. They will be the first to die, and they will be the first to act to prevent others from dying.

Fewer than half of these health departments have access to the modern fax machines capable of expeditiously alerting hospitals of a bioterror threat. Our local health care providers are more likely to receive critical health advisories from CNN than they are from other health care officials.

My homeland security package would provide an additional $3.9 billion to not only expand the development of the Federal pharmaceutical stockpile and our supply of the smallpox vaccine, but also to expand state and local health care capacity. In contrast to the administration's funding proposal, this package prioritizes funding to "first responders" at the state and local level. The bulk of the funding is directed toward improving our public health departments, beefing up local lab capacity, and expanding the Health Alert Network.

Also, included in my homeland security package is $575 million that would be directed to the Food and Drug Administration, and the Department of Agriculture, to help prevent and respond to the malicious introduction of a highly contagious disease into our food supply. Aside from the obvious health threat, agro-terrorism would severely disrupt the economy and public confidence in the food supply.

We have to be conscious of the possibility that terrorists will act against our crops, against the Nation's livestock and threaten the lives of people through the food they eat.

We need only look to the recent outbreak of mad cow disease in Japan to see the chaos and economic devastation that would follow an agro-terrorist attack. I doubt many Americans would find comfort in the fact that the FDA only has the resources to inspect 0.7 percent of all imported food. Not 1 percent, only 0.7 of 1 percent. The FDA only has the resources to inspect 0.7 percent of all imported food.

When it comes to the health and safety of the American people, we cannot afford to cut corners. We cannot afford to gamble. We cannot afford to tempt fate. We must not deal with bioterrorism on the cheap.

Mr. SARBANES. Will the Senator yield?

Mr. BYRD. I am happy to yield.

Mr. SARBANES. I add the observation, we cannot afford to wait, either. Every one of the items—and I commend the Senator for his extraordinary leadership and initiative in this regard—every one of the items covered by his homeland defense program are matters we should address now, today, this week, this month.

They cry out for a commitment of resources to address airport security, port security, border security, the postal system, the assistance to State and local antiterrorism law enforcement, the firefighters, bioterrorism prevention, and protecting the nuclear powerplants. And in every one of these items, there is not a one of them we can look at and say, let's leave that; we will do that later; there is not a pressing need.

There is a pressing need now for every one of these items. I commend the Senator for moving forward with this initiative. Governor Ridge himself has said he will come in next year and ask for significant resources. But he needs them now. My perception is that Governor Ridge is being undercut in his effort to deal with homeland security by the fact that he is not picking up the additional resources he needs in order to go out into these communities—State and local governments, the health community, the security community—and say, we are in a position now to help move your program, and move it ahead. Much of this requires a response from others. If we don't provide the resources here with which to do it, when is it going to happen? We are going to delay it, 60, 90, 120 days? Who knows how long.

This is an opportunity, as the Senator has seen, to move now to address these pressing concerns. If we want to move the economy back up, a way to do it is to provide to the American people a sense of security and functioning within their own homeland, which the Senator has done, and about which he has spoken quite eloquently.

I register my very strong support for this initiative and thank the Senator for, once again, moving forward to provide very important leadership in this critical matter facing our Nation.

Mr. BYRD. Mr. President, the Scriptures say that a word fitly spoken is like apples of gold and pictures of silver. The words of the distinguished Senator from Maryland are fitly spoken.

The time is now. The danger is here. It is now.

Now, several subcommittees under the Appropriations Committee have had hearings, and I have been able to attend some of those hearings. We have heard eloquent witnesses appear before those subcommittees and testify to the need of appropriations now, aside from the fact that it is at the State and local levels where the need exists now.

I saw in the paper, I believe in the last week, a headline that the State of Virginia was suffering a $1 billion shortfall in State revenue. The State of Virginia is not alone in that respect. Most States in this country are suffering shortfalls in their budgets. They need help. They need money now. We cannot wait, as the distinguished Senator from Maryland has said.

In putting this package together, we have tried to consider those items which are purely for homeland defense.

On the question of the need of States and cities for Federal aid, 39 States—get this, 39 States—today, right now, nearly 4 out of 5 States, are in a recession or near a recession. Since March, the number of States in recession has nearly doubled to 20 States from 11 States with the terrorist attacks of September 11 helping to push some over the brink.

I will refer to this statement of facts again later.

I thank the distinguished Senator from Maryland. He is right on point.

My homeland security package also contains $1 billion for Federal, State, and local law enforcement. The attacks of September 11 dramatically, and tragically demonstrated that our country's law enforcement agencies need greater support to counter the terrorist violence that has reached our shores.

They need this support and, as we have already indicated, the States cannot provide it. The money is not there. They are already running into deficit, so they are looking to the Federal Government to help.

Of the $1 billion included in this package, $225 million would be used to improve communication and coordination between the FBI and the 43 Federal agencies involved in counterterrorism activities here at home.

Former drug czar Barry McCaffrey testified before the Senate Governmental Affairs Committee in October that the FBI's computers are woefully inadequate—those were his words, the FBI's computers are "woefully inadequate"—and that the computers in the homes of most Americans are more advanced than those used by FBI agents in the field. Think of that.

He also stated that a current FBI's computer upgrades effort is hampered by budgetary constraints. This $225 million that is included in this red section of the pie chart would jump-start those upgrades and move the Bureau's technology into the 21st century.

I see the distinguished Senator from New York, Mr. SCHUMER, on the floor. He is listening raptly. He has indicated that he wishes to make a point. I yield for that purpose.

Mr. SCHUMER. I thank the Senator, our leader from West Virginia, for the package he has put together. As somebody who chairs a subcommittee that oversees the FBI, I would like to say to the Senator from West Virginia that when the FBI came and testified before us, and the Senator from West Virginia asked them what their No. 1 hinderance was in fighting the war on terrorism, they said it was lack of resources. Their computers —I would just like to ask the Senator if he is familiar with this—in one part of the FBI cannot talk to the computers in the other part of the FBI, let alone talk to the computers of the CIA, the NSA, the INS, the ATF, and all of the other agencies.

I would like, before asking the question, to compliment the Senator. This is desperately needed. We are at war on our homefront as much as we are at war in Afghanistan. I think it was Vice President CHENEY who said we will lose more people on the homefront than on the battlefront. So I cannot see why we would not do this when our own people throughout America are at risk.

But I would like to ask the Senator if he has heard of this almost primitive computer structure at the FBI—that the computers are not able to talk to one another within the agency, let alone to others? And would the package deal with that problem in every way that the FBI might need?

Mr. BYRD. There is $225 million in this package to jump-start the effort to upgrade those computers. They are the instruments of communication between and among the FBI and the other agencies. It is a dire need, and it should be met now, not next spring.

Mr. SCHUMER. Will the Senator yield for another question?

Mr. BYRD. Yes.

Mr. SCHUMER. If we waited until next spring, could it be that the potential of our FBI to catch the terrorists or prevent the next—God forbid—terrorist incident from occurring in America would be greatly downgraded and it would increase the chances that—again, God forbid—some other incident might occur?

Mr. BYRD. The Senator is correct. Why wait? Why toy with "wait"? Why gamble? Why not act now?

The Senator knows we have wrapped a ribbon around this homeland defense package which says, in essence: Mr. President, you may use this or you may not use it. So we have an emergency designation. It is an emergency, Mr. President, and you have the key. You have the key. So it is your call, but here are the tools. If you need them, you won't have to wait until next spring.

The thing about waiting until next spring is we are really waiting until next summer or next autumn because the supplemental request doesn't come up on one day and end up being signed by the President on the next day; there have to be hearings and so on.

We have had the hearings now that indicated a dire need for these emergency items. So we are putting this ribbon, this blue ribbon that says emergency, E-M-E-R-G-E-N-C-Y, on it. Why? Of what are we afraid? Why don't we want the President to have this so he can carry out his commitment to protect the American people from the attacks of terrorism? He made that promise.

Mr. SCHUMER. I thank the Senator.

Mr. BYRD. I thank the Senator.

I also included $150 million in this package for cyber security. It is alarming to know that the next terrorist attack could cripple our Nation's economy simply by a few strokes of the keyboard. Cyber-attacks have cost our economy $12 billion this year alone. Just imagine the frightening consequences if a cyber-terrorist were to take control of one of our financial institutions, or to take control of one of our power grids, or to take control of our air traffic control system. That can happen.

Of the $1 billion included for antiterrorism law enforcement, one-half, or $500 million, would be directed to State and local law enforcement agencies. This is where the rubber meets the road in law enforcement.

State and local police departments are stretched thin enough, due to the need for an increased security presence throughout our cities and States. Twelve-hour days and overtime pay for State and local law enforcement personnel have become the norm since September 11. Right here in this city, in the capital city here around this Capitol Building, this building which is the most splendid edifice in the world, this has happened. It is taking place here: 12-hour days, overtime pay for State and local law enforcement personnel. The Office of Homeland Security has asked State police to increase their patrols of State nuclear facilities, without any Federal compensation or timetable for how long state assistance will be needed. Meanwhile, the activation of 57,000 National Guard and Reservists to support the Armed Services during our operations in Afghanistan and our counter-terrorism activities here at home has drained the manpower of many State and local police departments.

According to the National Governors' Association, State police patrols of our nuclear facilities will cost States an extra $58 million this year. It will cost another $46 million to secure our dams and bridges, $28 million to protect gas pipelines and power stations, and $75 million to assist Federal authorities with patrolling our borders.

Who makes up the National Guard? If I am wrong, I would like someone to point it out to me. Do doctors serve in the National Guard? Do policemen? Do law enforcement personnel? Do paramedics at the homefront and at the local level serve in the National Guard? Then why should we take those men and women away from the local level where they are most needed and where they will be the first to answer the call and send them up there to the northern border to patrol the border? What sense does that make? We need to keep them at home.

According to the U.S. Conference of Mayors, Los Angeles has spent more than $11 million so far due to increased security costs and lost revenue related to the September 11 terrorist attacks. The city's police and fire department deficits have doubled.

In Boston, Mayor Thomas Menino must now pay $20,000 in additional security costs every time a tanker enters his port carrying liquefied natural gas, and 42 tankers are on the way. Police overtime expenses alone in Boston so far total about $700,000.

Denver Mayor Wellington Webb is facing a long list of emergency needs, including biohazard-decontamination units, protective suits, bigger stores of antibiotics and drugs, special cameras, an anthrax detector, and a preparedness guide for every household that will cost in total $610,000.

In Baltimore, Mayor Martin O'Malley spent $2 million in overtime for police and fire departments in the first three days following Sept. 11. By year's end the added security costs are expected to hit $14 million.

Security costs in Dallas have passed $2 million and could reach $6 million by the end of the year.

At a time when our State and local governments are cutting budgets due to the recession, our State and local law enforcement need our support, and they need it now.

Ms. STABENOW. Mr. President, will the distinguished Senator yield for a moment?

Mr. BYRD. Mr. President, I am happy to yield to the distinguished Senator.

Ms. STABENOW. Thank you, very much.

As a Senator from Michigan, I wanted to rise to agree totally with what Senator BYRD is saying today about the pressure on our northern borders and our law enforcement officials who are now donating overtime on the borders. In Michigan, we have four different border crossings. We have the busiest bridge in the country through Detroit. We are stretching our local law enforcement to the limit, and we are using our National Guard as well. But we certainly have tremendous pressures on us.

I wanted to congratulate the Senator from West Virginia for what he is proposing.

I also wanted to quote for the RECORD part of an article that was in the Detroit Free Press, entitled "State's Health Care System Unready for Major Bio-Terror."

It says:

> The call came late the evening of Oct. 25 to the top health officer for two Upper Peninsula counties.
>
> Dr. John Petrawsky was told that a woman who had exhibited only mild cold symptoms the previous day had died. Her relatives said she had received a stranger letter with powder in it the week before.
>
> Was this anthrax?
>
> A pathologist at Marquette General Hospital refused to do an autopsy, fearing his facility couldn't contain lethal bacteria. No one at the state Department of Community Health in Lansing knew where the nearest properly ventilated autopsy room might be, Petrasky said.
>
> Finally, a pathologist tracked down by the U.S. Centers for Disease Control and Prevention advised doing a limited autopsy. The Marquette doctor agreed, and 19 hours later, Petrasky had his answer: It wasn't anthrax. The woman had died of something completely unrelated, and the crisis was averted.
>
> Or was it?
>
> In the weeks since Sept. 11, many Michigan hospitals and public health agencies are realizing how ill-prepared they are for biological or chemical warfare. Many hospftals lack proper decontamination and laboratory facilities. Public health departments are strapped by low staffing levels and inadequate communication between the departments and the state. Doctors are learning they may not know how to spot rarely diagnosed diseases like anthrax.
>
> After years of hospitals and public health departments being pushed to run lean, some say what's left is a system that can be overburdened by a bad flu season.
>
> "We don't have enough beds. We don't have enough nurses."

This is a very serious situation.

I cannot imagine a greater urgency.

I wanted to thank the Senator for his leadership on this issue.

I cannot imagine why we would not be coming together 100 Members strong in this Senate. We understand more than anyone else, given what has happened in our own complex with anthrax and the difficulties and challenges of finding out how to respond to it. We can only imagine how small communities in northern Michigan are struggling when they believe they may have, in fact, encountered something related to bioterrorism.

I congratulate the Senator from West Virginia. There is a tremendous sense of urgency in my State of Michigan and around the country. People assume we are acting. We are acting together in the defense of our country overseas. It is now time to act in defense of our homeland.

That is what the Senator from West Virginia is proposing, and I am hopeful that our Senate colleagues will join in supporting the plan that he has put forward, and which is so needed for all of our families.

Mr. BYRD. Mr. President, I thank the very distinguished and able Senator from Michigan for her cogent, very persuasive and forceful remarks, and for the observations she has made with respect to the needs of those at the local level who bear a responsibility to detect and to respond in the first instance to acts of terrorism on the part of those who have said to us: We will kill Americans.

As to the FEMA firefighters program, many people are just now beginning to appreciate the critical role played by our Nation's firefighters. We have taken these heroes for granted and, tragically, they have been denied the funding resources necessary to enable them to do their job as safely and effectively as possible. Their job is to protect people—men, women, old people, children. That is the job of these firefighters.

Last year, Congress took action to begin to address this provision by creating a new Federal program to provide direct assistance to fire departments.

Administered by the Federal Emergency Management Agency, the Assistance to Firefighters Grant Program received an initial appropriation of $100 million, which was quickly depleted by tremendous demand. The agency received more than 31,000 applications totaling nearly $3 billion in requested funds—almost 30 times the amount appropriated.

This package includes $300 million in grants to State and local communities to expand and improve firefighting programs through FEMA firefighting grants. Over 50 percent of that funding goes to volunteer fire departments in rural communities.

Some rural communities in this country are using fire wagons, firefighting machines, and fire trucks that are 20, 30, or 40 years old. In the countryside, the volunteer fire department is the first and only entity available to deal with a crisis.

Now, we have heard much about the letters that have come to the Senate leader, Senator DASCHLE, and to the Senator from Vermont, Mr. LEAHY, and to some other Americans. So today the American people are victims of terrorism by mail, delivered to your home, brought to your street address. We will deliver it, packaged, ready to kill.

This is not something that might happen sometime in the future; it is happening now. I do not like for my wife to go to the mailbox. Who knows.

There could be an envelope in that mailbox that could have some deadly pathogen enclosed. It could be your wife. It could be your daughter, your father, your husband. This is real.

How do we know? I know. My staff has not been in their offices since October 15. That is how I know. We are located in the southeast corner of the Hart Building. How many letters have I received since October 15 from my constituents, who send me here to vote to protect them and to protect their interests? How many letters have I received? Twelve. We received 12 yesterday, 12 letters. It is real.

And we seek to protect ourselves. We have fumigated the offices. We have taken action to decontaminate the offices so that our people can move back into those offices. Action has been taken to clear the streets nearby while these things have been going on to decontaminate our offices.

How about the people on Main Street in Sophia, are they being protected? Oh, it is easy to say to our people: Go about your business. Everything is OK. Get out there and go to the stores, go to the movies, go to the restaurants, buy, buy, buy. It is easy to say that. It is easy for me to say: Come to West Virginia. We want to build up our tourism in West Virginia. Come to see West Virginia. Come to see Washington. I can say that, can't I?

Why? I have much in the way of protection here, and so does every other Senator. The President pro tempore has security—takes him home with him at night, brings him to the office in the morning, stays in the office daily, stands outside the office, ready to protect the President pro tempore against all comers.

The President goes in Air Force One, the Vice President goes in Air Force Two, other people high in the Government have protection.

Out here we have concrete barriers. You cannot get into this Capitol without being carefully scrutinized and having your pocketbooks opened and your packages carefully inspected. We are protected. We live in this little, tiny bit of the world.

The worm crawled upon the clod, and the worm said: Aha, I see the world.

The squirrel climbed the tallest pine in the southern hills, and he looked about him and he said: Aho, I see the world.

The eagle—the national emblem of our country, the eagle—flew high above the Earth into the blue heavens and said: Ho-ho, I see the world.

So we see the world in our own little corner here. I feel safe—fairly safe—because of all these protections here. But we do not see the world as that miner or that farmer, that office worker, that professional, that lawyer, that minister, the housewives, the schoolteachers out in the rural areas of the country or who are out in the greater urban cities.

We do not see things as they see them. They do not have Secret Service to protect them where they go. They do not have security personnel to protect them, as I have. They do not have the concrete barriers out there. They do not have the physician just 2 minutes away from my office. They live in a different world.

Why can't we see it through their eyes? Why can't we take off the green eyeshades and see the world as our people see it—the people out there who are subject to these terrorists, who run these risks every day, those who come into Penn Station in New York. Seven hundred fifty trains every day come into that station—500,000 persons: Commuters, tourists, people on their way to work—500,000 every day. Can they see the world through our eyes?

They come in the tunnels, tunnels that were built before World War I, tunnels that are inadequately lighted, inadequately protected, and without adequate means of access—ingress and egress—without adequate escape routes, without adequate ventilation. Those are the tunnels.

Those people face these potential terrorist acts every day, going to work, coming from work, wanting to do no more than just earn an honest living, earn their daily bread by the sweat of their brow. They need protection. Who are we to deny it to them? Fie on us. We know the need is there. And we know it is our responsibility to provide it. And we are doing it. We are doing it in the package here that has a little blue ribbon around it that says: Mr. President, you can spend this. It is here. You do not have to spend it, but here it is—right now, tonight —if you need it to protect the people.

That first phrase in the preamble to the Constitution of the United States says: "We the People of the United States, in Order to form a more perfect Union. . . ." That is not talking about an aisle that separates one party from the other. That is not talking about in order to form more perfect political parties —"a more perfect Union." And now is the time when we should do our part to form that "more perfect Union" right here in this Senate and join together and vote together to support this eminently sensible package.

The U.S. Postal Service is a $70 billion organization, and it is part of a $900 billion industry. It has seen mail volume drop by 7 percent since September 11 and lost between $200 million and $300 million in revenue. The Postal Service reported a $1.7 billion loss in fiscal year 2001—on top of $200 million in losses last year.

The Postal Service has asked for $3 billion to cover the cost of equipment to safeguard the mail. In response, the administration has provided $175 million so that the Postal Service can buy gloves and masks for now and has promised more money later. It is almost laughable, if it were not so serious.

That is not enough money for the Postal Service to deal with this crisis that is happening right now. Here it is. The words read "postal security, $875 million."

This package provides an additional $875 million to begin to make the security changes necessary to keep the mail moving and to allow the Postal Service to respond immediately to this and future terrorist attacks.

How little did I imagine, when I came to this great institution, the legislative branch, 50 years ago next year, how little did I realize that there would come a day when our mail would have to be screened, when I, as an elected representative of the people of West Virginia, would see my staff forced to evacuate the U.S. Senate office building in which they were located? How little did I foresee that the time would come when, over this long period of time since September 11, only 12 letters would reach my office from my constituents, and only yesterday did the 12 letters come. I never dreamed of such a thing, never dreamed of it.

Yes, I was there in the House of Representatives when the Puerto Ricans, who were in the galleries, shot Members of the House who ran for the doors, who fell behind the desks, and who fell in the center of the floor of the House of Representatives, wounded. Not until then did they require that Members have cards that they could present to the galleries. I sat there tongue-tied as I watched. I thought it was a group of demonstrators using firecrackers or some such until I saw Members fall.

Little did I know at that time that the day would come when this deadly anthrax would be delivered right to our building, right to our doors, the office doors, right to the desks of the workers. I never thought about that. But we know it now.

Our border security is dangerously underfunded. It leaks like a sieve. Right now, today, the Immigration and Naturalization Service conducts some 500 million inspections at our ports of entry every year. Yet there are only 4,775 INS inspectors to process these hundreds of millions of visitors. That is one inspector—just one—for roughly every 100,000 foreign nationals who cross the Nation's borders.

There are only 2,000 INS investigators and intelligence agents to track aliens who have entered this country illegally, overstayed their visas, or otherwise violated the terms of their status as visitors in the United States. That is one—just one —investigator for every 4,000 illegal aliens.

The U.S. Customs Service currently has the resources to inspect only about one-third of the truck cargo crossing the southern border. And of the 400 ships that dock in the 361 ports of this country, only about 2 percent of the cargo is inspected.

On our northern border with Canada, the Immigration and Naturalization Service currently has 498 inspectors at ports of entry and 334 Border Patrol agents assigned to the northern border. That is a 4,000-mile-long border. So that equates to about one INS inspector for every 8 miles and one patrol agent for every 12 miles of the 4,000-mile-long northern border.

Of the 113 northern border ports of entry, there are 62—more than half—62 small ports that do not operate on a 24-hour basis. Just imagine pulling up to one of those 62 ports of entry along the northern border where we don't have agents 24 hours at a time. There you will see a sign that says "stay out." There you will see a yellow cone—not a person, not an INS agent, not a Customs agent but a yellow cone. It is open some hours of the day when there is nobody there during certain times of the day.

This week the Attorney General announced an emergency program to place National Guard troops on the northern border. A Justice Department official stated that "it is a great vulnerability that needs to be dealt with immediately."

This package reads, "border security, $591 million," for additional Border Patrol agents and screening facilities primarily on the northern border. We must provide the funds and we must do so now.

I spoke a moment ago about our seaports, our lack of adequate port security. Our seaports are perhaps the weakest link in our national security. Yet they are just as important to our border security as are our land borders with Canada and Mexico. And yet they remain dangerously exposed. Ports are international boundaries through which 95 percent of U.S. international trade arrives.

Last year, we imported 5.5 million trailer truck loads of cargo. Yet the U.S. Customs Service has the resources to inspect only 2 percent of the cargo that enters this country by sea.

As we were preparing this package in my office, Senator HOLLINGS raised the warning sign: The need for money to be used for security of our ports.

With only 2 percent of the cargo that enters the country by sea being inspected, that means a terrorist would have a 98-percent chance of sneaking illegal and dangerous materials into this country. So our chances are 2 out of 100. The terrorists' chances are 98. So it is 98 to 2 percent.

The average shipping container measures 8 feet by 48 feet and can hold 60,000 pounds. That is just the average. A bulk ship or tanker transporting cargo can hold hundreds of times the amount of explosives or other dangerous materials that could ever be smuggled on an airplane or a truck crossing a land border. While agents at the U.S.-Mexican border are tearing the seats out of a car to search for drugs, a crane just up the coast a little ways in Los Angeles can lift thousands of truck-size cargo containers on to the dock with no inspection at all.

I remind my distinguished colleagues that Osama bin Laden has vast shipping interests which he used to transport and sneak into Kenya and Tanzania the explosives used in the U.S. Embassy bombings.

Last month, a suspected member of the al-Qaida terrorist network was arrested in Italy after he tried to stow away in a shipping container heading to Toronto. The container was furnished with a bed, a toilet, and its own power source—how about that, its own power source—to operate the heater and to recharge the batteries. That terrorist was ready, he was prepared. According to the Toronto Sun, the man also had a global satellite telephone, a regular cell phone, a laptop computer, cameras, identity documents, an airline mechanics certificate, and airport security passes for airports in Canada, Thailand, and Egypt. He had thought of everything. This incident only expands what type of cargo we must be looking for at our Nation's ports.

The danger is here, and it is now, and it is not waiting until next year's supplemental to cross the desk of the President along about the middle of July or August.

Nuclear powerplants: In just the past few days, I can recall seeing headlines in the Washington press about the dangers to our nuclear plants in this country.

I have on the chart a map of the United States showing where the nuclear power reactors are, in the red cone, and where the nonpower reactors are. They are the reactors that are used for educational and research purposes. They do not produce power. The weapons complexes are shown by the green dots. The nuclear reactors are shown by the red cones. The nonpower reactors are shown by the blue squares.

There are 19 States in this country that have no nuclear plants, that have no power-producing reactors. There it is.

Mr. President, nearly every facet of daily life that was America prior to September 11 must now be regarded in a new light. We have to climb upward from the worm's clod, upward from the squirrel's tree. We have to go above the eagle's flights to see the world as it is and as the people out there who sent us here see the world, not through green eyeshades. But they see it every day.

Nearly every facet of daily life must now be regarded in a new and different light. The face of our enemy has become increasingly clear in recent weeks. He is an enemy who will live among us. He is an enemy who will enjoy our generosity and the blessings of our freedoms. Then he will callously turn all of these against us.

This is an enemy with no fear of death. None. He will count it an honor to die, to kill Americans and to die in the act. He will be immediately entered into paradise. They have no fear and apparently little regard for life. This is the enemy of our nuclear nightmares.

According to the Washington Post of December 4, U.S. intelligence has compiled credible information that Osama bin Laden and his al-Qaida terrorist network have taken several disconcerting steps toward developing radiological weapons. The Post reported that bin Laden and his loyalists "may have made greater strides than previously thought toward obtaining plans or materials to make a crude radiological weapon that would use conventional explosives to spread radioactivity over a wide area, according to U.S. and foreign sources."

There you have it. Now we are being warned. In fact, the Post relayed a discomforting description of a meeting within the last year in which "bin Laden was present when one of his associates produced a canister that allegedly contained radioactive material. The associate waved the canister in the air"—as one would wave an aerosol air spray. Ha, here it is; I have it; eureka—"The associate waved the canister in the air as proof of al-Qaida's progress and seriousness in trying to build a nuclear device."

Most young Americans have never known the fears of nuclear war that once haunted their parents and grandparents. They have never had to hunch under their school desks in nuclear drills or stock the family fallout shelter with jugs of water or cans of food in preparation for attack. We of our generation have seen these things. And while, to date, we have seen no evidence that bin Laden has the capability to deliver a nuclear warhead, he has made clear his intention to acquire such technology, and it is increasingly evident that he may well possess and be prepared to use a crude version known as a "dirty" bomb.

Clearly, he is well positioned to possess such a weapon and the makings of such a device are pitifully easy to acquire.

The key ingredient is radiological material, which exists in abundance in Russia, just next door to Afghanistan, and right here in our own country at nuclear power plants and research facilities. While we would like to believe that such material is closely guarded, the United Nations' International Atomic Energy Agency has confirmed 376 cases of illicit sales of stolen radioactive materials since 1993. That was in USA Today, November 3, 2001.

Although a dirty bomb does not have the kind of massive explosion that destroys broad areas, the detonation of such a weapon would have devastating consequences. Some experts have estimated that a single such bomb could cause 100,000 casualties within a 3-mile radius in an urban area, and render it uninhabitable for years, if not decades.

If we Senators think we have been terribly put out by the evacuation of our staffs from the southeast corner of the Hart Building—and my staff falls into that category—if we think that is bad, let the terrorists find some way—remember, bin Laden does not count his life as anything. He will gladly consider it an honor to lay down his life, not for his friend, as the Scriptures say, but to kill Americans. He would count it an honor.

Remember, they have shown they can deliver catastrophe, disaster. They can guide a plane into each of two world towers. They can demolish them. They can kill thousands of people. We need not ponder as to whether or not they could find a way to deliver this dirty bomb which, if exploded on The Mall in Washington, would render the buildings around The Mall uninhabitable. And if the wind were coming our way, it would do the same with the Capitol, and the people at the White House would not be at the White House any longer. They would have to go to "undisclosed locations." For a month? For a year? For a decade? Picture that. What about the fear that would spread throughout the country?

It was in 1991—10 years ago recognizing the potential for the vast number of Russian nuclear weapons to fall into the wrong hands, that the Congress created the Nunn-Lugar Program to eliminate Russian nuclear weapons in a safe and secure manner. The budget for this program has been cut back for each of the last 3 years, but not because Russian nuclear weapons are now secure. In fact, in January 2001, a panel headed by former Senator Howard Baker and former White House Counsel Lloyd Cutler found that the threat of terrorists getting their hands on Russian nuclear weapons is the most urgent unmet national security threat to the United States today. Clearly that threat remains. My homeland defense package provides $286 million for nuclear nonproliferation programs that would help to get at these unabated sources of nuclear material abroad.

Moreover, my package contains $215 million to help secure nuclear facilities on our own shores, and to peacefully engage these 60,000 nuclear specialists in Russia not employed now that the Soviet Union has broken up.

It has taken decades of public relations and education to begin to ease the discomfort once prevalent among communities asked to house nuclear energy facilities. Even now, though the Nation boasts 104 nuclear power reactors, many Americans are unsettled at the thought of having such a nuclear neighbor.

Today, through long years of safe operations, nuclear power is a significant player in the international power generation game, and it is an important part of America's overall energy mix.

(Mr. DAYTON assumed the Chair.)

Mr. KENNEDY. Will the Senator yield for a question now or sometime later in his presentation, whatever would be agreeable? There are some questions in particular on Nunn-Lugar I am interested in addressing to the Senator as it applies to the whole issue of bioterrorism. But I am glad to wait, if he desires, to inquire of him after he has some additional time for his presentation.

Mr. BYRD. If I may continue for another minute or two, I will be happy to yield.

Mr. KENNEDY. I thank the Senator.

To keep it that way, nuclear power companies and the NRC recognize the need to reassure the public that their plants are secure—not only secure in the sense of the pre-September 11 world, but also impervious in the post-September 11 world. That may be one tough job.

Nuclear plants, though built to tough standards, were not designed to withstand the impact of a commercial jetliner. But what is really disturbing may be that, even though the plants have been designed with a goal of stopping an assault on land—something along the lines of well-armed intruders in heavy trucks or SUVs storming the plant—their tested security performance is surprisingly poor.

In fact, according to another recent article in The Washington Post though the plants are always warned in advance about the NRC's tests, which involve mock assaults by actor-intruders, 47 percent have revealed "significant weaknesses" in their security forces—significant being something in the realm of an American Chernobyl.

There are, however, other less well-publicized security problems at our nuclear facilities that need attention now.

Questions about just who is employed in our nuclear program in this country are begging to be addressed. The Los Alamos Laboratory scandal provided a mere glimpse of the security challenges confronting a field whose payrolls are thick with foreign-born employees, and a nation that has long provided educations to foreign students seeking to build careers in such fields as nuclear physics.

Moreover, in response to concerns about "dirty" bombs, many industry critics are currently looking with renewed concern at the 40,000 tons of spent fuel stored at operating and shut down plants in our own country. These radioactive pools, housed in standard concrete or corrugated buildings, have never been the focus of NRC security tests. The Union of Concerned Scientists reportedly refers to these buildings as "Kmarts without neon." To a determined terrorist, they are thrift stores of bomb-making material.

NRC Chairman Richard A. Meserve, conservatively referring to the events of September 11 as "a wake-up call," conceded that the terrorist acts have changed the agency's attitude about "reasonably foreseeable" threats, and ordered a "top to bottom" review of security rules. But whatever the outcome of the review, action is needed sooner rather than later.

The plants have already been placed on high-alert. Defenses have been bolstered on land, in the air, and on nearby waterways. Patrols of local police, as well as private security businesses and even some National Guardsmen, have been stepped up. All of these measures are costly. And a new review of our nuclear plants under the lens of terrorism potential is sure to identify additional security risks and recommend additional security measures.

Make no mistake about it, our overdependence on foreign fuels, particularly from lands where political tensions run high, is a vulnerability waiting to be exploited. If our energy grid is dismantled, if our power plants are attacked, if our nuclear advances are pirated and turned against us, America will feel the shockwaves. Moreover, if our nuclear plants are assaulted, if they can be made into weapons in our own backyard, the confidence of the public so carefully nurtured by the nuclear industry in recent years would be destroyed. It would be a heavy blow to our Nation's energy security.

I am happy to yield to the distinguished senior Senator from the State of Massachusetts, if he so desires.

Mr. KENNEDY. Thank you very much, Senator.

In reviewing the content of your proposal, I would like to ask a question. We believe as a Congress and as the Senate of the American people in giving the full support we can possibly give to the men and women fighting in Afghanistan—supporting their efforts with the best equipment, the best technology, the best leadership, and the best training. We have had good discussions and debates over a period of time as to how that can and should be done. I don't know if the Senator was there when we had the Secretary of Defense briefing Members of the Senate. He was asked specifically: Was there more to do?

His response was: We will have a chance after the first of the year.

As someone who listened to that briefing, I certainly felt, as a Senator from Massachusetts having supported the past Defense appropriations bills, we had done what was necessary to secure the defense and to carry forward America's interest in the battle against terrorists.

Now I ask this question: It appears to me we have followed our experts in assuring that those who are going to be on the front lines of the military will have the best resources. Shouldn't we follow the experts who are similarly engaged in trying to advise us as Americans what we can do and must do in order to battle against bioterrorism? It seems to me in reading through the thoughtful, compelling rationale for the Senator's amendment, that is just what this amendment does. I ask further if the Senator would not agree.

We have just heard in the past few weeks the head of homeland security, former Governor Ridge, say: Next year, we are going to have to spend billions and billions of dollars to build up our public health systems so we will be able to have an early warning system in this country. That is what has been recommended by the public health system that has studied the program. He is talking about billions and billions of dollars next year.

We have had the work group on bioterrorism preparedness, a conference of leading experts in bioterrorism and public health. It is probably the most distinguished group of individuals that have studied this problem—long before September 11. Many have been involved in the elimination of smallpox, as has Dr. Henderson. And having worked in the former Soviet Union, he recommended we needed at least $835 million just to begin to meet the public health needs to fight bioterrorists. That recommendation was made prior to the anthrax incident.

We have had the National Governors Association discussing their estimate in terms of the needs they face in public health. We have had the American Hospital Association discussing $11 billion so hospitals can be prepared. We have had Johns Hopkins University, which houses probably the most thoughtful bioterrorist center in the country, which Dr. Henderson headed. They said just to make the hospitals ready in the major cities is another $750 million.

This is billions and billions of dollars. I am impressed by the fact that the Senator's amendment is a modest amendment. It is targeted to current needs and can be expended immediately in order to make sure there would be safety and security for our fellow Americans.

I have difficulty understanding why the administration wants to wait until next year to start this process when we know if we wait, we are putting at risk the lives and the well-being of our fellow citizens. I am interested in asking the Senator, if we are listening to the best in terms of our military advice, shouldn't we listen to those experts in the area of bioterrorism who are advising and giving us notice. Shouldn't we listen to those experts who have an awareness of the countries needs, and try the best we can to follow their recommendations?

Is not the Senator's amendment a reflection of the best in terms of those who have studied this problem?

Mr. BYRD. Mr. President, the Senator is preeminently correct. As we in my office, our staff, considered this package, we were mindful of the testimony that had been given in the appropriations subcommittees. We were mindful of the subcommittee that had been chaired by Mr. DORGAN, the subcommittee that had been chaired by Mr. HARKIN, the subcommittee before which Senator KENNEDY and Senator FRIST, the eminent "one" physician in our midst, before which subcommittee they appeared and recommended moneys be spent for bioterrorism. I was visibly impressed by their testimony and commented on it. They had studied this matter quite at length. They had listened to the specialists in the field. They had listened to the Governors. They had listened to mayors. They had listened to legislators at the State level. They came up with this very tightly drawn package, bioterrorism package.

We have used that information, used that material and used the advice of the Senator from Massachusetts and the advice of the Senator from Tennessee, Mr. Frist, as we put this package together.

So in that bioterrorism area, we have sought to improve the food inspection lines, we have sought to provide for additional studies of advanced and second generation anthrax and other viral agents, and we have sought to provide for the laboratory specialists, the CDS and the labs at the State and local levels, the moneys they need to deal with the next attack.

You see, we are not dealing with just the last attack. We are dealing preventively, we hope, against the next attack.

Let me take this opportunity to compliment the distinguished Senator. He has been busy day and night, and so has Dr. FRIST, in talking about, in working in connection with, this area of safety and welfare for the American people.

Mr. KENNEDY. I thank the Senator for his remarks.

I pay tribute to my colleague, Senator FRIST. Senator FRIST and I had hearings going back to 1998, 1999, and then passed legislation dealing with bioterrorism and also drug-resistant bacteria. The kinds of problems we were facing, healthwise, were similar to problems with many of these pathogens.

But I want to raise another question to the Senator. I have before me the review of the States by the Public Health Service. This is after the anthrax attacks that have infected 17 and killed 5 of our fellow citizens. What we have seen in the wake of these attacks is that our capacity to deal with this was right at the edge of being overwhelmed. And not just in the particular regions where these incidents took place but all across the country, all across the Nation.

I will just read about a few of the States. I will include in the RECORD a few examples from the States that illustrate this. Let me mention these incidents and ask the Senator whether this is something to which he believes his particular measures will respond.

Here is the State of Iowa after the anthrax attack. This report is very recent—just a few weeks old. They are talking about the public health situation of Iowa.

> The State and local public health systems have been overwhelmed trying to meet the needs of State and local law enforcement agencies in evaluating testing threats. We have been working 10-hour days and all weekends, just to try to keep our heads above water. We need help.

That is Iowa.

Ohio:

> We have processed 722 samples related to the anthrax threats in the laboratory. The signs of stress are showing in a number of staff as a result.

This is Ohio.

> There is not enough staff to respond to all the tentacles that are out there with the public in terms of these false attacks that were taking place.

Tennessee:

> Our communicable disease control in our 13 regions has been working night and day to respond to white powder exposures. The State laboratory has been overwhelmed with volume testing, 450 testings in 3 weeks. We have had to pull resources from other areas, leaving us vulnerable to food-borne outbreaks.

In Wisconsin:

> We have processed more than 400 anthrax related specimens since October 10. The staffs are overwhelmed and overstretched.

This is true in just about every State of the country. These examples are just a result of these past weeks. The Senator is asking why should we take a chance with the health and the lives of the American people in not putting in place the kind of mechanisms we have had recommended to us in order to protect the lives of American people.

Senator, earlier today in the Judiciary Committee we heard from Attorney General Ashcroft. He spoke of all the emergency steps that are being taken in order to deal with the problem of terrorism here at home. We are supportive of so many of those. We heard of the extent to which we are going in order to protect the lives of American people, and all the times we might have to bend the civil liberties of the American people in order to protect them. We are here to make sure we are going to try to get it right—that those steps are going to be effective and they are going to be able to do their job and while also protecting our rights.

Now we come over here this afternoon, and the Senator from West Virginia has an eminently reasonable, responsible amendment. His amendment responds to the findings, the recommendations, and suggestions of people who know this business, and we are told, well, we don't have to deal with this.

I commend the Senator for his thoughtfulness in bringing this together.

I will just make a final, quick point and ask the Senator whether he might agree with me. We have a strategic oil reserve. We have this strategic oil reserve in order to protect the American industry and American families if we run short of oil or if oil is going to run excessively high in cost. I wonder why we should not have a strategic pharmaceutical supply, so we are able to guarantee to every child, every elderly citizen, in this country that if we face the challenge of smallpox—that they will be adequately protected. If we can do it in terms of oil, it seems to me we ought to be able to do it in terms of smallpox. The amendment of the Senator from West Virginia moves us down that path. Any Senator who supports that amendment will be able to go back home, and in any town meeting they have with parents around this country, they will be able to say: We voted to make sure we are going to be able to provide smallpox vaccine if it becomes necessary to protect your child.

How does anyone believe that is somehow a failure of investing in the security of this country?

The bioterrorism amendment of the Senator is a few billion dollars. We are spending billions of dollars overseas—and I support that. Why is it we are willing to spend billions of dollars overseas to try to dislodge al-Qaida that may kill some Americans in the future, and fail to support the amendment of the Senator from West Virginia, which is a few billion dollars in order to protect American citizens? I just don't understand it.

I don't know whether the Senator can help me to try to understand the rationale and reason for that because it seems to me he has made eminently good sense. The amendment is based upon the solid record of those who have studied this particular issue and is in response to the needs we are facing.

I know the Senator has other matters to which he wishes to speak. But I remember when we had the Office of Technology Assessment. They did a study about the potential impact of an anthrax attack on the United States. It was going to cost, for 100,000 Americans who were exposed—it was going to cost $26 billion, for each 100,000 Americans who were exposed.

We are talking about all different kinds of possibilities. The Senator has in his homeland security proposal a very important downpayment to make sure we are going to meet those threats. He has other very important measures to which I know other Members want to speak. But the evidence is there.

I mention finally on the bill the Senator referenced—the bill Senator FRIST and I introduced—there are now 74 cosponsors of that bill. Yours is a slight degree above the Frist-Kennedy bill, but there are 74 cosponsors for our bill.

I, again, thank my friend and chairman of that committee for his foresight in this area, and for all the good work he is doing to protect families on the issues of bioterrorism. I know that later on we are going to have an amendment by the Senator from Indiana with regard to the Nunn-Lugar proposal which will help deal with the problem and dangers of nuclear proliferation.

Also, we are concerned about the dangers of proliferation of bioterrorist material that exists in the Soviet Union. The Soviet Union at one time was able to produce 24 tons of anthrax a day. They have stored that in various areas. Even Mr. Chernov, who was a member of their national security council, was warning that he was not satisfied that they had adequate protections.

We are interested in trying to work cooperatively with the Soviet Union to contain it.

We are interested—as this amendment will do—in building the early warning systems through the public health systems. We want to build and support the treatment which is necessary in terms of helping and assisting the hospitals, and we want containment so that it will not expand.

The Senator from West Virginia has an amendment that deals with all of those measures as a downpayment for every family to make sure they are going to be protected from a bioterrorist attack.

I commend him and look forward to supporting his amendment.

Mr. BYRD. Mr. President, I thank the Senator for his cogent, lucid, and very pertinent remarks. It boggles my mind, it boggles my mind and my imagination that there is opposition to this package.

Does the Senator know that we have this package wrapped up and tied with a little blue ribbon, and on that ribbon is the word "emergency?" We have an emergency designation on this whole package.

If the President wants to use the money, it is there. We say: Here it is, Mr. President. We want to help you keep your promise to the military.

There is $21 billion for the military. That is what the President said he wanted for defense. Every penny is there. We have not cut a penny.

He said on September 20 to the joint session of the Congress—I was there, the Senator from Massachusetts was there in the House of Representatives when the President spoke.

> Our Nation has been put on notice. We are not immune from attack. We will take defensive measures against terrorism to protect Americans.

Here it is. Right here is the defensive measure to protect Americans against terrorism. I am trying to help the President keep his promise.

He also promised $20 billion for New York City and the other communities that were involved in that attack. He promised them. We are committed to it. We are trying to help the President. I am not trying to get in his way. I am not trying to embarrass the President. I am saying, Mr. President, let me on your boat.

I am trying to help him. Here it is. You don't have to spend it because we have an emergency designation.

What is wrong with that? Who can complain about that? The American people want this. They need it. They are entitled to it, and we have a responsibility to give it to them. This is defense. Whether it is in the foreign fields or here in this country, it is defense.

When we talk about helping our military, we have military people in this country. They are training in this country. They are in Georgia. They are in South Carolina. They are in California. They are all around the country. They, too, might suffer from a pathogen that comes in the mail. They, too, might suffer from a terrorist act.

We are acting to protect our people, whether they are in the military, or whether they are not in the military, in this country and abroad.

We are trying to help our President to keep his promise. We are not trying to be a problem for him. We are trying to help him.

I am sorry that I think he is being ill advised by some people around him. I will not name of whom I have suspicions. But I think the President is well meaning. I was impressed with the President when he spoke at the House of Representatives. But I think he is being ill advised.

This is not a party matter. It is not a Democratic matter. It is not a Republican matter. It is a not a Republican threat.

So help us. Let us join together and fulfill that first phrase of the preamble of the Constitution:

> We the People . . . in Order to form a more perfect Union . . .

Let us form that more perfect union. Let us form it here. Let us form now that more perfect union. Let us have no aisles separating Democrats from Republicans on this issue. This is not a political matter.

I thank the distinguished Senator for his observations, for his good work in this area, for his support of this effort, and for the leadership he is providing.

Mr. DORGAN. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes, I yield for a question.

Mr. DORGAN. Mr. President, I wanted to ask the Senator from West Virginia a question about the issue of border security for which he provides in his amendment.

I am especially interested in the issue of the security of our northern border. We have twice as many Customs agents on the southern border between the United States and Mexico as we do on the northern border between the United States and Canada.

With respect to the Border Patrol, we have roughly 500 Border Patrol agents on the northern border between the United States and Canada to control those 4,000 miles. We have 9,000 agents on the southern border between the United States and Mexico.

I note that the Senator has included in his amendment some resources to deal with this border issue. The reason I ask the question is you cannot provide security for this country unless you provide security for our country's borders—not just some of the borders but all of the borders because the terrorists will seek the weakest link.

There was recently a story of a fellow from the Middle East who was shipping himself in a container to Toronto, Canada—a suspected terrorist. He put himself in a container. He had a food supply; he had a heater; he had a global positioning satellite mechanism; he had a cell phone; he had a toilet. He had all the comforts. He had food.

When they found him in this container on a container ship having tried to ship himself to Toronto, Canada, he got out of the container, and they said he was very well dressed. He looked quite well.

The question is, If he is shipping himself in a container to Toronto, Canada, to come into this country to commit a terrorist act, do we have the resources on the northern border to be sure that we are going to catch suspected terrorists or those associated with terrorists who are trying to come into our country?

At the moment, on the northern border, Customs agents are working 12 to 14 hours a day, 6 days a week, and have ever since September 11.

The President did not request additional resources for new Customs agents. He requested some additional resources to pay for overtime, which they will have to do given these outlooks. But the fact is, we need more agents. We need new resources.

It is very interesting that a request was made by the administration for Border Patrol agents and for immigration agents but not for additional Customs Service agents.

The Senator, with his amendment, has provided for additional resources for our border protection and border security, especially on the northern border. Is that not the case?

Mr. BYRD. That is true. We have presently 498 inspectors on the 4,000-mile long northern border—334 individuals who travel from one area to another, the Border Patrol—and at 62 of the 113 ports of entry along the northern border nobody is watching at certain hours of the 24-hour day.

We are trying to provide additional moneys in the amount of an extra $551 million to meet these needs and to meet them now. Yes.

Mr. DORGAN. Mr. President, if I might inquire further of the Senator from West Virginia, I have traveled to those border ports of entry. My State has a long common border with Canada. I have been there at 10 o'clock in the evening when the port of entry closes. I have seen what they do. On that paved road between the United States and Canada, at closing time, they put out an orange rubber cone in the middle of the road, and that is our security past 10 o'clock at night.

As I have indicated, an orange rubber cone cannot walk, it cannot talk, it cannot shoot or tell a terrorist from a tow truck. And the polite people who violate our ports of entry, they apparently stop the car, after the port of entry is closed, and they actually move the rubber cone, drive through, and put the cone back. Those who are not so polite come running through at 60 and 80 miles an hour and just shred the rubber cone.

The point is, terrorists will always find the weakest link. For this country to have good security, adequate security, that gives people confidence, you have to have security of all of your borders. And it has not been the case with the northern border.

It is the case that the Port Angeles point of entry is where the so-called millennium bomber tried to come through, and a very alert Customs agent caught the millennium bomber who was intending to bomb the Los Angeles Airport.

It is also the case that Middle Eastern folks were inquiring in a small Canadian town just 100 miles north of the border of North Dakota about the capability of crop-spraying airplanes. This was at the time Mohamed Atta was doing the same thing in Florida. And others were doing the same thing in other parts of the country—150 miles from Minot Air Force Base where we have our B-52s housed.

The point is, we must be concerned about all of our borders. I deeply appreciate the Senator's amendment dealing with the northern border security, which was left out—with respect to the Customs Service, especially—of the President's request.

If I might say, as I continue to inquire, it seems to me the proposals offered by the Senator from West Virginia are proposals that everyone supports. The head of homeland security, Governor Ridge, says, yes, we need to do these things. The administration says, yes, we need to do these things. The disagreement is about timing.

The issue is, should we do them sooner or later? The administration says, let's do them later. The question is, Is there risk for this country in waiting until later? Will terrorists wait until later? I do not think so. I think the American people will be better served by our deciding to make these investments now and protect this country now. The issue of sooner or later ought to be, in my judgment, resolved by this Senate in favor of sooner, taking protections sooner for the American people, taking the steps necessary to minimize the risk of terrorism.

Now, let me make one final point as I ask a question. The administration, just in the last couple of weeks, has once again indicated to the American people there is a high threat of a terrorist act, according to some reasonably credible evidence that exists. This is the third time we have heard this. I am not critical of that at all. I believe it is their obligation to inform the American people under those circumstances.

But if, in fact, it is the case that there are credible pieces of information about terrorist threats against this country that could cause great harm to the American people, isn't it also reasonable and logical, then, for us to understand the urgency of making the very changes that the Senator from West Virginia is now counseling we make with respect to homeland defense and homeland security?

I ask the Senator from West Virginia, Do you not believe that the issue here is not policy, not whether we should do these things, but the disagreement is about when they should be done, and that the administration is simply saying, we do not necessarily disagree with what you want to do, we just believe it ought to be done later? Is that the case?

(Mr. CORZINE assumed the chair.)

Mr. BYRD. That appears to be the case. And it boggles my mind to think that while we have a perfectly logical, commonsense approach here of providing to the President the means whereby he can deal earlier, quicker, more effectively with possible terrorist attacks—we have it in a package here; it is designated "emergency;" he can use it, he can not use it—we are being asked to vote against this package. I cannot believe the President is receiving good advice. I have to believe he must be receiving some partisanly political advice from somewhere down the line. It does not make sense.

Why would the President be opposed to our providing this now? We do not lose anything by it. We have everything to gain by providing this now. It is our responsibility, it is our duty, to provide for the common defense. And if this isn't common defense, I do not know what it is, if it does not fall within the category set forth in the preamble that we should provide for the general welfare. This, it seems to me, we have to do.

Mr. DORGAN. Mr. President, if I might make one additional inquiry of the Senator from West Virginia.

I want people to understand, as I know the Senator from West Virginia does, that when we have a disagreement here—which is only about the timing of when we ought to do what we should do for this country's homeland defense and homeland security—it is not a circumstance where we are confronting this President in a way that says, we are not supportive of what you are doing for America.

In fact, there is, in my judgment, general support and admiration for this President's leadership with respect to the prosecution of the war against terrorism. I think they have had a spectacular success. I indicated to Secretary Rumsfeld just a few moments ago how much I admire his service and respect what he has done. I think the President also has shown outstanding leadership in a number of these areas.

So this is not a confrontation with this President during a period of conflict. There is no disagreement about support, widespread, passionate support, for this administration and the administration's prosecution of the war on terrorism.

Mr. BYRD. Absolutely.

Mr. DORGAN. This issue is simply an issue of what kinds of investments do we believe need to be made to protect this country, what kinds of homeland security and homeland defense investments do we believe need to be made. In fact, if you read, day after day, the press accounts from Governor Ridge, and others, they will say that they agree with all of the recommendations we are now talking about.

It is unfathomable to me that we should continue, month after month, now saying we will not put any additional Customs agents on the northern border. I do not think anybody in this country can take comfort from that. Everybody understands you must provide security on our borders, you must provide additional security on the northern border. If not, we do not have border security. If you do not have border security, you have an added risk of a terrorist being successful. That is why the timing issue here is critical.

This is just about the question of whether we ought to do what Senator BYRD is suggesting now or later. If we do not do it now, 6 months or a year from now it will be done by the administration. And God forbid some terrorist act would occur in the interim that we could have well prevented with this additional vigilance, with the resources provided in this amendment.

So I would ask the Senator from West Virginia to continue his efforts on the floor of the Senate and see that we are able to enact this amendment. I know some believe that this is confronting the President. It is not at all. It is helping this country and helping this administration do now what they say, in any event, they want to do later. It makes much more sense, it seems to me, for us to make this investment for America today.

I thank very much the Senator from West Virginia for yielding.

Mr. BYRD. Mr. President, I thank my friend.

We are not being confrontational. I have no hesitance whatsoever to be confrontational with the President of the United States or anybody else. Let the President advocate fast track; I am ready for that confrontation, and so is the distinguished Senator from North Dakota.

We are not being confrontational. We are trying to live up to our responsibility. We want to work with the President. We want to help the President. I want to help him to keep his commitment when he said on September 20, in that joint session of Congress, "Our Nation has been put on notice we are not immune from attack. We will"—not maybe—"We will take defensive measures against terrorism to protect America."

Now, Mr. President, this is what we are trying to do. We are trying to help our national leader keep his commitment, and yet there is a veto threatened—a veto—a veto. I cannot believe the President has reached this decision in his own mind—a man who, when he took the oath of office, referred to the Scriptures, referred to the good Samaritan on the road to Jericho. It gave me a new sense of confidence and trust in our President.

President Eisenhower, when he was inaugurated, prayed. He didn't call on somebody else to pray; he prayed. Eisenhower himself prayed a prayer. I was impressed and thankful. So this President has the support of the American people in the war effort. There is no question about that. The people have rallied. There is no party spirit in the rallying of the American people behind their President when it comes to the prosecution of a war overseas.

Why should they be denied the support of the administration in this effort to deal with future terrorist acts? We are not being confrontational. We want to help the President. We are not interested in this from a political party standpoint. There is no dividing aisle here. We are dealing with the protection of the American people. When we protect the American people, we protect the military men and women who are here in this country. We protect them from terrorist acts. We protect all citizens. We protect the old, the young, the weak, the sick.

Why do we have to draw political lines in a matter of this solemn nature? This is not a Democratic proposal. This is not a Republican proposal. Safety, to the American people, has no political designation on it. We have this duty. I think we would be recreant in our duty and it would be criminal if we did not act when we know what has been said to our committees and when we know from what we read in the press that all these things are available. Yet we say, wait, wait.

I think we may be in the position of the five foolish virgins. When the bridegroom came, they had no oil in their lamps. He knocked at the door. "We have no oil in our lamps." That is what we are trying to provide here so that we will not suffer the fate of the five foolish virgins.

I thank the Senator for his observations and his contributions.

Mrs. CLINTON. Mr. President, will the Senator from West Virginia yield for an inquiry?

Mr. BYRD. I yield to the distinguished Senator from New York.

Mrs. CLINTON. Mr. President, the Senator from West Virginia is aware of the recent rather sobering comment that our Vice President made with respect to this war, that we are fighting on two fronts, that we are likely to suffer more casualties on our homeland front than we will across the seas?

Mr. BYRD. I am aware that he said this. He said that, for the first time we are more likely to suffer casualties on the homefront than among our forces here or abroad.

Mrs. CLINTON. I thank the Senator from West Virginia for the careful attention he has given to the threats we are confronted with today. I thank the two distinguished ranking members who are in the Chamber, the Senator from Hawaii and the Senator from Alaska, for coming to New York City to go to ground zero to see what happens when our country is attacked the way we have been.

I inquire of the Senator regarding the work he has done with respect to preparing this extremely important amendment that understands our defense needs are both with our men and women in uniform, and we are all supportive of the President and our military leadership and very proud of the extraordinary work being done to root out the terrorist network, but we also have credible threats here at home.

In fact, just as a reminder, this is what war looks like when it is brought home to our own shores. These are pictures, as the Senator from West Virginia knows so well, of the attack New York City suffered on September 11, pictures of the devastation that occurred, pictures of the men and women who are on the frontline of defense—the firefighters, the police officers, the emergency responders—who, just as our men and women in uniform, our special forces, as well as our Marines, our Navy, our Air Force, our Army forces across our country and the world, are on the front lines of defending us at home. Here is what our defenders look like in the streets of New York. They could be in the streets of any of our cities.

May I inquire if the Senator, in constructing this very thoughtful amendment that takes into account our defense needs at home, took into account, as I know he did, the extraordinary devastation and damage the city of New York has suffered because the attack on New York was an attack on America?

Mr. BYRD. Absolutely. May I say that the two distinguished Senators from New York have not once, have not twice, have not thrice, but many times talked with me about the needs, the immediate needs, of the people of New York. They have talked to me about the suffering that the people of New York have had visited upon them by this beastly attack. They have continued to implore me, as chairman of the Appropriations Committee, to help them, to help the State of New York.

The Governor of New York came down to see me also. He sat at the table in my office on the floor below and pleaded with me to provide help and succor and comfort in the form of dollars for New York City.

Mrs. CLINTON. The Senator has heard those cries for help and has, along with the committee, responded in our time of need, for which all of New York is grateful. It goes beyond that.

As we look at these pictures, as we are reminded of the devastation and destruction, we know it is going to take a long time to recover. We know that what the Senator has very thoughtfully provided in this appropriations bill will put us on the path toward recovery, will put money into the pipeline.

As the Senator knows better than anyone, it will be quite sometime into next year before another appropriation can possibly be obtained.

Mr. BYRD. It will be.

Mrs. CLINTON. Isn't it correct that it is likely to be late spring at the earliest before any additional money would flow to New York?

Mr. BYRD. The Senator is correct.

Mrs. CLINTON. As a result, because of the estimates of $100 billion of damage, so clearly shown here in the difference of what this part of our country looked like on the morning of September 11 before the terrorists wreaked their evil on our country and what it looked like afterwards, we know very well it is going to be a long struggle for us to recover. The fires are still burning. We need to get contracts let.

We need to repair the destruction that has been done to our streets, our highways, our infrastructure. We need to help our hospitals that were so prepared; they literally did all they could in spite of the damage they suffered. They lost their generators. They lost their billing systems. Their computers went out. But they stayed on duty. They didn't ask anyone who was brought in injured, a rescue worker who was injured on the job: Where is your insurance? You can't come in this door today because we don't know if you can pay. Everyone was brought in and given care.

What I have learned from that and what I commend the Senator for understanding is that New York City was probably better prepared than any other city in the country because of the work that had been done. Of course, the heroic efforts of our police and especially our firefighters and our emergency workers showed that preparation.

What the Senator is trying to do, as I understand it, is not only to help us with the extraordinary needs we face to get us on the path of being able to use these dollars in the way they should be used—accountably—but to get the money in the pipeline as opposed to waiting until next year.

Mr. President, the Senator from West Virginia is also telling us we have to be prepared in case this happens anywhere else in the country; is he not?

Mr. BYRD. Yes. I am also saying those tunnels that go into Penn Station in New York are traps. They were built before World War I. I am passed 84 years of age, and they were built before I discovered America. They are inadequately ventilated, they are inadequately lighted, and the escape routes are inadequate. There are 500,000 individuals who go through that station every workday. There are 750 trains. Yet how much has been appropriated to prevent another catastrophe there to rebuild the tunnels?

Yes, I know. I have heard from the Senator, and I have heard from her senior colleague. They have not been recreant in their duty. They have been very effective. As I say, the Governor of New York has been in my office. I hope he will support this package because it will help him; it will help the State of New York; it will help the people in the fire departments; in the police departments, the paramedics in New York City and other cities in New York.

We have that responsibility. I did not go to New York. I am one of the few national politicians who did not go to New York City. I did not need to go.

Mrs. CLINTON. This Senator knows very well that the Senator from West Virginia has a grasp, an understanding of what happened, not only with respect to the attacks but also the anthrax which came to New York to our Postal Service and to our media offices as well.

Mr. BYRD. Yes, I saw it on television. I saw it on the agonized faces of wives, mothers, and fathers. The terrorists made many widows that day. The terrorists made many orphans that day. I saw it in the sweaty, grimy faces and hands of the workers, sifting through the rubble. I did not need to go. I would like to have gone, but I made the same commitment that those individuals in high places made who did go.

Now is the time to keep our commitment. I believe that a promise made is a debt unpaid, and I promised the New York Senators that I would try to help them, and I have done everything I can. I promised the New Jersey Senators, one of whom presides over this Senate at this moment with great dignity, skill, poise. I am keeping that promise. The President promised, and I am trying to help the President keep that promise.

I am not being confrontational about it. I want to help. Can we not just join hands once, one time and not be political about this and help to form a more perfect union and fulfill that phrase that is in the preamble of the Constitution?

I thank the Senator.

Mrs. CLINTON. I thank the Senator for his extraordinary efforts and his very fine work on this amendment, which will strengthen our national defense at home as well as abroad.

Mr. BYRD. I thank the Senator.

Mr. President, continuing along the line that the distinguished junior Senator from New York was pursuing, on May 10, Chief Jack Fanning of the New York City Fire Department testified before the Senate Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary on the role of the fire service in responding to terrorism.

Fanning, the officer responsible for the New York City Fire Department's hazardous materials operation, said that in preparing for terrorism, "The emphasis must be placed on the most important aspect of the equation, the first responder, and first responder team."

Mr. Fanning was talking about the people at the ground level, the people at ground zero, the people who are the first to arrive when the alarm bells ring.

Fanning said:

> If lives are to be saved and suffering reduced, it will be up to them to do it.

Meaning the first responders, the first responder team.

> At an incident, whatever the scale, firefighters and other responders will be there within minutes, some quite possibly becoming victims themselves.

Those were the words of Mr. Fanning. His testimony concluded with the following:

> They [the first responders] will do what they have always done, act to protect the public they serve. Knowing this, let us provide them with the tools they need to perform their duties safely and effectively.

Prophetically, Fanning was among the 343 firefighters, including the city's fire chief and most of the senior staff, who died in the World Trade Center collapse. There, as it were, is the voice from the grave telling us again, do something, do it now.

The people at the local level need help. They are the people who are the first on the scene, the first to save lives, and perhaps the first to give their own lives.

Before I turn again to the chart, this is another chart which visibly displays the situation as explained by the very distinguished senior Senator from North Dakota a little earlier when he talked about the ports on the northern border being closed, and this is what the chart says: "Stop," with a big red sign.

> This port is closed. Open daily at 9 a.m. Warning, $5,000 fine for entering the United States through a closed port. Nearest open port is 70 miles east at Portal, North Dakota, on Canadian Highway 39.

There we have it. We can see the orange cones sitting around the side. My colleagues will recall the distinguished senior Senator from North Dakota said some trucks and automobiles will pull up to the sign and the driver or someone in the car or truck will get out, move the cone, and drive right on through. Or, he said, some will just press their foot on the accelerator and at the speed of 75, 80 miles an hour go right through those cones and leave them in shreds. That is the visual of the warning Senator DORGAN was speaking about.

Now let us go back. Some Senators may wish to take a look at the chart so we will set the chart in the chair in front of me.

That is what we are trying to help with. We are trying to provide live men and women at those ports of entry that presently are not covered 24 hours a day. That is what we are trying to do in this package. We are saying do it now, do not wait, do not gamble with fate.

We have already fallen behind in complying with the aviation security bill recently passed by the Congress and signed into law by the President. The Transportation Secretary said last month on November 27 that the Federal Government cannot meet the January 18 deadline that all checked baggage be screened for explosives. The new law requires that by the end of 2002 all checked luggage be screened using explosive detection systems. That would require 2,000 machines at a cost of $2 billion, according to the Federal Aviation Administration.

We cannot wait until next year to provide these funds if our Nation's airports are to comply with the tougher airline security required under that law.

Last month, on November 3, a man carrying seven lock-blade knives, a stun gun, and a canister labeled "tear gas/pepper spray," slipped past security screeners at Chicago's O'Hare Airport. It was a stunning breach of security. At a time of heightened scrutiny, everybody should have been looking. The would-be passenger, who had already been stripped of two knives at a prior security checkpoint, made it to the boarding gate before airline personnel in a second check discovered the other weapons. Here was a mini arsenal on two legs walking right straight for the door of the airline, and he was almost there.

These incidents follow a recent surprise inspection by the investigators from the inspector general's office of the Transportation Department and of the Federal Aviation Administration at 14 airports across the country.

In October, FAA inspector general agents found a man who passed through a metal detector at Dulles International Airport with a knife in his shoe. Now why is he carrying a knife around in his shoe?

In September, a man went through security in Atlanta and realized before boarding the plane he had a pistol in his carry-on bag.

The American people want tougher security at airports. One can see it in the half-full airplanes taking off from our airports every day. Even after grounding nearly 20 percent of their planes, airlines filled only 63 percent of their seats in October according to the Air Transport Association. So that is still 8 percent less airline traffic than in October of last year, well before the September 11 attacks.

Airports need funds to increase the visibility of law enforcement personnel for deterring, identifying, and responding to potential security threats. Additional staff persons are needed to conduct security and employee identification checks through airports. Airports with tighter budgets, particularly smaller airports in rural areas, are unable to absorb these new costs.

This package provides $238 million to hire law enforcement personnel and improve protection for you, you who are watching through those television cameras.

I simply cannot understand the logic of opposing this package. Who would choose to allow their family to live in constant fear? What parent would repeatedly warn a child of predators on the playground and then send the child out to the park unattended and unprepared to protect himself? What is the sense in telling the people to be brave and then denying the people even the most modest, necessary protections?

Budget agreements are certainly no reason. This package bears an emergency designation. With that emergency label, this President could choose, as I have said repeatedly today, not to spend these funds if they prove to be unnecessary to spend at a given time and for a given purpose. But at least the funds would be available should the need arise. This package also contains provisions to ensure that these funds are not counted in the baseline calculations in future years.

Get that. I am not trying to build up future budgets. I am not trying to use the funds accounted for in the baseline calculations to increase the budgets in the future years. There is no outyear growth, no multiplier effect. It is a simple, straightforward investment in protection at a time of national crisis.

To say we are willing to gamble the safety of the American public on the bet that no additional attacks will occur, that no additional vulnerabilities will surface, that no additional security precautions will have to be taken, defies common sense. It defies logic.

The President has declared we are in a state of national emergency. He did that some time ago. His administration has issued three alerts, three broad warnings of possible terrorist attacks, three alerts to the American people. We must respond to our national emergency. We must take matters in hand and guide this Nation through this time of uncertainty, this time of danger, this time of darkness.

I urge my colleagues to vote to provide the American people with basic protections at a time when the American people are most vulnerable. Forget your politics. Politics has nothing to do with this—nothing. This package fulfills our commitment to provide $20 billion to New York in response to the September 11 attacks. I urge my colleagues to support this package.

On a statue in Atlanta, GA, are these words inscribed in memory of Senator Benjamin Hill, a great Senator, great orator: He who saves his country saves himself, saves all things, and all things saved do bless him. He who lets his country die, lets all things die, dies himself ignobly, and all things dying curse him.

Let's vote to save our country. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2243

(Purpose: To provide for the allocation of supplemental emergency funds.)

Mr. STEVENS. Mr. President, the chairman has presented a program which is a program for the future, without any question one that reflects a substantial number of meetings that I have had with the chairman, and others, over a period of time since September 11. We have, however, a position taken by the President of the United States that he believed we had an agreement not to exceed the $40 billion that we previously approved for supplemental money for 2002 to cover the expenditures required to initiate the recovery from the disastrous attacks in our country on September 11 of this year.

We have before the Senate section A of the committee bill, the Defense appropriations bill for 2002, that was prepared by my good friend, the chairman, DAN INOUYE of Hawaii, and me and our staffs. It has been included in the amended version reported by the full committee that Senator BYRD has described and has been reported as we presented it, as a matter of fact.

Senator INOUYE's version of the Defense bill for next year is in section A. I do not intend to address that at all. I do, however, address the problem presented with the President's position of not wanting additional money at this time beyond the $40 billion that he previously agreed to when he signed the supplemental we previously passed this year. To achieve that goal, I now call up amendment 2243.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2243.

Mr. STEVENS. Mr. President, I ask unanimous consent reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. STEVENS. Mr. President, let me describe, if I may, the problem we face. We are in the month of December, which is the last month of the first quarter of fiscal year 2002. When we finish this bill, however it may look after it goes to conference with the House, and then goes to the President and the President signs it, it will be approximately the end of the year. In other words, the new money in this bill will be spent in three of the quarters of the calendar year 2002.

Realizing that, I visited with my good friend, Chairman BYRD, and suggested we deal with the issues he wanted to deal with by putting additional money in the bill as money to be made available in 2003, the first quarter of 2003, which would be the last quarter of calendar year 2002. Had we done that, we would have stretched the payments over the normal four quarters of a year. I think we may have been able to solve the issue that way.

Senator BYRD said he would rather proceed with the 2002 bill. It does, I might add, have some extra points of order that could have been raised against the other approach. So he deferred on that, and we went back to the drawing board to see what we could do to deal with the problem of the President's position and the position just presented by Senator BYRD.

Let me say, basically, I believe as the future unfolds in this country, substantially all of the additional $15 billion that Senator BYRD wants to make available will be requested by the administration. I will be surprised if they don't request more than that. The problem is, how much money should be pushed into the system now?

We had a bill before the Congress when we first reacted to the events of September 11. We were requested to present a $10 billion supplemental. Senator BYRD and I had some meetings and we decided that ought to go up to $20 billion. While we were working on that, we got word that the President had gone into the Rose Garden with some people from New York and Virginia and Pennsylvania and agreed it ought to be $40 billion. With the leadership of Senator BYRD, we charted through the quarters of the legislative process a supplemental providing $40 billion: The first $10 billion to be available to the President without any interference by Congress, the second $10 billion to be available after 15 days' notice to the Congress on how the President intended to spend it, and the last $20 billion to be available in an appropriations bill to be passed by the Congress.

This bill covers the $20 billion, the last $20 billion of the $40 billion.

We have had a great many meetings, hearings, and consultations from a vast number of people in the country who believe there should be more money available now. Were I President, I think I would agree. But I am not President.

Mr. President, we are at war. We really are at war. We are in a period of time where, if we take action to challenge the President now, we could well leave an impression, I think, that we do not have bipartisan support of the President as Commander in Chief.

I have changed my position on this matter. I told my friend, the chairman of the committee, that I had. I believe we can legitimately say that the money we make available now through this bill and through the bills that are still pending here: the Labor, Health and Human Services bill, the Foreign Assistance bill—before we are through here, we will have presented to the administration $375 billion more than is available to the Presidency right now.

The current level of expenditures by the Department of Defense, for instance, is based on the year 2000. We have increased that considerably. The amount of money available to the President for the conduct of the war, really, under the Food and Forage Act—I have to explain that. There is an old act that allows the President of the United States to spend money to pursue conduct of a war or when there are troops deployed, our troops deployed. We saw it in Kosovo; we saw it in Bosnia; we have seen it in connection with the activities of the alert in South Korea; we have seen it in many instances. This President has not used the Food and Forage Act yet, but he could use any of the money in this bill to achieve the goals Senator BYRD would achieve with $15 billion and come to us later and say, we want the money.

In any event, beyond that, we have been told there will be—by Governor Ridge and by the President himself—there will be a request presented to Congress early next year for supplemental moneys for the year 2002, to pursue the further activities that are necessary to meet the problems of homeland defense and the problems of recovery from the disaster of September 11.

I believe what we have to do is to look again at the $20 billion and allocate the $20 billion in a way to make sure there is available now enough money to handle at least the first quarter of the next year—that will be the second quarter of the fiscal year—and then some.

So what I have done, in an amendment that is now pending, is to allocate the $20 billion in that fashion, pursuing, to a vast extent, the recommendations of Senator BYRD and his $15 billion additional. The amendment before the Senate right now, addressing division B of the pending bill, would amend that division B to allocate the $20 billion in this fashion: $7.3 billion for the Department of Defense, of which we have earmarked $2.3 billion for bioterrorism defense. I emphasize that. The Department of Defense should have a great role in the total defense of the country. I think bioterrorism is one of the key issues. I believe that is one of the key issues of Senator BYRD.

We allocate $7.05 billion for New York. Of that, $5.05 billion is for the FEMA disaster relief; $290 million is for the FEMA Firefighters Grant Program; $2 billion is for the Housing and Urban Development emergency community development block grant.

We also allocate $5.65 billion for homeland defense. It is allocated, $1 billion for the Department of Justice—that is for FBI, INS, and the U.S. Marshals; $400 million more for the Department of Energy for nuclear facilities; $256 million for the legislative branch security; $800 million for Coast Guard and FAA security which includes $100 million for more airport security; $50 million for the White House security.

There is $334 million for the Treasury. Again, the Secret Service, Bureau of Alcohol, Tobacco and Firearms, and Customs are included in that $334 million.

We have $300 million for food security, $100 million for the Justice Department general administration, Patriot Act, which is covered by Senator BYRD's proposal; $362 million for the Bureau of Justice Assistance, $237 million for State and local law enforcement, $775 million for Federal antiterrorism enforcement—that is executive, nondefense, of which $575 million is for the Postal Service. $100 million for cyber-security, and $100 million for increased security at public events.

We also add $94 million for NASA and for the National Science Foundation security upgrades, and $156 million for the EPA Counterterrorism and Anthrax Cleanup Program.

If one examines this supplemental, one finds that almost every single item mentioned by Senator BYRD is covered by our allocations. But they are lower. Admittedly, Senator BYRD had $15 billion in two emergency sectors. We have eliminated that and moved back into the $20 billion and allocated the $20 billion in a way primarily reflecting, to a great extent, what the House did. It also reflects to a substantial degree what the President originally requested. And it covers basically, as I said, all of the items Senator BYRD would cover.

In the $2.3 billion bioterrorism defense allocation, for instance, we have provided money for upgrading State and local capacities, improving hospital response capabilities, improving the CDC, starting a national pharmaceutical stockpile which includes the purchase and deployment of the smallpox vaccine that has already been purchased. That contract has already been signed.

It includes the National Institutes of Allergy and Infectious Disease at NIH, one of the signal areas that we must fund. And it has other preparedness activities.

The money for New York is committed to rebuild the infrastructure of Lower Manhattan. The FEMA disaster relief includes the $290 million for the FEMA Firefighters Grant Program, and it will involve grants to local communities to expand and improve firefighting programs through the FEMA Firefighters Grant Program. Over 50 percent of the funding will go to volunteer fire departments in rural communities.

We have tracked to a great extent what my friend has done: If you look at the money for homeland defense, $1 billion for the Justice Department more than they have now in their normal bill which has already passed, the State, Justice, Commerce bill. This adds to what they already have available, $1 billion for coordination of information in the field of FBI—particularly the Trilogy Computer Modernization Program. And it does address the INS construction backlog to make sure we can take care of the outposts that were mentioned by Senator BYRD.

There is $40 million for the Department of Energy nuclear facilities, which covers, again, really a downpayment on the program Senator BYRD announced in that area.

There is $256 million for legislative branch security. Again, I know of no argument about that. There is $800 million for the Coast Guard and FAA security. The port security hearing was held today, and this includes the port security task force creation to ensure coordination of the efforts to protect our ports. It also includes the $100 million to add to the moneys we already made available to carry out the new requirements imposed on FAA in the airline and airport bills we have already enacted into law.

I could keep on going. It has $300 million for food security to increase the number of food inspectors, as Senator BYRD indicated. It must be done.

But I emphasize we can put up the money Senator BYRD asked for. We can't find those people in just one quarter. The President's people are going to make some further requests. I think what we need to do is make sure there is money to meet any of the areas outlined by Senator BYRD available now, and see what Governor Ridge and what the President want us to do to direct our attention to the future.

There is no question that the great part of the money must be directed towards antiterrorism, and antiterrorism law enforcement in particular. The Postal Service very much needs a great deal of money.

Again, I want to sidetrack. There are major issues involved in where we are going now that have to be addressed by legislative committees. For instance, the Postal Service told us they had lost over $6 billion and they wanted assistance. When we examined it, we agreed we should provide some additional money. But we have to have some basic consideration of the question of how much of that loss should be paid by the taxpayers of the United States and how much should be borne by the ratepayers of the Postal Service, an independent entity that is not really financed by the Federal Government anymore, except in connection with disaster concepts. It may be that we will have to change that paradigm. It may be that we should help pay for some of the newer equipment that the Postal Service needs in order to prevent future disasters such as we had in the handling of the anthrax letters by Postal Service employees.

We also have to urge them to take steps to modernize so the system itself does not expose employees to contamination by substances such as that sent through the mail. We need to have an inspection system. And we need to have a system of treating the mail so it cannot carry these infectious diseases.

What I am saying is, if you examine the amendment I presented as an amendment for the Senate to speak out, and say to the administration that we have different priorities than have been presented to us before, we funded them through at least the first quarter of the calendar year 2002. We, of course, have to go to conference with the House and meet them in any event, but I think any fair reading of this amendment would say this is enough additional money through the use of the $20 billion to meet these priorities of the Congress, and we can await the request of the President for additional money and at that time be part of the process to meet the needs of the future as the country changes.

That would be my last comment to the Senate. We have a great many problems that come from the realization we are now exposed to different types of disasters. The disaster act that is in place was primarily passed at the time when we addressed natural disasters. It is the Stafford Act.

The Stafford Act provides that the Federal taxpayer will replace facilities owned by public entities that were destroyed because of the disasters such as we saw in New York. It assists local communities in replacing streets and docks, or whatever, in community-owned utilities, but it doesn't replace privately owned utilities. It doesn't replace privately owned facilities that went down with the public facilities. Clearly, it doesn't even cover the publicly owned building that went up 104 stories. We don't know.

We know we have to address that. That is not something we ought to address as appropriators. This should be addressed by the legislative committees in the Congress responding to legislative solutions that set the new guidelines for how we handle disasters caused by terrorism.

I say to the Senate that I think Senator BYRD has stepped forward and offered us a solution to some of those problems by funding them now. But I think the Congress should be involved in making those decisions as to what we replace.

Should we replace all of the firetrucks in the country? Should we replace only those that come in and qualify for the grants? I do not know. I pointed out in committee that we have some of the oldest firetrucks in the Nation operating in Alaska villages. They were given to those villages at the end of World War II, and they have never been able to replace them.

But the intent is to replace those facilities that were destroyed by the disaster or, because of the disaster, have become inoperable. There are a couple, by the way, that were destroyed by the fire itself.

I believe we need to have decisions on a bipartisan basis as to how to solve those problems, and to put the money up now would not solve the problem. It would create a greater problem of having stepped down the road to say we will pay it if anyone comes forward and wants a new fire engine. There is not enough money in Senator BYRD's bill to replace all the firetrucks in the country. I am sure he would agree.

On the other hand, we all agree there should be some help for communities to modernize their facilities to respond to terrorist attacks, and to respond to acts of terrorism of any kind.

I have to confess that this Senator believes the bioterrorism, cyberterrorism, and food security problems are of the highest priority. I think the great problem is we need to be able to detect substances that are currently undetectable. One physician told me we were lucky that the anthrax attack was the first attack because anthrax is detectable and it is treatable.

There are substances that we know exist out there that are not detectable, that are not treatable, and they are not curable. We need to have research to find out how we can detect them and how we can manage them once they are detected.

We started down that road in the Defense bill itself. There is $100 million in there for the Department of Defense to continue its studies, and expand them in those two areas of detection of these substances currently undetectable, and how to treat them once detected.

Freon disease, for instance, is one of the leading examples of that. That is the manifestation of mad cow disease in human beings. We know from the experience in Britain that it is not only undetectable, but even the people who carry it may not know it for several years before it manifests itself in the brain of a human being. Once it does, if it comes in contact with any utensils in any facility, those utensils and facilities must be destroyed. There is no way to know what portion of them are uncontaminated. You must destroy everything that comes in contact with it.

That is why much of the great disaster took place in England in the past. We should join the international effort in that regard. Our bill starts us down that line.

I have spoken longer than I intended to speak. But let me now address the problem we face.

There are people on our side of the aisle who prepared a chart of the problems that this bill faces in terms of points of order. Senator BYRD's two provisions that would add the emergency money in division C of this bill are subject to points of order. They could be waived by 60 votes. The basic bill itself that came over from the House to the Senate is subject to a point of order. The House waived that point of order. We, similarly, could waive it, or we could ignore it here.

There is also the point of order that comes out of the 1996 Budget Control Act which imposed a limit upon us of the amount of money we could spend in the year 2002. Since the year 1999, that has been waived to a certain extent, but we, through that process, came to a balanced budget. I thought we did a very good job. The balanced budget now is disappearing because of the semicollapse of our economy through the recession and our ability to recover from the terrorist acts and prevent further ones.

What I am saying right now is we have to waive the Budget Control Act; in effect, lift the caps. We have done that in section C of this bill. Senator BYRD's version puts it right in the bill. If we vote that, that lifts those caps.

But there is at least three, maybe four other points of order involved here that once we get into, if we are divided on a partisan basis—it looks as if we might be—there is no way out.

I have offered this compromise for the Senate itself to speak out and say, let us settle this now and give the administration enough money to do what we think they should do through the first part of next year. And let us come back and respond to the President's request for a supplemental when we get back here next year.

Mr. President, I am not the Parliamentarian my friend is, but I can say, from my study of this bill, there is no way out if we have a point of order and a motion to waive and that motion is not carried. It does not appear that any of those points of order would be waived by the Senate, according to my understanding of the situation now.

My amendment takes us around those. My amendment says, let's set aside the $15 billion. We deal with about half of it in the $20 billion, and we move on to next year and the request from the President, and we do not have this collision. And we also—I am back where I started—do not leave the impression that a Senate that wants to provide bipartisan support to the Commander in Chief at a time of war is insisting upon doing what he says he does not want us to do.

I do not argue with my friend from West Virginia at all about the items he says must be covered sometime in connection with the recovery from this disaster. On how far we go on some of them we might have disagreement, such as firetrucks or what is covered in public facilities and what not. But the necessity for more money than the $40 billion is now apparent to everybody, even from the comments Governor Ridge has made as head of our home defense organization.

So I say to my friend once again, I am sad to be in this position. I really am because the Senator knows—and we worked on some of these figures—I believe the needs are there. And I believe the needs will have to be met sometime in the future. But I would rather give the money now to initiate meeting those needs and determine the extent to which we will meet the needs, and which we will actually want to meet, and which we will set aside and say are the responsibility of ratepayers or local governments or States.

My friend from Hawaii and I are from the generation of which President Kennedy was a part. As I sat here this afternoon, I was thinking about his comment at his first inauguration: Ask not what your country can do for you. Ask what you can do for your country.

If the things we worry about today would be worried about by every American, if every American would really take on the job of watching for those erratic people who are part of a conspiracy plot, if every American would come forth and assist the Government, volunteer to provide help to people who need help now, our job, using the taxpayers' money, would be substantially reduced. I think that will come as we, more and more, live up to our current slogan that we stand united.

I would prefer to see the Senate stand united and adopt my amendment, move on this bill, and take it to conference. We will be in conference Monday if this amendment passes. We will still be arguing about points of order next Friday if it does not.

I hope I have offered an honorable solution to the conundrum I see the Senate facing. I plead with the Senate to act in a bipartisan way and to tell the President: There are some priorities we want you to follow. Follow them within the first $20 billion, if you disagree with the $15 billion that Senator BYRD seeks—which he does; we know he does—but, meanwhile, be assured when we come back next year, we are going to make certain that the supplemental that is requested will cover the needs of the country with regard to protection against terrorism.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, at the outset, I commend the Senator from Alaska for the compromise amendment which he has proposed, I commend the Senator from West Virginia for all he has done to focus attention on the important problems of the nation on homeland security, and I admire his stamina on the presentation of a very extensive floor statement.

I support and cosponsor the Stevens amendment. I divide my reasons into three categories: First, I believe there is sufficient funding to take care of the homeland security needs of America. Second, I think it is very important there be unity between the Congress and the President now as we fight the war against terrorism and have a major aspect of that war on homeland security. Third, I think it is very important the Senate act without having a stalemate and a gridlock, which is where we will be heading if we do not find a compromise, such as the compromise proposed by Senator STEVENS.

The reason there would be a deadlock is that for Senator BYRD's proposal to be adopted by the Senate, there will have to be 60 votes. I believe there is agreement there are not 60 votes present to have Senator BYRD's proposal passed by the Senate. Then the sequence which would follow would be virtually interminable.

We are facing a situation where it is now December 6. Who would have thought we would be here this late with all the expectations of finishing at least by the end of October or before Thanksgiving? However, here we are. We now face a continuing resolution which is going to run until a week from tomorrow, the 14th. Beyond that, there will be a continuing resolution until January 3, if we do not resolve this issue and the matter of the stimulus package.

These important items on homeland security should be advanced with the necessary funding on an appropriations bill, which could go through the conference and get to the President's desk next week so these important problems can be addressed.

Most fundamentally, the substitute bill proposed by Senator STEVENS provides the necessary funding. The subcommittee, which I had chaired for 6½ years and of which I am now the ranking member, has the appropriations responsibility for the Department of Health and Human Services. Senator HARKIN, who is now the chairman, and I moved ahead very promptly to address these bioterrorism threats.

Senator HARKIN and I have worked on a bipartisan basis on that subcommittee, I think, to the benefit of the country. I found a long time ago in my Senate service, if you want to get something done in Washington, you have to be willing to cross party lines. Senator HARKIN and I have done that. We have held a series of hearings on these issues to find out what is necessary for funding on bioterrorism. We had our first hearing on October 3, our second hearing on October 23, and our third hearing on November 29.

In the hearing on October 3, the Secretary of Health and Human Services testified that he believed we were able to handle all of the problems of bioterrorism in America. He had made a statement on "60 Minutes" to that effect. A number of us raised questions—that we really were not at that point yet, and that it was not helpful to make such a statement.

Senator BYRD, who attended the hearing, in a very direct and emphatic way, threw up his arms and said, "I do not believe you." From that session we have moved ahead to push the Department of Health and Human Services to find ways to provide for antibiotics on anthrax. The Secretary signed the contract to provide Cipro. Then we had the hearing on October 23 and the issue was raised about where we stood on smallpox. The experts from the Centers for Disease Control and the National Institutes of Health said we should not be prepared to inoculate Americans, that we had 15 million smallpox vaccinations, and that those vaccinations could be diluted 5 times to 75 million.

In an exchange I had with Dr. Fauci of NIH, the discussion focused on whether it was the Government's responsibility to have sufficient vaccines so that people could make the choice themselves. I asked Dr. Fauci what the risk factor was. He said it was one to six out of a million.

I said considering that smallpox had failed, my preference would be to see my grandchildren vaccinated. Before we finished the discussion, Dr. Fauci agreed that he would like to see his grandchildren vaccinated.

The point is that as a result—I think fairly stated, as a result of this press—the Secretary of Health and Human Services has entered into contracts which will provide enough vaccines to take care of almost all of America, and not years down the line but by next September, so that we have moved ahead.

Then, in our hearing on October 3, Senator HARKIN and I pressed the Centers for Disease Control to give us a list of all the bioterrorist threats and to tell us what it would cost to meet the bioterrorist threats. And as usual, there was problems with the CDC getting clearance from HHS and getting clearance from OMB. By the time you work through the alphabet soup in Washington, it is very difficult to get anything done. However, we finally found out. When they testified on November 29, they testified in a very careful way to say that it was not an administration request, but it was their professional judgment as to what was necessary to take care of our bioterrorist threats.

As a result of what Senator BYRD did in his questioning of Secretary Thompson and what Senator STEVENS did—even though they are the chairman and ranking member of the full committee, they attended these hearings—we have been able to push up the funding far from what the administration requested, which was $1,445,000,000, so that we now have, under Senator STEVENS' amendment, $2,300,000,000.

When you take the $338 million which is now in the bill for Health and Human Services, the total funding comes to $2,638,000,000, which I believe to be adequate.

When a group of Senators met with the President in his living quarters about 10 days ago, we had a conversation about bioterrorism. There was a discussion as to a downpayment. I made the point that we could not deal with a downpayment, that when there was talk about putting this in next year's budget, it wasn't right. Simply stated, that was too late.

I do not speak for the President. I am a Senator and work under the separation of powers. However, I had the sense that the President was sympathetic to the view, although I explicitly say he did not say so.

We are giving the President more money than he had asked for, but I believe he will sign the bill with the amendment offered by Senator STEVENS.

We face a very difficult time internationally, as everyone knows. The terrorist attack on the United States on September 11 was the most brutal, inhumane, barbaric act in human history, sending airplanes loaded with fuel as deadly missiles into the World Trade Center in New York killing thousands of people. Also, a plane crashed into the Pentagon killing more Americans, hundreds more. I believe the plane was headed to the White House. That plane's wings were perpendicular. This plane did not sink to crash into the Pentagon. That plane crashed into the Pentagon because it could not go any further. It was on a direct line for the White House.

The plane which crashed in Somerset County, PA, I believe, was headed for the United States Capitol. Senator SANTORUM and I visited the crash site, and no one will ever know for sure, but we do know from cellular phone conversations that passengers on that plane fought with the terrorists and brought down the plane.

There have been three alerts, and there is no doubt of the tremendous concern in America that there be adequate funding for homeland security. I believe the bill, the substitute which Senator STEVENS has offered, gets that job done.

There is the bioterrorism funding of $2,300,000,000, which, when added to the existing $338 million, brings the figure to $2,638,000,000. There is funding for New York, since the commitment was made by the Congress.

There is funding for the FBI, Immigration and Naturalization Service, and the U.S. Marshals Service; for security for nuclear facilities; for additional security for the legislative branch, the Coast Guard, the Federal Aviation Administration, the Secret Service, the Bureau of Alcohol, Tobacco, and Firearms, and the U.S. Customs Service; and food security; and on and on and on—postal security, cybersecurity programs, etc.

Right now, the President of the United States has provided much needed leadership for the free world. The President has said he will veto the bill if it has the extra $15 billion in it. I think it would be calamitous if the Congress of the United States submitted a bill to the President in the face of that expressed veto threat, and then the President vetoed it. There is no doubt about his determination. I saw blood in his eyes when he said that to a group of visiting Senators.

It would be a sign of disunity between the President and the Congress, which would have a devastating effect on our war effort against terrorism. It simply ought not to happen. In my 21 years here, I have been party to a lot of conferences. When we have had a threat from the President for a veto, we acknowledge that there is time for compromise.

My distinguished colleague, Senator STEVENS, has given me the audible to abbreviate, so I shall do that, although there is quite a bit more I would like to say. I will conclude with a comment about the desirability of not having gridlock in the Senate.

When the stimulus package came up, it was a party-line vote. I think America is sick and tired of bickering on party lines and on partisanship. I believe that if we divide on party lines again, it will be bad for this institution and bad for the war on terrorism and bad for the funding which we need now to fight the war against bioterrorism.

It is my hope that we will find a bipartisan resolution here. I concede it is not quite as much money, but the President is the leader. He has asked for an opportunity to present to Congress the funding which he and his Director of Homeland Security believe to be adequate. The Congress has rejected the notion of waiting until next year. I believe the President will respect the accommodation, the compromise which we have made. It is my hope that we can come together.

There is legislative anarchy and legislative chaos if the Stevens compromise amendment is not enacted and if, instead, we are left to the points of order where nothing will be accomplished, and we will be returning here in January without having completed our work and without having appropriated funds necessary now. These funds can be made available next week with a bill signed by the President if we come together on a bipartisan basis and adopt the Stevens compromise.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is my desire to start the process of having some of the votes that I have indicated must be encountered.

It would be my intention to now raise a point of order against the two emergency designations set out in division C of the committee-reported amendment as prepared by Senator BYRD.

Mr. SPECTER. Will the Senator yield for a question? Does the Senator not intend to press for a vote on the Stevens amendment first?

Mr. STEVENS. It has been requested we now proceed with the point of order and then proceed with the vote on my amendment following that, if it is possible to do so. There is still other debate to be heard, I think, on my amendment.

Mr. SPECTER. I thank the Chair.

Mr. HARKIN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. SCHUMER. Will the Senator yield?

Mr. STEVENS. I will yield for a parliamentary inquiry, provided I do not lose my right to the floor to make my point of order.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa seeks recognition, and the Senator from New York seeks recognition. The Senator from Iowa.

Mr. HARKIN. Parliamentary inquiry: The Senator would like to know exactly what the situation is at this time. This Senator has been waiting to speak on the amendment offered by Senator Stevens. What is the present situation on the floor?

The PRESIDING OFFICER. At the present time, there is a first-degree amendment offered by the Senator from Alaska to the committee substitute reported with the bill.

Mr. STEVENS. Mr. President, as I understand it, if I set that aside and make the point of order and have the vote on that, then we will come back to my amendment after that vote.

Mr. SCHUMER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Will the Senator from Alaska yield to the Senator from New York?

Mr. STEVENS. I yield for a parliamentary inquiry.

Mr. SCHUMER. Will the good Senator from Alaska answer two questions? Are they two separate points of order or one point of order against both provisions?

Mr. STEVENS. The way my motion is worded, I am raising a point of order against the two emergency designations in division C, and I am trying to get those two issues settled at one time.

Mr. SCHUMER. I presume that point of order is debatable.

Mr. STEVENS. The motion to waive is debatable.

The PRESIDING OFFICER. The point of order is not debatable. The motion to waive is debatable.

Mr. SCHUMER. I thank the Senator.

Mr. STEVENS. I will be happy to yield to the distinguished chairman for a question.

Mr. BYRD. Might we have a quorum call?

Mr. STEVENS. May we have a quorum call and I will regain the floor when we come back?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Under that circumstance, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be able to yield to Senator BYRD so he might make a response to my statement on my amendment and that I regain the floor after Senator BYRD has finished his statement on my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Mr. President, I do not envy myself for being in the position in which I find myself. Senator STEVENS is a Senator who can say no and make you like it—almost. He is always so gracious. I have heard a lot about his renowned temper. I have seen it at work, but he does not lose his temper. He uses his temper and is always, as I have witnessed over several decades, one of the most reasonable individuals. So I do not like to be in a position of being opposite to Senator Stevens.

While discussions are going on, let me attempt to point out some flaws of the amendment by Mr. STEVENS. The substitute amendment reduces the amount of money available to the Office of Domestic Preparedness, ODP, to $362 million, a $138 million reduction. That is a 39-percent reduction from the bill, as reported, for State and local law enforcement antiterrorism equipment and training.

The Office of Domestic Preparedness estimates there is currently no State that is adequately equipped to respond to an incident involving a weapon of mass destruction at the State or local level.

Texas, identified as one of the best prepared States, has conducted a study that shows that $159 million in equipment would be needed to bring the State to the minimum level needed to adequately respond to a terrorist incident. In fact, ODP, the Office of Domestic Preparedness, estimates funds needed to bring the Nation's State and local governments up to minimum standards could well exceed $2 billion in fiscal year 2002 alone. Thus, the reduction proposed by the substitute amendment is equivalent to the level of funding needed to bring Texas up to minimum standards.

There are currently over 9 million first responders in the United States who would be called upon to respond to a terrorist incident. To date, the ODP has been provided with training funds that have allowed them to train only 80,000 of the 9 million first responders nationwide.

The bill as reported attempted to more than double the population trained to date. The substitute amendment's reduction in funding jeopardizes our efforts to provide the individuals on the front lines with the training necessary to protect their own lives, as well as the lives of victims.

Furthermore, the amendment by Mr. STEVENS reduces the $300 million in the committee bill for FEMA for gathering grants by $10 million; $300 million in the committee bill is reduced by $10 million.

As to Federal antiterrorism law enforcement, the substitute amendment cuts $100 million in the homeland security bill to cover the costs of the FBI's investigation of the terrorist attacks on September 11. These funds are critical to the investigation of the attacks from September 11 and the anthrax attacks.

The substitute amendment cuts $25 million from the homeland security bill for the FBI's Trilogy, the computer modernization program. This $25 million will significantly accelerate the completion of Trilogy.

The September 11 attacks have exposed the vulnerability in the integration of the FBI's computer system. While FBI agents in the field are working around the clock collecting evidence and clues, their reliance on paper files leaves their work fragmented and uncoordinated. It will only be when FBI agents are linked by the Internet to one another and the universe of law enforcement agencies, that the FBI will actually know what it and others know about terrorism, espionage, or organized crime.

Without these additional funds, deployment of Trilogy may be delayed and these unacceptable problems will continue to exist.

The substitute amendment cuts $25 million included in the Homeland Security bill for counterterrorism equipment and supplies. These funds are essential for the FBI to have the resources they need to properly investigate the terrorist attacks on September 11, 2001 and the following anthrax attacks.

With reference to Border Security the substitute amendment cuts over $270 million in funding for the Customs Service. This will prevent Customs from hiring the necessary inspectors and agents to protect our borders.

On Monday, the Attorney General essentially called out the National Guard to assist the Border Patrol and INS in their duties on the northern border. Treasury has not taken the same steps, yet has pulled personnel from the overworked posts on the Southwest border to staff one-person posts on the northern border. They even eliminated funding for added inspectors on the Southwest border.

This delay places $7.5 billion in international commerce at risk daily; $1.3 billion of which crosses the northern border. Instead of providing additional people to protect our borders, it will continue our short-sighted reliance on orange rubber cones to stop terrorists.

The substitute amendment cuts $300 million for INS construction that is funded in the homeland security bill even though there is an ever-growing overcrowding crisis at the INS.

For example:

Of 85 outposts across 9 sectors on the southwest border, 63 are overcrowded, some grossly so. The worst, a station in Mercedes, TX, was designed for 13 agents but currently houses 142, more than 1,000 percent its rated capacity.

In total, there are 10,150 agents working in office space designed for a capacity of 5,831 on the southern border. There are 525 agents working in office space designed for a capacity of 469 on the northern border.

The substitute amendment makes the same mistake made with the southern border over the past several years. We are building up agents—300 inspectors and 100 Border Patrol agents—but we are not providing the necessary funding to address necessary space requirements for them to do their job efficiently and professionally.

The risks to the safety of agents cannot be overemphasized and appalling work conditions will do nothing but contribute to the Border Patrol's soaring attrition rate.

This $300,000,000 is only the beginning to truly address the enormous backlog with INS construction projects.

Now, we have heard a lot about airport security.

The bill reported by the committee included $200 million to assist the neediest airports in meeting the costs of the dozens of new safety directives issued by the FAA since September 11. The Stevens amendment cuts that figure in half.

Senators should ask their small- and medium-sized airports whether all this money is needed. Airport revenues are dropping drastically at the same time as the airports are being required to triple their law enforcement expenditures and security personnel.

The Stevens amendment actually cuts the President's request to better secure cockpit doors by more than 20 percent.

Senators should not be confused by recent announcements that the airlines have reinforced all their aircraft. All the airlines have done to date is install a temporary metal bar and a cheap deadbolt.

The money in the President's request for FAA operations is to install the next generation of truly impenetrable cockpit doors. The Stevens amendment cuts it by more than 20 percent.

As for the nuclear power plants, the amendment by Mr. STEVENS proposal cuts $86 million from the $285 million provided for enhanced protection of our Nation's nuclear weapons plants and laboratories.

The amendment by Mr. STEVENS also cuts $131 million from the $286 million provided for the acquisition and safeguarding of fissile nuclear material from Russia and states of the former Soviet Union.

The non-proliferation programs at the Department of Energy are the cornerstone of our Nation's effort to keep nuclear material out of the hands of terrorists.

The Stevens proposal cuts all funding—$139 million—for enhanced security at Army Corps of Engineers owned-and-operated facilities: ports, dams, and flood control projects nationwide.

Additionally, the proposal cuts all funding—$30.259 million—for increased security at Bureau of Reclamation facilities.

It funds only the GSA request for security of Federal buildings in New York City. It fails to provide similar security for other Federal buildings elsewhere in the country.

How about U.S. port security.

The Stevens amendment then goes further by eliminating two-thirds of the funding for marine safety teams to permanently protect our ports.

Under the Stevens amendment, there will only be one such team to protect all the ports on the East Coast and one team to protect all the ports on the West Coast.

The substitute amendment reduces funding for the port security initiative through the Maritime Administration by $12 million.

These reductions would eliminate funding to assist local ports in their efforts to purchase security equipment such as fences, surveillance cameras, and barriers.

Effective physical security and access control in seaports is fundamental to deterring and preventing potential threats to seaport operations, and cargo shipments.

Securing entry points, open storage areas, and warehouses throughout the seaports, and controlling the movements of trucks transporting cargo through the seaport are all important requirements that should be implemented. They will not be implemented under the substitute amendment.

United States seaports conduct over 95 percent of United States overseas trade. Seaport terrorism could pose a significant threat to the ability of the United States to pursue its national security objectives.

The amendment by my friend would cut the President's request for defense programs by $2.3 billion.

Let me say that again. The substitute amendment by Mr. Stevens would cut the President's request for defense programs by $2.3 billion. While the amendment has no detail, the cut would need to come from either classified programs or force protection programs designed to improve security for our forces around the world.

As to the Postal Service, my friend's amendment would cut $300 million from the $875 million in my proposal to sanitize the mail, protect postal employees, rebuild the facilities lost in New York City. The U.S. Postal Service identified $1.1 billion in unfunded needs. This proposal cuts that amount in half.

My friend's amendment to my amendment cuts $29 million from the

EPA for bioterrorism response and investigation teams. This would undercut EPA's ability to respond to, investigate, and clean up after acts of bioterrorism.

My friend's amendment does this. The President promised New Yorkers they would get $20 billion to help them recover from the September 11 attacks. My amendment fulfills the President's promise. My amendment fulfills our commitment. I did not go to New York, but I saw enough on television. I did not go up there and make any promises. I stayed here and made my promise, and I am living up to that promise.

So the substitute, I am sorry to say, cuts funds for New York and other communities directly impacted by the attacks by over $9.5 billion. Here are some examples:

FEMA disaster relief, which funds debris removal at the World Trade Center site, repair of public infrastructure such as the damaged subway, the damaged PATH commuter train, all government offices and provides assistance to individuals for housing, burial expenses, and relocation assistance, is cut—cut—by $8.6 billion.

And $100 million for security in Amtrak tunnels is eliminated. Eliminated.

Funding of $100 million for improving security in the New York and New Jersey subways is eliminated by my friend's amendment.

As to New York/New Jersey ferry improvements, $100 million for critical expansion of interstate ferry service between New York and New Jersey is eliminated by my friend's amendment. Prior to the September 11 attacks, 67,000 daily commuters used the PATH transit service that was destroyed.

Those commuters are trying to get to our Nation's financial center in lower Manhattan. The communities in the New York region have been piecing together temporary ferry and train service using facilities that are not even safe to transport these commuters. The train riders at alternative train stops are so crowded, the police authorities are concerned with passengers being pushed off the platform onto the tracks. Yet the amendment proposed by Mr. STEVENS eliminates all this funding for transit and ferry assistance in that region.

And $140 million is eliminated to reimburse the hospitals in New York that provided critical care on September 11 and the weeks and months that followed.

Mr. President, $175 million is eliminated that would help New York process workers compensation claims for the victims of the September 11 attacks.

As to Federal facilities, $16 million is eliminated for the costs of keeping Federal agencies operating that were in the World Trade Center, such as the Social Security Administration, the Occupational Safety and Health Administration, the Pension and Welfare Benefits Administration and the National Labor Relations Board.

Ten million dollars is eliminated that would help New York schools provide mental health services to the children of the victims of the World Trade Center bombing.

Hear me. Hear me, Governor of New York Pataki. He came to my office. He sat down at the table across from me, and he made his plea for help. I am trying to help him. Yet $10 million is eliminated that would help New York schools provide mental health services to the children of the victims of the World Trade Center bombing.

The Stevens compromise is $174.4 million less than the Senate committee bill for the District of Columbia.

I will soon close my remarks. Before doing so, let me call attention to a cut in bioterrorism activities by over $1 billion. The amendment by my friend, Mr. STEVENS, would cut bioterrorism activities by $1.025 billion. It would cut in half funds from $1.15 billion to $500 million for upgrading our State and local public health infrastructure funds, desperately needed to help upgrade State and local lab capacity, to enhance surveillance activities, support local planning for emergencies, and improve local communications systems.

Recent events have made it clear that the State and local public health departments have been allowed to deteriorate. The head of the CDC, Mr. Jeffrey Koplan, testified only last week that at least—at least—$1 billion is needed not next spring, not next summer, not in the next supplemental, but now, immediately, to begin to upgrade our State and local health departments. That is the head of the CDC talking.

It cuts all funds provided in our proposal for the deployment of the smallpox vaccine across the country. This vaccine does no good if it is all at the CDC, with no plans for distribution if an emergency occurs.

He cuts funding for CDC capacity improvements by $57 million. Recently the Los Angeles Times reported that four men in Georgia were discovered to have contracted the West Nile virus 3 months earlier. The delay in the diagnosis was due to the large backups at the CDC labs. This cannot continue.

The people of the Nation cry out for help. They are concerned about the safety of their children, the safety of their wives, their mothers, their husbands, their fathers. They are concerned about the possible loss of life that might be visited upon them tonight, this very night.

So I had three goals in the committee bill. Let me repeat them.

One goal is to fully fund the President's request for defense—he would get every penny—$21 billion for defense. Nobody can say that this impedes or impinges upon the needs for defense.

Second, my proposal fulfills the promise of $20 billion for New York.

Also, my package responds to the vulnerabilities in our homeland defense.

Lastly—I would much prefer to be on the side of my friend than to be opposite him—my friend's substitute does not meet any of these objectives.

I yield the floor. I thank my friend for his courtesies.

AMENDMENT NO. 2243, WITHDRAWN

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I shall read and reconsider the substitute based upon the Senator's detailed objections.

I withdraw my amendment.

Pursuant to section 205 of H. Con. Res. 290, the fiscal year 2001 concurrent resolution on the budget, I raise a point of order against the two emergency designations set out in provision C of the committee-reported amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Madam President, I move to waive section 205 of H. Con. Res. 290 of the 106th Congress for the consideration of the emergency designation on page 397, and I move to waive section 205 of H. Con. Res. 290, 106th Congress, for the consideration of the emergency designation on page 398, and I ask that the motion be divided.

The PRESIDING OFFICER. The Senator has the right to divide the motion.

Mr. BYRD. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

This will be on the first division.

There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, there has been a vote ordered on both motions to waive; is that right?

The PRESIDING OFFICER. Only the first division is pending at this time.

Mr. REID. I ask for the yeas and nays on the second.

The PRESIDING OFFICER. Is there objection?

Without objection, it is the order to so request.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Madam President, I ask unanimous consent that there be 60 minutes for debate with respect to the motions to waive, with the time equally divided and controlled between Senator BYRD and Senator STEVENS or their designees; that upon the use or yielding back of time, without intervening action, the Senate proceed to vote with respect to the motions to waive. I further ask unanimous consent that—I have checked with Senator BYRD on this—Senator SCHUMER and Senator CLINTON each be recognized for 5 minutes out of the time of Senator BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I yield 5 minutes to the senior Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the Senator from West Virginia for his leadership. I know he will address the homeland security part of the debate so well, I will talk about the New York part of the debate, as I know my colleague, Senator CLINTON, will.

We are about to experience one of the most incomprehensible and inexplicably absurd moments in the entire history of this body. We are going to debate and vote upon whether what happened in New York on September 11 was an emergency. Think about it. We are debating whether what happened in New York on September 11 is an emergency. Some are saying it is not an emergency. Ask the thousands of families who lost loved ones as the Twin Towers collapsed. Ask the firefighters and police officers, emergency rescue workers who worked so valiantly, many giving their lives to rescue those in the Twin Towers. Ask the hospitals that extended themselves in ways they never had to before. Ask our mayor, a hero in America. Ask our Governor. If there was ever an emergency that affected the United States and certainly affected New York, it was this. Yet now we are debating whether this was an emergency.

New York desperately needs the money that Senator BYRD has allocated in his bill. When Senator CLINTON and I visited the White House and the President committed to help us with $20 billion, it was an act of generosity. It was an act of understanding that you don't divide America in a time of need. It was an act that said we are all one, and when one part of America is wounded and hurt and crying, all of America comes to its aid.

The proposal by the Senator from Alaska puts less money in for New York than either the President did when he committed to us or even that the President argued for in the House bill. That is not a way to heal our country. That is not a way to restore our Nation's greatest city. That is not a fair thing to do.

Every day we learn of new needs and new hurt in New York. The amount of money proposed in this bill helps us begin to recover. It helps the families who have lost loved ones. It helps the office workers who have lost their jobs. It helps the small businesses that are about to go under because they don't have anybody there to buy their wares. It helps the large businesses that lost so much space, 20 million square feet of space. It helps us restore our transportation system so damaged.

To now say that we don't have an emergency is almost as if to say what happened on December 7, 1941, was not an emergency. What kind of world are we living in? How can we contort ourselves in a political knot and deny what is obvious to everyone on this planet, American and otherwise? In an effort to deny New York badly needed funds, we are now attempting to vote away an emergency designation.

In my years here in the Senate, I have voted for emergencies such as earthquakes and floods. I have voted for all kinds of money for such. Now an emergency has struck my city, a horrible, fiendish emergency caused by diabolical people from halfway around the globe.

America, my friends in the Senate, we need your help. We desperately need your help. Please, do not turn your back on us. Do not turn your back on us in our hour of need. Bring America together. Unite and help us heal by supporting Senator BYRD's proposal, by voting against Senator STEVENS', on its face—with all due respect—absurd proposal that New York is not in an emergency situation.

If New York and if all of America—because the attack on New York was an attack on America—ever needed you, it is now. Do not let other types of considerations get in the way.

I yield the floor.

Mr. BYRD. I yield 5 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I rise to once again remind us what an emergency looks like. I have, over the past 25 years, visited the sites of tornadoes, hurricanes, floods, earthquakes, the Oklahoma City bombing. I have never seen anything in my life like what I saw in New York City on September 11. The television and the pictures didn't do it justice. I had to see it with my own eyes on September 12.

I rise to join my colleague who has, with me and so many others, been working to recover from this, this picture of devastation and destruction. I remind my colleagues of those early pictures of the firefighters, the police officers, and the emergency response teams coming out of the dust, the black soot that covered them from head to toe. There were a lot of very kind words spoken, a lot of applause and cheers for our soldiers on the front line at home who ran toward danger and saved countless lives.

It is hard to imagine that we are having this debate. It is especially hard when we look back, as I did, at how this body responded to the emergencies that were not man-made but naturally occurring, and what happened in Oklahoma City.

We know we are going to have a long struggle ahead to recover and rebuild. New York is taking on that obligation and challenge. But we also know we cannot do it without America's help.

This is America represented in this Chamber tonight. When New York City was attacked, America was attacked. I cannot imagine us ever turning our faces away from this. In fact, we did not. We immediately moved to appropriate money to be spent for New York. Right now, we are fighting for the emergency designation that will put that money in the pipeline, that will make it available.

Why is that important? It is important because in every disaster—there are some former Governors in this body, and I have spoken to a few of them tonight—when States were flooded, when the hurricanes came, when the tornadoes came, they wanted that money as soon as possible to begin to put it to work, to start letting the contracts, to start paying back the overtime so they did not have to run in the red, as we are having to do throughout New York.

I went back and looked at how fast money got out in other emergencies compared to the amount of money that was eventually delivered.

In the Midwest floods, within 3 to 4 months more than 40 percent of the dollars from the Federal Government had been appropriated. With the Northridge earthquake, more than 30 percent of the dollars had been appropriated within 26 days. Ninety-nine days after the Oklahoma City bombing, more than 40 percent of the money that went to help the people of Oklahoma had been appropriated. Eighty-five days after the attacks, we are fighting over whether or not what happened in New York on September 11 was an emergency.

I remember what people said in the immediate aftermath. We were given enormous support.

"We will rebuild New York City," said President Bush on September 21.

"We will come back to New York again to see this town rise from the ashes that we saw today," Speaker HASTERT.

"We are here to commit to the people of New York City and New York, regardless of the region of the country that we come from—and the entire country is represented by this delegation—that we will stand with you.'' Senator LOTT.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. CLINTON. I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Madam President, on behalf of not just New York—let's not look at it abstractly as just the big State and the big city that we are. I want everyone to picture the faces of those firefighters, police officers, and emergency workers, and then I want everyone to think about the widows and the orphans. Our country was invaded, and under the Constitution, we owe, as a nation, the protection and certainly the support of this body for which we are fighting tonight. I hope that what is an emergency will be voted as such this evening.

Thank you, Madam President.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Madam President, I ask for 2 minutes.

Mr. BYRD. I yield 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I rise as chairman of the Senate Budget Committee to point out that while our Republican colleagues are opposing $15 billion to strengthen our defenses and to rebuild what has been destroyed in the sneak attack on this country—they argue that this will add deficits—at the very same time, they are proposing an economic stimulus package that adds $146 billion of deficits over the Democratic stimulus plan over the next 3 years, 10 times as much in deficits in their economic stimulus plan than the $15 billion that would be used to strengthen homeland security and to rebuild the devastation in New York. Something does not make sense.

In their stimulus package, they have $25 billion, as the New York Times pointed out this morning, that would simply go to help the biggest corporations in America avoid taxes altogether.

They argue: No, no, go slow, the President might veto. Nobody argued go slow when we counterattacked those who attacked America. Nobody argued that we ought to go slow when the President went to New York and promised to rebuild. This is not the time to go slow in protecting America and rebuilding that which has been destroyed. This is the time to act.

The greatest irony is I was informed last week by sources within the administration that they themselves are working on a $20 billion supplemental appropriations bill for early next year.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CONRAD. Madam President, we should not wait. We should act.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. How much time does the Senator from New Jersey wish?

Mr. TORRICELLI. Three minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Madam President, I thank the Senator from West Virginia for yielding the time.

There are moments when we are reminded why our fathers and mothers created this Union. This is one of those moments to provide for the common defense, to promote the general welfare.

All of America was attacked, but that attack fell most directly on the peoples of several States. The President of the United States has reminded us that in this new war, we are all soldiers. If that be the case, the obligation of this Senate is to provide resources for all the police officers, all the citizens, all the workers who are on the front lines.

The Senator from West Virginia has answered that call for my State, and I believe for the national interest. Since September 11, thousands and thousands of people are unable to get to their place of employment because the trains under the Hudson River were, in some instances, destroyed; businesses had to relocate and have had enormous economic disruptions. The Appropriations Committee has provided money to repair those trains, and $100 million for ferry service so businesses can continue to operate.

We are told that one of the greatest threats to our security in another terrorist attack is the tunnels under the Hudson River, identified as the primary threat in the country. The Appropriations Committee has provided $100 million to repair the tunnels for safety, for fire, for escape.

We are told that one of the greatest threats, from a previous threat from the al-Qaida organization, was to attack the tunnels for automobiles and bridges. Indeed, that attempt was foiled once before, but we remain vulnerable.

The Appropriations Committee has provided $81 million for security upgrades of the George Washington Bridge and the Lincoln Tunnel.

Finally, on this very day, we have this Senator's testimony about the vulnerability of millions of uninspected containers coming into this country on container ships from every corner of the Earth. The Appropriations Committee has provided $29 million for new security personnel and new boats for New York Harbor to ensure these ships are intercepted, and that these containers are inspected to assure the safety of our people.

President Bush is right. This country is at war. It is not a distant war. It may be fought in Afghanistan, but it began in New York and in Washington.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TORRICELLI. These are the resources in a very real way, just as real as in Afghanistan to win that fight to secure these people, and I am grateful to the Appropriations Committee for its commitment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Madam President, does the Senator from West Virginia need additional time now?

Mr. BYRD. I need some additional time. I was hoping the other side could use some of its time.

Mr. STEVENS. I will be happy to yield 10 minutes of our time to the Senator from West Virginia and shift it over to his control.

Let me briefly state the position of this Senator on the motion to waive. As I have stated, the President, as Commander in Chief in a time of war, has said he believes he has requested ample money to take him through to the time when he will submit, based on Governor Ridge's report to him, the moneys that are necessary to conduct the homeland defense for the United States. He has also said he believes we have now sufficient funds to pursue the war that is being conducted against global terrorism based on the moneys that have been presented in section A of this bill, and the additional moneys for defense in section B of this bill.

Those moneys are presented pursuant to the act of September 14, which specified that not less than $20 billion of the moneys involved would go to New York, Virginia, and Pennsylvania to help react to the events of September 11.

My amendment—I have withdrawn it now, but I will offer it again probably in the morning—does not change that law. Nothing in the proposal of the Senator from West Virginia changes the September 14 law, as I understand it. He seeks to add to it, but he does not change that, and that law guarantees $20 billion.

Now, I do not have my tie on to take on the Senator from New York as I might normally. That will be tomorrow probably, but right now let me say to the Senator from New York, no one knows disasters in the United States like Alaskans. We have an earthquake about every week. We have tidal waves. We have tornados, floods. We understand emergencies.

We have not said New York did not suffer an emergency. We have merely, by this point of order, said emergency money is not needed now to meet the needs of the people affected by September 11 because with this bill, we have put up a total of $40 billion, plus the moneys that are in the bill itself. They cannot even come near to be spent before we can get the next supplemental out.

I am informed that New York has only requested so far less than $5 billion of the money to which it is entitled.

I do not mind being a whipping boy. You play with the cards you are dealt. My role is to try to get this bill to conference. I want the bill enacted before Christmas. I think New York is better off to have it enacted before Christmas. I do not think it can be enacted before Christmas if we have a situation where we have a veto of this bill. I do not think we should be challenging the President of the United States.

I remember standing in this Chamber as the chairman of the committee asking for money for the former President of the United States to conduct two wars against which I voted. I have always honored the request of the President of the United States with regard to defense and emergencies, too. I remember standing in the Chamber and asking for money to replace the money that the former President of the United States used under the Food and Forage Act to conduct activities in Kosovo and Bosnia, that I opposed.

This is no precedent. This is a procedure established to assure the Congress agrees with the designation of emergency in terms of spending. We are not saying there was not an emergency on September 11. Anyone who watched the television—and I did visit ground zero. God knows there was an emergency up there and one that will be ongoing, but New York is not going to be rebuilt before March of next year. The money in this bill, the $40 billion, cannot be spent before March of next year. There is no necessity for additional money now. There will be a necessity to respond to the President's request next spring. Therefore, I believe the motion to waive is not necessary, and I oppose it.

The PRESIDING OFFICER. Who seeks time?

Mr. BYRD. Does the other side wish to yield some time to themselves?

Mr. STEVENS. We yielded 10 minutes of our time to the Senator from West Virginia.

Mr. BYRD. I understand.

Mr. STEVENS. Does the Senator from Oklahoma seek time?

Mr. NICKLES. How much time remains on both sides?

The PRESIDING OFFICER. Fourteen minutes remains for the minority; 24 for the majority.

The Senator from Oklahoma.

Mr. NICKLES. Madam President, first I wish to compliment our colleagues for this debate, and particularly Senator STEVENS. It is not easy when one takes on the chairman of the Appropriations Committee. I have great respect for my friend and colleague from West Virginia. I do not happen to agree with him on this particular issue. I agree with him on a lot of issues. This is not one I agree with him on, and I will state why.

I have heard some colleagues imply if we do not support this, we are not in favor of New York, or we are not in favor of rebuilding, and I just totally disagree with that. I think every one of us wants to help New York, wants to help Virginia, wants to help our country, wants to provide for national security, wants to provide for a defense bill.

I am trying to look at where we are in regard to helping New York and helping our national defense. We have to have a bill that is going to be signed by the President of the United States.

I read the President's statement of policy, and it does not equivocate. It says if the final bill presented to the President exceeds either of the agreed-upon spending levels, the President will veto the bill—the spending levels of $686 billion that he agreed to. And I might mention he increased that spending level to get an agreement. He had an agreement with Members of Congress, Democrats, and Republicans. I might mention the Democrats in the House insisted he put it in writing. It was put in writing on October 2.

That agreement was for $686 billion in discretionary spending. That was for a growth level of over 7 percent. The President agreed with that. Subsequent to that, the President agreed to an emergency spending bill of $40 billion.

I might mention we were marking up the bill—I am sure my colleague from West Virginia remembers this—and the bill was $20 billion. At one time, some people were saying maybe it should be less than that, but it was at $20 billion. Then our colleagues from New York and the Governor and the mayor of New York prevailed upon the President to make the $20 billion $40 billion. So in one afternoon, in a period of hours, right before the very day we were passing the emergency assistance bill, it was $40 billion.

That bill was passed unanimously. It was done in a bipartisan fashion. We all agreed, let us make it $40 billion. We were basically saying let us work together on this. I questioned whether or not at that time it needed to be $40 billion. I was saying, why do we not do $20 billion now, and if we need another $20 billion, we will do it? But we all agreed, let us do $40 billion.

We had a significant discussion about how that first $20 billion would be controlled, and we agreed basically $10 billion at the President's discretion, the other $10 billion the President would submit his request to the appropriators and they would sign off on it. They had 15 days to do that.

Then we said the additional $20 billion would be subject to a separate appropriations bill, and that is what we have in the Department of Defense bill. Some people might be wondering why this is being done in the Defense bill in the first place. It did not have to be in Defense. We just said it will be in a subsequent bill. It could have been an independent bill or it could have been in an appropriations bill. So that is the $20 billion. The President agreed with that. Both parties agreed with that, and it was passed.

That is all we have agreed on. The President says that is enough for now. The President said he is willing to make whatever considerations are needed in the future. The President's letter also said the administration spent less than 16 percent of the $40 billion designated by Congress to respond to the September 11 attacks. Yet some people are saying let us make the $40 billion $55 billion, even though we have only spent 16 percent of the original $40 billion. I think that is moving a little aggressively, maybe a little too fast, and maybe not giving us a chance to figure out the cleanup costs.

Both Senator Stevens' bill and Senator BYRD's bill have a lot of money for FEMA. I do not know, and I do not know that anybody knows, how much FEMA is going to need for cleanup costs for Virginia and New York, but we are paying every bill that FEMA has been requested to pay.

I contacted the mayor's office in New York City and they said every single bill they have submitted to this administration has been paid within 5 days. That was from the mayor's office as recently as a few days ago. So if every bill has been paid, they are making good on their commitment.

Why not give the administration a chance to look at the total costs. Governor Ridge was appointed to be head of this task force. We give him enormous responsibility. Let him make recommendations. Then we will consider those recommendations. I am sure we will pass almost all of them. We may modify them. We have that right. To say we will preempt and move ahead, we are wasting our time. The President says he will veto it. I tell my friends, we have the vote to sustain the veto; why go through this exercise?

Finally, some have implied we are not doing anything for the victims in New York. This disaster happened September 11 and it is December 6 and we have not enacted legislation. Let me correct that. At least compare it to what we did in Oklahoma City. We had a disaster in Oklahoma City. It killed 169 people. That is not as bad as 3,000 or 4,000 but it is still pretty bad.

What did we do? For New York City, by the end of the week or hopefully by the end of next week, we will pass legislation that will say victims who were killed, their families will not have to pay any tax on income earned this year or the previous year. That is a benefit preserved primarily for the military. We will make that apply for the people who were killed as a result of the September 11 disaster. We never did that for the people in Oklahoma City 6 years ago, but we will do it in this case, and I strongly support it. Very good. That is positive.

Some of the families, the survivors of families were lobbying for that. I compliment them for that. We are going to deliver. That will be valued assistance. They will get back all the taxes they paid last year and all the taxes they paid this year. That will happen soon. They will not go through bureaucracy. That will happen. I am happy we can provide that assistance.

We have also already passed a victim's compensation fund and we have appointed a special master. The Attorney General appointed a special master who is trying to come up with an adequate compensation system for people who lost a family member as a result of the disaster. That moved quickly. We never did that in Oklahoma City. Some people estimate they will receive large payments. I don't know. I think it has something to do with how much compensation they receive or how much they will receive from the insurance companies. That is very significant. Congress has already acted on that. Hopefully, checks will go out to the families and those in need of assistance will get that quickly.

It would be shortsighted to say we are not taking care of families. I think they have significant assistance through the Tax Code by this Congress, this year, and I think they will get something through the victim's compensation fund which Congress has already enacted. That should happen pretty quickly.

Congress has been moving. Maybe we don't move as fast as some think we should, but that is pretty quick. What about rebuilding New York City? Oklahoma City just had a dedication to rebuild the Murrah Building destroyed 6 years ago. They just had the groundbreaking today. Again, everybody is wanting to move full speed ahead, but use a little common sense. Work with Governor Ridge. Let him have some input on what is needed. Let the President of the United States have some input on what is needed. Let's work together in a bipartisan fashion to figure out what is needed, not one party saying this is what we will insist upon. Let's work together. We did it for the initial $40 billion. I think we can do it for the future. We can do it working with the administration. It will not happen in this bill, trying to jam $15 billion on the President, saying he will not sign it and we will sustain the veto. That will not happen.

I urge my colleagues to vote no on waiving the budget point of order. The budget point of order is well made. Let us work today. When we waive the budget, we should do it when we are working together. If we waive the budget and say budget rules don't apply, do it when we are all on the same bandwagon, when we are working together, not for partisan advantage trying to make some look as if we don't care about New York or care about fighting terrorism. That is false. Every Member serving, House and Senate, cares about New York and cares about fighting terrorism. I urge my colleagues to work together in a bipartisan fashion, work with the administration, work with Governor Ridge to come up with something mutually acceptable that will provide the Nation security and make sense economically and not break the bank at the same time.

I yield the floor and reserve the remainder of my time.

Mr. BYRD. How much time do I have remaining?

The PRESIDING OFFICER. Twenty-three minutes forty-five seconds.

Mr. BYRD. I yield 3 minutes to the Senator from Iowa and I yield 2 minutes to the Senator from Rhode Island, Mr. REED.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, we are talking about just another part of the defense of our country. If we think of what is happening in Afghanistan, if we found out our troops were ill-trained, that our radar was out of date, and they were short of ammunition, we would have hearings. We would call in the experts, we would listen to them, we would find out how much they needed to make sure our troops were trained, to make sure our radar worked, and to make sure they had enough ammunition, and we would supply it.

That is exactly what we did for this bill. We brought in the witnesses. We heard from the experts. We asked: What do we need to protect the people of this country in terms of a bioterrorist attack? That fell under the jurisdiction of the subcommittee which I chair. Senator SPECTER and I had four hearings. Senator STEVENS and Senator BYRD attended those hearings. We had good testimony. What they came up with was the expert judgment of what we needed to protect our people against a bioterrorist attack.

If I put it in military terms in terms of bioterrorism, our troops are ill-trained, our radar is out of date, and we don't have enough ammunition. For example, we had testimony that we needed to get our small pox vaccine manufactured and deployed. This bill includes $829 million to do that. The substitute amendment would take that down by $267 million. We would cut local and State public health preparedness by over $650 million. This is our radar system. These are the people, if an attack happens, who will pick it up immediately and keep it from spreading. We had $1.15 billion. The amendment, the substitute, only has $500 million. There are cuts for CDC for the lab capacity. These are things we need to protect our people.

We heard from the experts. We got their testimony. We made a judgment call as to what was needed to protect us from a bioterrorist attack. We had $3.9 billion—it was $3.3 billion for public health and $600 million in agriculture, for a total of $3.9. The substitute amendment only leaves $2.3 billion.

Just as we would not want to shortchange our troops in the field overseas, we don't want to shortchange the troops we have at home. Our public health officials, our local hospital administrators, the laboratories, the manufacturers of the small pox vaccine, make sure they have the equipment they need to protect our people.

Mr. STEVENS. I ask unanimous consent the time remaining be divided 25 minutes to the Senator from West Virginia and 5 minutes to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. REED. Madam President, I rise to support the efforts of our chairman, Chairman BYRD, on an extraordinary package that recognizes the reality we have to do more, not less, and we have to do it now to respond to the issue of homeland defense.

A few weeks ago I met with my Governor and all the emergency preparedness officials in the State of Rhode Island. They have an excellent plan. They have an idea of what they can do, what they must do. They don't have the resources to do it. Time waits for no person. And if we waste this time when the crisis comes and a response is necessary, the plans won't mean anything.

This funding is critical now. It is critical to protect our preparedness infrastructure to allow first responders with appropriate equipment, with radios that communicate with all the different agencies, to be in place—not on order. We have to move now, and we have to move aggressively, and that is what the chairman has done. He has carefully weighed conflicting demands for scarce resources, and he has come up with a plan that covers the gamut of major responsibilities at the State level. We have to protect our infrastructure. We have to protect our nuclear facilities. We have to ensure that all of our State agencies and Federal agencies and not-for-profit groups, such as the Red Cross, are coordinated.

Rhode Island is one of three or four States that have a plan that has been approved and accepted by the Federal Government. They know what to do. But they would be the first to tell you, as they told me, they don't have the resources to do the job. When the crisis comes, when an attack comes, we cannot satisfy our constituents simply by saying we had a good plan. We have to be able to act. This money is necessary now. I commend and thank the chairman for his great efforts, his leadership on those resources.

If I may, I request 1 more minute.

Mr. BYRD. I yield 1 more minute.

Mr. REED. I am particularly concerned, in terms of assisting local communities, that they have these resources now because it will signal, first, that the Federal Government is committed to supporting them now; second, it will leverage State dollars. We are approaching a situation where the States are under extreme fiscal distress. Without the foundation of this Federal funding, I am very pessimistic that States will come forward.

If it is not important for us, the Federal Government charged with protection of our country, then how is it important to a State legislature to appropriate funds this coming year, in the next few months? That is another reason I believe we have to act now. We have to act promptly.

In addition, we have to be able to support the efforts of the State governments to begin to take these plans and operationalize them—to go and actually test these plans. Frankly, we will not know the gaps until they go out and test it. This money could enable that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. REED. I yield the floor.

Mr. BYRD. I yield 3 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Madam President, I strongly support the leadership and initiatives of the distinguished Senator from West Virginia with regard to these issues on homeland defense.

There are so many powerful arguments that support this investment that I think our society needs to make in the protection of our communities through the bioterrorism initiative, which puts money in State and local hands, money that will make a difference to make sure we have the plans in place to really protect our people.

I live in New Jersey. We had a number of anthrax-related events in our Postal Service. We were not prepared, and the State ended up coming in and spending enormous amounts of money. It needs to be addressed now. That is why the kind of program that Senator BYRD has put together is so important.

It is a good economic policy. We need to have confidence in our society right now. This is a statement to all of the people in this country that we take these issues seriously with regard to homeland defense, whether it is from bioterrorist attacks or whether it is protecting our nuclear plants, of which we have four in New Jersey. It is absolutely essential we send out these sure and certain statements that we care.

It is good economic policy because it will stimulate our economy. We do not want to get too far away from that. This is real expenditures that will be out the door quickly.

Our States are desperately strapped, as the Senator from Rhode Island was just saying. New Jersey has a $1.9 billion deficit in this fiscal year, the one that ends June 30. They need resources to be able to be economically sound in a tough economic environment.

It is inconceivable to me that we do not stand strong with New York City and New York State at this period of time. I have seen the two Senators make their presentations today with regard to the devastation. This is money not going to be available in the near term when the need is the greatest. We need to act. I have lived and worked in the community around New York for 30 years. The desperation, the depression that we have—in an economic and emotional context—is real. We need to send these signals. That is what this is about. It will do much along those lines.

I will be very parochial. This bill has meaningful elements in it for the State of New Jersey—those parts of New Jersey, by the way, that are linked inextricably with New York City. There is $100 million for ferry service, $81 million for law enforcement. Part of that, $34 million, is going to the State police in New Jersey. We have one boat patrolling the ports—one boat.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CORZINE. For all these various reasons, I strongly support Senator BYRD's amendment.

Mr. STEVENS. Madam President, I shall use the remainder of our time and then the Senator from West Virginia, the chairman, shall close on this motion.

I call to the attention of the Senate that the act of September 18 was specific in the sense of dealing with $40 billion for the costs of:

> . . . providing Federal, State and local preparedness for mitigating and responding to the attacks . . . providing support to counter, investigate, or prosecute domestic or international terrorism . . . providing increased transportation security . . . repairing public facilities and transportation systems damaged by the attacks; and . . . supporting national security.

Then it says:

> Provided, That these funds may be transferred to any authorized Federal Government activity to meet the purposes of this Act.

It later specifically says:

> . . . not less than one-half of the $40 billion shall be for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia, and Pennsylvania, on September 11, as authorized by law. . . .

"As authorized by law," the funds must go to Federal agencies for authorized Federal activities.

Senator BYRD's amendment—and I think we are going to have to go there sometime in the future—goes beyond this law. It goes beyond the $40 billion and makes $15 billion more available, and not all of it is channeled through Federal activities.

Again, I do not argue with the intent. I think he is right. Eventually we will have to do that. But for now, if we look at what my amendment has done—and we are going to modify it to a certain extent, based upon the comments of the Senator from West Virginia and the Senators from New York. No one is perfect about this. We are trying to allocate this money where it is needed within the $40 billion and follow the existing law and authorization. The authorization for the $20 billion we are dealing with now is in the act of September 18. But for that authorization, the whole amount would be subject to a point of order on the basis of emergency. But that emergency was declared on September 18.

We are dealing with a concept of fulfilling that. Nothing we do tonight will alter the commitment to New York and Pennsylvania and Virginia that not less than $20 billion of the $40 billion is dedicated to Federal activities in support of recovery in those States. Respectfully, New Jersey was not included, I am sorry to say. They probably are the beneficiary of some of the moneys that will be spent in recovering from the New York moneys that were guaranteed. I think we probably should have included New Jersey in there on September 18, as a matter of fact.

But I urge the Senate not to declare this emergency and not to support the waiver of the budget resolution that provides for such a procedure of a point of order when the moneys exceed the amount of the budget process. We had an agreement with the President. The Senator from West Virginia and I have done our absolute best to keep the agreement with the President. I think the Senator from West Virginia will be the first to admit his $15 billion goes beyond the concept of the rest, to which the rest of us were committed.

I hope to be here in the Chamber in March or April supporting the chairman, the Senator from West Virginia, and supporting the request of the President of the United States for additional moneys to cover many of the targets of his amendment.

I yield the remainder of my time. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, let me thank my friend, Senator STEVENS, for being the man that he is. He is a Senator. He is a first-class Senator. He lives up to his responsibilities under the Constitution. He reveres this institution. He lives up to his promises to his fellowman. I watched him the other day in the committee and how he said no. He is a Senator who says no and does not lose respect in any way. He does not make you angry. He almost makes you like him when he says no. He is a remarkable man. In this debate, he has given me much of his time. He did the right thing. He offered to let me close the debate on my motion. I could close the debate, but he offered it. I didn't have to fight for it.

Madam President, I thank my friend. Let me say this: No matter what the outcome, Senator STEVENS will always be my friend. I will not think less of him for his opposition. I will think more of him for the way he has conducted himself. We have two Medal of Honor winners in this body, as far as I am concerned: DANNY INOUYE; and, although TED STEVENS hasn't formally been presented with such a medal, from me he gets one also. I love him. There is a friend who walketh closer to a brother. And TED STEVENS is one who does that.

On November 8, President Bush addressed the Nation. In his remarks, the President asked the American people for courage. He asked them for vigilance, for volunteerism, and for adherence to time-honored values. He called upon them to carry on with their lives. He told them that they had new responsibilities. He asked for their help in fighting this new war on terrorism here at home.

I have no quarrel with many of the things which the President said. But the first responsibility of any government is to protect the safety of its citizens. How can we ask our people to shoulder new responsibilities to fight the war against terror, unless this Government first lives up to its most basic duty—ensuring the safety of our citizens on our own soil.

Ask those men in Afghanistan: How would you vote on this amendment? Would you vote to give the people back home the security that this amendment provides to them? How would they vote? I have no doubt that a great majority of them would vote for this amendment. They are thinking of their loved ones back here, too, who might any day be subjected to a terrorism attack. Would they take the position, well, let them wait until the spring? Let them wait for the supplemental? How laughable that is.

This Government must take positive, proactive steps right now to shore up our homeland. If we are all to become citizen soldiers here at home, let us make sure that we provide those homeland soldiers with at least a front line of defense. I am talking about protecting our airports; screening baggage and passengers thoroughly; protecting mass transit; protecting rail service; guarding our ports; patrolling our nuclear power plants, dams, bridges; guarding chemical plants, food suppliers, water supplies; protecting malls, and stadiums. If 911 taught us anything, it taught us that we are vulnerable in hundreds of ways. It taught us that the unthinkable is not only thinkable—it has happened. We are totally derelict in our duties as public servants if we learn nothing—take no real action—as a result of the horrific experiences of September 11.

On November 8, the President's remarks were the classic call to public service. "Ask what you can do for your country" was its rhetorical theme. And I applauded him. And while I have no problem with those sentiments, and hope that they do inspire more of our people to service and unselfish action, I think that we should all be aware that the ground has shifted under us. The battleground is no longer just on some distant shore in Afghanistan, it is in New York, Florida, Pennsylvania, California, Washington—indeed anywhere in this great land. I think that the American people now have a right to ask their country what it can do for their safety.

Anthrax has turned up in our mail. Where is the massive effort to be sure that we can sanitize our mail for that threat?

I have received 12 letters from my constituents since those Twin Towers went down—12 letters I have received. My staff has been evacuated from the southeast corner of the Hart Building. What about the people out there? What about their safety? What about my wife's safety when she goes to the mailbox? My daughter, your daughter, his daughter, think of them.

The Postmaster General has been told by this administration that he will only get $175 million for equipment to sanitize mail. He needs at least $1 billion even to begin. Whether the anthrax scare was homegrown or the work of madmen in other lands makes no difference. Poisoned mail poses a new threat to our people and we need to find ways to deal with making mail safe to handle and safe to receive.

Smallpox could be a devastating blow to this nation, and indeed to the world, should some madman find a way to unleash its horror on an unsuspecting population. Yet, where is the massive effort to develop a safe vaccine?

We need billions to combat this and other bioterrorism threats.

We need a commitment to improve our health care facilities—to train personnel to deal with widespread diseases and panic. Especially in rural areas, there is next to no frontline of defense against such bioterrorism attacks. We are like children in the dark being asked to be brave in the face of an enemy we cannot see, and whose actions we cannot predict, and with no ammunition forthcoming from a federal government to which we all pay taxes. What better use of the tax dollar than to protect our citizens as well as we can from the scourge of terrorists who have already killed thousands of Americans. We fail our people and we fail them grossly if we do not do all we can to keep them safe in their own beds. No volunteer effort can do that. No tax break can do that. Only a strong Federal commitment from the government can have any hope of success for such a massive and important task.

States will be in the frontline of any homeland defense effort, yet the states are in severe financial difficulty. Four out of five states are sliding into or are in a recession, and state revenues are suffering accordingly. Moreover many of the tax cuts in the House-passed stimulus bill would serve to rob states of the very revenues they need at this time.

An October survey by the National Conference of State Legislatures revealed that almost every state is experiencing revenue shortfalls. Forty-three states and the District of Columbia now report that revenues were below forecasted levels in the opening months of FY 2002. At least 36 states have implemented or are considering budget cuts or holdbacks to address fiscal problems. Twenty-two states have implemented belt-tightening measures that include hiring freezes, capital project cancellations and travel restrictions. Six states have convened in special sessions to address budget problems, and several others are considering special sessions later this year or early next year. Yet, we put more on them. We ask them for more.

How can we expect States in such shape to mount a frontline defense for our people if the Federal Government does not help with additional moneys dedicated to that cause? That is not just a rhetorical question. The failure to respond may have real and disastrous consequences.

We all may cheer the victory in Afghanistan when it finally comes, and we may all breathe a little easier if bin Laden is caught, but we dare not forget that the bin Laden organization has branches in 60 countries. They are here in the United States. They are cunning. They are organized, as we have so painfully learned.

Yet there is opposition to the moneys to beef up the computer capabilities of the FBI, the Immigration and Naturalization Service, and the Bureau of Customs—all agencies charged with monitoring the people and goods which come over our borders or for tracking down terrorists once they get here.

In short, there has been plenty of lip service paid to homeland security, but talk is much cheaper than a Federal funding commitment. And while it is fine to lift spirits, it is not enough. It is essential to dedicate funding to protect entities most vulnerable to terrorist attacks.

Madam President, we have been sent a horrific message. We have awakened with a start. We have suffered bad dreams. Yes, we have suffered nightmares. We have awakened, as I say, with a start. But we dare not return to our slumber. We dare not let our concentration wane and our attention wander. We will not be safer as a nation than we were on September 10, if we do not use the lessons that we have learned to make us stronger now. We will be just as unprepared the next time, God forbid, and it will be the fault of this Government and its complacency. Issuing terrorism alerts is no substitute for taking real action that we know can help minimize the threats.

So I plead with my colleagues to support this package which is intended to make our people safer and more confident. It is not a package which divides Americans. It is not a proposal that pits the rich against the poor or corporations against working people. It is a program for the safety of all Americans. It is something Democrats and Republicans can do together for our people. There should be no aisle separation here. It can change the tone in Washington by promoting unity among elected leaders. We can come together for the benefit of every man, woman and child in this Nation. We can improve the climate of fear which is troubling our people and hurting our economy. There is no partisanship—no partianship—in homeland security. It is our solemn duty. And anyone who was living in this country on September 11 knows deep in their heart that we had better start to do something now.

Madam President, I am already at the beginning of my 85th year. I have seen wars and depressions and natural disasters of huge proportions. Always, Madam President, always we have had leadership that acted quickly to protect America and her people. Now we are faced with perhaps the most dangerous threat that we have ever faced—terrorists on our own soil. Terrorist cells in more than 60 countries in this world; terrorists plotting right now—right tonight; while we sleep, they will be plotting; plotting right now—the next attempt to kill massive numbers of innocent people.

I do not want to stand on this floor after the next terrible attack and say to my colleagues, "We should have acted sooner. We might have saved lives." None of us want that on our conscience. We can act now. We can do all that we can right now to "promote the common defense." Let us not wait. Let us not give bin Laden more time. Let us not hew to the party line so closely that we sacrifice the safety of our people.

The White House pulled out all stops today in the effort on behalf of the legislation that has been given the name of: promote trade security. It is fast track—fast track. And I cannot reconcile what I seem to see: an administration that says, give me fast track, an administration that says, no, but slow down when it comes to providing money for homeland defense; slow down there but give me fast track on trade legislation.

We must not go home, Madam President, without doing something to ward off what could be another tragedy of major proportions. I do not understand how any Member of this body could sleep if we fail to take this critical step for the protection of the people who sent us to the Senate.

I have been around here so many years, and I have seen so many things. I have seen disasters. And never have I voted against any State that came here needing help from the Federal Government in the face of disaster. I have never turned my back on any State.

And I could go down the list: Texas, $1.090 billion for Tropical Storm Allison—$452 million in 2001, including emergency funding in the fiscal year 2002 VA-HUD bill—and Hurricane Bret in 1999, and damages from severe storms, flooding, hail, and tornadoes.

I have a list that I will not take the time—and I do not have the time—to read. I have a list of disasters that have occurred, and a list of responses by the Appropriations Committees of the Congress in helping the people who were suffering from those disasters. I ask unanimous consent to have that printed at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. BYRD. Now, Madam President, how much time do I have?

The PRESIDING OFFICER. Twenty-one seconds.

Mr. BYRD. Madam President, I do not understand how any Member of this body could sleep if we fail to take this critical step for the protection of the people who sent us here.

Have we become so cynical that we cannot even do that? Are we so insensitive that we would rather embrace the cold illogic of budget deals than face our duty to ease the palpable fear in this Nation? I hope not. For if that is so, we have failed this Nation at its most critical hour. That is not the Senate I know. That is not the Senate to which I have given most of my life. Once again, I ask Senators to turn away from the sterile illogic of this misguided point of order and come together to protect our homeland and our people.

I thank all Senators. And I thank Mr. STEVENS in particular. I thank him.

EXHIBIT NO. 1

APPROPRIATIONS COMMITTEE TRADITION FOR RESPONDING TO NATURAL DISASTERS FY 1989–2001

The Senate Appropriations Committee has a long, bi-partisan tradition for responding to natural and man made disasters. Why Members are now resisting using the emergency authority for homeland defense and to fulfill the $20 billion commitment to New York boggles the mind.

FEMA Disaster Relief funding for major disasters over the last 11 years follow:

TEXAS: $1.090 Billion for Tropical Storm Allison ($452 million in 2001, including emergency funding in the FY 2002 VA/HUD bill) and Hurricane Bret in 1999, and damages from severe storms, flooding, hail, and tornadoes;

MISSISSIPPI: $238.8 Million for such disasters as Hurricane George, Tropical Storm Allison, severe storms, flooding and tornadoes. Emergency funding was also provided through CDBG for Hurricane George;

OKLAHOMA: $374.6 million total, including $37 million of emergency funding for Oklahoma City in response to the Murrah Building bombing and $183 million for a severe winter ice storm last January;

NORTH CAROLINA: $1.47 billion since 1989 for disasters such as Hurricane Floyd ($706 million), Hurricane Fran ($547 million) and Hurricane Bonnie ($38 million);

ALASKA: $113.4 Million since 1989 for such disasters as the Red Fox Fire, the Tok River Fire, the Appel Mountain Fire, and numerous severe storms and flooding;

PENNSYLVANIA: $424.8 Million since 1989 for such disasters as Tropical Storm Allison, Tropical Storm Dennis, Hurricane Floyd, and other severe storms, flooding, and tornadoes;

NEW MEXICO: $39.5 Million since 1989 for such disasters as forest fires in 2000, the Hondo Fire in 1996, the Osha Canyon Complex fire in 1998, as well as numerous severe winter storms and flooding Significant emergency funding was provided in response to the Cierra Grande fires);

MISSOURI: $344.6 Million since 1989 for such severe storms and flooding, grass fires, tornadoes and hail storm damage, including the Midwest floods.

KENTUCKY: $243.4 Million since 1989 for severe storms, flooding, mudslides, and wildfires. Over $132 million in 1997 alone for flooding and tornado damage;

MONTANA: $66 Million since 1989 for fire damage in Flathead Lake, Lincoln, Sanders, Gatalin Park, as well as severe storms, flooding, ice jams, and severe winter storm damage;

ALABAMA: $332.3 Million since 1989 for damage caused by Hurricane George in 1998 ($57.8 million), Hurricane Opal in 1996 ($52.7 million), ice storms, fires in Russelville, Chelsea, Fayette and Lookout Mountain;

NEW HAMPSHIRE: $38 Million since 1989 for damage caused by Tropical Storm Floyd in 1999, Hurricane Bob in 1991, blizzards, high winds and record snowfall damage, and severe ice storms and flooding;

IDAHO: $65.8 Million since 1989 for severe storms, flooding, mud slides, and wildfires.

The PRESIDING OFFICER. The Senator's time has expired.

All time has expired.

Mr. STEVENS. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Which division will be the subject of the first vote?

The PRESIDING OFFICER. Division I.

Mr. STEVENS. Homeland defense. Thank you.

The PRESIDING OFFICER. The question occurs on division I of the motion to waive section 205 of H. Con. Res. 290 of the 106th Congress. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The yeas and nays resulted—yeas 50, nays 48, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—50

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NAYS—48

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Feingold
Fitzgerald
Frist
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—2

Gramm
Helms

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the emergency designation is stricken.

The question now occurs on agreeing to division II of the motion to waive section 250 of H. Con. Res. 290 of the 106th Congress.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER (Mrs. CLINTON). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 48, as follows:

[Rollcall Vote No. 355 Leg.]

YEAS—50

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NAYS—48

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Feingold
Fitzgerald
Frist
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—2

Gramm
Helms

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the emergency designation is stricken.

Mr. STEVENS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING THE 60TH ANNIVERSARY OF THE ATTACK ON PEARL HARBOR

Mr. DOMENICI. Madam President, I rise today to commemorate the selfless men and women who sacrificed so much to protect freedom during the December 7, 1941 attack on Pearl Harbor. On that fateful day, 2,403 members of the Armed Forces lost their lives defending freedom. I salute the New Mexicans who were caught in that attack, and those who subsequently answered the call of their grateful nation to bear arms in its defense.

Sixty years ago, the unwarranted attack by the Imperial Japanese Navy and Air Force on Pearl Harbor challenged the peace and well-being of this great Nation. However, the attack served as a catalyst, unifying this Nation and galvanizing the bravery of our people. With enormous self sacrifice and unbound patriotism, the "greatest generation," those who lived and served during the Second World War, rose up to meet the challenge and overcame adversity.

In the aftermath of September 11, this country is once again dealing with an unwarranted attack on our homeland and our freedom. As America commemorates the 60th anniversary of the attack on Pearl Harbor, we appreciate more than ever before the heroes of the past. The American people look to that generation's courage and heroism to find solace and inspiration for meeting the threats we face today. As Americans then used every avenue available—defense programs, universities and research institutions, the national laboratories, and an energized public—to win World War II, so too, must we be just as resourceful in fighting the war on terror.

Today, just as then, our national laboratories play a vital role in the fight against terrorism. In my home State of New Mexico, the laboratories are contributing to help ensure domestic preparedness and security.

The anniversary of the attack on Pearl Harbor reminds us of those who paid the ultimate price to protect our Nation, even as brave Americans are paying that price today in the war on terror. I am honored to pay tribute to those who served, and are serving, in the defense of this great Nation.

CONFERENCE REPORT TO H.R. 2944, THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT FOR FISCAL YEAR 2002

Mr. CONRAD. Madam President, I rise to offer for the RECORD the Budget Committee's official scoring on the conference report to H.R. 2944, the District of Columbia Appropriations Act for Fiscal Year 2002.

The conference report provides $408 million in discretionary budget authority, which will result in new outlays in 2002 of $370 million. When outlays from prior-year budget authority are taken into account, discretionary outlays for the conference report total $418 million in 2002. By comparison, the Senate passed bill included $408 million for the District, which would have increased total outlays by $416 million in 2002. The conference report is at the subcommittee's Section 302(b) allocation for both budget authority and outlays. It does not include any emergency-designated funding. In addition to the Federal funds, the conference report to H.R. 2944 also approves the District government's budget for 2002, including granting it the authority to spend $7.154 billion of local funds.

It is important that the Congress complete its work on the remaining appropriations bills for 2002. In the case of this report, H.R. 2944 not only provides a limited amount of Federal funding to the District, but also, through the enactment of its budget, allows the city to obligate and spend its own local revenues. We should act on behalf of the citizens of D.C. to allow the District to implement the budget sent forth to us by its elected leaders.

I ask unanimous consent that a table displaying the budget committee scoring of the conference report to H.R. 2944 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 2944, CONFERENCE REPORT TO THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2002

[Spending comparisons—Conference Report (in millions of dollars)]

	General purpose	Mandatory	Total
Conference report:			
Budget Authority	408		408
Outlays	418		418
Senate 302(b) allocation:[1]			
Budget Authority	408		408
Outlays	418		418
President's request:			
Budget Authority	342		342
Outlays	362		362
House-passed:			
Budget Authority	398		398
Outlays	408		408
Senate passed:			
Budget Authority	408		408
Outlays	416		416
CONFERENCE REPORT COMPARED TO:			
Senate 302(b) allocation:[1]			
Budget Authority			
Outlays			
President's request:			
Budget Authority	66		66
Outlays	56		56
House-passed:			
Budget Authority	10		10
Outlays	10		10
Senate-passed:			
Budget Authority			
Outlays	2	0	2

[1] For enforcement purposes, the budget committee compares the conference report to the Senate 302(b) allocation.

Notes: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Prepared by SBC Majority Staff, 12-6-01.

CONCERN FOR THE INTEGRITY AND REPUTATION OF THE UNITED STATES CIVIL RIGHTS COMMISSION

Mr. HATCH. Madam President, I rise today to address an unfortunate situation that has come to my attention concerning the United States Civil Rights Commission. One might even say that it is unbelievable.

There is no one in this body that has greater appreciation for the work and history of the United States Civil Rights Commission than I do, and for the need of having a body such as this that can review issues that may arise in the area of civil rights without the taint of partisanship or ideologies. It is comforting to know that there is such a body that gathers disinterested public servants of unimpeachable integrity with a passion for the great work of securing the freedoms which belong to all citizens, without discrimination.

As you know, the Congress has taken a great interest in the appointment of the Commission's eight members. In fact, four of the eight are appointed by the Congress, two by the Senate and two by the House. The President appoints the other four. In each case, whether appointed by the President or by the Congress, the Commission must have an equal number of Commissioners from each party.

It appears that there is a controversy brewing as to when the term of a Commissioner expires. I believe that this controversy could do severe harm to the reputation of the Civil Rights Commission and the trust that is placed in it by the American people. I hope that this is a matter that will have an immediate resolution.

Apparently, one of the presidential appointees of the previous administration, Victoria Wilson, is refusing to accept the expiration of her term. Ms. Wilson claims that she was appointed for a six-year term, although it appears that President Clinton expressly appointed her for only one year to complete the unexpired term of Judge Leon Higgenbotham, who died before his term expired. It appears also that the Chairwoman of the Committee, Mary Frances Berry, has told the White House that she refuses to recognize the President's new appointee, a person, by the way, of impeccable credentials who is an attorney with a distinguished career. Chairwoman Berry has indicated that it would take federal marshals to seat the President's appointee when the Commission next meets.

As if the American people did not have enough drama in their lives, we hardly need something like this to further erode the public's confidence in the Civil Rights Commission. I think many of us are already concerned with the work of the Commission in recent years. They have taken on rather partisan issues, or at very least they have prosecuted issues in what often appears to be partisan ways, and arguably injudicious ways. I will not get into these concerns, but I am afraid that the Commission is doing great harm to the trust of the American people.

Rather, I would like to comment on the current situation, which is a matter of existing law. What is especially troubling is that it appears that Chairwoman Berry and Ms. Wilson are refusing to comply with the legal opinion of the White House Counsel, Judge Gonzales, as well as the independent opinion of the Justice Department.

In 1994 Congress amended the provisions governing the appointment of the Civil Rights Commissioners. Congress' intent was to ensure that the terms of the Commissioners would not expire all at once. We made provision for staggered terms for the Commissioners, adopting what is universally deemed good practice in the private corporate and nonprofit arenas. Staggered terms preserve institutional memory and experience. To have staggered terms requires that an appointee named to fill an unexpired term serve for only the remainder of that term. To do otherwise would completely eviscerate the staggering that Congress intended. The argument that Ms. Wilson, and Chairman Berry, is making—that all appointments, and Ms. Wilson's appointment in particular, are always for terms of six years—would create the untenable opportunity for mischief if Commissioners were to resign at the end of a particular administration. Commissioners could resign as a group, allowing a departing Administration to fill several seats for six year terms, and denying the incoming administration the right to name any Commissioners.

This argument, not only makes no sense, but I am also afraid that this sort of confrontational approach does very real harm to the reputation of the Commission and its individual members who the American people expect to be disinterested, apolitical public servants. I invite my colleagues to urge the immediate resolution of this matter.

I ask unanimous consent that Judge Gonzales' letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, December 5, 2001.

The Hon. MARY FRANCES BERRY,
Commission on Civil Rights, 624 Ninth Street, NW., Washington, DC.

DEAR MADAM CHAIRWOMAN: I am writing to confirm our conversation yesterday about the recent expiration of Commissioner Victoria Wilson's term of service on the U.S. Commission on Civil Rights and the President's forthcoming appointment of her replacement.

As we discussed, Ms. Wilson was appointed to the Commission on January 13, 2000. Official White House records and Ms. Wilson's commission issued by President Clinton, which explicitly states that she was appointed by President Clinton to fill the unexpired term of the late Judge Leon Higginbotham, document that Ms. Wilson's term ended November 29, 2001. To be sure, in our conversation you stated that, when Ms. Wilson received her commission, she attempted to contact the White House Clerk to ask that her commission be reissued to provide for the six year term she is now claiming. However, the Clerk has no record of any such request. In any event, the commission was never reissued, a fact that can only be viewed as confirming the conclusion that Ms. Wilson's term expired on November 29, 2001 in accordance with her commission.

The Office of Legal Counsel of the Department of Justice has issued a legal opinion confirming that Ms. Wilson's term expired on November 29, 2001. The opinion rests on an analysis of the Commission's organic statute, in particular the intent of Congress expressed therein to provide for staggered terms of commissioners. The legislative history of the 1994 amendments to the statute also makes plain that Congress intended to preserve the system of staggered terms. As you yourself noted in 1983 in testimony before Congress, the staggered terms system was proposed by commission members to limit the degree of political influence over the commission. H.R. 98-197, 1983

U.S.C.A.A.N. 1989, 1992. Of course, the orderly staggering of terms intended by Congress would be frustrated if vacancies created through death or resignation could be filled with commissioners appointed for new six year terms. Ultimately, the balance between continuity and change sought by Congress in allowing a fixed number of new members to be appointed at regular intervals would give way to a process in which Presidents and commissioners alike could "game the system" by timing resignations and appointments.

In our conversation yesterday, I explained the legal position of the White House and the Department of Justice. I also explained, that President Bush has selected an individual—Peter Kirsanow—whom he intends to appoint to succeed Ms. Wilson. Mr. Kirsanow is an extraordinarily well-qualified individual. He is a partner with a major Cleveland law firm and has served as chair of the Center for New Black Leadership and as labor counsel for the City of Cleveland. Because there is a vacancy on the Commission, the President intends to appoint Mr. Kirsanow as a commissioner as soon as possible.

You maintained, however, that you support Ms. Wilson in her decision to purport not to vacate her position and to continue service and to attend the Commission's upcoming meeting on December 7. Moreover, you informed me that you do not consider yourself to be bound by opinions of the Department of Justice nor do you intend to abide by them or to follow the directives of the President in this matter. You further informed me that you will refuse to administer the oath of office to the President's appointee. I advised you that any federal official authorized to administer oaths generally could swear in Mr. Kirsanow.

Finally, you stated that, even if Ms. Wilson's successor has been lawfully appointed and has taken the oath of office, you will refuse to allow him to be seated at the Commission's next meeting. You went so far as to state that it would require the presence of federal Marshals to seat him.

I respectfully urge you to abandon this confrontational and legally untenable position. As to questions regarding Ms. Wilson's status, we view these as a matter between Ms. Wilson and the White House. With respect to Mr. Kirsanow, any actions blocking him from entering service following a valid appointment would, in my opinion, violate the law. The President expects his appointee to take office upon taking the oath and to attend upcoming meetings as a duly appointed commissioner. The President also expects all sworn officers of the United States government to follow the law.

In sum, the law and official documents make clear that Ms. Wilson's term expired last week, November 29, 2001, and that she is no longer a member of the U.S. Commission on Civil Rights. As soon as Mr. Kirsanow takes the statutory oath, the incumbent commissioners and staff should treat the President's new appointee as a full member of the Commission.

Sincerely,

ALBERTO R. GONZALES,
Counsel to the President.

OUR CONSTITUTION

Mr. CARPER. Madam President, let me begin by saying plainly and unabashedly that I love our flag. I wear an American flag lapel pin to work every single day. We fly "Old Glory" at our home throughout the year and display it proudly in each of my Senate offices. The American flag is even displayed on the minivan that I drive all over our State. It is the symbol of our freedom and a reflection of our pride in our great Nation.

But while our flag is the symbol of our freedom, our Nation's Constitution is its guarantee. It is the foundation on which was built the longest living experiment in democracy in the history of the world. Though written by man, I believe it to be divinely inspired. Before beginning 23 years of service as a naval flight officer, I took the same oath as each of the men and women now fighting overseas. We swore to protect our Nation's safety and honor and defend our Constitution against all enemies both foreign and domestic. The men and women of our armed forces past and present each pledged to lay down their lives in defense of the freedoms our Constitution provides. I can think of no greater honor, no more solemn a commitment, than this pledge.

On a cold December 7, 214 years ago, Delawareans stood proudly and declared their belief in the right of self-government by becoming the first to ratify the United States Constitution. Each year we celebrate this act of leadership, courage, and wisdom. While our constitution has proved the most durable model for democracy, at the time, it was a revolutionary and some thought risky step forward. For the power of its words and the brilliance of its logic is matched only by the astounding scope of what it sought to achieve, to "establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity."

It was truly a miraculous undertaking, and we celebrate that Delaware had the courage to lead the world in embracing this new standard excellence in self-government.

But as we reflect on this bold step towards freedom, there is a stain on our celebration.

After the Constitution's ratification, the Bill of Rights sought to provide greater and more lasting liberties than any single document before or since. In 1789, the Federal Government sent the articles that would make up the Bill of Rights to States for ratification. While other States sent their approval of ratification back to the Federal Government on separate parchment, in their enthusiasm, Delaware's leaders signed their approval directly on their copy of the document and returned it to the Federal Government. While other states are now able to display their copies of the original Bill of Rights, Delaware's is locked in a drawer in the National Archives near College Park, Maryland. Our State and this document deserve better. I call today on the National Archives to return this copy of the Bill of Rights to its place of ratification. I ask that in the spirit of celebration surrounding Delaware Day, the National Archives return to us this important part of our State's history.

We are witnessing a time of renewed respect for our Nation at home and abroad. In fact, in all of my life, I've never witnessed a warmer embrace of our flag or a greater sense of pride for our country than we've seen since September 11. Almost everywhere we turn, we see signs of this renewed national pride on our homes, office buildings, factories, schools, construction sites, on the vehicles we drive, and as well at thousands of sporting events, parades and gatherings across our country. A spirit of patriotism has swept across our Nation in a way that I've never seen. It is both comforting and inspiring to me and, I know, to Americans everywhere.

This December, let us pause in thanks to those wise Delawareans who started our Nation along the road to becoming the most successful and long-lasting democracy in world history. They gave us a great gift for which we, and much of the world, will be forever thankful.

BRADY ACT SUCCESSES

Mr. LEVIN. Madam President, November 30 was the eighth anniversary of the signing of the Brady Handgun Violence Prevention Act. The passage of that legislation was a watershed event in the fight against gun violence. According to the Centers for Disease Control statistics cited by the Brady Campaign to Prevent Gun Violence, since the Brady Law went into effect, the number of gun deaths in the United States has dropped 27 percent, from 39,595 in 1993 to 28,874 in 1999. Even more dramatically, the number of gun homicides dropped by more than 40 percent from 18,253 in 1993 to 10,828 in 1999.

While the Brady Law is not the only reason for the decrease, its impact on gun violence cannot be overlooked. Keeping guns out of criminal hands saves lives. The law's requirement that gun purchasers undergo a criminal background check before they can buy a firearm has stopped literally hundreds of thousands of criminals and others prohibited by law from purchasing a gun.

The obvious success of the Brady Law should spur us to do more to stop gun violence. A logical step would be to extend the Brady Law's mandatory criminal background check provisions. As it stands, the law only applies to guns sold by Federal firearms licensees. It does not cover gun sales by unlicensed private sellers at gun shows. Despite the evidence that background checks save lives, lobbyists from the National Rifle Association and their allies have fought against legislation to close the "gun show loophole." The Senate should not allow itself to be held hostage by the gun lobby. I urge my colleagues to join me in supporting efforts to bring legislation to the floor to close the gun show loophole.

CHANGES TO H. CON. RES. 83 PURSUANT TO SECTION 314

Mr. CONRAD. Madam President, section 314 of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to make adjustments to budget resolution allocations and aggregates for amounts designated as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Pursuant to section 314, I hereby submit the following revisions to H. Con. Res. 83 as a result of provisions designated as emergency requirements in P.L. 107-42, the Air Transportation Safety and System Stabilization Act. This measure was enacted into law on September 22, 2001.

I ask consent that the following table be printed in the RECORD, which reflects the changes made to the allocations provided to the Senate Committee on Commerce, Science, and Transportation and to the budget resolution aggregates enforced under section 311(2)(A) of the Congressional Budget Act, as amended.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In millions of dollars]

Current Allocation to the Senate Commerce, Science, and Transportation Committee:	
FY 2002 Budget Authority	13,452
FY 2002 Outlays	9,630
FY 2002-06 Budget Authority	72,789
FY 2002-06 Outlays	50,419
FY 2002-11 Budget Authority	164,611
FY 2002-11 Outlays	118,775
Adjustments:	
FY 2002 Budget Authority	+2,000
FY 2002 Outlays	+3,200
FY 2002-06 Budget Authority	+2,000
FY 2002-06 Outlays	+4,700
FY 2002-11 Budget Authority	+2,000
FY 2002-11 Outlays	+4,700
Revised Allocation to the Senate Commerce, Science, and Transportation Committee:	
FY 2002 Budget Authority	15,452
FY 2002 Outlays	12,830
FY 2002-06 Budget Authority	74,789
FY 2002-06 Outlays	55,119
FY 2002-11 Budget Authority	166,611
FY 2002-11 Outlays	123,475
Current Budget Resolution Spending Aggregate Allocation:	
Budget Authority for 2002	1,517,719
Budget outlays for 2002	1,481,928
Adjustments:	
Budget authority for 2002	+2,000
Budget outlays for 2002	+3,200
Revised Budget Resolution Spending Aggregate Allocations:	
Budget authority for 2002	1,519,719
Budget outlays for 2002	1,485,128

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 25, 1991 in San Francisco, CA. John Quinn, a gay man, was attacked by a man who threw a bar stool at him, yelling "Faggot, faggot, faggot!" The assailant, Mai Nguyen, was arrested in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

IN SUPPORT OF THE TERRORIST VICTIM CITIZENSHIP RELIEF ACT

Mr. TORRICELLI. Madam President, I rise today to support the Terrorist Victim Citizenship Relief Act, legislation introduced yesterday by Senator CORZINE. While we all know the horror of the terrorist attacks of September 11, many who lost a loved during those tragic events face additional difficulties that our fellow Americans do not.

One such person is Deena Gilbey, a young women living with her family in New Jersey. On September 11, Mrs. Gilbey lost not only her husband Paul, but because she had been residing in the United States on her husband Paul's work visa, she faced deportation upon his passing.

There are still many unresolved issues that Mrs. Gilbey and those like her face. The Terrorist Victim Citizenship Relief Act is designed to provide relief to families that face potential deportation and other difficulties because of the death of their primary visa holder on September 11. It would enable them to address many of the daunting issues by conferring United States citizenship upon them.

I want to thank Senator CORZINE for introducing this legislation and am pleased to be a cosponsor of it. I urge my fellow Senators to join in support of this measure.

THE CONTINUING NEED FOR FISCAL DISCIPLINE

Mr. VOINOVICH. Madam President, 2001 has been a year of tragedy for the United States as well as a year of resolve. I am proud of the way my fellow Americans have united behind efforts to heal and comfort their fellow citizens who have been devastated by the attacks of September 11.

Just as the American people have opened their wallets to provide hundreds of millions of dollars to those in need, the Federal Government so too has provided billions of dollars to make our homeland safe, rebuild, comfort and provide, and wage war against the terrorist enemies of freedom.

Protecting our homeland and fighting terrorism are our Nation's top priorities right now, and the work of this body and the use of our Nation's resources must reflect that.

One critical way we do that is to vigilantly guard against the misuse of the taxpayer's hard-earned dollars and ensure that we get the most out of every dollar spent on homeland defense and the war on terrorism. Those who seek to use the current crisis as an excuse to spend more on pet projects should be ashamed of themselves and their efforts must be defeated. We simply cannot afford pork barrel politics right now, period.

Just look how quickly things have changed in our country—with amazing speed we went from an environment where some of us were worried the government would run out of national debt to repay, to an environment where not only is the Federal Government no longer paying off debt, but regrettably, it is adding to it.

The year started out with the President proposing a budget with a roughly 4 percent increase in discretionary spending. Given last year's enormous 14.5 percent increase in non-defense discretionary spending, I thought a 4 percent increase was reasonable and realistic, and I was pleasantly surprised that the Senate budget resolution didn't dramatically exceed this figure, as I feared, but instead was largely inline with the President's budget plan. Because of this, I supported the $661 billion in discretionary spending it contained.

Besides supporting the budget resolution, I also supported the President's tax cut, because I saw it fit within a plan whereby spending increases would be limited and the Social Security surplus would be reserved for reducing the national debt. Clearly the situation has changed.

Even before the events of September 11, Congress was on-track to increase overall discretionary spending by approximately 8 percent. To facilitate the completion of the annual appropriations process, a deal was struck by the Administration and the members of the appropriations committee to set a discretionary spending cap of $686 billion in fiscal year 2002—$25 billion more than agreed to in the budget resolution.

This number was agreed to by the appropriators and leaders in both parties in both Houses, and the President. In the President's letter to the leaders agreeing to this new, revised number he wrote, "And I expect that all parties will now proceed expeditiously and in full compliance with the agreement."

While I was disappointed that this deal circumvented the budget resolution, I believe it quite likely would have been worse if no deal had been struck, and Congress had been able to steam roll the budget resolution in the urge to spend. Now Congress is poised to leave this number and this agreement in the dust as appropriators seek billions more.

Some justify this by saying that the current crisis requires the death of fiscal discipline. Nothing is further from the truth. The current crisis requires us to be more fiscally disciplined than ever before, to carefully direct funds to the most pressing needs of defending against and fighting terrorism.

Compounding the problem is the softening economy and the need to walk the tightrope of crafting a stimulus package to provide short-term relief without causing long-term harm.

We are certainly in a grave fiscal situation. Spending is required but not too much, stimulus is required but it cannot be overly zealous. If we fall from this tightrope, there is no safety net to catch us. Instead our Nation falls into the grasping arms of structural deficits, from which we only recently freed ourselves after decades of imprisonment.

After working so hard to free ourselves from deficit spending, starting to pay off our debt, and beginning to prepare for Social Security's looming insolvency, isn't it worth it for us to do all we can to keep from slipping back into the clutches of deficits?

The only way to avoid this is through self-discipline. Every member must sacrifice individual political wants for the greater good of the nation. We need to avoid pet projects. We need to set aside our parochial interests.

We should proceed very carefully and very deliberately with every piece of legislation that authorizes any additional spending or equally importantly, reduces revenues. Unless we get a handle on our spending habits, we are going to add to the national debt that we stand to pass on to our children and grandchildren.

Sometimes I wonder if my colleagues actually realize how dire the condition of the Federal Government has become. As it now stands, for fiscal year 2002, we are poised to spend every last tax dollar we collect and the entire $174 billion projected Social Security surplus. On top of that, we are going to issue new debt to the tune of $52 billion to pay for the fiscal stimulus bill and another $15 billion on top of that if the senior Senator from West Virginia gets his way.

OMB Director Mitch Daniels, in a speech last week before the National Press Club, relayed the same sobering message. According to Director Daniels, the Federal Government is on track to run a deficit through the remainder of this presidential term.

So, as we discuss every piece of legislation that will cost money or reduce revenues, whether on efforts to fight terrorism or anything else we do, we must ask ourselves: Do these new spending initiatives warrant issuing new debt to pay for them?

With this in mind, I am utterly amazed that some of my colleagues are proposing new spending.

For example, the Agriculture Committee is proposing a new farm bill that would increase agricultural spending by roughly $70 billion over the next 10 years. I ask my colleagues, should we issue new federal debt to increase payments to farmers?

Wasn't the Freedom to Farm bill designed to free farmers from dependency upon federal handouts so they could farm as they wished in response to international market conditions? Would the farming community support these proposals if they knew that we were going to have to issue debt to provide such payments? We're poised to debate a farm bill yet the old farm programs don't even expire until next year. Is this money and this bill the most critical thing we should be doing at this time?

Other colleagues of mine today are proposing additional spending increases over and above the $686 billion agreed to with the President earlier this Fall, and the $40 billion emergency supplemental passed in the aftermath of September 11; $20 billion of which is included in this Department of Defense Appropriations bill. They think the Federal Government needs to spend an additional $15 billion on homeland security.

The fact of the matter is the Director of Homeland Security, Governor Tom Ridge, says we don't need any more funds for homeland defense at this time than the amount requested by the President because of what we've already passed here on Capitol Hill. Why are we unwilling to take his word on this issue? It seems to me that he and the President, our Commander in Chief, are more qualified to advise us on what the nation needs and we should heed their advice.

Other colleagues are considering increasing education spending by billions of dollars over and above the already large increases agreed to by the President and the Appropriations Committee. Again, I ask, should we issue new federal debt to increase education spending—which as we all know has been, is, and should be primarily a state and local responsibility?

I am flabbergasted to watch this parade of spending proposals at a time when we have to dig ourselves deeper in debt to pay for them.

I am encouraged that the President has taken a stand by pledging to veto an emergency supplemental spending measure that would exceed the $686 billion spending agreement. I stand squarely behind the President.

And if the President indeed uses his veto to control spending, I will vote against any attempt to override it. Hopefully my colleagues on both sides of the aisle who care about fiscal responsibility and who care about honoring an agreement we made with the President will join me in supporting his veto. It is fortunate we have a President with the courage to hold fast against rampant spending, even if that spending is cloaked in the guise of homeland safety and national defense. The Administration recognizes that we have to draw a line and is willing to lay it on the line.

The Senate is supposed to be a deliberative body, a cooling saucer if you will. At this crucial time, it is important that the Senate carry out its appointed role. If we do increase spending, it should be limited to measures that truly enhance domestic and international security and efforts that truly stimulate the economy. We should not accept the fact that the Treasury Department must once again issue new debt to finance the operation of the Federal Government for any longer than is absolutely necessary, and every dollar we spend is going to be borrowed money.

The current crisis is not an excuse to spend but is a call to vigilance. As we fight for the future security of our country and our ideals, let us also fight for the future fiscal health of our nation which will in turn help provide for the continued and future stability and prosperity of the American people.

JOINT COMMITTEE ON PRINTING, 107TH CONGRESS

Mr. DAYTON. Madam President, on November 21, 2001, the Joint Committee on Printing organized, elected a Chairman, a Vice Chairman, and adopted its rules for the 107th Congress. Members of the Joint Committee on Printing elected Senator MARK DAYTON as Chairman and Congressman ROBERT W. NEY as Vice Chairman. Pursuant to Rule XXVI, paragraph 2, of the Standing Rules of the Senate, I ask unanimous consent that a copy of the Committee rules be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULE 1.—COMMITTEE RULES

(a) The rules of the Senate and House insofar as they are applicable, shall govern the Committee.

(b) The Committee's rules shall be published in the Congressional Record as soon as possible following the Committee's organizational meeting in each odd-numbered year.

(c) Where these rules require a vote of the members of the Committee, polling of members either in writing or by telephone shall not be permitted to substitute for a vote taken at a Committee meeting, unless the ranking minority member assents to waiver of this requirement.

(d) Proposals for amending Committee rules shall be sent to all members at least one week before final action is taken thereon, unless the amendment is made by unanimous consent.

RULE 2.—REGULAR COMMITTEE MEETINGS

(a) The regular meeting date of the Committee shall be the second Wednesday of every month when the House and Senate are in session. A regularly scheduled meeting need not be held if there is no business to be considered and after appropriate notification is made to the ranking minority member. Additional meetings may be called by the Chairman, as he may deem necessary or at the request of the majority of the members of the Committee.

(b) If the Chairman of the Committee is not present at any meeting of the Committee, the vice-Chairman or ranking member of the majority party on the Committee who is present shall preside at the meeting.

RULE 3.—QUORUM

(a) Five members of the Committee shall constitute a quorum, which is required for the purpose of closing meetings, promulgating Committee orders or changing the rules of the Committee.

(b) Three members shall constitute a quorum for purposes of taking testimony and receiving evidence.

RULE 4.—PROXIES

(a) Written or telegraphic proxies of Committee members will be received and recorded on any vote taken by the Committee, except for the purpose of creating a quorum.

(b) Proxies will be allowed on any such votes for the purpose of recording a member's position on a question only when the absentee Committee member has been informed of the question and has affirmatively requested that he be recorded.

RULE 5.—OPEN AND CLOSED MEETINGS

(a) Each meeting for the transaction of business of the Committee shall be open to the public except when the Committee, in open session and with a quorum present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public. No such vote shall be required to close a meeting that relates solely to internal budget or personnel matters.

(b) No person other than members of the Committee, and such congressional staff and other representatives as they may authorize, shall be present in any business session that has been closed to the public.

RULE 6.—ALTERNATING CHAIRMANSHIP AND VICE-CHAIRMANSHIP BY CONGRESSES

(a) The Chairmanship and vice Chairmanship of the Committee shall alternate between the House and the Senate by Congresses: The senior member of the minority party in the House of Congress opposite of that of the Chairman shall be the ranking minority member of the Committee.

(b) In the event the House and Senate are under different party control, the Chairman and vice Chairman shall represent the majority party in their respective Houses. When the Chairman and vice-Chairman represent different parties, the vice-Chairman shall also fulfill the responsibilities of the ranking minority member as prescribed by these rules.

RULE 7.—PARLIAMENTARY QUESTIONS

Questions as to the order of business and the procedures of Committee shall in the first instance be decided by the Chairman; subject always to an appeal to the Committee.

RULE 8.—HEARINGS: PUBLIC ANNOUNCEMENTS AND WITNESSES

(a) The Chairman, in the case of hearings to be conducted by the Committee, shall make public announcement of the date, place and subject matter of any hearing to be conducted on any measure or matter at least one week before the commencement of that hearing unless the Committee determines that there is good cause to begin such hearing at an earlier date. In the latter event, the Chairman shall make such public announcement at the earliest possible date. The staff director of the Committee shall promptly notify the Daily Digest of the Congressional Record as soon as possible after such public announcement is made.

(b) So far as practicable, all witnesses appearing before the Committee shall file advance written statements of their proposed testimony at least 48 hours in advance of their appearance and their oral testimony shall be limited to brief summaries. Limited insertions or additional germane material will be received for the record, subject to the approval of the Chairman.

RULE 9.—OFFICIAL HEARING RECORD

(a) An accurate stenographic record shall be kept of all Committee proceedings and actions. Brief supplemental materials when required to clarify the transcript may be inserted in the record subject to the approval of the Chairman.

(b) Each member of the Committee shall be provided with a copy of the hearing transcript for the purpose of correcting errors of transcription and grammar, and clarifying questions or remarks. If any other person is authorized by a Committee Member to make his corrections, the staff director shall be so notified.

(c) Members who have received unanimous consent to submit written questions to witnesses shall be allowed two days within which to submit these to the staff director for transmission to the witnesses. The record may be held open for a period not to exceed two weeks awaiting the responses by witnesses.

(d) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee. Testimony received in closed hearings shall not be released or included in any report without the approval of the Committee.

RULE 10.—WITNESSES FOR COMMITTEE HEARINGS

(a) Selection of witnesses for Committee hearings shall be made by the Committee staff under the direction of the Chairman. A list of proposed witnesses shall be submitted to the members of the Committee for review sufficiently in advance of the hearings to permit suggestions by the Committee members to receive appropriate consideration.

(b) The Chairman shall provide adequate time for questioning of witnesses by all members, including minority Members and the rule of germaneness shall be enforced in all hearings notified.

(c) Whenever a hearing is conducted by the Committee upon any measure or matter, the minority on the Committee shall be entitled, upon unanimous request to the Chairman before the completion of such hearings, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

RULE 11.—CONFIDENTIAL INFORMATION FURNISHED TO THE COMMITTEE

The information contained in any books, papers or documents furnished to the Committee by any individual, partnership, corporation or other legal entity shall, upon the request of the individual, partnership, corporation or entity furnishing the same, be maintained in strict confidence by the members and staff of the Committee, except that any such information may be released outside of executive session of the Committee if the release thereof is effected in a manner which will not reveal the identity of such individual, partnership, corporation or entity in connection with any pending hearing or as a part of a duly authorized report of the Committee if such release is deemed essential to the performance of the functions of the Committee and is in the public interest.

RULE 12.—BROADCASTING OF COMMITTEE HEARINGS

The rule for broadcasting of Committee hearings shall be the same as Rule XI, clause 4, of the Rules of the House of Representatives.

RULE 13.—COMMITTEE REPORTS

(a) No Committee report shall be made public or transmitted to the Congress without the approval of a majority of the Committee except when Congress has adjourned: provided that any member of the Committee may make a report supplementary to or dissenting from the majority report. Such supplementary or dissenting reports should be as brief as possible.

(b) Factual reports by the Committee staff may be printed for distribution to Committee members and the public only upon authorization of the Chairman either with the approval of a majority of the Committee or with the consent of the ranking minority member.

RULE 14.—CONFIDENTIALITY OF COMMITTEE REPORTS

No summary of a Committee report, prediction of the contents of a report, or statement of conclusions concerning any investigation shall be made by a member of the Committee or by any staff member of the Committee prior to the issuance of a report of the Committee.

RULE 15.—COMMITTEE STAFF

(a) The Committee shall have a staff director, selected by the Chairman. The staff director shall be an employee of the House of Representatives or of the Senate.

(b) The Ranking Minority Member may designate an employee of the House of Representatives or of the Senate as the minority staff director.

(c) The staff director, under the general supervision of the Chairman, is authorized to deal directly with agencies of the Government and with non-Government groups and individuals on behalf of the Committee.

(d) The Chairman or staff director shall timely notify the Ranking Minority Member or the minority staff director of decisions made on behalf of the Committee.

RULE 16.—COMMITTEE CHAIRMAN

The Chairman of the Committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee. Specifically, the Chairman is authorized, during the interim periods between meetings of the Committee, to act on all requests submitted by any executive department, independent agency, temporary or permanent commissions and committees of the Federal Government, the Government Printing Office and any other Federal entity, pursuant to the requirements of applicable Federal law and regulations.

IN SUPPORT OF THE DEENA GILBEY RELIEF BILL

Mr. TORRICELLI. Madam President I rise today in support of the private relief bill for Mrs. Deena Gilbey introduced yesterday by Senator CORZINE. Along with thousands of Americans and citizens from over 60 nations, Mrs. Gilbey lost a loved one when her husband Paul died in the attacks on the World Trade Center.

Unlike many of those families, Mrs. Gilbey was not a citizen of the United States, but rather a citizen of the United Kingdom. Therefore, for the last 8 years, she has been residing in the United States on her husband's work visa with their two American born children. Then, on September 11 she was widowed when, her husband who had safely exited the World Trade Center, chose to return to help in the evacuation of those who remained behind.

In the aftermath of this horrific moment, Mrs. Gilbey found herself "out of status" and facing the prospect of having to uproot her two young children from their home and return to the United Kingdom. The legislation Senator CORZINE introduced will address this injustice by making Mrs. Gilbey a citizen so that she and her young sons can continue to live in this Nation that they have for so long called home.

I am pleased to be a cosponsor of Senator CORZINE's bill and urge my fellow Senators to join Senator CORZINE and myself in support of this relief for Mrs. Gilbey.

ADDITIONAL STATEMENTS

FLOYD DOMINY

• Mr. ENZI. Mr. President, I wanted to share a very interesting story with my colleagues today. It is about a very special Distinguished Alumnus of the University of Wyoming who has compiled a remarkable record and reputation as one of our most dedicated and hardworking public servants. His 90 plus years of life—and still going strong!—are the perfect showcase of Wyoming's pioneer spirit and the patience and persistence with which the people of the West have always pursued their dreams. His name is Floyd Dominy, and he has carved quite a niche for himself in the history of Wyoming, the West and the United States.

Floyd Dominy has always been a man with a dream, a unique vision of how things ought to be that has helped him to set goals and develop a plan to achieve them. He is also a man of his word, someone who saw a problem and knew how to use his unique talents and abilities to find the best solution to fix things. He has amassed quite a record of achievements and I am sure he is as proud of it as we are proud of him. He earned his fame and reputation and it's good to know he's enjoying life in the Shenandoah. It isn't Wyoming, but it's still a nice spot to relax and take a break to do some fishing and enjoy the beauty of some of God's finest handiwork.

Floyd Dominy's story begins with his graduation from the University of Wyoming in 1932 and his arrival in Gillette to find a home and start work. He found a simple home and began his employment as a County Agent. As a matter of fact, his home was so simple, the owner didn't charge Mr. Dominy and his wife any rent because he couldn't believe anyone would want to live there. The "fixer upper" Mr. Dominy and his wife called home was without every convenience you could imagine, both modern and old fashioned—even for its time.

As an Agriculture Extension Agent, one of his responsibilities was to buy cattle for the Government from ranchers who were devastated by the Great Depression. They used to trail cattle on foot back then and Floyd realized there were no places to water the cattle on the way. That is when he began working on his idea of constructing dams to hold the water to make it available where it was needed. He visited with then Wyoming U.S. Senator John O'Mahoney about his ideas and Senator O'Mahoney was able to obtain Federal emergency aid to help out the farmers of Wyoming. As a result, Wyoming's farmers got some much needed work and three hundred dams were built.

Then came his service in World War II after which he joined the Bureau of Reclamation. His talents, abilities and ingenuity were soon noticed and it wasn't long before he had landed the top job at the Bureau. He served for quite a while as the Bureau of Reclamation's Commissioner, a job he held longer than anyone else. Remarkably, he served under four Presidents.

Mr. Dominy's friends would probably call him "90 something" years young—because he is still living a full life and enjoying every day as he always has—with an independent streak a mile long and a yard wide. He lives the code of the West—he says what he means, and he means what he says.

In an interview for an article, he was asked about his career and his philosophy about his line of work. He made it clear that he was never afraid to stand up for what he believed in and to stand up to whomever he had to so that things got done. Thanks to his determination, drive and dedication to making a difference, a lot of things got done.

Floyd Dominy had much to look back on with a great deal of pride and the satisfaction that comes from a job well done. As the Commissioner of the Bureau or Reclamation during the Administrations of Presidents Eisenhower, Kennedy, Johnson and Nixon, he left a legacy of service in that office that will probably never again be matched. We owe him a debt of gratitude for his vision and his ability to make his dreams a reality. Thanks to him, we in the West had our access to water—one of God's greatest gifts and our most prized and precious resource—greatly enhanced.•

TRIBUTE TO HAROLD SCHAFER OF NORTH DAKOTA

• Mr. CONRAD. Mr. President, today a giant presence in North Dakota history is being laid to rest.

Harold Schafer was truly larger than life. He was perhaps North Dakota's most prominent citizen—accomplished in his public life, and generous in his private life.

He grew up in western North Dakota in hard times, and went on to be the most successful entrepreneur in our State's history. Harold Schafer was a salesman's salesman. He had a magnetic personality, boundless energy, a genuine interest in people and tremendous enthusiasm for life. His curiosity and passion for living were contagious. Harold Schafer was just plain fun to be around.

He started a small business in his basement, and grew it into a multi-million dollar national enterprise. His Gold Seal company was the kind of great American success story that gave meaning to the phrase "household name." Harold Schafer gave us Glass Wax, Snowy Bleach, and Mr. Bubble. He enjoyed great financial success, and his rags-to-riches story earned him the Horatio Alger award.

But Harold Schafer was much more than a successful businessman. He was interested and involved in every part of the life of North Dakota and the Nation. His acquaintances ranged from the powerful and well-known to the shoeshine man on the corner, and he enjoyed the company of all of them. He entertained General Douglas MacArthur in his home in Bismarck. He was a friend to Ronald Reagan and Perry Como. He appeared in the movie "How the West Was Won."

And he will always be remembered as our State's most prominent philanthropist, even though he never sought recognition for his generosity. He helped hundreds of young North Dakotans through college, almost always anonymously. I know, because he offered to put me through college when I was a young man. He helped hundreds and hundreds of others, in ways big and small. Almost always, he reached out to assist the less fortunate in ways that others never knew about.

He preferred it that way, but how he loved to help. Harold Schafer was a big man with a big heart, and a real love for life. He could talk to anyone, and learn from everyone.

His enthusiasm and energy took him into the worlds of politics, business education and philanthropy. He was the man who restored the town of Medora in the North Dakota Badlands, an important place in the life of President Theodore Roosevelt.

Harold spent millions of dollars of his own money to bring the story of that town to a national audience. Today, Medora is the premier vacation spot in our State. It is the gateway to the rugged beauty of Theodore Roosevelt National Park, and hosts a professional show every evening in the summer in a spectacular outdoor amphitheater.

Harold Schafer did not invest in Medora to make money, but to preserve the area's rich history. Medora tells a story that has inspired thousands of young people with the vision that Theodore Roosevelt and Harold Schafer shared, the "can-do" attitude that says, "every person can make a difference, and every person should try."

Harold Schafer adopted as the symbol of his company a statue of a pioneer entitled "Work." He loved to work, to build and to make things better. That was at the heart of Harold Schafer's philosophy.

I know these things because I first met Harold Schafer when I was a small boy, and had the privilege of being part of his extended family. He was a close friend of my father. When my parents were killed in an automobile accident, Harold Schafer adopted my family as he did so many others. Every Christmas Eve, Harold would come to my home with a trunkload of gifts for the family, a wide smile, and genuine glee celebrating all that life had to offer.

He brought happiness to hundreds of families that had suffered a loss or a hardship. That's the kind of man Harold Schafer was. He made the world a better place while he was here, and he leaves the world a sadder place for his passing. Our sympathy goes out to his wife, Sheila, and his children, Haroldeen, Ed, Joanne, Dianne, Pamela, Mark, Michele, and Maureen, their families, and his many grandchildren and great-grandchildren. We will miss him greatly.●

MESSAGES FROM THE HOUSE

At 12:28 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2115. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within the outside of the service area of the Lakehaven Utility District, Washington.

H.R. 2238. An act to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes.

H.R. 2538. An act to amend the Small Business Act to expand and improve the assistance provided by Small Business Development Centers to Indian tribe members, Alaska Natives, and Native Hawaiians.

H.R. 3248. An act to designate the facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, as the "Todd Beamer Post Office Building."

H.R. 3322. An act bill to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County, Utah.

H.R. 3348. An act to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 102. Concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economics and democratic institutions, in sub-Saharan Africa.

H. Con. Res. 232. Concurrent resolution expressing the sense of the Congress in honoring the crew and passengers of United Airlines Flight 93.

H. Con. Res. 242. Concurrent resolution recognizing Radio Free Europe Radio Liberty's success in promoting democracy and its continuing contribution to United States national interests.

H. Con. Res. 280. Concurrent resolution expressing solidarity with Israel in the fight against terrorism.

At 5:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3005. An act to extend trade authorities procedures with respect to reciprocal trade agreements.

H.R. 3008. An act to reauthorize the trade adjustment assistance program under the Trade Act of 1974, and for other purposes.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 76. A joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2115. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the Lakehaven Utility District, Washington; to the Committee on Energy and Natural Resources.

H.R. 2238. An act to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2538. An act to amend the Small Business Act to expand and improve the assistance provided by Small Business Development Centers to Indian tribe members, Native Alaskans, and Native Hawaiians; to the Committee on Small Business and Entrepreneurship.

H.R. 3005. An act to extend trade authorities procedures with respect to reciprocal trade agreements; to the Committee on Finance.

H.R. 3008. An act to reauthorize the trade adjustment assistance program under the Trade Act of 1974; to the Committee on Finance.

H.R. 3248. An act to designate the facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, as the "Todd Beamer Post Office Building"; to the Committee on Governmental Affairs.

H.R. 3322. An act to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County, Utah; to the Committee on Environment and Public Works.

H.R. 3348. An act to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center; to the Committee on Foreign Relations.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 232. Concurrent resolution expressing the sense of the Congress in honoring the crew and passengers of United Airlines Flight 93; to the Committee on Rules and Administration.

H. Con. Res. 242. Concurrent resolution recognizing Radio Free Europe Radio Liberty's success in promoting democracy and its continuing contribution to United States national interests; to the Committee on Foreign Relations.

H. Con. Res. 280. Concurrent resolution expressing solidarity with Israel in the fight against terrorism; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1766. A bill to provide for the energy security of the Nation, and for other purposes.

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 102. Concurrent resolution relating to efforts to reduce hunger in sub-Saharan Africa.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4843. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Import Restrictions Imposed on Archaeological and Ethnological Materials from Bolivia" (RIN1515–AC95) received on December 5, 2001; to the Committee on Finance.

EC–4844. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 2001 through September 30, 2001; to the Committee on Governmental Affairs.

EC–4845. A communication from the Administrator of the General Service Administration, transmitting, pursuant to law, the semiannual report of the Office of the Inspector General for the period April 1, 2001 through September 30, 2001; to the Committee on Governmental Affairs.

EC–4846. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Emergency Rule to List the Carson Wandering Skipper as Endangered" (RIN1018–AI18) received on December 4, 2001; to the Committee on Environment and Public Works.

EC–4847. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Emergency Rule and Proposed Rule to List the Columbia Basin Pygmy Rabbit as Endangered" (RIN1080–AG17) received on December 4, 2001; to the Committee on Environment and Public Works.

EC–4848. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Rule to List the MS gopher frog as Endangered" (RIN1018–AF90) received on December 4, 2001; to the Committee on Environment and Public Works.

EC–4849. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Engineering Services" (RIN2125–AE73) received on December 5, 2001; to the Committee on Environment and Public Works.

EC–4850. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "The Lead-Based Paint Pre-Renovation Education Rules"; to the Committee on Environment and Public Works.

EC–4851. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Vermont: Negative Declaration" (FRL7116–6) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4852. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Kansas" (FRL7116–3) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4853. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Illinois" (FRL7098–8) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4854. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revocation of Significant New Uses of Certain Chemical Substances" (FRL6807–3) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4855. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Ozone" (FRL7114–9) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4856. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Locational Requirement for Dispatching of United States Rail Operations" (RIN2130–AB38) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4857. A communication from the Attorney-Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Electric-Powered Vehicles; Response to Petitions for Reconsideration; Final Rule" (RIN2127–AI57) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4858. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specific Aviation Activities, Technical Amendment" ((RIN2120–AH15) (2001–0002)) received on December 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4859. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Jamaica Bay and Connecting Waterways, NY" ((RIN2115–AE47) (2001–0121)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4860. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Crystal River, Florida" ((RIN2115–AA97) (2001–0146)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4861. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Port of Tampa, Florida" ((RIN2115–AA97) (2001–0147)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4862. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Lake Washington Ship Canal, WA" ((RIN2115–AE47) (2001–0120)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4863. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: LPG Transits, Portland, Maine Marine Inspection Zone and Captain of the Port Zone" ((RIN2115–AA97) (2001–0148)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4864. A communication from the Chief of Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Neponset River, MA" ((RIN2115–AE47)(2001–0119)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4865. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL 600 2B19 Series Airplanes" ((RIN2120–AA64) (2001–0568)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4866. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Mystere-Falcon 50, 900, and 900EX Series Airplanes" ((RIN2120–AA64) (2001–0563)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4867. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (54); amdt. no. 2076" ((RIN2120–AA65) (2001–0059)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4868. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Honeywell International Inc. LTP 101 Series Turboprop and LTS101 Series Turboshaft Engines" ((RIN2120–AA64) (2001–0560)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4869. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model B 17E, F, and G, Airplanes" ((RIN2120–AA64) (2001–0561)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4870. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767 Series Airplanes; correction" ((RIN2120-AA64) (2001-0562)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4871. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E5 Airspace; Reform, AL" ((RIN2120-AA66) (2001-0174)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4872. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes" ((RIN2120-AA64)(2001-0564)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4873. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F28 Mark 0070 and 0100 Series Airplanes" ((RIN2120-AA64)(2001-0569)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4874. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Short Brothers Model SD3 Series Airplanes" ((RIN2120-AA64)(2001-0566)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4875. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F28 Series Airplanes" ((RIN2120-AA64)(2001-0567)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4876. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standards Instrument Approach Procedures; Miscellaneous Amendment (43); amdt no. 2079" ((RIN2120-AA65)(2001-0058)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4877. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (19); amdt. no. 2077" ((RIN2120-AA65)(2001-0060)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4878. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company GE90 Series Turbofan Engines" ((RIN2120-AA64)(2001-0559)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4879. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 11 Series Airplanes" ((RIN2120-AA64)(2001-0557)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4880. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Logan, UT" ((RIN2120-AA66)(2001-0175)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-4881. A communication from the Chair of the Board of the Office of Compliance, transmitting, pursuant to law, the notice of proposed rulemaking which seeks to comment on substantive regulations being proposed to implement section 4(c) of the Veterans Employment Opportunities Act of 1998, which affords to covered employees of the legislative branch the rights and protections of selected provisions of veterans' preference law; to the Committee on Governmental Affairs. (The full text of the report follows:)

OFFICE OF COMPLIANCE

Hon ROBERT C. BYRD,
President pro tempore, United States Senate,
Washington, DC, November 13, 2001.

DEAR SENATOR BYRD: Pursuant to section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 ("VEOA") (2 U.S.C. §1316a(4)) and section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. §1384(b)), I am submitting on behalf of the Office of Compliance, U.S. Congress, this notice of proposed rulemaking for publication in the Congressional Record. This notice seeks comment on substantive regulations being proposed to implement section 4(c) of VEOA, which affords to covered employees of the legislative branch the rights and protections of selected provisions of veterans' preference law.

Very truly yours,

SUSAN S. ROBFOGEL,
Chair of the Board.

OFFICE OF COMPLIANCE

The Veterans Employment Opportunities Act of 1998: Extension of Rights and Protections Relating to Veterans' Preference Under Title 5, United States Code, to Covered Employees of the Legislative Branch

NOTICE OF PROPOSED RULEMAKING

Summary: The Board of Directors of the Office of Compliance ("Board") is publishing proposed regulations to implement section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 ("VEOA"), Pub. L. 105-339, 112 Stat. 3186, codified at 2 USC §1316a, as applied to covered employees of the House of Representatives, the Senate, and certain Congressional instrumentalities.

The VEOA applies to the legislative branch the rights and protections pertaining to veterans' preference established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code ("USC").

This Notice proposes that identical regulations be adopted for the Senate, the House of Representatives, and the six Congressional instrumentalities and for their covered employees. Accordingly:

(1) *Senate.* It is proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Senate and employees of the Senate, and this proposal regarding the Senate and its employees is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) *House of Representatives.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the House of Representatives and employees of the House of Representatives, and this proposal regarding the House of Representatives and its employees is recommneded by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) *Certain Congressional instrumentalities.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance, and their employees; and this proposal regarding these six Congressional instrumentalities is recommended by the Office of Compliance's Executive Director.

Dates: Interested parties may submit comments within 30 days after the date of publication of this Notice of Proposed Rulemaking in the Congressional Record.

Addresses: Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, DC 20540-1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile machine to (202) 426-1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Memorial Building, Washington, DC, Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact: Executive Director, Office of Compliance at (202) 724-9250. This notice is also available in the following formats: large print, Braille, audiotape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Director, Central Operations Department, Office of the Senate Sergeant at Arms, (202) 224-2705.

Supplementary Information:

Background

The Veterans Employment Opportunities Act of 1998[1] "strengthen[s] and broadens"[2] the rights and remedies available to military veterans who are entitled, under the Veterans' Preference Act of 1944[3] (and its amendments), to preferred consideration in appointment to the Federal civil service of the executive branch and in retention during reductions in force ("RIFs"). In addition, and most relevant to this NPR, VEOA affords to "covered employees" of the legislative branch (as defined by section 101 of the Congressional Accountability Act ("CAA") (2 USC §1301)) the rights and protections of selected provisions of veterans' preference law. VEOA §4(c)(2). The selected statutory sections made applicable to such legislative branch employees by VEOA may be summarized as follows.

A definitional section prescribes the categories of military veterans who are entitled to preference ("preference eligible"). 5 USC §2108. Generally, a veteran must be disabled or have served on active duty in the Armed Forces during certain specified time periods or in specified military campaigns to be entitled to preference. In addition, certain family members (mainly spouses, widow[er]s, and mothers) of preference eligible veterans are entitled to the same rights and protections.

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[1] Pub. L. 105-339, 112 Stat. 3186 (Oct. 31, 1998).

[2] Sen. Rept. 105-340, 105 Cong., 2d Sess. at 19 (Sept. 21, 1998).

[3] Act of June 27, 1944, ch. 287, 58 Stat. 387, amended and codified.in various provisions of Title 5, USC.

In the appointment process, a preference eligible individual who is tested or otherwise numerically evaluated for a position in the competitive service is entitled to have either 5 or 10 points added to his/her score, depending on his or her military service, or disabling condition. 5 USC §3309. Where experience is a qualifying element for a job in the competitive service, a preference eligible individual is entitled to credit for having relevant experience in the military or in various civic activities. 5 USC §3311. Where physical requirements (age, height, weight) are a qualifying element for a position in the competitive service, preference eligible individuals (including those who are disabled) may obtain a waiver of such requirements in certain circumstances. 5 USC §3312. For certain positions in the competitive service (guards, elevator operators, messengers, custodians), only preference eligible individuals can be considered for hiring so long as such individuals are available. 5 USC §3310.

Finally, in prescribing retention rights during RIFs for positions in both the competitive and in the excepted service, the sections in subchapter I of chapter 35 of Title 5, USC, with a slightly modified definition of "preference eligible," require that employing agencies give "due effect" to the following factors: (a) employment tenure (i.e., type of appointment); (b) veterans' preference; (c) length of service; and, (d) performance ratings. 5 USC §§3501, 3502. Such considerations also apply where RIFs occur in connection with a transfer of agency functions from one agency to another. 5 USC §3503. In addition, where physical requirements (age, height, weight) are a qualifying element for retention, preference eligible individuals (including those who are disabled) may obtain a waiver of such requirements in certain circumstances. 5 USC §3504.

On February 28, 2000, and March 9, 2000, an Advanced Notice of Proposed Rulemaking ("ANPR") was published in the Congressional Record (144 Cong. Rec. S862 (daily ed., Feb. 28, 2000), H916 (daily ed., Mar. 9, 2000)). The ANPR identified a number of interpretative issues on which the Board sought public comment in order to assist it in proposing the substantive regulations mandated under section 4(c)(4) of VEOA. The Board had sought to obtain an array of information regarding the employment policies and practices in the various employing offices affected by VEOA. In addition, the Board sought to gain any relevant information that might aid the Board in interpreting VEOA. In response to the ANPR, the Board received two written comments, one of which was from a local unit of a labor organization and the other of which was from the national office of the same labor organization. Both comments focused on the issue of whether the term *guard* in section 3310 of 5 USC, applied by VEOA, should be interpreted to included officers and other employees of the U.S. Capitol Police. The Board received no further public input to assist it in resolving the other issues outlined in the ANPR. Therefore, the Board upon its own further research and study has decided to propose substantive regulations implementing the relevant portions of VEOA. What follows is a discussion of how the Board, tentatively at least, proposes to address the thirteen interpretative issues identified in the ANPR.

Discussion of interpretative issues

Interpretation of term "competitive service" and "excepted service" as applied to the legislative branch [Issues (1)–(7)].

The ANPR observed that VEOA confers upon covered employees the statutory rights and protections of veterans' preference in appointments to the "competitive service." The ANPR also explained that veterans' preference rights in the context of a reduction in force, as provided in the application of subchapter I of chapter 35 of title 5, USC and under VEO, are, with one exception, applicable to both the competitive service and to the excepted service. Moreover, OPM's implementing regulations regarding reductions in force, set forth in 5 CFR part 351, are couched in terms that assume application to the "competitive service" and the "excepted service." Thus the definitions of these two terms, as applied to the legislative branch by virtue of VEOA, are central to a determination of the substantive veterans' preference rights which now apply to covered employees.

The Board received no written comments in response to a series of questions exploring how to interpret these statutory categories of Federal service. In the absence of illuminating comment or contrary definitions in VEOA, the Board believes that it must define these terms in accordance with their meaning under derivative sections of title 5, USC, made applicable by VEOA. This conclusion is supported by a directive in VEOA to issue regulations that are consistent with section 225 of the CAA (2 USC §1361), one of whose subsections embraces a rule of construction that "definitions and exemptions in the laws made applicable by this [Congressional Accountability] Act shall apply under this [Congressional Accountability] Act." This section enables the Board to flesh out the meaning and scope of the various federal employment laws made applicable under the CAA by referring to their respective definitions and exemptions even though they are not expressly cited in the CAA.[4]

Section 2102 of Title 5 USC, as applied under VEOA, presents a three-fold definition of the term "competitive service": First, the competitive service consists of "all civil service positions in the *executive branch*," with exceptions for (a) positions specifically excepted from the competitive service by statute , (b) positions requiring Senate confirmation, and (c) positions in the Senior Executive Service.[5] 5 USC §2102(a)(1)(A)–(C) (emphasis added). Second, the competitive service includes "civil positions not in the executive branch which are specifically included in the competitive service by statute." 5 USC §2102(a)(2). Third, the competitive service encompasses those "positions in the government of the District of Columbia which are specifically included in the competitive service by statute." 5 USC §2102(a)(3).

Section 2103 of Title 5 further defines the "excepted service" to include all "civil service positions which are not in the competitive or the Senior Executive Service." 5 U.S.C. §2103. And section 2101 of that Title defines the "civil service" to include "all appointive positions in the executive, judicial, and legislative branches of the Government of the United States, except positions in the uniformed services." 5 U.S.C. §2101(1).

As applied under VEOA, it would seem that section 225 requires the Board to issue regulations that take into account the definitions (and exemptions) accompanying the civil service laws from which the rights and protections of veterans' preference are derived. Accordingly, the Notice proposes a section, in the form of a proviso, requiring that the terms "competitive service" and "excepted service" in the proposed regulations be defined in reference to their statutory meaning in Title 5, USC. Where an applied regulation refers to the "competitive service," such term shall have the meaning as provided in 5 USC §2102(a)(2). Where an applied regulation refers to the "exempted service," such term shall have the meaning as provided in 5 USC §2103. Consistent with the definition under section 2103, it is the position of the Board that all "covered employees"[6] holding civil service positions in the legislative branch are within the definition of excepted service, unless otherwise designated by statute as being competitive service or Senior Executive Service positions.[7]

The Board recognizes that the adoption of these definitions, consistent with the mandate of section 225, yields an unusual result in that no "covered employee" in the legislative branch currently satisfies the definition of "competitive service." Moreover, as the substantive protections of veterans' preference in legislative branch appointment apply only to "competitive service" positions, the regulations which the Board proposes regarding preference in appointment would with one noted exception, currently apply to no one.[8] However, should Congress, by statute, hereinafter designate any civil service positions in the legislative branch as "competitive service" positions, then consistent with the second definition of section 2102(a)(2) and the parallel regulation proposed herein, the substantive regulations regarding veterans' preference in appointment would apply.

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[4] *Compare* Notice of Proposed Rulemaking [Fair Labor Standards Act regulations under Congressional Accountability Act], 141 CONG. REC. S17603, S17604 (Daily Ed. Nov. 28, 1995)(in proposing the substantive regulations of the FLSA, 29 USC §201 *et seq.*, the Board cited section 225(f)(1) of the CAA as requiring the application of the FLSA definition of "wages" in 29 USC §203(m).

[5] These generally are high-level, managerial positions in the executive department whose appointment does not require Senate confirmation. *See* 5 USC §3123 (a)(2), which defines the term "Senior Executive Service position."

[6] The definition of "covered employee" under section VEO §4(c)(1) has the same meaning as the term under section 101 of the CAA, 2 USC §1302, which includes any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment. Under VEO §4(c)(5), the following employees are excluded from the term "covered employee": (A) presidential appointees confirmed by the Senate, (B) employees appointed by a Member of Congress or by a committee or subcommittee of either House of Congress, and (C) employees holding positions the duties of which are equivalent to those in Senior Executive Service.

[7] In the ANPR the Board had initially suggested that no "covered employees", as defined by VEOA, fall within the meaning of "excepted service." Upon further review of the governing statutes, the Board herein submits that many "covered employees" within the legislative branch are encompassed by the term "excepted service" as discussed above. The definition of "covered employee" under section VEO §4(c)(1) has the same meaning as the term under section 101 of the CAA, 2 USC §1302, which includes any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment. Under VEO §4(c)(5), the following employees are excluded from the term "covered employee": (A) presidential appointees confirmed by the Senate, (B) employees appointed by a Member of Congress or by a committee or subcommittee of either House of Congress, and (C) employees holding positions the duties of which are equivalent to those in Senior Executive Service. Consistent with the definition at section 2103 of title 5, USC, any covered employee within the legislative branch who holds a civil service position which is not in the Senior Executive Service and which is not in the competitive service is encompassed within the definition of "excepted service." The regulations which the Board here proposes reflect this interpretation of the governing statutes.

Authority of Board to exercise powers and responsibilities similar to that of OPM in executing, administering, and enforcing the federal service system [Issues (8)–(10)].

The ANPR contrasted the regulatory authority vested in OPM and in the Board of Directors of the Office of Compliance with respect to personnel management matters. Congress has established OPM as an independent agency in the executive branch and authorized it to exercise broad powers administering the civil service laws. See 5 U.S.C. §§1101, 1103–04, 1301–04.[9] It has a number of significant responsibilities, including the promulgating of rules and regulations that implement the various civil service laws and the classifying of positions in the executive branch for purposes of appointment, pay, and promotion. In addition, OPM exercises broad administrative powers over the competitive service, including the authority to develop and conduct examinations for the appointment of applicants into the competitive service and the authority to administer rules exempting positions from the competitive service.[10]

The ANPR concluded that VEOA does not vest the Board of Directors with authority comparable to that of OPM to execute, administer, and enforce a civil service system within the legislative branch. This is most clearly evident from the fact that VEOA did not make applicable to the Board the powers and responsibilities exercised by OPM under 5 U.S.C. §§1103–04, 1301–04, among other sections.

Insofar as the Board's authority under VEOA is not coextensive with that of OPM, the ANPR identified two legal implications. First, the Board's power to promulgate veterans' preference regulations that are the "same as" those of OPM may be circumscribed to some degree. To illustrate, if OPM has promulgated a regulation under the combined authority of two statutory sections, A and B, but the Board is given authority only under section A, any corresponding regulation proposed by the Board must be tailored to reflect only the standard, directive, or power of section A. Thus, some regulations of OPM may have to be adopted with modifications to reflect their narrower statutory basis. Other OPM regulations may not be adopted at all simply because the Board does not have the underlying statutory authority.

The second implication identified by the ANPR was that where the veterans' preference regulations contemplate a role by OPM,[11] the Board of Directors might not be empowered to exercise a comparable administrative role with respect to personnel matters in the legislative branch.

The Board received no written comments addressing these issues. Upon further study and reflection, the Board has concluded that the if the provisions of VEOA are to be given their plain meaning, the Board must propose only those OPM regulations, modified as necessary, that can be linked to those statutory sections whose rights and protections have been made applicable to covered employees in the legislative branch. The Board further concludes that VEOA does not vest the Board of Directors of the Office of Compliance with the broad-ranging authority to execute, administer, and enforce a civil service system in the legislative branch.[12] Accordingly, in certain of the proposed regulations the references to OPM have been deleted. To the extent that the executive branch regulations directed OPM to exercise certain responsibilities, including setting of standards, exercising review of agency determinations, and engaging in oversight, those duties have been eliminated in the proposed regulations.

Interpretation of provision restricting certain positions, including guards, to preference eligibles [Issue (11)].

With respect to "competitive service" positions restricted to preference eligible individuals under 5 USC §3310, as applied by VEOA, namely guards, elevator operators, messengers, and custodians, the Board sought information and comment on a series of issues, including the identity, in the legislative branch, of guard, elevator operator, messenger, and custodian positions within the meaning of these statutory terms. A specific question was posed whether police officers and other employees of the United State Capitol Police should be considered "guards." As noted previously, the only two written comments received in response to the ANPR addressed this latter issue.

Both comments argued that the term "guard" should not be interpreted to include officers of the U.S. Capitol Police. One comment contrasted the use of key terms within chapter 33 of Title 5, USC, which governs the examination, selection, and placement of personnel in the competitive service and from which selected provisions made applicable under VEOA to the legislative branch are drawn. Section 3310, which is made applicable by VEOA, uses the term "guard." In contrast, section 3307, which addresses maximum-age requirements in the competitive service and which is not made applicable under VEOA, refers to "law enforcement officer." Because of this differentiation within the same chapter of the U.S. Code, the commenter suggests that Congress could not have intended to treat a "guard" under section 3310 as analogous to a "law enforcement officer." Since U.S. Capitol police officers have the authority of law enforcement officers (see 40 USC §§212–212a), they are not "guards" for purposes of section 3310 as applied.

The other comment makes a similar distinction between guards and law enforcement officers, relying upon the interpretations of OPM, which is responsible for administering the Federal government's occupation classification system. The commenter cites to two OPM publications, *Grade Evaluation Guide for Police and Security Guard Positions, GS–0083/GS–0085* and *Digest of Significant Classification Decisions and Opinions*, No. 8, April 1986. Together, these publications establish a distinction between police officers and guards in the executive branch.

The Board finds that the comments make a persuasive case for not equating officers of the U.S. Capitol Police with "guards" under section 3310 as applied by VEOA. The proposed rule includes a provision that explicitly excludes law enforcement officer positions of the U.S. Capitol Police from the substantive regulations implementing section 3310 as applied by VEOA.

Executive branch regulations that either should not be adopted or should be adopted with modification [Issues (12)–(13)].

The Board received no written comments addressing the questions posed in the ANPR as to which substantive regulations should not be adopted because they are based on statutory provisions that have not been made applicable under VEOA. Similarly, no comments were received on what modifications should be adopted to make the regulations more effective for the implementation of the rights and protections made applicable under VEOA.

Nevertheless, as explained above in the discussion concerning its authority to exercise powers comparable to OPM's, the Board has concluded that it may not propose regulations that are not based on statutory rights and protections made applicable under VEOA. Conversely, the Board believes that the regulations proposed in this Notice most appropriately fulfill the statutory mandate to adopt regulations that are the "same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions" of VEOA. To the extent that modifications are being proposed, the Board believes that they are warranted to reflect the more limited statutory authority which VEOA vests in the Board.

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[8] The Board proposes the potential application of the substantive regulations regarding veterans' preference in the appointment process insofar as the Office of the Architect of the Capital, pursuant to the Architect of the Capital Human Resources Act, has established a personnel management system with features analogous to the "competitive service" as defined in §2102(a)(2) of Title 5, USC. See Section 1.106 *infra*.

[9] *See also* 5 CFR §5.1, issued by the President, which states that the "Director, Office of Personnel Management, shall promulgate and enforce regulations necessary to carry out the provisions of the Civil Service Act and the Veterans' Preference Act, as reenacted in Title 5, United States Code, the Civil Services Rules, and all other statutes and Executive orders imposing responsibilities on the Office."

[10] The following summary explains in part the role of the OPM in the appointment of employees to competitive service positions in executive branch agencies:

"An employee typically becomes a member of the "competitive service" by taking an examination administered by the Office of Personnel Management ("OPM"). See 5 U.S.C. §3304 (1976 & Supp. V 1981). An applicant who meets the minimum requirements for entrance to an examination, and who receives a rating of 70 or more on the examination, is known as an "eligible." 5 C.F.R. §§210.102(b)(5), 337.101(a) (1983). OPM is required to enter on a civil service "register" the names of all eligibles in accordance with their numerical rankings. 5 C.F.R. §332.401 (1983).

"An agency seeking to hire an employee must submit a request to OPM for a "certificate" of eligibles. When OPM receives a request for certification of eligibles, it prepares a certificate by selecting names from the head of the appropriate register. This certificate consists of a sufficient number of names to permit the agency to consider three eligibles for each vacancy, 5 C.F.R. §332.402 (1983), the so-called "rule-of-three." A hiring official from the agency, known as the "appointing officer," 5 C.F.R. §210.102(b)(1) (1983), is obliged to fill each vacancy "with sole regard to merit and fitness" from the three eligibles ranking highest on the certificate who are available for appointment. 5 C.F.R. §332.404 (1983)." *Hondros* v. *Unites States Civil Service Commission*, 720 F.2d 278, 280–82 (3d Cir. 1983) (footnotes omitted).

[11] *See, e.g.*, 5 CFR §§330.401 (OPM's role in competitive examination in restricted positions), 330.403 (OPM's role in filling restricted positions by noncompetitive action of a nonpreference eligible), 332.401 (OPM's responsibility to maintain registers of eligibles), 337.101 (OPM's role in rating applicants).

[12] *Compare* Notice of Proposed Rulemaking [Fair Labor Standards Act regulations under Congressional Accountability Act], 141 Cong. Rec. S17603, S17604 (Daily Ed. Nov. 28, 1995)(explaining that because the CAA did not incorporate the notice posting and recordkeeping requirements of section 11 of the FLSA, 29 USC §211, the Board determined that it may not impose by substantive regulations such requirements on employing offices).

Special provision for coverage of Architect of the Capitol

While drafting the proposed regulations following the receipt of written comments to the ANPR, it came to the attention of the Board that the Office of the Architect of the Capitol has been under a special statutory mandate with respect to managing and supervising its human resources. Because AOC is part of the legislative branch, it has not generally been subject to many of the statutes that regulate personnel policy for Federal agencies. As a consequence, the General Accounting Office reported in 1994 that AOC's personnel system was deficient in many respects. GAO, "Federal Personnel: Architect of the Capitol's System Needs Improvement," B–256160 (April 29, 1994). Congress responded by enacting the Architect of the Capitol Human Resources Act (AOCHRA), P.L. 103-283, 108 Stat. 1444 (July 22, 1994), codified at 40 U.S.C. §166b–7. This law did not directly bring the AOC within the purview of the various Federal personnel laws. Rather, the AOC was directed to establish its own personnel management system. As stated in AOCHRA, Congress found that the Architect should "develop human resources management programs that are consistent with the practices common among other Federal and private sector organizations," and to that end, the Architect was directed "to establish and maintain a personnel management system that incorporates fundamental principles that exist in other modern personnel systems." 40 U.S.C. §166b–7(b)(1),(2). The law then sets out in broad terms eight subject areas that a model personnel management system must address, leaving it to the Architect to develop a detailed plan for implementing these model policy goals no later than fifteen months after enactment. 40 U.S.C. §166b–7(c)(2)(A)–(H), (d)(1)(B),(C). Among these objectives is the requirement that the personnel management system "ensure[] that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of *merit* and fitness after fair and equitable consideration of all applicants and employees through *open competition*." 40 U.S.C. §166b–7(c)(2)(A) (emphasis added).

The notion of merit selection based on open competition, of course, is a bedrock principle of the federal civil service system, particularly its competitive service component, as described in the ANPR, 146 Cong. Rec. S864 (Daily ed. February 29, 2000)(ANPR). Thus, instead of formally placing the job positions of the Architect's Office within the federal competitive service, which is contemplated under 5 U.S.C. §2101(a)(2),[13] Congress authorized the Architect's Office to devise its own personnel system independent of the competitive service (and of the oversight responsibilities of the Office of Personnel Management) but consistent with its animating principles.

AOCHRA did not specifically mandate that the Architect's Office incorporate veterans' preference principles into its merit selection system. And there is nothing in the public record to indicate that the AOC in practice affords qualified veterans some form of preference in the selection process. However, it seems equally true that there is nothing in AOCHRA to preclude the Architect from taking veterans' preference into account in making appointments, promotions, and assignments, the same way that an executive branch agency must afford veterans' preference to appointments to positions in the competitive service. Thus, the issue arises whether VEOA may be read *in pari materia* with AOCHRA, so as to make the substantive VEOA regulations concerning appointments applicable to AOC's merit selection system notwithstanding the fact that job positions subject to that system are not technically part of the "competitive service."

As noted above, the Board has tentatively concluded that it must limit the application of the substantive, veterans' preference appointment regulations to those legislative branch positions that are within the "competitive service," as the latter term is defined in 5 U.S.C. §2102. As a practical matter, this may significantly limit the group of "covered employees" who will benefit from VEOA, since it appears that the vast majority of "covered employees" hold civil service positions in the legislative branch, including those in the Office of AOC, that are within the definition of excepted service.

However, the congressional policy declared in the enactment of AOCHRA may warrant the promulgation of a special regulation tailoring the application of the VEOA appointment regulations to positions in Office of the AOC, for it is a general rule of statutory construction that statutes on the same subject matter are to be construed together.[14] In this case, the specific obligations under VEOA to afford veterans' preference in connection with merit appointments would be interpreted in conjunction with the preexisting, general obligations under AOCHRA to establish a merit selection personnel system. If read together, the two statutes would seem to authorize the application of substantive VEOA regulations, at least those governing appointments, insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.[15]

The Board has made no final determination on the soundness of this interpretation, in part due the fact that this has insufficient information on the elements of the merit selection system which the AOC has established under AOCHRA. The Board therefore believes that it is appropriate to solicit comments on what are the elements of the AOC's current merit selection system established under 40 U.S.C. §166b–7(c)(2)(A), and on whether in particular the AOC has a policy of giving preference to qualified veterans. Aside from the factual issue, the Board believes that comments should be solicited on the legal issue whether VEOA may be interpreted *in pari materia* with AOCHRA. In addition, the Board invites comments on the related question of how substantive regulations promulgated under VEOA may be applied to AOC's personnel management system, even assuming that it currently does not include a veterans' preference component, being mindful that the Board is authorized under VEOA to propose modifications for the more effective implementation of the rights and protections under VEOA. 2 U.S.C. §1316a(c)(4)(B).

In order to frame the issues for comment, the Board has decided to include in this NPR a proposed new section §1.106, which would apply the appointment regulations governing veterans' preference to appointments made pursuant to the merit selection system under AOCHRA. This section would apply the proposed regulations notwithstanding the fact that the job positions within the AOCHRA merit selection system are not technically within the "competitive service." Insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition, the Architect of the Capitol would be required to afford to a covered employee, including an applicant veterans' preference, in a manner and to the extent consistent with these proposed regulations.

Recommended Method of Approval

The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 13th day of November, 2001.

SUSAN S. ROBFOGEL,
Chair of the Board,
Office of Compliance.

EXTENSION OF RIGHTS AND PROTECTIONS RELATING TO VETERANS' PREFERENCE UNDER TITLE 5, UNITED STATES CODE, TO COVERED EMPLOYEES OF THE LEGISLATIVE BRANCH (SECTION 4(C) OF THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998)

PART 1—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 4 OF THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Exclusion
1.104 Adoption of regulations
1.105 Coordination with Section 225 of Congressional Accountability Act
1.106 Application of regulations to certain positions of the Office of the Architect of the Capitol

§1.101. Purpose and scope

(a) *Section 4(c) of the VEOA.* The Veterans Employment Opportunities Act (VEOA) applies the rights and protections of sections

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[13] "The 'competitive service' consists of—. . ."(2) civil service positions not in the executive branch which are specifically included in the competitive service by statute;"

[14] N. Singer, Statutes and Statutory Construction §51.02, at 176–178 (6th ed. 2000). See, e.g., *United States* v. *Stewart*, 311 U.S. 60 (1940) ("It is clear that 'all acts in pari materia are to be taken together, as if they were one law.'").

[15] CF. *United States* v. *Jefferson Electric Mfg. Co.*, 291 U.S. 386, 396 (1934) ("As a general rule, where the legislation dealing with a particular subject consists of a system of related general provisions indicative of a settled policy, new enactments of a fragmentary nature on that subject are to be taken as intended to fit into the existing system and the carried into effect comformably to it, excepting as a different purpose is plainly shown.").

2108, 3309 through 3312, and subchapter I of chapter 35 of title 5 USC, to covered employees within the legislative branch.

(b) *Purpose and scope of regulations.* The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 4(c)(4) of VEOA, in accordance with the rulemaking procedure set forth in section 304 of the CAA.

§1.102. Definitions

Except as otherwise provided in these regulations, as used in these regulations:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *VEOA* means the Veterans Employment Opportunities Act of 1998 (Pub. L. 105-339, 112 Stat. 3182).

(c) Except as provided by §1.103, the term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means: (1) the personal office of a Member of the House of Representatives or the Senate or a joint committee; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(j) *Board* means the Board of Directors of the Office of Compliance.

(k) *Office* means the Office of Compliance.

(l) *General Counsel* means the General Counsel of the Office of Compliance.

(m) The term *agency* means employing office as defined by subsection (i).

§1.103. Exclusions from definition of covered employee

The term *covered employee* does not include an employee

(a) whose appointment is made by the President with the advice and consent of the Senate;

(b) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or,

(c) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

§1.104. Authority of the Board

(a) *Adoption of regulations.* Section 4(c)(4)(A) of VEOA generally authorizes the Board to issue regulations to implement section 4(c). In addition, 4(c)(4)(B) of VEOA directs the Board to promulgate regulations that are "the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)" of section 4(c) of VEOA. Those statutory provisions are section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of VEOA requires a regulation to be issued. Specifically, it is the Board's considered judgment based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)" of section 4(c) of VEOA that need be adopted.

(b) *Technical and nomenclature changes.* In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the executive branch. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the executive branch from which they are derived except to the extent that a modification is necessary to more effectively implement the rights and protections made applicable under VEOA.

(c) *Modification of substantive regulations.* As a qualification of the statutory obligation to issue regulations that are "the same as the most substantive regulations (applicable with respect to the executive branch)," section 4(c)(4)(B) of VEOA authorizes the Board to "determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under" section 4(c) of VEOA. In examining the relevant regulations of the executive branch, which were promulgated by the Office of Personnel Management, the Board has concluded that a number of sections were issued under a combination of statutory authorities, some of which were made applicable under section 4(c)(2) of VEOA and some of which were not made applicable under that section. The Board has accordingly determined that given the selective application of statutory provisions, some regulations of the executive branch are not applicable to the legislative branch and some regulations must be modified in order to be made applicable.

(d) *Retention of section numbering.* Except for the sections in Part 1, the regulations adopted herein are numbered to correspond with the section numbering of the substantive regulations of the executive branch as they appear in title 5 of the Code of Federal Regulations (CFR) on which they are based.

§1.105. Coordination with Section 225 of Congressional Accountability Act

(a) *Statutory directive.* Section 4(c)(4)(D) of the VEOA requires that regulations promulgated must be consistent with section 225 of the CAA. Among the relevant provisions of section 225 are subsection (f)(1), which prescribes as a rule of construction that definitions and exemptions in the laws made applicable by the CAA shall apply under the CAA, and subsection (f)(3), which states that the CAA shall not be construed to authorize enforcement of the CAA by the executive branch.

(b) *Provisos necessary to satisfy statutory directive.* The Board determines that in order for certain regulations applied under VEOA to be consistent with subsections (f)(1) and (f)(3) of section 225 of the CAA, the such regulations shall be subject to the following provisos:

(1) Where an applied regulation refers to the "competitive service," such term shall have the meaning as provided in 5 USC §2102(a)(2). Where an applied regulation refers to the "exempted service," such term shall have the meaning as provided in 5 USC §2103.

(2) Where an applied regulation refers to the "excepted service," such term shall have the meaning as provided in 5 USC §2103. Consistent with the definition provided by section 2103, the Board determines that "excepted service" encompasses all civil service positions within the legislative branch which are neither in the "competitive service" nor have duties that are equivalent to the Senior Executive Service as those terms are defined in Title 5, USC.

§1.106. Application of regulations to certain positions of the Office of the Architect of the Capitol

(a) The Office of the Architect of the Capitol, pursuant to the provisions of the Architect of the Capitol Human Resources Act (AOCHRA), P.L. 103-283, 108 Stat. 1444 (July 22, 1994), as codified and amended in 40 USC §166b-7, is required to establish a personnel management system that in part "ensures that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition." 40 USC §166b-7(c)(2)(A).

(b) Insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition, the Architect of the Capitol shall provide veterans' preference to a covered employee, including an applicant, in a manner and to the extent consistent with these regulations.

PART 211—VETERAN PREFERENCE

Sec.
211.101 Purpose
211.102 Definitions
211.103 Administration of preference

§211.101. Purpose

The purpose of this part is to define veterans' preference and the administration of preference in Federal employment in the legislative branch. (5 U.S.C. 2108, as applied by VEOA)

§211.102. Definitions

For purposes of preference in Federal employment the following definitions apply:

(a) Veteran means a person who was separated with an honorable discharge or under honorable conditions from active duty in the armed forces performed—

(1) In a war; or,

(2) In a campaign or expedition for which a campaign badge has been authorized; or

(3) During the period beginning April 28, 1952, and ending July 1, 1955; or,

(4) For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning February 1, 1955, and ending October 14, 1976.

(b) Disabled veteran means a person who was separated under honorable conditions from active duty in the armed forces performed at any time and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pensions because of a public statute administered by the Department of Veterans Affairs or a military department.

(c) Preference eligible means veterans, spouses, widows, or mothers who meet the definition of "preference eligible" in 5 U.S.C. 2108. Preference eligibles in the competitive service are entitled to have 5 or 10 points added to their earned score on a civil service examination (see 5 U.S.C. 3309). They are also accorded a higher retention standing in the event of a reduction in force in positions in either the competitive service or in the excepted service (see 5 U.S.C. 3502). Preference does not apply, however, to inservice placement actions such as promotions.

(d) Armed forces means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(e) Uniformed services means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(f) Active duty or active military duty means full-time duty with military pay and allowances in the armed forces, except for training or for determining physical fitness and except for service in the Reserves or National Guard.

(g) Separated under honorable conditions means either an honorable or a general discharge from the armed forces. The Department of Defense is responsible for administering and defining military discharges.

§ 211.103. Administration of preference

Agencies are responsible for making all preference determinations.

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL) IN THE COMPETITIVE SERVICE

Sec.
330.401 Competitive examination
330.402 Direct recruitment

Subpart D—Positions Restricted to Preference Eligibles

§ 330.401. Competitive examination

In each entrance examination for the positions of custodian, elevator operator, guard, and messenger in the competitive service (referred to hereinafter in this subpart as restricted positions), competition shall be restricted to preference eligibles as long as preference eligibles are available. For purposes of this part, the term *guard* does not include law enforcement officer positions of the U.S. Capitol Police Board.

§ 330.402. Direct recruitment

In direct recruitment by an agency under delegated authority, the agency shall fill each restricted position by the appointment of a preference eligible as long as preference eligibles are available.

PART 332—RECRUITMENT AND SELECTION IN THE COMPETITIVE SERVICE THROUGH COMPETITIVE EXAMINATION

Sec.
332.401 Order on registers

Subpart D—Consideration for Appointment

§ 332.401. Order on registers

Subject to apportionment, residence, and other requirements of law, the names of eligibles shall be entered on the appropriate register in accordance with their numerical ratings, except that the names of:

(a) Preference eligibles shall be entered in accordance with their augmented ratings and ahead of others having the same rating; and

(b) Preference eligibles who have a compensable service-connected disability of 10 percent or more shall be entered at the top of the register in the order of their ratings unless the register is for professional or scientific positions in pay positions comparable to GS–9 and above and in comparable pay levels under other pay-fixing authorities.

PART 337—EXAMINING SYSTEM FOR THE COMPETITIVE SERVICE

Sec.
Sec. 337.101 Rating applicants

Subpart A—General Provisions

§ 337.101. Rating applicants

(a) The relative weights shall be given subjects in an examination, and shall assign numerical ratings on a scale of 100. Each applicant who meets the minimum requirements for entrance to an examination and is rated 70 or more in the examination is eligible for appointment.

(b) There shall be added to the earned numerical ratings of applicants who make a passing grade:

(1) Five points for applicants who are preference eligibles under section 2108(3)(A) and (B) of title 5, United States Code; as applied by VEOA and

(2) Ten points for applicants who are preference eligibles under section 2108(3)(C)–(G) of that title, as applied by VEOA.

(c) When experience is a factor in determining eligibility, a preference eligible shall be credited with:

(1) Time spent in the military service (i) as an extension of time spent in the position in which he was employed immediately before his entrance into the military service, or (ii) on the basis of actual duties performed in the military service, or (iii) as a combination of both methods. Time spent in the military service shall be credited according to the method that will be of most benefit to the preference eligible.

(2) All valuable experience, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether pay was received therefor.

PART 339—MEDICAL QUALIFICATION DETERMINATIONS IN THE COMPETITIVE SERVICE

Sec.
Sec. 339.204 Waiver of standards and requirements

Subpart B—Physical and Medical Qualifications

§ 339.204. Waiver of standards and requirements

Agencies must waive a medical standard or physical requirement when there is sufficient evidence that an applicant or employee, with or without reasonable accommodation, can perform the essential duties of the position without endangering the health and safety of the individual or others.

PART 351—REDUCTION IN FORCE IN THE COMPETITIVE SERVICE AND THE EXCEPTED SERVICE

Sec.
351.201 Use of regulations
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Subpart B—General Provisions

§ 351.201. Use of regulations

(a)(1) Each agency is responsible for determining the categories within which positions are required, where they are to be located, and when they are to be filled, abolished, or vacated. This includes determining when there is a surplus of employees at a particular location in a particular line of work.

(2) Each agency shall follow this part when it releases a competing employee from his or her competitive level by furlough for more than 30 days, separation, demotion, or reassignment requiring displacement, when the release is required because of lack of work; shortage of funds; insufficient personnel ceiling; reorganization; the exercise of reemployment rights or restoration rights; or reclassification of an employee's position due to erosion of duties when such action will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days.

(b) This part does not require an agency to fill a vacant position. However, when an agency, at its discretion, chooses to fill a vacancy by an employee who has been reached for release from a competitive level for one of the reasons in paragraph (a)(2) of this section, this part shall be followed.

(c) Each agency is responsible for assuring that the provisions in this part are uniformly and consistently applied in any one reduction in force.

§ 351.202. Coverage

(a) *Employees covered.* Except as provided in paragraph (b) of this section, this part applies to covered employees as defined by section 1.102(c) of these Regulations.

(b) *Employees excluded.* This part does not apply to an employee who is within the exclusion set forth in section 1.103 of these Regulations.

(c) *Actions excluded.* This part does not apply to:

(1) The termination of a temporary or term promotion or the return of an employee to the position held before the temporary or term promotion or to one of equivalent grade and pay.

(2) A change to lower grade based on the reclassification of an employee's position due to the application of new classification standards or the correction of a classification error.

(3) A change to lower grade based on reclassification of an employee's position due to erosion of duties, except that this exclusion does not apply to such reclassification actions that will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days. This exception ends at the completion of the reduction in force.

(4) Placement of an employee serving on an intermittent, part-time, on-call, or seasonal basis in a nonpay and nonduty status in accordance with conditions established at time of appointment.

(5) A change in an employee's work schedule from other-than-full-time to full-time. (A change from full-time to other than full-time for a reason covered in Sec. 351.201(a)(2) is covered by this part.)

§ 351.203. Definitions

In this part:

Competing employee means an employee in tenure group I, II, or III.

Current rating of record is the rating of record for the most recently completed appraisal period as provided in Sec. 351.504(b)(3).

Days means calendar days.

Function means all or a clearly identifiable segment of an agency's mission (including all integral parts of that mission), regardless of how it is performed.

Furlough under this part means the placement of an employee in a temporary nonduty and nonpay status for more than 30 consecutive calendar days, or more than 22 workdays if done on a discontinuous basis, but not more than 1 year.

Local commuting area means the geographic area that usually constitutes one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual employment.

Modal rating is the summary rating level assigned most frequently among the actual ratings of record that are:

(1) Assigned under the summary level pattern that applies to the employee's position of record on the date of the reduction in force;

(2) Given within the same competitive area, or at the agency's option within a larger subdivision of the agency or agencywide; and

(3) On record for the most recently completed appraisal period prior to the date of issuance of reduction in force notices or the cutoff date the agency specifies prior to the issuance of reduction in force notices after which no new ratings will be put on record.

Rating of record means the officially designated performance rating, as provided for in the agency's appraisal system.

Reorganization means the planned elimination, addition, or redistribution of functions or duties in an organization.

Representative rate means the fourth step of the grade for a position subject to the General Schedule, the prevailing rate for a position under a wage-board or similar wage-determining procedure, and for other positions, the rate designated by the agency as representative of the position.

Transfer of function means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area.

Undue interruption means a degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, a work program would generally not be unduly interrupted even if an employee needed more than 90 days after the reduction in force to perform the optimum quality or quantity of work. The 90-day standard may be extended if placement is made under this part to a low priority program or to a vacant position.

§ 351.204. Responsibility of agency

Each agency covered by this part is responsible for following and applying the regulations in this part when the agency determines that a reduction force is necessary.

Subpart C—Transfer of Function

§ 351.301. Applicability

(a) This subpart is applicable when the work of one or more employees is moved from one competitive area to another as a transfer of function regardless of whether or not the movement is made under authority of a statute, reorganization plan, or other authority.

(b) In a transfer of function, the function must cease in the losing competitive area and continue in an identical form in the gaining competitive area (i.e., in the gaining competitive area, the function continues to be carried out by competing employees rather than by noncompeting employees).

§ 351.302. Transfer of employees

(a) Before a reduction in force is made in connection with the transfer of any or all of the functions of a competitive area to another continuing competitive area, each competing employee in a position identified with the transferring function or functions shall be transferred to the continuing competitive area without any change in the tenure of his or her employment.

(b) An employee whose position is transferred under this subpart solely for liquidation, and who is not identified with an operating function specifically authorized at the time of transfer to continue in operation more than 60 days, is not a competing employee for other positions in the competitive area gaining the function.

(c) Regardless of an employee's personal preference, an employee has no right to transfer with his or her function, unless the alternative in the competitive area losing the function is separation or demotion.

(d) Except as permitted in paragraph (e) of this section, the losing competitive area must use the adverse action procedures found in 5 CFR part 752 if it chooses to separate an employee who declines to transfer from his or her function.

(e) The losing competitive area may, at its discretion, include employees who decline to transfer with their function as part of a concurrent reduction in force.

(f) An agency may not separate an employee who declines to transfer with the function any sooner than it transfers employees who chose to transfer with the function to the gaining competitive area.

(g) Agencies may ask employees in a canvass letter whether the employee wishes to transfer with the function when the function transfers to a different local commuting area. The canvass letter must give the employee information concerning entitlements available to the employee if the employee accepts the offer to transfer, and if the employee declines the offer to transfer. An employee may later change and initial acceptance offer without penalty. However, an employee may not later change an initial declination of the offer to transfer.

§ 351.303. Identification of positions with a transferring function

(a) The competitive area losing the function is responsible for identifying the positions of competing employees with the transferring function. A competing employee is identified with the transferring function on the basis of the employee's official position. Two methods are provided to identify employees with the transferring function:

(1) Identification Method One; and

(2) Identification Method Two.

(b) Identification Method One must be used to identify each position to which it is applicable. Identification Method Two is used only to identify positions to which Identification Method One is not applicable.

(c) Under Identification Method One, a competing employee is identified with a transferring function if—

(1) The employee performs the function during at least half of his or her work time; or

(2) Regardless of the amount of time the employee performs the function during his or her work time, the function performed by the employee includes the duties controlling his or her grade or rate of pay.

(3) In determining what percentage of time an employee performs a function in the employee's official position, the agency may supplement the employee's official position description by the use of appropriate records (e.g., work reports, organizational time logs, work schedules, etc.).

(d) Identification Method Two is applicable to employees who perform the function during less than half of their work time and are not otherwise covered by Identification Method One. Under Identification Method Two, the losing competitive area must identify the number of positions it needed to perform the transferring function. To determine which employees are identified for transfer, the losing competitive area must establish a retention register in accordance with this part that includes the name of each competing employee who performed the function. Competing employees listed on the retention register are identified for transfer in the inverse order of their retention standing. If for any retention register this procedure would result in the separation or demotion by reduction in force at the losing competitive area of any employee with higher retention standing, the losing competitive area must identify competing employees on that register for transfer in the order of their retention standing.

(e)(1) The competitive area losing the function may permit other employees to volunteer for transfer with the function in place of employees identified under Identification Method One or Identification Method Two. However, the competitive area may permit these other employees to volunteer for transfer only if no competing employee who is identified for transfer under Identification Method One or Identification Method Two is separated or demoted solely because a volunteer transferred in place of him or her to the competitive area that is gaining the function.

(2) If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, the losing competitive area may give preference to the volunteers with the highest retention standing, or make selections based on other appropriate criteria.

Subpart D—Scope of Competition

§ 351.401. Determining retention standing

Each agency shall determine the retention standing of each competing employee on the basis of the factors in this subpart and in subpart E of this part.

§ 351.402. Competitive area

(a) Each agency shall establish competitive areas in which employees compete for retention under this part.

(b) A competitive area must be defined solely in terms of the agency's organizational unit(s) and geographical location, and it must include all employees within the competitive area so defined. A competitive area may consist of all or part of an agency. The minimum competitive area is a subdivision of the agency under separate administration within the local commuting area.

§ 351.403. Competitive level

(a)(1) Each agency shall establish competitive levels consisting of all positions in a competitive area which are in the same grade (or occupational level) and classification series, and which are similar enough in duties, qualification requirements, pay schedules, and working conditions so that an agency may reassign the incumbent of one position to any of the other positions in the level without undue interruption.

(2) Competitive level determinations are based on each employee's official position, not the employee's personal qualifications.

(b) Each agency shall establish separate competitive levels according to the following categories:

(1) *By service.* Separate levels shall be established for positions in the competitive service and in the excepted service.

(2) *By appointment authority.* Separate levels shall be established for excepted service positions filled under different appointment authorities.

(3) *By pay schedule.* Separate levels shall be established for positions under different pay schedules.

(4) *By work schedule.* Separate levels shall be established for positions filled on a full-time, part-time, intermittent, seasonal, or on-call basis. No distinction may be made among employees in the competitive level on the basis of the number of hours or weeks scheduled to be worked.

(5) *By trainee status.* Separate levels shall be established for positions filled by an employee in a formally designated trainee or developmental program having all of the characteristics covered in Sec. 351.702(e)(1) through (e)(4) of this part.

(c) An agency may not establish a competitive level based solely upon:

(1) A difference in the number of hours or weeks scheduled to be worked by other-than-full-time employees who would otherwise be in the same competitive level;

(2) A requirement to work changing shifts;

(3) The grade promotion potential of the position; or

(4) A difference in the local wage areas in which wage grade positions are located.

§ 351.404. Retention register

(a) When a competing employee is to be released from a competitive level under this part, the agency shall establish a separate retention register for that competitive level. The retention register is prepared from the current retention records of employees. Upon displacing another employee under this part, an employee retains the same status and tenure in the new position. Except for an employee on military duty with a restoration right, the agency shall enter on the retention register, in the order of retention standing, the name of each competing employee who is:

(1) In the competitive level;

(2) Temporarily promoted from the competitive level by temporary or term promotion.

(b)(1) The name of each employee serving under a time limited appointment or promotion to a position in a competitive level shall be entered on a list apart from the retention register for that competitive level, along with the expiration date of the action.

(2) The agency shall list, at the bottom of the list prepared under paragraph b(1) of this section, the name of each employee in the competitive level with a written decision of removal under part 432 or 752 in this chapter.

§ 351.405. Demoted employees

An employee who has received a written decision under part 432 or 752 of this chapter to demote him or her competes under this part from the position to which he or she will be or has been demoted.

Subpart E—Retention Standing

§ 351.501. Order of retention—competitive service

(a) Competing employees shall be classified on a retention register on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as follows:

(1) By tenure group I, group II, group III; and

(2) Within each group by veteran preference subgroup AD, subgroup A, subgroup B; and

(3) Within each subgroup by years of service as augmented by credit for performance under Sec. 351.504, beginning with the earliest service date.

(b) Groups are defined as follows:

(1) Group I includes each career employee who is not serving a probationary period. An employee who acquires competitive status and satisfies the service requirement for career tenure when the employee's position is brought into the competitive service is in group I as soon as the employee completes any required probationary period for initial appointment.

(2) Group II includes each career-conditional employee, and each employee serving a probationary period.

(3) Group III includes all employees serving under indefinite appointments, temporary appointments pending establishment of a register, status quo appointments, term appointments, and any other nonstatus nontemporary appointments which meet the definition of provisional appointments.

(c) Subgroups are defined as follows:

(1) Subgroup AD includes each preference eligible employee who has a compensable service-connected disability of 30 percent or more.

(2) Subgroup A includes each preference eligible employee not included in subgroup AD.

(3) Subgroup B includes each nonpreference eligible employee.

(d) A retired member of a uniformed service is considered a preference eligible under this part only if the member meets at least one of the conditions of the following paragraphs (d)(1), (2), or (3) of this section, except as limited by paragraph (d)(4) or (d)(5):

(1) The employee's military retirement is based on disability that either:

(i) Resulted from injury or disease received in the line of duty as a direct result of armed conflict; or

(ii) Was caused by an instrumentality of war incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

(2) The employee's retired pay from a uniformed service is not based upon 20 or more years of full-time active service, regardless of when performed but not including periods of active duty for training.

(3) The employee has been continuously employed in a position covered by this part since November 30, 1964, without a break in service of more than 30 days.

(4) An employee retired at the rank of major or above (or equivalent) is considered a preference eligible under this part if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, as applied by VEOA, and meets one of the conditions covered in paragraph (d)(1), (2), or (3) of this section.

(5) An employee who is eligible for retired pay under chapter 67 of title 10, United States Code, and who retired at the rank of major or above (or equivalent) is considered a preference eligible under this part at age 60, only if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, as applied by VEOA.

§ 351.502. Order of retention—excepted service

(a) Competing employees shall be classified on a retention register in tenure groups on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as set forth under Sec. 351.501(a) for competing employees in the competitive service.

(b) Groups are defined as follows:

(1) Group I includes each permanent employee whose appointment carries no restriction or condition such as conditional, indefinite, specific time limit, or trial period.

(2) Group II includes each employee:

(i) Serving a trial period; or

(ii) Whose tenure is equivalent to a career-conditional appointment in the competitive service in agencies having such excepted appointments.

(3) Group III includes each employee:

(i) Whose tenure is indefinite (i.e., without specific time limit), but not actually or potentially permanent;

(ii) Whose appointment has a specific time limitation of more than 1 year; or

(iii) Who is currently employed under a temporary appointment limited to 1 year or less, but who has completed 1 year of current continuous service under a temporary appointment with no break in service of 1 workday or more.

§351.503. Length of service

(a) Each agency shall establish a service date for each competing employee.

(b) An employee's service date is whichever of the following dates reflects the employee's creditable service:

(1) The date the employee entered on duty, when he or she has no previous creditable service;

(2) The date obtained by subtracting the employee's total creditable previous service from the date he or she last entered on duty; or

(3) The date obtained by subtracting from the date in paragraph (b)(1) or (b)(2) of this section, the service equivalent allowed for performance ratings under Sec. 351.504.

(c) An employee who is a retired member of a uniformed service is entitled to credit under this part for:

(1) The length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) The total length of time in active service in the armed forces if the employee is considered a preference eligible under Sec. 351.501(d) of this part.

(d) Each agency shall adjust the service date for each employee to withhold credit for noncreditable time.

§351.504. Credit for performance

(a) *Ratings used.* Only ratings of record as defined in Sec. 351.203 shall be used as the basis for granting additional retention service credit in a reduction in force.

(b)(1) An employee's entitlement to additional retention service credit for performance under this subpart shall be based on the employee's three most recent ratings of record received during the 4-year period prior to the date of issuance of reduction in force notices, except as otherwise provided in paragraphs (b)(2) and (c) of this section.

(2) To provide adequate time to determine employee retention standing, an agency may provide for a cutoff date, a specified number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used for purposes of this subpart. When a cutoff date is used, an employee will receive performance credit for the three most recent ratings of record received during the 4-year period prior to the cutoff date.

(3) To be creditable for purposes of this subpart, a rating of record must have been issued to the employee, with all appropriate reviews and signatures, and must also be on record (i.e., the rating of record is available for use by the office responsible for establishing retention registers).

(4) The awarding of additional retention service credit based on performance for purposes of this subpart must be uniformly and consistently applied within a competitive area, and must be consistent with the agency's appropriate issuance(s) that implement these policies. Each agency must specify in its appropriate issuance(s):

(i) The conditions under which a rating of record is considered to have been received for purposes of determining whether it is within the 4-year period prior to either the date the agency issues reduction in force notices or the agency-established cutoff date for ratings of record, as appropriate; and

(ii) If the agency elects to use a cutoff date, the number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used for purposes of this subpart.

(c) *Missing ratings.* Additional retention service credit for employees who do not have three actual ratings of record during the 4-year period prior to the date of issuance of reduction in force notices or the 4-year period prior to the agency-established cutoff date for ratings of record permitted in paragraph (b)(2) of this section shall be determined as appropriate, and as follows:

(1) An employee who has not received any rating of record during the 4-year period shall receive credit for performance based on the modal rating for the summary level pattern that applies to the employee's official position of record at the time of the reduction in force.

(2) An employee who has received at least one but fewer than three previous ratings of record during the 4-year period shall receive credit for performance on the basis of the value of the actual rating(s) of record divided by the number of actual ratings received. If an employee has received only two actual ratings of record during the period, the value of the ratings is added together and divided by two (and rounded in the case of a fraction to the next higher whole number) to determine the amount of additional retention service credit. If an employee has received only one actual rating of record during the period, its value is the amount of additional retention service credit provided.

§351.505. Records

Each agency shall maintain the current correct records needed to determine the retention standing of its competing employees. The agency shall allow the inspection of its retention registers and related records by an employee of the agency to the extent that the registers and records have a bearing on a specific action taken, or to be taken, against the employee. The agency shall preserve intact all registers and records relating to an employee for at least 1 year from the date the employee is issued a specific notice.

§351.506. Effective date of retention standing

Except for applying the performance factor as provided in Sec. 351.504:

(a) The retention standing of each employee released from a competitive level in the order prescribed in Sec. 351.601 is determined as of the date the employee is so released.

(b) The retention standing of each employee retained in a competitive level as an exception under Sec. 351.606(b), Sec. 351.607, or Sec. 351.608, is determined as of the date the employee would have been released had the exception not been used. The retention standing of each employee retained under any of these provisions remains fixed until completion of the reduction in force action which resulted in the temporary retention.

(c) When an agency discovers an error in the determination of an employee's retention standing, it shall correct the error and adjust any erroneous reduction-in-force action to accord with the employee's proper retention standing as of the effective date established by this section.

Subpart F—Release From Competitive Level

§351.601. Order of release from competitive level

(a) Each agency shall select competing employees for release from a competitive level under this part in the inverse order of retention standing, beginning with the employee with the lowest retention standing on the retention register. An agency may not release a competing employee from a competitive level while retaining in that level an employee with lower retention standing except:

(1) As required under Sec. 351.606 when an employee is retained under a mandatory exception or under Sec. 351.806 when an employee is entitled to a new written notice of reduction in force; or

(2) As permitted under Sec. 351.607 when an employee is retained under a permissive continuing exception or under Sec. 351.608 when an employee is retained under a permissive temporary exception.

(b) When employees in the same retention subgroup have identical service dates and are tied for release from a competitive level, the agency may select any tied employee for release.

§351.602. Prohibitions

An agency may not release a competing employee from a competitive level while retaining in that level an employee with:

(a) A specifically limited temporary appointment;

(b) A specifically limited temporary or term promotion.

§351.603. Actions subsequent to release from competitive level

An employee reached for release from a competitive level shall be offered assignment to another position in accordance with subpart G of this part. If the employee accepts, the employee shall be assigned to the position offered. If the employee has no assignment right or does not accept an offer under subpart G, the employee shall be furloughed or separated.

§351.604. Use of furlough

(a) An agency may furlough a competing employee only when it intends within 1 year to recall the employee to duty in the position from which furloughed.

(b) An agency may not separate a competing employee under this part while an employee with lower retention standing in the same competitive level is on furlough.

(c) An agency may not furlough a competing employee for more than 1 year.

(d) When an agency recalls employees to duty in the competitive level from which furloughed, it shall recall them in the order of their retention standing, beginning with highest standing employee.

§351.605. Liquidation provisions

When an agency will abolish all positions in a competitive area within 180 days, it must release employees in group and subgroup order consistent with Sec. 351.601(a). At its discretion, the agency may release the employees in group order without regard to retention standing within a subgroup, except as provided in Sec. 351.606. When an agency releases an employee under this section, the notice to the employee must cite this authority and give the date the liquidation will be completed. An agency may also apply Secs. 351.607 and 351.608 in a liquidation.

Sec. 351.606. Mandatory exceptions

(a) Armed Forces restoration rights. When an agency applies Sec. 351.601 or Sec. 351.605, it shall give retention priorities over other employees in the same subgroup to each group I or II employee entitled under 38 U.S.C. 2021 or 2024 to retention for, as applicable, 6 months or 1 year after restoration, as provided in part 353 of this chapter.

(b) Use of annual leave to reach initial eligibility for retirement or continuance of health benefits. (1) An agency shall make a temporary exception under this section to retain an employee who is being involuntarily separated under this part, and who elects to use annual leave to remain on the agency's rolls after the effective date the employee would otherwise have been separated by reduction in force, in order to establish initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or to establish initial eligibility under 5 U.S.C. 8905 to continue health benefits coverage into retirement.

(2) An agency shall make a temporary exception under this section to retain an employee who is being involuntarily separated under authority of part 752 of this chapter because of the employee's decision to decline relocation (including transfer of function), and who elects to use annual leave to remain on the agency's rolls after the effective date the employee would otherwise have been separated by adverse action, in order to establish initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or to establish initial eligibility under 5 U.S.C. 8905 to continue health benefits coverage into retirement.

(3) An employee retained under paragraph (b) this section must be covered by chapter 63 of title 5, United States Code.

(4) An agency may not retain an employee under-this section past the date that the employee first becomes eligible for immediate retirement, or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements.

(5) Except as permitted by 5 CFR 351.608(d), an agency may not approve an employee's use of any other type of leave after the employee has been retained under a temporary exception authorized by paragraph (b) of this section.

(6) Annual leave for purposes of paragraph (b) of this section is described in Sec. 630.212 of Title 5, CFR.

(c) Documentation. Each agency shall record on the retention register, for inspection by each employee, the reasons for any deviation from the order of release required by Sec. 351.601 or Sec. 351.605.

§ 351.607. Permissive continuing exceptions

An agency may make exception to the order of release in Sec. 351.601 and to the action provisions of Sec. 351.603 when needed to retain an employee on duties that cannot be taken over within 90 days and without undue interruption to the activity by an employee with higher retention standing. The agency shall notify in writing each higher-standing employee reached for release from the same competitive level of the reasons for the exception.

§ 351.608. Permissive temporary exceptions

(a) *General.* (1) In accordance with this section, an agency may make a temporary exception to the order of release in Sec. 351.601, and to the action provisions of Sec. 351.603, when needed to retain an employee after the effective date of a reduction in force. Except as otherwise provided in paragraphs (c) and (e) of this section, an agency may not make a temporary exception for more than 90 days.

(2) After the effective date of a reduction in force action, an agency may not amend or cancel the reduction in force notice of an employee retained under a temporary exception so as to avoid completion of the reduction in force action.

(b) *Undue interruption.* An agency may make a temporary exception for not more than 90 days when needed to continue an activity without undue interruption.

(c) *Government obligation.* An agency may make a temporary exception to satisfy a Government obligation to the retained employee without regard to the 90-day limit set forth under paragraph (a)(1) of this section.

(d) *Sick leave.* An agency may make a temporary exception to retain on sick leave a lower standing employee covered by an applicable leave system for Federal employees, who is on approved sick leave on the effective date of the reduction in force, for a period not to exceed the date the employee's sick leave is exhausted. Use of sick leave for this purpose must be in accordance with the requirements in part 630, subpart D of this chapter (or other applicable leave system for Federal employees). An agency may not approve an employee's use of any other type of leave after the employee has been retained under this paragraph (d).

(e)(1) An agency may make a temporary exception to retain on accrued annual leave a lower standing employee who:

(i) Is being involuntarily separated under this part;

(ii) Is covered by a Federal leave system under authority other than chapter 63 of title 5, United States Code; and,

(iii) Will attain first eligibility for an immediate retirement benefit under 5 U.S.C. 8336, 8412, or 8414 (or other authority), and/or establish eligibility under 5 U.S.C. 8905 (or other authority) to carry health benefits coverage into retirement during the period represented by the amount of the employee's accrued annual leave.

(2) An agency may not approve an employee's use of any other type of leave after the employee has been retained under this paragraph (e).

(3) This exception may not exceed the date the employee first becomes eligible for immediate retirement or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements.

(4) Accrued annual leave includes all accumulated, accrued, and restored annual leave, as applicable, in addition to annual leave earned and available to the employee after the effective date of the reduction in force. When approving a temporary exception under this provision, an agency may not advance annual leave or consider any annual leave that might be credited to an employee's account after the effective date of the reduction in force other than annual leave earned while in an annual leave status.

(f) *Other exceptions.* An agency may make a temporary exception under this section to extend an employee's separation date beyond the effective date of the reduction in force when the temporary retention of a lower standing employee does not adversely affect the right of any higher standing employee who is released ahead of the lower standing employee. The agency may establish a maximum number of days, up to 90 days, for which an exception may be approved.

(g) *Notice to employees.* When an agency approves an exception for more than 30 days, it must:

(1) Notify in writing each higher standing employee in the same competitive level reached for release of the reasons for the exception and the date the lower standing employee's retention will end; and

(2) List opposite the employee's name on the retention register the reasons for the exception and the date the employee's retention will end.

Subpart G—Assignment Rights (Bump and Retreat)

351.701 Assignment involving displacement

(a) General. When a group I or II competitive service employee with a current annual performance rating of record of minimally successful (Level 2) or equivalent, or higher, is released from a competitive level, an agency shall offer assignment, rather than furlough or separate, in accordance with paragraphs (b), (c), and (d) of this section to another competitive position which requires no reduction, or the least possible reduction, in representative rate. The employee must be qualified for the offered position. The offered position shall be in the same competitive area, last at least 3 months, and have the same type of work schedule (e.g., full-time, part-time, intermittent, or seasonal) as the position from which the employee is released. Upon accepting an offer of assignment, or displacing another employee under this part, an employee retains the same status and tenure in the new position. The promotion potential of the offered position is not a consideration in determining an employee's right of assignment.

(b) Lower subgroup—bumping. A released employee shall be assigned in accordance with paragraph (a) of this section and bump to a position that:

(1) Is held by another employee in a lower tenure group or in a lower subgroup within the same tenure group; and

(2) Is no more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released.

(c) Same subgroup—retreating. A released employee shall be assigned in accordance with paragraphs (a) and (d) of this section and retreat to a position that:

(1) Is held by another employee with lower retention standing in the same tenure group and subgroup;

(2) Is not more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released, except that for a preference eligible employee with a compensable service-connected disability of 30 percent or more the limit is five grades (or appropriate grade intervals or equivalent); and

(3) Is the same position, or an essentially identical position, formerly held by the released employee as a competing employee in a Federal agency (i.e., when held by the released employee in an executive, legislative, or judicial branch agency, the position would have been placed in tenure groups I, II, or III, or equivalent). In determining whether a position is essentially identical, the determination is based on the competitive level criteria found in Sec. 351.403, but not necessarily in regard to the respective grade, classification series, type of work schedule, or type of service, of the two positions.

(d) Limitation. An employee with a current annual performance rating of record of minimally successful (Level 2) or equivalent may be assigned under paragraph (c) of this section only to a position held by another employee with a current annual performance rating of record no higher than minimally successful (Level 2) or equivalent.

(e) Pay rates. (1) The determination of equivalent grade intervals shall be based on a comparison of representative rates.

(2) Each employee's assignment rights shall be determined on the basis of the pay rates in effect on the date of issuance of specific reduction-in-force notices, except that when it is officially known on the date of issuance of notices that new pay rates have been approved and will become effective by the effective date of the reduction in force, assignment rights shall be determined on the basis of the new pay rates.

(f)(1) In determining applicable grades (or grade intervals) under Secs. 351. 701(b)(2) and 351.701(c)(2), the agency uses the grade progression of the released employee's position of record to determine the grade (or interval) limits of the employee's assignment rights.

(2) For positions covered by the General Schedule, the agency must determine whether a one-grade, two-grade, or mixed grade interval progression is applicable to the position of the released employee.

(3) For positions not covered by the General Schedule, the agency must determine the normal line of progression for each occupational series and grade level to determine the grade (or interval) limits of the released employee's assignment rights. If the agency determines that there is no normal line of progression for an occupational series and grade level, the agency provides the released employee with assignment rights to positions within three actual grades lower on a one-grade basis. The normal line of progression may include positions in different pay systems.

(4) For positions where no grade structure exists, the agency determines a line of progression for each occupation and pay rate, and provides assignment rights to positions within three grades (or intervals) lower on that basis.

(5) If the released employee holds a position that is less than three grades above the lowest grade in the applicable classification system (e.g., the employee holds a GS-2 position), the agency provides the released employee with assignment rights up to three actual grades lower on a one-grade basis in other pay systems.

§351.702. Qualifications for assignment

(a) Except as provided in Sec. 351.703, an employee is qualified for assignment under Sec. 351.701 if the employee:

(1) Meets the standards and requirements for the position, including any minimum educational requirement, and any selective placement factors established by the agency;

(2) Is physically qualified, with reasonable accommodation where appropriate, to perform the duties of the position;

(3) Has the capacity, adaptability, and special skills needed to satisfactorily perform the duties of the position without undue interruption. This determination includes recency of experience, when appropriate.

(b) An employee who is released from a competitive level during a leave of absence because of a corpensable injury may not be denied an assignment right solely because the employee is not physically qualified for the duties of the position if the physical disqualification resulted from the compensable injury.

(c) If an agency determines, on the basis of evidence before it, that a preference eligible employee who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of a position to which the employee would otherwise have been assigned under this part, the agency must notify the employee of the reasons for the determination.

(e) An agency may formally designate as a trainee or developmental position a position in a program with all of the following characteristics:

(1) The program must have been designed to meet the agency's needs and requirements for the development of skilled personnel;

(2) The program must have been formally designated, with its provisions made known to employees and supervisors;

(3) The program must be developmental by design, offering planned growth in duties and responsibilities, and providing advancement in recognized lines of career progression; and

(4) The program must be fully implemented, with the participants chosen through standard selection procedures. To be considered qualified for assignment under Sec. 351.701 to a formally designated trainee or developmental position in a program having all of the characteristics covered in paragraphs (e)(1), (2), (3), and (4) of this section, an employee must meet all of the conditions required for selection and entry into the program.

§351.703. Exception to qualifications

An agency may assign an employee to a vacant position under Sec. 351.201(b) or Sec. 351.701 of this part if:

(a) The employee meets any minimum education requirement for the position; and

(b) The agency determines that the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.

§351.704. Rights and prohibitions

(a)(1) An agency may satisfy an employee's right to assignment under Sec. 351.701 by assignment to a vacant position under Sec. 351.201(b), or by assignment under any applicable administrative assignment provisions of Sec. 351.705, to a position having a representative rate equal to that the employee would be entitled under Sec. 351.701. An agency may also offer an employee assignment under Sec. 351.201(b) to a vacant position in lieu of separation by reduction in force under 5 CFR part 351. Any offer of assignment under Sec. 351.201(b) to a vacant position must meet the requirements set forth under Sec. 351.701.

(2) An agency may, at its discretion, choose to offer a vacant other-than-full-time position to a full-time employee or to offer a vacant full-time position to an other-than-full-time employee in lieu of separation by reduction in force.

(b) Section 351.701 does not:

(1) Authorize or permit an agency to assign an employee to a position having a higher representative rate;

(2) Authorize or permit an agency to displace a full-time employee by an other-than-full-time employee, or to satisfy an other-than-full-time employee's right to assignment by assigning the employee to a vacant full-time position.

(3) Authorize or permit an agency to displace an other-than-full-time employee by a full-time employee, or to satisfy a full-time employee's right to assignment by assigning the employee to a vacant other-than-full-time position.

(4) Authorize or permit an agency to assign a competing employee to a temporary position (i.e., a position under an appointment not to exceed 1 year), except as an offer of assignment in lieu of separation by reduction in force under this part when the employee has no right to a position under Sec. 351.701 or Sec. 351.704(a)(1) of this part. This option does not preclude an agency from, as an alternative, also using a temporary position to reemploy a competing employee following separation by reduction in force under this part.

(5) Authorize or permit an agency to displace an employee or to satisfy a competing employee's right to assignment by assigning the employee to a position with a different type of work schedule (e.g., full-time, part-time, intermittent, or seasonal) than the position from which the employee is released.

§351.705. Administrative assignment

(a) An agency may, at its discretion, adopt provisions which:

(1) Permit a competing employee to displace an employee with lower retention standing in the same subgroup consistent with Sec. 351.701 when the agency cannot make an equally reasonable assignment by displacing an employee in a lower subgroup;

(2) Permit an employee in subgroup III-AD to displace an employee in subgroup III-A or III-B, or permit an employee in subgroup III-A to displace an employee is subgroup III-B consistent with Sec. 351.701; or

(3) Provide competing employees in the excepted service with assignment rights to other positions under the same appointing authority on the same basis as assignment rights provided to competitive service employees under Sec. 351.701 and in paragraphs (a) (1) and (2) of this section.

(b) Provisions adopted by an agency under paragraph (a) of this section:

(1) Shall be consistent with this part;

(2) Shall be uniformly and consistently applied in any one reduction in force;

(3) May not provide for the assignment of an other-than-full-time employee to a full-time position;

(4) May not provide for the assignment of a full-time employee to an other-than-full-time position;

(5) May not provide for the assignment of an employee in a competitive service position to a position in the excepted service; and

(6) May not provide for the assignment of an employee in an excepted position to a position in the competitive service.

Subpart H—Notice to Employee

§351.801. Notice period

(a)(1) Except as provided in paragraph (b) of this section, each competing employee selected for release from a competitive level under this part is entitled to a specific written notice at least 60 full days before the effective date of release.

(2) At the same time an agency issues a notice to an employee, it must give a written notice to the exclusive representative(s), as defined in 5 U.S.C. 7103(a)(16), as applied by the CAA, of each affected employee at the time of the notice. When a significant number of employees will be separated, an agency must also satisfy the notice requirements of Secs. 351.803 (b) and (c).

(b) When a reduction in force is caused by circumstances not reasonably foreseeable, an agency may provide a notice period of less than 60 days, but the shortened notice period must cover at least 30 full days before the effective date of release.

(c) The notice period begins the day after the employee receives the notice.

(d) When an agency retains an employee under Sec. 351.607 or Sec. 351.608, the notice to the employee shall cite the date on which the retention period ends as the effective date of the employee's release from the competitive level.

§ 351.802. Content of notice

(a)(1) The action to be taken, the reasons for the action, and its effective date;

(2) The employee's competitive area, competitive level, subgroup, service date, and three most recent ratings of record received during the last 4 years;

(3) The place where the employee may inspect the regulations and record pertinent to this case;

(4) The reasons for retaining a lower-standing employee in the same competitive level under Sec. 351.607 or Sec. 351.608;

(5) Information on reemployment rights, except as permitted by Sec. 351.803(a); and

(6) The employee's right, as applicable, to grieve under a negotiated grievance procedure.

(b) When an agency issues an employee a notice, the agency must, upon the employee's request, provide the employee with a copy of retention regulations found in part 351 of this chapter.

§ 351.803. Notice of eligibility for reemployment and other placement assistance

(a) The employee must be given a release to authorize, at his or her option, the release of his or her resume and other relevant employment information for employment referral to State dislocated worker unit(s) and potential public or private sector employers. The employee must also be given information concerning how to apply both for unemployment insurance through the appropriate State program and benefits available under the State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act, and an estimate of severance pay (if eligible).

(b) When 50 or more employees in a competitive area receive separation notices under this part, the agency must provide written notification of the action, at the same time it issues specific notices of separation to employees, to:

(1) The State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act;

(2) The chief elected official of local government(s) within which these separations will occur; and

(c) The notice required by paragraph (b) of this section must include:

(1) The number of employees to be separated from the agency by reduction in force (broken down by geographic area);

(2) The effective date of the separations.

§ 351.804. Expiration of notice

(a) A notice expires when followed by the action specified, or by an action less severe than specified, in the notice or in an amendment made to the notice before the agency takes the action.

(b) An agency may not take the action before the effective date in the notice; instead, the agency may cancel the reduction in force notice and issue a new notice subject to this subpart.

§ 351.805. New notice required

(a) An employee is entitled to a written notice of, as appropriate, at least 60 or 120 full days if the agency decides to take an action more severe than first specified.

(b) An agency must give an employee an amended written notice if the reduction in force is changed to a later date. A reduction in force action taken after the date specified in the notice given to the employee is not invalid for that reason, except when it is challenged by a higher-standing employee in the competitive level who is reached out of order for a reduction in force action as a result of the change in dates.

(c) An agency must give an employee an amended written notice and allow the employee to decide whether to accept a better offer of assignment under subpart G of this part that becomes available before or on the effective date of the reduction in force. The agency must give the employee the amended notice regardless of whether the employee has accepted or rejected a previous offer of assignment, provided that the employee has not voluntarily separated from his or her official position.

§ 351.806. Status during notice period

When possible, the agency shall retain the employee on active duty status during the notice period. When in an emergency the agency lacks work or funds for all or part of the notice period, it may place the employee on annual leave with or without his or her consent, or leave without pay with his or her consent, or in a nonpay status without his or her consent.

§ 351.807. Certification of Expected Separation

(a) For the purpose of enabling otherwise eligible employees to be considered for eligibility to participate in dislocated worker programs under the Job Training Partnership Act administered by the U.S. Department of Labor, an agency may issue a Certificate of Expected Separation to a competing employee who the agency believes, with a reasonable degree of certainty, will be separated from Federal employment by reduction in force procedures under this part. A certification may be issued up to 6 months prior to the effective date of the reduction in force.

(b) This certification may be issued to a competing employee only when the agency determines:

(1) There is a good likelihood the employee will be separated under this part;

(2) Employment opportunities in the same or similar position in the local commuting area are limited or nonexistent;

(3) Placement opportunities within the employee's own or other Federal agencies in the local commuting area are limited or nonexistent; and

(4) If eligible for optional retirement, the employee has not filed a retirement application or otherwise indicated in writing an intent to retire.

(c) A certification is to be addressed to each individual eligible employee and must be signed by an appropriate agency official. A certification must contain the expected date of reduction in force, a statement that each factor in paragraph (b) of this section has been satisfied, and a description of Job Training Partnership Act programs, the Interagency Placement Program, and the Reemployment Priority List.

(d) A certification may not be used to satisfy any of the notice requirements elsewhere in this subpart.

Subpart I—Appeals and Corrective Action

§ 351.902. Correction by agency

When an agency decides that an action under this part was unjustified or unwarranted and restores an individual to the former grade or rate of pay held or to an intermediate grade or rate of pay, it shall make the restoration retroactively effective to the date of the improper action.

INTERIM SECTION 102(b) REPORT: ELECTRONIC INFORMATION SYSTEMS

[Review and Report on the Applicability to the Legislative Branch of Section 508 of the Rehabilitation Act of 1973, as Amended; submitted by the Board of Directors of the Office of Compliance Pursuant to Section 102(b) of the Congressional Accountability Act of 1995, 2 U.S.C. 1302(b), November 13, 2001]

I. INTRODUCTION

The Board of Directors ("the Board") is charged with monitoring Federal law relating to terms and conditions of employment and access to public services and accommodations. The Congressional Accountability Act instructs the Board to report to Congress biannually: (1) whether or not those provisions are applicable to the Legislative Branch; and (2) whether inapplicable provisions should be made applicable to the Legislative Branch. Section 102(b)(1)&(2) of the Congressional Accountability Act (CAA), (2 U.S.C. 1302(b)(1)&(2)). However, the CAA does not prohibit the Board from reporting to Congress on an interim basis, in appropriate circumstances, when such a report would best effectuate the purposes of the statute.

II. SECTION 508, REHABILITATION ACT AMENDMENTS OF 1998

The Board's December 31, 2000 Report did not address certain 1998 amendments[1] to Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), which subsequently were implemented by Executive Branch regulation in June 2001.[2] The essence of these amendments requires that Executive Branch agencies provide their disabled employees and disabled members of the public with access to an agency's electronic data and information. For example, visually impaired persons must be able to utilize agency web sites through software that converts visual information to an effective audio format. In those rare instances where such compliance would impose an undue burden on an agency or department, Section 508 permits delivery of those services in alternate manner. Section 508 does not apply to the employing offices covered by the CAA, or to the Congressional instrumentalities GAO, GPO, or Library of Congress.[3]

The section 508 amendments originated in Senate Bill S. 1579. The Labor and Human Resources Committee's Report articulated that this legislation stemmed primarily from the need to "reestablish[] and realign[] the national workforce development and training system to make it more user-friendly and accessible." Sen. Rept. 105–166 at 2 (Mar. 2, 1998). Thus, the legislation was primarily perceived as a vocational rehabilitation and training matter. However, there is no doubt that the particular purpose of the proposed amendments to section 508 was to: require[] each Federal agency to procure, maintain, and use electronic and information technology that allows individuals with disabilities the same access to information technology as individuals without disabilities. Id. at 58.

The section 508 amendments require that employees and the general public, irrespective of disability, have comparable access to electronic information systems. The Senate proposal was incorporated as part of the Senate amendments to H.R. 1385, the Workforce Investment Act of 1998 and largely adopted in the Conference Report.[4]

III. THE OFFICE'S EXISTING EFFORTS TO ENHANCE ELECTRONIC INFORMATION ACCESS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

The Office of Compliance already maintains an active role regarding employee accessibility to electronic information systems through the requirements of the Americans With Disabilities Act of 1990 (ADA), which is applied to employing offices of the Congress in the Congressional Accountability Act ("Act"). Section 201(a) of the Act (2 U.S.C. § 1311(a)) states, in relevant part, that "[a]ll personnel actions affecting covered employees shall be made free from any discrimination based on . . . (3) disability within the meaning of . . . sections 102 through 104 of the . . . [ADA]".[5]

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[1] P.L. 105–220, 112 Stat. 1202, § 408(a) (Aug. 7, 1998).

[2] 65 FR 80500 (Dec. 21, 2000), codified at, 36 CFR part 1194 (2001).

[3] The CAA applies the Americans with Disabilities Act ("ADA") directly to these instrumentalities. Some of the other statutes referenced in the CAA, such as Occupational Safety & Health Act ("OSHA") and the Family Medical Leave Act (" FMLA"), are applied to GAO and the Library of Congress through the CAA, as regulated by the Office of Compliance. The Office has no regulatory authority of any kind with respect to GPO.

[4] H. Conf. Rept. 105–659, 105th Cong., 2d Sess. (July 29, 1998).

Section 210 of the Act (2 U.S.C. §1331) applies the ADA's public access requirements to employing offices, and authorizes ADA court proceedings regarding alleged violations by GAO, GPO, and the Library of Congress. The executive branch regulations implementing the public access provisions of the ADA have included the requirements at 28 CFR §35.160 that:

> (a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.
>
> (b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.

28 CFR §36.302 also requires in relevant part:

> (a) GENERAL. A public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations. . . .

In 28 CFR §36.303, the concept of "auxiliary aids and services" is set forth as one form of "reasonable accommodation":

> (a) GENERAL. A public accommodation shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the . . . services . . . being offered or would result in an undue burden. . . .
>
> (b) EXAMPLES. The term "auxiliary aids and services" includes:
>
> (1) Qualified interpreters, note takers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
>
> (2) Qualified readers, taped texts, audio recordings,
>
> Brailled materials, large printed materials, or other effective methods of making visually delivered materials available to individuals with visual impairments; . . . .
>
> (c) EFFECTIVE COMMUNICATION. A public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities.

These ADA regulations, already promulgated by the Attorney General pursuant to Title II and Title III of the ADA, and in use in the executive branch, were among those which the Board of Directors of the Office of Compliance submitted to the Senate on January 7, 1997 for final adoption as regulations under the Congressional Accountability Act. The same proposed regulations were submitted to the House two days later. Congress did not approve these proposed regulations. Consequently, pursuant to section 411 of the CAA (2 U.S.C. §1411), the Executive Branch regulations became applicable "by default" to all employing offices under the CAA.

In December, 1998, the General Counsel of the Office of Compliance submitted a Report on Inspections for Compliance with the Americans with Disabilities Act, as required by section 210(f)(2) of the CAA. (2 U.S.C. §1331(f)(2)). The Report outlined the requirements of the ADA, including the fact that "[t]he ADA requires that aids to communication, called auxiliary aids, be furnished to persons with disabilities when necessary for effective communication." Id. at 8. The Report (at 16) also highlighted the role of electronic communication in this effort:

> Legislative Information on the Internet.—A large amount of legislative information is now available on the Internet. The Library of Congress's Thomas site (http://www.loc.gov), for example, has the text of bills and information about their status; copies of the Congressional Record; committee schedules, reports, and selected hearing transcripts; House and Senate Roll Call Votes; and links to other sites with legislative information. Most Senators and Members of the House of Representatives also maintain web sites as a means of communicating with their constituents.
>
> Persons with disabilities are often avid users of the Internet and other electronic information services. In addition to making legislative information readily available to individuals with hearing or mobility impairments, the Internet also serves people who are blind. Text on the Internet can be read aloud by a computer equipped with a speech synthesizer and text-to-speech software or can be converted to a Braille format.
>
> The usability of the web site for a person who is blind depends on its design. For example, if image maps are used on a Member's web site, there should be an alternate method of selecting options so the text-to-speech software can process the information. Unless this is done, it will be difficult or impossible for a blind user to get access to information on the site. . . .

In the past several years, the Office staff has also responded to a number of inquiries from employing offices about the 1998 section 508 amendments to the Rehabilitation Act. The Office has informed offices regarding the section 508 required amendments in the Federal Acquisition Regulation (FAR), and has further explained that "the public access provisions of the CAA do not apply section 508 of the Rehabilitation Act to the entities of the Legislative Branch. . . ."

Because the CAA does not give the Office or its General Counsel authority to require that electronic information systems meet applicable accessibility standards absent a specific complaint from an individual with a particular disability, our ADA enforcement activities—as distinct from our educational activities—have been necessarily restricted and reactive rather than pro-active.

IV. THE IMPACT OF SECTION 508'S IMPLEMENTING REGULATIONS

On December 21, 2000, the Architectural and Transportation Barriers Compliance Safety Board published its final regulations including "standards setting forth a definition of electronic and information technology and the technical and functional performance criteria necessary for such technology to comply with section 508." See note 2 supra. The effective date of those regulations was February 20, 2001. The final amendments to the Federal Acquisition Regulation implementing section 508 were published on April 25, 2001, and went into effect as of June 25, 2001.[6] There now exists a web site concerning section 508 standards, issues, and developments in the executive branch: www.section508.gov. Individuals with specific questions are encouraged to visit that site.

There are substantial differences between the standards mandated by Title II of the ADA and by Section 508 of the Rehabilitation Act. Although the two regulatory schemes overlap, there is little question that Section 508 applies significantly more stringent technical requirements for electronic information technology accessibility. While the ADA requires that public entities—including employing offices under the CAA—provide reasonably equivalent access to information, the methodology for delivering that access remains flexible. Thus, for example, if a sight impaired employee or member of the public cannot access material on an employing office's web site, under ADA that office can satisfy its responsibility to either individual by having the relevant material read to that person. Under Section 508, however, an agency of the executive branch must offer technology through its web site that allows all individuals, with or without disabilities, directly to obtain the information through the site itself. For instance, an agency must upgrade its site with a capacity to reformat the information for sight impaired individuals by means of a "screen reader," which translates the visual material on a computer screen into automated audible output.[7] Thus, section 508 requires that the means to access information exist within the electronic medium itself.

Consequently, this Office's existing authority, confined to enforcement case-by-case of the ADA requirements and the provision of general information about section 508, does not fully effectuate the public policy goal of the Section 508 Amendments.

The Office, therefore, wishes to amplify its December 31, 2000 Report to Congress by reporting that the legislative branch is not mandated to meet the higher level of electronic information accessibility which Congress requires of the executive branch pursuant to section 508.

V. THE RECOMMENDATION OF THE BOARD OF DIRECTORS

When the section 508 amendments were enacted as part of the Workforce Investment Act of 1998, much if not most of the technology necessary to carry out its substantive mandates did not exist. Indeed, even at this stage, some in the electronic information community consider fully compliant technology to be non-existent. In any event, the Executive Branch is fully engaged in reaching Section 508 compliance. Furthermore, both the Library of Congress and the Government Printing Office, each of which maintains extensive and heavily visited web sites (GPO operates approximately 30 web sites for other executive and legislative branch agencies), have announced that they are proceeding voluntarily to achieve section 508 compliance. However, absent Congressional action, universal legislative branch electronic information accessibility will remain optional, and not a legal requirement.

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[5] Section 201 of the CAA also applies, for purposes of proscribing employment discrimination, the meaning of "disability" as set forth in section 501 of the Rehabilitation Act. However, section 508 of the Rehabilitation Act is a separate and free standing provision and is not incorporated into the CAA simply by reason of the application of section 501.

[6] 66 FR 20893 (Apr. 25, 2001), codified at, 48 CFR part 39 (2001).

[7] This document is not the appropriate venue for any extensive technical description of the differences between section 508 and ADA requirements.

The Congress commissioned this Board to monitor and comment on all laws which concern "access to public services and accommodations." This responsibility of the Board helps ensure that the Legislative Branch is kept apprised regarding advances in access to electronic information technology, and is advised "whether such provisions should be made applicable to the legislative branch."

Pursuant to that mandate, the Board of Directors of the Office of Compliance recommends that the Congress enact amendments to sections 201 and 210 of the CAA to incorporate the substantive employee access and public access requirements of section 508 of the Rehabilitation Act of 1973 for all CAA-covered employing offices. We further suggest that the Office's existing section 401 and section 210 regulatory and enforcement authorities covering both employee and public access to electronic information systems be extended to include section 508 substantive requirements. Finally, we suggest that section 508 requirements regarding employee and public access also be applied to the Government Printing Office, Government Accounting Office, and Library of Congress.

The Office of Compliance stands ready to participate in the coordination of section 508 training and education for those in Congress and in the instrumentalities who are responsible for the maintenance and development of electronic information systems.

This Supplemental Section 102(b) Report is also available on the web site of the Office of Compliance, at www.compliance.gov.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2002" (Rept. No. 107–110).

By Mr. HARKIN, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 1519: A bill to amend the Consolidated Farm and Rural Development Act to provide farm credit assistance for activated reservists.

By Mr. CLELAND, from the Committee on Armed Services, without amendment and with a preamble:

S. Con. Res. 55: A concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Peter B. Teets, of Maryland, to be Under Secretary of the Air Force.

By Mr. NELSON for the Committee on Armed Services.

*Claude M. Bolton, Jr., of Florida, to be an Assistant Secretary of the Army.

By Mr. LEVIN for the Committee on Armed Services.

Navy nomination of Rear Adm. (lh) Anthony W. Lengerich.

Army nomination of Col. Bruce H. Barlow.

Navy nomination of Rear Adm. (lh) Richard B. Porterfield.

Navy nomination of Capt. Stephen A. Turcotte.

Navy nomination of Rear Adm. (lh) David Architzel.

Army nominations beginning Brigadier General Keith B. Alexander and ending Brigadier General William G. Webster Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 21, 2001.

Navy nomination of Vice Adm. Charles W. Moore Jr:

Air Force nominations beginning Maj. Gen. Thomas J. Fiscus and ending Brig. Gen. Jack L. Rives, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 8, 2001.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Army nominations beginning Vern J. Abdoo and ending Douglas K. Zimmerman II, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 27, 2001.

Navy nomination of John B. Stockel.

Navy nomination of Philip F. Stanley.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LUGAR (for himself, Mr. HELMS, Mr. HAGEL, and Mr. DOMENICI):

S. 1778. A bill to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center; to the Committee on Foreign Relations.

By Mr. BIDEN (for himself and Mr. HELMS):

S. 1779. A bill to authorize the establishment of "Radio Free Afghanistan", and for other purposes; to the Committee on Foreign Relations.

By Mr. THOMPSON (for himself and Mr. WARNER):

S. 1780. A bill to provide increased flexibility Governmentwide for the procurement of property and services to facilitate the defense against terrorism, and for other purposes; to the Committee on Governmental Affairs.

By Mr. McCAIN (for himself and Mr. BROWNBACK):

S. 1781. A bill to direct the Secretary of Commerce to establish a voluntary national registry system for greenhouse gases trading among industry, to make changes to United States Global Change Research Program, and for other purposes; to the Committee on Commerce , Science, and Transportation.

By Mr. WARNER (for himself, Mr. STEVENS, Mr. ALLEN, Mr . CLELAND, and Mr. INOUYE):

S. 1782. A bill to authorize the burial in Arlington National Cemetery of any former Reservist who died in the September 11, 2001, terrorist attacks and would have been eligible for burial in Arlington National Cemetery but for age at time of death; to the Committee on Veterans' Affairs.

ADDITIONAL COSPONSORS

S. 278

At the request of Mr. ENSIGN, his name was added as a cosponsor of S. 278, a bill to restore health care coverage to retired members of the uniformed services.

S. 605

At the request of Mrs. HUTCHISON, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 605, a bill to amend the Internal Revenue Code of 1986 to encourage a strong community-based banking system.

S. 826

At the request of Mrs. LINCOLN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 826, a bill to amend title XVIII of the Social Security Act to eliminate cost-sharing under the medicare program for bone mass measurements.

S. 839

At the request of Mrs. HUTCHISON, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 905

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 905, a bill to provide incentives for school construction, and for other purposes.

S. 990

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 990, a bill to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes.

S. 1058

At the request of Mr. HUTCHINSON, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1058, a bill to amend the Internal

Revenue Code of 1986 to provide tax relief for farmers and the producers of biodiesel, and for other purposes.

S. 1140

At the request of Mr. HATCH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1274

At the request of Mr. KENNEDY, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1274, a bill to amend the Public Health Service Act to provide programs for the prevention, treatment, and rehabilitation of stroke.

S. 1335

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1335, a bill to support business incubation in academic settings.

S. 1503

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1503, a bill to extend and amend the Promoting Safe and Stable Families Program under subpart 2 of part B of title IV of the Social Security Act, to provide the Secretary of Health and Human Services with new authority to support programs mentoring children of incarcerated parents, to amend the Foster Care Independent Living Program under part E of title IV of the Social Security Act to provide for educational and training vouchers for youths aging out of foster care, and for other purposes.

S. 1519

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 1519, a bill to amend the Consolidated Farm and Rural Development Act to provide farm credit assistance for activated reservists.

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 1519, supra.

S. 1663

At the request of Mrs. CLINTON, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1663, a bill to amend title 4, United States Code, to add National Korean War Veterans Armistice Day to the list of days on which the flag should especially be displayed.

S. 1675

At the request of Mr. BROWNBACK, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1675, a bill to authorize the President to reduce or suspend duties on textiles and textile products made in Pakistan until December 31, 2004.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1707

At the request of Mr. JEFFORDS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1717

At the request of Mr. DOMENICI, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1717, a bill to provide for a payroll tax holiday.

S. 1745

At the request of Mrs. LINCOLN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S. 1758

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1758, a bill to prohibit human cloning while preserving important areas of medical research, including stem cell research.

S. CON. RES. 55

At the request of Mr. BUNNING, his name was added as a cosponsor of S. Con. Res. 55, a concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996.

AMENDMENT NO. 2157

At the request of Mr. MCCAIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 2157 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (for himself, Mr. HELMS, Mr. HAGEL, and Mr. DOMENICI):

S. 1778. A bill to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center; to the Committee on Foreign Relations.

Mr. LUGAR. Madam President, it is a great honor to rise today to introduce legislation that would name the Department of State's Foreign Affairs Training Center after former Secretary of State George P. Shultz. I am pleased to be joined by Senators HELMS, HAGEL, and DOMENICI in honoring this outstanding public servant.

Many of my most productive and enjoyable foreign policy experiences were those involving George Shultz as Secretary of State. Secretary Shultz celebrated the visits of foreign leaders to Washington by inviting hundreds of people to a luncheon or dinner at the State Department. If the guests were, for example, the President of Brazil, Shultz would identify prominent Brazilian business leaders, journalists, and scholars in the United States and a host of comparable Americans with interests in Brazil. He sprinkled the invitation list with members of the Reagan Administration and both houses of Congress. On most occasions, I was invited and introduced to a host of new friends deeply interested in international affairs.

When I became chairman of the Senate Foreign Relations Committee in 1985, the Secretary invited me to breakfast about once a month when Congress was in session. He always had a list of Reagan Administration legislative objectives for me to achieve and good suggestions on people and resources needed to accomplish each task.

In a two year period, I chaired extensive hearings on the Philippines, South Africa, and the prospects for democracy in Central America. Though the recommendations of Secretary Shultz, I co-chaired Presidential election observer efforts in Guatemala, El Salvador and the Philippines. These experiences led to considerable post-election interest and diplomacy, especially in the Philippines. These events and the influence of Secretary Shultz played a large role in the context of my book "Letters to the Next President".

In recent years, I have been a participant in the Asia Roundtable meetings sponsored by Stanford University and inspired by the leadership of George Shultz and his ability to bring statesmen from each Asian country to his meetings. Similarly, he brings distinguished leaders from all over the world to Stanford University Advisory Committee meetings and I have been the beneficiary of those rich experiences.

My continuing service in the United States Senate has received constant support from Secretary Shultz. His letters and wise counsel during conversations have made a significant difference in my understanding of complex issues. From the years at the State Department dinners to the present, he has introduced me to a legion of friends in many countries, and this network of friends and advisors has been invaluable.

Secretary Shultz decided to back President George W. Bush very early in the Presidential Campaign of 2000 and has offered strong support to President Bush's bold diplomacy and the importance of employing and retaining the best foreign service personnel to achieve our international goals. Naming the National Foreign Affairs Training Center after George P. Shultz will be a fitting tribute to a great public servant who continues to exemplify the hallmark qualities in United States international leadership.

This bill has the full support of the Department of State. In fact, it is at Secretary Powell's request that we are seeking to expedite its consideration. Secretary Powell has invited former Secretary Shultz to visit Washington in January. I understand that Secretary Powell hopes to announce the dedication of the Foreign Affairs Training Center during Shultz's stay in Washington. It is my hope that the Majority and Minority Leader and the Members of the Senate will fine the opportunity to move this important legislation in the near term. Congressman HYDE and LANTOS have offered the same legislation in the House and have similar hopes for speedy passage.

By Mr. THOMPSON (for himself and Mr. WARNER):

S. 1780. A bill to provide increased flexibility Governmentwide for the procurement of property and services to facilitate the defense against terrorism, and for other purposes; to the Committee on Governmental Affairs.

Mr. THOMPSON. Madam President, I rise today to introduce a bill to help Federal agencies fight our Nation's war against terrorism. I am introducing this bill at the request of the President and on behalf of myself as ranking member of the Governmental Affairs Committee and Senator WARNER, the ranking member of the Armed Services Committee.

For many years, we have accepted that the Federal Government pays a premium, both in dollars and time spent, for the goods and services it buys solely because of unique requirements it imposes on its contractors. While the Federal procurement system has been streamlined and simplified over the last several years, much red tape and barriers to "commercial-style" contracting still exist. This is due in part to trying to maintain the proper balance between an efficient procurement system and accountability when spending taxpayer dollars.

In ordinary times and because of recent procurement policy reforms, we believe that a Federal agency can buy most anything it needs quickly and efficiently under current law if it has good management practices in place and smart, well-trained contracting officers. However, these are not ordinary times. Further, we know that the Federal Government is not well-managed and our acquisition workforce is rapidly dwindling. With that said, it is our responsibility to ensure that Federal agencies with a role in homeland security can purchase, quickly and efficiently, the most high-tech and sophisticated products and services to support antiterrorism efforts and to defend against biological, chemical, nuclear, radiological or technological attacks.

The bill which we are introducing builds on emergency contracting authority already in place for the Department of Defense and other agencies and goes further by providing additional contracting flexibilities. Today, national security and homeland security have the same kinds of requirements, detection, tracking, preparedness, prevention, response and recovery. By providing additional procurement flexibilities, the agencies involved in homeland security will be able to apply more easily many new and proven defense-related technologies.

For example, current law gives agencies the ability to use streamlined, simplified contracting procedures for contracts under $200,000 which are made and performed outside the United States in support of a contingency operation or a humanitarian or peacekeeping operation. This bill would raise that threshold to $500,000 for any, outside or within the United States, contract awarded for products or services in support of a contingency operation or a humanitarian or peacekeeping operation.

Current law also provides simplified contracting procedures for the purchase of commercial items, goods and services produced for the commercial marketplace and not encumbered by government specifications or requirements. The bill would allow goods and services purchased to help agencies fight against terrorism or biological, chemical, nuclear, radiological or technological attacks to be treated as if they were purchases for commercial items, in other words, agencies needing these goods and services could use the simpler, expedited procedures. This would allow agencies to quickly buy technologies or products which are cutting-edge, but which may not have made it to the commercial marketplace yet.

This legislation also encourages the use of current procurement flexibilities which are authorized in existing statutes. An agency can use these existing provisions where it is appropriate to provide quick and responsive solutions to its emergency contracting requirements. Further, the bill includes language which will allow agencies to use approaches other than contracts to buy research and development for new technologies to fight against terrorism. The Department of Defense currently has this authority and the bill would extend that authority to the rest of the Federal agencies.

And finally, this bill would encourage more competition in the Federal marketplace by requiring agencies to do ongoing market research to identify new companies with new capabilities to help agencies in the fight against terrorism.

We must ensure that Federal agencies which are preparing to fight terrorism have access to a wide variety of traditional and innovative solutions in a timely fashion. The bill we are introducing today will go a long way toward that goal.

Mr. WARNER. Madam President, I join Senator THOMPSON in introducing the Federal Emergency Procurement Flexibility Act. This bill will provide emergency contracting relief to Federal agencies in support of our Nation's fight against terrorism by allowing agencies to effectively buy what is needed to address the threats to our Nation.

While the Federal procurement system has improved in the last decade, there are still many areas where changes should be made to support the current emergency. This bill provides for streamlining the contracting process to access new technology, provides for emergency authorities for small purchases, and maximizes the use of existing streamlined procurement authorities.

The United States has some of the best ideas and technology in the world. To win the war on terrorism, the government needs to do all it can to gain access to this technology, much of which is located in the private sector. However, many firms, particularly in the biotechnology and information technology sectors, have been deterred from bidding on government contracts by the perception that government contracting is burdened with red tape and requirements.

In this time of crisis, we can not afford to keep these businesses on the sidelines. To promote the participation of these firms in solving our homeland defense problems, this bill would authorize the use by federal agencies of "other transactions" authority for research and development and prototype projects. "Other transactions" authority is a streamlined acquisition approach currently available only to the Department of Defense. This authority has been enormously helpful in allowing the Department of Defense to gain access to the research and expertise of non-traditional defense contractors. I anticipate that the Department of Health and Human Services or the Environmental Protection Agency, for example, would be able to effectively use "other transactions" authority to research and prototype new vaccines, detection systems, and remediation technology to meet the bioterrorist threat.

For production, service or research needs where "other transactions" authority is not appropriate, this bill authorizes "commercial like" contracting procedures for those contracts that facilitate the defense against terrorism or nuclear, chemical, biological or information attack on the United States. These commercial contracting procedures are exempted from many government unique requirements and allow for the use of a more streamlined acquisition approach.

By Mr. McCAIN (for himself and Mr. BROWNBACK):

S. 1781. A bill to direct the Secretary of Commerce to establish a voluntary national registry system for greenhouse gases trading among industry, to make changes to United States Global Change Research Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Madam President, I, rise to introduce the Emission Reductions Incentive Act of 2001. I thank Senator BROWNBACK for his co-sponsorship and his cooperation in drafting this bill, along with his commitment to addressing this growing problem.

Earlier this year, I announced intentions to consider the establishment of a "cap and trade" system for carbon dioxide emissions. I am continuing to work with Senator LIEBERMAN on this effort. However, the bill which I am introducing today is not in lieu of that commitment, but rather in support of it.

The bill proposes the establishment of a national voluntary registry for entities to register carbon emissions reductions. The registry would support current voluntary trading practices in private industry and other non-governmental organizations. Over the past years, the Commerce Committee has heard testimony from several organizations on their efforts conduct trading programs internally or across a small segment of industry. This registry bill will aid those efforts greatly by establishing a national system whereby these companies may be able to participate and be assured that a ton of carbon purchased is indeed a ton of carbon.

Establishment of the registry would also require the development of certain standards for measuring, verifying and reporting emission reductions to the registry. I believe that with these procedures in place, the registry would be able to withstand any future requirements imposed by a mandatory "cap and trade" system. The bill would also provide for consideration of credits realized under this program against any future mandatory system.

The bill also proposed changes to the US Global Climate Change Program, USGCRP. It requires a new strategic plan for the next 10 years. The bill would provide for dedicated management to support the interagency USGCRP and have this office report to the Director of the Office of Science and Technology Policy. We feel this will provide a needed channel to the White House for the Federal scientific community to be heard. We have also asked the office to work with the agencies' development activities.

The bill proposed additional changes to the Partnership for New Generation Vehicles, PHGV, program and provides additional incentives for the licensing of technologies. I hope that we can increase the deployment of technologies to reduce carbon dioxide emissions by providing further incentives to Federal employees, those who are ultimately responsible for the transfer of the research results. The National Research Council recently made recommendations on the PNGV program, a cooperative research and development program between the Federal Government and the US Council for Automotive Research. The bill requires the Department of Commerce to implement many of those recommendations.

As we all know, more than 160 countries recently reached an agreement on the Kyoto Protocol, which would require industrialized nations to reduce their carbon dioxide emissions. There are many US companies that operate facilities in other countries. These facilities will have to meet local emissions requirements. The bill requires the Secretary of Commerce to study the effects that a ratified treaty will have on the US industry and its ability to compete globally.

Again, I thank Senator BROWNBACK for help on this piece of legislation. I understand that other members of the Commerce Committee have recently introduced legislation in this area and look forward to working with them on a comprehensive package.

Mr. BROWNBACK. Madam President, I am please to join Senator McCAIN today in introducing the Emission Reductions Incentive Act of 2001. This bill will put into place a voluntary registry for greenhouse gas, GHG, reductions house in the Department of Commerce. Furthermore, the bill establishes structure for the independent measurement and verification of GHG reductions. This is an important step in providing an incentive for companies who wish to reduce their emissions, and it will provide assurance that companies who take positive action on climate change today will be rewarded in the future. All this can be accomplished with barely any cost to the government, since it will be private, third party groups that undertake the burden to measure, verify and prove actual greenhouse gas emission reductions.

There are those who wonder why such a measure is needed, given the fact that there is an existing registry in the Department of Energy and the uncertainty on the climate change issue. First, the new registry will only hold information that has been independently verified. Like the current registry, this new registry would be completely voluntary. However, unlike the DOE program, this registry will focus on keeping track of proven greenhouse gas reductions, and will therefore, encourage more companies to undertake measures to reduce emissions since they will have the ability to defend these reductions as real if future regulations are put in to place. Also, since this registry will be housed in the Department of Commerce and verified by independent parties, it treats the issue as an investment or transaction between companies to limit risk, rather than an environmental regulation.

Several utilities and other companies who emit high levels of carbon dioxide have expressed real concern that they need certainty to be able to plan for the life of new power plants and investment decisions which will last for 20 years or more. Currently, there is no certainty with regard to how the climate change issue will be handled. This means companies must plan for an uncertain future which leads to undue expense. This bill will allow companies to decide for themselves how much action they need to take, and provide a way of taking out an insurance policy, of sorts, on the climate change issue. This is important because we need more investment in energy infrastructure, more clean coal plants and natural gas plants. Yet these new plants won't move forward if they fear being hit with a high carbon tad in the next 5–10 years.

This bill offers industry a way to make investments in GHG reductions or carbon sequestration offsets gradually, building up credits that could be used down the road if regulations are put into place. While there is no "one-for-one" trade in on these credits, there would be a government certified stamp of approval on early actions to reduce greenhouse gases—which any future regulations would have to account for

Second, there are those who argue that the science is still unsettled with regard to the climate change issue, and that we should not move toward costly measures which will punish industry for a problem that is still not fully understood. Actually, this is the very reason why we should establish a voluntary, but measured and verified registry now. This bill given industry the opportunity to experiment and get credit for pro-active measures that will reduce greenhouse gas emissions without unduly burdening energy consumers. New and better technology is the key to solving this issue, but why would a company employ such technology now with the uncertainty surrounding how this issue will be addressed? They could in fact, be punished for such actions if later regulations are put into place which do not account for reductions that were already taken. This is a free-market approach to reward and encourage responsible industry to continue and even make a market out of reducing greenhouse gases. This registery will help establish and encourage the most cost-effective ways to tackle this problem while also finding where difficulties may lie.

We can not shrink from difficult challenges, nor should we overreact. When there is the opportunity to allow market force to work on a problem, we should most definitely encourage that process. I am pleased to be joining my friend from Arizona in introducing this legislation and look forward to pursuing this policy during the upcoming energy debate.

By Mr. WARNER (for himself, Mr. STEVENS, Mr. ALLEN, Mr. CLELAND, and Mr. INOUYE):

S. 1782. A bill to authorize the burial in Arlington National Cemetery of any former Reservist who died in the September 11, 2001, terrorist attacks and would have been eligible for burial in Arlington National Cemetery but for age at time of death; to the Committee on Veterans' Affairs.

Mr. WARNER. Mr. President, I rise today to introduce legislation for myself, Senator STEVENS, Senator ALLEN Senator CLELAND, and Senator INOUYE to provide a exception to the rules governing burials at Arlington national Cemetery.

This very limited legislation will permit individuals with extensive military service, who lost their lives on September 11, to be buried at Arlington National Cemetery.

I am introducing this legislation today, along with my colleagues, to address a specific situation that involves Captain Charles F. "Chic" Burlingame III, a resident of Oak Hills Virginia and others who may have the same accrued entitlement.

Captain Burlingame was the pilot of American Airlines flight 77, that ill-fated aircraft which was hi-jacked by terrorists and used as a horrible weapon of destruction against the Pentagon on September 11.

Captain Burlingame, however, was more than the pilot of that plane—he was also a retired veteran of the United States Navy.

He served his country with distinction for 8 years by flying fighter planes off aircraft carriers—one of the military's most hazardous duties.

He continued his military career as a reserve officer, honorably retiring with the rank of Captain. Ironically, Captain Burlingame's reserve duty was in the Pentagon, a building he knew so well.

In the aftermath of September 11 we have learned of many heroic acts of those who lost their lives in trying to overcome the terrorists on that tragic morning. This is certainly true in the case of Captain Burlingame.

Recent information from the FBI indicate that Captain Burlingame was killed by the terrorists prior to the crash of the Flight 77 into the Pentagon. Clearly, Captain Burlingame gave his life fighting to protect the passengers of the plane and those on the ground. One can clearly see that Captain Burlingame and those who lost their lives on September 11 were the first casualties of our War on Terrorism.

Arlington Cemetery is the resting place for many American heroes who gave their lives to protect American freedoms. Certainly, Captain Burlingame's service to country and his sacrifice on Flight 77 should be recognized by our nation.

Captain Burlingame's widow, Sheri, and his brothers and sisters, desire that Captain Burlingame be buried in Arlington National Cemetery. Captain Burlingame's superb military service would make him eligible for burial in any of our other National Cemeteries.

The very strict regulations which govern burials at Arlington, however, do not allow for burial of a person retired from the Reserves until they reach sixty years of age. Had he merely reached the age of sixty, he would have been fully eligible for burial in Arlington National Cemetery.

Additionally, there may be others who lost their lives on September 11 who are in a similar situation. This bill will also allow those person to be buried in Arlington National Cemetery.

I respectfully request that my colleagues support this effort.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY FOR BURIAL OF CERTAIN INDIVIDUALS AT ARLINGTON NATIONAL CEMETERY.

(a) IN GENERAL.—The Secretary of the Army shall authorize the burial in a separate gravesite at Arlington National Cemetery, Virginia, of any individual who—

(1) died as a direct result of the terrorist attacks on the United States on September 11, 2001; and

(2) would have been eligible for burial in Arlington National Cemetery by reason of service in a reserve component of the Armed Forces but for the fact that such individual was less than 60 years of age at the time of death.

(b) ELIGIBILITY OF SURVIVING SPOUSE.—The surviving spouse of an individual buried in a gravesite in Arlington National Cemetery under the authority provided under subsection (a) shall be eligible for burial in the gravesite of the individual to the same extent as the surviving spouse of any other individual buried in Arlington National Cemetery is eligible for burial in the gravesite of such other individual.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2243. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

SA 2244. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2245. Mr. KERRY (for himself, Mrs. HUTCHISON, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2246. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2247. Mr. HELMS (for himself, Mr. MILLER, Mr. HAGEL, Mr. HATCH, Mr. SHELBY, Mr. MURKOWSKI, Mr. BOND, Mr. WARNER, Mr. ALLEN, and Mr. FRIST) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2248. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2249. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2250. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2251. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2252. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2253. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2254. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2255. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2256. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2257. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2258. Mr. LUGAR (for himself, Mr. LEVIN, Mr. BIDEN, Mr. HAGEL, Mr. DOMENICI, Mr. BINGAMAN, Mr. TORRICELLI, Mr. DODD, Mr. DASCHLE, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2259. Mr. LOTT (for himself and Mr. Cochran) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2260. Mr. LOTT (for himself and Mr. Cochran) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2261. Mr. LOTT (for himself and Mr. Cochran) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2262. Mr. LOTT (for himself and Mr. Cochran) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2263. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2264. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2265. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2266. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2267. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2268. Mr. WARNER (for himself, Mr. Stevens, Mr. Allen, Mr. Cleland, and Mr. Inouye) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2269. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2270. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2271. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2272. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2273. Mr. HELMS (for himself and Mr. Edwards) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2274. Mr. HELMS (for himself and Mr. Edwards) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2275. Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2276. Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2277. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2278. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2279. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2280. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2281. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2282. Mr. LOTT (for himself and Mr. Cochran) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2283. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2284. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2285. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2286. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2287. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2288. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2289. Mr. BINGAMAN (for himself and Mr. Domenici) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2290. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2291. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2292. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2293. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2294. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2295. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2296. Mr. SPECTER (for himself and Mr. Santorum) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2297. Mr. BAYH (for himself and Mr. Voinovich) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2298. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2299. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2300. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2301. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2302. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2303. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2304. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2305. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2306. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2307. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2308. Mr. REID (for Mr. Rockefeller (for himself and Mr. Specter)) proposed an amendment to the bill H.R. 2716, to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans.

SA 2309. Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2243. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, after line 20, strike all through to page 398, line 19, and insert in lieu thereof the following:

DIVISION B—TRANSFERS FROM THE EMERGENCY RESPONSE FUND PURSUANT TO PUBLIC LAW 107–38

The funds appropriated in Public Law 107–38 subject to subsequent enactment and previously designated as an emergency by the President and Congress under the Balanced Budget and Emergency Deficit Control Act of 1985, are transferred to the following chapters and accounts as follows:

CHAPTER 1

DEPARTMENT OF AGRICULTURE

Office of the Secretary

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Office of the Secretary", $43,300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for the "National Food Security Fund", $300,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Agricultural Research Service

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $45,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $76,800,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That of the total amount provided, $50,000,000 may be transferred and merged with the Agriculture Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Buildings and Facilities", $14,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Food Safety and Inspection Service

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Food Safety and Inspection Service", $12,300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses necessary to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for "Food and Drug Administration, Salaries and Expenses", $120,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCY

Commodity Futures Trading Commission

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Commodity Futures Trading Commission", $10,196,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 2

DEPARTMENT OF JUSTICE

General Administration

PATRIOT ACT ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Patriot Act Activities", $100,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $2,000,000 shall be for a feasibility report, as authorized by Section 405 of Public Law 107–56, and of which $23,000,000 shall be for implementation of such enhancements as are deemed necessary: *Provided*, That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107–77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ADMINISTRATIVE REVIEW AND APPEALS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Administrative Review and Appeals", $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, General Legal Activities", $10,026,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, United States Attorneys", $74,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, United States Marshals Service", $11,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Federal Bureau of Investigation

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $538,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $10,283,000 is for the refurbishing of the Engineering and Research Facility and $14,135,000 is for the decommissioning and renovation of former laboratory space in the Hoover building.

Immigration and Naturalization Service

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for all costs associated with the reorganization of the Immigration and Naturalization Service, for "Salaries and Expenses", $399,400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Office of Justice Programs

JUSTICE ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Justice Assistance", $462,000,000, of which $100,000,000 may be used for increased security at public events, to remain available until September 30, 2003, for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and for other counter terrorism programs, to be obligated from amounts made available in Public Law 107–38.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $236,900,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which $17,100,000 shall be for the Utah Olympic Public Safety Command, of which $81,600,000 shall be for New Jersey, and of which $56,500,000 shall be for Maryland, of which $81,700,000 shall be for Northern Virginia: *Provided*, That $20,000,000 shall be made available to the Office of Domestic Preparedness for a competitive grant for a project to enhance the communications interoperability of law enforcement, fire, medical services, and transportation agencies that respond to emergencies in the Greater Washington Metropolitan Area: *Provided further*, That $15,000,000 shall be made available for a chemical sensor program for the Washington area transit system, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

CRIME VICTIMS FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Crime Victims Fund", $68,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF COMMERCE

International Trade Administration

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Administration", $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Export Administration

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Administration", $1,756,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Economic Development Administration

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $335,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Telecommunications and Information Administration

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For emergency grants authorized by section 392 of the Communications Act of 1934, as amended, to respond to the September 11, 2001, terrorist attacks on the United States, $8,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

United States Patent and Trademark Office

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $3,360,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Institute of Standards and Technology

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the

United States, for "Scientific and Technical Research and Services", $20,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION OF RESEARCH FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction of Research Facilities", $1,225,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations, Research and Facilities", $2,750,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Departmental Management

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $881,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

Department of Transportation

Maritime Administration

OPERATIONS AND TRAINING

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Training", $11,000,000, for a port security program, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,301,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Securities and Exchange Commission

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $20,705,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Small Business Administration

DISASTER LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for "Disaster Loans Program Account", $75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 3

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

Defense Emergency Response Fund

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for "Defense Emergency Response Fund", $4,258,569,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38: *Provided*, That $20,000,000 shall be made available for the National Infrastructure Simulation and Analysis Center (NISAC): *Provided further*, That $500,000 shall be made available only for the White House Commission on the National Moment of Remembrance: *Provided further*, That—

(1) $35,000,000 shall be available for the procurement of the Advance Identification Friend-or-Foe system for integration into F-16 aircraft of the Air National Guard that are being used in continuous air patrols over Washington, District of Columbia, and New York, New York; and

(2) $20,000,000 shall be available for the procurement of the Transportation Multi-Platform Gateway for integration into the AWACS aircraft that are being used to perform early warning surveillance over the United States.

(3) $15,000,000 shall be available for the acquisition of ten Lynx SAR kits.

National Security Bio-terrorism Defense Fund

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for "Public Health and Social Services Emergency Fund", $2,300,000,000, to remain available until September 30, 2003. Of this amount, $500,000,000 shall be for the Centers for Disease Control and Prevention for improving State and local capacity; $85,000,000 shall be for grants to hospitals, in collaboration with local governments, to improve capacity to respond to bioterrorism; $128,000,000 shall be for upgrading capacity at the Centers for Disease Control and Prevention, including research; $98,000,000 shall be for the Office of the Secretary and improving disaster response teams; $70,000,000 shall be for the National Institute of Allergy and Infectious Diseases for bioterrorism-related research and development and other related needs; $69,000,000 shall be for the National Institute of Allergy and Infectious Diseases for the construction of a biosafety laboratory and related infrastructure costs; $593,000,000 shall be for the National Pharmaceutical Stockpile; $562,000,000 shall be for the purchase and related costs of the smallpox vaccine, and $30,000,000 shall be for improving laboratory security at the National Institutes of Health and the Centers for Disease Control and Prevention. At the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures.

PROCUREMENT

Other Procurement, Air Force

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for "Other Procurement, Air Force", $210,000,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 301. Amounts available in the "Defense Emergency Response Fund" shall be available for the purposes set forth in the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38): *Provided*, That the Fund may be used to reimburse other appropriations or funds of the Department of Defense only for costs incurred for such purposes between September 11 and December 31, 2001: *Provided further*, That such Fund may be used to liquidate obligations incurred by the Department under the authorities in 41 U.S.C. 11 for any costs incurred for such purposes between September 11 and September 30, 2001: *Provided further*, That the Secretary of Defense may transfer funds from the Fund to the appropriation, "Support for International Sporting Competitions, Defense", to be merged with, and available for the same time period and for the same purposes as that appropriation: *Provided further*, That the transfer authority provided by this section is in addition to any other transfer authority available to the Secretary of Defense: *Provided further*, That the Secretary of Defense shall report to the Congress quarterly all transfers made pursuant to this authority.

SEC. 302. Amounts in the "Support for International Sporting Competitions, Defense", may be used to support essential security and safety for the 2002 Winter Olympic Games in Salt Lake City, Utah, without the certification required under subsection 10 U.S.C. 2564(a). Further, the term "active duty", in section 5802 of Public Law 104–208 shall include State active duty and full-time National Guard duty performed by members of the Army National Guard and Air National Guard in connection with providing essential security and safety support to the 2002 Winter Olympic Games and logistical and security support to the 2002 Paralympic Games.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for a Federal payment to the District of Columbia for Protective Clothing and Breathing Apparatus, to be obligated from amounts made available in Public Law 107–38 and to remain available until expended, $12,144,209, of which $921,833 is for the Fire and Emergency Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, $453,376 is for the Department of Public Works, and $5,000,000 is for the Washington Metropolitan Area Transit Authority.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for a Federal payment to the District of Columbia for Specialized Hazardous Materials Equipment, to be obligated from amounts made available in Public Law 107–38 and to remain available until expended, $1,032,342, for the Fire and Emergency Medical Services Department.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for a Federal payment to the District of Columbia for Chemical and Biological Weapons Preparedness, to be obligated from amounts made available in Public Law 107–38 and to remain available until expended, $10,354,415, of which $204,920 is for the Fire and Emergency Medical Services Department, $258,170 is for the Metropolitan Policy Department, and $9,891,325 is for the Department of Health.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for a Federal payment to the District of Columbia for Pharmaceuticals for Responders, to be obligated from amounts made available in Public Law 107–38 and to remain available until expended, $2,100,000, for the Department of Health.

Notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget. The Chief financial Officer of the District of Columbia shall provide quarterly reports to the President and the Committees on Appropriations of the Senate and the House of Representatives on the use of the funds under this heading beginning no later than January 2, 2002.

DISTRICT OF COLUMBIA FUNDS

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia and shall remain available until expended.

For Protective Clothing and Breathing Apparatus, to remain available until expended, $12,144,209, of which $921,833 is for the Fire and Emergency Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, $453,376 is for the Department of Public Works, and $5,000,000 is for the Washington Metropolitan Area Transit Authority.

For Specialized Hazardous Materials Equipment, to remain available until expended, $1,032,342, for the Fire and Emergency Medical Services Department.

For Chemical and Biological Weapons Preparedness, to remain available until expended, $10,354,415, of which $204,920 is for the Fire and Emergency Medical Services Department, $258,170 is for the Metropolitan Police Department, and $9,891,325 is for the Department of Health.

For Pharmaceuticals for Responders, to remain available until expended, $2,100,000, for the Department of Health.

CHAPTER 5

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for "Weapons Activities", $199,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE NUCLEAR NONPROLIFERATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to improve nuclear nonproliferation and verification research and development, for "Defense Nuclear Nonproliferation", $155,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

OTHER DEFENSE RELATED ACTIVITIES

OTHER DEFENSE ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses necessary to support activities related to countering potential biological threats to civilian populations, for "Other Defense Activities", $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Defense Environmental Restoration and Waste Management", $8,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCY

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear power plants, for "Salaries and Expenses", $36,000,000, to remain available until September 30, 2003: *Provided*, That the funds appropriated herein shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation of the National Park System", $10,098,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PARK POLICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "United States Park Police", $25,295,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", $21,624,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,205,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for the working capital fund of the Department of the Interior.

RELATED AGENCIES

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $21,707,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,148,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Maintenance", $4,310,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $758,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 7

LEGISLATIVE BRANCH

JOINT ITEMS

LEGISLATIVE BRANCH EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the terrorist attacks on the United States, $256,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That $34,500,000 shall be transferred to the "SENATE", "Sergeant at Arms and Doorkeeper of the Senate" and shall be obligated with the prior approval of the Senate Committee on Appropriations: *Provided further*, That $40,712,000 shall be transferred to "HOUSE OF REPRESENTATIVES", "Salaries and Expenses" and shall be obligated with the prior approval of the House Committee on Appropriations: *Provided further*, That the remaining balance of $180,869,000 shall be transferred to the Capitol Police Board, which shall transfer to the affected entities in the Legislative Branch such amounts as are approved by the House and Senate Committees on Appropriations: *Provided further*, That any Legislative Branch entity receiving funds pursuant to the Emergency Response Fund established by Public Law 107–38 (without regard to whether the funds are provided under this chapter or pursuant to any other provision of law) may transfer any funds provided to the entity to any other Legislative Branch entity receiving funds under Public Law 107–38 in an amount equal to that required to provide support for security enhancements, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

SENATE

ADMINISTRATIVE PROVISIONS

SEC. 701. (a) ACQUISITION OF BUILDINGS AND FACILITIES.—Notwithstanding any other provision of law, in order to respond to an emergency situation, the Sergeant at Arms of the Senate may acquire buildings and facilities, subject to the availability of appropriations, for the use of the Senate, as appropriate, by lease, purchase, or such other arrangement as the Sergeant at Arms of the Senate considers appropriate (including a memorandum of understanding with the head of an Executive Agency, as defined in section 105 of title 5, United States Code, in the case of a building or facility under the control of such Agency). Actions taken by the Sergeant at Arms of the Senate must be approved by the Committees on Appropriations and Rules and Administration.

(b) AGREEMENTS.—Notwithstanding any other provision of law, for purposes of carrying out subsection (a), the Sergeant at Arms of the Senate may carry out such activities and enter into such agreements related to the use of any building or facility acquired pursuant to such subsection as the Sergeant at Arms of the Senate considers appropriate, including—

(1) agreements with the United States Capitol Police or any other entity relating to the policing of such building or facility; and

(2) agreements with the Architect of the Capitol or any other entity relating to the care and maintenance of such building or facility.

(c) Authority of Capitol Police and Architect.—

(1) Architect of the capitol.—Notwithstanding any other provision of law, the Architect of the Capitol may take any action necessary to carry out an agreement entered into with the Sergeant at Arms of the Senate pursuant to subsection (b).

(2) Capitol police.—Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a) is amended—

(A) by striking "The Capitol Police" and inserting "(a) The Capitol Police"; and

(B) by adding at the end the following new subsection:

"(b) For purposes of this section, 'the United States Capitol Buildings and Grounds' shall include any building or facility acquired by the Sergeant at Arms of the Senate for the use of the Senate for which the Sergeant at Arms of the Senate has entered into an agreement with the United States Capitol Police for the policing of the building or facility.".

(d) Transfer of Certain Funds.—Subject to the approval of the Committee on Appropriations of the Senate, the Architect of the Capitol may transfer to the Sergeant at Arms of the Senate amounts made available to the Architect for necessary expenses for the maintenance, care and operation of the Senate office buildings during a fiscal year in order to cover any portion of the costs incurred by the Sergeant at Arms of the Senate during the year in acquiring a building or facility pursuant to subsection (a).

(e) Effective Date.—This section and the amendments made by this section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

Sec. 702. (a) Notwithstanding any other provision of law—

(1) subject to subsection (b), the Sergeant at Arms of the Senate and the head of an Executive Agency (as defined in section 105 of title 5, United States Code) may enter into a memorandum of understanding under which the Agency may provide facilities, equipment, supplies, personnel, and other support services for the use of the Senate during an emergency situation; and

(2) the Sergeant at Arms of the Senate and the head of the Agency may take any action necessary to carry out the terms of the memorandum of understanding.

(b) The Sergeant at Arms of the Senate may enter into a memorandum of understanding described in subsection (a)(1) consistent with the Senate Procurement Regulations.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

OTHER LEGISLATIVE BRANCH

Administrative Provisions

Sec. 703. (a) Section 1(c) of Public Law 96-152 (40 U.S.C. 206-1) is amended by striking "but not to exceed" and all that follows and inserting the following: "but not to exceed $2,500 less than the lesser of the annual salary for the Sergeant at Arms of the House of Representatives or the annual salary for the Sergeant at Arms and Doorkeeper of the Senate.".

(b) The Assistant Chief of the Capitol Police shall receive compensation at a rate determined by the Capitol Police Board, but not to exceed $1,000 less than the annual salary for the chief of the United States Capitol Police.

(c) This section and the amendment made by this section shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

Sec. 704. (a) Assistance for Capitol Police From Executive Departments and Agencies.—Notwithstanding any other provision of law, Executive departments and Executive agencies may assist the United States Capitol Police in the same manner and to the same extent as such departments and agencies assist the United States Secret Service under section 6 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note), except as may otherwise be provided in this section.

(b) Terms of Assistance.—Assistance under this section shall be provided—

(1) consistent with the authority of the Capitol Police under sections 9 and 9A of the Act of July 31, 1946 (40 U.S.C. 212a and 212a-2);

(2) upon the advance written request of—

(A) the Chairman of the Capitol Police Board, or

(B) in the absence of the Chairman of the Capitol Police Board—

(i) the Sergeant at Arms and Doorkeeper of the Senate, in the case of any matter relating to the Senate; or

(ii) the Sergeant at Arms of the House of Representatives, in the case of any matter relating to the House; and

(3) either—

(A) on a temporary and non-reimbursable basis,

(B) on a temporary and reimbursable basis, or

(C) on a permanent reimbursable basis upon advance written request of the Chairman of the Capitol Police Board.

(c) Reports on Expenditures for Assistance.—

(1) Reports.—With respect to any fiscal year in which an Executive department or Executive agency provides assistance under this section, the head of that department or agency shall submit a report not later than 30 days after the end of the fiscal year to the Chairman of the Capitol Police Board.

(2) Contents.—The report submitted under paragraph (1) shall contain a detailed account of all expenditures made by the Executive department or Executive agency in providing assistance under this section during the applicable fiscal year.

(3) Summary of reports.—After receipt of all reports under paragraph (2) with respect to any fiscal year, the Chairman of the Capitol Police Board shall submit a summary of such reports to the Committees on Appropriations of the Senate and the House of Representatives.

(d) Effective Date.—This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

Sec. 705. (a) The Chief of the Capitol Police may, upon any emergency as determined by the Capitol Police Board, deputize members of the National Guard (while in the performance of Federal or State service), members of components of the Armed Forces other than the National Guard, and Federal, State or local law enforcement officers as may be necessary to address that emergency. Any person deputized under this section shall possess all the powers and privileges and may perform all duties of a member or officer of the Capitol Police.

(b) The Capitol Police Board may promulgate regulations, as determined necessary, to carry out provisions of this section.

(c) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

Sec. 706. (a) Notwithstanding any other provision of law, the United States Capitol Preservation Commission established under section 801 of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a) may transfer to the Architect of the Capitol amounts in the Capitol Preservation Fund established under section 803 of such Act (40 U.S.C. 188a-2) if the amounts are to be used by the Architect for the planning, engineering, design, or construction of the Capitol Visitor Center.

(b) Any amounts transferred pursuant to subsection (a) shall remain available for the use of the Architect of the Capitol until expended.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

CHAPTER 8

MILITARY CONSTRUCTION

Military Construction, Defense-Wide

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Defense-wide", $510,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107-38: *Provided*, That of such amount, $35,000,000 shall be available for transfer to "Military Construction, Army".

Military Construction, Army

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Army", $20,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Military Construction, Navy

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Navy", $2,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Military Construction, Air Force

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Air Force", $47,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

GENERAL PROVISIONS, THIS CHAPTER

Sec. 801. (a) Availability of Amounts for Military Construction Relating to Terrorism.—Amounts made available to the Department of Defense from funds appropriated in Public Law 107-38 and this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

(b) Notice to Congress.—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection the Secretary shall notify the appropriate committees of Congress the following:

(1) The determination to use such amounts for the project.

(2) The estimated cost of the project.

(c) Appropriate Committees of Congress Defined.—In this section the term "appropriate committees of Congress" has the meaning given that term in section 2801 (4) of title 10, United States Code.

Sec. 802. Notwithstanding section 2808(a) of title 10, United States Code, the Secretary of

Defense may not utilize the authority in that section to undertake or authorize the undertaking of, any military construction project described by that section using amounts appropriated or otherwise made available by the Military Construction Appropriations Act, 2002, or any act appropriating funds for Military Construction for a fiscal year before fiscal year 2002.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", for the Office of the Secretary and intelligence activities, $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, in addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, to be derived from the Airport and Airway Trust Fund, $37,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Coast Guard

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", $203,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107-38.

Federal Aviation Administration

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations", $232,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107-38, of which $32,000,000 shall be only for the Metropolitan Washington Airports Authority.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Facilities and Equipment", $108,500,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, notwithstanding any other provision of law, for "Grants-in-aid for airports", to enable the Federal Aviation Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, $100,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107-38.

Federal Highway Administration

MISCELLANEOUS APPROPRIATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Miscellaneous Appropriations", including the operation and construction of ferrys and ferry facilities, $10,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Emergency Relief Program", as authorized by section 125 of title 23, United States Code, $75,000,000, to be derived from the Highway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Federal Railroad Administration

SAFETY AND OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Safety and Operations", $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Federal Transit Administration

FORMULA GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Formula Grants", $23,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Office of Inspector General

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for other safety and security related audit and monitoring responsibilities, for "Salaries and Expenses", $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

RELATED AGENCY

National Transportation Safety Board

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $836,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

CHAPTER 10

DEPARTMENT OF THE TREASURY

Inspector General for Tax Administration

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,032,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

Financial Crimes Enforcement Network

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Federal Law Enforcement Training Center

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $22,846,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Financial Management Service

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Bureau of Alcohol, Tobacco and Firearms

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $31,431,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

United States Customs Service

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $127,603,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38; of this amount, not less than $21,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation, Maintenance and Procurement, Air and Marine Interdiction Programs", $6,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Internal Revenue Service

PROCESSING, ASSISTANCE AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Processing, Assistance and Management", $16,658,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

TAX LAW ENFORCEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Tax Law Enforcement", $4,544,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

INFORMATION SYSTEMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Information Systems", $15,991,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

United States Secret Service

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $104,769,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $50,040,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For emergency expenses to the Postal Service Fund to enable the Postal Service to build and establish a system for sanitizing and screening mail matter, to protect postal employees and postal customers from exposure to biohazardous material, and to replace or repair Postal Service facilities destroyed or damaged in New York City as a result of the September 11, 2001, terrorist attacks, $575,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDING FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Federal Buildings Fund", $86,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", $4,818,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

REPAIRS AND RESTORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Repairs and Restoration", $2,180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 11

DEPARTMENT OF VETERANS AFFAIRS

CONSTRUCTION, MAJOR PROJECTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction, Major Projects", $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Community development fund", $2,000,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That such funds shall be subject to the first through sixth provisos in section 434 of Public Law 107–73: *Provided further*, That within 45 days of enactment, the State of New York, in conjunction with the City of New York, shall establish a corporation for the obligation of the funds provided under this heading, issue the initial criteria and requirements necessary to accept applications from individuals, nonprofits and small businesses for economic losses from the September 11, 2001, terrorist attacks, and begin processing such applications: *Provided further*, That the corporation shall respond to any application from an individual, nonprofit or small business for economic losses under this heading within 45 days of the submission of an application for funding: *Provided further*, That individuals, nonprofits or small businesses shall be eligible for compensation only if located in New York City in the area located on or south of Canal Street, on or south of East Broadway (east of its intersection with Canal Street), or on or south of Grand Street (east of its intersection with East Broadway): *Provided further*, That, of the amount made available under this heading, no less than $500,000,000 shall be made available for individuals, nonprofits or small businesses described in the prior three provisos with a limit of $500,000 per small business for economic losses.

MANAGEMENT AND ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Office of Inspector General", $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Science and Technology", $100,514,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That amounts made available under this heading may be used for grants to States and localities for technical assistance, vulnerability assessments, remedial work, and emergency operations plans for drinking water systems.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Environmental Programs and Management", $32,194,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

HAZARDOUS SUBSTANCE SUPERFUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Hazardous Substance Superfund", $18,292,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

STATE AND TRIBAL ASSISTANCE GRANTS

For making grants for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering potential biological and chemical threats to populations, for "State and Tribal Assistance Grants", $5,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia, and Pennsylvania on September 11, 2001, for "Disaster Relief", $5,050,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That of the amount made available under this heading, $290,000,000 shall be transferred to "Emergency Management Planning and Assistance", to remain available until September 30, 2003, for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.): *Provided further*, That of this $290,000,000, grants may be made available for equipment, training, and vehicle needs related to hazards associated with bioterrorism: *Provided further*, That up to 5 percent of the $290,000,000 shall be transferred to "Salaries and Expenses" for program administration: *Provided further*, That of the total amount made available under this heading, $1,000,000 shall be made available to the Fairfax County Water Authority for water infrastructure reliability and vulnerability improvements.

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $20,000,000, to remain available until expended, for the Office of National Preparedness, to be obligated from amounts made available in Public Law 107–38.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Human Space Flight", $64,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Science, Aeronautics and Technology", $28,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and Related Activities", $300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 12

GENERAL PROVISIONS, THIS DIVISION

SEC. 1201. Amounts which may be obligated pursuant to this division are subject to the terms and conditions provided in Public Law 107–38.

SEC. 1202. No part of any appropriation contained in this division shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This division may be cited as the "Emergency Supplemental Act, 2002".

SA 2244. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount available in title IV of this division under the heading "Research, Development, Test and Evaluation, Army" that is available for missile technology, $8,500,000 may be available for the Surveillance Denial Solid Dye Laser Technology program of the Aviation and Missile Research, Development and Engineering Center of the Army.

SA 2245. Mr. KERRY (for himself, Mrs. HUTCHISON, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Defense-Wide" and available for the Advanced Technology Development for Arms Control Technology element, $12,500,000 may be made available for the Nuclear Treaty sub-element of such element for peer-reviewed seismic research to support Air Force operational nuclear test monitoring requirements.

SA 2246. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount available in title III of this division under the heading "Procurement of Ammunition, Air Force", $14,200,000 may be available for procurement of Sensor Fused Weapons (CBU-97).

SA 2247. Mr. HELMS (for himself, Mr. MILLER, Mr. HAGEL, Mr. HATCH, Mr. SHELBY, Mr. MURKOWSKI, Mr. BOND, Mr. WARNER, Mr. ALLEN, and Mr. FRIST) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following new title:

TITLE —AMERICAN SERVICEMEMBERS' PROTECTION ACT OF 2001

SEC. 01. SHORT TITLE.

This title may be cited as the "American Servicemembers' Protection Act of 2001".

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) On July 17, 1998, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the "Rome Statute of the International Criminal Court". The vote on whether to proceed with the statute was 120 in favor to 7 against, with 21 countries abstaining. The United States voted against final adoption of the Rome Statute.

(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 126 of the Rome Statute, the statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the statute.

(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft documents to implement the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.

(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives of the United States had not been achieved. As a result, he stated: "We are left with consequences that do not serve the cause of international justice."

(5) Ambassador Scheffer went on to tell the Congress that: "Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the Court's jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States to use its military to meet alliance obligations and participate in multinational operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed.".

(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000. In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, "I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied".

(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.

(8) Members of the Armed Forces of the United States should be free from the risk of prosecution by the International Criminal Court, especially when they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces, to the maximum extent possible, against criminal prosecutions carried out by the International Criminal Court.

(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression over United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government should be free from the risk of prosecution by the International Criminal Court, especially with respect to official actions taken by them to protect the national interests of the United States.

(10) Any agreement within the Preparatory Commission on a definition of the Crime of Aggression that usurps the prerogative of the United Nations Security Council under Article 39 of the charter of the United Nations to "determine the existence of any .... act of aggression" would contravene the charter of the United Nations and undermine deterrence.

(11) It is a fundamental principle of international law that a treaty is binding upon its parties only and that it does not create obligations for nonparties without their consent to be bound. The United States is not a party to the Rome Statute and will not be bound by any of its terms. The United States will not recognize the jurisdiction of the International Criminal Court over United States nationals.

SEC. 03. WAIVER AND TERMINATION OF PROHIBITIONS OF THIS TITLE.

(a) AUTHORITY TO INITIALLY WAIVE SECTIONS 05 AND 07.—The President is authorized to waive the prohibitions and requirements of sections 05 and 07 for a single period of one year. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court has entered into a binding agreement that—

(A) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(i) covered United States persons;

(ii) covered allied persons; and

(iii) individuals who were covered United States persons or covered allied persons; and

(B) ensures that no person described in subparagraph (A) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court.

(b) AUTHORITY TO EXTEND WAIVER OF SECTIONS 05 AND 07.—The President is authorized to waive the prohibitions and requirements of sections 05 and 07 for successive periods of one year each upon the expiration of a previous waiver pursuant to subsection (a) or this subsection. A waiver under this subsection may be issued only if the President at least fifteen days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court—

(A) remains party to, and has continued to abide by, a binding agreement that—

(i) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(I) covered United States persons;

(II) covered allied persons; and

(III) individuals who were covered United States persons or covered allied persons; and

(ii) ensures that no person described in clause (i) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court; and

(B) has taken no steps to arrest, detain, prosecute, or imprison any person described in clause (i) of subparagraph (A).

(c) Authority To Waive Sections 04 and 06 With Respect to an Investigation or Prosecution of a Named Individual.—The President is authorized to waive the prohibitions and requirements of sections 04 and 06 to the degree such prohibitions and requirements would prevent United States cooperation with an investigation or prosecution of a named individual by the International Criminal Court. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that—

(A) a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections 05 and 07 is in effect;

(B) there is reason to believe that the named individual committed the crime or crimes that are the subject of the International Criminal Court's investigation or prosecution;

(C) it is in the national interest of the United States for the International Criminal Court's investigation or prosecution of the named individual to proceed; and

(D) in investigating events related to actions by the named individual, none of the following persons will be investigated, arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court with respect to actions undertaken by them in an official capacity:

(i) Covered United States persons.

(ii) Covered allied persons.

(iii) Individuals who were covered United States persons or covered allied persons.

(d) Termination of Waiver Pursuant to Subsection (c).—Any waiver or waivers exercised pursuant to subsection (c) of the prohibitions and requirements of sections 04 and 06 shall terminate at any time that a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections 05 and 07 expires and is not extended pursuant to subsection (b).

(e) Termination of Prohibitions of This Title.—The prohibitions and requirements of sections 04, 05, 06, and 07 shall cease to apply, and the authority of section 08 shall terminate, if the United States becomes a party to the International Criminal Court pursuant to a treaty made under article II, section 2, clause 2 of the Constitution of the United States.

SEC. 04. PROHIBITION ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT.

(a) Application.—The provisions of this section—

(1) apply only to cooperation with the International Criminal Court and shall not apply to cooperation with an ad hoc international criminal tribunal established by the United Nations Security Council before or after the date of the enactment of this Act to investigate and prosecute war crimes committed in a specific country or during a specific conflict; and

(2) shall not prohibit—

(A) any action permitted under section 08; or

(B) communication by the United States of its policy with respect to a matter.

(b) Prohibition on Responding to Requests for Cooperation.—Notwithstanding section 1782 of title 28, United States Code, or any other provision of law, no United States Court, and no agency or entity of any State or local government, including any court, may cooperate with the International Criminal Court in response to a request for cooperation submitted by the International Criminal Court pursuant to the Rome Statute.

(c) Prohibition on Transmittal of Letters Rogatory From the International Criminal Court.—Notwithstanding section 1781 of title 28, United States Code, or any other provision of law, no agency of the United States Government may transmit for execution any letter rogatory issued, or other request for cooperation made, by the International Criminal Court to the tribunal, officer, or agency in the United States to whom it is addressed.

(d) Prohibition on Extradition to the International Criminal Court.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government may extradite any person from the United States to the International Criminal Court, nor support the transfer of any United States citizen or permanent resident alien to the International Criminal Court.

(e) Prohibition on Provision of Support to the International Criminal Court.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government, including any court, may provide support to the International Criminal Court.

(f) Prohibition on Use of Appropriated Funds To Assist the International Criminal Court.—Notwithstanding any other provision of law, no funds appropriated under any provision of law may be used for the purpose of assisting the investigation, arrest, detention, extradition, or prosecution of any United States citizen or permanent resident alien by the International Criminal Court.

(g) Restriction on Assistance Pursuant to Mutual Legal Assistance Treaties.—The United States shall exercise its rights to limit the use of assistance provided under all treaties and executive agreements for mutual legal assistance in criminal matters, multilateral conventions with legal assistance provisions, and extradition treaties, to which the United States is a party, and in connection with the execution or issuance of any letter rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.

(h) Prohibition on Investigative Activities of Agents.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

SEC. 05. RESTRICTION ON UNITED STATES PARTICIPATION IN CERTAIN UNITED NATIONS PEACEKEEPING OPERATIONS.

(a) Policy.—Effective beginning on the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, the President should use the voice and vote of the United States in the United Nations Security Council to ensure that each resolution of the Security Council authorizing any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations permanently exempts, at a minimum, members of the Armed Forces of the United States participating in such operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by such personnel in connection with the operation.

(b) Restriction.—Members of the Armed Forces of the United States may not participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations, the creation of which is authorized by the United Nations Security Council on or after the date that the Rome Statute enters into effect pursuant to Article 126 of the Rome Statute, unless the President has submitted to the appropriate congressional committees a certification described in subsection (c) with respect to such operation.

(c) Certification.—The certification referred to in subsection (b) is a certification by the President that—

(1) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because, in authorizing the operation, the United Nations Security Council permanently exempted, at a minimum, members of the Armed Forces of the United States participating in the operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by them in connection with the operation;

(2) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because each country in which members of the Armed Forces of the United States participating in the operation will be present either is not a party to the International Criminal Court and has not invoked the jurisdiction of the International Criminal Court pursuant to Article 12 of the Rome Statute, or has entered into an agreement in accordance with Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States present in that country; or

(3) the national interests of the United States justify participation by members of the Armed Forces of the United States in the peacekeeping or peace enforcement operation.

SEC. 06. PROHIBITION ON DIRECT OR INDIRECT TRANSFER OF CLASSIFIED NATIONAL SECURITY INFORMATION AND LAW ENFORCEMENT INFORMATION TO THE INTERNATIONAL CRIMINAL COURT.

(a) In General.—Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(b) Indirect Transfer.—The procedures adopted pursuant to subsection (a) shall be designed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(c) Construction.—The provisions of this section shall not be construed to prohibit any action permitted under section 08.

SEC. 07. PROHIBITION OF UNITED STATES MILITARY ASSISTANCE TO PARTIES TO THE INTERNATIONAL CRIMINAL COURT.

(a) Prohibition of Military Assistance.—Subject to subsections (b) and (c), and effective one year after the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, no United States military assistance may be provided to the government of a country that is a party to the International Criminal Court.

(b) National Interest Waiver.—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that it is important to the national interest of the United States to waive such prohibition.

(c) Article 98 Waiver.—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that such country has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal court from proceeding against United States personnel present in such country.

(d) Exemption.—The prohibition of subsection (a) shall not apply to the government of—

(1) a NATO member country;

(2) a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand); or

(3) Taiwan.

SEC. 08. AUTHORITY TO FREE MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND CERTAIN OTHER PERSONS DETAINED OR IMPRISONED BY OR ON BEHALF OF THE INTERNATIONAL CRIMINAL COURT.

(a) Authority.—The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.

(b) Persons Authorized To Be Freed.—The authority of subsection (a) shall extend to the following persons:

(1) Covered United States persons.

(2) Covered allied persons.

(3) Individuals detained or imprisoned for official actions taken while the individual was a covered United States person or a covered allied person, and in the case of a covered allied person, upon the request of such government.

(c) Authorization of Legal Assistance.—When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide—

(1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, United States Code, representation and other assistance in the manner provided in that section);

(2) exculpatory evidence on behalf of that person; and

(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.

(d) Bribes and Other Inducements Not Authorized.—This section does not authorize the payment of bribes or the provision of other such incentives to induce the release of a person described in subsection (b).

SEC. 09. ALLIANCE COMMAND ARRANGEMENTS.

(a) Report on Alliance Command Arrangements.—Not later than 6 months after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party—

(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a party to the International Criminal Court; and

(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations, undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.

(b) Description of Measures To Achieve Enhanced Protection for Members of the Armed Forces of the United States.—Not later than one year after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2).

(c) Submission in Classified Form.—The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form.

SEC. 10. WITHHOLDINGS.

Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 705 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–460), are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.

SEC. 11. APPLICATION OF SECTIONS 04 AND 06 TO EXERCISE OF CONSTITUTIONAL AUTHORITIES.

(a) In General.—Sections 04 and 06 shall not apply to any action or actions with respect to a specific matter involving the International Criminal Court taken or directed by the President on a case-by-case basis in the exercise of the President's authority as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution.

(b) Notification to Congress.—

(1) In general.—Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) that would otherwise be prohibited under section 04 or 06, the President shall submit a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that the action is in the national interest of the United States, and a justification for the action.

(2) Exception.—If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under paragraph (1) not later than 15 days after the reasons for the determination under this paragraph no longer apply.

(c) Construction.—Nothing in this section shall be construed as a grant of statutory authority to the President to take any action.

SEC. 12. NONDELEGATION.

The authorities vested in the President by sections 03 and 11(a) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law. The authority vested in the President by section 05(c)(3) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law to any official other than the Secretary of Defense, and if so delegated may not be subdelegated.

SEC. 13. DEFINITIONS.

As used in this title and in section 706 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001:

(1) Appropriate congressional committees.—The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) Classified national security information.—The term "classified national security information" means information that is classified or classifiable under Executive Order 12958 or a successor Executive order.

(3) Covered allied persons.—The term "covered allied persons" means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International

Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the International Criminal Court.

(4) COVERED UNITED STATES PERSONS.—The term "covered United States persons" means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court.

(5) EXTRADITION.—The terms "extradition" and "extradite" mean the extradition of a person in accordance with the provisions of chapter 209 of title 18, United States Code, (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 102 of the Rome Statute.

(6) INTERNATIONAL CRIMINAL COURT.—The term "International Criminal Court" means the court established by the Rome Statute.

(7) MAJOR NON-NATO ALLY.—The term "major non-NATO ally" means a country that has been so designated in accordance with section 517 of the Foreign Assistance Act of 1961.

(8) PARTICIPATE IN ANY PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term "participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations" means to assign members of the Armed Forces of the United States to a United Nations military command structure as part of a peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations in which those members of the Armed Forces of the United States are subject to the command or operational control of one or more foreign military officers not appointed in conformity with article II, section 2, clause 2 of the Constitution of the United States.

(9) PARTY TO THE INTERNATIONAL CRIMINAL COURT.—The term "party to the International Criminal Court" means a government that has deposited an instrument of ratification, acceptance, approval, or accession to the Rome Statute, and has not withdrawn from the Rome Statute pursuant to Article 127 thereof.

(10) PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term "peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations" means any military operation to maintain or restore international peace and security that—

(A) is authorized by the United Nations Security Council under chapter VI or VII of the charter of the United Nations; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping or peace enforcement activities.

(11) ROME STATUTE.—The term "Rome Statute" means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

(12) SUPPORT.—The term "support" means assistance of any kind, including financial support, transfer of property or other material support, services, intelligence sharing, law enforcement cooperation, the training or detail of personnel, and the arrest or detention of individuals.

(13) UNITED STATES MILITARY ASSISTANCE.—The term "United States military assistance" means—

(A) assistance provided under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

(B) defense articles or defense services furnished with the financial assistance of the United States Government, including through loans and guarantees, under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

SEC. 14. PERIOD OF EFFECTIVENESS OF THE TITLE.

Except as otherwise provided in this title, the provisions of this title shall take effect on the date of enactment of this Act and remain in effect without regard to the expiration of fiscal year 2002.

SA 2248. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC.—.Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, ARMY", $10,000,000 may be made available for procurement of Shortstop Electronic Protection Systems for critical force protection.

SA 2249. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC.—.Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, NAVY", $8,000,000 may be made available for procurement of the Tactical Support Center, Mobile Acoustic Analysis System.

SA 2250. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC.—.Of the amount appropriated by title III of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $20,000,000 may be made available for the Broad Area Maritime Surveillance program.

SA 2251. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, strike lines 3 through 11.

SA 2252. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 305, strike line 15 and all that follows through page 308, line 25.

SA 2253. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 8016, relating to Buy American requirements for welded shipboard anchor and mooring chains.

SA 2254. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 8094, relating to Buy American requirements for main propulsion diesel engines and propulsors for the T-AKE class of ships.

SA 2255. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. . (a) NO PROHIBITION ON BURIAL OF RESERVISTS AT ARLINGTON NATIONAL CEMETERY BASED SOLELY ON AGE AT DEATH.—The Secretary of the Army may not prohibit the burial at Arlington National Cemetery, Virginia, of a deceased member of the Reserves who at death is qualified for burial at Arlington National Cemetery in all respects but age at death based solely on the age of the member at death.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to deaths occurring on or after September 11, 2001.

SA 2256. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert the following:

SEC. . Of the funds appropriated in the Act under the heading "Research, Development, Test and Evaluation, Air Force" up to

$4,000,000 may be made available to extend the modeling and reengineering program now being performed at the Oklahoma City Air Logistics Center Propulsion Directorate.

SA 2257. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) In General.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 10756, the Commission shall, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods.

(b) Effective Date.—Subsection (a) takes effect on the date of the expiration of the extension issued by the Commission before the date of the enactment of this Act under section 13 of the Federal Power Act (16 U.S.C. 806).

(c) Reinstatement of Expired License.—If the period required for commencement of construction of the project described in subsection (a) expired before the date of the enactment of this Act—

(1) the Commission shall reinstate the license effective as of the date of its expiration;

(2) the reinstatement shall preserve the demonstration by the licensee of compliance with all the requirements of Public Law No. 103–450 (108 Stat. 4766) applicable to the project; and

(3) the first extension authorized under subsection (a) shall take effect on the expiration date.

SA 2258. Mr. LUGAR (for himself, Mr. Levin, Mr. Biden, Mr. Hagel, Mr. Domenici, Mr. Bingaman, Mr. Torricelli, Mr. Dodd, Mr. Daschle, and Mr. Kennedy) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Increase in Amount Available for Former Soviet Union Threat Reduction.—The amount appropriated in title II of this division under the heading "Former Soviet Union Threat Reduction" is hereby increased by $46,000,000.

(b) Offset.—Notwithstanding any other provision of this Act, the amount of the reduction provided for in section 8098 of this title is hereby increased by $46,000,000, with the amount of the increase to be distributed equally among each of the accounts set forth in that section.

SA 2259. Mr. LOTT (for himself and Mr. Cochran) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, line 9, of Division C, after the period insert "Of the amounts provided for equipment grants, $7,500,000 shall be made available for projects utilizing the techniques of Risk Management Planning to provide real time crisis planning, training, and response services to any widely attended event, including sporting events, which receives a terrorist threat advisory from the Federal Bureau of Investigation or similar warnings from any other Federal law enforcement agency."

SA 2260. Mr. LOTT (for himself and Mr. Cochran) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 223, line 23, insert before the period ", of which, $3,000,000 shall be used for a Processible Rigid-Rod Polymeric Material Supplier Initiative under title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) to develop affordable production methods and a domestic supplier for military and commercial processible rigid-rod materials".

SA 2261. Mr. LOTT (for himself and Mr. Cochran) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. . *Provided*, That any request for advance appropriations for large capital projects, to include shipbuilding, may be proposed if such proposals include contractual provisions which yield cost savings for such projects. *Provided further*, That for purposes of this section shipbuilding advance appropriations are defined as appropriations made in any fiscal year for any naval vessel for such fiscal year together with each of not more than five subsequent fiscal years, in accordance with which the government may incur obligations. Appropriations only for long lead items or other advanced components are not included in this definition.

SA 2262. Mr. LOTT (for himself and Mr. Cochran) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. . Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE WIDE", $2,000,000 is available for Military Personnel Research.

SA 2263. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. . Of the total amount appropriated by title VI under the heading "OTHER DEPARTMENT OF DEFENSE APPROPRIATIONS", $7,500,000 is available for Armed Forces Retirement Homes.

SA 2264. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. . *Provided*, That the funds appropriated by this act for C–130J aircraft shall be used to support the Air Force's long-range plan called the "C–130 Roadmap" to assist in the planning, budgeting, and beddown of the C–130J fleet. The "C–130 Roadmap" gives consideration to the needs of the service, the condition of the aircraft to be replaced, and the requirement to properly phase facilities to determine the best C–130J aircraft beddown sequence.

SA 2265. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

Sec. 8135. Of the total amount appropriated by this division for operation and maintenance, Air National Guard, $4,000,000 may be used for continuation of the Air National Guard Information Analysis Network (GUARDIAN).

SA 2266. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the title of general provisions, add the following:

Sec. . Of the amount appropriated by title II for operation and maintenance, Defense-wide, $55,700,000 shall be available only for the Defense Leadership and Management Program.

SA 2267. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

Sec. 8135. Of the total amount appropriated by this division for operation and maintenance, Marine Corps, $2,800,000 may be used for completing the fielding of half-zip, pullover, fleece uniform shirts for all members of the Marine Corps, including the Marine Corps Reserve.

SA 2268. Mr. WARNER (for himself, Mr. STEVENS, Mr. ALLEN, Mr. CLELAND, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Authority for Burial of Certain Individuals at Arlington National Cemetery.—The Secretary of the Army shall authorize the burial in a separate gravesite at Arlington National Cemetery, Virginia, of any individual who—

(1) died as a direct result of the terrorist attacks on the United States on September 11, 2001; and

(2) would have been eligible for burial in Arlington National Cemetery by reason of service in a reserve component of the Armed Forces but for the fact that such individual was less than 60 years of age at the time of death.

(b) Eligibility of Surviving Spouse.—The surviving spouse of an individual buried in a gravesite in Arlington National Cemetery under the authority provided under subsection (a) shall be eligible for burial in the gravesite of the individual to the same extent as the surviving spouse of any other individual buried in Arlington National Cemetery is eligible for burial in the gravesite of such other individual.

SA 2269. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Funding for High Speed Assault Craft Advanced Composite Engineering and Manufacturing Demonstrator.—The amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Defense-Wide" is hereby increased by $2,000,000, with the amount of increase to be allocated to the High Speed Assault Craft Advanced Composite Engineering and Manufacturing Demonstrator.

(b) Supplement Not Supplant.—The amount made available by subsection (a) for the High Speed Assault Craft Advanced Composite Engineering and Manufacturing Demonstrator is in addition to any other amounts made available by this Act for the High Speed Assault Craft Advanced Composite Engineering and Manufacturing Demonstrator.

(c) Offset.—The total amount appropriated by this Act for activities with respect to B-52 aircraft is hereby reduced by $2,000,000.

SA 2270. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amounts appropriated by title VI of this division under the heading "Drug Interdiction and Counter-Drug Activities, Defense", $15,000,000 shall be available for the Gulf States Initiative.

SA 2271. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Funding for Partnership for Peace Information Management System.—The amount available for the Partnership for Peace (PFP) Information Management System under title IV of this division under the heading "Research, Development, Test and Evaluation, Defense-Wide" is hereby increased by $2,000,000 to $3,922,000.

(4) Offset.—The amount made available by this Act for C4I Interoperability is hereby reduced by $2,000,000.

SA 2272. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. (a) Funding for Army Nutrition Project.—The amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Defense-Wide" is hereby increased by $2,500,000, with the amount of the increase to be allocated to the Army Nutrition Project (PE0603002A).

(b) Supplement Not Supplant.—The amount made available under subsection (a) for the Army Nutrition Project is in addition to any other amounts available under this Act for the Army Nutrition Project.

(c) Offset.—(1) The amount made available by this Act for the Defense Research Sciences, Southeast Atlantic Coastal Ocean Observing System is hereby reduced by $2,000,000.

(2) The amount made available by this Act for RF Systems Advanced Technology, M3CAS is hereby reduced by $500,000.

SA 2273. Mr. HELMS (for himself and Mr. EDWARDS) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add the following new section:

Of the funds made available in title IV of this Act under the heading "Research Development, Test and Evaluation, Army", up to $4,000,000 may be made available for the Display Performance and Environmental Evaluation Laboratory Project of the Army Research Laboratory.

SA 2274. Mr. HELMS (for himself and Mr. EDWARDS) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add the following new section:

Of the funds made available in Title II of this Act under the heading "Operation and Maintenance, Army", $2,550,000 shall be available for the U.S. Army Materiel Command's Logistics and Technology Project (LOGTECH)

SA 2275. Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add the following new section:

Of the funds made available in Title II of this Act under the heading "Operation and Maintenance, Navy", up to $2,000,000 may be made available for the U.S. Navy to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

SA 2276. Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add the following new section:

Sec. . Of the funds made available in Title II of this Act under the heading "Operation and Maintenance, Air Force.", up to $2,000,000 may be made available for the U.S. Air Force to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

SA 2277. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

Sec. . Of the amount appropriated by title III of this division under the heading "AIRCRAFT PROCUREMENT, AIR FORCE", $6,000,000 may be available for 10 radars in the Air Force Radar Modernization Program for C–130H2 aircraft (PEO40115) for aircraft of the Nevada Air National Guard at Reno, Nevada.

SA 2278. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

Sec. . Of the amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Army", $3,000,000 may be made available for Medical Development (PE604771N) for the Clark County, Nevada, bioterrorism and public health laboratory.

SA 2279. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

Sec. . Of the amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Air Force ", $1,000,000 may be made available for Agile Combat Support (PE64617) for the Rural Low Bandwidth Medical Collaboration System.

SA 2280. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

Sec. 8135. Of the total amount appropriated by this division for operation and maintenance, Navy, $6,000,000 may be available for the critical infrastructure protection initiative.

SA 2281. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of this division, add the following:

Sec. 8135. (a) Funding for Domed Housing Units on Marshall Islands.—The amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Army" is hereby increased by $4,400,000, with the amount of the increase to be available to the Commanding General of the Army Space and Missile Defense Command for the acquisition, installation, and maintenance of not more than 50 domed housing units for military personnel on Kwajalein Atoll and other islands and locations in support of the mission of the command.

(b) Limitation.—Funds available under subsection (a) may not be used for a contract with a person or entity if the person or entity has not installed domed housing units on the Marshall Islands as of the date of the enactment of this Act.

(c) Offset.—The amount appropriated by title III of this division under the heading "Procurement, Marine Corps" is hereby reduced by $4,400,000, with the amount of the reduction to be allocated to amounts available for the family of internally transportable vehicles (ITV).

SA 2282. Mr. LOTT (for himself and Mr. Cochran) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. . Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $12,000,000 is available for the planning and design for evolutionary improvements for the next LHD-type Amphibious Assault Ship.

SA 2283. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike the following:

Sec. 8032 (f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $60,000,000.

SA 2284. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. . NO PROHIBITION ON BURIAL OF RESERVISTS AT ARLINGTON NATIONAL CEMETERY BASED SOLELY ON AGE AT DEATH.

(a) The Secretary of the Army may not prohibit the burial at Arlington National Cemetery, Virginia, of a deceased member of the Reserves who at death is qualified for burial in their own grave at Arlington National Cemetery in all respects but age at death based solely on the age of the member at death.

(b) Date of Enactment.—This section will take effect on September 11, 2001, and for all occurrences thereafter.

SA 2285. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Division A, insert the following.

SEC. . POSTHUMOUS RECALL TO ACTIVE DUTY.

(a) Posthumous Recall Procedure.—The Secretary of Defense may posthumously and involuntarily recall to active duty previously retired members of the Ready Reserve provided:

(1) There is reason to believe they were killed attempting to stop a terrorist attack on domestic soil or abroad, or

(2) They were killed while engaged in the defense of the United States.

(b) Date of Enactment.—This section will take effect on September 11, 2001, and for all occurrences thereafter.

SA 2286. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In chapter 3 of title I of division C, under the heading "National Nuclear Security Administration" under the paragraph "Defense Nuclear Proliferation", insert after "nuclear nonproliferation and verification research and development" the following: "(including research and development with respect to radiological dispersion devices, also known as 'dirty bombs')".

SA 2287. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In chapter 3 of title I of division C, under the heading "Nuclear Regulatory Commission" under the paragraph "Salaries and Expenses", insert after "nuclear power plants" the following: "and spent nuclear fuel storage facilities".

SA 2288. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In chapter 3 of title I of division C, insert after the matter relating to "defense nuclear nonproliferation" the following:

Office of Critical Infrastructure Protection

national infrastructure simulation and analysis center

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and to improve the security of the Nation's oil refineries against cyber and physical attack, $16,000,000, to remain available until September 30, 2003: *Provided*, That the amount appropriated by chapter 12 of division B under the heading "Environmental Protection Agency" under the paragraph "environmental programs and management" is hereby reduced by $14,000,000; *Provided further*, That the amount appropriated by chapter 7 of this title under the heading "Environmental Protection Agency" under the paragraph "environmental programs and management" is hereby reduced by $2,000,000.

SA 2289. Mr. BINGAMAN (for himself and Mr. Domenici) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in Division B, insert the following:

SEC. . TRANSIT ECONOMIC STIMULUS PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) HEAVY-DUTY TRANSIT BUS.—The term "heavy-duty transit bus" has the same meaning given that term in the American Public Transportation Association Standard Procurement Guideline Specifications dated March 25, 1999 and July 3, 2001.

(2) INTERCITY COACH.—The term "intercity coach" has the same meaning given that term in Solicitation FFAH-B1-002272-N, section 1-4B, Amendment number 2, dated June 6, 2000.

(b) PILOT PROGRAM.—

(1) IN GENERAL.—The Federal Transit Administration of the Department of Transportation shall carry out a pilot program to facilitate and accelerate the immediate procurement of heavy-duty transit buses and intercity coaches by State, local, and regional transportation authorities that are recipients of Federal Transit Administration assistance or grants through existing contracts with the General Services Administration.

(2) TERMINATION.—The pilot program carried out under paragraph (1) shall terminate on December 31, 2003.

(c) ESTABLISHMENT OF MULTIPLE AWARD SCHEDULE BY GSA.—Not later than December 31, 2003, the General Services Administration, with assistance from the Federal Transit Administration, shall establish and publish a multiple award schedule for heavy-duty transit buses and intercity coaches which shall permit Federal agencies and State, regional, or local transportation authorities that are recipients of Federal Transit Administration assistance or grants, or other ordering entities, to acquire heavy-duty transit buses and intercity coaches under those schedules.

(d) REPORT.—

(1) IN GENERAL.—The Administrator of the Federal Transit Administration shall submit a report quarterly, in writing, to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

(2) CONTENTS.—The report required to be submitted under paragraph (1) shall describe, with specificity—

(A) all measures being taken to accelerate the processes authorized under this section, including estimates on the effect of this section on job retention in the bus and intercity coach manufacturing industry;

(B) job creation in the bus and intercity coach manufacturing industry as a result of the economic stimulus program established under this section; and

(C) bus and intercity coach manufacturing economic growth in those States and localities that have participated in the pilot program carried out under subsection (b).

(e) COMPLIANCE WITH OTHER LAWS.—This section shall be carried out in accordance with all existing Federal transit laws and requirements.

(f) TERMINATION.—This section shall terminate on December 31, 2006.

SA 2290. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

DIVISION F—OTHER PROVISIONS

SEC. 101. (a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SA 2291. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR NATIONAL TISSUE ENGINEERING CENTER.—The amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" is hereby increased by $4,000,000, with the amount of the increase to be allocated to Medical Technology and available for the National Tissue Engineering Center.

(b) SUPPLEMENT NOT SUPPLANT.—The amount made available by subsection (a) for the National Tissue Engineering Center is in addition to any other amounts made available by this Act for the National Tissue Engineering Center.

(c) OFFSET.—The amount appropriated by title III of this division under the heading "PROCUREMENT OF AMMUNITION, ARMY" is hereby reduced by $4,000,000, with the amount of the reduction to be allocated to amounts available for the Armament Retooling Manufacturing Support (ARMS) initiative.

SA 2292. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, line 20, increase the amount by $5,000,000.

On page 213, line 10, reduce the amount by $5,000,000.

SA 2293. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 225, line 8, increase the amount by $1,000,000.

On page 213, line 10, reduce the amount by $1,000,000.

SA 2294. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 225, line 1, increase the amount by $3,000,000.

On page 213, line 10, reduce the amount by $3,000,000.

SA 2295. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 214, line 16, increase the amount by $5,000,000.

On page 213, line 10, reduce the amount by $5,000,000.

SA 2296. Mr. SPECTER (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 409, after line 21, add the following:

DIVISION F—MEDICARE RECLASSIFICATIONS

SEC. 6101. THREE-YEAR RECLASSIFICATION OF CERTAIN COUNTIES FOR PURPOSES OF REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective for discharges occurring during fiscal years 2002, 2003, and 2004, for purposes of making payments under subsections (d) and (j) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) to hospitals (including rehabilitation hospitals and rehabilitation units under such subsection (j))—

(1) in Columbia, Lackawanna, Luzerne, Wyoming, and Lycoming Counties, Pennsylvania, such counties are deemed to be located in the Newburgh, New York-PA Metropolitan Statistical Area;

(2) in Northumberland County, Pennsylvania, such county is deemed to be located in the Harrisburg-Lebanon-Carlisle, Pennsylvania Metropolitan Statistical Area; and

(3) in Mercer County, Pennsylvania, such county is deemed to be located in the Youngstown-Warren, Ohio Metropolitan Statistical Area.

(b) RULES.—The reclassifications made under subsection (a) shall be treated as decisions of the Medicare Geographic Classification Review Board under paragraph (10) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), except that, subject to paragraph (8)(D) of that section, payments shall be made under such section to any hospital reclassified into—

(1) the Newburgh, New York-PA Metropolitan Statistical Area as of October 1, 2001, as if the counties described in subsection (a)(1) had not been reclassified into such Area under such subsection;

(2) the Harrisburg-Lebanon-Carlisle, Pennsylvania Metropolitan Statistical Area as of October 1, 2001, as if the county described in subsection (a)(2) had not been reclassified into such Area under such subsection; and

(3) the Youngstown-Warren, Ohio Metropolitan Statistical Area as of October 1, 2001, as if the county described in subsection (a)(3) had not been reclassified into such Area under such subsection.

SA 2297. Mr. BAYH (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . (a) AUTHORIZATION.—The Secretary of Health and Human Services (referred to in this section as "secretary") is authorized to award grants to, or enter into cooperative agreements with, States to increase the level of bioterrorism preparedness.

(b) AMOUNT OF ALLOTMENTS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), of the amount made available for the purpose of carrying out this section the Secretary shall allot to each State that submits a State preparedness plan under subsection (c) an amount equal to the amount that bears the same ratio to such funds as the population in the State bears to the population of all States.

(2) EXCEPTION.—The Secretary may provide additional funds under paragraph (1) to a State that has extraordinary needs with respect to bioterrorism preparedness.

(3) MINIMUM ALLOTMENT.—No allotment to a State under this section, other than an allotment to the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, shall be less than $5,000,000.

(4) PRO RATA REDUCTIONS.—The Secretary shall make such pro rata reductions to the allotments determined under paragraphs (1) and (2), as are necessary to comply with the requirement of paragraph (3).

(5) SUPPLEMENT NOT SUPPLANT.—Amounts allotted to a State under this subsection shall be used to supplement and not supplant other Federal, State, or local funds provided to the State under any other provision of law that are used to support programs and activities similar to the activities described in subparagraph (a).

(c) STATE PREPAREDNESS PLAN.—

(1) IN GENERAL.—Each State desiring an allotment under this section shall submit a State preparedness plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) REQUIREMENTS.—Each State developing a plan for submission under paragraph (1) shall consult with any entities that may be affected by such plan.

(d) REGULATIONS.—The Secretary shall implement regulations to ensure funds are used consistent with the State plan submitted under subsection (c).

(e) DEFINITION OF STATE.—For the purposes of this section, the term "State" means the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(f) FUNDING.—Of the amount allocated under this Act to prepare for or respond to bioterrorism, $670,000,000 shall be used for the purpose of carrying out this section.

SA 2298. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title III of this division for other procurement, Navy, $14,000,000 shall be available for the NULKA decoy procurement.

SA 2299. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 226, line 20, strike the colon and all that follows through page 227, line 15, and insert a period.

SA 2300. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17, and 18, insert the following:

SEC. 8135. (a) Of the total amount appropriated by title III of this division for the Navy for procurement for shipbuilding and conversion, $50,000,000 shall be available for the DDG–51 destroyer program.

(b) Using funds available under subsection (a), the Secretary of the Navy may, in fiscal year 2002, enter into one or more contracts with the shipbuilder and other sources for advance procurement and advance construction of components for one additional DDG–51 Arleigh Burke class destroyer.

(c) It is the sense of Congress that the President should include in the budget for fiscal year 2003 submitted to Congress under section 1105 of title 31, United States Code, funding for the DDG–51 Arleigh Burke Destroyer program in amounts sufficient to support the commencement of construction of a third DDG–51 Arleigh Burke class destroyer at the lead shipyard for the program in fiscal year 2003.

SA 2301. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. (a) Of the total amount appropriated by title III of this division for procurement, Defense-Wide, $5,000,000 shall be available for low-rate initial production of the Striker advanced lightweight grenade launcher.

(b) Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Navy, $1,000,000 shall be available for the Warfighting Laboratory for delivery and evaluation of prototype units of the Striker advanced lightweight grenade launcher.

SA 2302. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Defense-Wide, $4,000,000 shall be available for the Intelligent Spatial Technologies for Smart Maps Initiative of the National Imagery and Mapping Agency.

SA 2303. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Defense-Wide, $5,000,000 shall be available for further development of light weight sensors of chemical and biological agents using fluorescence-based detection.

SA 2304. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Navy, $4,300,000 shall be available for the demonstration and validation of laser fabricated steel reinforcement for ship construction.

SA 2305. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes;

which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Army, $5,000,000 shall be available for further development, fabrication, and testing of composite materials and missile components for the next general of tactical missiles.

SA 2306. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" and available for the Medical Advanced Technology Account, $2,500,000 may be made available for the Army Nutrition Project (PE0603002A).

SA 2307. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the total amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", $2,000,000 may be made available for the Partnership for Peace (PFP) Information Management System. Any amount made available for the Partnership for Peace Information Management System under this section is in addition to other amounts available for the Partnership for Peace Information Management System under the Act.

SA 2308. Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. SPECTER)) proposed an amendment to the bill H.R. 2716, to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Homeless Veterans Comprehensive Assistance Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; references to title 38, United States Code.
Sec. 2. Definitions.
Sec. 3. National goal to end homelessness among veterans.
Sec. 4. Sense of the Congress regarding the needs of homeless veterans and the responsibility of Federal agencies.
Sec. 5. Consolidation and improvement of provisions of law relating to homeless veterans.
Sec. 6. Evaluation centers for homeless veterans programs.
Sec. 7. Study of outcome effectiveness of grant program for homeless veterans with special needs.
Sec. 8. Expansion of other programs.
Sec. 9. Coordination of employment services.
Sec. 10. Use of real property.
Sec. 11. Meetings of Interagency Council on Homeless.
Sec. 12. Rental assistance vouchers for HUD Veterans Affairs Supported Housing program.

(c) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "homeless veteran" has the meaning given such term in section 2002 of title 38, United States Code, as added by section 5(a)(1).

(2) The term "grant and per diem provider" means an entity in receipt of a grant under section 2011 or 2012 of title 38, United States Code, as so added.

SEC. 3. NATIONAL GOAL TO END HOMELESSNESS AMONG VETERANS.

(a) NATIONAL GOAL.—Congress hereby declares it to be a national goal to end chronic homelessness among veterans within a decade of the enactment of this Act.

(b) COOPERATIVE EFFORTS ENCOURAGED.—Congress hereby encourages all departments and agencies of Federal, State, and local governments, quasi-governmental organizations, private and public sector entities, including community-based organizations, faith-based organizations, and individuals to work cooperatively to end chronic homelessness among veterans within a decade.

SEC. 4. SENSE OF THE CONGRESS REGARDING THE NEEDS OF HOMELESS VETERANS AND THE RESPONSIBILITY OF FEDERAL AGENCIES.

It is the sense of the Congress that—

(1) homelessness is a significant problem in the veterans community and veterans are disproportionately represented among homeless men;

(2) while many effective programs assist homeless veterans to again become productive and self-sufficient members of society, current resources provided to such programs and other activities that assist homeless veterans are inadequate to provide all needed essential services, assistance, and support to homeless veterans;

(3) the most effective programs for the assistance of homeless veterans should be identified and expanded;

(4) federally funded programs for homeless veterans should be held accountable for achieving clearly defined results;

(5) Federal efforts to assist homeless veterans should include prevention of homelessness; and

(6) Federal agencies, particularly the Department of Veterans Affairs, the Department of Housing and Urban Development, and the Department of Labor, should cooperate more fully to address the problem of homelessness among veterans.

SEC. 5. CONSOLIDATION AND IMPROVEMENT OF PROVISIONS OF LAW RELATING TO HOMELESS VETERANS.

(a) IN GENERAL.—(1) Part II is amended by inserting after chapter 19 the following new chapter:

"CHAPTER 20—BENEFITS FOR HOMELESS VETERANS

"SUBCHAPTER I—PURPOSE; DEFINITIONS; ADMINISTRATIVE MATTERS

"Sec.
"2001. Purpose.
"2002. Definitions.
"2003. Staffing requirements.

"SUBCHAPTER II—COMPREHENSIVE SERVICE PROGRAMS

"2011. Grants.
"2012. Per diem payments.
"2013. Authorization of appropriations.

"SUBCHAPTER III—TRAINING AND OUTREACH

"2021. Homeless veterans reintegration programs.
"2022. Coordination of outreach services for veterans at risk of homelessness.
"2023. Demonstration program of referral and counseling for veterans transitioning from certain institutions who are at risk for homelessness.

"SUBCHAPTER IV—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

"2031. General treatment.
"2032. Therapeutic housing.
"2033. Additional services at certain locations.
"2034. Coordination with other agencies and organizations.

"SUBCHAPTER V—HOUSING ASSISTANCE

"2041. Housing assistance for homeless veterans.
"2042. Supported housing for veterans participating in compensated work therapies.
"2043. Domiciliary care programs.

"SUBCHAPTER VI—LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING

"2051. General authority.
"2052. Requirements.
"2053. Default.
"2054. Audit.

"SUBCHAPTER VII—OTHER PROVISIONS

"2061. Grant program for homeless veterans with special needs.
"2062. Dental care.
"2063. Employment assistance.
"2064. Technical assistance grants for nonprofit community-based groups.
"2065. Annual report on assistance to homeless veterans.
"2066. Advisory Committee on Homeless Veterans.

"SUBCHAPTER I—PURPOSE; DEFINITIONS; ADMINISTRATIVE MATTERS

"§ 2001. Purpose

"The purpose of this chapter is to provide for the special needs of homeless veterans.

"§ 2002. Definitions

"In this chapter:

"(1) The term 'homeless veteran' means a veteran who is homeless (as that term is defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)).

"(2) The term 'grant and per diem provider' means an entity in receipt of a grant under section 2011 or 2012 of this title.

"§ 2003. Staffing requirements

"(a) VBA STAFFING AT REGIONAL OFFICES.—The Secretary shall ensure that there is at least one full-time employee assigned to oversee and coordinate homeless veterans programs at each of the 20 Veterans Benefits Administration regional offices that the Secretary determines have the largest homeless veteran populations within the regions of the Administration. The programs covered by such oversight and coordination include the following:

“(1) Housing programs administered by the Secretary under this title or any other provision of law.

“(2) Compensation, pension, vocational rehabilitation, and education benefits programs administered by the Secretary under this title or any other provision of law.

“(3) The housing program for veterans supported by the Department of Housing and Urban Development.

“(4) The homeless veterans reintegration program of the Department of Labor under section 2021 of this title.

“(5) The programs under section 2033 of this title.

“(6) The assessments required by section 2034 of this title.

“(7) Such other programs relating to homeless veterans as may be specified by the Secretary.

“(b) VHA Case Managers.—The Secretary shall ensure that the number of case managers in the Veterans Health Administration is sufficient to assure that every veteran who is provided a housing voucher through section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is assigned to, and is seen as needed by, a case manager.

“SUBCHAPTER II—COMPREHENSIVE SERVICE PROGRAMS

“§ 2011. Grants

“(a) Authority To Make Grants.—(1) Subject to the availability of appropriations provided for such purpose, the Secretary shall make grants to assist eligible entities in establishing programs to furnish, and expanding or modifying existing programs for furnishing, the following to homeless veterans:

“(A) Outreach.

“(B) Rehabilitative services.

“(C) Vocational counseling and training

“(D) Transitional housing assistance.

“(2) The authority of the Secretary to make grants under this section expires on September 30, 2005.

“(b) Criteria for Grants.—The Secretary shall establish criteria and requirements for grants under this section, including criteria for entities eligible to receive grants, and shall publish such criteria and requirements in the Federal Register. The criteria established under this subsection shall include the following:

“(1) Specification as to the kinds of projects for which grants are available, which shall include—

“(A) expansion, remodeling, or alteration of existing buildings, or acquisition of facilities, for use as service centers, transitional housing, or other facilities to serve homeless veterans; and

“(B) procurement of vans for use in outreach to and transportation for homeless veterans for purposes of a program referred to in subsection (a).

“(2) Specification as to the number of projects for which grants are available.

“(3) Criteria for staffing for the provision of services under a project for which grants are made.

“(4) Provisions to ensure that grants under this section—

“(A) shall not result in duplication of ongoing services; and

“(B) to the maximum extent practicable, shall reflect appropriate geographic dispersion and an appropriate balance between urban and other locations.

“(5) Provisions to ensure that an entity receiving a grant shall meet fire and safety requirements established by the Secretary, which shall include—

“(A) such State and local requirements that may apply; and

“(B) fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

“(6) Specification as to the means by which an entity receiving a grant may contribute in-kind services to the start-up costs of a project for which a grant is sought and the methodology for assigning a cost to that contribution for purposes of subsection (c).

“(c) Funding Limitations.—A grant under this section may not be used to support operational costs. The amount of a grant under this section may not exceed 65 percent of the estimated cost of the project concerned.

“(d) Eligible Entities.—The Secretary may make a grant under this section to an entity applying for such a grant only if the applicant for the grant—

“(1) is a public or nonprofit private entity with the capacity (as determined by the Secretary) to effectively administer a grant under this section;

“(2) demonstrates that adequate financial support will be available to carry out the project for which the grant is sought consistent with the plans, specifications, and schedule submitted by the applicant; and

“(3) agrees to meet the applicable criteria and requirements established under subsections (b) and (g) and has, as determined by the Secretary, the capacity to meet such criteria and requirements.

“(e) Application Requirement.—An entity seeking a grant for a project under this section shall submit to the Secretary an application for the grant. The application shall set forth the following:

“(1) The amount of the grant sought for the project.

“(2) A description of the site for the project.

“(3) Plans, specifications, and the schedule for implementation of the project in accordance with criteria and requirements prescribed by the Secretary under subsection (b).

“(4) Reasonable assurance that upon completion of the work for which the grant is sought, the project will become operational and the facilities will be used principally to provide to veterans the services for which the project was designed, and that not more than 25 percent of the services provided under the project will be provided to individuals who are not veterans.

“(f) Program Requirements.—The Secretary may not make a grant for a project to an applicant under this section unless the applicant in the application for the grant agrees to each of the following requirements:

“(1) To provide the services for which the grant is made at locations accessible to homeless veterans.

“(2) To maintain referral networks for homeless veterans for establishing eligibility for assistance and obtaining services, under available entitlement and assistance programs, and to aid such veterans in establishing eligibility for and obtaining such services.

“(3) To ensure the confidentiality of records maintained on homeless veterans receiving services through the project.

“(4) To establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant and to such payments as may be made under section 2012 of this title.

“(5) To seek to employ homeless veterans and formerly homeless veterans in positions created for purposes of the grant for which those veterans are qualified.

“(g) Service Center Requirements.—In addition to criteria and requirements established under subsection (b), in the case of an application for a grant under this section for a service center for homeless veterans, the Secretary shall require each of the following:

“(1) That such center provide services to homeless veterans during such hours as the Secretary may specify and be open to such veterans on an as-needed, unscheduled basis.

“(2) That space at such center be made available, as mutually agreeable, for use by staff of the Department of Veterans Affairs, the Department of Labor, and other appropriate agencies and organizations in assisting homeless veterans served by such center.

“(3) That such center be equipped and staffed to provide or to assist in providing health care, mental health services, hygiene facilities, benefits and employment counseling, meals, transportation assistance, and such other services as the Secretary determines necessary.

“(4) That such center be equipped and staffed to provide, or to assist in providing, job training, counseling, and placement services (including job readiness and literacy and skills training), as well as any outreach and case management services that may be necessary to carry out this paragraph.

“(h) Recovery of Unused Grant Funds.—(1) If a grant recipient under this section does not establish a program in accordance with this section or ceases to furnish services under such a program for which the grant was made, the United States shall be entitled to recover from such recipient the total of all unused grant amounts made under this section to such recipient in connection with such program.

“(2) Any amount recovered by the United States under paragraph (1) may be obligated by the Secretary without fiscal year limitation to carry out provisions of this subchapter.

“(3) An amount may not be recovered under paragraph (1) as an unused grant amount before the end of the three-year period beginning on the date on which the grant is made.

“§ 2012. Per diem payments

“(a) Per Diem Payments for Furnishing Services to Homeless Veterans.—(1) Subject to the availability of appropriations provided for such purpose, the Secretary, pursuant to such criteria as the Secretary shall prescribe, shall provide to a recipient of a grant under section 2011 of this title (or an entity eligible to receive a grant under that section which after November 10, 1992, establishes a program that the Secretary determines carries out the purposes described in that section) per diem payments for services furnished to any homeless veteran—

“(A) whom the Secretary has referred to the grant recipient (or entity eligible for such a grant); or

“(B) for whom the Secretary has authorized the provision of services.

“(2)(A) The rate for such per diem payments shall be the daily cost of care estimated by the grant recipient or eligible entity adjusted by the Secretary under subparagraph (B). In no case may the rate determined under this paragraph exceed the rate authorized for State homes for domiciliary care under subsection (a)(1)(A) of section 1741 of this title, as the Secretary may increase from time to time under subsection (c) of that section.

"(B) The Secretary shall adjust the rate estimated by the grant recipient or eligible entity under subparagraph (A) to exclude other sources of income described in subparagraph (D) that the grant recipient or eligible entity certifies to be correct.

"(C) Each grant recipient or eligible entity shall provide to the Secretary such information with respect to other sources of income as the Secretary may require to make the adjustment under subparagraph (B).

"(D) The other sources of income referred to in subparagraphs (B) and (C) are payments to the grant recipient or eligible entity for furnishing services to homeless veterans under programs other than under this subchapter, including payments and grants from other departments and agencies of the United States, from departments or agencies of State or local government, and from private entities or organizations.

"(3) In a case in which the Secretary has authorized the provision of services, per diem payments under paragraph (1) may be paid retroactively for services provided not more than three days before the authorization was provided.

"(b) Inspections.—The Secretary may inspect any facility of a grant recipient or entity eligible for payments under subsection (a) at such times as the Secretary considers necessary. No per diem payment may be provided to a grant recipient or eligible entity under this section unless the facilities of the grant recipient or eligible entity meet such standards as the Secretary shall prescribe.

"(c) Life Safety Code.—(1) Except as provided in paragraph (2), a per diem payment may not be provided under this section to a grant recipient or eligible entity unless the facilities of the grant recipient or eligible entity, as the case may be, meet applicable fire and safety requirements under the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

"(2) During the five-year period beginning on the date of the enactment of this section, paragraph (1) shall not apply to an entity that received a grant under section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102-590; 38 U.S.C. 7721 note) before that date if the entity meets fire and safety requirements established by the Secretary.

"(3) From amounts available for purposes of this section, not less than $5,000,000 shall be used only for grants to assist entities covered by paragraph (2) in meeting the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

"§2013. Authorization of appropriations

"There are authorized to be appropriated to carry out this subchapter amounts as follows:

"(1) $60,000,000 for fiscal year 2002.

"(2) $75,000,000 for fiscal year 2003.

"(3) $75,000,000 for fiscal year 2004.

"(4) $75,000,000 for fiscal year 2005.

"SUBCHAPTER III—TRAINING AND OUTREACH

"§2021. Homeless veterans reintegration programs

"(a) In General.—Subject to the availability of appropriations provided for such purpose, the Secretary of Labor shall conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to provide job training, counseling, and placement services (including job readiness and literacy and skills training) to expedite the reintegration of homeless veterans into the labor force.

"(b) Requirement To Monitor Expenditures of Funds.—(1) The Secretary of Labor shall collect such information as that Secretary considers appropriate to monitor and evaluate the distribution and expenditure of funds appropriated to carry out this section. The information shall include data with respect to the results or outcomes of the services provided to each homeless veteran under this section.

"(2) Information under paragraph (1) shall be furnished in such form and manner as the Secretary of Labor may specify.

"(c) Administration Through the Assistant Secretary of Labor for Veterans' Employment and Training.—The Secretary of Labor shall carry out this section through the Assistant Secretary of Labor for Veterans' Employment and Training.

"(d) Biennial Report to Congress.—Not less than every two years, the Secretary of Labor shall submit to Congress a report on the programs conducted under this section. The Secretary of Labor shall include in the report an evaluation of services furnished to veterans under this section and an analysis of the information collected under subsection (b).

"(e) Authorization of Appropriations.—(1) There are authorized to be appropriated to carry out this section amounts as follows:

"(A) $50,000,000 for fiscal year 2002.

"(B) $50,000,000 for fiscal year 2003.

"(C) $50,000,000 for fiscal year 2004.

"(D) $50,000,000 for fiscal year 2005.

"(E) $50,000,000 for fiscal year 2006.

"(2) Funds appropriated to carry out this section shall remain available until expended. Funds obligated in any fiscal year to carry out this section may be expended in that fiscal year and the succeeding fiscal year.

"§2022. Coordination of outreach services for veterans at risk of homelessness

"(a) Outreach Plan.—The Secretary, acting through the Under Secretary for Health, shall provide for appropriate officials of the Mental Health Service and the Readjustment Counseling Service of the Veterans Health Administration to develop a coordinated plan for joint outreach by the two Services to veterans at risk of homelessness, including particularly veterans who are being discharged or released from institutions after inpatient psychiatric care, substance abuse treatment, or imprisonment.

"(b) Matters To Be Included.—The outreach plan under subsection (a) shall include the following:

"(1) Strategies to identify and collaborate with non-Department entities used by veterans who have not traditionally used Department services to further outreach efforts.

"(2) Strategies to ensure that mentoring programs, recovery support groups, and other appropriate support networks are optimally available to veterans.

"(3) Appropriate programs or referrals to family support programs.

"(4) Means to increase access to case management services.

"(5) Plans for making additional employment services accessible to veterans.

"(6) Appropriate referral sources for mental health and substance abuse services.

"(c) Cooperative Relationships.—The outreach plan under subsection (a) shall identify strategies for the Department to enter into formal cooperative relationships with entities outside the Department to facilitate making services and resources optimally available to veterans.

"(d) Review of Plan.—The Secretary shall submit the outreach plan under subsection (a) to the Advisory Committee on Homeless Veterans for its review and consultation.

"(e) Outreach Program.—(1) The Secretary shall carry out an outreach program to provide information to homeless veterans and veterans at risk of homelessness. The program shall include at a minimum—

"(A) provision of information about benefits available to eligible veterans from the Department; and

"(B) contact information for local Department facilities, including medical facilities, regional offices, and veterans centers.

"(2) In developing and carrying out the program under paragraph (1), the Secretary shall, to the extent practicable, consult with appropriate public and private organizations, including the Bureau of Prisons, State social service agencies, the Department of Defense, and mental health, veterans, and homeless advocates—

"(A) for assistance in identifying and contacting veterans who are homeless or at risk of homelessness;

"(B) to coordinate appropriate outreach activities with those organizations; and

"(C) to coordinate services provided to veterans with services provided by those organizations.

"(f) Reports.—(1) Not later than October 1, 2002, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an initial report that contains an evaluation of outreach activities carried out by the Secretary with respect to homeless veterans, including outreach regarding clinical issues and other benefits administered under this title. The Secretary shall conduct the evaluation in consultation with the Under Secretary for Benefits, the Department of Veterans Affairs central office official responsible for the administration of the Readjustment Counseling Service, the Director of Homeless Veterans Programs, and the Department of Veterans Affairs central office official responsible for the administration of the Mental Health Strategic Health Care Group.

"(2) Not later than December 31, 2005, the Secretary shall submit to the committees referred to in paragraph (1) an interim report on outreach activities carried out by the Secretary with respect to homeless veterans. The report shall include the following:

"(A) The Secretary's outreach plan under subsection (a), including goals and time lines for implementation of the plan for particular facilities and service networks.

"(B) A description of the implementation and operation of the outreach program under subsection (e).

"(C) A description of the implementation and operation of the demonstration program under section 2023 of this title.

"(3) Not later than July 1, 2007, the Secretary shall submit to the committees referred to in paragraph (1) a final report on outreach activities carried out by the Secretary with respect to homeless veterans. The report shall include the following:

"(A) An evaluation of the effectiveness of the outreach plan under subsection (a).

"(B) An evaluation of the effectiveness of the outreach program under subsection (e).

"(C) An evaluation of the effectiveness of the demonstration program under section 2023 of this title.

“(D) Recommendations, if any, regarding an extension or modification of such outreach plan, such outreach program, and such demonstration program.

“§ 2023. Demonstration program of referral and counseling for veterans transitioning from certain institutions who are at risk for homelessness

“(a) Program Authority.—The Secretary and the Secretary of Labor (hereinafter in this section referred to as the ‘Secretaries’) shall carry out a demonstration program for the purpose of determining the costs and benefits of providing referral and counseling services to eligible veterans with respect to benefits and services available to such veterans under this title and under State law.

“(b) Location of Demonstration Program.—The demonstration program shall be carried out in at least six locations. One location shall be a penal institution under the jurisdiction of the Bureau of Prisons.

“(c) Scope of Program.—(1) To the extent practicable, the demonstration program shall provide both referral and counseling services, and in the case of counseling services, shall include counseling with respect to job training and placement (including job readiness), housing, health care, and other benefits to assist the eligible veteran in the transition from institutional living.

“(2)(A) To the extent that referral or counseling services are provided at a location under the program, referral services shall be provided in person during such period of time that the Secretaries may specify that precedes the date of release or discharge of the eligible veteran, and counseling services shall be furnished after such date.

“(B) The Secretaries may, as part of the program, furnish to officials of penal institutions outreach information with respect to referral and counseling services for presentation to veterans in the custody of such officials during the 18-month period that precedes such date of release or discharge.

“(3) The Secretaries may enter into contracts to carry out the referral and counseling services required under the program with entities or organizations that meet such requirements as the Secretaries may establish.

“(4) In developing the program, the Secretaries shall consult with officials of the Bureau of Prisons, officials of penal institutions of States and political subdivisions of States, and such other officials as the Secretaries determine appropriate.

“(d) Duration.—The authority of the Secretaries to provide referral and counseling services under the demonstration program shall cease on the date that is four years after the date of the commencement of the program.

“(e) Definition.—In this section, the term ‘eligible veteran’ means a veteran who—

“(1) is a resident of a penal institution or an institution that provides long-term care for mental illness; and

“(2) is at risk for homelessness absent referral and counseling services provided under the demonstration program (as determined under guidelines established by the Secretaries).

“SUBCHAPTER V—HOUSING ASSISTANCE

“§ 2042. Supported housing for veterans participating in compensated work therapies

“The Secretary may authorize homeless veterans in the compensated work therapy program to be provided housing through the therapeutic residence program under section 2032 of this title or through grant and per diem providers under subchapter II of this chapter.

“§ 2043. Domiciliary care programs

“(a) Authority.—The Secretary may establish up to 10 programs under section 1710(b) of this title (in addition to any program that is established as of the date of the enactment of this section) to provide domiciliary services under such section to homeless veterans.

“(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2003 and 2004 to establish the programs referred to in subsection (a).

“SUBCHAPTER VII—OTHER PROVISIONS

“§ 2061. Grant program for homeless veterans with special needs

“(a) Establishment.—The Secretary shall carry out a program to make grants to health care facilities of the Department and to grant and per diem providers in order to encourage development by those facilities and providers of programs for homeless veterans with special needs.

“(b) Homeless Veterans With Special Needs.—For purposes of this section, homeless veterans with special needs include homeless veterans who are—

“(1) women, including women who have care of minor dependents;

“(2) frail elderly;

“(3) terminally ill; or

“(4) chronically mentally ill.

“(c) Funding.—(1) From amounts appropriated to the Department for ‘Medical Care’ for each of fiscal years 2003, 2004, and 2005, $5,000,000 shall be available for each such fiscal year for the purposes of the program under this section.

“(2) The Secretary shall ensure that funds for grants under this section are designated for the first three years of operation of the program under this section as a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.

“§ 2062. Dental care

“(a) In General.—For purposes of section 1712(a)(1)(H) of this title, outpatient dental services and treatment of a dental condition or disability of a veteran described in subsection (b) shall be considered to be medically necessary, subject to subsection (c), if—

“(1) the dental services and treatment are necessary for the veteran to successfully gain or regain employment;

“(2) the dental services and treatment are necessary to alleviate pain; or

“(3) the dental services and treatment are necessary for treatment of moderate, severe, or severe and complicated gingival and periodontal pathology.

“(b) Eligible Veterans.—Subsection (a) applies to a veteran—

“(1) who is enrolled for care under section 1705(a) of this title; and

“(2) who, for a period of 60 consecutive days, is receiving care (directly or by contract) in any of the following settings:

“(A) A domiciliary under section 1710 of this title.

“(B) A therapeutic residence under section 2032 of this title.

“(C) Community residential care coordinated by the Secretary under section 1730 of this title.

“(D) A setting for which the Secretary provides funds for a grant and per diem provider.

“(3) For purposes of paragraph (2), in determining whether a veteran has received treatment for a period of 60 consecutive days, the Secretary may disregard breaks in the continuity of treatment for which the veteran is not responsible.

“(c) Limitation.—Dental benefits provided by reason of this section shall be a one-time course of dental care provided in the same manner as the dental benefits provided to a newly discharged veteran.

“§ 2063. Employment assistance

“The Secretary may authorize homeless veterans receiving care through vocational rehabilitation programs to participate in the compensated work therapy program under section 1718 of this title.

“§ 2064. Technical assistance grants for nonprofit community-based groups

“(a) Grant Program.—The Secretary shall carry out a program to make grants to entities or organizations with expertise in preparing grant applications. Under the program, the entities or organizations receiving grants shall provide technical assistance to nonprofit community-based groups with experience in providing assistance to homeless veterans in order to assist such groups in applying for grants under this chapter and other grants relating to addressing problems of homeless veterans.

“(b) Funding.—There is authorized to be appropriated $750,000 for each of fiscal years 2002 through 2005 to carry out the program under this section.

“§ 2065. Annual report on assistance to homeless veterans

“(a) Annual Report.—Not later than April 15 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Department during the calendar year preceding the report under programs of the Department under this chapter and other programs of the Department for the provision of assistance to homeless veterans.

“(b) General Contents of Report.—Each report under subsection (a) shall include the following:

“(1) The number of homeless veterans provided assistance under the programs referred to in subsection (a).

“(2) The cost to the Department of providing such assistance under those programs.

“(3) The Secretary's evaluation of the effectiveness of the programs of the Department in providing assistance to homeless veterans, including—

“(A) residential work-therapy programs;

“(B) programs combining outreach, community-based residential treatment, and case-management; and

“(C) contract care programs for alcohol and drug-dependence or use disabilities).

“(4) The Secretary's evaluation of the effectiveness of programs established by recipients of grants under section 2011 of this title and a description of the experience of those recipients in applying for and receiving grants from the Secretary of Housing and Urban Development to serve primarily homeless persons who are veterans.

“(5) Any other information on those programs and on the provision of such assistance that the Secretary considers appropriate.

“(c) Health Care Contents of Report.—Each report under subsection (a) shall include, with respect to programs of the Department addressing health care needs of homeless veterans, the following:

“(1) Information about expenditures, costs, and workload under the program of the Department known as the Health Care for Homeless Veterans program (HCHV).

“(2) Information about the veterans contacted through that program.

"(3) Information about program treatment outcomes under that program.

"(4) Information about supported housing programs.

"(5) Information about the Department's grant and per diem provider program under subchapter II of this chapter.

"(6) The findings and conclusions of the assessments of the medical needs of homeless veterans conducted under section 2034(b) of this title.

"(7) Other information the Secretary considers relevant in assessing those programs.

"(d) BENEFITS CONTENT OF REPORT.—Each report under subsection (a) shall include, with respect to programs and activities of the Veterans Benefits Administration in processing of claims for benefits of homeless veterans during the preceding year, the following:

"(1) Information on costs, expenditures, and workload of Veterans Benefits Administration claims evaluators in processing claims for benefits of homeless veterans.

"(2) Information on the filing of claims for benefits by homeless veterans.

"(3) Information on efforts undertaken to expedite the processing of claims for benefits of homeless veterans.

"(4) Other information that the Secretary considers relevant in assessing the programs and activities.

"§2066. Advisory Committee on Homeless Veterans

"(a) ESTABLISHMENT.—(1) There is established in the Department the Advisory Committee on Homeless Veterans (hereinafter in this section referred to as the 'Committee').

"(2) The Committee shall consist of not more than 15 members appointed by the Secretary from among the following:

"(A) Veterans service organizations.

"(B) Advocates of homeless veterans and other homeless individuals.

"(C) Community-based providers of services to homeless individuals.

"(D) Previously homeless veterans.

"(E) State veterans affairs officials.

"(F) Experts in the treatment of individuals with mental illness.

"(G) Experts in the treatment of substance use disorders.

"(H) Experts in the development of permanent housing alternatives for lower income populations.

"(I) Experts in vocational rehabilitation.

"(J) Such other organizations or groups as the Secretary considers appropriate.

"(3) The Committee shall include, as ex officio members, the following:

"(A) The Secretary of Labor (or a representative of the Secretary selected after consultation with the Assistant Secretary of Labor for Veterans' Employment).

"(B) The Secretary of Defense (or a representative of the Secretary).

"(C) The Secretary of Health and Human Services (or a representative of the Secretary).

"(D) The Secretary of Housing and Urban Development (or a representative of the Secretary).

"(4)(A) The Secretary shall determine the terms of service and allowances of the members of the Committee, except that a term of service may not exceed three years. The Secretary may reappoint any member for additional terms of service.

"(B) Members of the Committee shall serve without pay. Members may receive travel expenses, including per diem in lieu of subsistence for travel in connection with their duties as members of the Committee.

"(b) DUTIES.—(1) The Secretary shall consult with and seek the advice of the Committee on a regular basis with respect to the provision by the Department of benefits and services to homeless veterans.

"(2) In providing advice to the Secretary under this subsection, the Committee shall—

"(A) assemble and review information relating to the needs of homeless veterans;

"(B) provide an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting homeless veterans; and

"(C) provide on-going advice on the most appropriate means of providing assistance to homeless veterans.

"(3) The Committee shall—

"(A) review the continuum of services provided by the Department directly or by contract in order to define cross-cutting issues and to improve coordination of all services with the Department that are involved in addressing the special needs of homeless veterans;

"(B) identify (through the annual assessments under section 2034 of this title and other available resources) gaps in programs of the Department in serving homeless veterans, including identification of geographic areas with unmet needs, and provide recommendations to address those gaps;

"(C) identify gaps in existing information systems on homeless veterans, both within and outside the Department, and provide recommendations about redressing problems in data collection;

"(D) identify barriers under existing laws and policies to effective coordination by the Department with other Federal agencies and with State and local agencies addressing homeless populations;

"(E) identify opportunities for increased liaison by the Department with nongovernmental organizations and individual groups providing services to homeless populations;

"(F) with appropriate officials of the Department designated by the Secretary, participate with the Interagency Council on the Homeless under title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.);

"(G) recommend appropriate funding levels for specialized programs for homeless veterans provided or funded by the Department;

"(H) recommend appropriate placement options for veterans who, because of advanced age, frailty, or severe mental illness, may not be appropriate candidates for vocational rehabilitation or independent living; and

"(I) perform such other functions as the Secretary may direct.

"(c) REPORTS.—(1) Not later than March 31 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to homeless veterans. Each such report shall include—

"(A) an assessment of the needs of homeless veterans;

"(B) a review of the programs and activities of the Department designed to meet such needs;

"(C) a review of the activities of the Committee; and

"(D) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) Not later than 90 days after the receipt of a report under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to that section.

"(d) TERMINATION.—The Committee shall cease to exist December 31, 2006.".

(2) The tables of chapters before part I and at the beginning of part II are each amended by inserting after the item relating to chapter 19 the following new item:

"20. Benefits for Homeless Veterans .. 2001".

(b) HEALTH CARE.—(1) Subchapter VII of chapter 17 is transferred to chapter 20 (as added by subsection (a)), inserted after section 2023 (as so added), and redesignated as subchapter IV, and sections 1771, 1772, 1773, and 1774 therein are redesignated as sections 2031, 2032, 2033, and 2034, respectively.

(2) Subsection (a)(3) of section 2031, as so transferred and redesignated, is amended by striking "section 1772 of this title" and inserting "section 2032 of this title".

(c) HOUSING ASSISTANCE.—Section 3735 is transferred to chapter 20 (as added by subsection (a)), inserted after the heading for subchapter V, and redesignated as section 2041.

(d) MULTIFAMILY TRANSITIONAL HOUSING.—(1) Subchapter VI of chapter 37 (other than section 3771) is transferred to chapter 20 (as added by subsection (a)) and inserted after section 2043 (as so added), and sections 3772, 3773, 3774, and 3775 therein are redesignated as sections 2051, 2052, 2053, and 2054, respectively.

(2) Such subchapter is amended—

(A) in the heading, by striking "FOR HOMELESS VETERANS";

(B) in subsection (d)(1) of section 2051, as so transferred and redesignated, by striking "section 3773 of this title" and inserting "section 2052 of this title"; and

(C) in subsection (a) of section 2052, as so transferred and redesignated, by striking "section 3772 of this title" and inserting "section 2051 of this title".

(3) Section 3771 is repealed.

(e) REPEAL OF CODIFIED PROVISIONS.—The following provisions of law are repealed:

(1) Sections 3, 4, and 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102–590; 38 U.S.C. 7721 note).

(2) Section 1001 of the Veterans' Benefits Improvements Act of 1994 (Public Law 103–446; 38 U.S.C. 7721 note).

(3) Section 4111.

(4) Section 738 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11448).

(f) EXTENSION OF EXPIRING AUTHORITIES.—Subsection (b) of section 2031, as redesignated by subsection (b)(1), and subsection (d) of section 2033, as so redesignated, are amended by striking "December 31, 2001" and inserting "December 31, 2006".

(g) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 17 is amended by striking the item relating to subchapter VII and the items relating to sections 1771, 1772, 1773, and 1774.

(2) The table of sections at the beginning of chapter 37 is amended—

(A) by striking the item relating to section 3735; and

(B) by striking the item relating to subchapter VI and the items relating to sections 3771, 3772, 3773, 3774, and 3775.

(3) The table of sections at the beginning of chapter 41 is amended by striking the item relating to section 4111.

SEC. 6. EVALUATION CENTERS FOR HOMELESS VETERANS PROGRAMS.

(a) EVALUATION CENTERS.—The Secretary of Veterans Affairs shall support the continuation within the Department of Veterans Affairs of at least one center for evaluation to monitor the structure, process, and outcome of programs of the Department of Veterans Affairs that address homeless veterans.

(b) ANNUAL PROGRAM ASSESSMENT.—Section 2034(b), as transferred and redesignated by section 5(b)(1), is amended—

(1) by inserting "annual" in paragraph (1) after "to make an"; and

(2) by adding at the end the following new paragraph:

"(6) The Secretary shall review each annual assessment under this subsection and shall consolidate the findings and conclusions of each such assessment into the next annual report submitted to Congress under section 2065 of this title.".

SEC. 7. STUDY OF OUTCOME EFFECTIVENESS OF GRANT PROGRAM FOR HOMELESS VETERANS WITH SPECIAL NEEDS.

(a) STUDY.—The Secretary of Veterans Affairs shall conduct a study of the effectiveness during fiscal year 2002 through fiscal year 2004 of the grant program under section 2061 of title 38, United States Code, as added by section 5(a), in meeting the needs of homeless veterans with special needs (as specified in that section). As part of the study, the Secretary shall compare the results of programs carried out under that section, in terms of veterans' satisfaction, health status, reduction in addiction severity, housing, and encouragement of productive activity, with results for similar veterans in programs of the Department or of grant and per diem providers that are designed to meet the general needs of homeless veterans.

(b) REPORT.—Not later than March 31, 2005, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the results of the study under subsection (a).

SEC. 8. EXPANSION OF OTHER PROGRAMS.

(a) ACCESS TO MENTAL HEALTH SERVICES.—Section 1706 is amended by adding at the end the following new subsection:

"(c) The Secretary shall ensure that each primary care health care facility of the Department develops and carries out a plan to provide mental health services, either through referral or direct provision of services, to veterans who require such services.".

(b) COMPREHENSIVE HOMELESS SERVICES PROGRAM.—Subsection (b) of section 2033, as transferred and redesignated by section 5(b)(1), is amended—

(1) by striking "not fewer" in the first sentence and all that follows through "services) at"; and

(2) by adding at the end the following new sentence: "The Secretary shall carry out the program under this section in sites in at least each of the 20 largest metropolitan statistical areas.".

(c) ACCESS TO SUBSTANCE USE DISORDER SERVICES.—Section 1720A is amended by adding at the end the following new subsection:

"(d)(1) The Secretary shall ensure that each medical center of the Department develops and carries out a plan to provide treatment for substance use disorders, either through referral or direct provision of services, to veterans who require such treatment.

"(2) Each plan under paragraph (1) shall make available clinically proven substance abuse treatment methods, including opioid substitution therapy, to veterans with respect to whom a qualified medical professional has determined such treatment methods to be appropriate.".

SEC. 9. COORDINATION OF EMPLOYMENT SERVICES.

(a) DISABLED VETERANS' OUTREACH PROGRAM.—Section 4103A(c) is amended by adding at the end the following new paragraph:

"(11) Coordination of employment services with training assistance provided to veterans by entities receiving funds under section 2021 of this title.".

(b) LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.—Section 4104(b) is amended—

(1) by striking "and" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(13) coordinate employment services with training assistance provided to veterans by entities receiving funds under section 2021 of this title.".

SEC. 10. USE OF REAL PROPERTY.

(a) LIMITATION ON DECLARING PROPERTY EXCESS TO THE NEEDS OF THE DEPARTMENT.—Section 8122(d) is amended by inserting before the period at the end the following: "and is not suitable for use for the provision of services to homeless veterans by the Department or by another entity under an enhanced-use lease of such property under section 8162 of this title".

(b) WAIVER OF COMPETITIVE SELECTION PROCESS FOR ENHANCED-USE LEASES FOR PROPERTIES USED TO SERVE HOMELESS VETERANS.—Section 8162(b)(1) is amended—

(1) by inserting "(A)" after "(b)(1)"; and

(2) by adding at the end the following:

"(B) In the case of a property that the Secretary determines is appropriate for use as a facility to furnish services to homeless veterans under chapter 20 of this title, the Secretary may enter into an enhanced-use lease with a provider of homeless services without regard to the selection procedures required under subparagraph (A).".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to leases entered into on or after the date of the enactment of this Act.

SEC. 11. MEETINGS OF INTERAGENCY COUNCIL ON HOMELESS.

Section 202(c) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11312(c)) is amended to read as follows:

"(c) MEETINGS.—The Council shall meet at the call of its Chairperson or a majority of its members, but not less often than annually.".

SEC. 12. RENTAL ASSISTANCE VOUCHERS FOR HUD VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM.

Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

"(19) RENTAL VOUCHERS FOR VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM.—

"(A) SET ASIDE.—Subject to subparagraph (C), the Secretary shall set aside, from amounts made available for rental assistance under this subsection, the amounts specified in subparagraph (B) for use only for providing such assistance through a supported housing program administered in conjunction with the Department of Veterans Affairs. Such program shall provide rental assistance on behalf of homeless veterans who have chronic mental illnesses or chronic substance use disorders, shall require agreement of the veteran to continued treatment for such mental illness or substance use disorder as a condition of receipt of such rental assistance, and shall ensure such treatment and appropriate case management for each veteran receiving such rental assistance.

"(B) AMOUNT.—The amount specified in this subparagraph is—

"(i) for fiscal year 2003, the amount necessary to provide 500 vouchers for rental assistance under this subsection;

"(ii) for fiscal year 2004, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;

"(iii) for fiscal year 2005, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection; and

"(iv) for fiscal year 2006, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection.

"(C) FUNDING THROUGH INCREMENTAL ASSISTANCE.—In any fiscal year, to the extent that this paragraph requires the Secretary to set aside rental assistance amounts for use under this paragraph in an amount that exceeds the amount set aside in the preceding fiscal year, such requirement shall be effective only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year for incremental rental assistance under this subsection.".

SA 2309. Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT ARMY", $4,892,000 shall be used for the Communicator Automated Emergency Notification System of the Army National Guard.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on December 6, 2001, at 10 a.m., to conduct a hearing on the nomination of Mr. J. Joseph Grandmaison, of New Hampshire, to be a member of the Board of Directors of the Export-Import Bank of the United States; and Mr. Kenneth M. Donohue, of Virginia, to be inspector general of the Department of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, December 6, 2001, at 9:30 a.m. on corporate average fuel economy reform (CAFE).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, December 6, 2001, at 2:30 p.m. on the nominations of Jeffrey Shane (DOT) and Emil Frankel to be Assistant Secretary of Transportation Policy (DOT).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, December 6 at 9:30 a.m. To conduct a hearing. The committee will receive testimony on the negotiations for renewing the Compact of Free Association.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, December 6, 2001 at 10:30 a.m. to hold a hearing titled, 'The Future of Afghanistan'.

Agenda

WITNESSES

Panel 1: The Honorable Christina Rocca, Assistant Secretary for South Asia Affairs, U.S. Department of State, Washington, DC; and the Honorable Richard Haass, Director of Policy Planning, U.S. Department of State, Washington, DC.

Panel 2: Mr. Thomas E. Gouttierre, Dean of International Studies and Director of the Center for Afghanistan Studies, University of Nebraska, Omaha, Nebraska; and Ms. Fatima Gailani, Advisor, National Islamic Front of Afghanistan, Providence, RI.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, December 6, 2001 at 9 a.m. to hold a hearing entitled "Weak Links: Assessing the Vulnerability of U.S. Ports and Whether the Government is Adequately Structured to Safeguard Them."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Department of Justice Oversight: Preserving Our Freedoms while Defending Against Terrorism" on Thursday, December 6, 2001 at 10 a.m. in Dirksen Room 106. Witness: The Honorable John Ashcroft, United States Attorney General, Department of Justice, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Madam President, I ask unanimous consent that Duane Seward of Senator KENNEDY's office, Douglas Jackson of my staff, and John Kem, an intern on the Appropriations Committee staff, be granted floor privileges during consideration of the Defense appropriations bill for the fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, I ask unanimous consent that John Kem, Kraig Siracuse, Sid Ashworth, Alycia Farrell, and Andrew Givens of the Appropriations Committee staff, and Mark Robbins of my staff, be granted floor privileges during consideration of H.R. 3338.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, I ask unanimous consent that Senator MCCAIN's legislative fellow, Navy LCDR Dell Bull, be granted floor privileges during consideration of the National Defense Appropriations Act for Fiscal Year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that Peter Winokur, a congressional fellow in my office, be allowed floor privileges during consideration of the National Defense Appropriations Act for Fiscal Year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Madam President, I ask unanimous consent that David Dorsey and David Bowen of Senator KENNEDY's office and Susan Seaman of Senator MIKULSKI's office be granted floor privileges during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 570 and 571; that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

FEDERAL RESERVE SYSTEM

Mark W. Olson, of Minnesota, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1996.

Susan Schmidt Bies, of Tennessee, to be a Member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 1998.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

AMENDING THE CHARTER OF SOUTHEASTERN UNIVERSITY OF THE DISTRICT OF COLUMBIA

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 245, H.R. 2061.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2061) to amend the charter of Southeastern University of the District of Columbia.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2061) was read the third time and passed.

HONORING DR. JAMES HARVEY EARLY

Mr. REID. Madam President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 1714, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1714) to provide for the installation of a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1714) was read the third time and passed, as follows:

S. 1714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INSTALLATION OF PLAQUE TO HONOR DR. JAMES HARVEY EARLY.

(a) IN GENERAL.—The United States Postmaster General shall install a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building located at 1000 North Highway 23 West, Williamsburg, Kentucky 40769.

(b) CONTENTS OF PLAQUE.—The plaque installed under subsection (a) shall contain the following text:

"Dr. James Harvey Early was born on June 14, 1808 in Knox County, Kentucky. He was appointed postmaster of the first United States Post Office that was opened in the town of Whitley Courthouse, now Williamsburg, Kentucky in 1829. In 1844 he served in the Kentucky Legislature. Dr. Early married twice, first to Frances Ann Hammond, died 1860; and then to Rebecca Cummins Sammons, died 1914. Dr. Early died at home in Rockhold, Kentucky on May 24, 1885 at the age of 77.".

HERB HARRIS POST OFFICE BUILDING

Mr. REID. Madam President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 1761, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1761) to designate the facility of the United States Postal Service located at 8588 Richmond Highway in Alexandria, Virginia, as the "Herb Harris Post Office Building."

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read three times, passed, the motion to consider be laid upon the table, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1761) was read the third time and passed.

HOMELESS VETERANS COMPREHENSIVE ASSISTANCE ACT OF 2001

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 201, H.R. 2716.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2716) to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROCKEFELLER. Madam President, as chairman of the Committee on Veterans' Affairs, I urge prompt Senate passage of H.R. 2716, the "Comprehensive Homeless Veterans Assistance Act of 2001," a bill that enhances VA's efforts to combat homelessness among our Nation's veterans. This bill represents a compromise between S. 739, as passed by the Senate on November 15, 2001; and H.R. 2716, which passed the House on October 16, 2001.

This bill sets a rather lofty—but, in my view, attainable—goal of ending chronic homelessness among veterans within a decade. Unless we aim high, we will never end the problem. The bill also encourages interagency cooperation to facilitate meeting that goal. With the Departments of Veterans Affairs, Housing and Urban Development, and Health and Human Services administering most programs targeting homelessness, it seeks to revive the Interagency Council on the Homeless, of which all three agencies are members.

I will highlight some of the other key provisions in this important piece of legislation.

Proposed new section 2062 of title 38, United States Code, is intended to authorize VA to provide essential dental care services to those homeless veterans who demonstrate a commitment to rehabilitation and reintegration into society. In the course of developing this provision, the Committee members agreed that there is a unique and urgent need for basic dental care within the homeless population.

Consequently, the bill provides a one-time course of dental care to those homeless veterans who enroll and remain in a specified VA, grant or contract assistance, or specialized health program for 60 consecutive days. The treatment is limited to a "one-time" course of care that would allow VA to carry out a treatment plan as medically indicated by the veteran's needs. The Committee members also recognized there may be a break in treatment services that could occur through no fault of the veteran. In those cases, the compromise agreement makes allowance for the Secretary to aggregate days of treatment, by disregarding these breaks in continuous treatment.

Section 8(a) of the compromise agreement contains a provision requiring that every VA facility develop a plan to treat patients who present themselves at the facility and are in need of mental health care. This can include referral to another facility that has the mental health treatment capability if the original facility does not. A similar provision was included in section 8(c) with regard to the availability of substance abuse treatment at every VA medical center. It requires VA to have a plan ready to implement should a veteran walk into a VA medical center and require such treatment. Opioid substitution therapy is specifically mentioned in this section because it has proven to be very successful for the treatment of heroin addiction.

In closing, I acknowledge the tireless efforts of the original namesake of the bill, Heather French Henry, Miss America 2000. She dedicated her tenure to raising the Nation's awareness of the plight of homeless veterans, traveling some 20,000 miles a month to visit with veterans in recovery programs and offer encouragement.

Mrs. Henry's father and uncle provided the inspiration for her to commit herself to the issue, as they both had suffered and recovered from substance abuse and ultimately homelessness following their military service. The work that Heather French Henry has done on behalf of homeless veterans did not stop at the end of her reign, but has continued on. This bill is a testament to her profound dedication.

I also thank my good friend and colleague Senator WELLSTONE for his strong dedication to this issue. His unwavering commitment to homeless veterans was exemplified by his introduction of the Senate version of the bill and his tenacious efforts to get it passed. I applaud his efforts on behalf of this forgotten segment of the veterans population.

Finally, Mr. President, I recognize the hard work of Alexandra Sardegna of the Democratic staff of the Committee on Veterans' Affairs; Bill Cahill of the Republican staff of the Committee; and John Bradley and Susan Edgerton of the House Veterans' Affairs Committee in developing this legislation and seeing it through the legislative process.

I ask unanimous consent that a summary of provisions be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

SUMMARY OF H.R. 2716 (AS AMENDED): THE "COMPREHENSIVE HOMELESS VETERANS ASSISTANCE ACT OF 2001"

The Compromise Agreement incorporates provisions from S. 739, passed by the Senate on November 15, 2001; with provisions of H.R. 2716, passed by the House on October 16, 2001. It seeks to enhance and provide additional support for VA programs that combat homelessness among veterans.

SUMMARY OF PROVISIONS

The following is a summary of key provisions in the Compromise Agreement, H.R. 2716:

Programmatic Expansions: Authorizes VA to spend up to $60 million per year on the transitional housing Grant and Per Diem program. Requires VA to establish at least twenty new comprehensive service centers for homeless veterans in those metropolitan areas found to have the greatest need. Extends the Homeless Chronically Mentally Ill and Comprehensive Homeless Programs until December 31, 2006.

Mental Health Treatment Capability: Requires VA to develop and carry out a comprehensive plan to treat those patients, either on-site or through referral to another facility, who present themselves at VA facilities and are in need of mental health services.

Advisory Committee on Homeless Veterans: Establishes a Committee that will examine and report to the Secretary on various services provided to homeless veterans.

Interagency Council on the Homeless: Requires annual meetings of the Interagency Council on the Homeless, as the Council has yet to get underway.

Dental Care: Provides a one-time course of dental care to homeless veterans who complete 60 consecutive days of a rehabilitative program. Makes an exception for those veterans who have a break in services through no fault of their own.

Evaluation of Homeless Programs: Encourages the continued support of at least one evaluation center to monitor the effectiveness of VA's various homeless programs. Requires VA to report on both the benefits and health care aspects of combating homelessness.

Life Safety Code: Requires that real property of grantees under VA's homeless Grant and Per Diem program meet fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association.

Technical Assistance Grants: Authorizes the Secretary to conduct a technical assistance grants program to assist nonprofit groups in applying for grants relating to addressing problems of homeless veterans. Provides $750,000 for each of fiscal years 2002 through 2006 for these purposes.

Homeless Veterans Reintegration Program: Extends the Homeless Veterans Reintegration Program and authorizes $50 million a year for each of fiscal years 2002 through 2006.

Mr. REID. Madam President, I understand that Senators ROCKEFELLER and SPECTER have a substitute amendment at the desk. I ask unanimous consent that the amendment be agreed to, the act, as amended, be read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2308) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The bill (H.R. 2716), as amended, was read the third time and passed.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2944

Mr. REID. Madam President, I ask unanimous consent that on Friday, December 7, at 9:30 a.m., immediately following the normal opening proceedings of the Senate, the Chair lay before the Senate the conference report to accompany H.R. 2944, the District of Columbia Appropriations Act; that there be a time limitation with the time equally divided and controlled between the chair and ranking member of the subcommittee; and that upon the use of all the time, without further intervening action, the Senate proceed to vote on adoption of the conference report. I further ask for the yeas and nays on adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered. It is in order to ask for the yeas and nays.

Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

ORDERS FOR FRIDAY, DECEMBER 7, 2001

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Friday, December 7; that immediately following the prayer and pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate begin consideration of the District of Columbia Appropriations conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Madam President, I appreciate the patience of the Presiding Officer.

If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:46 p.m., adjourned until Friday, December 7, 2001, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 6, 2001:

FEDERAL RESERVE SYSTEM

MARK W. OLSON, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1996.

SUSAN SCHMIDT BIES, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1998.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

HARRIS L. HARTZ, OF NEW MEXICO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT.

DANNY C. REEVES, OF KENTUCKY, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF KENTUCKY.

JOE L. HEATON, OF OKLAHOMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA.

SENATE—*Friday, December 7, 2001*

The Senate met at 9:30 a.m. and was called to order by the Honorable MARK DAYTON, a Senator from the State of Minnesota.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord God, today on Pearl Harbor Day we look back on that day of infamy through the focused lens of September 11. We gratefully remember the men and women who paid the supreme sacrifice for our freedom in World War II. With equal admiration, we honor the memory of those who lost their lives seeking to save others in the aftermath of the terrorist attack on the World Trade Center and the Pentagon now just 87 days ago. These have been taxing days of war, anthrax anxiety, office closings, disruption and displacement, escalated security, and the stress of red-alert living. And yet, through it all, we have been drawn closer to You and to each other. Once again, You have helped our beloved Nation rise to greatness. Continue to give us strength and courage to finish this treacherous war against the insidious, collusive forces of terrorism. Dear God, bless America! Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK DAYTON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 7, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK DAYTON, a Senator from the State of Minnesota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DAYTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, this morning the Senate will consider the District of Columbia Appropriations Act. There will be 10 minutes of debate prior to a rollcall vote on the adoption of the conference report. There are three more to go. Following disposition of the conference report, the Senate will resume consideration of the Department of Defense Appropriations Act. There is no question there will be rollcall votes throughout the day.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2001—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 2944, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 5, 2001, at page H8914.)

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 10 minutes debate on the conference report with the time to be equally divided and controlled by the chair and ranking member of the subcommittee.

The Senator from Louisiana.

Ms. LANDRIEU. I thank the Chair.

Mr. President, I am pleased to present this conference committee report on behalf of myself and my most able ranking member, the Senator from Ohio. We have worked closely together over the last several months. We are proud to present a conference report that truly is a bipartisan, bicameral compromise on the District of Columbia, which is a very important center, a very important capital, a very important symbol for our Nation, home to almost 500,000 people who live here, but a center where millions of people work and where even more millions visit and, in some ways, call home because it is the Capital of our Nation.

I am pleased to present this conference committee report. I will briefly highlight a couple of the most significant provisions of this conference agreement.

The first is that this bill reflects for the first time in 5 years a budget that is no longer under the control of the control board. That control board did an excellent job under tremendous leadership, and I commend them for their great work over these 5 years, working with us in Congress and with the Mayor and the city council to reshape and reform the District's finances, which for the time are in pretty good shape. There are no deficits at this present moment. But as my colleagues know, there are some challenges ahead and the trends would cause us to be very alert on that score.

This is the first budget we are presenting with the control board behind us. I urge the authorizing committees of both Houses to quickly reconvene next year to pass legislation that will create a more sound transitional framework for the postcontrol period. I pledge this morning my full and complete support towards that effort, and this conference committee report somewhat lays a foundation for that effort. I look forward to working to that good conclusion.

In addition, I am very proud that this bill has as one of its hallmarks a reform of the child welfare system. Senator DeWine will probably give more detail about this matter because he has been one of the leading sponsors of this legislation and this effort. I know he will go into greater detail.

Suffice it to say, the District's foster care system and child welfare system was broken. It was in shambles. It was a disgrace; it was a national tragedy. We all have challenges in our respective States in this regard, and no State is perfect. Many States have a long way to go. But the District's system had unraveled.

This bill gives the courts the reorganizational mandate that is necessary and the financial support and resources, as well as some new tough guidelines and standards that, hopefully, will protect children, save their lives, restore dignity to families, and promote adoption when necessary to give children the families they need to grow up to be whole, complete, and full adults.

In addition, this bill works with the Mayor to ensure public safety of the District and to respond to whatever emergencies might occur. September 11 has given us all the push we needed to make sure we are investing correctly in public safety. This bill is a beginning—not an end but a beginning—towards that end.

It is the intention of the ranking member and myself to make sure the emergency response plan that is ultimately crafted for the District not only works for Washington, DC, but it works for the residents of Maryland and Virginia. We have to work together as a unified region when it comes to protecting the lives and property of the millions of people who live here in the event we are attacked again. And this region, unfortunately, is going to be a target because of this magnificent building in which we stand.

Finally, this bill improves public education, and that is going to be one of the focal points of my tenure as chair of this committee. I believe it is all about economic development, hope, and jobs.

The mayor has indicated this is going to be a strong thrust of his. This bill lays down some foundations for public education, for charter schools, for early childhood and early reading programs. So I submit this report. I thank our colleagues on the House side. I thank Congresswoman NORTON for her tremendous effort.

I thank the staff: Chuck Kieffer, Kate Eltrich Kathleen Strottman, Kevin Avery; and Mary Dietrich and Stan Skocki of Senator DEWINE's staff. Again, I am pleased to present this conference for a vote this morning.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. DEWINE. Mr. President, first, I thank Senator LANDRIEU for the great work she has done. I say to her and Members of the Senate, it has been a real pleasure to work with her on this bill. I think the bill we have in front of us is a good bill.

Let me call my colleagues' attention to an article that was in this morning's Washington Post, "Deficiencies Found in D.C. Child Services." The story starts off:

> Nearly 80 percent of the District's child abuse complaints were not investigated within 30 days and close to two-thirds of foster homes housing city children were unlicensed this year, a recent study shows.

The article goes on:

> Among the reports' findings, 30 percent of the children under District care were not visited by social workers during their first 8 weeks in foster care. Thirty-seven percent of child neglect complaints were not investigated within 30 days after they came into the city's hotline. Abuse and neglect cases are required to be investigated within a 30-day period.

The story goes on. This is nothing new. These stories have been running for years in the District of Columbia and the Washington Post.

This Congress has looked at this mess. It is a national tragedy. As Senator LANDRIEU has pointed out, no child welfare system is perfect. Each one of us representing our respective States has seen problems in our home States, but what we see in the District of Columbia is an absolute scandal.

Why do I bring this up this morning? I bring it up for my colleagues who will be coming to the Chamber in a moment to vote. This may not be a perfect bill, there may be parts of this bill some of my colleagues do not like, but it is a bill that fundamentally changes the child welfare system in the District of Columbia. To me, that is the most important aspect by far of this bill. We will have, I hope, within the next week to 10 days, the authorizing bill that will fundamentally reform the child welfare system in the District of Columbia by creating a brand new family court structure.

The bill we have in front of us today funds that. It funds the reforms. We cannot have these reforms unless we have the money. So what Members will be voting on today, in a moment, is whether or not they want to make fundamental reforms in a system in the District of Columbia that everyone in this room and everyone in the District of Columbia knows is an outright scandal. That really is what the vote is all about.

So to my colleagues who have had a little problem with this bill and some of the controversial provisions of it, let me say this: A "yes" vote on this bill will fundamentally change the direction of what we are doing in the District. It will not be the end of our work, but it certainly is a major step forward.

Let me also point out several other items that are in this bill that I think are very significant. The bill also includes funds for the D.C. Safe Kids Coalition; the District's Green Door Program, which provides opportunities for people with severe and persistent mental illnesses; a program that has been called to my attention by Senator DOMENICI, Teach for America, D.C.; as well as the District's Failure Free Reading Program. There is also significant money in this bill for the Children's Hospital in the District of Columbia.

So it is a forward looking bill. It is a bill for children of the District of Columbia. I urge my colleagues to support the bill.

I yield back the remainder of my time.

Mr. DURBIN. Mr. President, less than a month ago, I stood before my colleagues to address an extremely important public health concern, one that is essentially a life or death issue here in the District of Columbia.

AIDS rates in our Nation's capital are the highest in the country. Nationwide, more than one third of AIDS cases are related to drug use, and substance use by a parent has led to over half of the AIDS cases among children. Statistics are more dramatic among women, where 3 out of 4 women diagnosed with AIDS became infected through their own use or a partner's use of contaminated needles.

Exhaustive scientific review has found needle exchange programs to be an effective way to slow the spread of HIV and AIDS. The American Medical Association, the American Nurses Association, the American Association of Pediatrics, and the American Public Health Association endorse these programs. Yet in spite of the overwhelming support from public health experts, we here in Congress have prevented the District of Columbia from using its own local funds to finance these lifesaving programs since 1999. These programs currently operate in many of our home States and communities, often with the help of State and local tax receipts. Almost 95 percent of these programs refer clients to substance abuse treatment programs.

I was pleased that the District of Columbia appropriations bill passed by the Senate on November 7 eliminated this unnecessary prohibition and acknowledged the strong support these programs enjoy among both law enforcement officials and the public health community.

The conference report we are considering today does not include this crucial step forward. Instead, it maintains the irresponsible status quo, which prevents the District from using its own locally generated revenue to finance needle exchange programs. This conference report ignores Surgeon General David Satcher, who stated that "there is conclusive scientific evidence that syringe exchange programs, as part of a comprehensive HIV prevention strategy, are an effective public health intervention that reduces transmission of HIV and does not encourage the illegal use of drugs." This conference report disregards the Institute of Medicine, which identified access to sterile syringes as one of four unrealized opportunities in HIV prevention.

I have chosen to vote against this conference report because I am not willing to disregard countless medical experts who have acknowledged time and time again that needle exchange programs are an effective tool to halt the spread of HIV and AIDS, including the American Medical Association, the American Nurses Association, the American Association of Pediatrics, the American Public Health Association. I am not willing to ignore the tragic effect that this restriction has on children who contract HIV because one of their parents used contaminated needles. It is my sincere hope that next year we can stop politicizing this issue and recognize that the District of Columbia, just like all of our home States and districts, deserves to have all possible resources at its disposal to combat this devastating public health crisis.

The ACTING PRESIDENT pro tempore. All time has expired. The question is on agreeing to the conference report.

The yeas and nays have been ordered. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. Helms) is necessarily absent.

The PRESIDING OFFICER (Ms. Stabenow). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 20, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—79

Akaka
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Edwards
Feinstein
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—20

Allard
Brownback
Bunning
Durbin
Ensign
Enzi
Feingold
Fitzgerald
Gramm
Gregg
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Nickles
Santorum
Sessions
Shelby
Smith (NH)

NOT VOTING—1

Helms

The conference report was agreed to.

Ms. LANDRIEU. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Carolina.

UNANIMOUS CONSENT REQUEST—S. 1214

Mr. HOLLINGS. Madam President, this is a unanimous consent request to take up the Port Maritime and Rail Security Act.

I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed to the consideration of Calendar No. 161, S. 1214, the Port Maritime and Rail Security Act, and when the measure is considered it be under the following limitations: That a managers' substitute amendment be in order; that the substitute amendment be considered and agreed to and the motion to reconsider be laid upon the table; that the bill as thus amended be considered as original text for the purpose of further amendment; with no points of order waived by this agreement; that all first-degree amendments must be transportation related; that the second-degree amendments must be relevant to the first-degree amendment to which it is offered; and that upon the disposition of all amendments, the bill be read a third time and the Senate vote on passage of the bill with this action occurring with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Madam President, I am sorry at this time that I have to object because of the exclusive unanimous consent limitation.

The PRESIDING OFFICER. Objection is heard.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senator Stevens having the opportunity to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PEARL HARBOR DAY

Mr. STEVENS. Madam President, I requested of the leadership an opportunity to speak briefly about Pearl Harbor Day.

The Senator from Hawaii would be in Pearl Harbor today, as he has been almost every time every year since he has come to the Congress.

I would have been in New Orleans at the opening of the new museum for World War II. I think it is appropriate that we ask the Senate, at the conclusion of the remarks of the Senator from Hawaii, to stand and observe a minute or two of silence in honor of those who gave their lives at Pearl Harbor.

Sixty years ago today, I was in bed with pneumonia and heard over the radio about the attack on Pearl Harbor. My friend from Hawaii was a young medical student and was immediately called into action to help give first aid.

As a young medical student, Senator Inouye gave first aid and assistance to a great many people.

Then he went through a period of time, which must have been very excruciating, when he saw other citizens of the United States of his racial background being taken to camps and various other places because of their Japanese heritage.

Subsequently, he joined the Army, proceeded to be trained, and went to war in Italy. As a matter of fact, he was in Italy on one side of the mountain, and our former colleague, Senator Dole, with the 10th Division was on the other side of the mountain. Senator Inouye's unit was the most highly decorated unit in World War II, totally made up of Japanese Hawaiians, the 442nd. The 442nd has a distinguished place in history. And the person who has one of the greatest places in history is my long-time friend, Senator Inouye, who is now a Congressional Medal of Honor winner. He had to wait many years before he got that award, having been passed over at the time because of his heritage.

I was privileged, as many others were, to be there when that wrong was righted and he was recognized for his distinguished service to our country for the events that led up to his being injured and, strangely enough, being in the same hospital with Bob Dole as they both came off the battlefield wounded.

But I have had a distinguished opportunity here to be a friend of this distinguished man.

I never had the privilege—I am getting a little personal—of living with my own brothers, but I have lived and traveled with Dan Inouye throughout the world now for 33 years. I know of no man that I would put in higher esteem than Senator Daniel Inouye.

I ask the Senate to recognize him now, and then perhaps he would like to make some comments.

(Applause, Senators rising.)

The PRESIDING OFFICER. The distinguished Senator from Hawaii.

Mr. INOUYE. Madam President, as always, my dear friend from Alaska is overly generous. I shall always cherish his friendship, and this moment will never be forgotten.

Madam President, 60 years ago our Nation was suddenly attacked by a force of planes. It devastated a part of America. We lost about 2,400 of our gallant sons. It was a moment of great tragedy, great sadness, but it was also a moment of great glory because, almost instantly, our Nation got together. Our Nation was never that united. Even during the war of the Revolution we were not that united. In the Civil War we were divided.

But on this day, 60 years ago, America became one. And it was obvious that, notwithstanding the odds against us, we were going to be victorious. And we were.

Today, we are debating a matter that happened on September 11. And I know that, though we may have used some harsh rhetoric, we will stand united, as we always have, and we will come forth with a measure that will be American in nature, one of which all of us can be proud.

Today, there are two of my colleagues here who wish they could be at home, also. I wish I could be in Pearl Harbor at this moment. But two of my friends from Louisiana—Senator LANDRIEU and Senator BREAUX—wanted to be there to participate in the opening of the great museum commemorating the Pacific war. I know they join me, however, in saying that duty comes first.

And, TED, we appreciate the recognition you have given to December 7. I think this is a day of which all America can be proud.

Thank you very much.

(Applause, Senators rising.)

A PERIOD OF SILENCE IN RECOGNITION OF THE SACRIFICE OF THOSE WHO DIED AT PEARL HARBOR

Mr. STEVENS. Madam President, I now ask unanimous consent the Senate stand in silence for a period of 2 minutes in recognition of the sacrifice of those who died at Pearl Harbor.

There being no objection, the Senate observed a period of silence.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, as we look upon our life in the Senate, it is, indeed, a privilege for those of us to serve with our distinguished colleague from Hawaii. I, too, am a member of the generation of World War II, having joined the Navy in January of 1945.

My modest service to country pales in comparison to that of our distinguished colleague from Hawaii, as it does in comparison to that of our colleague from Alaska, Senator STEVENS, Senator HOLLINGS, Senator THURMOND, Senator HELMS, and Senator COCHRAN. I think we in this Chamber are the last of the few of that generation.

I had hoped today and had scheduled to join the President of the United States aboard the U.S.S. *Enterprise* in Norfolk, VA, together with my junior colleague, Senator ALLEN. We, as our colleague from Hawaii, will be at our duty stations here in the Senate today.

But I never let this day pass without my own recollections of that period as a very young man at age 17, as I say, entering the Navy and what the military did for me to enable me to achieve my goals in life. The GI bill was the greatest investment this Nation ever made in that generation, and I was a beneficiary of that.

Together with other colleagues, in my 23 years here in the Senate, on the Armed Services Committee, we, as a team, have tried to do our very best for the men and women of this generation who are proudly serving in uniforms of our country and who eventually either will select the military as a career or return to civilian life and avail themselves of the educational and other benefits they earned through their service.

Just 10 days ago, the chairman of the Committee of Armed Services, Senator LEVIN, and myself had the privilege of visiting our troops in Uzbekistan during the Thanksgiving period. We overflew Afghanistan, Pakistan, and Oman. I awakened this morning listening to people trying to compare the generation of World War II with those in uniform today. And Mr. Ambrose, the noted author, said he felt this generation, in every respect, equals the generation of World War II. I made that very same statement on the floor of the Senate right after September 11. Having seen them on this trip, I assure America that this generation now in uniform is every bit and perhaps even more courageous than those who served in World War II—more courageous because of the complexity of the enemies today and the unknown threats we face in comparison to the clarity of the enemy that faced us in the period of 1941 and for some 4 years thereafter.

So it is a privilege for me to serve with our dear friend from Hawaii. How dearly we respect him, and how gracious he is to all of us. Sometimes, in moments of tension around here, when you are seeking a little neutral ground for a little assistance, I go over to that desk and get the reassurance of my friend from Hawaii.

But, again, my career is very modest in comparison to that of Senator INOUYE, Senator STEVENS, Senator THURMOND, Senator HOLLINGS, Senator HELMS, and Senator COCHRAN. I thank my colleague for our friendship.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, what is the regular order?

The PRESIDING OFFICER. The regular order would be the Defense appropriations bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I ask unanimous consent to speak for 1 minute as in morning business just to acknowledge the remarks of Senator INOUYE and Senator STEVENS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, I want to say, on behalf of the senior Senator from Louisiana, Mr. BREAUX, and myself, how grateful we are for their remarks and the help our distinguished colleague from Hawaii, Senator INOUYE, and our distinguished colleague from Alaska, Senator STEVENS, have provided to us. They have both been so instrumental in helping support the development of this museum in New Orleans, LA.

I say to both Senators who were going to have the opportunity to be there this morning, and to see their great work firsthand, this museum, this dedication, has exceeded all expectations.

We are a city and a town used to hosting thousands of visitors. This museum, the World War II Museum, and now the opening of Pacific Rim Theater have exceeded all expectations. Today as we speak, Stephen Ambrose and a long list of distinguished dignitaries are there. With the support of these two Senators and our entire Congress, we have had contributed $5 million toward the development of this museum and the creation of the Institute of the American Spirit. It is not just our weapons, our tanks, our airplanes, and our assets, it is the American spirit that protects and leads this world for liberty and justice. These two Senators know that. They have contributed mightily. I thank them on behalf of Senator BREAUX and myself.

Mr. AKAKA. Mr. President, as the sun rises over Pearl Harbor this morning, solemn ceremonies at the U.S.S. *Arizona* Memorial and the National Memorial Cemetery of the Pacific will commemorate the 60th anniversary of the attack on Pearl Harbor. Prayers, reflections and tribute will be offered to honor the service and sacrifice of the men and women who fought and died in the defense of our country. For many of us in Hawaii, the events of December 7 are a graphic memory, a personal experience never to be forgotten.

As a student, I watched in the attack on Pearl Harbor at 8 a.m., Sunday, December 7, 1941, from the roof of my dormitory at the Kamehameha School for Boys on Kapalama Heights in Honolulu. We had just returned from breakfast at the dining hall, and were slowly preparing for Sunday services. In stunned silence, we saw the flash of bombs and thick black smoke rising above Pearl Harbor.

We saw the planes dive from the south, drop their torpedoes, and the resulting explosion on the battleship *Arizona*, which later tilted and sank at her mooring. The airstrip at Hickam was marked with potholes, bomb craters, and damaged aircraft. Smoke, both white and black, moved to blanket the area.

A spent anti-aircraft shell landed and exploded near our dormitory. A squad of zeros flew over us from Pearl Harbor to attack the Kaneohe Naval Air Station. By that time excited radio messages were reporting the bombing of Pearl Harbor.

It was a calamity that forever changed the course and life of our country and Hawaii. As America prepared for war, men and boys in Hawaii, as elsewhere in our Nation, rushed to enlist. Japanese American soldiers, fighting with the 442nd Infantry and 100th Battalion, became the most decorated units in the war, while at the same time our government interned and relocated their families and confiscated their homes.

The sacrifices made by ordinary men and women who rallied in defense of freedom, liberty, and the great promise of our democracy represents the greatest heroism and patriotism in service of our country. It also reminds us and future generations of Americans that patriotism is not a matter of race and religion, but personal courage and conviction.

As we realized on December 7, and as the events of September 11th painfully reminded us, the freedom and prosperity we enjoy carries a dear price. Our sacred duty is to ensure its preservation for future generations.

Throughout our Nation's history, we Americans have relied on the power of our ideals, our faith in God, and prayer to guide us through the challenges we faced, and we rely on that same power today as we seek peace and justice.

Today, I am honored to join my colleagues in prayer and remembrance for those courageous men and women who died in Pearl Harbor. I also join my colleagues in honoring my dear friend, the senior Senator from Hawaii [Mr. INOUYE]. His duties and responsibilities in the Senate have kept him from today's observances in Hawaii. For over 50 years, Senator INOUYE has served our Nation and our beloved State in the U.S. Army—awarded the Congressional Medal of Honor, the Territorial Legislature, the House, and Senate. I am proud to serve alongside him and privileged to call him friend.

I also want to thank the senior Senator from Alaska, Mr. STEVENS, who is also a decorated and distinguished veteran of the Second World War and a true American patriot, for his leadership in remembering those killed at Pearl Harbor and honoring the service of those men and women who served our Nation in the Second World War and those men and women who are defending freedom around the world today.

Mrs. HUTCHISON. Mr. President, I rise to discuss what an important day today is in the history of our country and also to mention a personal, special time for a Member of our Senate on Pearl Harbor Day. And that is Senator DAN INOUYE.

DAN INOUYE was 17 years old, living in Hawaii, on the day that Pearl Harbor was attacked. He was one of the first Americans to go forward to try to help with the casualties that occurred that day.

But DAN INOUYE has said on several occasions that he looked up into the sky and he knew that the people who were bombing his country were people who looked like him. And he said he knew that his world had changed forever from that day.

DAN INOUYE, at the age of 18, was a freshman in premedical studies at the University of Hawaii but dropped out to enlist in 1943 in the U.S. Army.

DANNY INOUYE was not just another enlistee in the U.S. Army. He was one of the great heroes of World War II. He spent two of the bloodiest weeks of the war in France rescuing a Texas battalion that had been surrounded by German forces. This was known as "the lost battalion" and is listed in the U.S. Army annals as one of the most significant military battles of the century.

He won the Bronze Star, but that was not the end. He went to Italy and became involved in the war in Italy and was trying to assault a heavily defended hill in the closing months of the war. Lieutenant INOUYE was hit in his abdomen by a bullet which came out his back, barely missing his spine. He continued to lead the platoon and advanced alone against a machinegun nest which had his men pinned down. He tossed two hand grenades with devastating effect before his right arm was shattered by a German rifle grenade at close range.

Lieutenant INOUYE, who threw his last grenade with his left hand, was attacked then by a submachinegun and was finally knocked down the hill by a bullet in the leg.

For this he received the Distinguished Service Cross which later, thank God, was upgraded to the Medal of Honor. So he is one of the very few Members who has served in the Senate who has received the distinguished Congressional Medal of Honor.

He has never missed an anniversary of Pearl Harbor.

He is missing it today because, once again, duty has called, and DANNY INOUYE answered the call of his duty to pass the Defense appropriations bill for those in the field today.

I wanted to take a moment to pay tribute to this great patriot of our Nation, Senator DAN INOUYE of Hawaii.

I thank the Chair. I yield the floor.

Mr. THURMOND. Mr. President, 60 years ago I was serving as a Circuit Judge for the State of South Carolina. It was an early Sunday afternoon when news reports began to stream in about the attack against the United States that took place at Pearl Harbor, HI. As I listened to news reports about the attack on our Pacific Fleet, I knew instantly, that the world we lived in was irreversibly changed.

All across this great Nation, Americans reacted to the unprovoked attack on the United States with anger, and I shared those sentiments. We became galvanized as a Nation. Americans from all corners of the country rose to the call of duty. Long lines extended from every military recruiting office as men and women prepared to take up the challenge to the security of the United States and the American way of life. It was my privilege to join those who immediately volunteered to serve. I am proud of the service that I rendered as an Officer in the United States Army which included serving in the United States, Europe and the Pacific.

The attack on Pearl Harbor was the beginning of America's direct military participation in World War II. For nearly 4 additional years, the Allied Powers fought the forces of fascism and tyranny around the globe. With the passage of time, and understanding the great strength of our armed forces, it may be difficult to remember the challenge our military faced despite our resolve and resources. We faced formidable and determined foes, but ultimately they were no match for the courage and bravery of our Allied Forces.

On September 11 of this year, we again witnessed an attack on American soil. As Chairman Emeritus of the Senate Armed Services Committee, I am honored to be in a position to support our President and our brave men and women in uniform in the cause to rid the world of international terrorism. The terrorists who committed this act of cowardice thought they could destroy the American spirit, but as experience taught me 60 years ago, this will only make us stronger as a Nation. Furthermore, I see the same spirit of unity and determination that I saw then. They were wrong then, they were wrong now and we will prevail.

Today we honor the memory of those who fought for freedom in that great conflict 60 years ago. As a veteran, I have a special appreciation for the service and sacrifice of those men and women who fought so hard to protect and preserve American ideals and freedoms. We recognize that Americans are again in harm's way, fighting to protect our freedom and our way of life. My appreciation extends to all those who continue to answer the call of our Nation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, let me quickly join everyone else in congratulating our colleague from Hawaii who has always been very kind to me and to my wife and family. I appreciate it very much.

We have reached an impasse here. It is clear that we need something to sort of break the logjam. It seems to me the logical thing to do is to try to demonstrate the direction in which we are not going to go, so hopefully we can change direction and find bipartisanship in passing this bill.

Everybody knows we have to have a Defense appropriations bill. Often in trying to get on the right road, it is an important step to get off the wrong road. When you are going in the wrong direction, it is important to stop so that you might go in the right direction. In order to try to break this logjam, it is my purpose to make a point of order against the committee substitute.

Let me make a parliamentary inquiry. Are we on the Defense appropriations bill now and that substitute?

The PRESIDING OFFICER. The bill has not yet been laid down.

Mr. CARPER. Will the Senator yield?

Mr. GRAMM. I yield to the Democrat floor leader for the purpose of laying the bill down.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, what is the order before the Senate?

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

> A bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I want to make sure the Senator from Texas maintains the floor. The Senator from Delaware wishes the floor.

Mr. CARPER. May I make a unanimous-consent request to address the Senate for 1 minute as in morning business.

Mr. REID. Madam President, that will be fine, if the Senator from Delaware addresses the Senate for up to 2 minutes, with the Senator from Texas having the floor as soon as he completes his statement as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Was the request that he speak and then it come back to me, or I finish and then it goes to him?

Mr. REID. Let him do his 2 minutes.

The PRESIDING OFFICER. The Senator from Delaware.

HONORING SENATOR INOUYE

Mr. CARPER. Madam President, Senator INOUYE has been a good friend and mentor to this new Senator, as has a Senator I call "Mr. Secretary," the former Secretary of the Navy, Senator WARNER from Virginia, who also has been a good counselor and advisor to me. When these two Senators stood and entered the armed services six decades ago almost, they raised their arms and took an oath to defend our Constitution against all enemies, foreign and domestic. They participated in a war that brought us in the 20th century to become the great Nation we are today.

Sixty years ago today, Pearl Harbor was bombed. Two hundred fourteen years ago today, the Constitution which they took an oath to defend was first ratified by any State in the United States of America. Two hundred fourteen years ago today, in a place called the Golden Fleece Tavern in Dover, DE, about 30 delegates who had been there for 3 days debating what steps to take decided that Delaware should be the first State to ratify our Constitution and provide the foundation which has enabled our Nation to survive World War I and World War II, the Korean war, the Vietnam war, the war against communism, to win the battle against the Great Depression.

We are fighting another war on terrorism around the world and here in this country and other places. That Constitution, which provides us with our three branches of Government—the legislative branch, of which we are one-half, the executive branch, and the judicial branch—the most enduring of any constitution in the world, which provides the foundation for the longest living democracy in the history of the world, was first ratified today 214 years ago.

Any country that can survive two world wars and a civil war and the Great Depression, vanquish the Communists, we can certainly handle the terrorists, and we can handle the issues that divide us here today. I am confident we will.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Senator from Delaware for his thoughtful remarks and for his service to the Nation in the U.S. Navy, when I happened to have been Secretary of the Navy. He is very respected for that period when I was the boss.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 2002—Continued

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I raise a point of order against the pending committee substitute amendment. The pending committee substitute amendment violates section 302(f) of the Budget Act.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I also ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, the motion to waive the point of order is before the Senate. I ask unanimous consent that the time for debating that motion to waive the point of order be divided 50/50; that is, Senator STEVENS and Senator BYRD each control 30 minutes. Additionally, I have a request for time from Senator BOXER, and I ask unanimous consent that she be given 5 minutes in addition to the 1 hour.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Did I understand there will be 1 hour equally divided on the debate?

Mr. REID. Yes, that is right.

Madam President, I state, through the Chair to the distinguished Senator from West Virginia, that I asked for 5 additional minutes for Senator BOXER. In fairness, we should give 5 additional minutes to the other side. So that would be an additional 10 minutes.

Mr. BYRD. Madam President, as the request is worded, time on quorum calls, et cetera, would not be counted because the word is "debate"; am I correct?

Mr. REID. The Senator is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, my inquiry was made because I want to be sure we have 1 hour on the debate. It is going to take us a few minutes to get some chairs, and I do not want that time coming out of the debate. So there is no ulterior or devious motive behind my having asked that question.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Madam President, I thank Senator REID and my colleagues for giving me this 5 minutes in support of Senator BYRD's motion.

We are living through a very difficult time in our history. This particular campaign we are in is unlike any other we have faced. There are people in our own country and perhaps in as many as 80 countries who are dedicated to harming our people. As has been noted, we have had more casualties in this campaign on the homefront, in the homeland, than we have actually had in the theater of war.

We have a crisis to which we must respond. With his wisdom gained in almost 50 years in the Congress, Senator BYRD is leading us in a direction we should all follow. I am deeply distressed that the other side of the aisle does not seem to want to follow Senator BYRD's leadership.

I have been in the Congress for 20 years, Senator BYRD for 49 years. The President of the United States has served in office, all told, 7 years as a Governor and a year as President. Our President has said it is important to be humble. I call on him to be humble and to listen to the words of a man who understands what the role of the Congress should be in this time of terror, Senator ROBERT BYRD.

We are facing threats that we have never faced before. There is not any debate in this body on that. We are facing the threat of smallpox. Anyone who has seen the presentation called "Dark Winter," anyone who has spoken to physicians, knows this is a disease that will kill one out of three people it strikes. This is a weapon of a terrorist. Will it ever strike? We pray to God, no. Could it strike? Yes. In what form? Will it be someone spraying this deadly disease at a mall? Or will it be a number of people getting on a plane with the disease? We don't know. Maybe it will never happen. And we pray it will never happen. But we know we only have 15 million doses of the vaccine. We are very hopeful it can be diluted to provide up to 77 million doses. But the fact is, we need to move quickly.

I know our Secretary of Health and Human Services is moving to procure those vaccines. But we also need to buy antibiotics in case we get more anthrax cases. We need to find cures for diseases such as smallpox, Ebola virus. I have met with companies in California and other places that are working diligently to find cures for smallpox, for Ebola viruses, and other deadly viruses. We need the funding for that. Senator BYRD has done that.

We all worked hard on an aviation security bill and the President signed that bill, but there is much more to be done. Just listen to Norman Mineta. He will tell you. We have to have more of the machines that check for bombs in cargo holds. The FAA has not even ordered more machines. I have talked to the companies. They can produce 50 a month, and Envision, one of the companies, has not gotten a phone call. There is not the money. We need more air marshals. We are getting some; we don't have near enough. We need the funding for that.

I speak because on this one there is a hole in my heart. We lost 39 Californians. Every hijacked plane was heading for California. Those long-haul flights need air marshals. These flights had the heavy fuel loads and the light passenger loads. Those were the targets of the terrorists.

We need more security at our nuclear plant facilities. We must have more security there. That costs money. You don't do that on the cheap. In California, we have two plants at San Onofre located at Camp Pendleton, two at Diablo Canyon near San Luis Obispo. They need the National Guard. They need permanent protection. We know about dirty bombs and what they can do—if they get their hands on that plutonium. We need to guard against that happening. Senator BYRD does that.

Our own Homeland Security Director has talked about all of these issues. Yet we seem to have a partisan battle where there should be no room for partisanship. I ask my colleagues on the other side of the aisle, what are they against? The money for food safety? The money to fight bioterrorism? The money to give to our law enforcement throughout the land, working so hard, 12 and 14 hours a day, to ease their pain? To put more people on the ground? Are they against firefighter programs? Border security? Airport security? Nuclear plant security? How about U.S. ports, those vulnerabilities? We know what could happen if we do not protect our infrastructure.

It is pretty simple to me. Senator BYRD has stepped out. There can be no one who has reached more across the aisle than Senator BYRD and Senator STEVENS, that is for sure. We saw it a couple of minutes ago. So I say to my colleagues, let's be bipartisan.

I ask for 30 additional seconds.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

Mrs. BOXER. Let's be bipartisan when it comes to defending the homeland, just as we are so bipartisan when it comes to supporting our President in this fight abroad.

My mother used to say, in the old days: Penny wise and pound foolish. It is something we always heard from our moms. You make these investments now.

Last point. The President does not have to spend the money. The way Senator BYRD has structured it, it is entirely up to him. Why would he not want to have that insurance in his pocket so if we had another attack we would not have to immediately be clamoring for another session of Congress? Let's do the right thing and follow the leadership of Senator BYRD today.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Has the Senator from California completed her statement?

Mrs. BOXER. Yes.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. I will take 3 minutes off our side's time.

Mr. STEVENS. I suggest the time just be given to the Senator from North Dakota rather than invade Senator BYRD's time. We are happy to yield 5 minutes to the Senator without any limitation on it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. I thank my colleague from Alaska for his graciousness with respect to the time. Once again, he has demonstrated why he is one of the most respected Members of this body. He is truly a gentleman.

Madam President, the question before us is whether or not the additional funds to strengthen homeland defense and to rebuild what has been destroyed in New York should be approved. The basic question is whether or not it goes over what is provided for in the budget. There is no question it is over and above what is in the budget. That is because America was subjected to a sneak attack on September 11.

Terrorists attacked this country and that has required a response. It has necessitated increases in spending for national defense. It requires us to build up our defenses against bioterrorism. It requires us to strengthen the security at our airports, at our harbors, at our nuclear facilities. All of that costs money.

Of course, it was not in the original budget agreement. These are funds over and above what was anticipated because no one could have anticipated in April a terrorist sneak attack against the United States. I am chairman of the Budget Committee. I have argued all throughout the budget process, all throughout the tax process, for us to respect the integrity of the trust funds of the United States. They are in danger. They were in jeopardy before the attack on September 11. Our first priority has to be the defense of this Nation. I think each and every Member of this Chamber understands that is the first obligation of each and every Member of this body and of the other body.

The basic argument on the Republican side is we should wait: We probably are going to have to have these additional expenditures, but we should wait until next year. Their argument is this adds to the deficit.

I think we should look at what else is being proposed, what else is being considered in this Chamber to evaluate the merits of their argument. The fact is, the Republican stimulus plan that is also being considered simultaneously with the legislation before us now adds $146 billion more to deficits than the Democratic stimulus plan. The Democratic plan in 2002, with all that has happened—the attacks on this country, the additional spending, the economic downturn—will have a $32 billion deficit in 2002. The Republican plan will generate a deficit in this fiscal year of $47 billion. In fact, we could accommodate the entire additional spending to protect this Nation and to rebuild New York and not have more of a deficit than the Republican plan for fiscal year 2002.

For 2003, the Democratic plan has a deficit of $3 billion. The Republican plan has a deficit of $66 billion. That is 22 times as much of a deficit for the year 2003 than it is in the Democratic plan.

For 2004, the Democratic plan emerges from deficit with a $45 billion projected surplus, while the Republican plan is still in deficit by $23 billion.

Over the first 3 years of this budget plan, the Republican overall budget blueprint will create $136 billion of additional deficits, of additional debt. The Democratic plan will actually have $10 billion of surplus. So there is a total difference between the two plans—the Republican stimulus plan over the Democratic stimulus plan—of $146 billion of budget deficits and of additional debt.

What Democrats are saying is we ought to accommodate the $15 billion that Senator BYRD has identified that is critical to strengthening our homeland defense and to keeping the promise to rebuild New York. We can do that. We can do that and still have $130 billion less of a deficit than the Republican budget plan.

To the extent this is an argument over deficits, there is no argument because the Democratic plan has far less in deficits—more than $130 billion less—than the Republican plan.

We ought to thank and commend the chairman of the Appropriations Committee, Senator BYRD, and the Defense Appropriations Committee chairman, Senator INOUYE, for coming forward with a plan that is responsible to defend America and to keep the promise to rebuild New York.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, how much time do I have?

The PRESIDING OFFICER. There are 30 minutes remaining.

Mr. BYRD. I thank the Chair.

Madam President, let us pause for a moment, back away, and determine if we might be able to see the forest and later see the trees.

Remember, Senators, that in this package I have offered, and which was adopted in the Appropriations Committee, I sought to do three things:

No. 1, to give the President every penny he asked for for defense. He requested $21 billion. And there is not a penny cut away.

We have added $7.5 billion for New York, et al, and $7.5 billion for homeland defense.

We have a package that gives to the President $21 billion for defense. It provides that New York City and other areas that were attacked on September 11 would get the $20 billion that the President promised and to which we committed ourselves. On top of that, there is $7.5 billion for homeland defense.

I didn't go to New York. I didn't go up there and promise that. But I saw, and I heard, with my heart and mind responding. We believe we ought to stand by our promises to New York, New Jersey, et al.

Some have argued that approval of $15 billion for homeland defense and for New York disaster relief will result in pumping up spending for years to come. That is not my intent. In fact, I have included a provision in this bill directing OMB and the Congressional Budget Office to exclude the $15 billion from baseline calculations of future spending. This $15 billion supplemental is intended to respond to the urgent needs and vulnerabilities that have been created by the terrorist attacks of September 11 and the anthrax attacks. It is not a permanent increase in spending. It should not be a permanent increase in spending.

Having laid that to rest, let me read just a few excerpts from news stories. Let us talk about the homeland defense. Defense of the homeland is important and in the final analysis even more so than defense overseas.

The opposition that has raised this point of order is saying we can wait for defense of the homeland, we have to take care of our men and women overseas.

I am for doing everything within our power to defend the men and women whom we send overseas. As a matter of fact, I was the Senator who stepped forth several years ago during the war in Vietnam when my own party and my own majority leader at that time were opposed to attacking the Vietcong enclaves in Cambodia. I took the position that we had men in Cambodia and we ought to attack those enclaves. I took the position that we had a duty to do whatever was necessary and that the President of the United States, Mr. Nixon, had a duty to do whatever was necessary to protect the men and the women he sends overseas into battle—whatever is necessary. He had a right to do that. He had a duty to do it. My own party on that occasion took issue with that idea. They were opposed to bombing the enclaves in Cambodia, which were attacking our military men in South Vietnam.

So don't look at me and pretend I am a Senator who is battling for political reasons. I was not then. I am not now. This amendment is to protect the people here at home—relatives of those men and women who are overseas, children of those men and women who are overseas, mothers and fathers and sisters and brothers of those men and women who are overseas.

Ask the men and women overseas: How would you vote today? Would you vote for homeland security? Would you vote to advance the cause, to give homeland security a jump-start, to protect your people back home in the USA? And the people back home are not only the relatives of those men and women who are in Afghanistan; there are also military men and women here in this country, still. And they, too, might be subject to injury, to disease, to death as a result of terrorist acts over here. How blind can we be?

So there is a division line here saying: Oh, we must do everything possible for our men and women overseas—and we are doing that; we are not cutting one penny out of defense abroad—but as to homeland defense, the Administration says let's wait, let's wait until we analyze and wait until we get further reports and wait until our department heads can come forward with proposals. Wait, they say.

Here is a story in The New York Times today in which [Mr.] Ridge Promises Security Funds "For States in Next Budget." When will that be? I will read just a bit:

> A day after the nation's governors asked Congress for an immediate $3 billion to fight terrorism, Tom Ridge, director of homeland security, promised that President Bush's budget proposal next year would include "substantial down payments" to the states for security.
>
> Mr. Ridge spoke as questions of how much domestic security should cost after Sept. 11 have proliferated on Capitol Hill and as states, facing recession and budget shortfalls, are grappling with how to pay for new responsibilities to help guard borders, bridges, dams and nuclear power plants. . . .
>
> On Wednesday, the National Governors Association released a preliminary survey of domestic security costs, estimating that they would run the states $4 billion in the first year.

So here we are: The States of the Nation are grappling with serious problems involving their own budgets. They have budget shortfalls. They are crying out for help. And yet here we have the Director of Homeland Security saying: Wait—Wait.

We do not have time to wait. We do not have that luxury. A vote against my waiver of the point of order sends the message that it is more important to win a political battle than it is to win the war against terrorism.

Why will they not vote for this package? This package, as it was written originally, had an emergency designation which would say to the President: Here is the money. You do not have to spend it. You can spend it or not spend it, depending upon the circumstances at the time.

Well, the Senate has already stricken from that package the emergency designation. Now we are at the stage where we are going to vote to waive the point of order. Those who vote against the waiver send the message that it is more important to win a political battle than it is to win the war against terrorism. That is what a vote against the waiver means.

The President has said he will veto this bill if it has more money than he requested. Is the Senate going to be blind to the fact—and I have had Senators say to me: Well, why do we press ahead when the President has said he will veto? The answer is: If we back away every time a President threatens a veto, then the Chief Executive of this Nation will reign supreme. He will become an emperor. No matter what his political party, he will become an emperor, he will be king.

What would the Framers think of that? How would the Framers look upon this Senate that cringes when a President says he will veto? I think they would be dumbfounded to see that the time has come when the legislative branch will flinch, will cringe when a President issues a veto threat. Certainly the majority of the people in this broad land of ours feel that the time is at hand when we need to jump-start homeland defense so that aid will immediately flow to the people at the local level: The policemen, the firemen, the paramedics, the people in the hospitals, the people in the labs, the people in the emergency rooms in the hospitals.

This is the time. If something happens tomorrow, tonight, next week, or the week after, the people at the local level need to know that their paramedics, their firemen, their policemen are going to have monetary assistance. The Governors will know that. The mayors will know that. Will our pleas fall upon deaf ears? Unfortunately, politics reigns supreme in this Capitol. Once again, the people will lose.

An entire Defense bill, representing months of work by Senator STEVENS, Senator INOUYE, and others, is going to fall. Why? Because of political petulance. Ah, the Chief Executive, our people here say, must win. He has said he will veto. What is one man's judgment against the judgment of the majority of the people? It is obvious that the terrorists can strike. We know that. Anthrax taught us that.

I think this is an extremely unwise course to take in time of war. This is a war. Oh, Administration leaders say, we should not challenge the President. I say that this is not a challenge to anybody, except to the consciences of all of us who are sent here by the people of the United States. Will we let political blinders get in the way of what we know is right.

We all know it is right to provide protections to the people against the sinister, deadly attacks on our own shores. And we have seen them already. The people are crying out for help. Our military needs to know that games are not being played with defense. Can we not lift our eyes from Budget Act points of order long enough to do what our country needs us to do. Apparently not. So, keep your political blinders on. All that matters is winning for the President. Winning! That is all that matters.

I wish that, just once, the thick fog of cynicism—and it is so thick that you can cut it with a knife—could be lifted from this town. I wish, just once, we could listen to our hearts—pay no attention to politics, just listen to our hearts and clear our minds of fog and political partisanship. Let our hearts and clear, rational minds, not the hotheads—not the hotheads of political gamesmanship—guide our actions. In this game of political cloak and dagger, the only ones being stabbed in the back are the American people.

Now, each of us is going to have to stand before the American people and answer questions. If this point of order prevails, we break our promise to the people to protect them. We break the promise to the people of New York City to help them with this tragedy. We continue the decades of partisan political squabbling that so often occupy us in this self-consumed, cynical, myopic town.

When I came to the legislative branch, we had two major political parties. In the year that I came here to the legislative branch, the Republicans were in control. Joe Martin of Massachusetts, Republican, was the Speaker of the House of Representatives. John Tabor of New York was the Republican chairman of the Appropriations Committee in the House. Yes, those men were politicians, but first of all they were patriots.

And how about those men at Valley Forge? How about those men who wrote the Constitution, how would they feel? How would those Framers feel? What would they think if they could hear the arguments, the pitiful, weak arguments that are being advanced against this package? How would they feel if they could read in the press of our day what is being said by those who oppose this package? Wouldn't they say: Let's work together? Wouldn't they say: We, the Framers, wrote "we the people, in order to form a more perfect union." How would the Framers feel about that? We are not forming a more perfect union here in this Senate. No, we are using a point of order that requires 60 votes to overcome. We are going to vote the party line and turn our backs and give the back of our hands to the American people.

We can't be proud of ourselves. Oh, we win the political battle: oh, yes, we will uphold the hands of our President when he carries out his veto threat.

Mr. President, I want to help the President. I want to help him keep his promises to New York. I want to help him keep his promises to the people of this country regarding homeland defense. We all know he made such promises. So it will be a political victory for the Administration. But where does that leave us? Where does that leave the people of the nation? They are going to have to wait. A supplemental will not be coming along for a while, and it won't be adopted for a while. I don't know how long. But we are going to say to the people: You wait.

Oh, yes, on fast track the President got on the White House phones, I am told, and called Members of the other body and said: Please, support your administration; we need fast track.

But, Mr. President, on Homeland defense, the Administration says, wait, wait, wait.

It seems to me to be a rather arrogant attitude on the part of the administration. They say: Wait, we will tell you, the Congress, how much we need. We will let you know when we have done these analyses and after the departments have all gotten together and we have all come to a decision as to what we need, then we will tell you how much we need.

That is an arrogant attitude, Mr. President, in my opinion. What we are saying is, we want to help you, but we think the danger is there. We think we ought to act now. We ought not wait. That is what we are saying.

I hope all Senators will hear me. Hear me, Senators. Listen to what I am going to say. Under the Budget Act, legislation cutting taxes or increasing mandatory spending is supposed to be paid for because of the tax cut bill signed this summer. We are currently facing a 4-percent cut in Medicare spending in January. Hear me, Senators! I wish my voice could ring across the land, that the people could hear me, if they could have time to contact their Senators. Let me say it again: Because of the tax cut bill signed this summer, we are currently facing a 4-percent cut in Medicare spending in January.

A 4-percent cut in Medicare would result in $8.5 billion in cuts for hospitals, physicians, home health agencies, skilled nursing facilities, and managed care plans. This isn't going to be easy. This is not going to be easy. You can wrap the robes of political partisanship around yourselves, but you won't keep out the chilly winds that are going to blow right in your face.

A 4-percent cut in Medicare would result in $8.5 billion in cuts for hospitals, physicians, home health agencies, skilled nursing facilities, and managed care plans.

Such cuts may force health care providers to cut staff, threaten to cut the quality of care to our elderly who receive health care through Medicare, or force them to discontinue to see Medicare patients.

My proposal includes a provision to block—get this now, my proposal that is in this bill which is about to be brought down—my proposal includes a provision to block these Medicare cuts. So it is not going to be easy to explain to those people out there who are your constituents that it is more important to cast a political vote here than it is to cast a vote for the people back home.

Wait until those Medicare cuts face you, the Senators who will vote against this waiver. You will be hiding behind a sixty-vote point of order. I am not denying any Senator's right to make points of order. This is a 60-vote point of order. So we can hide behind that. Or can we? Think about it. There will be a few people, in this country at least, you will meet on the campaign trail who will have heard what you are about to do.

Any Member who votes against the motion to waive this 60-vote point of order is voting to allow the massive $8.5 billion cut in Medicare to go into effect in January. Explain that one to your constituents. Explain that one to your conscience. I don't propose to be anybody's keeper of conscience, but it would certainly be on mine if I voted that way.

There is no person of any party to whom I would give precedence for party reasons or preference in any way, over the obvious needs of the American people to be protected from terrorist attacks, and the needs of the people to be able to have their hospitals, their physicians, their home health agencies, their skilled nursing facilities and managed care plans not be jeopardized by this point of order.

Madam President, how much time do I have?

The PRESIDING OFFICER. Two minutes.

Mr. BYRD. Madam President, I again thank my friend. And we hear that term used so loosely in this body and on Capitol Hill, "my friend." He is my friend, this man. I admire him. There is something behind the political facade of this man. He is a man. He is a man, and here is a man in DANNY INOUYE. I thank him as we soon will come to a close, I assume. I may need some more time. The distinguished Senator from Alaska yesterday gave me as much time as I asked for, and I will be requesting that time again.

I believe the Senator from Massachusetts wanted me to yield to him at this point. How much time does the Senator wish?

Mr. KENNEDY. Five minutes, I say to the Senator.

Mr. BYRD. Madam President, I only have something near 2 minutes left.

Mr. STEVENS. I yield the Senator 15 minutes of our time.

Mr. BYRD. The distinguished Senator yields me 15 minutes, and I thank him.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Madam President, today is Pearl Harbor Day. Just a short time ago, we had an enormously moving moment in the Senate. We do not have many emotional moments in this institution; certainly few as important and emotional as we had earlier today when our good friend, the Senator from Alaska, paid tribute to our beloved friend, genuine patriot, and hero, Senator INOUYE, for his service in World War II.

Americans are thinking about today December 7, a day when America was caught unprepared in World War II. We came together as a nation, and we were victorious, with a great deal of courage and a great deal of bravery, but also a great deal of suffering, certainly, at Pearl Harbor.

We are also mindful of what happened on September 11 when we saw the failure of our intelligence system and the failure of our security systems at our airports—two massive failures. We saw Americans suffer loss of life, and families who have lost loved ones are feeling it more now than ever at the holiday season. I am sure everyone in this body has talked in their States with those families who have lost loved ones. This all because we were unprepared to deal with the terrorist attacks: during World War II on December 7 and again this year on September 11.

The amendment that is offered by the Senator from West Virginia says: Enough is enough. We are facing a new world, a new time. This Defense appropriations bill says we will give all the support our service men and women need who are fighting overseas in Afghanistan and across the world preserving peace and preserving our liberties. We are prepared to do that.

But we have been exposed in recent times to another kind of threat and danger. That threat and danger, even though it cost the lives of only 5 Americans, has touched those families. But more importantly, it has put a sense of concern and perhaps even anxiety in the hearts and souls of all Americans in every part of the Nation. It is the threat of the unknown, and that is the dangers of bioterrorism. This is a real problem in a real time.

The amendment of the Senator from West Virginia is in response to that challenge. It is the first opportunity to do something. His proposal is a modest program compared to what the experts have recommended. It is a proposal that ought to be supported now.

Yesterday we heard from former Governor Ridge saying next year the administration is going to propose hundreds of millions of dollars, perhaps even billions of dollars, for homeland security to help the Public Health Service, to build the laboratories, support the personnel, support the hospitals, develop the communications systems, do what is necessary in early detection, containment, and treatment of bioterrorism. Why are we waiting for next year when the danger is here today—Friday—when we will have a chance to vote on this measure?

The sad fact is that every day we delay is another day's head start for the terrorists. While we debate, they plan. While we defer, they prepare. Even now the terrorists may be preparing fresh batches of anthrax for wider and more deadly attacks.

We cannot wait until next year to fulfill our constitutional duty to protect the American people from this threat. Every day we delay means that States cannot buy the equipment necessary to upgrade their laboratories; they cannot buy the computers and fax machines to communicate the information crucial to identifying and containing an attack; they cannot hire the personnel they need to do the work. It means another day in which hospitals cannot purchase the reserve stocks of antibiotics; cannot add emergency room capacity; and cannot improve their ability to treat infected patients.

This is the issue. The Byrd amendment responds to this in a responsible way, in a way that is consistent with all those who know the nature of this threat. We know there is a potential danger of Ebola. We have no possible cure for Ebola. Why are we waiting to get our best scientists and researchers into the laboratories to work on this issue?

That is what the amendment of the Senator from West Virginia is all about. It is responsible, it is responsive, it is thoughtful, and it is an essential step forward in protecting American families across this country. This amendment deserves the support of all the Members.

I thank the Senator from West Virginia for his leadership in this area, as in so many other areas.

Mr. BYRD. Madam President, I thank the distinguished Senator. How much time remains?

The PRESIDING OFFICER. Nine minutes thirty seconds.

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. The junior Senator from Louisiana wishes to have some time, I understand. How much time does she desire?

Ms. LANDRIEU. I would like 3 minutes.

Mr. BYRD. I yield 3 minutes to the distinguished Senator.

Ms. LANDRIEU. I thank the Senator.

Madam President, I have come to the Chamber to support the Senator from West Virginia and to associate myself with the remarks that he has made and the Senator from Massachusetts has made. This is a very critical time and a very critical consideration.

I was given a most magnificent book yesterday—it is appropriate that I would have this book in the Senate Chamber today—which says, as the Senator from Alaska and the Senator from Hawaii beautifully called to our attention this morning, December 7, that 60 years ago our Nation became one.

On September 11, our Nation became one again. I wish the camera could pick up the opening of this Time Life book that is on the stands today as we speak: A firefighter from New York and Mayor Giuliani, one of the great leaders of this tragedy. The book details in some of the most graphic, horrific pictures of the Twin Towers that no longer exist, the devastation of that day, New York, the great symbol of economic freedom and justice in the world.

The television cameras cannot grasp the significance of the devastation, but in these still pictures in this book, one can see the slight wing of the plane as it comes to hit the World Trade Tower, and then again the next picture of this plane coming from this direction, planned this way, 20 minutes later, so the world could catch the terrorists destroy the symbols of power and might of capitalism in the world because they do not like it, because it lifts millions of people out of poverty and gives hope where there is despair. They do not like what it stands for so they destroyed it.

Look at these flames. There is the body of one man burned beyond recognition. He chose to jump rather than be burned alive. There is another man crawling out of the window desperately hoping to reach the bottom from the 83rd floor which, of course, was not going to happen.

I do not know how quickly we forget—all of Manhattan up in smoke; one of the greatest cities not just in America but in the world in smoke, in flames. We think this is not going to happen again? It very well can.

In addition, not only is this an attack and a threat against our well-being, but it is an attack against our economy. Senator BYRD brings to us a responsible proposal to not only help make us more secure at home but create jobs in the spending and investments of these funds.

Today in the newspaper, anthrax was found again in the Fed's mail, anthrax found in the Federal Reserve Board of the Washington, DC, headquarters. This is what the Senator's amendment is trying to fund. I know there are disagreements about some of the details.

In conclusion, I hope we do not forget Pearl Harbor, I hope we do not forget September 11, and I hope we come together to find some kind of way to say, yes, it is important to fund the war in Afghanistan. But it is as important to contribute to the security of our buildings, our energy, our health care system at home.

I commend the Senator from West Virginia for his great work and am proud to support his efforts in the Senate.

The PRESIDING OFFICER (Mr. CORZINE). Who yields time?

The Senator from Alaska.

Mr. STEVENS. Mr. President, when the terrible terrorist attacks occurred on September 11, the Congress immediately started to work on meeting the needs of the people affected directly. On September 18, the President had signed the bill we passed providing the authority to spend $40 billion. That $40 billion was to deal with providing Federal, State, and local preparedness for mitigating and responding to attacks; providing support to counter, investigate, or prosecute domestic or international terrorism; providing increased transportation security; repairing public facilities and transportation systems damaged by the attacks; and supporting national security.

It provided that those funds could be transferred to any Federal Government activity to meet the purposes of the act: $10 billion available to the President immediately, another $10 billion available to the President 15 days after the Director of the Office of Management and Budget has submitted to the House and Senate Committees on Appropriations a proposed allocation and plan for use of the funds for that department or agency, and $20 billion may be obligated only when enacted in a subsequent emergency appropriations bill.

That is this bill that is before us now. The House has passed it and the amendment that is the subject of the point of order is before the Senate. It is for the $20 billion, but it is also for an additional $15 billion beyond that.

I call attention to the Senate the fact the act that was signed by the President has these clauses in it:

> That not less than one-half of the $40 billion shall be for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia, and Pennsylvania on September 11.

That is from the whole $40 billion.

> Provided further, that the Director of the Office of Management and Budget shall provide quarterly reports to the Committees on Appropriations on the use of these funds, beginning not later than January 2, 2002.

That is when the first quarterly report is available. And here is the key phrase:

> Provided further, that the President shall submit to the Congress as soon as practicable detailed requests to meet any further funding requirements for the purposes specified in this act.

Let me read that again:

> Provided further, that the President shall submit to the Congress as soon as practicable detailed requests to meet any further funding requirements for the purposes specified in this act.

I take no joy in being part of the process to bring down the substitute that has been offered by the Senator from West Virginia. As a matter of fact, as I said before, I spent hours working on some of the details in this bill. I do not think it is politically motivated at all. It is a sincere desire to make funds available, but in many ways those funds are beyond the basic act and that is why they were designated an emergency $15 billion beyond the act, but they are for further funding requirements for the purposes specified in the act.

The President has taken the position he should be allowed to follow this law, he should be allowed to present detailed requests for the further funding requirements to meet the changed conditions of the country, in effect, following the September 11 terrorist attacks.

I originally started in the same position the Senator from West Virginia is in now. As the chairman of the committee, he had the duty to think through these things. I started out in the same position he had, but the further I thought about it and dealt with the President's request, the more I realized it was rationally based and it was what the Congress intended when we passed the original law that provided the $40 billion.

We said the President shall submit. It was a law that demanded the President submit to the Congress as soon as practicable detailed requests to meet any further requirements for purposes specified in this act.

By bringing down this substitute, what we do is allow the President to proceed under the law we have already enacted. He will present to us further requests to meet the needs of the Nation as detailed by him sometime after the first of the year and after that first report that is going to be filed on January 2 of next year to tell us how this money he had control over, the first $20 billion, was spent.

We do not know that yet. We have estimates on how it might be spent, but we do not know how it has been spent.

We will know in quarterly reports starting January 2, and the law presumes we are going to get another report every quarter on how that money was spent. That is good management.

While I regret supporting the position taken by the Senator from Texas as he has made the point of order against the substitute of the Senator from West Virginia, I think we will be back reviewing the President's detailed request early next year, and I expect that many of the requests the Senator from West Virginia has made will be honored by the Congress and by the President at that time.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 14 minutes. The Senator from West Virginia has 5 minutes 15 seconds.

Mr. STEVENS. I yield the remainder of our time to the Senator from West Virginia. The yeas and nays will be ordered at the expiration.

The PRESIDING OFFICER. The yeas and nays were ordered on the motion.

Mr. BYRD. I thank the distinguished Senator from Alaska. How much time do I have now?

The PRESIDING OFFICER. The Senator now has 19 minutes.

Mr. BYRD. I yield 4 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as we come to the conclusion of this debate, I draw to the Members' attention what those on the front lines of this battle have been saying about the need to dramatically increase our bioterrorism preparedness. It is important. They are the ones who have to deal with this challenge if we have a bioterrorist attack. They are the ones whose lives will be at risk. They are the ones who will detect and identify the threat. They are the ones who have to deal with it.

From the Association of the Public Health Laboratory: "Through the events of the past few months we have learned just how critical our public health laboratories are to the public health system and to the nation's well-being," said the president, Mary Gilchrist, the president of the Public Health Laboratory. "While State and local lab have been effective so far, they are stretched. To respond adequately to future threats we must update our labs, staffing and technology and security."

The Byrd proposal would add the resources necessary to make us effective in dealing with this crisis.

From the National Association of County and City Health Officials—they are the first ones to detect this challenge: "[the association] believes that every community deserves the protection of a fully prepared public health system."

That is one of the great assets of the Byrd proposal. It will cover the whole country, not just some areas. The Byrd proposal provides the "resources needed to build the local public health infrastructure that the country lacks." We urge the "Congress to recognize the great urgency and magnitude of this task" and support the Byrd proposal.

This is the Council of State and Territorial Epidemiologists: "A number of the State organizations, including the Association of Territorial Health Officials, and the National Governors Association, have written to the President requesting" the funds that are included in the Byrd amendment.

Members could say those organizations want it because they have a particular interest. The fact is, they have the responsibility. They know what is needed.

We have statements from the American Medical Association supporting the need for increased bioterrorism preparedness:

> We strongly support [this initiative] that would improve the public health, the hospital communications, the laboratory, emergency respond preparedness focusing at the State and local levels.

American Academy of Family Physicians, the family physicians who will deal with this crisis:

> By bolstering the role [in this instance] of CDC, in improving both the Federal and laboratory capacity and surveillance systems, the legislation provides the tools for early warning and quick response. And by enhancing the nation's stockpile of vaccines and by supporting the FDA's food inspection systems, the legislation builds a strong bioterrorism prevention.

Finally, the Association of American Universities:

> As you well know, this research [involving hazardous pathogens and toxic agents] is a crucial component of an effort to protect the public from terrorism and disease, through the development of vaccines, diagnostics, and cures.

This amendment moves us down the road. These are all the front line organizations. They are the ones that know what the need is. Each and every one of them rise in total and complete and wholehearted support for increasing the nation's ability to respond to bioterrorism.

I thank Senator BYRD for yielding.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, to the credit of the administration and the Congress, a scant 3 days after the assault on New York, a $40 billion emergency supplemental spending package was approved. My colleague, Mr. STEVENS, has called attention to that. At that time we could not fathom the anthrax-laced letters that were to disrupt the U.S. mail, cause the Hart Senate Office Building to close, taint letters up and down the east coast, and cause death and illness to postal workers and several other citizens who simply were unfortunate enough to open their mail.

At that point we did not know the extent of bin Laden's terror network in the United States and in 59 other countries. In the early days after the tragedy, we did not fully understand what the impacts would be on our Federal law enforcement entity. We were only just beginning to come to grips with the holes in our border security, the inadequacies of our customs inspection procedure, the potential for misuse of our largely unprotected nuclear facilities, food supplies, water supplies, and networks of communications and transportation. We had not fully come to grips with our deficit of small pox vaccines or the stretched-thin capacity of the CDC and local public health facilities and hospitals. We had no idea of the loss of life and financial devastation that had actually occurred in New York. We knew there was a deep hole in Lower Manhattan; that deep hole is still there today.

It was early at that time and we acted quickly, as we should have and did, but we did not have the full picture. Since that time we have learned much. We have learned that there are hundreds of vulnerabilities here at home. We have learned that bin Laden has thousands of faces in terrorist cells throughout the world and here at home. At a time when we are engaged in a war in Afghanistan, at a time when we are hunting bin Laden and his ilk worldwide, at a time when the administration has warned that any nation that harbors or funds terrorists might be subject to a military response from the United States, at a time when tensions in the Middle East are at powderkeg levels, I do not believe that a cut in the proposal for Homeland defense is wise or prudent.

We are in uncharted waters in stormy seas with a potential hurricane of violence just across the horizon. We know not what may be required of the brave men and women who wear the uniform of this great Nation abroad nor on how many fronts, including the homefront, simultaneously.

We may need every dollar of defense and more before it is over, but defense is defense, whether it is defense in Afghanistan or defense in New York or California or Alabama or Georgia or West Virginia. Airwars are effective, up to a point. They are also expensive. We must not shortchange our national defense—at home or aboard.

Throughout our short history, Americans have always been able to pull out of such nosedives through a rallying of our spirit, the American spirit. Positive leadership—positive leadership by our Government, positive leadership that is not blinded by political party interests—is needed. American determination has taken on challenge after challenge and turned history our way, time after time, because we all came together.

Consider the Herculean task of building the Panama Canal; President Kennedy's call to put a man on the Moon, the Presidents' call to end the long twilight struggle of the Cold War; the phenomenal progress against cancer and other dread diseases. Americans are at their best when we actively take on a problem and marshal our energies, unblinded by political partisanship toward a goal.

But what is missing this time is bipartisanship in Washington. We talk a lot about it; we don't practice it. The people are united. As usual, they know what is important. But we do not seem to be able to pull together in this town, even in this time when the people of the United States are united. We are facing such a challenge now. Our people have responded bravely. We are aggressively pursuing terrorists and a government that sanctions terrorists in Afghanistan. But there is a need to do more here at home. The Nation needs to actively engage in a coordinated campaign to protect our people from the scourge of terrorist attacks on all possible homefronts.

We have been sent a horrifying message from the skies above New York and Washington, DC. In the evil content of tainted mail, we have seen this horrifying message. Up and down the east coast of this Nation, we have seen it.

To call these unbelievable acts a wake-up call is an understatement in the extreme. We have been roused from our sleep by a tornado of violence. We dare not risk an anemic response. To be tepid now is to be foolish. To be timid now is to tempt fate. The first responsibility of any government is to ensure the safety of the people. And tangential to that responsibility is to assure their peace of mind.

We cannot now afford the luxury of complacency. We dare not slip into a sense of false confidence. Every possible effort must be brought to bear to thwart this new and different kind of enemy, and we have not yet done enough.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. BYRD. I thank the Chair.

Mr. President, I want to say what I am about to say without giving an appearance that I am saying it with rancor or that I am attempting to lecture my colleagues. I am often charged in the press with "lecturing" my colleagues.

I think of that great man in Roman history whose name was Helvidius Priscus. He was a Roman Senator.

The Emperor at that time was the Emperor Vespasian. He and Helvidius Priscus, the Senator, were very much at odds over a given issue, and the Roman Senate was about to decide this issue. The Emperor saw Helvidius Priscus as Priscus was about to enter the Senate. The Emperor stopped Helvidius Priscus and said: Don't go in to the Senate today.

Helvidius Priscus—ah, there was a man of courage. There was a man who saw his duty first, a man who saw his duty to the people, his duty under the Roman Constitution. And he saw through the cynical fog and kept his eyes on his duty. And he said: O Emperor, you have the power to make a Senator and to unmake a Senator. But as long as I am a Senator—and you appointed me—it is my duty to go into the Senate.

Vespasian said: All right, but don't answer any questions.

Helvidius said: If I am not asked any questions, I will keep quiet. But if I am asked a question, I must answer it.

Vespasian said: Then, if you answer it, you will die.

Helvidius Priscus responded: O Emperor, it is in your power to do what you will. It is my duty to say and do where my conscience leads me. If I am asked a question, I will answer it.

The question was asked. Helvidius Priscus answered the question—not in accordance with the Emperor's will. Helvidius did his duty. Vespasian kept his promise that he would execute Helvidius. And Helvidius Priscus died because he stood with his own conscience where duty lay, rather than with an emperor's demand with which he strongly disagreed.

I say that today so that the record for all time will be reminded of a Roman Senator who did his duty as his own conscience directed him, rather than obey a ruler's command—even though the ruler had appointed him to the high office of Senator.

Thank God we in this country of ours are not appointed as Senators by any President. When I was majority leader of the Senate and the President of the United States was Jimmy Carter, I said: I am the President's friend, but I am not the President's man. I am the Senate's man.

I don't hold myself to be a great paragon of anything. But I do believe in a Senator's constitutional oath. I am not appointed by any President, whether it is Mr. Carter, whether it is Mr. Clinton. I will be courteous, I will try to be fair with any President, but no President will tell me, as a Senator, how to vote.

Now, that ought to be the attitude of every Senator. I have seen other Senators here, on both sides of the aisle, who have stood by that duty. But I have seen a change in this body. Where are our heroes? Where are our Senators of today, Mr. President? Having been a Member of this Senate, now, 43 years, about to enter my 44th year in the Senate, my 50th year in the Congress, and in my own 85th year, I must say that it troubles me, more than anything else, to look about me and see men and women who are elected by the people of their respective States, to come here and to represent the people, who would bow the knee before any President of any party.

We have no king in this country. To those who say, "Well, he has threatened a veto, why should we push on?" that is as much as to say that any time a President says he will veto a measure, we as Senators should not press forward with what we believe is right, we should not do what we think is right, instead, we must listen to that threat of veto and do what the President tells us to do. That makes an emperor of a man who is not an emperor.

How much time do I have?

The PRESIDING OFFICER. Thirty seconds.

Mr. BYRD. Mr. President, I have great respect for every Senator. I have tremendous respect for Mr. GRAMM, the Senator from Texas who made the point of order. I have the highest respect for TED STEVENS on that side of the aisle. I have said that many times.

I don't indulge any rancor at all in my heart, nor should any Senator toward any other Senator. But I must say that I am troubled greatly when we have come to the point in this Republic of ours when men and women who are elected and who swear an oath to support and defend the Constitution while standing at that desk with their hand on the Holy Bible, let their political partisanship cloud their vision. The President didn't elect me. I don't say that out of disrespect for him. He didn't elect me. The people of West Virginia elected me. They elected me to use my best judgment on great national issues. They did not elect me to say whatever the President wants me to say, or to allow any President to tell me how to vote.

It hurts me in my heart to think that men and women fail to see where their duty lies under the Constitution.

I beg all Senators' forgiveness, but after being here 49 years this year, I cannot help but say that that troubles me.

When you get what you want in your struggle for pelf,
And the world makes you King for a day,
Then go to the mirror and look at yourself,
And see what that guy has to say.

For it isn't your Father, or Mother, or Wife,
Who judgement upon you must pass.
The fellow whose verdict counts most in your life
Is the guy staring back from the glass.

He's the fellow to please, never mind all the rest,
For he's with you clear up to the end,
And you've passed your most dangerous, most difficult test
If the man in the glass is your friend.

You may be like Jack Horner, and "chisel" a plum,
And think you're a wonderful guy,
But the man in the glass says you're only a bum
If you can't look him straight in the eye.

You can fool the whole world down the pathway of years,

And get pats on the back as you pass,
But your final reward will be heartaches and tears
If you've cheated the man in the glass.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say through you to the distinguished senior Senator from West Virginia that I can remember the first press conference we did on homeland security. I stood proudly by you on that day, and we have worked on this. He has worked on it 110 percent more than I. But I want the Senator to know that I am going to go home tonight, tomorrow, or whenever we finish this legislation, and I will be able to look in that glass because I know I did the right thing by standing next to the Senator from West Virginia on this legislation.

It is the right thing to do. It is the important thing to do. I have been around a few years. I have seen it whittled away, and they are going to try to take this from you. The reason I feel so badly about it is I don't think the country is going to be as safe for my family and the people of the State of Nevada if this amendment is taken down. It is a good piece of legislation.

I wish to publicly express my appreciation to my friend from West Virginia for allowing me to stand by him on this legislation.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. All time having expired, the question occurs on the motion to waive section 302(f) of the Congressional Budget Act. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 50, nays 50, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—50

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NAYS—50

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Feingold
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 50.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The substitute exceeds the allocation of the subcommittee in violation of subsection 302(f) of the Budget Act. The point of order is sustained. The amendment falls.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, would the President repeat for the benefit of all of us, those of us who couldn't very well hear what was being said, would the Chair repeat what he just said.

The PRESIDING OFFICER. The substitute exceeds the allocation to the subcommittee in violation of section 302(f) of the Congressional Budget Act. The point of order is sustained. The amendment falls.

The Senator from West Virginia.

Mr. BYRD. Mr. President, the Senate has spoken on the point of order. I ask the leadership—and I will yield to the Senator from Nevada without losing my right to the floor—if we could have a period of time during which Senators may speak, perhaps as in morning business—misstating the true purpose of morning business, but that is understood by all—so that I could meet off the floor with my own leadership, hopefully for a brief time, after which I would hope that I could meet with my own leadership, Senators DASCHLE and REID, together with my chairman of the Defense Appropriations Subcommittee and with the ranking member of the Defense Appropriations Subcommittee, in other words, Mr. INOUYE, and Mr. STEVENS, and that in the meantime, Senators can continue speaking or whatever the leadership would like to be doing. I would say that we would need probably an hour and a half, maybe a little longer, to consider the matter as it faces us now. I wonder if the leadership wishes to respond to that.

Mr. REID. I say to my friend from West Virginia, I wonder if it would be appropriate that we proceed now, if the Senator will agree, to a period for morning business for 1 hour, and then we will come back and revisit the situation.

Mr. MCCAIN. I object. I reserve the right to object. We have been on this bill now for a long period of time. There are a lot of us who want to talk about the bill, a lot of us who have a lot of amendments. It is time to move forward with the process.

I object to going into morning business. I am glad to have discussion of the legislation. I intend to speak on it at some length, and I intend to propose an amendment or amendments and begin their consideration. Those of us who strongly object to this legislation and the porkbarrel spending—it is the most egregious I have ever seen—should very soon have the right to begin amending to restore some kind of sanity and fiscal discipline to this process. So I object to going into morning business.

I will seek recognition both for addressing this legislation and for amendments. I hope there are other colleagues of mine on both sides of the aisle who share this concern.

Mr. REID. Mr. President, who has the floor, the Senator from Nevada or the Senator from West Virginia?

The PRESIDING OFFICER (Mr. WYDEN). The Senator from West Virginia has reserved his right to the floor.

Mr. BYRD. Mr. President, I yield to no man when it comes to putting the defense of this Nation ahead of all other things. I have no problem with the Senate proceeding—I expected it to at some point—with the Defense bill. I expected Senators to have an opportunity to offer their amendments. But I also think at the moment, this matter that we have thought so much about, worked hard to develop some approach; namely, homeland defense—we are at a point where we think this is the matter that is most important before the Senate.

I did not hold up this Defense appropriations bill to this point. The House did that, but I have the right—I can hold the floor also. I want to reach a sensible, commonsense conclusion to this, and I am willing to sit down with our counterparts and do so. I make no threats. The Senator is not impressed by threats. Neither am I. I am not wanting to hold up the bill ad infinitum, but it only came to us a few days ago. Our committee has responded magnificently.

The Senator can say what he wishes and do what he wishes, but there are others in here who are just as firm in our patriotism for this country as is the Senator from Arizona. If he wants to talk about pork, we will talk about pork at an appropriate time. I hear that theme song over and over and over, and I see items in the newspapers that are not accurate when they talk about pork. They are not accurate today, but this is no time to go into that. There is something more important.

If the Senator wants to object, he can object. If he thinks that will gain time, let him see.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded for the purpose of talking about Pearl Harbor Day.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard. The clerk will continue with the call of the roll.

The assistant legislative clerk continued the call of the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that for the next 60 minutes no amendments be in order to the bill; that Senator CLELAND now be recognized to speak for up to 5 minutes, followed by Senator McCAIN for 45 minutes, followed by Senator WELLSTONE for 10 minutes, and at the end of that time the majority leader or his designee be recognized.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Mr. President, I ask for 5 minutes at the end of that to make this a 65-minute request.

Mr. INOUYE. I am happy to add the additional 5 minutes for Mrs. HUTCHISON.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The Senator from Georgia is recognized.

Mr. CLELAND. I thank the Chair.

(The remarks of Mr. CLELAND pertaining to the introduction of S. 1785 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I am sorry to say that whether or not we resolve our differences over spending that exceeds limits set by the Budget Act, the Department of Defense appropriations bill will still fail to meet its most important obligation. In provisions too numerous to mention, this bill time and time again chooses to fund porkbarrel projects with little, if any, relationship to national defense at a time of scarce resources, budget deficits, and underfunded urgent defense priorities.

America is at war, a war that has united Americans behind a common goal of defeating international terrorism. Our service men and women are once again separated from their families, risking their lives, working extraordinarily long hours under the most difficult conditions, to accomplish the ambitious but necessary tasks their country has set for them.

The weapons we have given them, for all their impressive effects, are in many cases neither in quantity nor quality the best our Government can provide.

For instance, stockpiles of the precision guided munitions that we have relied on so heavily to bring air power to bear so effectively on difficult, often moving targets, with the least collateral damage possible, are dangerously depleted after only nine weeks of war in Afghanistan. This is just one area of critical importance to our success in this war that underscores just how carefully we should be allocating scarce resources to our national defense.

Yet despite the realities of war and the responsibilities they impose on Congress as much as the President, the Senate Appropriations Committee has not seen fit to change in any degree its usual blatant use of defense dollars for projects that may or may not serve some worthy purpose, but that certainly impair our national defense by depriving legitimate defense needs of adequate funding.

Even in the middle of a war, a war of monumental consequences and with no end in sight, the Appropriations Committee, still is intent on using the Department of Defense as an agency for dispensing corporate welfare. It is a terrible shame and derogation of duty that in a time of maximum emergency, the Senate would persist in spending money requested and authorized only for our Armed Forces to satisfy the needs or the desires of interests that are unrelated to defense and even, in truth, uninterested in the needs of our military.

In this bill, we find a sweet deal for the Boeing Company that I'm sure is the envy of corporate lobbyists from one end of K Street to the other. Attached is a legislative provision to the fiscal year 2002 Department of Defense appropriations bill that would require the Air Force to lease one hundred 767 aircraft for use as tankers for $20 million apiece each year for the next 10 years.

The cost to taxpayers? More than $2 billion per year, with a total price tag of $30 billion over 10 years. This leasing plan is five times more expensive to the taxpayer than an outright purchase, and it represents more than 20 percent of the Air Force's annual cost of its top 60 priorities. But the most amazing fact is that this program is not actually among the Air Force's top 60 priorities nor do new tankers appear in the 6-year defense procurement plan for the Service!

That's right, when the Air Force told Congress in clear terms what its top priorities were tankers and medical lift capability aircraft weren't included as critical programs. In fact, within its top 30 programs, the Air Force has asked for several essential items that would directly support our current war effort: wartime munitions, jet fighter engine replacement parts, combat support vehicles, bomber and fighter upgrades and self protection equipment, and combat search and rescue helicopters for downed pilots.

This leasing program also will require $1.2 billion in military construction funding to build new hangars, since existing hangars are too small for the new 767 aircraft. The taxpayers also will be on the hook for another $30 million per aircraft on the front end to convert these aircraft from commercial configurations to military; and at the end of the lease, the taxpayers will have to foot the bill for $30 million more, to convert the aircraft back—pushing the total cost of the Boeing sweetheart deal to $30 billion over the ten-year lease. That is a waste that borders on gross negligence.

But this is just another example of Congress's political meddling and how outside special interest groups have obstructed the military's ability to channel resources where they are most needed. I will repeat what I've said many, many times before—the military needs less money spent on pork and more spent to redress the serious problems caused by a decade of declining defense budgets.

This bill includes many more examples where congressional appropriators show that they have no sense of priority when it comes to spending the taxpayers' money. The insatiable appetite in Congress for wasteful spending grows more and more as the total amount of pork added to appropriations bills this year—an amount totaling nearly $14 billion. And although we are 68 days into the new fiscal year, we still have four appropriations bills left to complete before we adjourn.

This defense appropriations bill also includes provisions to mandate domestic source restrictions; these "Buy America" provisions directly harm the United States and our allies. "Buy America" protectionist procurement policies, enacted by Congress to protect pork barrel projects in each Member's State or district, hurt military readiness, personnel funding, modernization of military equipment, and cost the taxpayer $5.5 billion annually. In many instances, we are driving the military to buy higher-priced, inferior products when we do not allow foreign competition. "Buy America" restrictions undermine DoD ability to procure the best systems at the least cost and impede greater interoperability and armaments cooperation with our allies. "They are not only less cost-effective, they also constitute bad policy, particularly at a time when our allies' support in the war on terrorism is so important.

Secretary Rumsfeld and his predecessor, Bill Cohen, oppose this protectionist and costly appropriations' policy. However, the appropriations' staff ignores this expert advice when preparing the legislative draft of the appropriations bill each year. In the defense appropriations bill are several examples of "Buy America" pork—prohibitions on procuring anchor and mooring chain components for Navy warships; main propulsion diesel engines and propellers for a new class of Navy dry-stores and ammunition supply ships; and, other naval auxiliary equipment, including pumps for all shipboard services, propulsion system components such as engines, reduction gears, and propellers, shipboard cranes and spreaders for shipboard cranes.

If it was not for the great cost to our military and the taxpayer, drafting "Buy America" provisions must be a somewhat amusing project for staff and the Members of the Appropriations Committee. An example of this language follows:

> None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under, unless the anchor and mooring chair are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States.

That has to be entertaining to some government classes around America.

Also buried in the smoke and mirrors of the appropriations markup is what appears to be a small provision that has large implications on our warfighting ability in Afghanistan and around the world. Without debate or advice and counsel from the Committee on Armed Services, the appropriators changed the policy on military construction which would prohibit previous authority given to the President of the United States, the Secretary of Defense, and the Service Secretaries to shift military construction money within the MILCON account to more critical military construction projects in time of war or national emergency. The reason for this seemingly small change is to protect added pork in the form of military construction projects in key States, especially if such projects have historically been added by those Members who sit on the Military Construction Appropriations Subcommittee at the expense of projects the Commander in Chief believes are most needed to support our military overseas.

In the usual fashion, legislative riders that probably would not make it through the normal legislative process are tacked onto this must-pass appropriations bill. For example, a provision was added to this bill to enact legislation to federally recognize native Hawaiians, similar to the status afforded to American Indians and Alaskan Natives.

I have no objection to the substance of this legislation on its face. I do object that not a hearing has been held—no consideration, no debate—on an issue that could obligate the Government of the United States to billions and billions of dollars in funding, but also significant obligations as far as land, water, and other vitally needed national resources are concerned.

How in the world do you justify, on a Defense Appropriations Committee bill, a change in policy, a far-reaching change in policy regarding our treatment of native Hawaiians?

In fact, no one would even know what we are passing into law because only vague references are included. Only careful observers would recognize what these three lines in this appropriations bill actually stand for in a 24-page bill. Does the Appropriations Committee have any respect for the authorizing committees in the Senate?

This bill also clearly tramples on the jurisdiction of the Commerce Committee by making unauthorized appropriations out of the airport and airways trust fund, particularly for the Airport Improvement Program. There are hundreds of millions of dollars in spending out of the trust fund, perhaps as much as $715 million, that are not explicitly authorized. Furthermore, $306.5 million of the civil aviation spending in this bill was not requested by the President. Of the money that was requested, the President did not ask that it be taken out of the aviation trust fund.

Finally, the trust fund is supposed to be devoted to the infrastructure needs of the national aviation system, but this bill uses the trust fund essential air service, which may be a worthy program but is not eligible for these moneys.

Earlier this week, the Senate approved the Department of Transportation appropriations bill. That bill was an egregious overreach by the appropriators. In redirecting the programmatic expenditures and directives developed under the law by the authorizing committee, there were more than $4.1 billion in earmarked projects in that bill and a statement of managers redirecting funding that should have gone to the States but instead was used as a slush fund by the appropriators to earmark their home State projects.

Here we are, only a few days later, and we are once again facing another appropriations bill that continues the unacceptable overreaching by the appropriators with respect to authorized transportation programs. For example, under division B, chapter 10, the bill provides $100 million for Amtrak for "emergency expenses to respond to the September 11, 2001 terrorist attacks, for necessary expenses of capital improvement."

This funding is not authorized, nor has it been requested by the administration. The Senate-Commerce-Committee-reported S. 1550, the Rail Security Act of 2001, would authorize funding for Amtrak safety and security needs, primarily tunnel improvements in New York, Maryland, and DC. Under S. 1550, however, the funding would only be released to Amtrak after Amtrak submits a plan to the Secretary of Transportation for addressing safety and security that is then approved by the Secretary. The accompanying DOD report language states that the funding provided for Amtrak:

> . . . will be used solely to enhance the safety and security of the aging Amtrak-owned rail tunnels under the East and Hudson Rivers.

However, neither the bill nor the report provides any Federal oversight by the Department of Transportation of the additional taxpayer dollars that would be provided to Amtrak.

Additionally, the bill provides for $110 million, $10 million of which was requested by the administration in "miscellaneous appropriations" to the Federal Highway Administration.

By the way, I want to remind my colleagues, this is a Defense Appropriations Committee bill—to the Federal Highway Administration. The accompanying report directs that $100 million of these funds be used for construction of ferries and ferry facilities in New York to cover for the loss of the PATH transit services between New York and New Jersey that have not been requested by the administration.

Not only did the administration not request the funding, it is not even clear if the ferry services being sought are the right solution. The goal should be to rebuild the PATH system, not replace it with a less efficient ferry service. While ferry service may be required, it may be a relatively short-term need and is one that can and is being addressed with current assets. Further, the bill provides $100 million for Federal transit administration capital investment grants that were not requested by the administration. The accompanying report then earmarks the entire amount for use by transit authorities most impacted by the September 11 terrorist attack.

Under division C, the DOD appropriations bill provides $12 million for shipbuilding loan guarantees under title XI of the Merchant Marine Act of 1936. This is by far the most egregious use of a national emergency designation as an excuse for porkbarrel spending that I have ever seen.

The Maritime Administration is today preparing to make one of the largest single default payments in the history of the Shipbuilding Loan Guarantee Program, due to the bankruptcy filing of the American Classic Voyages Company on its loans. MARAD has asked the Treasury for $250 million to pay off loans which have been called under American Classic's guarantees.

Further, the Department of Transportation Inspector General is investigating the loan guarantee program as a result of American Classic's default, the default of the SEAREX program earlier this year and problems with several other title XI loan guarantee projects that are having difficulties at this time.

Specifically, the inspector general is looking into the title XI procedures for submitting reviewing, approving, and monitoring title XI loan guarantees, and whether merit procedures were adequately effected and implemented in order to protect the interests of the United States. Why would we now have an additional $12 million for new loan guarantees when there are obviously problems with the program, I might add,-for a program the administration has recommended not to fund at all.

While a report accompanying the bill recommends new funding to be used to cover the loans for port security infrastructure and equipment, that is not allowed under current law. The funding will go into an account that is designated solely for shipbuilding loan guarantees. I note the bill provides $11 million in appropriations to the Maritime Administration for general port security improvements. While I fully support the need for increased security at our Nation's seaports, and I am a cosponsor of legislation that would create a new program to provide port security funding, I cannot support funding for a program in a manner that is not allowed under the law while we are in a period of deficit spending.

The President has repeatedly said that he will come back to Congress in the spring with a request for additional funding as needed, and if legislation to change the law with respect to port security funding is successful, the funding could be provided at that time. But for now, providing $12 million for shipbuilding loan guarantees at a time when the program's current and future operations are under review would be a serious breach of our responsibilities to the American taxpayer.

Under division E, the so-called technical corrections division, the appropriators do what they do best, redirect current laws developed by the authorizers. Amazingly, the appropriators are already seeking to "correct" the Transportation appropriations bill approved by the Senate earlier this week, and it hasn't even been signed into law.

For example, under Section 109, the appropriators take an additional $29.5 million from the State's funding that was to be distributed according to the Transportation Equity Act, TEA–21, the multiyear highway funding legislation of 1998, and to be effective through 2002, and transfer that $29.5 million to the Woodrow Wilson Bridge Project to restore the project's funding that will be reduced as a result of the enactment of the Transportation appropriations bill. This provision would now bring the total loss for the State allocation to over $450 million.

The Department of Transportation appropriations bill already has reduced the State's funding by $423 million, but this bill will ensure the Wilson Bridge Project is held harmless with respect to the appropriators' earlier funding redirectives.

Section 111 also amends TEA–21 just as it did so many times in the Transportation appropriations bill and, in this case, adds additional directives for the benefit of Alaska. Specifically, Section 111 would amend the list of high priority project designations by adding to item 1497, which states, "construct new access route to Ship Creek access in Anchorage" and words "construct capital improvements to intermodal marine freight and passenger facilities and access thereto."

Under section 112 it would amend the Department of Transportation appropriations bill which, as I just mentioned, hasn't even been signed into law. First, it would add yet another earmark in the Transportation Community System Preservation Program, a program the appropriators funded at more than 10 times the authorized level, and earmarked every cent, and directed $300,000 for the US–61 Woodville widening project in Mississippi. It then directs $5 million of the Interstate Maintenance Program for the City of Trenton/Port Quendall, WA, Project.

Haven't these States had enough earmarks already?

I note the bill would direct that $3,170,000 of the funding provided for the Research and Special Programs Administration be used for research in special programs, and $226,000 of funds provided for the pipeline safety program shall remain available until September 30, 2004.

Since when do we appropriate money beyond the fiscal calendar year?

The $273 million for the Coast Guard in the $20 billion supplemental is a plus-up of $70 million over the $203 million requested by the Administration. The Administration's request would fund the personnel costs for reserve personnel brought on active duty, purchase small boats for port security, and prevent several cutters and aircraft from being decommissioned. The additional $70 million not requested by the administration would fund $50 million for entitlements authorized by the National Defense Authorization Act (NDAA), but not provided in the Transportation appropriations act and $20 million for additional domestic port security teams.

The $12 million for the Coast Guard in the Byrd homeland defense supplemental would provide additional funding not requested by the Administration for the Coast Guard to provide enhanced port security operations and conduct port vulnerability assessments. The Department of Transportation currently has a Maritime Direct Action Group that is studying port security requirements. The administration plans to base future port security funding requests on this group's recommendations.

This legislation includes language that recommends $8.25 million for emergency grants to assist public broadcasters in restoring broadcasting facilities that were destroyed in the collapse of the World Trade Center. This provision allows public broadcasters to receive 100 percent of the total amount for cost recovery of their facilities. Other public broadcasters seeking funding for the construction of similar facilities will only receive 75 percent of the total amount, as set forth in section 392(b) of the Communications Act of 1934. This provision is inconsistent with the act and is selectively unfair to those who are seeking similar funding.

I look forward to the day when my appearance on the Senate floor for this purpose are no longer necessary. There is over $2.2 billion in unrequested defense programs in the defense appropriations bill and another $2 billion for additional supplemental appropriations not directly related to defense that have been added by the chairman of the committee. Consider what that $4.2 billion when added to the savings gained through additional base closings and more cost-effective business practices could be used for. The problems of our armed forces, whether in terms of force structure or modernization, could be more assuredly addressed and our warfighting ability greatly enhanced. The public expects more of us.

But for now, unfortunately, they must witness us, blind to our responsibilities in war, going about our business as usual.

I ask unanimous consent that a list of Appropriations Committee earmarks be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FY 2002 Defense Appropriations Pork (in millions)

DIVISION A	
Operation and Maintenance, Army:	
Fort Knox Distance Learning Program	3.0
Army Conservation and Ecosystem Management	5.0
Fort Richardson, Camp Denali Water Systems	0.6
Rock Island Bridge Repairs	2.75
Memorial Tunnel, Consequence Management	19.3
FIRES Programs Data	8.0
Skid Steer Loaders	10.0
USARPAC Transformation Planning	10.0
USARPAC Command, Control, and Communications Upgrades	3.7
Hunter UAV	5.0
Field Pack-up Systems	5.0

FY 2002 Defense Appropriations Pork (in millions)—Continued

Unutilized Plant Capacity	25.0
SROTC—Air Battle Captain	1.25
Joint Assessment Neurological Examination Equipment	3.0
Operation and Maintenance, Navy:	
Naval Sea Cadet Corps	2.0
Shipyard Apprentice Program	4.0
PHNSY SRM	15.0
Warfare Tactics PMRF	24.0
Hydrographic Center of Excellence	3.5
UNOLS	3.0
Center of Excellence for Disaster Management and Humanitarian Assistance	5.0
Biometrics Support	3.0
Operation and Maintenance, Air Force:	
Pacific Server Consolidation	10.0
Grand Forks AFB ramp refurbishment	10.0
Wind Energy Fund	0.5
University Partnership for Operational Support	4.0
Hickam AFB Alternate Fuel Program	1.0
SRM Eielson Utilidors	10.0
Civil Air Patrol Corporation	4.5
PACAF Strategic Airlift planning	2.0
Elmendorf AFB transportation infrastructure railroad alignment	12.0
Operation and Maintenance, Defense-Wide:	
Civil Military programs, Innovative Readiness Training	10.0
DoDEA, Math Teacher Leadership	1.0
DoDEA, Galena IDEA	4.0
DoDEA, SRM	20.0
OEA, Naval Security Group Activity, Winter Harbor	4.0
OEA, Fitzsimmons Army Hospital	7.5
OEA Barrow landfill relocation	4.0
OEA, Broadneck peninsula NIKE site	1.5
OSD, Clara Barton Center	1.5
OSD, Pacific Command Regional initiative	7.0
OEA, Adak airfield operations	1.0
OSD, Intelligence fusion study	5.0
Operation and Maintenance, Army National Guard:	
Distributed Learning Project	30.0
ECWCS	5.0
Camp McCain Simulator Center, trainer upgrades	4.7
Fort Harrison Communications Infrastructure	1.2
Communications Network Equipment	0.209
Multimedia classroom	0.85
Camp McCain Training Site, roads	2.5
Full Time Support, 487 additional technicians	13.2
Emergency Spill Response and Preparedness Program	0.79
Distance Learning	30.0
SRM reallocation	25.0
Operation and Maintenance, Air National Guard:	
Extended Cold Weather Clothing System	5.0
Defense Systems Evaluation	2.5
Eagle Vision (Air Guard)	10.0
Bangor International Airport repairs	10.0
Aircraft Procurement, Army:	
Oil debris detection and burn-off system	5.0
ATIRCM LRIP	5.0
Procurement of Weapons and Tracked Combat Vehicles, Army:	
BFVS MOD	14.0
Bradley Reactive Armor Tiles	24.0
Arsenal Support Program Initiative	5.0
Other Procurement, Army:	
Automated Data Processing Equipment	14.0
Camouflage: ULCANS	8.0
Aluminum Mesh Tank Liner	7.5
AN/TTC Single Shelter Switches w/Associated Support	38.0
Blackjack Secure Façsimile	10.0
Trunked Radio System	2.0
Modular Command Post	5.0
Laundry Advance Systems (LADS)	3.0
Abrams & Bradley Interactive Skills Trainer	9.0
SIMNET	15.0
AFIST	9.0
Ft. Wainwright MOUT Instrumentation	6.5
Target Receiver Injection Module Threat Simulator	4.0
Tactical Fire Trucks	5.5
IFTE	15.0
Maintenance Automatic Identification Technology	6.0
National Guard Distance Learning Courseware	8.0
JPATS (16 aircraft)	44.6
Smart Truck	4.0
Aircraft Procurement, Navy:	
ECP-583	46.0
PACT Trainer	6.0
Direct Support Squadron Readiness Training	5.0
Shipbuilding and Conversion, Navy:	
SSGN (AP) Program Acceleration	193.0
Other Procurement, Navy:	
JEDMICS	5.0
Pacific Missile Range Equipment	6.0
IPDE Enhancement	6.0
Pearl Harbor Pilot	5.0
AN/BPS-15H Navigation System	9.0
Tactical Communication On-Board Training	6.5
Air Traffic Control On-Board Trainer	4.0
WSN-7B	6.0
Naval Shore Communications	48.7
Missile Procurement, Air Force:	
NUDET Detection System	19.066
Other Procurement, Air Force:	
CAP COM and ELECT	10.4
Pacific AK Range Complex Mount Fairplay	7.4
UHF/VHF Radios for Mount Fairplay, Sustina	3.5
Clear Laser Eye Protection	4.0
Procurement, Defense-Wide:	
Lithium Ion Battery technology	10.0
National Guard and Reserve Equipment:	
Navy Reserve Misc. Equipment	15.0
Marine Corp Misc. Equipment	10.0
Air Force Reserve Misc. Equipment	10.0
Army National Guard Misc. Equipment	15.0
Air Guard C-130	182.0
Research, Development, Test, and Evaluation, Army:	
Environmental Quality Technology Dem/Val	10.36
End Item Industrial Preparedness Activities	20.6
Defense Research Sciences Cold Weather Sensor Performance	1.25
Advanced Materials Processing	4.0
FCS Composites Research	5.0
AAN Multifunctional Materials	2.5
HELSTF Solid State Heat Capacity	5.0
Photonics	5.0
Army COE Acoustics	5.0
Cooperative Energetics Initiatives	5.0
TOW ITAS Cylindrical Battery Replacement	3.0
Cylindrical Zinc Air Battery for LWS	2.1
Heat Actuated Coolers	2.0
Improved High Rate Alkaline Cells	1.3
Low Cost Reusable Alkaline (Manganese-Zinc) Cells	0.6
Rechargeable Cylindrical Cell System	2.0
Waste Minimization and Pollution Research	3.0
Molecular and Computational Risk Assessment (MACERAC)	2.0
Center for Geosciences	3.0
Cold Regions Military Engineering	1.5
University Partnership for Operational Support (UPOS)	4.0
Plasma Energy Pyrolysis System (PEPS)	3.0
DOD High Energy Laser Test Facility	15.0
Starstreak	16.0
Center for International Rehabilitation	2.0
Dermal Phase Meter	0.6
Minimally Invasive Surgery Simulator	2.0
Minimally Invasive Therapy	10.0
Anthropod-Borne Infectious Disease Control	3.0
VCT Lung Scan	4.5
Tissue Engineering Research	5.5
Monoclonal Anti-body based technology (Heteropolymer System)	3.55
Dye Targeted Laser Fusion	4.0
BESCT Lung Cancer Research Program (MDACC)	5.0
Joint Diabetes Program	10.0
Center for Prostate Disease Research	7.5
Spine Research	2.5
Brain Biology and Machine Initiative	3.0
Medical Simulation training initiative	0.75
TACOM Hybrid Vehicle	2.0
N-STEP	2.75
IMPACT	5.0
Composite Body Parts	2.0
Corrosion Prevention and Control Program	2.0
Mobile Parts Hospital	8.0
Vehicle Body Armor Support System	3.8
Casting Emission Reduction Program	8.36
Managing Army Tech. Environmental Enhancement	1.0
Visual Cockpit Optimization	6.0
JCALS	12.0
Electronics Commodity Pilot Program	1.0
Battle Lab at Ft. Knox	5.0
TIME	10.0
Force Provider Microwave Treatment	2.0

FY 2002 Defense Appropriations Pork (in millions)—Continued

Mantech Program for Cylindrical Zinc Batteries	2.6
Continuous Manufacturing Process for Mental Matrix Composites	3.0
Modular Extendable Rigid Wall Shelter	3.0
Combat Vehicle and Automotive technology	20.0
Auto research center	3.0
Research, Development, Test, and Evaluation, Navy:	
Southeast Atlantic Coastal Observing System (SEA–COOS)	8.0
Marine Mammal Low Frequency Sound Research	1.0
Maritime Fire Training/Barbers Point	3.0
3–D Printing Metalworking Project	3.0
Nanoscale Science and Technology Program	3.0
Nanoscale devices	1.0
Advanced waterjet-21 project	4.0
Modular advanced composite hull	3.0
DDG–51 Composite twisted rudder	4.0
High Resolution Digital mammography	3.0
Military Dental Research	4.0
Sonarman Easrcom Technology	0.5
Energy and Environmental Training	3.0
Precision Strike Navigator	2.5
Vector Thrusted Ducted Propeller	4.0
Ship Service Fuel Cell Technology Verification & Training Program	4.0
Aluminum Mesh Tank Liner	3.0
AEGIS Operational Readiness Training System (ORTS)	4.0
Research, Development, Test, and Evaluation, Defense-Wide:	
Bug to Drug Identification and CM	3.0
American Indian higher education consortium	3.5
Business/Tech manuals R&D	4.5
AGILE Port Demonstrations	10.0
Arrow Missile Defense Program	141.7
Defense Health Program:	
Hawaii Federal healthcare network	18.0
Pacific island health care referral program	5.0
Alaska Federal healthcare Network	2.5
Brown Tree Snakes	1.0
Tri-Service Nursing Research Program	6.0
Graduate School of Nursing	2.3
Health Study at the Iowa Army Ammunition Plant	1.0
Coastal Cancer Control	5.0
Drug Interdiction and Counter-Drug Activities, Defense:	
Mississippi National Guard Counter Drug Program	2.6
West Virginia Air National Guard Counter Drug Program	3.5
Regional Counter Drug Training Academy, Meridian, MS	2.0
Earmarks:	
Maritime Technology (MARITECH)	5.0
Metals Affordability Initiative	5.0
Magnetic Bearing cooling turbin	5.0
Roadway Simulator	13.5
Aviator's night vision imaging system	2.5
HGU–56/P Aircrew Integrated System	5.0
Fort Des Moines Memorial Park and Education Center	5.0
National D-Day Museum	5.0
Dwight D. Eisenhower Memorial Commission	3.0
Clear Radar Upgrade, Clear AFS, Alaska	8.0
Padgett Thomas Barracks, Charleston, SC	15.0
Broadway Armory, Chicago	3.0
Advance Identification, Friend-or-Foe	35.0
Transportation Multi-Platform Gateway Integration for AWACS	20.0
Emergency Traffic Management	20.7
Washington-Metro Area Transit Authority	39.1
Ft. Knox MOUT site upgrades	3.5
Civil Military Programs, Innovative readiness training	10.0
ASE INFRARED CM ATIRCM LRIP	10.0
Tooling and Test Equipment	35.0
Integrated Family of Test Equipment (IFTE)	15.0
T–AKE class ship (Buy America)	
Welded shipboard and anchor chain (Buy America)	
Dwight D. Eisenhower Memorial	
Gwitchyaa Zhee Corporation lands	
Air Force's lease of Boeing 767s	
Enactment of S. 746	
2002 Winter Olympics in Salt Lake City, Utah	
Total Pork in Division A (FY 2002 Defense Approps) = $2.144 Billion	
DIVISION B	
Commerce related earmarks:	
DoT Office of Intelligence and Security	1.5
Airports and Airways Trust Fund, payment to air carriers	57.0
Coast Guard, operating and expenses ($203 m was requested)	273.35
DoT. Office of the Inspector General	2.0
National Transportation and Safety Board	0.836
FAA Operations	300.0
FAA Facilities and Equipment	108.5
FAA Research, Engineering, and Development	12.0
Federal Highway Administration misc approps ($10 m was requested)	110.0
Capital Grants to the National Railroad Passenger Corporation	100.0
Federal Transit Administration Capital Investment Grants	100.0
Restoration of Broadcasting Facilities	8.25
DIVISION C	
National Institute of Standards and Technology	30.0
Federal Trade Commission	20.0
Maritime Administration	11.0
Maritime Guaranteed Loan (Title XI) Program	12.0
Coast Guard, operating expenses	12.0
FAA research, engineering, and development	38.0
FAA Grants-in-AID for Airports	200.0
DIVISION E	
Woodrow Wilson Bridge Project	29.542
Research and Special Programs Administration	3.170
Pipeline Safety Program	22.786
Provisions relating to Alaska in the Transportation Equity Act for the 21st Century	
US–61 Woodville widening project in Mississippi	0.3
Interstate Maintenance Program for the city of Trenton/Port Quendall, WA	5.0
Total Earmarks in Divisions B, C, and E = $1.457 Billion	
Total = $3.6 Billion	

Mr. McCAIN. Mr. President, a lot of these I don't understand. A lot of them no one understands, and yet the money is disbursed.

I am a little bit embarrassed to note there are two additional unrequested porkbarrel projects at Camp McCain in Mississippi: Camp McCain Simulator Center, trainer upgrades; and the Camp McCain Training Site, roads.

I also am happy to see Camp McCain functioning with efficiency in defending our Nation. But I am curious why they couldn't have requested this funding.

Several at least warrant inquiry:

Rock Island Bridge Repairs; Memorial Tunnel, Consequence Management; Pacific Server Consolidation, $10 million; Wind Energy Fund; $500,000, Elmendorf Air Force Base transportation infrastructure; Clara Barton Center, $1.5 million; Multimedia Classroom, $850,000; Distance Learning, $30 million; Bangor International Airport repairs—I don't believe Bangor International Airport is a military base—that is $10 million; oil debris detection and burn-off system, $5 million; Aluminum Mesh Tank Liner, $7.1 million.

All of these may be worthwhile projects. The Department of Defense did not find them worthwhile enough to request them.

National Guard Distance Learning Courseware, $8 million; Smart Truck—that has always been one of my favorites—$4 million.

The old brown tree snake is in here; Spine Research, $20.5 million; Heat Actuator Coolers, $2 million; Starstreak whatever that is—$16 million; 3–D Printing Metalworking Project, $3 million.

None of these that I mention was requested nor given any consideration in the authorizing process.

Auto Research Center, $3 million; Bug to Bug Identification and CM—Bug to Bug—that is only $3 million; Hawaii Federal health care network, $18 million; Brown Tree Snakes, $1 million; Coastal Cancer Control, $5 million; Pacific Island Health Care Referral Program, $5 million.

There are many, and for some of them we still haven't been able to figure out exactly what they mean.

One of them is the Gwitchyaa Zhee Corporation lands; leasing of the Boeing 767s. Enactment of S. 746 means more money for the 2002 Winter Olympics in Salt Lake City, UT.

Then there are huge amounts of money for Commerce, and others, including, as I mentioned, $29 million for the Woodrow Wilson project; $22 million for the Pipeline Safety Program; U.S. 61 Woodville widening project; Interstate Maintenance Program for the City of Trenton-Port Quendall, WA.

It is quite remarkable.

Mr. GRAMM. Mr. President, will the Senator yield for a question?

Mr. McCAIN. I am glad to yield for a question.

Mr. GRAMM. I want to be sure I have it straight about this Boeing aircraft thing. Am I to understand that there is a provision in the bill that would have us lease 100 Boeing aircraft, paying $11 billion per year for the lease, and the Air Force did not ask for these aircraft? Is that right?

Mr. McCAIN. The Senator is right; only he may have left out another aspect of it. We have to spend an additional $1.2 billion in military construction to build new hangars for these aircraft because existing hangars for our existing fleet, which does need upgrading—and they have requested repair and upgrading of our existing fleet—is also an additional cost.

I would like to mention to my friend from Texas that once the 10 years is over, Boeing gets the aircraft back.

Mr. GRAMM. I know the Senator is a very senior member of the Armed Services Committee. Is there any evidence anywhere that the Air Force said it wanted these planes?

Mr. McCAIN. I have looked at the Air Force's 6-year program top priorities and their top 60 priorities. These are not in their top 60 priorities, nor in the 6-year defense procurement plan for the Air Force.

I would like to remind my friend that not long ago a major decision was made in a competition between Lockheed Martin and Boeing for the procurement of a new fighter aircraft. Lockheed Martin won that competition.

Also, as the Senator from Texas knows, there have been many cancellations for orders from Boeing for new airliners because of the economy.

If it is the judgment of the Senator from Texas and the majority of this body and the administration that Boeing Aircraft—which, by the way, has facilities in 40 States throughout America—needs to be bailed out, then I say OK. Maybe we could write them a check for $10 billion. Maybe it is a matter of national security. But to do it this way and take 20 percent of the entire budget for new projects from the Air Force is remarkable.

I know the Senator doesn't agree with me, but this is living, breathing testimony for the need for campaign finance reform.

Mr. GRAMM. Let me pose another question, if I may. The Air Force doesn't want these planes. We are going to spend $10 billion plus another $1 billion to build hangars, and then we are going to give the planes back. Does the $10 billion sound to you like an inflated price to lease these airplanes for 10 years?

Mr. McCAIN. Well, according to the people we talk to, it is actually about $10 billion more. I want to point out there is a provision in this bill that does not allow competition. In other words, if Airbus wanted to offer to lease their airplanes to the U.S. Air Force, they would be prohibited from doing so. So not only is it earmarked for at least $20 billion, we could purchase these aircraft outright for approximately one-third of the cost of what we are going to incur through this cockamamie leasing program.

Mr. GRAMM. And we have them for only 10 years.

Mr. McCAIN. Yes.

Mr. GRAMM. Where does the price come from? Do you have any idea where the price came from?

Mr. McCAIN. I have no idea. But I also point out to the Senator from Texas, these tankers have long lives—20, 30, 40 years—because we continuously maintain them and upgrade them. So after 10 years, Boeing would get these airplanes back. And it is really remarkable, it costs taxpayers $2 billion a year for a total pricetag of $20 billion over 10 years.

Mr. GRAMM. Let me ask a question. Maybe there is a shortage of tanker capacity now with the war in Afghanistan. Can we get these planes immediately? Do you know how long it is before the first one would be delivered?

Mr. McCAIN. It is my understanding it would take 6 years to acquire these 100 aircraft.

Mr. GRAMM. So we don't get anything for 6 years.

Mr. McCAIN. I am sure we could get a few of them right away. I have to tell the Senator from Texas, I do not think I have ever seen anything quite like this before. When we are talking about $20 billion, that, even in these days, is not chump change.

Mr. GRAMM. Well, I just want to say to the Senator from Arizona, I am sure it pains many people to hear the Senator from Arizona go through and list all the things in all these appropriations bills that nobody requested that are being funded, but I think it gives some insight into how big the level of waste is in this process and how out of control spending is. I thank the Senator for bringing it to light.

I would also say that about this Boeing proposal I do not think I have ever seen a proposal that makes less sense economically—and it is a big statement to say as Senator McCAIN and I have been here together for 22 years. Lease something for 10 years, and pay a higher price than you could buy it for, with no negotiation of price—I guess Boeing and whoever wrote this amendment came up with a price—and no competition.

The Air Force does not want the plane, and we do not get a plane for 6 years under the procurement proposal. I am not aware there has ever been a worse proposal in the 22 years we have served together. If so, I have never seen it. I mean, that is a big statement.

Some people may think that is an overstatement—and maybe we are prone toward it—but I do not think, in the 22 years I have been here, I have ever seen anything to equal this Boeing lease agreement.

Mr. McCAIN. I thank my friend from Texas.

Mr. President, I ask unanimous consent to print in the RECORD the prioritized list submitted by the Air Force.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Priority and description	Remaining shortfall	Cumulative
1 Space Lift Range Viability	53.9	53.9
2 BOS/Base Maintenance Contracts	182.1	236.0
3 Wartime Reserve Munitions Replenishment	362.0	598.0
4 Readiness Spares	46.5	644.5
5 Depot Maintenance	113.7	758.2
6 Comm Readiness I	224.2	982.4
7 Link-16/Digital Data Link	232.8	1,215.2
8 Civil Airspace Access (GANS/GATM)	50.9	1,268.1
9 ICBM Batteries	4.2	1,270.3
10 Time Critical Targeting	291.0	1,561.3
11 Real Property Maintenance I (1.2% PRV)	520.0	2,081.3
12 Military Personnel	71.6	2,152.9
13 Peacekeeper (PK) Retirement (Pending Congressional Approval)	12.2	2,165.1
14 Supports Future C–17 Multi-year	180.9	2,346.0
15 Target Drones (Aerial Targets)	6.2	2,352.2
16 Combat Support Vehicles	51.2	2,403.4
17 Comm Readiness II	325.9	2,729.3
18 Bomber Upgrades	730.7	3,456.0
19 Fighter Upgrades	640.9	4,100.9
20 JPATS Disconnect	5.8	4,106.7
21 BRAC	22.0	4,128.7
22 Aging Aircraft Enablers	30.0	4,158.7
23 T&E Maintenance and Repair (M&R)	45.0	4,203.7
24 Real Property Maintenance II (1.6% PRV)	679.6	4,883.3
25 F–16 SEAD	331.3	5,214.6
26 Contractual Commitments	123.6	5,338.2
27 Munitions Swap Out/Cargo Movement	127.0	5,465.2
28 Classified	89.8	5,555.0
29 Comm Readiness III	130.6	5,685.6
30 Military Family Housing Investment	138.0	5,823.6
31 Real Property Maintenance III (2.0% PRV)	746.0	6,569.6
32 Fighter/Bomber Self Protection	45.0	6,614.6
33 ISR Upgrades	127.0	6,741.6
34 Combat Search and Rescue	128.7	6,870.3
35 Ground Training Munitions	19.0	6,889.3
36 Antiterrorism/Force Protection II	24.6	6,913.9
37 ICBM Sustainment Shortfall	56.0	7,014.8
38 Full Combat Mission Training	44.9	6,958.8
39 Weapon System Sims	44.1	7,058.9
40 AEF Combat Support	27.3	7,086.2
41 Theater Missile Defense	24.7	7,110.9
42 EAF NBC Training & Equipment	56.2	7,167.1
43 Science & Technology	104.4	7,271.5
44 Space Surveillance/Control	8.1	7,279.6
45 Recruiting & Retention	27.5	7,307.1
46 Space Ops Training-Simulator	85.0	7,392.1
47 C–130J	81.0	7,473.1
48 Missile Defense Enablers	150.0	7,623.1
49 MILSATCOM Shortfall	37.6	7,660.7
50 GPS Anti-jam User Equipment	25.8	7,686.5
51 Nuclear Detonation Detection Sustainment	12.0	7,698.5
52 DoD/Intel Community Space Coop	8.0	7,706.5
53 NORAD/USSPACE Warfighting Support	11.5	7,718.0
54 Space Maneuver Vehicle (SMV) Ops Demo	31.0	7,749.0
55 USAFA Logistics Support	8.3	7,757.3
56 Space Warfare Center (SWC) Shortfalls	16.5	7,773.8
57 Carryover	275.8	8,049.6
58 MILCON	1,029.7	9,079.3
59 AFRC	52.0	9,131.3
	9,131.3	....

Mr. McCAIN. If you look at No. 1 through No. 59 on the list of priority items, there is no request for Boeing 767s. I agree with the Senator from Texas, I have never seen anything quite like it. You would think that just the size of this leasing—the $20 billion deal, plus the $1.5 billion for the construction of the hangars, et cetera, not to mention the cost of reengineering the airplanes, which the taxpayers will pay for, and the deengineering of the airplanes—you would have thought at least there would have been a hearing—a hearing, some kind of a hearing in the Armed Services Committee when you are talking about this kind of an amount of money. But instead, we had to thumb through the appropriations bill, and all of a sudden it came upon us.

Mr. KYL. Mr. President, will the Senator from Arizona yield for a quick comment?

Mr. McCAIN. I am happy to yield to the Senator.

Mr. KYL. I just say to the Senator, in the time I have served with my colleague from Arizona, he has never flagged in his effort to save taxpayer money, and he looks for the kind of pork projects that he has identified over the years in all of the different bills. The bill before us happens to relate to defense.

I am sure it does not give any pleasure to my colleague from Arizona, anymore than it does any of the rest of us, to be talking about these things with regard to the Defense Department while there is a war on.

But I recall comments yesterday from the Secretary of Defense who was briefing us on the war effort, and in a great fit of patriotism, one of my colleagues said to him: So, Mr. Secretary, we want you to know we are all for you. We are for the troops. What else can we do to help you?

His immediate response was: Well, we could start with base closures and stop funding things that I have not asked for and start funding things I have requested. That is what you could really do to help.

And the pretty universal reaction among our colleagues was: Well, other than that, what could we do to help you?

So my point, Mr. President, is to compliment my colleague from Arizona. He has been fighting this battle for a long time. It does not give us any pleasure to point these things out, but it is critical, if we are really serious about supporting the troops we put in harm's way, that we try to focus on the priorities we need the most and not fill the bill up with special projects for people who have special status in the Congress.

So I compliment my colleague for the work he is doing. I hope later we will have an opportunity to offer amendments to deal with some of this.

Mr. McCAIN. I thank my friend from Arizona, who has been steadfast.

But I would ask for the consideration of my colleague from Texas and my colleague from Arizona, and all others who are concerned about this. Perhaps it might not be a bad idea if we proposed a substitute, that we sheared all of the pork off it and proposed a substitute that was just the fundamental requests of the administration and all those projects that have gone through the normal authorizing and appropriations process. I think that would be a very interesting vote.

I say to my colleagues that maybe we ought to try that, since none of these other things seem to be working—maybe just the bill that contains the requested and authorized and within the budgetary restrictions of the budget process.

Mr. GRAMM. Let me be sure I understand. You are saying you have all these programs in here that nobody ever asked for: these planes the Air Force does not want, paying more to lease them than we could buy them and what you are proposing——

Mr. McCAIN. If I may interrupt, billions of dollars that have nothing whatsoever to do with defense.

Mr. GRAMM. The proposal you are talking about is to take all those out and then ask the military, if they had a chance to spend the money, what would they spend it for?

Mr. McCAIN. Absolutely.

Mr. GRAMM. Well, it seems to me you could do that by striking all of these add-ons and basically asking the Defense Department to submit a list, and then give Congress the ability to say yes or no; and if we said yes, you would release the money. I think that might be an interesting way to go about it. I commend that to my colleague.

Mr. McCAIN. I thank my colleague from Texas.

I reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senator from Texas is recognized to speak for up to 5 minutes.

Mr. CONRAD. Mr. President, might I ask the Senator from Texas to delay for just a moment so we might seek a unanimous-consent agreement?

Mrs. HUTCHISON. I will, Mr. President.

Mr. CONRAD. I thank the Senator from Texas.

I am just wondering if we can have in place an agreement that the Senator from Texas would speak, and then the Senator from Minnesota would proceed, and then I would like to have the chance to respond to the remarks of the Senators from Arizona and Texas with respect to this lease agreement, because there is another side of this story that has not been told that I think would be important for our colleagues to hear.

I ask unanimous consent, on behalf of myself and the Senator from Washington, that I be granted 10 minutes for myself, 10 minutes for the Senator from Washington, and that the Senator from Iowa—you would like how much time? Five minutes. I ask unanimous consent that following the Senator from Texas and the Senator from Minnesota, I be recognized for 10 minutes, the Senator from Washington be recognized for 10 minutes, and the Senator from Iowa be recognized for 5 minutes.

Mr. REID. Mr. President, reserving the right to object, Senator WELLSTONE has 10 minutes under the order previously entered to speak. I would ask that he be given that right as soon as the Senator from Texas completes her remarks.

Mr. CONRAD. That is part of our request.

Mr. REID. I would also say, just so the Members here have some idea what is going on, we are going to be in a parliamentary situation, as soon as this morning business talk is completed, to begin the offering of amendments.

There are a number of people who have expressed a desire to offer amendments. Just to get this started someplace, the Senator from Minnesota would be recognized to offer his amendment following the statement of the Senator from Iowa.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Reserving the right to object, I will not object, but I would like to clarify, we have now added 25 minutes beyond the original unanimous consent. And my question, before this unanimous consent goes forward, is, Would we be encroaching on the ability to get directly to the bill so that we can start the amendment process by adding this many extra minutes?

Mr. REID. I respond to the Senator from Texas, the answer is yes. The Senator from Arizona has made a number of statements to which somebody has to respond. Whether they do it now or at some later time, they will be responded to. I thought this would be an appropriate time to get into this. As soon as it is completed, we will get into the amendment process. There are other Senators—not too many—who have expressed a desire to offer amendments. The first would be the Senator from Minnesota.

Mrs. HUTCHISON. I would just ask if we could assure that if we have the capability to go directly to the bill, that that take precedence, and then all of us have the ability to speak in some shortened way to assure we can get onto the bill and start this amendment process. It would seem that we would have plenty of time to be able to debate once we are on the bill; is that correct?

Mr. REID. The answer is, if the Senator would allow us to have this consent agreement entered, I think it would expedite things a great deal. We could get to the substance of the legislation.

The PRESIDING OFFICER. Is there objection to the consent request?

Mr. McCAIN. Reserving the right to object, I don't understand the unanimous consent agreement.

Mr. REID. I say to my friend from Arizona, the Senator from Texas will speak for 5 minutes; the Senator from North Dakota, 10 minutes; the Senator from Washington, 10 minutes; the Senator from Iowa, 5 minutes. That would be following the Senator from Minnesota, who already has 10 minutes. Then he would offer his amendment when the morning business time is completed.

Mr. McCAIN. Further reserving the right to object, does the Senator then plan on voting on that amendment?

Mr. REID. We can do that. Whatever Senators DASCHLE and LOTT decide. We could either vote on that or someone else could offer an amendment and vote in a stacked fashion. Whatever the leadership decides.

Mr. KYL. Reserving the right to object, might I inquire what that amendment is seeking to amend?

Mr. REID. I don't know. Do you mean what part of the bill?

Mr. KYL. We have the House bill before us at this point.

Mr. REID. I say to the Senator from Arizona, what we thought would expedite matters also, Senators INOUYE and STEVENS and BYRD are working on a substitute. We have an agreement here that we put in so people will just offer amendments. At such time as that substitute is entered, they would apply. If somebody objects to that, we will just wait around until the substitute is done. We thought we could save time by doing that.

Mr. KYL. Mr. President, I would object. It seems to me we could talk about the amendment. It is then a mere formality, once we know what it is we are amending, to simply lay down the amendments.

Mr. REID. I say to the Senator from Arizona, we don't need permission to offer amendments. We can offer them. It doesn't take unanimous consent to offer amendments.

Mr. KYL. Mr. President, I understand. What I am objecting to here is an order in which there would be a specific amendment that would be preferred to any others at the time there is a substitute offered.

Mr. REID. I appreciate that. Whoever gets the floor can offer an amendment. If the Senator would rather play jump ball, that is fine. The only part of the unanimous consent agreement I delete is the fact that Senator WELLSTONE would be the first to offer an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Texas is now recognized.

Mrs. HUTCHISON. Mr. President, I am very pleased that we are beginning to get down to the serious business of passing the Defense appropriations bill. I hope we will be able to do that, perhaps next week. I don't know what the timetable will be. I don't want to stop the amendment process because there are legitimate differences.

The bottom line is: the Defense appropriations bill must be passed, and it must be passed in a form that the President can sign it.

The President has shown the leadership. He has told the Senate what his parameters are. He has made his budget submission to Congress so we know what the President's priorities are. And further, he has said he is going to keep the agreement that he made with the Democratic leaders in the House and Senate about the upper limit of that bill. I think it is incumbent on us to work within that framework to pass a bill that the President can sign.

This is a bill that will add $26 billion more to defense spending than we passed last year. Today we are operating on last year's budget because the fiscal year ran out on October 1. So we are operating under a smaller budget in a time of great need in our military. It is our responsibility to pass a bill after our legitimate differences have been ironed out so our military will have the added $26 billion to fight this war. That is the bottom line.

I appreciate the differences. They are legitimate. But it is time for us to get onto the bill, discuss those differences, and have a game plan for when the bill can be finished.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I ask unanimous consent that Senator MURRAY of Washington, Senator GRASSLEY of Iowa, and myself be permitted to go in front of Senator WELLSTONE. He himself has proposed this, so I know it is OK.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Madam President, I rise to answer some of the charges made by the Senator from Arizona with respect to this lease agreement between the Air Force and Boeing to acquire 100 Boeing 767s to replace 100 of the aging KC-135 tanker aircraft for the U.S. Air Force.

The Senator from Arizona and the Senator from Texas have suggested that this is a matter of the appropriators requiring the Air Force to acquire planes that are not a priority for the U.S. Air Force. That is wrong. That is not even close to being right.

I know something about this, not because I am an appropriator, I am not. I know something about it because, as chairman of the Budget Committee, we saw in the appropriations bill a proposed lease agreement that we did not regard as a true lease. So I became involved in this effort and learned a good deal about what is being discussed.

First, the Air Force is not required to lease planes from Boeing or anyone else. The statement of the Senator from Arizona that the Air Force is being required to lease planes from Boeing or anywhere else is simply not true.

I direct my colleagues to the language that is before us:

> The Secretary of the Air Force may, from funds provided in this act or any future appropriations act, establish a multiyear pilot program for leasing general purpose aircraft for tanker purposes.

That is what this is about. This is no requirement. This is an authorization so that if the head of the Air Force determines it is in the national interest to do so, they can acquire planes through the leasing process.

As I became involved in this matter, General Jumper, who is the head of the U.S. Air Force, called me personally on three occasions to say how urgently needed these planes are.

The Senator from Arizona and the Senator from Texas have suggested the Air Force does not want these planes. The head of the Air Force, General Jumper, called me on three occasions saying these planes are desperately needed and asked me not to stop the acquisition through lease of these aircraft. General Jumper made this case to me.

Mr. McCAIN. Will the Senator yield for a question?

Mr. CONRAD. I will not yield at this point.

Mr. McCAIN. I did not think so.

Mr. CONRAD. Let me complete my remarks and then I will be happy to yield to the Senator from Arizona. I say to the Senator from Arizona, I hope he will stay and listen because the Senator from Arizona provided a good deal——

Mr. McCAIN. You do not want to answer a question and have a dialog. You will not do it.

Mr. CONRAD. I say to the Senator, this is on my time. The Senator provided a good deal of misinformation to our colleagues. It is unfortunate he does not want to hear the other side of the story.

General Jumper, who is the head of the Air Force, said to me the Air Force currently has 500 KC-135 tanker aircraft. The average age is 43 years; 100 of the 500 planes are in the depot for repair at any one time. Some have been in the depot for repair as long as 600 days.

The Senator from Arizona and the Senator from Texas said this is not a priority for the Air Force. I do not think they are right when the head of the Air Force calls me and says it is an absolute priority. They are talking about past history. They are talking about before the attack on this country that occurred on September 11.

General Jumper said to me: Senator, the attack has changed everything. We now have to fly air cover over 26 American cities. We are providing the air bridge for half a world away to Afghanistan. These planes are being flown at an OPTEMPO that requires us to replace them sooner than was anticipated.

This is the head of the Air Force, and the Senator from Arizona and the Senator from Texas say it is not an Air Force priority? They better call the Air Force and ask them what their priorities are, and they better talk about the priorities that exist now, not the priorities that existed before this country was attacked.

The lease agreement that was proposed between the Air Force and Boeing did not meet our test for lease agreement. That is why I became involved. It is the only reason I know anything about this. As a result, I convened a meeting on November 1 with the Air Force, the head of the Congressional Budget Office, the top management of the Office of Management and Budget, Senator INOUYE, Senator STEVENS, and the Senators from Washington to hear from OMB and CBO on their objections to this agreement. CBO and OMB said they would score this lease agreement not as a lease but as a purchase costing $22 billion. We then worked with the Congressional Budget Office to structure a true lease agreement.

The Senator from Arizona says to our colleagues this would cost five times as much as a direct acquisition. That is absolute sheer nonsense. The fact is, to acquire these planes would cost $22 billion. To lease the planes costs $20 billion. In the math that I learned in North Dakota, $20 billion is less than $22 billion. Where the Senator from Arizona ever came up with the wild claim that this costs five times as much as an acquisition is beyond me because it is absolutely not accurate.

When we come out on the floor, it seems to me we have some obligation to report accurately to our colleagues. I do not hold it against anybody to come out here and offer an amendment on any matter, but there is some obligation to be accurate in reporting to our colleagues.

The only reason I got involved in this is because we saw a lease agreement that was truly not, according to the Congressional Budget Office and Office of Management and Budget, a lease. That is the reason I have learned what I have learned. But for the Senator from Arizona to come out here and assert the Air Force does not want these planes is not true. For him to assert that it is not a priority is not true. It may have been the case before the war occurred, but it is not the case now.

The simple fact is, the head of the Air Force himself has called me directly on three occasions to talk about this specific issue and to ask me not to block the acquisition of these planes, which I was prepared to do until they entered into what is, in fact, a lease agreement, a lease agreement that costs less than acquiring these planes directly.

As I have indicated, the head of the Air Force said to me, these planes are urgently needed in the national security interest of the United States of America. That is what General Jumper said to me on repeated occasions. I hope when we vote on this matter, we vote based on facts.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. It is my understanding I have 10 minutes under the time agreement.

The PRESIDING OFFICER. The Senator is correct.

Mrs. MURRAY. I ask unanimous consent that the Senator from Kansas be allowed 3 minutes, and the Senator from Washington be allowed 2 minutes following my remarks, before the Senator from Iowa, on the same topic we are now discussing.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. What does the Chair mean without objection? The Chair did not ask if there was any objection.

The PRESIDING OFFICER. Will the Senator from Washington restate the unanimous-consent request.

Mrs. MURRAY. I ask unanimous consent that the Senator from Kansas have 3 minutes, and the Senator from Washington 2 minutes, before the Senator from Iowa.

Mr. GRASSLEY. I hope it is after because I informed the Senator from Kansas I wanted to be out of here by 2:30 p.m.

Mr. ROBERTS. She only had 10 minutes to begin with.

Mr. GRASSLEY. I am sorry. If it is out of the 10 minutes of the Senator from Washington, that is OK.

Mrs. MURRAY. Madam President, I ask unanimous consent that following the remarks of the Senator from Iowa, the Senator from Kansas have 3 minutes, and the Senator from Washington State have 2 minutes on the topic of the 767s.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Madam President, first of all, let me thank the Senator from North Dakota, the Budget Committee chair, for his strong remarks following the comments from the Senator from Arizona on the lease provisions of the 767s that are in the Defense bill before us.

I am extremely concerned for our country, for our military and, of course, for my own home State. In my home State, we have Fairchild Air Force Base which is home to the 92nd Air Refueling Wing. There are approximately 60 air refueling tankers that are based at that base outside of Spokane, WA.

I have been to Fairchild. I have visited personally with the families. I know the difficult missions these crews handle for each one of us every day, and I have the utmost respect for what they do.

I should also mention, in September some of these crews and these tankers were deployed in our military effort. So when the Air Force tells me, and they have told us, and tells Congress, and they have told Congress, that replacing the old KC-135 tankers is critical, I know it is important and my constituents know it is important. My State is home to Boeing, which would build the tanker replacements.

My friend from Arizona suggests the Senate should reject this proposal simply because it would benefit the manufacturer of the planes. Well, that argument ignores the facts. These tankers are the oldest planes in our fleet. They cost a fortune to maintain and they are often down for repairs. Since September 11, we rely on them more than before. We are going to have to replace these aging tankers anyway, and if we do it now, we will save at least $5.9 billion in maintenance and upgrades on these antiquated tankers. This is something the Air Force has been concerned about for years.

It is clear we need to take immediate action to upgrade our overburdened tanker fleet, but do not take my word for it. Listen to what the Secretary of the Air Force, James Roche, wrote to me: The KC-135 fleet is the backbone of our Nation's global reach, but with an average age of over 41 years, coupled with the increasing expense required to maintain them, it is readily apparent we must start replacing these critical assets.

He ends: I strongly endorse beginning to upgrade this critical warfighting capability with the new Boeing 767 tanker aircraft.

That is from the Air Force Secretary, James Roche.

Will this help the people of my State? Absolutely. Because of the layoffs at Boeing since September 11 and the slowdown of our economy, my State now has the highest unemployment of any State in this Nation. The people I represent are hurting, and I am going to do everything I can to help them.

This is not just about my State. Every State involved in aircraft production will benefit. Even the home State of my friend from Arizona would stand to gain if this program moves forward. It is in our national interest to keep our only commercial aircraft manufacturer healthy in tough times, to keep that capacity, and to keep that skill set.

The Air Force has identified this as a critical need. Our ability to project force, to protect our shores, and to pursue terrorists in Afghanistan and around the world depends on our fighter aircraft and bombers being able to stay in the air for long periods of time, and that is only possible through in-flight refueling.

Right now in the Afghanistan campaign, we rely on air refueling tankers known as KC–135s. In fact, since September 11, our use of these tankers is up significantly. We rely on these tankers to refuel our fighters over Afghanistan. We rely on them to refuel our B–2 and B–52 bombers on long-range missions. We rely on them to refuel the planes that view our troops in the region. Right now, in the skies over this Capitol Building and cities across America, we are relying on them to refuel the planes that are flying combat air patrols for homeland security.

There are very real problems with our existing fleet of tankers. They are old. The KC–135s were first delivered in 1957. On average, they are 41 years old, and we are paying for it. They have been around longer than most of the people who are flying them. These tankers are too expensive to maintain. A 41-year-old aircraft runs on parts that are not commercially available. Corrosion is a significant problem. In fact, KC–135s spend 400 days in major depot maintenance every 5 years.

This is an essential program. We will save $5.9 billion in upgrade and maintenance costs. By moving forward with this program, we can save $5.9 billion. These numbers come not from me but from the U.S. Air Force.

This is a longstanding need, and it is made even more urgent by 9–11. I want to be clear. This is a serious need that was identified by the U.S. Air Force long before September 11. It is not a new idea, but given the ongoing war and the new challenges we face with homeland security, it is clear we need to speed up the procurement process, because relying on these planes is what we are doing after September 11. We have worked hard for these provisions.

I commend the Senator from Alaska and the Senator from Hawaii, who are managing this bill, who have worked long and hard hours to come together with an agreement on the critical replacement of these KC–135s with the new tankers. I thank Senator CONRAD and Senator DOMENICI, the chair, and ranking member of our Budget Committee, who have worked long and hard also. I recognize my colleague from Washington, Senator CANTWELL, who, too, has spent many hours sitting in Senators' offices explaining to them the need both from the Air Force and from our home State.

This is a critical program. It is the right way to do it. We have worked out a consensus among everyone who moves this program forward and, most importantly, it is for the men and women who serve us in the Air Force.

When I go home when this session is over, and I go to one of our Air Force bases in my home State of Washington, I want to be able to look in the eyes of those young men and women we are sending a continent away to defend and protect all of us and say we have done everything we can to make sure they are safe when they are in the air. That is what this provision does.

When the Senator from Arizona offers his amendment, I hope my colleagues remember the men and women who are serving this country.

The PRESIDING OFFICER. The Senator from Iowa.

ECONOMIC STIMULUS

Mr. GRASSLEY. Madam President, I rise to give a status report on the negotiations of the economic stimulus. I report to the Senate as the lone Republican Senate negotiator.

Yesterday's Roll Call quotes numerous Democratic Senators as saying Senate Democrats won't agree to any stimulus deal unless the package has the support of two-thirds of the Democratic caucus. I ask unanimous consent that a copy of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Roll Call December 6, 2001]

DEMOCRATS SET STIMULUS HURDLE; SENATORS REQUIRE SUPERMAJORITY

(By Paul Kane)

Setting a high threshold for negotiating an economic-stimulus package, Senate Democrats have decided they will not accept any deal unless roughly two-thirds of their caucus agrees to support the final product.

Before agreeing to begin bipartisan, bicameral negotiations on a final stimulus plan, Majority Leader Thomas Daschle (S.D.) told his caucus last week that Democratic Senators in the House-Senate conference would not agree to a stimulus deal if there was significant opposition from within Democratic ranks.

"They're not going to agree to anything unless a significant majority of the caucus agrees with it," said Sen. Kent Conrad (D-N.D.), chairman of the Budget Committee and a Finance Committee member. "It's got to be a significant majority, two-thirds of the caucus."

Other Democratic Senators confirmed that the high bar for a stimulus deal was set around a two-thirds majority, although some said Daschle left wiggle room in case he feels the deal is good and he doesn't have precisely that much support.

"I don't think it's a hard-and-fast number," said Sen. John Breaux (D-La.), a senior Finance member.

Breaux said he remained hopeful that a deal could be reached that would gain enough Democratic support for a final package, but added, "It's going to be tough."

Asked about the threshold for reaching a deal, Sen. Jim Jeffords (I-Vt.) said, "It's a high one."

Negotiations continued yesterday among six key lawmakers trying to hammer out a stimulus deal: Senate Finance Chairman Max Baucus (D-Mont.); Sens. Jay Rockefeller (D-W.Va) and Chuck Grassley (R-Iowa), ranking member on Finance; House Ways and Means Chairman Bill Thomas (R-Calif.); House Majority Leader Dick Armey (R-Texas); and Rep. Charlie Rangel (D-N.Y.), ranking member on Ways and Means.

Although some progress was reported on those talks, Senate Republicans worried that the Democrats were setting an impossible bar for reaching a deal and openly questioned whether Baucus' caucus colleagues trust the Montana Senator, who helped Grassley write a $1.3 trillion tax cut last spring.

"I would hope we would not put [in place] this artificial threshold that is almost impossible to achieve," said Sen. Olympia Snowe (R-Maine), a key moderate on Finance. "Why do that? To set up failure? I hope not."

Snowe said the narrow margin in the Senate gave neither side the right to predetermine how many votes would come from their caucus, but rather mandated that negotiators shoot for a deal that cobbles together 51 votes, or 60 if needed to break a filibuster. "That is the essential marker here," she said.

An aide to Senate Minority Leader Trent Lott (R-Miss.) indirectly suggested that Daschle and Democrats simply don't trust Baucus. "Senator Lott has said this before and he'll say it again: He has every confidence in Senator Grassley's ability to negotiate a real economic security package on behalf of Senate Republicans," said Ron Bonjean, Lott's spokesman.

Baucus drew the ire of many Democrats when he and Grassley co-wrote the Senate tax package, most of which became law. On final passage, the bill was supported by just 12 Democrats. In the process, Baucus received numerous tongue lashings from colleagues at Democratic caucus meetings, including one exchange in which Daschle told Baucus he did not have "the authority" to negotiate a deal with Grassley.

Conrad acknowledged that requiring a caucus supermajority for the stimulus deal was "unusual", but said the circumstances in this negotiation—not the party's faith in Baucus—necessitated setting the high threshold. Conrad recalled Senate Democrats setting similar bars for approval of year-end budget deals in the early 1990s, including the 1990 compromise struck with the first Bush administration.

"We've not had an ending to a session quite like this one," Conrad said, noting that the Sept. 11 attacks, anthrax letters and a worsening recession have contributed to leaving Congress months behind in finishing up its business. "It's important that the caucus be behind any deal. We're not going to sign up to anything unless a substantial majority agree."

Conrad noted that it was both Daschle and Baucus who made the pledge to the caucus that a two-thirds majority would be required for a deal—a promise made at a caucus meeting held last Thursday to discuss the stimulus negotiations.

Jeffords, who caucuses with Democrats, said the feeling was that the stimulus plan was so crucial that everyone agreed a wide consensus was needed, not that the Senators needed any check on Baucus. "Max is doing a good job. I haven't heard anybody complaining."

Aides to Baucus agreed that the caucus is unified in this approach, noting that his plan to expand unemployment and health care benefits and reduce some business taxes had unanimous support in the body.

"We're hopeful that the package we negotiate is one that reflects the solid core principles we've been talking about since the beginning of this debate," said Michael Siegel, Baucus' spokesman.

Other Democrats contended that the bigger problem with negotiations is trying to forge a compromise with the House Republican plan, which is primarily titled toward business taxes. Digging in for a fight, Senate Democrats from both wings of the caucus said they would rather kill the stimulus plan than give away too large a corporate tax break.

"The better alternative may be no bill at all," said Sen. Robert Torricelli (N.J.), one of the 12 Democrats to support the tax-cut bill in the spring. "I would rather see that money stay in the treasury."

"I would rather see no stimulus than that," said Sen. Dick Durbin (Ill.), an assistant floor leader to Daschle.

Durbin said it was increasingly doubtful that a stimulus plan would pass, considering there are just two weeks left before the Christmas break. He noted it took a week to lay the ground rules for the conference and determine who would take part.

"Do the math. We took a week to set the table and say who would sit where," he said.

Not a negotiator himself, Daschle has set up a system to monitor the talks, including Breaux, a key moderate, in postconference meetings in his office with Baucus, Rockefeller and possibly Rangel.

Before substantive talks began this week, Rockefeller signaled that he intended to take a very hard line on the package. "I'm not much of a compromiser," he said.

But Baucus believes that moves by Thomas this week to offer unemployment extensions were a sign of compromises to come, Siegel said. "It's clear that we're making progress."

The entire Democratic caucus, however, will be the final jury on that outcome. "It was a commitment people wanted to hear," Torricelli said of the two-thirds majority decision.

Mr. GRASSLEY. As a preliminary comment, I want everyone to know something loud and clear. We are all here to do the peoples' business. My Republican caucus is here to do the peoples' business. We are in an extraordinary time. Our Nation is at war. Our Commander in Chief, President Bush, is occupied with the war effort. Our responsibilities to the people that sent us here are always high, but, extraordinarily high in this time of war. This is not a time to play political games with the people's business. In my view, we have a high duty to deliver a legislative product to the President on economic stimulus and aid to dislocated workers. I have committed all of my energy to get to the goal line on a package. I believe my chairman, Senator BAUCUS, also sincerely wants a stimulus package that the President can sign. When you look at the record, however, I am doubtful the Senate Democratic leadership really wants a package.

The President took the lead by proposing economic stimulus measures and a package of aid to dislocated workers. Chairman Greenspan gave us a green light on this effort about 2 months ago. The House passed a bill that the Senate Democrats, with some justification, viewed as partisan. The Senate Democratic leadership then responded with its own partisan bill, shut out all Republicans, and rammed it through the Finance Committee on a party-line vote. That partisan stimulus package dead-ended here on the Senate floor. We were stuck on in a partisan rut for awhile.

After much negotiation, the House and Senate leadership on both sides agreed to an extraordinary procedure. It is what I would call a "quasi conference." This agreement contemplates a conference agreement even though the Senate did not pass a bill on the subject matter. This agreement was a major concession by the House to Senator DASCHLE's insistence that Democrats have only one negotiation. Keep in mind Senator DASCHLE insisted on one negotiation with a partisan product that has not passed the Senate because it was designed to be partisan. Republicans accommodated the Senate Democratic leadership. After that agreement was reached, I felt some optimism. It seemed that all sides realized it is our job to get this legislative product to the President. My optimism was a bit premature.

Now, there has been a lot of speculation about whether the Senate Democratic leadership really wants a stimulus deal. Some say that, inspired by Democratic interest groups and strategists, the Senate Democratic leadership has concluded that it is better to have an issue. The speculation is that, armed with polling data, the Senate Democratic leadership has decided on a strategy of covertly killing a stimulus package, while maintaining a public profile of support. If the economy doesn't recover, better to save the issue to use against the President and the other side for the fall 2002 elections. If the economy does recover, from a political standpoint, what is lost. Better to wait and see, the speculation runs, than to give any more tax relief at this time.

Mr. President, such a strategy, if it is the case, is particularly disappointing in wartime. It is a cynical strategy. If true, it short changes American workers and struggling business for an anticipated political shot. It makes economy recovery and aid to dislocated workers secondary to a partisan political objective. I ask, is that how we ought to be operating in wartime? Though I have heard and read this speculation, I had hoped that it was not true.

So, let's say I was a bit shocked when I read the Roll Call article yesterday. After reading the article, I concluded Democratic leaders are traveling back in time. They are regressing, not progressing. They are regressing to earlier contentions that the stimulus package had to be a Democratic product or nothing at all. I thought we had moved past that and on to negotiations to build a bipartisan stimulus package.

Instead, it appears the Democratic leaders don't want any real compromise. First, they have engineered a nearly impossible threshold. Second, they are conducting what appear to be required consultations between the Democratic negotiators and the rest of the Democratic caucus. If they are trying to prevent a stimulus deal, this is the way to do it.

It is important to remember the Senate is split nearly down the middle. There are 50 Democrats, 49 Republicans, and one Independent. Yet the litmus test set up by the Democratic leadership ignores the Senate's makeup. By its terms, this litmus test is designed to limit any agreement to a Democrats-only deal. Because it ignores the reality of an evenly split Senate, this litmus test guarantees failure. If the Democratic leaders really mean what they say, that they want a stimulus bill, I ask them to remove the partisan litmus test.

Any litmus test ought to go to the substance of the package.

Let's get back to the substance. We're not that far apart. Let's not hold the stimulus package and the aid to dislocated workers hostage to an arbitrary and destructive test like the two-thirds rule. I have been flexible on Republican priorities. It is time for the Democratic leadership to show some flexibility on Democratic priorities. The first sign of flexibility will be to remove a barrier, the two-thirds rule, that guarantees failure.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 2 minutes.

Mr. MCCAIN. Will the Senator yield?

Mr. ROBERTS. Let me ask first, I thought I was granted 3 minutes.

The PRESIDING OFFICER. The Senator from Kansas has 3 minutes.

Mr. ROBERTS. I actually thought it was 4; I was not quite sure. If it is 3, then my 3 minutes would be protected, as I understand it. If the distinguished Senator from Arizona would like to precede me, I am perfectly happy.

Mr. MCCAIN. I ask unanimous consent to be recognized. I had time remaining on the time previously granted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, I listened with interest to the comments, and I am sure there will be future comments, but these are the following facts on the airplane. One, on the acquisition of the 767, there is no formal request for it. Two, I had a conversation with the Secretary of Defense yesterday. He did not know about this. There has been no request from the administration, a formal request. Of course the Air Force would like it. We are talking about numbers. We can argue about how much it costs, but at the end of 10 years the planes go back to Boeing. At the end of 10 years, the planes go back to Boeing.

How in the world can you justify such a thing? The average age of the tankers is 42 years. I am sure these tankers would be eligible for at least 20 or 30 years of service.

Have some competition. Why isn't anyone else allowed to bid on this airplane? It is solely a bailout for the Boeing aircraft company. It is not in President Bush's defense request for the fiscal year. September 11 did not rearrange the priorities so it is a top 60 priorities. Of course, the Air Force will accept a gift. I am sure they would be glad to have it. They have other priorities they stated in testimony before the Armed Services Committee.

I cannot understand why at least there shouldn't be a hearing on a $20 billion acquisition, which at the end of 10 years, after the reengineering and the $1.2 billion for a hangar, gives it all back to the Boeing aircraft company when we should keep tankers, and have been keeping them, for as long as 20 or 30 years. Remarkable.

I reserve the remainder of my time.

Mr. ROBERTS. Madam President, I appreciate the remarks of the Senator from Washington and the Senator from Alaska. I will address the three issues of concern raised by the Senator from Arizona.

First, with regard to the fact that the Secretary of Defense, according to the Senator from Arizona, knows absolutely nothing about it, it seems to me when the Secretary of the Air Force and General Jumper have been paying personal calls not only to the Senator from North Dakota but to me, as well, and I have a letter here from the Secretary of the Air Force that says: "I appreciate your interest in jump-starting the replacement program for our venerable KC–135 tanker fleet. These critical aircraft," and he goes into the fact this is absolutely essential to the expeditionary force of the United States, especially in Kosovo and Afghanistan—he says: I strongly endorse beginning to upgrade this critical warfighting capability with new Boeing 767 aircraft; I very much appreciate your support; your interest and support are crucial; he indicates this whole effort is absolutely crucial—I cannot imagine that the Secretary of the Air Force, both he and General Jumper would be taking action and recommending this in an open letter to Congress without the knowledge of the Secretary of Defense. If that is the case, we have a real communication problem.

I would like to say that in terms of the cost, the estimate by the Air Force, they save $3 billion. As to leasing or buying, we don't have money to buy them now, but we sure have the mission. That is like telling everybody in America: I am sorry, you can't lease a car.

At the end of the 10 years, I am aware that Boeing could take back the airplanes, and I am aware of the fact that then the Air Force or the Department of Defense could actually purchase this aircraft at a much lesser price.

Why will the Air Force say that the cost savings will be $3 billion? Look at maintenance. Look at the depot maintenance today. Fifteen percent of our flights are tied up in depot maintenance. If Boeing does this, then that is cut to something like 30 days every 8 years. So we are saving money there.

In regard to competition with reference to Airbus and Boeing, I don't know where Airbus would do the maintenance. Boeing has a tremendous record with over 2,000 aircraft now serving nationwide.

If we want to preserve the expeditionary capability that we must have in this new asymmetrical war in this new era in which we are fighting, it seems to me this represents a cost saving. It also represents something the Air Force wants, and it represents a way we can really upgrade their aircraft.

I do not know how much time I have, but I think I made my point.

Mr. CONRAD. Madam President, will the Senator yield for a question?

Mr. KYL. Yes. I would be happy to yield.

Mr. CONRAD. The Senator from Kansas indicated he has a letter from the Secretary of the Air Force specifically requesting these planes.

Mr. ROBERTS. Madam President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF THE AIR FORCE,
Washington, DC, October 9, 2001.

Hon. NORMAN DICKS,
House of Representatives,
Washington, DC.

DEAR MR. DICKS: I appreciate your interest in jump-starting the replacement program for our venerable KC–135 tanker fleet. These critical aircraft, which are the backbone of our nation's Global Reach capability, have an average age of over 41 years and are becoming more and more expensive to maintain. Due to the effects of age, these aircraft are spending over 300 days on average in depot maintenance, which affects our ability to respond to the many global demands on our force.

I strongly endorse beginning to upgrade this critical warfighting capability with new Boeing 767 aircraft. If Congress provides the needed supporting language, we could initiate this program through an operating lease with an option to purchase the aircraft in the future. This leasing approach will allow more rapid retirement and replacement of the KC–135Es. However, if the Congress determines this approach is not advisable, completing the upgrade through the purchase of new 767 airframes beginning in FY 02 will be in the best interest of the Air Force. To implement this transition, we intend to work with the USD(AT&L) and the OSD Comptroller to amend the FY 03 budget currently being vetted through the Department.

From the warfighter's perspective, this initiative could provide the opportunity to expand our tanker vision from air refueling and limited airlift to include other key mission areas. We intend to consider elements of command and control, as well as intelligence, surveillance, and reconnaissance (ISR) for the KC–X—in other words, a smart tanker. This initiative will further enhance our efforts to expedite development and fielding of a Joint Stars Radar Technology Improvement Program on a 767 multi-mission command and control aircraft platform which we are hopeful the Congress will also expedite in the FY 02 Appropriations Act.

I very much appreciate your support in the FY 02 Appropriations Act as we work to upgrade our overburdened tanker and ISR fleets. Your interest and support are crucial as we move forward with this critical recapitalization effort.

Sincerely,

JAMES ROCHE.

Mr. CONRAD. The Senator from Arizona asserts that we are forcing these planes on the Air Force. Was the Senator from Kansas ever contacted by General Jumper or the Air Force and asked to support providing these planes to the Air Force?

Mr. ROBERTS. That is absolutely correct. I had that conversation with the Air Force. As a matter of fact, the people who really initiated this discussion with me were actually members of the Air Force.

The Senator from Arizona has asked me to point out that this letter I am reading from the Secretary addressed to Congressman NORMAN DICKS did not represent a formal request. But in the meetings with the Air Force and in writing to individual Members of Congress, which Mr. DICKS provided the members of the Armed Services Committee in the House, I think it speaks very clearly that the Air Force does want this program and does want the leasing program to start.

The PRESIDING OFFICER. The time of the Senator from Kansas has expired.

The Senator from Washington is recognized.

Ms. CANTWELL. Madam President, I, too, rise with my colleague, the Senator from Washington, who has done an outstanding job on the Appropriations Committee to steer this issue through the process which is both sound policy and very important for the State of Washington.

I also thank the chairman of the committee, Senator INOUYE, and the ranking member for understanding the complexity of this problem.

What is at hand is a bipartisan effort where the committee has recognized the glaring Achilles' heel in our Nation's military preparedness. They developed a creative solution. We currently have an air fleet that is older than most of the pilots who fly them. With 546 air tankers in the fleet, the average age is 36 years, and the oldest plane is over 45. These planes were initially designed to have a 25-year lifespan. They are showing extreme wear and tear.

My colleague from Kansas entered into the RECORD a letter that shows the military, while being open and flexible, thought this idea was a sound way to provide tankers. Obviously, the amount of wear and tear on the aging tanker fleet is causing a lot of problems and increased maintenance costs. Indeed, the Air Force is projecting a 42-percent increase—over $3 billion—in the next 30 years for maintenance in this area.

Compounding the problem is the decreased availability in a time of increased demand. We are also not just facing issues overseas, as mentioned by my colleague from Washington, but also a new mission on the homeland front in our Nation's security—defending our Nation's airspace. That requires the use of these crucial tankers. Without effective tanker force, our air superiority is wrecked.

This is a creative solution at a time when the need is great. I urge my colleagues to support this great bipartisan and common effort.

Mr. REID. Madam President, is there any time left in morning business?

The PRESIDING OFFICER. Only the time of the Senator from Minnesota, and 2 minutes 54 seconds for the Senator from Arizona.

Mr. McCAIN. Madam President, I say again on this issue that the Air Force has not made a formal request for this aircraft, No. 1. I am sure they would love to have it. It is not a bad deal.

The most important point is, the Senator from North Dakota has some numbers which make it less expensive to lease than to buy. I accept the numbers from the Senator from North Dakota, although I still disagree. There is a huge difference. You buy the airplanes, and you have them forever. There is no 10-year lease.

What would happen after 10 years? We would have to renew the lease or we would have to buy new airplanes. We are talking about a 10-year lease at practically the same amount of money it would take to buy them. That to me is absolute insanity.

The U.S. Air Force has 60 priorities which they submit to Congress every year. September 11 couldn't have changed that priority list very much, since it will be 2004 or 2005 before the first one of those aircraft is delivered.

This is a bailout for Boeing Aircraft—nothing more, nothing less. And there should at least be some competition. There should be a fair scrutiny of this issue. There should be hearings in the Senate Armed Services Committee when we are talking about $20 billion or $30 billion of the taxpayer moneys to be spent.

That is really the reason and the compelling argument why this system has to be repaired, which is so broken that at the 11th hour we put $20 billion or $30 billion worth of the taxpayers' money on an aircraft with a major policy decision, without a single hearing and without a single input from the Senate Armed Services Committee, on which I am proud to serve.

This is the wrong thing to do. And, clearly, we are going to spend $20 billion-plus over a 10-year period and 10 years from now have nothing to show for it. We could buy the airplanes. The average age for these tankers, regrettably, is 42 years. We could have them for another 30 years if we bought them.

Instead, we are going to lease them for 10 years at practically the same price it would cost to buy them with no competition, no hearings, no scrutiny—no nothing but a request from the Secretary of the Air Force, to NORMAN DICKS.

I yield the remainder of my time.

Mr. REID. Madam President, on behalf of my friend from Minnesota, I yield his 10 minutes.

Madam President, I ask unanimous consent, notwithstanding the fact that a substitute has not been offered, that if any amendment is agreed to prior to the consideration of the substitute amendment, it be in order for these amendments to be inserted in the appropriate place in the substitute amendment upon its completion.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Madam President, reserving the right to object, am I correct that would mean that Members could offer amendments to, say, any portion of the Defense bill as reported by the committee?

Mr. REID. The Senator is absolutely right.

Mr. STEVENS. I will not object. I wish I could find a way, though, to now start putting some time limit on these amendments.

Mr. REID. If we could get this entered, I think the process would begin quickly.

Mr. STEVENS. I know of no parliamentary way right now that we can impose a time limit. I would like a time limit, if we are going to finish these amendments tonight.

Mr. REID. I will work with the Senator from Alaska to see what we can accomplish.

Mr. McCAIN. Reserving the right to object, I don't understand.

Mr. REID. I would be happy to read the unanimous consent request. This has been cleared on both sides. I ask unanimous consent, notwithstanding the fact that a substitute amendment has not been offered, if any amendment is agreed to prior to the consideration of the substitute amendment, it be in order for these amendments to be inserted in the appropriate place in the substitute amendment upon its completion.

Mr. McCAIN. If I might ask the distinguished Senator from Nevada, does this mean amendments will be offered at this time with votes?

Mr. REID. Yes. This is an effort, while the staff is working on the substitute, for people who have had longstanding desires to offer amendments; they would be able to do so.

Mr. McCAIN. Does the Senator from Nevada anticipate the amendments and bill will be voted on today?

Mr. REID. Yes.

Mr. STEVENS. Reserving the right to object, it is my understanding that if a person wants to strike, say, a provision—say the tanker provision from section A of the substitute—that amendment could be offered now, debated now, and voted on now. When the substitute is filed, it would be so amended; is that correct?

Mr. REID. To my understanding, the Senator is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2325

Mr. REID. Madam President, I send an amendment to the desk on behalf of Senators WELLSTONE, GREGG, DAYTON, DURBIN, LEAHY, BIDEN, CARPER, and REID of Nevada.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. WELLSTONE, for himself, Mr. GREGG, Mr. DAYTON, Mr. DURBIN, Mr. LEAHY, Mr. BIDEN, Mr. CARPER, and Mr. REID, proposes an amendment numbered 2325.

Mr. REID. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To treat certain National Guard duty as military service under the Soldiers' and Sailors' Civil Relief Act of 1940)

At the appropriate place, add the following:

SEC. 8135. Section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking "and all" and inserting "all"; and

(B) by inserting before the period the following: ", and all members of the National Guard on duty described in the following sentence"; and

(2) in the second sentence, by inserting before the period the following: ", and, in the case of a member of the National Guard, shall include training or other duty authorized by section 502(f) of title 32, United States Code, at the request of the President, for or in support of an operation during a war or national emergency declared by the President or Congress".

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the whip for offering the amendment.

Let me say to colleagues, I want to move forward. I am in your company. We have worked hard on this amendment. I think we have a lot of strong bipartisan support. I think it is definitely, as they say, the right thing to do. I thank all of my sponsors: my colleague from Minnesota, Senator DAYTON, Senator GREGG from New Hampshire, Senator DURBIN, Senator BIDEN, Senator LEAHY, and Senator CARPER. And I believe there will be others.

This amendment amends the Soldiers' and Sailors' Civil Relief Act to expand the protections of that act to National Guard personnel who are today protecting our Nation's airports and other vulnerable public facilities. Specifically, this amendment would provide civic relief to National Guard personnel mobilized by State Governors at the request of the President, in support of Operation Noble Eagle and potential future operations.

This amendment has the support of the Military Coalition, which is a consortium of 33 nationally prominent uniformed services and veterans organizations, representing more than 5.5 million current and former members of the seven uniformed services, plus their families and survivors, as well as the support of the Minnesota National Guard.

The operative language here is, we are trying to provide this civic relief and protection for the Guard who are called out at the request of the President—this is the key language of the amendment, colleagues—for and in support of an operation during a war or national emergency declared by the President or the Congress.

This Soldiers' and Sailors' Civil Relief Act, which I think was passed in 1940, is important legislation which helps provide help to people who have taken on financial burdens without knowing they would be called up to serve in the military.

Today those people are men and women in our National Guard. They are called up to protect our Nation's airports—you see them out there—nuclear facilities, and a good number of them are going to be going to the northern border to protect us at the border.

Men and women of the National Guard serve the Nation and our States as a unique organization among all branches of the U.S. Armed Forces. The Guard is America's community-based defense force located in more than 2,700 cities and towns throughout the Nation. Some 60 of these units are in my home State, Senator Dayton's home State, Minnesota.

Let me talk about what is at issue. When our men and women serve our country, they may have built up financial obligations of one kind or another—such as a mortgage on their homes, debts related to buying cars, charge account debts from buying things with credit, you name it. What the Soldiers' and Sailors' Civic Relief Act does—and what this would do as applied to our Guard—is not wipe out any of these debts or financial obligations by people who are faced with being called up on active duty, but it does give them certain protections.

This is one of them. First of all, on the consumer debt—which is now 6 percent that goes to all other men and women who are now in the service protecting our country—there is a 6-percent ceiling that is charged.

Second, this is important because these members of the Guard, they are like us; they bought things on credit, and they have had the jobs that allowed them to pay off their debt, but now what has happened is they are out there at our airports or nuclear facilities—soon they will be on the northern border patrol—and they have taken pay cuts to protect our public facilities. But they do not have the same amount of income now, and they cannot necessarily cashflow, certainly, exorbitant interest rates. This just gives them the civic protection.

In other words, if they have been called out to duty by the President—and the President has called the Guard out to duty, but he has done it through the Governors—this just says, when the President says: "We need the Guard, it is a national emergency, we are at war," and the Guard is called up through the Governors, they get the same protection that goes to any other Guard members or any other members of our Armed Forces who are out there protecting us.

Also, they will get protection from being evicted from their homes. And they will get protection from being foreclosed on. They will get protection against the cancellation of life insurance.

The problem is, unfortunately, the Soldiers' and Sailors' Civil Relief Act right now only applies to National Guard personnel mobilized directly by the President of the United States, and it does not protect those men and women who are mobilized by our Governors at the request of the President, as is the case with many of the Guard right now.

This distinction, colleagues, is inequitable. Those mobilized by a Governor at the request of the President face the same financial problems as those mobilized by the President directly. It is only right that they receive the same protections.

The Minneapolis Star Tribune, on Sunday, November 25, had a long story on the financial impact on Minnesota Guard members; but this applies to Guard members in every one of our States. I ask unanimous consent that the Star Tribune article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Star Tribune, Nov. 25, 2001]

(By Sarah McKenzie)

WASHINGTON, DC.—When National Guard Cpl. Paul Dellwo was called up to patrol the Minneapolis-St. Paul International Airport, he traded in his police officer salary for a smaller $1,600 monthly paycheck.

Dellwo, 30, said he's committed to his post, but now he's earning about $1,000 less each month than he did as an officer with a Twin Cities area police force that does not continue paying those called to active duty.

"Within the next month or so it will be become extremely tight," said Dellwo, who has credit card, tuition and mortgage payments to make.

He's got plenty of company. Capt. Charles Kemper, who oversees the Guard at the Twin Cities airport, said some Guard members are "so financially strapped" that he has considered taking a half-dozen of them off of active duty.

On behalf of members of his unit, Kemper sought grants from the Red Cross. He also has called banks and lenders to urge them to defer payment deadlines or reduce interest rates until the soldiers have completed their deployments. About a third of them have agreed to do so, Kemper said.

The issue has captured the attention of Minnesota Sens. Paul Wellstone and Mark Dayton, who are promoting a bill that would provide financial protection for Guard members who are activated.

Among other things, the law would prohibit lenders from charging more than 6 percent interest on existing loans, and it would make it illegal to evict Guard members from rental or mortgaged property. Any civil action pending against the soldiers, such as divorces, custody disputes or foreclosure, would be delayed until the end of the deployment, under the bill.

Members of the Guard "are left without protection against financial ruin," said Wellstone, who plans to meet with Guard members Monday at the Twin Cities airport to talk about their economic troubles.

Minnesota's senators are not the only members of Congress who are interested in the issue. In the House, Rep. Gil Gutknecht, R-Minn., has written letters to the House Veterans' Affairs and Armed Services committees urging legislators to extend the same benefits.

EXEMPTION QUESTIONED

The legislation takes issue with a current federal law, known as the Sailors' and Soldiers' Relief Act. National Guard members are covered under the law only if they are activated by the president. But those protecting the nation's airports were called up by governors, after President Bush made the request in late September.

The exemption troubles many of the 176 Guard members patrolling the state's airports, even though some are faring well or better now than they did with their civilian jobs.

"There's a wide spectrum," Kemper said.

Kemper said his employer, Guidant Corp., a medical devices company in Arden Hills, has agreed to pay the difference in his salaries. As captain, he makes about $4,200 a month in base pay, but as an engineer at Guidant he makes more than $5,200 a month, he said.

Others are trying to figure out how to get by with less.

As an Internet sales manager working on commission for an automotive company, Craig Ford pulled in as much as $15,000 during a good month.

Now, Ford, 29, of the West St. Paul Guard unit, earns $2,600 a month as a specialist with the Army National Guard.

The gap in pay is wide for Ford, who is married and has two children, 5-month-old Mira and 2-year-old Dawson. But he said he recognized there could be financial hardships when he volunteered for the Guard on Sept. 29.

"I wouldn't have signed up if my family couldn't have handled it," he said.

SALARY DIFFERENCES

Plymouth-based Employers Association Inc., which provides management services to more than 1,700 businesses in the state, recently conducted a survey showing most Minnesota employers have policies to not pay Guard reservists called into active duty.

But bigger companies were more apt to pay the difference between the company's and the Guard's salaries. Of the 300 companies surveyed that have more than 500 employees, about half reported paying the difference. Of the smaller companies, about 30 percent reported paying the difference.

"Most employers want to do the right thing, but it's tougher for the smaller employers," said Christine Rhiel, a human resources generalist with the Employers Association.

Maj. Gary Olson, a Minnesota National Guard spokesman, said it would be unreasonable to expect all employers to pay the difference. The Guard members know they'll probably face financial hardships when called on for duty, but they should be provided some relief, he said.

"When these individuals are called . . . they should not be economically destroyed. There should be at least some protection for credit and interest payments provided to those individuals," Olson said.

The pay for the Guard starts at $1,300 a month for a private with little experience and increases based on rank and years of service, Olson said. Those activated in October will be deployed at least through March, he said.

"It's very tough," said Platoon Sgt. Jason Hosch, 25, of the West St. Paul Guard unit, who is stationed at the Twin Cities airport. "How do these soldiers adapt to not being able to pay their mortgage payments?"

Hosch, who is single, said he's faring well with a $36,000 yearly salary, but he sympathizes with older Guard members who have more bills to pay and children to care for.

In addition to his base salary, Dellwo receives some housing assistance toward his $1,000 monthly mortgage payment. He said he stands to save $200 to $300 a month on his mortgage payment if he's covered under the Sailors' and Soldiers' Relief Act.

Despite the hardship, Dellwo said he's committed to his mission.

"I started this deployment, and I'm going to finish this deployment," he said.

Mr. WELLSTONE. Madam President, I ask unanimous consent to add Senator SCHUMER as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Madam President, I would like to briefly summarize a couple stories of those who are in the Guard:

Cpl. Paul Dellwo is a local police officer. As he was patrolling MPS Airport, he was making $1,600 a month. As a police officer, he was making approximately $2,600 a month. On this $1,600 a month he still has to make the same credit card, tuition and mortgage payments. At the end of November he thought he had only a month or two before his finances really became tight.

Craig Ford works as an internet sales manager who works on commission for an automotive company. He said that during a good month he could earn $15,000. Now, as a specialist with the guard, he earns $2,600 a month. Ford is married and has two children, a 5-month-old and a 2-year-old.

Mr. Ford speaks for all the troops that I met when he said he understood there would be financial hardships when he volunterred—he is more than willing to put up with the hardships but he would sure appreciate a little help. I heard this time and time again when I met with the Guard on Nov. 26: Specialist Justin Johnson—a salesman at Best Buy Company—estimates that he is losing about a third of his income during his deployment. Craig Forbes, a car salesman, estimates that he is losing half his monthly income during his deployment at the airport. And Major Gary Olson, Public Affairs Officer for the MN National Guard, told me that several others have had to be relieved of their deployment due to financial hardship. He also said several people have come in wanting to serve but realized they simply could not do it and provide for their families adequately. All these Guardsmen made the same point—look, I love my country and I'm pleased to serve but can we get a little financial protection?

I could go on. This is the point. Many of these Guard members are from working families. If they are lucky enough to be working for some of the larger companies, those companies say: Serve your country. It is a national emergency. They pay full salary. But many work for businesses that cannot afford to, so they are losing $700, $800, $900, $1,000 a month.

It is just not right. Again, it is the same emergency. The President has said so. He has called up the Guard, but we did it through our Governors. This just fixes this problem and makes sure they get the same civic relief. That is all this says.

It is a protection from them being foreclosed on, not for debts they build up now while serving our country for an emergency, but whatever debts they had built up before. So it is some relief from being foreclosed on or from being evicted or protection from a life insurance policy being canceled.

These young people work very hard in their civilian lives. Some of them work in retail where their commissions during the holiday season are the difference between their family having a good year and their family just getting by. But now they are not working for commissions—they are not dealing with customers in a busy electronics store—they are toting an M16 and standing guard.

Some of the Guard work construction and, in Minnesota, you work construction until there is too much snow or it is too cold. This year it hasn't snowed much and it has been unseasonably warm. But instead of building houses, making good wages, these men and women are in the airports—protecting us while we travel during the holiday season.

These stories are but a few trees in a large forest. Just about every soldier or airmen I spoke to, from enlisted rank to officer, told the same story. They are proud to wear their uniform. They are proud of their service to their country, but they worried about their families. They are worried that the financial blow they are taking now will take years to work off. They are worried that they are not providing the way they should for their children. None of them asked for anything. But every one of them told me that they sure would appreciate whatever help we could offer.

The Minnesota Guard did a survey and showed it to me when I last visited. It showed that most Members of the Guard are losing between $700 and $1000 a month. This is real money to retail sales people, to construction workers, to auto mechanics and to police officers. This is real money that cannot be made up easily.

Today over 15,000 National Guard are serving in a full-time status nationwide—some of them six to seven days per week. They have been mobilized to protect everything from airports to the Golden Gate Bridge. Some are involved in clean-up efforts at the World Trade Center and Pentagon. And we must be aware that National Guard units may be asked to do more in the coming months. This important change to the SSCRA will provide them the civil relief they rightly deserve. Addressing these issues now will ease the burden placed upon these patriots and their families now and in the future. These young people are not asking for much. Extending these protections is an important way to say that we value their service and that will not forget them or their families commitment to the United States.

Let me give you the genesis of this amendment. This is why I thank all of my colleagues, some of whom are on the floor. I know Senator BIDEN wants just 2 minutes, and then Senator DAYTON wants to speak. He has been working with me all the way, and Senator GREGG, and others.

I just say this: The genesis of this amendment is that I have been going out to airports—I am sure many of you have had the same experience—and I just thank people. I was doing that for a while, I say to my colleague from Delaware, and finally one of the Guard members said: Thank you, PAUL, but if you really want to help us, this is the problem for us. We are on guard duty. This is a national emergency. We are at wartime. It is national security. We are out here—by the way, they are going to be at our airport until the end of March, at least—yet we do not have the same protection. The President called us up, but through the Governors, and we do not have the same protection this way that other members have. Please give us this civic relief.

It would help us. I hope there will be 100 votes for this. I have worked my heart out on this amendment because I just think it is important we help people. I hope this will have unanimous support.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Delaware.

Mr. BIDEN. Mr. President, I will be brief. The Senator from Minnesota is the major player in this effort. The Senator from Delaware is not.

This is, in a sense, a real Minnesota tradition of progressive politics. The two guys who jumped out on this first and responded immediately were the two Senators from Minnesota. I have experienced the same exact thing in the State of Delaware as I go around and see the guardsmen.

One of the reasons the distinction was made in the past between whether a President called up the Guard or a Governor called up the Guard was the nature of the incident for which the Guard had to be called up in those circumstances. When the President called up the Guard, it was usually—not always—relating to a national defense issue. When Governors called up the Guard, it was for hurricanes and floods and very worthy and worthwhile and important things to our constituents.

Let's make it real clear: This is not a hurricane. This is not a flood. This is not a natural disaster. This is an unnatural disaster called a war. The reason my guardsmen in Delaware were called up and all of our guardsmen are called up now is for a war. This is a war.

Here we are on December 7, 60 years after Pearl Harbor, and where are we? We are once again faced with what we were faced with then. This is the first time since then American soil has been struck. What is the most likely place where the next terrible tragedy will occur if our enemies have their way? In America. The reason the Guard is on the border, at the airports, and throughout our communities is as if there were a foreign army marching on us. That is what this is about. The Soldiers' and Sailors Act was designed to take that into effect.

I compliment both my colleagues. I am flattered they let me be one of the cosponsors. They deserve a great deal of credit for calling this to our attention. I will be surprised if they don't get 100 votes. I compliment them for their foresight.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I am very proud to rise in support of the amendment of my distinguished colleague, Senator WELLSTONE. I salute my good friend and colleague who has been in the forefront of these issues on behalf of the men and women of the National Guard not only in Minnesota but across the country, and our military personnel. Senator WELLSTONE deserves the full credit for his leadership in initiating this important amendment.

It grew out of visits and conversations which he and I have had together and which he and I have had separately with the National Guard men and women who are patrolling the major Minnesota airport in the Minneapolis-St. Paul area. It is extraordinary to see them hour after hour, early in the day, late at night, standing there protecting all the rest of us, their fellow citizens, and assuring our safety as we fly our Nation's skies.

As Senator WELLSTONE has pointed out, and the distinguished Senator from Delaware, Senator BIDEN, this is an unusual circumstance. It occurred because the President, very properly, wanted to respect the doctrine of posse comitatus and, therefore, since the Guard men and women were engaged in a patrolling function at our domestic airports, he asked the Governors to call them out rather than doing so directly himself.

As a result, as the Senator from Minnesota has said, they suffer these additional financial perils. These men and women are not just serving our country during these critical months, they are doing so at serious financial consequence to themselves and their families. For most of these National Guard men and women, the salary they receive for their Guard duty is but a fraction of what they are receiving in their civilian employment. Yet this amendment doesn't address that inequity, and they are not asking right now for us to do so.

All they are asking, and what this amendment does in a very important way, thanks to the leadership of Senator WELLSTONE, is give them equality or parity with their associates who are called up under other circumstances. It prevents these additional financial penalties from being imposed upon them and their families during this service and at no additional cost to the American taxpayer. It is for those reasons that, joining with my colleague Senator WELLSTONE, I can't imagine why anybody would want to oppose this amendment.

With that, I thank the others who have made this a bipartisan amendment and yield the floor.

Mr. WELLSTONE. Mr. President, I have two colleagues on the floor, one of whom is Senator GREGG, a cosponsor of the amendment. I thank my colleague from New Hampshire.

The PRESIDING OFFICER. Senator GREGG from New Hampshire is recognized.

Mr. GREGG. Mr. President, I rise in support of Senator WELLSTONE's amendment, of which I am an original cosponsor. Senator WELLSTONE has identified a problem which just cries out to be examined and answered. National Guard personnel are really extraordinary people who serve us as citizen soldiers. They give up their daily lives, they put tremendous stress on their families to serve us, and it's truly inappropriate that they should not be treated with the deference and the fair treatment that they would get if they were called up under a different circumstance

What Senator WELLSTONE is doing here is correcting what was an obvious loophole in the understanding of how the Soldiers' and Sailors' Civil Relief Act of 1940 would work and is applying that Act to our National Guard men and women who are called up as a result of a national emergency declared by the President but who happen to be called up by Governors, and so it is an extremely appropriate action. It's certainly something that should be done at this time and should be done quickly so that those folks who are guarding our airport, our borders, and may well be in harm's way, but are certainly giving up their private lives in order to make our lives safer through their public service should receive fair treatment from our Government.

During World War I, the Congress passed a law to help people who were called to serve in the military, people who had debts or financial obligations such as home mortgages, car loans, and bank loans. A similar law is in effect today, "The Soldiers' and Sailors' Civil Relief Act of 1940, as amended." Although not included in the title of the law, the safeguards of the law also apply to personnel in the Air Force, Marine Corps, and Coast Guard. Provisions of the law protect a service member, who is called-up to serve in the military, from being evicted from rental property or from mortgaged property, protect against cancellation of life insurance, and protect against lose of home because of overdue taxes, if the service member's ability to make payments is materially affected by military service. Further provisions of the law require that interest of no more than 6 percent a year can be charged by a lender on a debt which a person on active duty in military service incurred before he or she went on active duty.

The law does not cancel out the debt or financial obligations of those called up for active duty. What it does do is give them certain special rights and legal protections. The purpose of granting the special rights and protections, as stated in the law, is to help people who have been called up for active duty "to devote their entire energy to the defense needs of the Nation."

In the normal case of a National Guard call-up by the President, members of the National Guard get this civil relief. But in the case of a National Guard call-up by a Governor, at the request of the President, members of the National Guard do not get this civil relief. The members of our National Guard now protecting our airports therefore do not get this relief, because the President thought it best to have the Governors call-up the Guard.

New Hampshire National Guard personnel are today assisting in providing protection at airports in New Hampshire, at the Manchester Airport, the Lebanon Airport, and the Pease International Tradeport Airport. The New Hampshire National Guard has a long and rich history. Colonial New Hampshire Governor John Cutt organized the New Hampshire militia in 1680. This militia served in all of the Colonial Wars. New Hampshire troops included Roger's Rangers, famed for their guerrilla tactics, and forerunners of today's U.S. Army Rangers, presently serving in the war on terrorism in Afghanistan. In December 1774, a group of patriots under the command of Captain Thomas Pickering, of Portsmouth, attacked and captured Fort William and Mary at Newcastle, NH. The "shot heard round the world" was not fired at Lexington, MA, until the following April. During the Civil War, New Hampshire furnished 17 infantry regiments, 1 cavalry regiment, 1 heavy artillery regiment, and 1 light artillery battery to the Union cause. The 5th New Hampshire Volunteers, led by Colonel Edward E. Cross, suffered the highest casualties of any Northern infantry regiment, having fought valiantly at Seven Pines, Malvern Hill, Antietam, Fredericksburg, Chancellorsville, and Gettysburg. And now other equally patriotic members of the New Hampshire Guard have been called up by the Governor, at the request of President Bush, to help protect airports, as part of our country's war on terrorism.

I assume members of the National Guards of my fellow Senators' States have also been called up by their respective Governors for airport protection duties. So this is not just a New Hampshire issue or a Minnesota issue. This is your issue also. When National Guard troops are called to active duty, whether by the President or by a Governor at the request of the President in response to war or national emergency declared by the Congress, they must essentially put their personal lives on hold.

The intent of the Soldiers' and Sailors' Civil Relief Act is to provide financial security and peace of mind to the men and women of our country who are unexpectedly called to serve their Nation in times of crisis. The law certainly should not be allowed to favor those called up by the President and exclude those called up by State Governors, at the request of the President. The National Guard personnel now helping to keep our airports safe deserve the same protections extended to National Guard troops fighting for our Nation all over the world.

This amendment will allow the men and women who our Governors have called on, at the request of the President for an operation during a war or national emergency declared by the President or Congress, to focus on their task at hand without worrying about previous financial obligations. Fellow Senators, I ask you to support this amendment to correct a serious inequity involving National Guard men and women of our various States, including most likely your own States, who have been called to active duty for critical domestic operations such as protecting our Nation's airports.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank Senators WELLSTONE, GREGG, and DAYTON and those who have initiated this effort for giving me an opportunity to be cosponsor. I thank them for this amendment and for giving us a chance to express our gratitude to the men and women in the National Guard across America who are serving our country so well. They make extraordinary sacrifices, put their lives on the line and serve their country.

This amendment gives them the recognition and reward they need. We can do more. I believe we will. But this amendment is an excellent first start to say to these men and women: We know you are serving our country. You deserve our praise, our prayers, and the recognition and help of this amendment.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that letters of support from the Minnesota National Guard and the Military Coalition and other documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE MILITARY COALITION,
Alexandria, VA, December 6, 2001.

Hon. CARL LEVIN,
Chairman, Senate Armed Services Committee,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Military Coalition, a consortium of 33 nationally prominent uniformed services and veterans organizations, representing more than 5.5 million current and former members of the seven uniformed services, plus their families and survivors, would like to bring to your attention a serious inequity for National Guard members who have been called to active duty for Operation Noble Eagle in Title 32 status.

National Guard soldiers and airmen called to active duty under Title 32 do not have the protection of the Soldiers and Sailors Civil Relief Act (SSCRA). National Guard and Reserve members called to active duty under Operation Enduring Freedom in Title 10 status do have that protection.

The SSCRA was passed by Congress to provide protection for individuals called to active duty in any of the military services. The SSCRA suspends certain civil obligations to enable service members to devote full attention to duty. The SSCRA protects the individual and his family from foreclosures, evictions, and installment contracts for the purchase of real or personal property if the service member's ability to make payments is "materially affected" by the military service. The SSCRA entitles a person called to active duty to reinstatement of any health insurance that was in effect on the day before such service commenced, and was terminated during the period of service. It also protects the service member against termination of private life insurance policies during the term of active service.

The Military Coalition believes that all members of the National Guard performing active duty service for a national emergency or war at the call of the President should be entitled to protection under SSCRA. Please support S. 1680 and its changes to the Soldiers and Sailors Civil Relief Act that will give National Guard members that protection.

Sincerely,
THE MILITARY COALITION.

THE MILITARY COALITION,
Alexandria, VA, December 6, 2001.

Hon. JOHN WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: The Military Coalition, a consortium of 33 nationally prominent uniformed services and veterans organizations, representing more than 5.5 million current and former members of the seven uniformed services, plus their families and survivors, would like to bring to your attention a serious inequity for National Guard members who have been called to active duty for Operation Noble Eagle in Title 32 status.

National Guard soldiers and airmen called to active duty under Title 32 do not have the protection of the Soldiers and Sailors Civil Relief Act (SSCRA). National Guard and Reserve members called to active duty under Operation Enduring Freedom in Title 10 status do have that protection.

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The Military Coalition believes that all members of the National Guard performing active duty service for a national emergency or war at the call of the President should be entitled to protection under the SSCRA. Please support S. 1680 and its changes to the Soldiers and Sailors Civil Relief Act that will give National Guard members that protection.

Sincerely,
THE MILITARY COALITION.

THE MILITARY COALITION,
Alexandria, VA, December 6, 2001.
Hon. JOHN D. ROCKEFELLER,
Chairman, Veterans' Affairs Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Military Coalition, a consortium of 33 nationally prominent uniformed services and veterans organizations, representing more than 5.5 million current and former members of the seven uniformed services, plus their families and survivors, would like to bring to your attention a serious inequity for National Guard members who have been called to active duty for Operation Noble Eagle in Title 32 status.

National Guard soldiers and airmen called to active duty under Title 32 do not have the protection of the Soldiers and Sailors Civil Relief Act (SSCRA). National Guard and Reserve members called to active duty under Operation Enduring Freedom in Title 10 status do have that protection.

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The Military Coalition believes that all members of the National Guard performing active duty service for a national emergency or war at the call of the President should be entitled to protection under the SSCRA. Please support S. 1680 and its changes to the Soldiers and Sailors Civil Relief Act that will give National Guard members that protection.

Sincerely,

THE MILITARY COALITION.

THE MILITARY COALITION,
Alexandria, VA, December 6, 2001.
Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: The Military Coalition, a consortium of 33 nationally prominent uniformed services and veterans organizations, representing more than 5.5 million current and former members of the seven uniformed services, plus their families and survivors, would like to bring to your attention a serious inequity for National Guard members who have been called to active duty for Operation Noble Eagle in Title 32 status.

National Guard soldiers and airmen called to active duty under Title 32 do not have the protection of the Soldiers and Sailors Civil Relief Act (SSCRA). National Guard and Reserve members called to active duty under Operation Enduring Freedom in Title 10 status do have that protection.

The SSCRA was passed by Congress to provide protection for individuals called to active duty in any of the military services. The SSCRA suspends certain civil obligations to enable service members to devote full attention to duty. The SSCRA protects the individual and his family from foreclosures, evictions, and installment contracts for the purchase of real or personal property if the service member's ability to make payments is "materially affected" by the military service. The SSCRA entitles a person called to active duty to reinstatement of any health insurance that was in effect on the day before such service commenced, and was terminated during the period of service. It also protects the service member against termination of private life insurance policies during the term of active service.

The Military Coalition believes that all members of the National Guard performing active duty service for a national emergency or war at the call of the President should be entitled to protection under the SSCRA. Please support S. 1680 and its changes to the Soldiers and Sailors Civil Relief Act that will give National Guard members that protection.

Sincerely,

THE MILITARY COALITION.

MEMBERS OF THE MILITARY COALITION

Air Force Association.
Air Force Sergeants Association.
Army Aviation Assn. of America.
Assn. of Military Surgeons of the United States.
Assn. of the US Army.
Commissioned Officers Assn. of the US Public Health Service, Inc.
CWO & WO Assn. US Coast Guard.
Enlisted Association of the National Guard of the U.S.
Fleet Reserve Assn.
Gold Star Wives of America, Inc.
Veterans' Widows International Network, Inc.
Marine Corps League.
Marine Corps Reserve Officers Assn.
Military Order of the Purple Heart.
National Order of Battlefield Commissions.
Naval Enlisted Reserve Assn.
Naval Reserve Assn.
Nat'l Military Family Assn.
Non Commissioned Officers Assn. of the United States of America.
Reserve Officers Assn.
National Guard Assn. of the U.S.
The Military Chaplains Assn. of the USA.
The Retired Enlisted Assn.
The Retired Officers Assn.
United Armed Forces Assn.
USCG Chief Petty Officers Assn.
U.S. Army Warrant Officers Assn.
Veterans of Foreign Wars of the U.S.

DEPARTMENT OF MILITARY AFFAIRS,
STATE OF MINNESOTA, OFFICE OF THE ADJUTANT GENERAL,
St. Paul, MN, November 1, 2001.
Hon. PAUL D. WELLSTONE,
U.S. Senator,
St. Paul, MN.

DEAR SENATOR WELLSTONE: I am writing to request your support for expanding the protections of the Soldiers' and Sailors' Civil Relief Act (SSCRA) to include National Guard personnel serving their country under the authority of Title 32 of the United States Code.

As you know, the SSCRA provides a spectrum of important protections for men and women called to active federal military service. The SSCRA recognizes the reality that a call to military service can negatively impact one's ability to meet certain civil obligations. Unfortunately, the SSCRA only applies to military duty performed under the authority of Title 10 of the United States Code. It does not protect the soldiers and airmen performing duty under Title 32.

This distinction between service under Title 10 and Title 32 is inequitable and nonsensical. Service performed under Title 32 is still military service and it is still valuable and important to the national defense. The men and women called away from home to serve their country under Title 32 face the same problems as those called under Title 10. It is only right that they receive the same protections.

The recent activations of National Guard personnel to support airport security nationwide illustrate the importance of the military service under Title 32. Your support for expanding the SSCRA to protect persons serving under Title 32 will be an important part of correcting the current inequity.

Thank you for your consideration of this important matter. If I can provide any additional information, please contact me.

Sincerely,

EUGENE R. ANDREOTTI,
Major General, Minnesota Air National Guard, The Adjutant General.

ENLISTED ASSOCIATION OF THE NATIONAL GUARD OF THE UNITED STATES OF AMERICA,
Alexandria, VA, December 5, 2001.
Hon. PAUL DAVID WELLSTONE,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR WELLSTONE: The Enlisted Association of the National Guard of the United States (EANGUS) would like to thank you for introducing S. 1680, which would amend the Soldiers and Sailors Civil Relief Act of 1940 (SSCRA) to include members of the National Guard called to active duty under Title 32.

The SSCRA was passed by Congress to provide protection for individuals called to active duty in any of the military services. The SSCRA suspends certain civil obligations to enable service members to devote full attention to duty. The SSCRA protects the individual and his family from foreclosures, evictions, and installment contracts for the purchase of real or personal property if the service member's ability to make payments is "materially affected" by the military service. The SSCRA entitles a person called to active duty to reinstatement of any health insurance that was in effect on the day before such service commenced, and was terminated during the period of service. It also protects the service member against termination of private life insurance policies during the term of active service.

Currently, the SSCRA only covers members of the National Guard called to active duty under Title 10 (federal active duty). Guardsmen and Reservists called to active service for Operation Enduring Freedom were called under Title 10 and therefore are entitled to all federal benefits including protection under SSCRA; however, the majority of National Guard members called to active service for Operation Noble Eagle are being called up under title 32 and, although they receive some federal benefits, they do not qualify for protection under the SSCRA.

EANGUS believes that all members of the National Guard performing active duty service should be entitled to protection under the SSCRA. A National Guardsmen called to active duty status whether Title 10 or Title 32 deserve the same protection from foreclosure or eviction. While they are trying to do their best to insure that our airports are secure, our water supply remains safe, and our nuclear power plants will not be turned into weapons of mass destruction, they should not have to worry about whether or not their families will keep a roof over their heads or that bill collectors will be hounding them for payment because their military pay was processed late (which occurred in New York and Virginia). It is a shame that a member of the National Guard would have to go to their local Red Cross to receive help in paying their mortgages as well as their transportation costs.

The Army and Air National Guard are the United State's first line of defense against all enemies foreign or domestic. The men and women of the National Guard have volunteered to serve their country. They serve proudly and willingly. Your support in amending the SSCRA of 1940 to include Title 32 will send a very strong signal of support to our service members who will be going into harms way. It will alleviate some areas of concern to them; they will be less distracted and more secure knowing that their families will be protected while they are protecting us.

If I can be of any assistance, please contact me at (703) 519-3846.

Working for America's Best!

MSG MICHAEL P. CLINE (Ret) ARNG,
Executive Director.

Mr. WELLSTONE. I take this opportunity to thank General Andreotti, the leader of our Guard in Minnesota, for his very strong support and his wisdom.

Mr. LEAHY. Mr. President, I thank my friend for introducing this amendment, which closes a troubling loophole in our military personnel system.

Currently, members of the National Guard called up under Federal title 32 status are not eligible for the protections of the Soldiers and Sailors Civil Relief Act. The act ensures that a servicemember can protect their house, life insurance, and health insurance while on active duty. It ensures a smooth transition back and forth between active service and civilian life, and it essentially underpins the entire military personnel system. We cannot defend the country without the National Guard, and we cannot attract qualified people to the Guard without the relief act.

The act has not applied to Guard members called up under title 32 status because most activations over the past fifty years have been under title 10, active military duty. However, September 11 tipped the balance in the other direction. Title 32 provides more flexibility to achieve missions in the United States and guarantees local control. As a result, thousands of Guard members have been called up across the country to secure our airports, railroads, bridges, and borders under this status.

This amendment extends the relief act to these proud citizen-soldiers. They must have these protections so they can focus on their mission. For them, I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to advise the Senate that the subcommittee is prepared to accept the amendment. It is a fine amendment, very patriotic.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2325) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. WELLSTONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Senator HELMS from North Carolina.

Mr. ,HELMS. Mr. President, I ask unanimous consent that it be in order for me to deliver my remarks seated at my desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2336

(To protect United States military personnel and other elected and appointed officials of the United States Government against criminal prosecution by an international criminal court to which the United States is not party)

Mr. HELMS. I thank the Chair for recognizing me. Mr. President, I send to the desk an amendment which I ask to be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. MILLER, Mr. HAGEL, Mr. HATCH, Mr. SHELBY, Mr. MURKOWSKI, Mr. BOND, Mr. WARNER, Mr. ALLEN, and Mr. FRIST, proposes an amendment numbered 2336.

Mr. HELMS. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Did the Senator ask the reading be dispensed with? I could not hear.

Mr. STEVENS. Yes.

The PRESIDING OFFICER. The Senator has sought that consent. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 2337 TO AMENDMENT NO. 2336

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DODD, proposes an amendment numbered 2337 to amendment No. 2336.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word in the pending amendment an insert in lieu thereof the following:

"SEC. . (a) FINDINGS.—The Rome Statute establishing an International Criminal Court will not enter into force for several years:

(2) The Congress has great confidence in President Bush's ability to effectively protect U.S. interests and the interests of American citizens and service members as it relates to the International Criminal Court; and

(3) The Congress believes that Slobodan Milosovic, Saddam Hussein or any other individual who commits crimes against humanity should be brought to justice and that the President should have sufficient flexibility to accomplish that goal, including the ability to cooperate with foreign tribunals and other international legal entities that may be established for that purpose on a case by case basis.

(b) REPORT.—The President shall report to Congress on any additional legislative actions necessary to advance and protect U.S. interests as it relates to the establishment of the International Criminal Court or the prosecution of crimes against humanity.

Mr. HELMS. Mr. President, without losing my right to the floor, I suggest the absence of a quorum temporarily.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded in order for me to speak for 2 minutes on an earlier discussion about the tanker fleet.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator cannot qualify.

Mr. HELMS. Reserving the right to object, I have no objection if it is understood that I shall be recognized immediately following the two amendments.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak out of order for a period of 2 minutes regarding the issue of tanker replacements.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, the question I have, is there any order in effect as to who gets the floor when the quorum is called off?

The PRESIDING OFFICER. Senator HELMS is entitled to the floor.

Mr. REID. That is my understanding.

The PRESIDING OFFICER. And Senator BROWNBACK seeks recognition.

Mr. BROWNBACK. For 2 minutes.

The PRESIDING OFFICER. Without objection, Senator BROWNBACK is recognized.

Mr. BROWNBACK. Mr. President, I will not be long. I wish to speak about the leasing of 100 aircraft tankers, many of which will be remodeled in the State of Kansas. I have great respect for the Senator from Arizona and the issue he is raising about the lack of review, but I also wish to be very specific about what is taking place.

The current tanker fleet is 40 years old, some of it 45 years old. That is my age. Some days I feel very old. A lot of these tankers are spending a great deal of time in depot. They are spending up to 60 percent of their time being repaired. If we do not go through this lease arrangement, we are not going to have the tanker fleet to conduct our current long-range bombing missions.

While I have great respect as to how this has come up—the lack of hearings—the fact is we cannot conduct campaigns, such as we are in Afghanistan, unless we do something like this.

I also think this lease arrangement is going to allow us to do something we could not do if we were on a straight purchase basis. It is something we need to do now.

For those reasons, I want to be clear on my support, even though I have great admiration for the Senator from Arizona and the legitimate issues he is bringing up. We simply cannot do this any other way. This will get us 100 aircraft that we need to replace some that are 40 to 45 years old. This legislation will get this going now while we have the operational capacity to build them. Because of the lack of construction that is taking place at Boeing and the rest of its fleet construction, we are going to be laying people off. Instead of laying them off, we can put them to work.

It has come up in a questionable fashion. For that I have respect for those who are challenging this provision. Still, these are extraordinary times. If we do this, we can get something of value at a time when we can construct the aircraft. And it can be scored such that we can afford to pay for this at this point in time.

For all those reasons, I think this is a legitimate and a proper thing for us to do. I add my voice to that.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the previous order will be obtained, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

AMENDMENT NO. 2336

Mr. HELMS. I do thank the Chair. Mr. President, there is a little bit of manipulation going on, but let me emphasize the President of the United States is in favor of the underlying amendment, to which a second-degree amendment proposes to gut the amendment I have just offered.

If we are going to play this sort of game around here, that is fine. I can play it, too, and I have been around a little while, and I know how to do it.

The International Criminal Court will be empowered if and when just 13 more countries ratify the so-called Rome Treaty. Forty-seven have ratified it as of this past Friday, November 30.

It has been a privilege to work with the distinguished Senator from Georgia, Mr. MILLER, in crafting this amendment to protect American soldiers and officials from illegal prosecutions by that Court. In addition to Senator MILLER and me, Senator LOTT, Senator WARNER, Senator HAGEL, Senator HATCH, Senator SHELBY, Senator FRIST, and Senator MURKOWSKI joined in introducing the American Service Members Protection Act on May 9 of this year. The pending amendment is the result of our converting that act into an amendment to the pending Defense appropriations bill.

As I said at the outset, there are going to be attempts to defeat this pending amendment despite the support of the President of the United States, despite the support of all manner of organizations, including veterans and members of the armed services.

I feel a bit of resentment. What they are doing is well within the rules. We will see how the Senate stacks up on this little bit of play.

Without this amendment, the Rome Treaty can expose U.S. soldiers and civilian officials to the risk of prosecutions separate and apart from the laws of the United States of America. Therefore, they could very well be battling international bureaucrats and prosecutors instead of terrorists such as those who on September 11 committed mass murder against thousands of innocent American citizens in New York City and at the Pentagon, not far from here.

The pending amendment ensures that neither the International Criminal Court nor overzealous prosecutors and judges will ever be able to prosecute and persecute American military personnel.

At this time, along with the mobilization to fight terrorists, there is unanimous support in Congress for giving the President the tools he needs to wage the war against terrorism.

Accordingly, the distinguished chairman, HENRY HYDE, of the House International Relations Committee, and I have negotiated with the Bush administration some needed refinements to the American Servicemembers' Protection Act that is now pending for consideration by this Senate.

This amendment then is a sort of revised version of the original bill to give the President flexibility and authority to delegate provisions in the legislation that he needs in this time of national emergency to protect our service men and women.

I have in hand two letters dated September 25, 2001, and November 8, 2001, respectively, from Assistant Secretary of State for Legislative Affairs Paul V. Kelly indicating that the administration does support the language of the pending amendment.

Instead of placing these letters in the RECORD, I want to read them. The first one, Paul V. Kelly, Assistant Secretary of Legislative Affairs of the U.S. Department of State:

> DEAR SENATOR HELMS: This letter advises that the administration supports the revised text of the American Servicemembers' Protection Act (ASPA), dated September 10, 2001, proposed by you, Mr. Hyde and Mr. DeLay.
>
> We commit to support enactment of the revised bill in its current form based upon the agreed changes without further amendment and to oppose alternative legislative proposals.
>
> We understand that in the House the ASPA legislation will be attached to the State Department authorization bill or other appropriate legislation.

The Senate has a responsibility to enact an insurance policy for our men and women serving at home and overseas. Secretary of Defense Rumsfeld and Secretary of State Powell agree it is essential to protect all of them from a permanent kangaroo court where the United States has no veto.

Precisely, this amendment does the following: It will prohibit U.S. cooperation with the court, including use of taxpayer funding or sharing of classified information. Two, it will restrict U.S. involvement in peacekeeping missions unless the United Nations specifically exempts U.S. troops from prosecution by the International Criminal Court. Three, it limits U.S. aid to allies unless they also sign accords to shield U.S. troops on their soil from being turned over to this kangaroo court. And four, it authorizes the President of the United States to take necessary action to rescue any U.S. soldiers or service people who may be improperly handed over to that court.

When former President Clinton signed the Rome Treaty on December 31, 2000, he stated he would not send the treaty to the Senate for ratification and recommended that President Bush not transmit it to the Senate either, given the remaining flaws in the court. Moreover, I understand my colleague from Connecticut, Senator DODD, said this about the Rome Treaty on September 26, and I quote the distinguished Senator from Connecticut:

> If for some reason miraculously the proposal were brought to this Senate chamber this afternoon, and I were asked to vote on it as is, I would vote against it because it is a flawed agreement.

Many Americans may not realize that the Rome Treaty, so-called, can apply to Americans even if the Senate has declined to ratify the treaty. This international legal precedent lacks any basis in U.S. law.

So I reiterate, the pending amendment will shield Americans from this international court, and that is why 28 uniformed services and veterans organizations representing more than 5½ million active and veteran military personnel and their families support the pending amendment.

I have a copy of a letter dated November 19 of this year signed by the directors of the Veterans of Foreign Wars and at the Reserve Officers Association and associations representing every one of the services. They favor this amendment. I will take time right now to read this letter into the RECORD. I started to insert it, but I think it is important for me to read it.

> DEAR SENATOR HELMS: The Military Coalition, a consortium of nationally prominent uniformed services and veterans' organizations representing more than 5.5 million current and former members of the seven uniformed services, plus their families and survivors, strongly supports the amended version of the American Servicemembers' Protection Act.

Mr. President, that is the pending Senate amendment.

> The Coalition understands that the administration also supports this legislation.

I have already covered that. Then the letter continues:

> This bill would seek to protect American servicemembers from criminal prosecution by an International Criminal Court to which the United States is not a party.
>
> TMC [that is the military coalition] believes the United States must ensure military personnel (plus Federal officials and employees) are protected when it orders them to participate in operations or other prescribed duties in foreign countries. Any effort to the contrary by internal or external entities should be thwarted. Our Nation cannot continue to dispatch its uniformed and official personnel, who have sworn to uphold and defend the Constitution of the United States, to international assignments without guaranteeing them their rights under that magnificent document. Sincerely.

It is signed by the officers of the association.

President Bush and his national security team support this amendment. There is a great need to approve this amendment now and not wait until some vague future date next year or even later. Obviously, I support and urge support for this amendment to protect these service and civilian leaders from unaccountable kangaroo courts.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank Senator MILLER for the great work he has done, and I yield the floor to him.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. Mr. President, I rise to add my voice of support to this amendment by Senator HELMS.

I would like to thank the distinguished senior Senator from North Carolina for his leadership and dedication in crafting this important legislation. I am proud to cosponsor it with him. He has worked hard with the Bush administration to write a bill that meets the President's approval, and I commend him for doing so. Senator HELMS outlined the details on what this legislation is intended to do, so I will just make some brief comments on why I believe it is so important.

As Senator HELMS stated, this legislation is designed to protect American troops and officials from the potential of illegitimate and politicized prosecutions under the auspices of an International Criminal Court. When just 13 more nations ratify the Rome Treaty, the International Criminal Court will be empowered, and Americans could be subject to its prosecutorial authority. This could happen even though the United States has not ratified the treaty.

We ask a lot of our military. They are at risk right now in Afghanistan. They are stretched to the limit, and are engaged in missions around the globe that include peacekeeping and humanitarian efforts.

In the conduct of these missions, we must provide them the tools to succeed. Exposing our troops to ICC prosecutions is tantamount to not adequately equipping them for the mission. Rules of engagement for many military missions are complex enough—our military doesn't need to be further burdened by the specter of the ICC when making critical deadly force decisions.

I have heard some of the arguments against this legislation. Some think it demonstrates U.S. arrogance and a unilateralist attitude. Others believe it somehow compromises our commitment to the promotion of human rights and the prosecution of war crimes. I appreciate those concerns, but in my opinion, the well-being and protection of our military trumps those arguments every time.

We should be concerned over world perception in terms of our commitment to addressing war crimes, genocide, and other human rights issues. However, I don't believe any reasonable government could accuse us of not being the world's leader in all of these areas. The suggestion that the United States is not supportive of human rights because we refuse to ratify a questionable treaty just doesn't compute.

Some would advocate that we should ratify this treaty and try to fix its deficiencies after the ICC is created. That is laughable to me. How many of us would sign a contract for anything before negotiating the details? It makes more sense to have this proposed legislation as an insurance policy and then negotiate, rather than negotiate without it and potentially place our people at risk.

I remind my distinguished colleagues of the concern we all had when the Chinese held our EP-3 crew for 11 days. And they were only detained—not prosecuted. Now image American service members being subjected an unfair ICC prosecution without U.S. consent. This cold happen to some those brave troops that are eating dust and risking their lives in Afghanistan to protect America. I would never want to look a family member in the eye and know that I did not do everything possible to prevent such a prosecution because of concern over world perception, or offending their governments. This legislation seeks to provide that much-deserved protection.

I encourage my colleagues to support this important legislation. As responsible lawmakers, we are obligated to provide them this legislative protection.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. WARNER. I say to my colleague, a matter of some interest has arisen. I received a call from the Secretary of the Army. If I could have 2 minutes, I think colleagues would be interested.

Mr. BIDEN. I have no objection.

Mr. WARNER. Mr. President, the Secretary of the Army just called me. Yesterday, I put in an amendment to the pending matter before the Senate with regard to the desire on behalf of the Congress of the United States to see that Captain Charles "Chic" Burlingame, the pilot of American Airlines flight 77, be buried in his own grave site at Arlington National Cemetery. In recognition of the growing interest in the Congress, I was assisted on this by so many. My distinguished colleagues, Senator ALLEN, Senator MCCAIN, and Senator INOUYE very graciously put this amendment into the managers' package. Senator STEVENS and others, Senator CLELAND, and the Senator from Louisiana are all involved.

This matter has now been reviewed by the White House and by the Secretary of the Army. The Secretary of the Army has indicated to me that he will, under the regulations, exercise his authority to enable this very courageous and distinguished American and Navy veteran to be buried in his own grave, and at such time in the future to further have his wife interred with him.

I thank all who worked on this. There have been many in the Chamber, along with my colleagues in the House, FRANK WOLF, TOM DAVIS, and others, and also the Secretary of the Army has worked very carefully on it. I went over and visited the Secretary of the Army a short time ago, having been in conference with the two brothers of this individual. It is a team effort by the administration and the Congress. The Secretary is hopeful that the Congress will enact the legislation filed yesterday because it would be an important part of the decisionmaking process. I indicated to him I believe the Senate would, in due course, act on it. I am in contact with colleagues in the House to have a companion bill acted on.

I thank all concerned. We wish the widow and his family and his two brothers who worked so hard on this the very best. So the funeral now can go forward and he will have his own grave site. I thank the distinguished Presiding Officer and my colleague for allowing me to make this statement.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I appreciate my colleague from Connecticut allowing me to stand up and speak for a brief moment before he responds. He has an amendment.

I say to my friend from Georgia and my friend from North Carolina, whom I respect immensely, this is an idea whose time has not come. Here we are with a 28-page amendment before the Senate that we have not read, that is occurring at the very moment, as my friend from Georgia says, when American special forces are eating dust in Afghanistan, at a time when we were relying upon the cooperation of an alliance and a NATO and non-NATO forces that have agreed to support us in that effort, at a time when we are holding a coalition together, along with many Members who have supported this International Criminal Court, and we are going to try to change their minds about how we should amend the language of the Criminal Court to make it a reasonable thing we could in fact theoretically be a part of, to come along and tell them: By the way, if you already have signed onto this Court, but unless you decide—as one piece of the amendment requires—that unless you agree ahead of time that you would never under any circumstances abide by this Court as it relates to the transfer of an American person accused of a crime, we are in effect dissing you: We ain't going to work with you anymore.

It seems to me a pretty bad moment to be making that claim at this time. As my friend from Georgia pointed out, we want some options. We have plenty of time between now and the next several months to do what we are supposed to do. This was referred to the Foreign Relations Committee. It was introduced and referred to the committee by my distinguished colleague, the ranking member, former chairman, Senator HELMS, when he was chairman. He held no hearings on it this year after it was introduced. Since it has been in my committee—some version of this, not the same thing—there has been no request for me to hold hearings on this legislation.

Here we are on a Friday afternoon about to pass—I hope—a significant bill, and a 27-page amendment is dropped on our desk that is the most far-reaching and consequential extension of an argument against this Court that I have ever heard. It may make sense. Theoretically, it can make sense. But if you are ever going to pick a moment not to do this, it would be at this very moment when we have just—I have been a major party to this—literally broken the arms of the Serbs to make sure they send Milosevic to a criminal court. We have broken the legs of everyone we can—figuratively speaking—diplomatically to get Saddam Hussein before a criminal court, an international court. We have asked them to all step up to the plate and try to bring to trial terrorists and people we are after—the bin Ladens—whom we don't want to try in this country.

It seems to me to come along, and say, but, by the way, if you have signed onto any of this stuff that we don't like, we are not only going to see to it that we don't cooperate with you, but we are limiting our relationship with you, as I read this—that is a pretty big deal.

I wonder how Mr. Blair is thinking, that at this moment when we are putting pressure, or Mr. Schroeder, who risked his entire government with a vote of no confidence—he survived by I think two votes, and I will have the RECORD correct me if I am wrong about the number of votes—but barely survived in order to commit German forces to fight next to American special forces on the ground—who strongly supports this, and say, by the way, you are our enemy if you signed onto this Court. Give me a break.

Let us have regular order, as they say around here. We have plenty of time. I promise you I will hold hearings on this. But don't ask us to digest 27 pages of the most far-reaching application of an objection—by the way, in the Commerce, Justice, and State appropriations bill we already passed legislation of the distinguished Senator from Idaho barring cooperation with this Court. It still takes 13 more nations to sign on before the Court comes into effect. We have time. Let us do this in an orderly way.

I commit to you that at the earliest moment—if you want to pick a date, I will give a date—I will come back during recess and hold hearings. Let us get some serious people in here giving serious input. Just possibly, you people have missed something. Just possibly, you have inadvertently made a mistake in how broad this is, which may harm American troops. I do not know that it does. But I have been around here long enough to know that my mother's expression is a correct one: Often the road to hell is paved with good intentions. I have no doubt about the intentions. But I have some concern that you may have paved the road to hell a little bit for the very American personnel we are trying to save.

I really ask you in a more sober moment, even before we get on to the debate—I don't want to discourage my friend from Connecticut either—to sort of stand down here. I promise you I will set hearings. I will hold the hearings. I will not attempt in any way to delay reporting out legislation on this subject. Let us do this in the normal legislative way.

I thank my colleagues. I appreciate their intent. I know there is not a single Senator who doesn't share this concern. The last thing we want is an American tried before a kangaroo court.

I respectfully suggest that we are sending some sort of silly signals right now to the world. We are asking the world to join us. We are asking the world to participate with us. We are asking the world to try bad guys who have committed crimes against humanity, and yet we are setting up military tribunals and blanket, broad, broad pieces of legislation such as this that we really haven't had hearings on, haven't thought through, haven't debated, and haven't refined.

I do not know that I am against this. Russell Long once said to me after I said to him, "But, Mr. Chairman, I am not sure about this piece of legislation," "JOE, let me tell you something. Around this place, when in doubt, vote no."

I am in doubt. I don't know how you cannot be in doubt. This is 27 pages long, and we are going to do this in the next 15 minutes. I think it is a mistake.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I strongly urge the authors of this amendment to consider the offer just made by the chairman of the Foreign Relations Committee.

The Senator from Delaware pointed out, putting aside for a second whether or not you would disagree with the provisions in this amendment of 28 pages, that this is a proposal that has never really been debated or considered by committee. Something as far reaching as this is something this body, regardless of where one may stand ultimately on the question of an international criminal court, needs to be prudent in considering. None of us in this body ever wants to see our American men and women in uniform be placed in jeopardy anywhere. I do not know that anyone can tell you with any certainty whether or not that would be the case if this amendment were adopted.

Sometimes when we get in the middle of a debate and start arguing these things, emotions get carried away and it gets harder. I would like to pause for a moment. If both sides agreed to wait a bit and consider this issue at a later date, I certainly would withdraw my amendment. I have a simple amendment which just asks the President to report to the Congress any additional legislative action he would deem necessary for us to deal with this issue that the Senator from North Carolina has placed before us. I do not know how my colleagues feel about that. But I urge them to consider debating this later. We can then debate this in a proper fashion rather than do it here this afternoon.

I will note the absence of a quorum and take a minute to see if there is any possibility—does my colleague from Idaho wish to respond?

Mr. CRAIG. Mr. President, if the Senator will yield, I cannot speak for Senator HELMS. I think all of us understand—whether by the lateness of the hour or the length of the amendment—that the ITC, with 13 remaining nations, does not blink nor cause it to react to any extensive hearings that may have been held by the Senator from Delaware.

Action on the part of this Congress and our President to ultimately protect our own citizens and men and women in uniform and the protection of our sovereignty and our constitutional rights is really the question here. None of us should be frightened by a fear that somehow bin Laden or Milosevic would not be appropriately treated.

We have now had the Judiciary Committee hold hearings for the last 2 days on a military tribunal. Our President has already spoken as to how they might deal with terrorists once captured.

Mr. DODD. If I might reclaim my time.

Mr. CRAIG. What I am saying is, hearings should have been held some time ago. It is a critical issue that the last President put before this body, in essence, by signing the treaty. Yet it has not been done. My guess is, this is a critical debate and the appropriate amendment to deal with it.

Mr. DODD. I reclaim my time. I guess the answer is no. We are going to have to go through this process, which I regret deeply because I do not believe the Senator from Idaho or the Senator from North Carolina or the Senator from Connecticut could say to you, Mr. President, with any certainty, what we are about to adopt here is in the best interest of our country or our individual men and women in uniform.

Let me tell you what this amendment does, as I read it. This amendment would prohibit the United States from aiding in the prosecution of war criminals before the International Criminal Court, even if the criminal may have perpetrated crimes against America. We are prohibited by this amendment to participate in any prosecution.

Second, it would limit U.S. participation in peacekeeping operations unless we get an ironclad commitment from the ICC that under no circumstances would U.S. persons be subjected to the jurisdiction of the Court.

Furthermore, this amendment would prohibit us from assisting any country that is party to the ICC. We provide assistance to countries all across the globe. Are we really, at this juncture, on a Friday afternoon, now going to bar all future assistance to countries that may participate in the formation of a court?

As I said, back in September when this matter was first raised by the Senator from North Carolina, if the Treaty of Rome were put before this body, I would not vote for it. This body is not prepared to ratify that treaty. My concern is that if Senator HELMS' amendment passes, this treaty may go forward and we will have no say in the process. As my colleagues have pointed out, 13 other nations may sign on to it. If they do, then all of the matters we pass here may be for little or any good at all. In fact, the very concerns that my colleague from Georgia, and others, have raised may, in fact, occur as a result of our nonparticipation in the drafting of this treaty.

I think the United States should remain engaged in trying to fashion this Court in a way that would protect our men and women in uniform. That way at least we maximize the possibility that this Court is going to do what we would like it to do.

I find it somewhat ironic that today is December 7, and 60 years ago today Pearl Harbor was attacked, as we all know. We listened to the eloquent remarks of our colleague from Hawaii earlier today. Four years later, the United States, at our urging, established a criminal court in a place called Nuremberg, with the cooperation of our allies, to prosecute those who had prosecuted the war. And we did it not just in Europe but also in the Pacific with a separate set of trials.

In a sense, what this amendment would do is prohibit a future Nuremberg.

I do not think, on this day of all days, considering, if you will, the role that we played in the post-World War II period of trying to build institutions where the rule of law prevailed, that the Senate, the body charged in the legislative branch with dealing with the international relations issues of our country, would adopt an amendment that says we are not going to participate in any kind of an international criminal court.

I find it stunning that we can do that. I have offered a second-degree amendment which very simply would say that the Rome statute establishing the International Criminal Court would not enter into force, and that Congress has confidence in President Bush's ability to protect U.S. interests.

The last thing it calls for is that the President shall report to the Congress on any additional legislative actions necessary to advance and protect U.S. interests as it relates to the establishment of the International Criminal Court.

The Senator from Delaware has already pointed out, that we are trying to build transnational support for dealing with terrorism. The President has told us terrorists and their terrorist cells may exist in 60 countries. We are going to need a remarkable level of cooperation if we are going to successfully prosecute, capture, and try these individuals.

We have already seen some of the difficulties related to the cooperation we are seeking to bring terrorists to justice. What is going to be the reaction of the international community if we adopt this amendment at the very hour we are reaching out our hands saying: Will you join with us as we seek to prosecute those who perpetrated the crimes on September 11? When we are telling those countries we are not going to participate in any peacekeeping operations, we are not going to provide any aid to any countries that participate or sign on to this treaty?

This is what we should be doing: We should maintain a policy of fully supporting the due process rights of all U.S. citizens before foreign tribunals, including the International Criminal Court. We should continue to participate in negotiations of the Preparatory Commission for the International Criminal Court as an observer. At an assembly of states and parties, that is how you are going to effect the change—by being at the table, not by walking away from it.

This is the United States of America. We are not some Third World country. We claim to be a leader in the world to do what we can to ensure the rules of procedure are in evidence and that elements of crime adopted by the International Criminal Court conform to the U.S. standards of due process formally adopted by the assembly.

How is that going to occur if we adopt this amendment? We ought to seek a definition of the crime of aggression under the Rome statute that is consistent with international law and fully respects the right of self-defense of the United States and its allies.

We ought to be there to ensure that U.S. interests are protected in negotiations over the remaining elements of the International Criminal Court to provide appropriate diplomatic legal assistance to U.S. citizens, especially the U.S. representatives and their dependents who face prosecution without full due process in any forum.

That is what we ought to be doing. That is the role of a great nation. That is the role of the United States. That is what we did in the post-World War II period. We did not back away. We did not take an 18th or 19th century approach to the world. We engaged the world.

In fact, I remember—my colleagues may not know all of the history—but the choice of Nuremberg was not accidental. The choice could have been elsewhere. But Robert Jackson, who led the U.S. delegation prosecutorial team, selected Nuremberg because it was at Nuremberg that the Nazis wrote the laws that gave them the fake justification, if you will, to engage in the butchering that they brought on the world. It was at Nuremberg, Germany, where that happened.

So Robert Jackson said: Why don't we go back to that very place and show the world that in civilized societies the rule of law prevails?

There were people who argued forcefully that there should have been summary executions of the defendants at Nuremberg. Just execute them. That was the argument. Line them up against a wall and shoot them. Believe me, there were a lot of people who could make a strong claim that should have been the process. Millions of people lost their lives at the hands of those butchers.

But wiser voices prevailed. They said: No, no. We are not going to allow the world to see us act, in a sense, little differently than those who committed the crimes. We are going to provide them with a tribunal, an international criminal court. The argument that was raised against it was not illegitimate. It was ex post facto. We established it after the fact, but I think most agree today that the Nuremberg tribunal was conducted fairly, that those who were brought before that criminal court were given an opportunity to present their cases, and were tried fairly. Most were convicted, most were executed; some actually were exonerated; some got lesser sentences.

The point I am making is, today could there be another Nuremberg? Could we participate in a Nuremberg? Would we be advocating it? If we adopt this amendment, does that put us on the side of the Robert Jacksons in 1945, or does it put us on the side of retrenching and pulling back and not engaging?

I honestly believe the Rome Treaty is flawed—terribly flawed—but I also believe my country ought not walk away from its responsibilities. We may be about to adopt an amendment, in my view, that takes us in the opposite direction.

I am terribly disappointed we are even debating this amendment under these circumstances, a 28-page amendment involving all sorts of intricate matters that could complicate the role of our government at this very hour, putting us in a position of walking away from International Criminal Court. That is a dreadful mistake of historic proportions.

What a tragedy, as we begin the 21st century, that this great Senate, given those who preceded us, those who fought for a Marshall plan, those who fought for the establishment of the United Nations, those who fought for the establishment of the Court at The Hague, those who fought to establish rules on human rights, those whose very seats we sit in, we would pass an amendment contrary to their legacies. What a legacy for us. We are involved in the greatest challenge that America has faced since the conflict of World War II, and we may be about to adopt an amendment that would set back all of the efforts that were made in the post-World War II period. I am ashamed, in a sense, that we are about to adopt language which would put our country in that position.

At the appropriate time, I will ask my colleagues at least to consider my second-degree amendment which would allow for the President and others to report back what we might do and how we might address this issue, how we might affect the assembly that meets to establish the International Criminal Court, and how we can have some positive effect on what rules and regulations are going to be established there.

That is what I would hope we would do. For those reasons, I urge the rejection of the amendment offered by my friend and colleague from North Carolina, and support for my amendment.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. CRAIG. Mr. President, before my colleague from Connecticut leaves the floor, let me suggest to him in all sincerity that he has no reason to be ashamed, no reason to be ashamed of engaging in this debate, or in talking, as he has so proudly, about the legacy of Nuremberg and our Nation's leadership there. Nuremberg was a unique and terrible case and we addressed that issue as we should, and we did it in a most appropriate fashion. On other occasions, our Nation has engaged in international tribunals for specific purposes. But there is a very real difference today between that which we debate in the ICC and a Nuremberg example.

Nuremberg was a case in point to address the dramatic crisis coming out of and during World War II and those who perpetuated those horrendous acts. It was a temporary tribunal. What we debate today is a permanent tribunal, one that stays in constant existence, one that has an international prosecutor, and one that chooses to operate under a set of laws that is constant. Not that we would ever again engage in a tribunal to deal with a Milosevic. We have. We will. And we should. Nor would we ever again engage in tribunals that would deal with terrorists who would bring acts against this country or other nations of the world. We have. We will.

It is not that we are shucking from international leadership to suggest that we will not adhere to an international perpetuated body that takes away the sovereignty of our citizens and our men and women in uniform and our protections under the Constitution; that we should walk away from, that we should be proud to walk away from.

That is exactly what the Senator from North Carolina is proposing with his amendment. We have dealt with this issue at length. There is a great deal more that we should probably talk about, and the time is limited this evening.

The Senator from Connecticut talked about failing to assist countries. That provision was taken out of the bill of the Senator from North Carolina. If it were still in there and if it still qualified under the rules of the Senate, if you go on, it says we could waive that exception, that we could waive that prohibition on a selective basis. Does that sound like a weak Third World nation running from its international responsibility or does that sound like a world leader having the right to pick or choose for its citizens under its Constitution and not the rule of the United Nations? That is what we are talking about. That is fundamentally the issue.

We all know the history of this. Even when President Clinton signed this treaty in the final hours of his administration, his own words were:

> Significant flaws exist in this document.

Therefore, he did not send it to the Senate for ratification because he knew that it had great problems and some of those problems are the kinds of problems that the Senator from North Carolina is attempting to address. Rather it is whether or not we are fundamentally committed to the sovereign rule of the domestic law of our country under the U.S. Constitution as opposed to global justice under U.N. auspices. I don't know how to put it much clearer than that, for there can only be one answer, my guess is, for the majority of my colleagues. That means the United States must stand firmly against the concept and the reality of an ICC.

No matter what we debate here today and no matter what action we take, if 13 more nations ratify this under U.N. rule, this is the law of the world, so to speak. Therefore, whether we try to shield our own from it, it is possible still that a rogue international prosecutor, using the ICC, could bring some of our men and women in uniform or any citizen of the United States over 18 years of age under its jurisdiction.

This also means that trying to fix the treaty's flaws is in itself a great problem. Instead of mistakenly trying to fix the Rome treaty's flaws, the United States must recognize that the

ICC is a fundamental threat to American sovereignty and civil liberty and that no deal, nor any deal, nor any compromise in that concept and under that reality is possible.

We will engage internationally. We have and we will constantly do so. We are world leaders and we are proud of that. We also understand the awesome responsibility that goes with it. But to suggest that we hand this authority over to the United Nations and to suggest that they would use it in perpetuum, in a constant and uniform manner, we saw one of those rogue assemblies occur in Africa recently, and we had to walk away from it. We had to denounce it because of its outspoken racist arguments. It was something of which we could not be a part.

Is this to suggest that something similar to this could not happen or would not happen in the future with this kind of a body if we don't have the right to selectively choose to create, for the purpose and the intent at the time, an international tribunal that ought to be assembled for the purpose of dealing with an unjust act to humanity around the world? That is the issue about which we are talking. That is exactly the issue that the Senator from North Carolina is attempting to address.

Have we addressed this before? Yes. Have I been to the floor before to speak about it? Yes. Did we address it? Most clearly, we did. In the Commerce, State, and Justice appropriations bill this year, we prohibited the use of funds for the ICC or for its preparatory commission. That is the law of the land, as we speak. We passed it. We provided that protection this year in this Senate. It is important that we recognize that we have already made those kinds of observations.

It said very clearly: None of these funds appropriated or otherwise made available by this act shall be available for cooperation with or assistance or for other support to the International Criminal Court or preparatory commission.

I don't think we could get much clearer. Use of the State Department's funds for cooperation with the ICC or the preparatory commission is prohibited. That is clear. It was necessary to do. We spoke out as we should have on that issue.

Let me talk about one other very important aspect because the Senator from Connecticut appropriately addressed the circumstances of today and how that all fits.

I do not think by our acting this evening in support of the amendment of the Senator from North Carolina we are, in fact, turning our back on the bad actors of the world, the bin Ladens or the Milosevics or the Saddam Husseins. Not at all. We are speaking to the direct opposite. We are speaking to the right of an American citizen and the American men and women in uniform and their protection under our law.

When the time comes—and it may well—to address the problems created by the gentlemen I have just mentioned, this country will stand up and ask the world to stand with it for the purpose of dealing with those kinds of international outlaws.

As we develop our relationships around the world and the new coalitions that our Secretary of State is trying to form at this moment with Arab nations in search of terrorist groups, the renunciation of this Court has nothing to do with that. Those are case-by-case, nation-by-nation relationships.

What the rest of the world knows is that we are a nation of law and we protect the right of our citizens under that law within the Constitution. To speak out now for that purpose instead of handing it over to—or to arguably do so, an international body, I think speaks quite the opposite; that somehow we have softened, adjusted, or changed.

No, I do not think that is what we ought to be about. More importantly, I think that a loud, clear statement tonight to protect our men and women in uniform—and I wish we could go further to say all Americans—is a right and appropriate thing. Our men and our women are in the deserts and the sands of Afghanistan as we speak. As the year plays out and as we move into the next year and the next in our pursuit of international terrorism, they may be somewhere else around the world because we are a world leader, and we want and hope the world will follow us in our pursuit of international terrorists.

If that day comes, beyond the military tribunals that our President has already shaped, that we need an international forum in which to address this issue, that is the day we assemble it, that is the day we bring the United Nations and the rest of the world with us. But not now, nor ever, should we arbitrarily give away the right of the citizen, wherever he or she may be around the world, to have the protection under our Constitution and under our law of that constitutional right that a native-born American or a naturalized American citizen has. That is the fundamental debate.

The Senator from Connecticut and I really do not have many differences. We agree fundamentally on all of those things. I do not believe it is a negative statement to the world that we stand tall and demonstrate our leadership for our citizens and our people under our Constitution.

I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Arizona.

Mr. KYL. Mr. President, I wish to address this issue in the context of today's events. Two things in particular strike me about this debate, and I want to make it clear at the beginning that I support Senator HELMS and what he is trying to do to protect the men and women in our military whom we put in harm's way to fight for peace and security from terrorism in faraway places. Before the war on terrorism is concluded, we are likely to find them fighting in farflung reaches of the globe against the scourge of terrorism.

What we are concerned about is the possibility that they would fall into the hands of an enemy that would put them on trial under trumped-up charges, with very little in the way of rights before an International Criminal Court or under its jurisdiction.

Is this an unreasonable fear? I note some of the countries that have signed up to the ICC, some real bastions of civil rights and civil liberties: Algeria, Cambodia, Haiti, Iran, Nigeria, Sudan, Syria, Yemen. Those would be great places to be tried in if you were in the American military and you had been fighting some tin-horn dictator who got ahold of you and decided to put you on trial.

To me the interesting juxtaposition in the debate that has been going on in this country for the last 2 or 3 weeks—and we witnessed some of it yesterday before the Senate Judiciary Committee in which many liberals in the United States are very concerned about the civil rights of terrorists or people who are accused of terrorism and are raising all manner of questions about the possibility that military commissions established by the United States in furtherance of our war against terrorism will somehow, possibly, maybe, deny some right to a terrorist.

That is a matter of great concern to them. They have taken space in op-ed pages of newspapers, editorial pages of the newspapers, hours of conversation as talking heads on these television programs and, indeed, even some questions raised by Members in the Congress about what the United States proposes to do in establishing military commissions and how that might deprive a terrorist or a person accused of terrorism of some civil rights. Their concern for the rights of these people is touching.

I have found it a little bit out of priority or out of sync with priorities. It seems the first priority of those of us who are sworn to protect our constituents, our American citizens, ought to be to ensure their protection. But it was interesting that almost all of the questions from my colleagues on the other side of the aisle, both in the hearing with Attorney General Ashcroft and the head of the Criminal Division, Michael Chertoff, were not focused on ways in which we could give the Justice Department or Defense Department greater tools in the war on terrorism to protect Americans. Almost all of the questions were focused on whether maybe we were going a little too far in the creation of military commissions and maybe we ought to be more concerned about the rights of the terrorists who were going to be tried in these military commissions. It is an interesting proposition, to be sure.

We can have that debate. It would be a lot better to have it when we are not at war, but at least some legitimate questions were raised. I certainly take nothing from my colleagues who wanted to get to the bottom of what is being done. But I find it ironic on that day, yesterday, we can be debating with great concern over the rights of terrorists in a military commission, in a trial following some kind of military action, and yet seem to be a lot less concerned about the plight of American military personnel who might find themselves put on trial in a foreign country under an International Criminal Court procedure.

The United States is not a party to this, and given the kind of countries that have set it up, I think it will be a long time before we will be a party because they do not have the same kind of concept of justice we do, they are not willing to abide by the same kind of rules the United States will create for those we put on trial. Rest assured, people we try will very much get a fair and full trial. It will probably be a lot like the courts martial we provide for our own military personnel.

What we are concerned about here is not just sovereignty, the right of the United States to protect its interests. We are also concerned about two other things. We are concerned about protecting our young men and women whom we put in harm's way, in the first instance, to try to protect peace and security for people and do not want to jeopardize this, in the second instance, should they fall into the wrong hands and be put on trial.

Also, paradoxically, I am concerned about the ability of the United States to sustain future operations of the kinds that were engaged in Afghanistan today and hopefully will be engaged in other places around the globe if there is a concern not that we will suffer casualties. We become very casualty averse these days. It is a wonderful thing not to have the same kind of casualties we used to in war, and we are getting used to that.

I hope we would not hesitate to send in troops to fight for security from terrorism, for peace, for freedom in places we think that is important because of the threat that should our military personnel fall into the wrong hands they are going to be tried by people we believe have no right trying them, under procedures that would not sustain muster by the United States. That is why we have not signed on to the ICC.

As has been noted before, President Clinton was very concerned about the inability to protect our service people under the ICC jurisdiction.

Running away from the world? My colleague from Connecticut and I have the same view of the role of the United States being willing to reach out to the oppressed of the world when that also advances the interests of the United States, and we have never hesitated from spilling our blood and spending our treasure on behalf of others when we have believed that was the right and moral and just thing to do, and we have done it. We have never shirked our duty.

Every one of us in this body supported the resolution to authorize the President to once again send our young men and women into combat, if necessary, to protect the rights of people abroad, as well as, hopefully providing, for a safer world for Americans at home.

We will not shirk from our duties by failing to participate in a flawed treaty signed by the likes of Sudan and Iran and Iraq and Haiti and Cambodia and countries such as that. That is not my idea of statesmanship, of rushing to join with these groups of people and sign on to something that, as President Clinton has said, is fatally flawed.

No. We exercise leadership by saying: We are not going to play that game. It is fraudulent. You all create these international regimes to make yourselves look good, to make it look like you are for right, truth, and justice. We know you are not, and we are not going to play that game. When you get serious about negotiating the rights and protections that we demand of our men and women in the military when we send them abroad, then we will get serious and talk to you about this. Until then, no. The United States will act in its own interest first protecting its sovereignty and its own citizens.

We are not the leader of the world for nothing. We have gotten there because we have been willing to do this: not to be a follower but to be a leader. To be a leader sometimes is to say to other nations such as the ones I have read off, we are not going to follow you. We do not think your motives are clear. We think you have it all wrong, and until you are willing to listen to us about what is necessary to protect the rights of everyone, not just Americans but certainly Americans included, we are not going to play your game.

I resent the notion that failing to join up with the likes of that group of countries is somehow abdicating our responsibility. I think the President of the United States has it right. He campaigned on a theme and he has been working on a theme that we are going to do what we believe is in the best interest of the United States, consistent with the interests of other people around the world.

The first thing we are going to do is we are going to protect ourselves from a weapon of mass destruction delivered by a missile from a rogue nation. Missile defense, if you do not like it, tough. We are going to protect the American citizens from that kind of a threat.

Another thing we are going to do is we are going to reduce the number of nuclear warheads in our arsenal, and we do not have to sign a treaty with anybody to do it. If it is in our best interest, we are going to do it.

President Vladimir Putin of Russia and President Bush get together and they agree this is a smart thing for both countries to do. I suspect President Putin will end up doing the same thing for the benefit of his country. You do not have to join up in all kinds of multilateral regimes around the world in order to accomplish good things, and sometimes it is not smart to do this. It is better to hold back and provide leadership by demonstrating that you are prepared to do it in a different way, and the way some of these countries have thought about doing it is not the right way.

I support the amendment of the Senator from North Carolina, the purpose of which is to protect our military personnel from an improper, imperfect system that we all recognize we have to try to improve if we are ever going to be a part of it. Until that date comes, to ensure that they are not put in harm's way—and the provisions of this amendment will make it much more likely, it seems to me. Yes, it will get people's attention, and I think it will make it much more likely they will sit down and negotiate responsibly with the United States so that perhaps someday we can have a multilateral regime called an international criminal court.

Until we get to the point where our rights are respected, the country that has provided more rights for more people in the history of the world than any other country, until that date comes, we need to adopt the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, at this point I do not desire to prolong the proceedings, but so many strange statements are being made that have no relationship with accuracy that I have to correct some of them.

Before I do that, let me say I do not have two better friends in this body than Senator BIDEN, who is now chairman of the Foreign Relations Committee—and I cannot remember who was the former chairman—and the father of Grace, that little sweet thing in Connecticut. That is a wonderful picture he sent, and I bear him no ill will, but I wish I was on their side on this because they are so eloquent and, if I may say so, they are so loud.

In any case, the statement they made that we have not had any hearings in the Foreign Relations Committee, that is strange. On Wednesday, June 14 of last year, 2000, 3:30 p.m., Dirksen Building, 419, the Committee on Foreign Relations held a hearing on the International Criminal Court protecting American servicemen and officials from the threat of international prosecution. The witnesses included the Honorable Caspar W. Weinberger, former Secretary of Defense, and chief executive officer of Forbes, Incorporated. Then there is a distinguished professor, Dr. Jeremy B. Rabkin, from the Department of Government, Cornell University, and Ruth Wedgwood, professor of law at Yale University. That was a good hearing. I was there.

Then on Tuesday, July 20 of 1999, we had an Ambassador-at-large for War Crimes Issues, the Honorable David A. Scheffer, and this was a closed door hearing so that he could speak candidly and not be put on record.

Then on Thursday, July 23, 1998, in the Dirksen Building, the Foreign Relations Committee heard panel 1, the Honorable David Scheffer, Ambassador-at-large for War Crimes Issues, and panel 2, the Honorable John Bolton—most Senators have heard of John—Lee Casey, attorney from Hunton & Williams, Washington, DC, and Michael P. Scharf, professor of law, Boston, MA.

The point is, the President of the United States wants this amendment. He does not want a second-degree amendment to it. He wants this amendment. We have worked it out with the President, and I think he is entitled to have some consideration on this without a whole lot of gobbledegook that is meaningless and, in some cases, not even close to the truth.

I do not mind being opposed, but I hope we can lower our voices. I had to turn my hearing aid down because the sound was ringing in my ears. Can we not address this in a rational sort of way?

Frankly, I have my doubts about some of these judges of other countries with which we do business. I will not identify the country because it is a personal matter, but there is the wife of an ambassador to the United States from one of our finest allies whose husband kidnapped their two little boys and took them to his home in a foreign country. You can't even get the courts of that foreign country to do anything about it—even giving the wife of this Ambassador to the United States a hearing.

This is the kind of thing we run into. I don't want our servicemen subjected to any kind of inhibitions not to their benefit.

If anybody with a second-degree amendment can present credentials that they have the support for their second-degree amendment from veterans organizations, veterans publications, veterans representations, representing 5.5 million servicemen in this country, let the Senators present their credentials and I will be impressed.

But, no, they don't agree with me on this International Criminal Court. They have not done anything to move it along in the Foreign Affairs Committee despite my exhortations. And I understand that. The legislative process works that way, and I don't get my feelings hurt if I don't get my way on things. But I will be here until midnight before I submit to the suggestion that this amendment ought not be approved by the Senate.

I hope we can move along without so much waste of time, but I would hope that any Senator who wants to attack this amendment will tell why he is disagreeing with the President of the United States. I want him to present his credentials as to the support from servicemen and service organizations representing 5.5 million people. If they can present the credentials, I will back up and not push the amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I rise today in opposition to the amendment. In my view, the International Criminal Court, as established under the Rome statute of 1998, represents a unique opportunity to bring justice to the international community and to help in the fight against future war crimes, genocide, and other crimes against humanity. That is an important mission.

The Rome statute is the result of 5 years of negotiations by more than 100 countries. The United States was an active leader in these negotiations. Frankly, after years of support for the process, leading to the Court's formation, it is unwise to turn our backs on it now. If properly implemented, the ICC would go a long way toward preventing catastrophes such as those we recently witnessed in Bosnia, East Timor, and Rwanda. The ICC is not going to prevent all future human rights violations but it can deter those who would commit genocide, punish those who do, and offer justice instead of revenge and contribute to a process of peace and reconciliation.

Now, there are Senators who have asserted today that the International Criminal Court is part of the United Nations. It is a common mistake. For the record, the Court will be independent from the United Nations and governed and funded by its own assembly of state parties. Jurisdiction, judicial decisionmaking, and legal authority will be given only to this independent Court, not to the United Nations.

What is more, some of my colleagues in the Senate have opposed the Rome statute because they fear that the ICC will expose American service men and women abroad to frivolous prosecution. But American negotiators, led by Ambassador David Scheffer, have achieved remarkable progress during the treaty negotiations to effectively address these concerns. Any prosecution before the ICC would take place only if the domestic judicial system were unwilling or unwilling to make a good-faith inquiry into allegations of war crimes. I cannot emphasize this point strongly enough.

This amendment would restrict the role of the United States in future peacekeeping missions unless the United Nations exempts U.S. troops from the Court. It would also prohibit U.S. aid and input into the Court and block U.S. aid to allies unless they agree to shield American troops on their soil from ICC prosecution.

The timing of this amendment could not be worse. As the world unites to combat terrorism, we should be active partners in encouraging an end to impunity for human rights violators, not skeptical detractors. We need a place where perpetrators of human rights abuses are held accountable. In passing the Helms amendment, I fear we will be sending a horrible message to the international community. It is as if we cannot even be involved in the negotiations, sitting down at the table and helping to shape what could be such an important institution.

The Court will be established whether we like it or not. The authority of the future Court derives from the 120 votes garnered in Rome, the signatures subsequently of 137 nations and ratifications of 47 states. All members of NATO, the European Union and most in Latin America have signed or ratified. Recently the United Kingdom and Switzerland became the 42nd and 43rd countries to ratify, and Hungary became the 47th nation to do so.

Given these realities, we should oppose this amendment, hastening instead to assure the Court is a good one, inculcating the American values of democracy, rules of law, and an end to impunity. The United States should remain engaged while protecting American citizens and military people from politicized prosecution by the International Criminal Court or by any other foreign tribunal.

If America turns its back on the negotiations, and the Helms amendment would make it impossible for us to be involved in the negotiations, this opportunity to secure international justice will be lost. Only through engagement, which this amendment makes impossible, can the United States live up to the truly inescapable promise of "never again."

Thank you. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the debate this afternoon has covered a good many issues of real importance and concern to the United States and to the world. However, I suggest that the preferable approach would be for the United States to participate, to try to make the rules of the International Criminal Court satisfactory to the national interests of the United States, and to establish a framework for the rule of law in the world.

There is no doubt that the United States is going to act in what is in the United States' national interests. That is a fundamental rule of how nations behave and should behave. There are real problems which could be posed by an international criminal court and which are now present, for example, in the War Crimes Tribunal on Yugoslavia. It is not well-known that Carla del Ponte, the prosecutor at The Hague, considered a criminal prosecution against General Wesley Clark for targeting civilians and for being careless in the targeting of military installations which threaten civilians. That consideration was undertaken by the prosecutor at The Hague, the War Crimes Tribunal for Yugoslavia, on the initiation of Yugoslavia, backed by Russia.

I had an opportunity last January to talk to prosecutor Carla del Ponte about that and expressed surprise that someone like General Clark, who was acting on behalf of NATO and carrying out air strikes that were authorized by this body, the Senate, could be subject to that kind of a criminal prosecution for what was essentially an action authorized by the United States, authorized by the United Nations, and authorized by NATO. That kind of power in the hands of the prosecutor is really extraordinary.

As is generally known, I have had some experience as prosecuting attorney—having been District Attorney for Philadelphia for some 8 years, and having seen the kind of discretionary actions that a prosecutor can take when it is a matter of interpreting facts.

When we talk about soldiers in the United States who are in harm's way being subject to criminal prosecution, that certainly is a problem, and a real problem. However, what we need to do, in my opinion, is work to structure an international criminal court which makes sense, which does not subject U.S. soldiers, or General Clark, or perhaps Senators who vote on a resolution to authorize air strikes, to criminal prosecution. However, the International Criminal Court, I believe, is coming. If 13 more nations ratify the International Criminal Court treaty, it purports to come into existence.

Frankly, I do not think even if it comes into existence it is going to be able, as a matter of operational practice, to subject General Clark, U.S. soldiers, or U.S. personnel to prosecution unless somebody happens to be in a country and is detained somewhere. I think that would be a most extraordinary and unlikely event. However, we do see quite a trend in the international rule of law with the court for Yugoslavia and the court for Rwanda.

It is my hope that we can find a way to see it structured so that it does not inappropriately subject people to criminal prosecution.

The amendment of the Senator from North Carolina is very detailed. It prohibits extradition. I do not know if you need another law that prohibits extradition. If the United States does not have an extradition treaty with the International Criminal Court, or a body which represents it, there is no extradition. You have to have a treaty for that which talks about letters of interrogatory, which I do not think is highly significant as an evidence-gathering measure. However, there is a provision here to free members of the Armed Forces of the United States and other persons who are detained, and a provision which says, "The President is authorized to use all means necessary and appropriate to bring about the release of any person"—and it has a description. I do not know that we really want to be in a situation where the United States is going to go to war with the International Criminal Court, which is somewhat reminiscent of the resolution of the use of force, which we passed on the terrorism issue.

The International Criminal Court was considered at some length in a resolution sponsored by the Senator from Connecticut and myself in the early 1980s, at a time when we were dealing with international drug trafficking, and we were finding it impossible to get Colombia to turn over drug traffickers to the United States for prosecution in our courts.

It was a matter of national pride that Colombia and other Latin American countries were not about to turn their citizens over to the United States for trial in our courts. However, had there been an international court, I think that might have been achieved.

We had a similar problem in the mid-1980s with terrorists when we could identify the terrorists. At that time, I urged that the United States take forceful action in international law to go and arrest terrorists, which we had a right to do as a matter of national self-defense. We had a right to arrest Osama bin Laden before September 11th this year based on the indictments which were obtained for murdering Americans in Mogadishu, Somalia in 1993, and for murdering Americans in the embassies in Africa in 1998. We were on notice that Osama bin Laden had threatened America with a worldwide jihad, that he was implicated in the bombing of the U.S.S. *Cole*, and other acts of terrorism and sabotage.

Thomas Friedman wrote an article which appeared in the newspapers about Osama bin Laden on June 28 that was a facetious memorandum from bin Laden to the world about how he had scared the United States out of Jordan and out of the Mideast; and, about his operatives talking on cellular phones. He was well known.

We had a right at that time to bring him to trial in U.S. courts. Perhaps if there had been an international criminal court, there would have been some unity or some coalition with which we could have acted. There are many desirable uses for an international criminal court. It has been talked about for a long time.

The Senator from Connecticut talked at length about the Nuremburg trials, which I will not repeat. When this court arrives with 13 more ratifications—and I remind the one or two people who might be listening on C-SPAN II—that the United States was formed under an arrangement where if nine of the colonies ratified the Constitution, it was binding on all. We should not be surprised if you have an instrument establishing a court, which is binding under its terms, if it is ratified by a specified number.

Again, it is a different situation. You might say that the colonies had sovereignty. However, under the terms of the Framers of the Constitution, all 13 would be bound upon nine signatures. National sovereignty is a very precious item. I am not about to be one to give it up. I am not about to allow Carla del Ponte to indict Wesley Clark for what he did in carrying out the resolution passed by the U.S. Senate.

However, we have an opportunity to influence what that document will be. I think the Senator from North Carolina serves a very important purpose in posing the threats to American national interests. The Senator from Arizona, and the Senator from Idaho have spoken about these matters. However, I do not think the answer is prohibiting U.S. action, which is what this amendment does.

I think the answer is aggressive participation. If Senator HELMS and Senator KYL go to these conventions and participate—and Senator DODD and I will stay at home—we can influence what these documents will be. I think it will ultimately be in our national interest, and certainly in the world's interest, if we had a criminal court so we can try international drug dealers and international terrorists. It might provide a forum for bringing to justice Osama bin Laden.

My hope is that we will be participants to see that it is done right as opposed to prohibiting U.S. action to see that it is done right.

I yield the floor.

Mr. LEVIN. Mr. President, I cannot support the Helms amendment regarding U.S. policy concerning the establishment of an International Criminal Court in the future. The Helms amendment, in my judgement, goes too far. The amendment offered by Senator

HELMS would authorize the use of military force against a friendly country, the Netherlands, where the court might exist, in order to remove a foreign citizen from prison, even if the country of which that person is a citizen might not want that removal.

I supported the alternative amendment offered by Senator DODD which would have required the President to report to the Congress on any additional legislative actions necessary to advance and protect U.S. interests as it relates to the establishment of an International Criminal Court.

Mr. HATCH. Mr. President, I rise in strong support of the amendment introduced by my dear colleague, Senator HELMS. As my friend has noted today, I have been an original cosponsor of this legislation since he first introduced this in 2000. I commend my colleague for his commitment to the policy behind this amendment, for his persistence in promoting it, and on his efforts—successful, I am happy to note—to craft a piece of legislation that has the support of the administration.

I offer a little bit of background: On July 17, 1998, a United Nations conference in Rome approved a treaty establishing the International Criminal Court (ICC). 120 countries voted in favor of the treaty, seven countries—including the United States and Israel—voted against the treaty, and 21 abstained. Pursuant to the Rome Treaty, the court is intended to come into existence when 60 countries ratify the treaty. Forty-seven countries have ratified as of November 30 of this year, leaving 13 nations' ratifications necessary for the treaty to come into force.

If established, the International Criminal Court will have the power to indict, prosecute, and imprison persons who, anywhere in the world, are accused by the Court of "war crimes," "crimes against humanity," and "genocide." The court will have an independent prosecutor, answerable to no state or institution for his or her actions. Pursuant to the Rome statute, the ICC will be able to claim jurisdiction to try and imprison American citizens—including U.S. military personnel and U.S. Government officials—even if the United States has not signed or ratified the Rome Treaty.

Arguing that it was necessary to prevent the exclusion of the U.S. from future negotiations about how the ICC would operate, President Clinton signed the Rome Treaty on December 31, 2000, which was the close of the period for signature. Tellingly, he said on December 31 that he would not send the treaty to the Senate for ratification and would recommend that President Bush not transmit it either, given its remaining flaws. It is reasonable to question exactly what President Clinton intended by such a deliberately ambiguous act with such clearly defined consequences for government officials and members of the U.S. military who would go overseas under future Commanders-in-Chief.

The Senate has gone on record numerous times opposing the ICC. Last June, the American Service Members Protection Act of 2000 was introduced, and I was an original cosponsor. This act, now an amendment to this Defense appropriations bill, addresses our fundamental problem with the ICC: It represents, in legislation vetted and approved by the current commander-in-chief, that U.S. forces, which serve around the world in numerous peacekeeping and other roles, as well as American political leaders, must remain immune from prosecutions that could politically driven, prosecutions that could be directed more against our foreign policy than any possible violations of international law.

This amendment prohibits U.S. cooperation with the court, including use of taxpayer funding or sharing of classified information. It restricts U.S. involvement in peacekeeping missions unless the U.N. specifically exempts U.S. troops from prosecution by the International Criminal Court. It limits U.S. aid to allies unless they also sign accords to shield U.S. troops on their soil from being turned over to the court, and it authorizes the President to take necessary action to rescue any U.S. soldiers who may be improperly handed over to that Court. The policy promoted in this amendment is not anti-U.N., and it is certainly not against U.S. involvement in the world. But it is impossible to deny that America has a unique role in the world, and a unique form of self-government. Today, it is this country that leads the world in a battle against those who would use terrorism against us and our many allies and friends. While we go forth in this war to defend our national security, there is no denying that our victories—and we will be victorious—will be shared by those who hate terrorism as much as we do.

No country has done more than the United States to prevent and punish war crimes and crimes against humanity. No country is doing more than the United States to support multilateral peacekeeping efforts. And nowhere on earth do people enjoy greater civil liberties and personal freedom than in the United States.

The American people will never accept the direct assault on their country's sovereignty represented by the Rome statute. The statute's notion that Americans may be indicted, seized, tried or imprisoned pursuant to an agreement which their country has not accepted is an unprecedented affront to their national sovereignty and a threat to their individual freedoms. The Rome statute lacks procedural protections to which all Americans are entitled under the Constitution, including the right to trial by jury, protection from self-incrimination, and the right to confront and cross-examine all prosecution witnesses. This amendment, so diligently negotiated with the administration by my friend, Senator HELMS, declares to all Americans that you may all rest assured that the Government will always be obliged to protect—and if necessary, to rescue— American soldiers and civilians from criminal prosecutions staged by United Nations officials under procedures which deny them their basic, hard-won constitutional rights.

My comment to the world leaders and do-gooding groups who promote the ICC is simply this: Do you favor American leadership in international humanitarian crises? If so, beware: entry into force of the Rome statute, and establishment of a permanent International Criminal Court, will jeopardize American leadership because politically-driven prosecutions are a certainty and American soldiers and public officials can expect to become political pawns. Americans will not tolerate this.

As President Clinton's own Rome statute negotiator rightly observed, the notion that Americans are bound by something to which they have not consented is contrary to the most fundamental principles of treaty law. Unchallenged, the ICC will inhibit the ability of the United States to use its armed forces to meet alliance obligations and participate in multinational operations, including humanitarian interventions, to save civilian lives. The policy of this amendment has been endorsed by a bipartisan group of former senior U.S. officials, including Henry Kissinger, George Shultz, James Baker, Lawrence Eagleburger, Brent Scowcroft, Jeanne Kirkpatrick, Casper Weinberger, and James Waals.

It has been said that the Rome statute is some kind of "litmus test" for American seriousness about war crimes and genocide. No participant in this debate who is worthy of our attention will make such an accusation, which is as offensive as it is false.

From Pearl Harbor to the Adriatic Sea, American has given its blood and treasure to stop mass murderers in conflicts we didn't start. Today, America's best are fighting halfway around the world, attacking at its core a terrorist infrastructure that reaches to every part of the world. Tomorrow, we don't know yet where our brave service members will be, but we know that the fight for terrorism will not end in Afghanistan, and we know that America's finest will be risking their lives elsewhere. These brave members of our armed services are giving enough for this country, for western civilization. Let us not add to their concerns the possibility that, as they do their noble duty, they need be concerned about legal threats that do not represent the Constitution that they have sworn to protect.

Mr. LEAHY. Mr. President, I strongly oppose the amendment offered by the senior Senator from North Carolina on the International Criminal Court.

In addition to being damaging to the cause of international justice, this amendment could not come at a worse time. The administration is moving heaven and earth to maintain a coalition against terrorism and hold accountable those responsible for some of the most heinous acts ever committed on American soil. As a Congress, we are working to stay united on foreign policy and support the Administration in this effort. Over the past several months, Senators from both sides of the aisle have withheld from offering controversial foreign policy amendments on topics from missile defense to the embargo against Cuba. It is unfortunate that the Senator from North Carolina has chosen to offer an amendment that ignites strong feelings from its supporters and opponents, alike.

The ICC is a divisive issue between the United States and our closest allies. Virtually every member of the European Union and NATO has expressed its strong support for the court. In fact, Great Britain, our closest ally and full partner in the ongoing military effort against the Taliban, ratified the Treaty earlier this fall. Morever, the EU recently sent a letter to Secretary Powell opposing ASPA which reads: ". . . States which support the court and value their relations with the United States should not have to make a choice between the two."

At a time when we should be working to resolve differences with our friends, the Helms amendment does exactly the opposite by inflaming these divisions and forcing the United States to adopt an openly hostile stance against the ICC.

I want to mention just a few of the specific problems with this amendment. First, the amendment authorizes the use of force to free officials from not only the United States but also from foreign countries, if they are indicted and held by the court. Let me repeat that: This amendment authorizes the use of military force by the United States, from now until the end of time, to free foreign not only United States citizens, if they are in the court's custody.

While these nations are important allies, suppose some members of their militaries or intelligence services commit heinous crimes that fall within the jurisdiction of the court and are being rightfully detained? As a Congress do we want to authorize a military invasion of The Hague, risking the lives of United States military personnel, to free indicted war criminals? The Helms amendment would cut off military assistance to a number of nations, including Tajikistan and South Africa.

What if we wanted to upgrade an aircraft control tower in Tajikistan to help land United States planes that are carrying United States troops to Afghanistan? What about providing military assistance to South Africa to help spearhead a peacekeeping mission in Africa to which we did not want to commit United States troops?

What about providing C-130 spare parts to a Nation that has ratified the ICC treaty, but wants to help airlift humanitarian aid to a region effected by famine? In addition, the amendment makes America a potential safe haven for war criminals by prohibiting the United States from turning over indicted war criminals residing on our soil. It would also place restrictions on United States participation in peacekeeping missions.

We all want to pass legislation that will enhance the safety and security of our military personnel. But, this bill increases tensions with our allies and works against our efforts to maintain a coalition against terrorism. If anything, this will make our military personnel less safe.

If the goal of this amendment is to prevent the International Criminal Court from getting the necessary ratifications to come into existence, it is almost certain to fail. It would require a head-to-head confrontation with our European allies and over 80 countries outside of Europe that have signed, but not yet ratified the treaty, and require us to be almost 100 percent successful. More importantly, the United States, to which the whole world looks for leadership on human rights, should not be engaged in a fruitless effort to undermine a court that will bring to justice those responsible for committing war crimes, genocide, and crimes against humanity.

Instead, we should be actively engaged with the court to ensure that it operates in a way that protects the rights of American servicemembers and promotes our values and interests.

The Senator from North Carolina is the ranking member of the Foreign Relations Committee, and that is where this amendment belongs.

This is the wrong amendment at the wrong time. I urge my colleagues to vote no.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that the Senator from Texas would want to speak—for what period of time?

Mr. GRAMM. I am not sure. I would like to be recognized. I don't think I am going to speak very long. If you want to set a time limit on it, I would say 10 minutes.

Mr. REID. Mr. President, I ask unanimous consent that there be a time limitation of 60 minutes equally divided between Senators DODD and HELMS, or their designees, and that part of the Helms 30 minutes—10 minutes—go to the Senator from Texas; that Senator DODD also have a complement of time which he would designate; that the two amendments be considered first-degree amendments, at the conclusion or yielding back of the time the Senate vote on or in relation to Senator DODD's amendment; that upon the disposition of that amendment, the Senate vote on or in relation to Senator HELMS' amendment, and that no other amendments be in order to either amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DODD. Might I just say to my colleague as well, the majority whip said 60 minutes. We may not need 60 minutes. I do not know how much time the Senator from North Carolina would like, but I do not imagine 30 minutes will be necessary on our side. So maybe because of the hour, we may terminate debate a little earlier and yield back time and actually vote earlier.

Mr. REID. I would say to my friend, originally we got 40 minutes, but I wanted to make sure you had enough time to respond.

Mr. DODD. I thank the Senator.

I know the Senator from Texas wants to be heard.

Mr. GRAMM. The Senator may want to speak first.

The PRESIDING OFFICER (Mrs. LINCOLN). The Senator from Connecticut.

Mr. DODD. Madam President, I will take a couple minutes to respond to just a couple things, if I could.

I thank my colleague from Minnesota for his eloquent comments, and my colleague from Pennsylvania, who is far more knowledgeable than the Senator from Connecticut on these matters generally, and has offered some very wise counsel on how we ought to proceed.

I think having this debate helps. I am not suggesting it does not. But I am deeply concerned about proceeding with an amendment of some 28 pages now. I do not know if anyone can tell you with any certainty what it does. I am concerned about what I think it does. It may do more than I think it does, which would worry me.

I have offered, and will describe shortly, a substitute or alternative amendment which we will vote on which lays out a framework by which we might approach this issue of the Rome Treaty in a constructive way.

I guess it is a matter of choice. If you take the view that under no circumstances should there be an International Criminal Court, you should vote for Senator HELMS' amendment. I am not arguing there are those who do not have a point of view that there should be no International Criminal Court. That is a legitimate point of view.

If your view is there probably should be, but it ought to be set up in a framework that makes sense, that guarantees the kind of protections that my colleagues have talked about today, that would allow for the civilized world to prosecute international thugs, then, it seems to me, we bear responsibility to help that along and not retard it here by taking the position of adopting language which makes it impossible for us to participate in the creation of such an institution.

That is my point. There are details of it where I see us taking a giant step backwards today. At the very moment, we are trying to get people around the globe to understand that our value system, our idea of justice, is a good system and that we would like to see those values incorporated in an international court. But it is awfully difficult to advance the cause of your own values if you are not in the room to make the case. I do not want to rely on some of the countries that I see on this list that have ratified this treaty to advance that cause.

Now some I have great faith in. As I pointed out, 139 countries have signed this. Now I am told some 42 countries have ratified it, every member of the European Union, 18 of the 19 members of NATO.

My friend from Arizona cited a couple of countries that I know none of us bear much allegiance to in any sense at all. But it is also worthwhile to point out to our colleagues that our NATO allies have signed this. They have troops that go into these conflict areas. Are they all wrong? Are they all wrong? I do not think so.

Is it all right, this treaty? No. I will repeat again, if that treaty arrived through that door this afternoon, and we had an up-or-down vote on it, I would vote against it because I think it is flawed. But I do not think it is so flawed that we cannot improve it and make it work for our interests.

You cannot play on the international field and walk away from this issue. I guess that is the line of distinction I would make.

My colleagues know that I have a great sense of pride about my father. My father served as the Executive Trial Counsel at Nuremberg. I cannot tell you the times I heard him say: Had there been an international court in the 1920s and 1930s, just maybe, he said, just maybe—he never directly predicted with absolute certainty—but just maybe Adolf Hitler might have been stopped before he caused the destruction he did in Europe because there was no place to really bring the issue. And so his advance—this crushing of neighboring countries and the destruction of human life—went on unabated until the United States and our allies successfully prosecuted the end of World War II.

But had there been a place, had there been someplace in the world that we could have brought an Adolf Hitler when he first started, my father always thought, just maybe—just maybe—we might have saved millions of lives.

So when my friends today say this court is flawed, and therefore we are going to enact legislation now that penalizes those who are trying to make it work, I do not understand the logic of that. I really do not.

It seems to me, if we are worried about our men and women in uniform, the idea somehow that this institution, this international court, flawed as it is, is not going to exist, is terribly naive. And the very concerns that are being expressed about our men and women in uniform become more real if this court ends up looking like its opponents claim it will. There is nothing here that will prohibit that servicemen and women from being caught in that snare.

At home in the United States, existing law prohibits the extradition or transfer of U.S. citizens to the International Criminal Court. That is already the law of the land. So if you are in the United States, you cannot be extradited under existing law.

But the idea that somehow because we adopt this amendment—which causes us to step away from all this, walk away from our involvement—that it is going to somehow give greater protection to that private or corporal or sergeant out there in some God-forsaken land defending our interests is naive. In fact, we put that individual at greater risk because we are not in the room trying to shape what this court looks like.

If, in fact, someone does get apprehended, and they end up in a kangaroo court, we will be responsible, in a way, because we walked away from the responsibility of trying to shape that institution. You cannot complain about the makeup of the institution if you do not participate in the creation of it.

We have been offered a chair at that table, and we are walking away. And when you do, then, it seems to me, you bear some responsibility for what that institution ultimately adopts, and whether or not it affects the citizens of your country.

Stay at the table. Try to change it. At the end, you may not be able to. Then it is their fault. But you cannot walk away from the table, and then have your people caught, and then say: That is not my responsibility. That is not a legitimate answer to this question.

So the Senator from Pennsylvania has offered what appears to be sound advice. That is what our amendment will offer, in a sense.

Very briefly, I will read the amendment to my colleagues. There are certain findings in the first section. It is very brief. It says:

> (1) The Rome Statute establishing an International Criminal Court will not enter into force for several years:
>
> (2) The Congress has great confidence in President Bush's ability to effectively protect US interests and the interests of American citizens and service members as it relates to the International Criminal Court; and
>
> (3) The Congress believes that Slobodan Milosovic, Saddam Hussein or any other individual who commits crimes against humanity should be brought to justice and that the President should have sufficient flexibility to accomplish that goal, including the ability to cooperate with foreign tribunals and other international legal entities that may be established for that purpose on a case by case basis.

And lastly, it calls for a report:

> The President shall report to the Congress on any additional legislative actions necessary to advance and protect US interests as it relates to the establishment of the International Criminal Court or the prosecution of crimes against humanity.

That, seems to me, to be a more logical way to proceed than some 28-page amendment that has us cutting off aid, not participating in peacekeeping, not allowing us to even participate in proceedings when U.S. citizens or other people have committed crimes against our own country. Those are things that at least appear to be the case on the face of the amendment as it is offered by my colleague from North Carolina.

Lastly—and then I will yield the floor for a moment—I want to read a letter from Elie Wiesel. I think all of our colleagues know of Elie Wiesel, the Nobel laureate, distinguished writer, humanitarian, who was himself a survivor of the Holocaust.

When a similar piece of legislation was being considered by the other body, Elie Wiesel wrote the following letter:

> Dear Ben and Sam—

Chairman and ranking member of the committee in the other body—

> I too am concerned with the safety of United States servicemen abroad. But I am confident that we will be able to protect them. And so, bringing a war criminal to justice remains urgent.
>
> Fifty years ago, the United States led the world in the prosecution of Nazi leaders for the atrocities of World War II. The triumph of Nuremburg was not only that individuals were held accountable for their crimes, but that they were tried in a court of law supported by the community of nations. Before you today in committee is a bill that would erase this legacy of US leadership by ensuring that the US will never again join the community of nations to hold accountable those who commit war crimes and genocide.
>
> A vote for this legislation would signal US acceptance of impunity for the world's worst atrocities. For the memory of the victims of the past genocide and war crimes, I urge you to use your positions . . . on the International Relations Committee to see that this legislation is not passed.

It is signed "Elie Wiesel."

I will yield the floor at this point and listen to the remainder of the arguments. I urge my colleagues, when the time comes, to consider the proposal we will lay before them which allows us to go on record expressing a concern and a desire to have this Court work better.

If you think there ought to be no court whatsoever, that there is no legitimate purpose for an international criminal court, I urge you to vote for the Helms amendment. If you think there is an importance in the 21st century for a court to exist and that the United States ought to participate in the shaping of that court, I urge Members to support the amendment we will offer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, if there has been a debate this year that is about what our values are, this debate is about what our values are. I have to say, I am kind of taken aback that for the last 3 weeks every time I have turned on the radio or television, we have had people talking about how concerned they are about the process whereby the President would use a system of military justice against brutal terrorists and murderers who supported those who seized airplanes and attacked the United States of America, killing our women and children in our own country.

Somehow there is this great wave of supposed constitutional concern about trying brutal murderers who are terrorists in military courts. And yet when Senator HELMS and Senator MILLER offer an amendment which guarantees that American soldiers abroad, who are defending our interests, defending our freedom, risking and giving their lives, serving our country abroad, that they could be subject to being brought before an international court where no judge is an American, no procedure was established by an American Congress, no constitutional guarantees apply, it seems to me this debate is about as clear cut as it can be clear cut.

We ought to have an international court to try people like Adolf Hitler. But when I send my son or you send your son or your daughter into the military to serve our country, they should not be subject to being brought before an international tribunal. That is the issue, pure and simple. It can't be more basic than that.

I would have to say that I would find it absolutely impossible to justify to a mother or father in my State who had sent their child to Afghanistan to fight and perhaps die for our freedom, if they ended up before some international court where no judge was an American, applying procedures that no American Congress ever applied, and denying their constitutional rights.

There are a lot of debates we can have. One of the things we are going to have to come to grips with is to what extent these international tribunals apply to Americans, because we have rights as Americans under our Constitution, and those rights cannot be delegated to somebody else, to some other jurisdiction. There is no jurisdiction on this Earth in a temporal sense that stands above the Constitution of the United States. No international court, no international body, no temporal authority stands above the Constitution of the United States.

That is a bigger issue than the issue we are debating here. Senator HELMS and Senator MILLER are not today debating whether Americans in general should fall under the jurisdiction of international courts. They are talking about a very select group of people who put on the uniform, who raise their right hand and swear to uphold, protect, and defend the Constitution against all enemies, foreign and domestic, and yet we are debating whether the Constitution defends them. We ask them to swear allegiance to the Constitution, put on the uniform, go to Afghanistan, and then potentially they could stand naked, in terms of their rights, before an international tribunal and not have constitutional protections. That is an absurdity.

This amendment is very simple. It says in the clearest possible terms, so no one could misunderstand: No American serving abroad in the uniform of this country can be tried before an international tribunal. If they violate the law, they will be tried under the law and under the Constitution, either in an American military court or in an American civil or criminal court. This is not a complicated issue. This is a very clear issue.

I thank Senator HELMS. I thank Senator MILLER. This is a decision we should have made a long time ago.

The idea that somehow we are going to try to work out these rules, somehow we are going to try to negotiate this—I am not interested in negotiating the constitutional rights of people who are at this moment fighting and dying in a foreign country to defend the Constitution. Their constitutional rights are nonnegotiable. There is no tribunal on Earth, other than one constituted under the Constitution of the United States, that would have jurisdiction over my son fighting in a foreign country defending our freedom. That is just simple and straightforward.

I think Americans would be astounded that there could be any question about that. The problem is not, is the Court good? Is the Court bad? Is the Court reasonable? Is the Court unreasonable? Are these good men who are judges or good women? Are the prosecutors fair? Are the jurors objective? Those are completely irrelevant. No study of how to improve the Court is at all relevant in this debate. The question is jurisdiction, and they have no jurisdiction over anyone who puts on the uniform of this country and swears to uphold, protect, and defend the Constitution.

If they are defending the Constitution, I want the Constitution to defend them. I don't want them tried under any jurisdiction that is not bound by the Constitution.

Mr. DODD. Will my colleague yield for a second on that point?

Mr. GRAMM. I am happy to yield. Could I yield on the Senator's time because mine is limited?

Mr. DODD. Whatever time, we will work it out later.

I say to my colleague, we have status of force agreements around the world. I am sure my colleague is aware, who served on the Armed Services Committee, that we have status of force agreements. There are U.S. servicemen all the time who are tried in local courts in other countries. We are not breaking ground here. We have known about those cases. We read about them, tragically, when they occur. We have those agreements whenever we place troops in various places—Japan being the most recent example.

I don't mind your argument. But to suggest somehow that men and women in uniform are never subjected to any jurisdiction of a foreign land where the courts and the laws may be substantially different than what we have is not the law of the land is absurd.

I am not interested in seeing laws adopted here that subject our men and women in uniform to foreign laws, but we do that already, it seems to me.

Mr. GRAMM. Madam President, if I could regain control of my time, I thank the Senator for raising this point. Let me make the following point:

These circumstances occur when first of all, we have negotiated agreements with these countries whereby service personnel stationed on a friendly basis in these countries will be subject to local law, they are defended by American defense attorneys, and they ultimately have their rights protected through these guarantees.

We are not talking about people in Somalia, and we are not talking about Americans in Afghanistan.

Mr. McCAIN. Will the Senator yield for a brief question?

Mr. GRAMM. Yes.

Mr. McCAIN. Has the Senator read a book, which is being made into a movie, "Black Hawk Down?"

Mr. GRAMM. I have.

Mr. McCAIN. I recommend it highly. Because of the situation the American special forces were in, they had to kill thousands. They killed thousands as they fought their way out. I would not like to see those Americans before a tribunal composed of Somali Government people.

Mr. GRAMM. If I may conclude—other people want to debate—here is my point. When we sent American troops to serve in Japan and to serve in Korea, we negotiated agreements whereby they could be tried for local offenses by local authorities. But that is a world apart from when we send marines into Somalia and when we send marines and special forces into Afghanistan.

That is the issue about which we are talking. We are talking about the jurisdiction of International Criminal Court set up by a treaty that we have not ratified, and we are talking about American military personnel wearing the uniform of this country. All the amendment by Senator HELMS and Senator MILLER does is say that American service personnel cannot be tried before this Court. No judge is an American, no procedure is set by Americans or negotiated by them. We have not ratified the treaty. It is imperative we adopt this amendment, and I have every confidence we will.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Madam President, the point I was trying to make is we negotiated status agreements with these countries to guarantee and protect the rights of men and women in uniform. But in an international criminal court there will be negotiations—and we are walking away—to protect the very issues my colleague from Texas raises.

By not participating, of course, without being at the table, we are not there to protect our people.

We are making the assumption that with the adoption of this amendment, this is going to go away. It does not go away. That is the point I was making.

Just as we negotiated status arrangements with individual countries on how our men and women in uniform will be treated so they will not lose their rights under local civilian courts, what I am suggesting this afternoon is that we ought to do the very same thing in negotiating at the table over this International Criminal Court.

In not being there there is a far greater likelihood our men and women in uniform are going to be subjected to terrible rules. We have to be there, just as we had to negotiate the status agreements of how men and women in uniform are treated in Japan. We have seen cases there, and had we not negotiated agreements, Lord knows what would have happened to them. We did not say to Japan: You are going to take it or leave it or we are going to rip the people out of your courts. No. We sat down and said: This is how it will work.

This is not a debate about who worries about men and women in uniform. It is whether or not we are going to have any kind of an international court institution in the 21st century. We are asking the world to join us in apprehending the Osama bin Ladens. We are building a coalition to work with us and then bring these people to trial.

I have not raised this issue today, but my colleagues keep raising the issue that military tribunals is somehow part of this debate. I do not think there is any legal issue at all over whether we can have a military tribunal. That is beyond question. There ought to be and can be military tribunals. I can question the wisdom of establishing them in every case because I think there ought to be a selective use of it. I happen to believe having public trials demonstrating how we operate under the rule of law makes more sense, but I do not question the President's authority at all to establish a military tribunal, if that is what he decides to do. That is not the issue.

We are going to be asking countries to extradite people, to bring them here and try them in these tribunals. At this very hour our State Department is reaching out to get the world to cooperate with us, we are walking away from the International Criminal Court. Every member of NATO has signed and ratified this agreement; every member of the European Union has ratified it, not to mention all of our allies all over the globe.

For the life of me, I do not understand why we are going to adopt a 28-page amendment which, as I pointed out earlier, makes it so we are not involved in peacekeeping forces, we cut off aid to countries, we cannot participate in these courts where even U.S. citizens have been attacked.

I do not understand why at 5:15 on a Friday night my colleagues want to adopt a 28-page amendment when we do not understand, in my view, the full implications of this amendment.

Again, I give my colleagues a chance to vote on an alternative which asks the President to send a full report to Congress on additional legislative matters we can take to responsibly protect our service men and women.

By the way, it is not just service men and women who we should be protecting. I have great affection for those who wear the uniform, but citizens who do not work for the Federal Government, do not work for the State Department, who may be traveling, ought to be protected as well. My colleagues today are talking about service men and women, and they deserve a special status, but today U.S. citizens can also be caught up in this. We travel a lot. How many people travel all over the globe every day to expand markets so we can employ people in this country? It seems to me we are not including them at all. The only people who are included are Government employees. Do not U.S. citizens also deserve some protection in these courts?

I had hoped this amendment would be withdrawn. I really hoped it would be, and then we would come back and try to fashion something we all can embrace. Instead, there seems to be a desire to divide us on this question.

Again I make the point, if my colleagues really believe there ought to be no international criminal court, then they ought to support the amendment of my friend from North Carolina. If my colleagues believe there is a value in this court, they should reject Senator HELMS' amendment and support mine.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Madam President, forgive me for not being able to stand. I do not know where I put an end to mistaken statements in this debate. I have corrected several of them this afternoon. It is a good thing everybody involved in this debate are friends. We will be friends when we walk out of here. But such statements have been made that there have not been any hearings in the Foreign Relations Committee. There have been 3 days of hearings.

The statement was made that the Bush administration will be prohibited from further negotiations of the criminal court and that it will be deleted from the statute books should the Senate ever verify the Rome statute. That is simply not so.

I hope for the remainder of this debate we can come pretty close to factual statements and not resort to a situation—I do wish the opponents of this amendment will tell how many of our service men and women support their motion to table the amendment of Senator MILLER and me.

We do not have 5.5 million service people represented by the organizations that have contacted us on their behalf, who support us and who, therefore, support the other side. If they have 5.5 million people, I wish they would trot them out.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Madam President, if I could be recognized one more time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Senator HATCH is on his way, and he wishes to speak. So I want to spend some of our time waiting for him to let him speak.

Mr. DODD. Would the Senator from North Carolina mind if our colleague from Louisiana spoke on a subject related to a matter before us?

Mr. HELMS. I always like to hear the lady.

Mr. DODD. How long does the Senator from Louisiana wish to speak?

Ms. LANDRIEU. Ten minutes.

Mr. DODD. How much time do we have on both sides?

The PRESIDING OFFICER. The Senator from Connecticut has 12 minutes, and the Senator from North Carolina has 18½ minutes.

Mr. DODD. I am prepared to yield my time back anyway, so I yield 10 minutes to the distinguished Senator from Louisiana. I ask unanimous consent that she be allowed to speak on a matter unrelated to the pending matter before this body.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I thank my colleague from Connecticut and my colleague from North Carolina because this truly is a very important debate, one of the important aspects of the underlying bill. But because I had not been able to speak earlier on the underlying bill, and as a member of the Armed Services Committee, I wanted to take a few moments to talk about some of the important components of the Defense appropriations bill we are considering, particularly on this very special day which is commemorating the 60th anniversary of Pearl Harbor, and particularly because of the tremendously challenging circumstances we face as a nation.

I am aware that in a few minutes we will vote on this particular amendment. It is really a very important matter we will decide concerning this International Court, but I want to take a moment to share with my colleagues, to remind them, of another historical event, and that was in the month of August of 1814.

One hundred eighty-six years ago, this Senate and most of the public buildings in Washington were burned to the ground. It was the grimmest moment for our young Nation. We had won our freedom from England and now, during the second war of independence, we experienced in some ways complete humiliation. Adding to this humiliation, it occurred under the Presidency of James Madison, the father of the Constitution and one of the greatest minds the United States had ever produced. An observer of the attack described the scene. He said:

> It was a sight so repugnant to my feelings, so dishonorable, so degrading to the American character and at the same time so awful it almost palsied my faculties.

That means caused them to tremble.

I think everyone knows exactly today, in hindsight of September 11, how President Madison felt. When we watched the World Trade Center, the center of our economic vitality, destroyed, when we could see from some rooftops in Washington and actually from some of the vistas from this exact building the fires burning over the Pentagon, I think we can all know exactly how President Madison and this man who gave us this quote felt on that day.

Yet we also know, for the second time in our history, this building again was the target of attack. Although it was not hit, it was a target, and we might have piled horror upon horror to see this exact building burn to the ground again.

The War of 1812 was divisive. It divided North and South as well as the emerging constituency of the West. Yet when our Capitol was burned, the American people knew we could no longer delay and divide. We had to unite and prevail. We could spare no resource, ignore no strategy, reject no talent in that effort to preserve the American experiment in democracy.

We are engaged in a similar struggle today. We must unite and prevail, and we should spare no resource in doing so. That is why I have been a strong advocate for the Byrd amendment, and that is why I am a strong proponent of this underlying Defense bill.

I know at this exact moment the leaders are engaged in a negotiation that will hopefully help us support a strong Defense bill, one that funds the men and women in uniform and gives them the supplies, equipment, technology, research, housing, schools, health care, weapons, and ammunition they need to fight a war in Afghanistan and to protect us at home.

There are a number of provisions I support in the underlying bill, and I also support Senator BYRD's gallant, valiant, courageous, and visionary efforts to add to that underlying bill some resources for our homeland defense and homeland security.

In the underlying bill, there are a number of provisions which I support. First and foremost is the support for the cooperative threat reduction program. That phrase did not really mean much to anybody before September 11, "cooperative threat." It was hard for people to grasp what it was exactly, but now that we know and we can see we have still enemies willing to use powerful weapons against us to destroy Americans and our way of life, we understand the cooperative threat reduction program, which is a partnership with Russia to contain weapons of mass destruction, most certainly should be funded and most certainly supported.

Our Capitol, our White House, and our Federal buildings burned in 1814, and we saw them again targets earlier in September. We know our enemies want to gain access to weapons of mass destruction. We know they want them. We know they have tried to get them, and we know that they will try to use them if they gain access to them.

So in the underlying bill that has been carefully crafted by Mr. INOUYE, the Senator from Hawaii, and the Senator from Alaska, with the support of many on the Democrat and Republican side, we provided $357 million to complement the $300 million in the Department of Energy funding this year. It represents a $49 million increase over last year. That is the good news.

The bad news is if we had allowed the Byrd amendment to go forward, we would have had an additional $256 million investments in the cooperative threat reduction program, spending more money in an urgent fashion, in a transparent and accountable fashion, to make sure we get to those weapons of mass destruction before our enemies do.

We know it is not just nuclear materials. We know there are chemical weapons, there are biological agents and, again, they have said they want them. They have said if they get them, they will use them. We know this building we stand in today is a target of their negative feelings toward our country and all for which it stands.

So I am very hopeful that in the negotiations we are not leaving on the table some extra money, so important to the cooperative threat reduction and as a testimony to the great work done by Senator LUGAR from Indiana and Senator Nunn, the former Senator from Georgia who did a magnificent job helping this Senate and this Congress come to grips with the fact that these weapons were out there and that it was not a foreign aid program for Russia, it was a protection program for the citizens of the United States of America. I hope that does not fall on the floor in the scraps of the amendments and the debate.

A second area I endorse is our continued funding of the national missile defense program. I know this program has its critics, and I know some of its champions claim it can do more than it can, but I will say with continued persistence and with dedication and with careful, deliberate testing, I am convinced that this Nation can develop a limited missile defense system, perhaps land-based or Navy-based, that can protect this Nation in the future against threats from Iran and North Korea or other such nations that have advanced missile technology.

Again, there is going to be one city in their target, and that target is going to be Washington, DC. So as a supporter of national missile defense, I support the $7 billion of investments that we make in this bill.

I also support the compromise that was deftly crafted and I think smartly crafted to say that the President, in addition to the $7 billion, can have $1.3 billion to add to missile defense if he sees fit, but if not, he can also use this money for counterterrorism efforts. I urge the President to be careful in his deliberations, to be delicate, to be thoughtful in his deliberations about how to divide that $1.3 billion. It is a lot of money. It can do a lot of good.

Also, a great deal of the effort could be wasted. We have to make sure we know not only what the possible threats are but what the probable threats are, what the likely threats are, and take our precious treasures and resources that the American people pay in taxes—as wealthy people, middle-class people, and poor people—that contribute to the Treasury of this United States and make sure that money is spent investing in what will help keep them safe from these weapons of mass destruction and these asymmetrical threats that terrorists are now using effectively today in the world.

This is a good compromise on the underlying bill. I urge the President to think about the transformation necessary and spend that money for counterterrorism efforts. There are any number of good ways to do that.

Finally, we cannot forget our most effective weapon, whether in 1814 or 2001 or whether it was as Senator INOUYE so beautifully said this morning, 60 years ago when Pearl Harbor was bombed, the American men and women who serve this country in uniform. It is not just the generals; it is not just the sophistication of the weapons; it is not just that our technology is so advanced that our private sector can respond more quickly. The real genius of our Nation lies in the spirit, in the humanness of the American men and women in uniform, the 18-year-olds in the foxholes, the 22-year-old young men and women who serve this country.

This bill helps to honor that great American truth by funding an increase in their pay, by providing the health care that we promise, by making sure that when they are sick there is a veterans hospital for those who have served admirably. We have also started to focus on housing.

In conclusion, in the underlying bill we also honor our service men and women by supporting them in their housing, their schools, and their hospitals. I cannot think of anything I would want my country to do more for me if I had to ship off than to know my country was doing what it could to care for my spouse and my children, knowing if my child got sick, there was a clinic for them to go to; if my husband was stressed, there was a phone he could pick up with a friendly voice on the other end. So if I were in Afghanistan or if I were in India or Somalia, I could fight with all the courage and strength because I knew my Government was doing its part for my family back home.

That is what men and women in uniform want. They don't need essential food. They don't even need a comfortable place to sleep. They want to know their families are secure.

That is what this bill does. It was done in a bipartisan way, and I am proud to be part of that effort and hope we can do more in the future.

Finally, our country has come a very long way since the dark days of August 1814. Almost 200 years later we face a similar danger. I am proud we are reacting as we did then, with unity and purpose of determination. I thank the Senators for their strong work on this bill, and I look forward to the passage of this legislation.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Madam President, I have the list of military organizations that have endorsed the amendment of Senator MILLER and myself. I will read into the RECORD the list of those names: the National Guard Association of the United States, the Air Force Sergeants Association, the Army Aviation Association of America, the Association of Military Surgeons of the United States, the Association of U.S. Army, the National Military Family Association, the CWO & WO Association of the U.S. Coast Guard, the Enlisted Association of the National Guard of the United States, the Fleet Reserve Association, the Gold Star Wives of America Incorporated, the Jewish War Veterans of the USA, the Marines Corps League, the Marine Corps Reserve Officers Association, the Military Order of the Purple Heart, the National Order of Battlefield Commissions, Naval and Enlisted Reserve Association, Naval Research Association, the Navy League of the United States, the Non Commissioned Officers Association of the United States of America, Reserve Officers Association, the Veterans' Widows International Network Incorporated, the Military Chaplain Association of the United States of America, the Retired Enlisted Association, the Retired Officers Association, the United Armed Forces Association, the U.S. Coast Guard Chief Petty Officers Association, the U.S. Army Warrant Officers Association, the Veterans of Foreign Wars of the United States, and I feel obliged to mention one more time that the President of the United States favors the Helms-Miller amendment.

I yield the floor, and I yield back my time if my colleague will yield back his.

Mr. DODD. I am happy to do it but will take 30 seconds and I will ask for the yeas and nays on my amendment. I will not move to table the amendment of my friend from North Carolina but give it an up-or-down vote. There will be two separate votes. We may want to abbreviate the second vote. It could move matters along.

Have the yeas and nays been ordered on the Dodd amendment?

The PRESIDING OFFICER. No.

Mr. DODD. I ask for the yeas and nays on the Dodd amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. I am prepared to yield back my time.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the Dodd amendment No. 2337. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

The PRESIDING OFFICER (Mr. KENNEDY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Mikulski
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Specter
Stabenow
Torricelli
Voinovich
Wellstone
Wyden

NAYS—51

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cleland
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Kyl
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Jeffords

The amendment (No. 2337) was rejected.

Mr. HELMS. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2336

Mr. PRESIDING OFFICER. The question now is on agreeing to the Helms amendment No. 2336. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

The result was announced—yeas 78, nays 21, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—78

Allard
Allen
Baucus
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Carnahan
Carper
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
DeWine
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Johnson
Kerry
Kohl
Kyl
Landrieu
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Nickles

Reid
Roberts
Rockefeller
Santorum
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—21

Akaka
Biden
Bingaman
Boxer
Byrd
Cantwell
Chafee
Daschle
Dayton
Dodd
Feingold
Inouye
Kennedy
Leahy
Levin
Murray
Reed
Sarbanes
Specter
Voinovich
Wellstone

NOT VOTING—1

Jeffords

The amendment (No. 2336) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2343

Mr. DURBIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois (Mr. DURBIN), for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. DORGAN, Mr. INHOFE, Mr. BURNS, Mr. BREAUX, Mr. REID, Mr. ROCKEFELLER, Mr. TORRICELLI, and Mr. JOHNSON, proposes an amendment numbered 2343.

Mr. DURBIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To expand aviation capacity in the Chicago area)

At the appropriate place, insert the following: "*Provided further*, That before the release of funds under this account for O'Hare International Airport security improvements, the Secretary of Transportation shall, in cooperation with the Federal Aviation Administrator, encourage a locally developed and executed plan between the State of Illinois, the City of Chicago, and affected communities for the purpose of modernizing O'Hare International Airport, including parallel runways oriented in an east-west direction; constructing a south suburban airport near Peotone, Illinois; addressing traffic congestion along the Northwest Corridor, including western airport access; continuing the operation of Merrill C. Meigs Field in Chicago; and increasing commercial air service at Gary-Chicago Airport and Greater Rockford Airport. If such a plan cannot be developed and executed by said parties, the Secretary and the FAA Administrator shall work with Congress to enact a federal solution to address the aviation capacity crisis in the Chicago area while addressing quality of life issues around the affected airports."

Mr. REID. Mr. President, I know the Senator from Illinois has the floor. Will the Senator from Illinois yield to me?

Mr. DURBIN. I am happy to yield.

Mr. REID. I ask unanimous consent that the two Senators from Illinois—the other Senator was in the Chamber—will agree to a time limit prior to a vote.

Mr. MCCAIN. I object.

Mr. DURBIN. Mr. President, this amendment is cosponsored by Senator GRASSLEY, myself, Senator HARKIN, Senator DORGAN, Senator INHOFE, Senator BURNS, Senator BREAUX, Senator REID, Senator ROCKEFELLER, Senator TORRICELLI, and Senator JOHNSON. It is an amendment relative to an airport in Illinois which is known by every Member of the Senate and known across the Nation: O'Hare International Airport. There is not a Member of the Senate gathered this evening who has not had an experience with a delay and a problem at O'Hare. Many of them have shared those experiences with me as I have discussed this amendment. Many of the Members of the Senate and the people following this debate know that the current situation at the airport at O'Hare literally has a stranglehold on aviation across America.

When there are delays and problems at O'Hare Airport, those problems affect cities and airports across America. The reason, of course, is that O'Hare was built in an era when air travel was much different and airplanes were much different. Airplanes were smaller, there were fewer flights, and the runways at O'Hare were designed to accommodate that day in aviation.

That day has changed. It has changed dramatically. For 25 years or more, there has been an effort underway in Illinois to change O'Hare and modernize it, to finally put in a runway configuration that is safer and more efficient, not just for the benefit of my State and region but for the Nation. Every major airline understands O'Hare's impact on the rest of the Nation.

Despite this intention of changing O'Hare and making it more efficient, it never happened. Why? Because in Illinois, as in some 14 other States, the Governor has a voice in the decision about the future of airports. The Governor of Illinois has to give approval or disapproval for these airports. We have been unable, for more than two decades, to get the Governor and the mayor of the city of Chicago, which has responsibility for O'Hare, to see eye to eye on the future of the airport. So it has come to a grinding halt time after time after time.

I am happy to report that has changed. It has changed within the last several days. The Republican Governor of our State, George Ryan, and the Democratic mayor of the city of Chicago, Richard Daley, reached a historic agreement 48 hours ago. Finally, for the first time in more than two decades they have come together and agreed, not just on the future of O'Hare to make it safer, to make it more efficient, but also on aviation in general for our State.

What will happen to Meigs Field, a small but important commuter field that is on the lakeshore of Chicago, the future of an airport for the southern suburbs of Chicagoland, a growing area, an area with an expanding economy? People said those two men would never be able to come to this agreement but they did, and they did despite a lot of opposition.

This agreement was not reached in secret or reached in a hurry. It started with the mayor announcing a comprehensive plan for aviation on June 29. The Governor of the State of Illinois announced his plan on October 18, after a series of field hearings around the Chicago area, and now today they have come together with a mutual agreement. This is a historic opportunity, not just for Chicago and Illinois but for the Nation.

The obvious question is, Why do we come today on this bill at this time to talk about O'Hare International Airport and aviation in Illinois? The fact is that both the Governor and the mayor agree, and I concur, that we need to make certain Federal law reflects the fact this agreement has been reached, an agreement which we believe will have benefit all across the Nation for many years to come.

Who supports this agreement? Major airlines using O'Hare support it, and it is important they do because a major part of the expense of modernizing O'Hare will fall on the shoulders of major airlines that will have to float the bonds that fund the terminals that serve the gates that serve the people who will use O'Hare in the future.

The major airlines have come together. So there is no misunderstanding—and I understand there may be among some Members—American Airlines, United Airlines, and Midwest Express have publicly stated their support for this agreement, but they are not the only ones. In addition, we have the support of the air traffic controllers. This is support that is important because these men and women know the issue of safety. They believe this will make for a safer airport and safer aviation across America. The Airline Pilots Association, they support this agreement as well, and AOPA which represents private aircraft owners and operators have endorsed it publicly as well. We have all the major aviation organizations in support of this plan, and few in opposition.

I know it will not be easy for us to see this plan become law. We need to bring together tonight a bipartisan coalition of Members of the Senate who agree with Senator GRASSLEY and myself that this modernization of O'Hare is not just important for that airport but for aviation across America. There are some local issues which I will not dwell on because they are of importance to those of us from Illinois but may not be to the rest of the Nation, but thankfully this approach, this plan, is going to address traffic congestion.

Traffic congestion around O'Hare is called "ground zero" in terms of traffic congestion in our State, and when we come to grips with that and make a proposal for changes in the traffic around O'Hare, it will have a positive impact on the thousands of people who use that airport and who travel near it each and every day.

The mayor and the Governor made certain that as part of this plan they would also invest the funds for noise mitigation and noise control in the area surrounding the airport. They have made an unprecedented and historic commitment to noise mitigation around this airport. That, in my mind, is essential. That, in my mind, is essential, so the families and businesses and schools that may be affected by this change will have some relief.

This decision on O'Hare will have a more positive impact on aviation than virtually anything else we can do. I don't overstate the case. Several months ago Newsweek magazine had a cover story about aviation problems, aviation air traffic problems across America.

I commend Senator JOHN MCCAIN of Arizona because he came with the Senate Commerce Committee to the city of Chicago for a hearing on this issue so we could understand in the Senate exactly what this meant. My colleague, Senator FITZGERALD, has a different view on the airport, and he was at the hearing. We heard from people in the area, not only leaders of business, leaders in labor, but people who understood the impact of this airport congestion at O'Hare on our region and on the Nation.

Now we have a chance to do something that can make a significant difference. Common sense dictates we will need to pass in the near future and this plan envisions a new airport south of Chicago in the vicinity of Peotone. There has been an agreement to keep the commuter airport open, Meigs Field—that is important, particularly to private owners of aircraft—and make the changes at O'Hare that will make it modern and safer.

I am glad my colleagues from Iowa are here because I give both of them credit. Senator HARKIN and Senator GRASSLEY understand as well as I do, and many should, that O'Hare's future is linked directly with the future of smaller airports, and all around the Midwest, as well. The airports of Iowa and downstate Illinois, Wisconsin, Michigan, Indiana, and Minnesota, all of these airports, depend on a viable airport at O'Hare that can receive these flights and transfer passengers to other destinations. They started this process, and I commend them for being with me tonight as we debate this historic agreement. Senator HARKIN and Senator GRASSLEY brought to the attention of the Nation the need to modernize O'Hare. It is their action as a catalyst in this discussion which brings the Senate to this agreement, which brings us to this amendment this evening.

I ask my colleagues to join with me this evening in passing this important amendment which sets the stage for the embodiment and recognition of the overall agreement in this bill. This is important for America's economy. It is certainly important for aviation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this is a bipartisan piece of legislation. Members might wonder, if the Governor of Illinois and mayor of Chicago have reached an agreement on expanding O'Hare Airport, why have the legislation? The legislation is very important because this issue has been hanging around for a long time. We want to make sure that somebody coming down the road doesn't change it.

O'Hare is a very key national and international hub airport. I am not from Illinois, but for the people in my State of Iowa, particularly the major airports of Des Moines and Cedar Rapids, from the standpoint of the cost of service and the fact that service is not always certain, plus the fact that several smaller airports in Iowa do not have access to O'Hare and are very interested in what happens at O'Hare; Iowans are very concerned about O'Hare. It has to do with the traveling public, both tourists as well as business, and it also has something to do, in turn, with the economic development of a State such as mine because air transportation is so important to economic development.

O'Hare is a key national and international hub airport, especially for Iowa. When O'Hare sneezes, the rest of the country gets the flu. Modernization of O'Hare is very important to Iowa's economy. It will help prevent future congestion problems and delays that plague air travelers.

It will make air travel more efficient and less frustrating. And it will be easier and more pleasant for air travelers to come to Iowa. Without a doubt, more on-time flights will be a big help for business travel, where time is money.

The plan to modernize O'Hare will also make it a safer airport. We're all more focused on air safety after September 11. Air travel security means more than screening passengers and baggage. It means safe take-offs and landings. Today, the runway configuration at O'Hare is not as safe as it could be. The new plan will eliminate dangerous cross-runways. There will be more parallel runways. It will also include more modern electronic instrumentation.

I appreciate the way the governor and the mayor got together and worked out a plan. When I first started pressing for a solution to the O'Hare problem last spring, I knew it wouldn't be an easy process for anyone. But it's been a very successful process. It won the support of the airline pilots and air traffic controllers. It produced a compromise that everyone can be proud of.

Now Congress needs to do its part to ensure the success of this hard work. That means immediate passage of the Durbin-Grassley legislation. I look forward to working with my colleagues to make this happen—even in the short time left—prior to adjournment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I make a general comment. I am not aware of the details of the amendment offered by our friend from Illinois. However, I am not aware this is a transportation bill. I thought we were on the Department of Defense appropriations bill. I don't see why this amendment is on the Department of Defense appropriations bill. It may be a good amendment. My colleague and friend from Iowa spoke on behalf of it. I see my other colleague from Iowa is getting ready to speak. My colleague from Illinois has some reservations about it and is opposed to it.

I don't know any of the details, to say it should pass or not pass, except I believe it does not belong on this bill.

It is 6:30 on a Friday night. Some Members have responsibilities and want to finish this bill. We want to finish all the appropriation bills. Now, if this was relevant, it should have been in the Transportation appropriations bill. It should have come out of the authorizing committee, from the Commerce Committee. This is not a transportation bill. This is not an air transportation bill. This is not a bill that came out of the Commerce Committee. This is the Defense appropriations bill.

I know there are very strong opinions. I was contacted by my colleague and friend from the House, Congressman HYDE. He strongly opposes this particular amendment and opposes it being added to the Department of Defense appropriations bill.

I do not know enough about the legislation. I know it can cost billions and billions of dollars. So I would like it to have not just a signoff on behalf of the Governor and mayor but maybe go through the authorizing committees and the Appropriations Transportation Subcommittee rather than having it thrown out late at night on a Friday, thinking maybe we can run this through and authorize billions of dollars or begin the process to authorize billions on a Department of Defense bill.

I have the greatest respect in the world for Senator INOUYE and Senator STEVENS who will be chairman and ranking member on the Department of Defense bill, but I doubt they know very much about Chicago O'Hare Airport. Yet to entrust them and make them deal with this issue in conference is a mistake.

I urge my colleague and friend from Illinois to withdraw this amendment, bring it back either as an independent item, as reported out of the Commerce Committee, using regular order, or to bring it up in an appropriations bill, through the appropriations process, in committee, on the Transportation bill, not on the Department of Defense bill.

I am happy to yield.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I yield for a question.

Mr. DURBIN. Is the Senator familiar with the bill before us, H.R. 3238, page 180, and pages following related to the Department of Transportation?

Mr. NICKLES. I am not familiar with the exact paragraph the Senator is talking about. I have already heard somebody say this might be a germaneness paragraph. But I am not trying to raise a technical point of order. My point is this is not a commerce bill. This is not a Transportation appropriations bill.

Mr. McCAIN. Will the Senator yield for a question?

Mr. NICKLES. Yes.

Mr. McCAIN. Is the Senator aware that we even had a hearing in the Commerce Committee in Chicago where representatives of the airport, the mayor, the Governor and a number of Members of Congress testified that this is a very big issue in the State of Illinois and in Chicago? But it is also a very big issue for those of us who have to go through Chicago O'Hare Airport on many occasions when we are going west to our homes.

I wonder if the Senator knows that there seems to be an agreement now between the mayor and the Governor. I have no idea what that agreement is all about. I don't know the ramifications. I don't have any idea of the cost to the Federal Government. Here we are on a Defense appropriations bill. I must say, is the Senator a bit amused that the Senator from Illinois refers to the transportation pork that has been put in this bill that has nothing to do with defense and there is a rationale for putting this on? That is really entertaining. But the fact is, I think it may be a good agreement. I really don't know. But the Commerce Committee has the oversight. The committee is called Commerce, Science and Transportation. That is the name of the authorizing committee. I wonder if the Senator knows that he could probably argue that they are disregarding every other committee in this bill, including the Commerce Committee, on a variety of issues. But this is a big issue.

You have the other Senator from the State of Illinois who does not agree at this time to consider it. If it were a piece of legislation that affected my State, and I didn't want it to go forth at this particular time, particularly when no one has had a chance to look at it, I would certainly try to honor the wishes of my colleague.

I am surprised that the Senator from Illinois on the other side of the aisle is trying to shove this thing through without the agreement of his colleague from the same State.

I know Senator KYL would never do that to me. He would never do that to me.

We have never had a hearing on this—we have certainly addressed the issue in the Commerce Committee—in fact, even a field hearing. I think the wishes of the other Senator from your own State ought to be seriously considered at a time such as this. I know I respect that same courtesy of my colleague from Arizona.

I wonder if Senator NICKLES is aware that this issue is certainly one which is not deserving consideration at this time on the Department of Defense appropriations bill.

Mr. NICKLES. Mr. President, a couple of comments:

I appreciate Senator McCAIN's comments, the former chairman of the Commerce Committee, which deals with transportation. This also will potentially cost billions of dollars. We have bills where we wrestle every year or so on how we are going to allocate airport improvement funds. That is not on the Department of Defense bill. We have bills where we wrestle with how airport construction money is going to be allocated. Some airports get a lot, and maybe other airports will get a lot less. Those are decisions we make. That is fine. I am not an expert on that. That is not my committee. But it is also not the committee for the Department of Defense.

I urge my colleagues, I don't think we have to get in a trance, and say I am for this and not for that. I don't think now is the time to make that decision. Let us make that decision when we are considering all airports and when O'Hare is debated and we are wrestling with other competing airports. We will have airport needs, demands, security, and a lot of challenges for all airports that we will be considering.

To make one decision now say: Well, we favor basically greatly expanding Chicago against the will of one of the Senators from Illinois, and against the will of many of the Congressmen from Illinois, to do that on a Department of Defense bill is a mistake.

I may well join my colleague from Illinois in support of this project when I know more about it. But I don't want to know more about it tonight. I want to finish the Department of Defense appropriations bill. I don't think we should ask Senator INOUYE and Senator STEVENS to be totally knowledgeable about a multibillion-dollar, multiyear project and try to resolve this issue in conference when they really need to be working on the Department of Defense bill.

If this is germane, I guess we could probably offer it on the energy bill that Senator MURKOWSKI has been working on for a long time. Maybe we should be considering that.

When are we going to show some discipline around here so we can finish our work?

I urge my colleague to maybe discuss the amendment a little bit further, and withdraw it, or possibly get a commitment from the chairman of the authorizing committee to have a hearing and to report a bill out so the Senate can consider it. I may well cosponsor the bill.

I just do not think it belongs on this bill tonight. We have done this too many times where we get in the business of: Well, the year is running late, and I have something that I haven't completed on my agenda. I want to put it on even if it doesn't belong on the bill.

This does not belong on the Department of Defense appropriations bill. I urge my colleagues to withdraw the amendment and save all of us a lot of time. Hopefully, we can consider it when we are better prepared to consider aviation issues, do it through the appropriate committees, give it a fair hearing, give everybody a chance to find out what the impact would be on all the other airports in the country, and make the appropriate decisions. Maybe it would be a strongly supported position with which we could all be very comfortable.

I am not comfortable with making multibillion-dollar decisions on airports tonight on a Department of Defense bill.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Iowa.

Mr. HARKIN. Mr. President, first of all, I wonder if the Senator from Oklahoma actually has looked at the amendment at the desk by the Senator from Illinois. I think he has confused it with a bill that was introduced earlier. This is an appropriations measure. It has been checked with the Parliamentarian. It is an appropriate limitation on the release of funds. This is not a legislative matter; this is an appropriations matter under our rules.

Since the bill contains appropriations matters for the Department of Transportation and the FAA, it is entirely germane to this bill that are impacted by the text.

Furthermore, if my friend from Oklahoma is worried about chewing up a lot of time, I am certain that my friend from Illinois would agree to a time limitation on the amendment. I ask unanimous consent that we have a 1-hour time limit right now evenly divided on the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I object.

Mr. HARKIN. How about a half hour of time evenly divided?

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I object.

Mr. HARKIN. Again, it is not that the proponents of this side to use up a lot of time. I think it is a clear-cut case.

My friend from Arizona said we haven't had hearings on it. My friend from Arizona chaired the hearing in Illinois in Chicago on this very subject in Illinois. There has been a hearing on it.

We cannot afford to wait any longer. I first started speaking about the congestion at O'Hare and the need for new runways and changing that airport in 1991, 10 years ago. A lot of others were talking about it at that time. Senator DURBIN has been on this ever since he was in the House of Representatives. This is not something new. It has been around a long time.

If it is true, as has been said, that transportation is the veins and arteries of our free enterprise system in America, surely O'Hare is the heart pump. When O'Hare backs up, everything backs up. Airports back up all over the country. Delivery systems back up all over the country. What happens at O'Hare affects every community in America.

Quite frankly, the situation at O'Hare is getting to be to the point where if you have one bad weather pattern in Chicago, and you have sunshine in the rest of the United States, you might as well have a hurricane in every city if it is bad in Chicago. It will back up everything all over America.

I bet that almost every Senator who flies anywhere has had the experience of sitting on the runway and the weather looks good. The pilot comes on and says: We can't take off because there is a weather delay in Chicago. And you are waiting to fly to Minneapolis. That is what happens at O'Hare today and what is happening in our country.

At O'Hare, there are plenty of runways. But because they are crisscrossing each other, and because they are too close together, you cannot have simultaneous takeoffs and landings at a number of different places. And, in bad weather, you cannot use both parallel runways if you have adverse weather conditions because they are to close together. So O'Hare airport needs to be redesigned. They need to have parallel runways that are wide enough apart to be operated in poor weather; they need to get rid of the crisscross runways that are there right now.

There has been some contention in the past between the city of Chicago and the State about how to proceed on this. Some of us, led by Senator DURBIN, have been pushing them to reach an agreement, to get together. This is a State and a local matter, but even though it is a State and local matter, O'Hare affects the entire United States. So we have been asking them to get together and work it out.

They did. I commend Mayor Daley of the city of Chicago and Governor Ryan of the State of Illinois for working together to come up with this agreement. Now that we have this agreement, it is time to move ahead aggressively to make sure it is implemented and that we move ahead without any further delay.

That is what the amendment offered by the Senator from Illinois does. It makes sure we move ahead now that we have this agreement between the State of Illinois and the city of Chicago.

With this agreement, and with the changes that have been agreed to in this agreement at O'Hare, with new parallel runways, weather delays will be reduced, it has been reported, by over 90 percent. The economic impact of less delays at O'Hare on this country will be tremendous. The economic impact if we do not do it will also be tremendous in the negative.

At a time when we are looking at getting out of a recession, and further looking over the horizon for the next 10 years, any delays that we make at O'Hare means we are going to affect the entire economy of this country.

That is not an overstatement. That is not just this Senator from Iowa saying it. You can look at report after report after report on the transportation system in America and how it affects our economy; and it all comes right back to O'Hare Airport. That is how important it is.

This agreement that was reached has been in the making for a long time. It was not something that just happened in one day. This has been ongoing literally for years, and more recently over the last year. But now that this agreement has been reached, why dawdle, why delay it any longer?

This amendment is not just a win for Chicago, this is not just a Chicago thing, and it is not just for Illinois. This is good for South Dakota, Minnesota, Colorado, Iowa, Nebraska—all the Midwest and the nation. I can tell you, we have cities in Iowa that need access to O'Hare: Sioux city, Mason City, Fort Dodge and Burlington. Our airports with access, Des Moines, Cedar Rapids, Waterloo, Dubuque need more reliable service.

The people who live in my State, in order to transit to someplace else, far to often have a very difficult time getting there because they have to go through Chicago.

If this change can take place, and we can modify O'Hare as under the agreement, this opens up O'Hare for our smaller airports in the Midwest to feed into, so people can travel more freely. It opens up these small cities for commercial and business travelers so businesses in those communities can have better access to their markets and their suppliers in other parts of the country.

This is not just an issue for Chicago and for Illinois and our nation. I have not mentioned the international aspects of this. There is a huge international transit that comes in and out of Chicago at O'Hare. That is also backed up when Chicago has adverse weather, for example. And certainly, a lot of our people in the Midwest travel overseas on business, and there are people in other countries coming to the Midwest for business purposes. They get backed up.

How does that affect us? Well, they may say: Maybe we want to make a contract with a business. Why do it in the Midwest? We cannot get afford the possibility of delays because O'Hare is always plugged up.

This is an economic necessity. It is vital to the economy of the upper Midwest.

So when the Senator from Oklahoma says that somehow we can put it off and put it off, maybe a lot of his people in Oklahoma do not use O'Hare.

Mr. NICKLES. Will the Senator yield?

Mr. HARKIN. I yield for a question without losing my right to the floor.

Mr. NICKLES. You said I wanted to put it off and put it off. That is not what I said. I said I would urge my colleague to withdraw the amendment, have it go through the Commerce Committee, bring it up in the Appropriations Subcommittee on Transportation; go through the regular process.

I may well support it. I go through Chicago all the time. I am just concerned about us reallocating the airport improvement funds on a Department of Defense bill. I think that is a mistake.

I am not wanting to get into the details of whether or not my colleague from Illinois is right. I may want to support the project at some time, but it just does not belong on this bill.

Mr. HARKIN. I say to my friend from Oklahoma, everybody makes that argument when there is something they do not like. But the fact is, this is germane to this bill. There are provisions in this bill that deal with the FAA and the DOT. And this is vital, I say to my friend from Oklahoma. So there is no point of order that lies against this. My friend from Oklahoma knows full well that if we wait and try to do this through Commerce, or through other committees, it is next year and beyond. We cannot wait any longer.

When the heart stops beating, the body dies. When O'Hare gets plugged up, we all die a little bit in this country—every city, especially in the upper Midwest.

So we have this great agreement. I do not know what the problem is. This is something that the city of Chicago and the State of Illinois basically are going to be doing. All we are saying is, we want them to continue to develop this plan and execute it. That is all we are saying. We want it to move ahead.

So I say to my friend from Oklahoma, I did not even want to talk this long. I would be glad to move it along right now. But we do not want to delay it. We want to get it done.

The amendment before us simply provides that the Secretary of Transportation work with the FAA to make sure this locally developed and executed plan in Illinois moves ahead expeditiously.

It is in the interest of Chicago, it is in the interest of Illinois, it is in the interest of my State of Iowa, the upper Midwest, and this Nation. We cannot afford to wait any longer. I urge us to move rapidly on this, adopt it, and move ahead.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me explain why we are here and what this is all about. We have a bill before us that provides emergency money for security at O'Hare Airport, emergency money for security to try to protect people's lives and their safety. That is what is in this bill.

What is being done here is that funding to preserve life and safety for people who go through the airport in Chicago is being delayed to try to force the Secretary of Transportation to ratify a deal on the Chicago airport. That basically is what this amendment is about.

This is an amendment that refuses to release money for safety to protect the lives of people who pass through the Chicago airport, to try to inject the Congress into a decision that ought to be made in Illinois.

Quite frankly, this amendment potentially could delay safety improvements and jeopardize lives at the Chicago airport.

This amendment has absolutely nothing to do with this appropriations bill. It pirates it. It is true that we have a provision in the bill providing money for safety, but what this amendment does is pirate that provision by saying you can't spend the safety money until the Secretary injects himself into this debate going on in Illinois.

Mr. DURBIN. Will the Senator yield for a question?

Mr. GRAMM. I will in a minute. Let me finish my point. This amendment basically tries to use safety and the life and safety of people who live in Illinois, who live in Iowa, who live in Texas as a bargaining chit to play politics with the improvement of an airport plan in Chicago that has not been approved by people who are making these decisions in Illinois.

Mr. DURBIN. Will the Senator yield for a question?

Mr. GRAMM. I will in a moment. Let me just complete my point.

My point is this. This is piracy. This is piracy against safety in not allowing safety improvements to go forward until the Secretary injects himself into a decision that ought to be made in Illinois. This has nothing to do with the Defense bill. At 7 o'clock on Friday evening, when we are trying to finish an appropriations bill, we have before us a provision that has nothing to do with national defense. It is a provision that basically would have us sit as the airport board in Chicago. And it is opposed by one of the two Senators from Illinois.

It also strikes me, understanding rule 28, that this is basically an effort to put in place in conference something that would be totally against the rules of the Senate and that is a totally extraneous provision. By putting this seemingly harmless limitation on spending safety money—if anybody believes limiting people's ability to improve safety at Chicago O'Hare is harmless—what we do is create a vehicle whereby, on the Defense appropriations bill, we could see an approval of an airport plan in Chicago. I don't think that is our business. I didn't run to be on the airport board in Chicago; no one else here ran; certainly no one was elected.

The Senator wanted me to yield. I am happy to yield. But let me pose a question. Is it your objective in conference to change this language to approve this deal in Chicago? Is that what you are trying to do?

Mr. DURBIN. I say to the Senator from Texas that my objective here is to have recognition of the fact that there is an agreement. It is not to circumvent any Federal law relative to safety or the environment.

Mr. GRAMM. What does that have to do with us?

Mr. DURBIN. It has to do with us in this respect: Illinois is one of a few States, 15 out of 50, where the Governor has the final word on an airport. Our Governor has given consent to this plan to move forward on the airport, and we are memorializing that consent in this agreement.

I would like to ask the Senator from Texas, who said that the language of this amendment somehow—at one point he said—threatens safety and lives and at another point calls it a harmless limitation, could I just refer the Senator from Texas to the part that says: The Secretary of Transportation shall "encourage a locally developed plan." That is the operative language. That is the only condition.

Mr. GRAMM. Mr. President, if I could reclaim my time, as I read the language in the first sentence, it says: "Provided further: That before the release of funds under this account. . . ." What is the money under this account? The money under this account is money for safety at Chicago O'Hare Airport. Is that not what it is for? It seems to be, it is clear in the bill itself, that is what it is for.

What we are doing is we are setting up a hurdle that the Secretary of Transportation has to meet before the money can be released.

The Senator is going to say it is not much of a hurdle. All he has to do is jump into this dispute in Chicago about this airport.

I go back to the point, whether people in Illinois have agreed or not, what business is it of ours at 7:03 on a Friday night? I don't see that it is any business of ours.

I think when we do these things, when the two Senators from the same State don't agree, that we are simply injecting ourselves into a decision-making process that violates the separation of powers.

I would like to re-pose my question. Does the Senator intend for this language, if adopted, to be in the conference report, or does he intend to try to get the conference report changed or ratified or to somehow give a Federal commitment to this agreement?

Mr. DURBIN. I would be happy to respond to the Senator from Texas.

Mr. GRAMM. Please do.

Mr. DURBIN. This airport, O'Hare, and all the other airports in this agreement, will be treated no differently than any other airport in America.

Mr. GRAMM. That is not my question. I will be happy to yield if the Senator wants to answer my question. Does the Senator intend to change this language in conference if it is adopted, or can he assure us that if it were adopted, this language would be the language he would prefer in the conference report? There is a foul rumor afloat that this simply makes it possible to get around rule 28 and to have the Federal Government ratify this agreement in this Defense bill.

Mr. DURBIN. May I respond?

Mr. GRAMM. If you would answer my question, yes.

Mr. DURBIN. I am happy to respond by saying to the Senator that I will attempt in conference to put in place of this language a bill which was introduced today which memorializes the agreement, provides no new obligations or authority, but merely memorializes the agreement between the Governor and the mayor. It does not compromise safety or the environment. This bill has been introduced.

Mr. GRAMM. Why don't you offer the bill?

Mr. DURBIN. The bill will be offered.

Mr. GRAMM. Why wasn't it offered tonight, if you intend to put in the conference report?

Mr. DURBIN. As the Senator knows, because he is not only a learned professor from Texas but because he served in the House, the parliamentary procedure necessary is a two-step procedure. The first step is placeholder language. The second step is to offer the amendment. That is exactly what we are doing.

Mr. GRAMM. Mr. President, I will yield the floor, but let me finish my point. What we have here is an effort to pirate on airport safety and an effort to use a limit on the ability to spend money for airport safety to create a vehicle in conference to adopt a bill which has never been considered and certainly has not been adopted by the committee of jurisdiction, a bill that would not have been adopted in either House of Congress, and a bill that is not being offered on the floor of the Senate tonight. Why is the bill not being offered? The bill is not being offered because it is subject to an objection under rule 16 because it is legislation on an appropriations bill.

It seems to me that not only is this pirating safety, not only is this an issue that has nothing to do with defense, not only is this not the forum for us to be considering this issue, this is basically a ruse to pass a bill which is not germane to this bill, which has never been reported by the Commerce Committee, which has never been voted on in either House of Congress, and basically do it by getting the camel's nose under the tent.

We should support our colleague from Illinois who opposes this amendment. It would be one thing if the two Senators came to the floor and said: We want the Congress to help us and we want to be the airport board in Chicago. I think that would be pretty unusual, but if they were both together and wanted to do this, it would be one thing. But I think to bring this kind of legislation pirating safety to the floor of the Senate when the Senators from the same State don't agree and as a vehicle to make law something never reported by committee, never considered in either House of Congress, I think is fundamentally wrong. It ought to be objected to.

I urge my colleagues to let us get on with the Defense bill. It is one thing to be debating defense issues. It is one thing to be trying to decide should we rent Boeing aircraft to turn them into tankers. That is a legitimate issue. It is one thing to offer a substitute, which I understand our two leaders of the committee want to offer. But to get into this kind of business at 7:09 on a Friday night I think is an abuse of our colleagues, and I urge that we not let this happen.

Mr. ALLEN. Will the Senator from Texas yield?

Mr. GRAMM. I will be happy to yield.

The PRESIDING OFFICER (Mr. SCHUMER). The Senator from Virginia.

Mr. ALLEN. Mr. President, I say to my friend, the Senator from Texas——

Mr. GRAMM. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. ALLEN. Thank you, Mr. President.

I have been listening, wondering why this issue came up. I first listened to Senator NICKLES talking about the procedural matters and Senator McCAIN talking about committee jurisdiction. Then I heard my friend, the Senator from Texas, talk about why is this involved at all on a Defense appropriations matter.

While the process and committee jurisdiction is very interesting, I am just wondering why in the heck, regardless of what bill it is on, the Senate is involved in this issue at all.

There are concerns, and Senator McCAIN told me: This is going to affect airport funds in Virginia, this, that, and the other.

I said: Maybe so, but why are we bringing this up?

I remember when I was Governor of the Commonwealth of Virginia taking great exception to the Federal Government coming in and telling us how to run Reagan National Airport, telling us how many flights we can have out, how many gates, the perimeter rule, and how we should operate in our authority that runs Reagan National, as well as Dulles, and how they ought to operate. I know there are some folks who may be on the same side as me who had the Federal Government sticking their nose in the business of the people of Virginia and the Metropolitan Washington Airport Authority.

I have been reading about arguments over whether O'Hare Airport ought to be expanded or not or whether it is desirable to have a third airport. I do not know. I am not taking a side one way or the other. If the folks in Chicago and Illinois want three airports, two airports, five airports, or seven airports, to me that is the business of the people of Illinois and those jurisdictions in which those airports might be expanded or located.

The Illinois delegation is split on the proposal, which is interesting in itself, but that is not dispositive to me. We might have both Senators from Illinois thinking it is great to usurp the rights and prerogatives of the people of Illinois. To me that would be something politically foolish to do, but nevertheless, maybe some folks may not pay attention to it.

This effort is one of expansion and safety of O'Hare, and maybe that is a good idea, but the basic issue to me is whether we are going to allow Federal preemption of State law that requires apparently State approval of airport building or expansion.

This is a State law in the State of Illinois. Let them decide it. If that is a foolish law, if it is too harmful for the expansion of airports, it is not as if the people in Illinois do not have the right to vote to change those laws or those representatives to change those laws if they decided to do so.

Every civilian commercial airport in our country, it seems to me, is owned and operated by a political subdivision of a State or multijurisdictional authority. Those are powers that are properly the prerogatives and in the purview of the people in the States.

The way I see it, should Senator DURBIN's maybe well-intentioned amendment—maybe it is a good idea to build a third airport. Regardless, if this amendment should be adopted, it would actually allow the Federal Aviation Administration to usurp the State government's authority to decide this airport issue at the State level.

Mr. DURBIN. Will the Senator yield for a question?

Mr. ALLEN. This is a bad precedent for us to be meddling in these affairs.

Mr. DURBIN. Will the Senator yield for a question? Is the Senator aware of the fact the language involved was prepared by the State of Illinois, by the Governor of Illinois, with the mayor of Chicago? It is not a preemption of State authority. Is the Senator aware this is language prepared by the State of Illinois?

Mr. ALLEN. The point of all this is the people from Illinois can figure this out themselves. Do they really need us to ratify their agreements?

Mr. DURBIN. Will the Senator yield for a question?

Mr. ALLEN. Sure.

Mr. DURBIN. Or comment. I say it is not a question of ratification. The agreement has been reached. The question is acknowledging the consent has been given by the State. This language comes from the State of Illinois. As former Governor of Virginia, the Senator can understand when he sent language in, it was clearly with his approval. That is the case here. It is not preemptive.

Mr. ALLEN. Having once lived in Deerfield, IL—I was a youngster at the time. We did not have Illinois State Government. But I did hear from the other Senator, Senator FITZGERALD, that the legislature has not agreed to this language.

The point is, in my view, this is not the jurisdiction or the place for us to decide the issues that are rightly in the purview and are the prerogative of the people of Illinois and political subdivisions therein. I may agree with the Senator that maybe the best idea is expansion of O'Hare Airport, as opposed to the third airport. Again, that is something that needs to be worked out with the localities and, for that matter, all branches of the State government in Illinois.

Mr. President, I will support the efforts to defeat this amendment. I do think the issue of air transportation is important to our Nation, obviously, but these decisions are best made by the people in the States, those closest to it. If those laws need amending, let them work it out with due process at the State level, and do not bring these fights and decisions to the Senate. We are remote people who do not know the details and are trying to make a decision.

I think it is best we defer this decision and refer it back to the jurisdiction and court where it ought to be, and that is in Illinois.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. FITZGERALD. I thank the Chair.

Mr. President, I appreciate this opportunity to talk on this issue. I compliment my colleagues from other States—Texas, Oklahoma, Virginia—and also the distinguished Senator from Arizona for speaking in favor of my position on this issue.

The fact is, this is an issue on which there is a sharp difference of opinion between Senator DURBIN and me. That rarely happens on a State project issue. In fact, more often than not, Senator DURBIN and I work together when it involves a State project. We were just working earlier today to help save a VA Hospital in the city of Chicago. More often than not, we are certainly united on civil or project-type issues.

On this issue, we do have a difference of opinion. I oppose what Senator DURBIN is hoping to do. His argument pointed out that the Illinois delegation is divided. In general, I think Congressman LIPINSKI in the House supports Senator DURBIN's efforts. Congressman HYDE and Congressman JESSE JACKSON, JR., happen to support my side. Other Members of the Illinois delegation have not necessarily taken a position. They are not statewide officers and have not had to form an opinion necessarily or weigh in on this matter.

It is true that the mayor of the city of Chicago, Mayor Daley, as well as the Governor of the State of Illinois, did reach agreement two nights ago on an O'Hare expansion plan. I do not support that expansion plan, however.

Our Governor had long opposed Mayor Daley's efforts to expand O'Hare Airport. After getting some other provisions, including the continuance of Meigs Field in Chicago, which incidentally, I support, the Governor did decide to support Mayor Daley's efforts to expand O'Hare Airport.

The crux of this issue, as I see it—and Senator DURBIN has been very upfront with me—is the language that we will actually be called to vote on in the Senate. It is this language, and it is, as Senator DURBIN stated, placeholder language. It is innocuous language. It does not do much. The idea is Senator DURBIN, who is going to be on the conference committee on Defense appropriations, would like to go into the conference committee and then introduce much lengthier language that would, in fact, force the reconstruction of O'Hare Airport, the tearing up and rebuilding of O'Hare Airport. The nub, the crux, of Senator DURBIN's language in that regard is to, indeed, preempt State law.

At the outset I will introduce into the RECORD the legislative language that Senator DURBIN shared with me. We spoke on the phone yesterday. He fully disclosed his plans. He would have placeholder language tonight. If he made it to conference, he would like to introduce this language. The Senator cannot tell me if he believes that language will be any different but he said this is the language he would like to get in the conference committee report on Defense appropriations. With a ruling from the Chair, I ask unanimous consent to enter this language and have it printed in the RECORD, because I will later want to walk through this language section by section.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION 1. NECESSITY OF O'HARE RUNWAY REDESIGN AND DEVELOPMENT OF SOUTH SUBURBAN AIRPORT.

(a) The Congress hereby declares that redesign and reconstruction of Chicago-O'Hare International Airport in Cook and DuPage Counties, Illinois in accordance with the runway redesign plan, and the development of a south suburban airport in the Chicago metropolitan region, are each required to improve the efficiency of, and relieve congestion in, the national air transportation system.

(b) The Federal Aviation Administrator shall implement this Federal policy by facilitating approval, funding, construction and implementation of—

(1) the runway redesign plan upon receipt of an application from Chicago for approval of an airport layout plan that includes the runway redesign plan, and

(2) the south suburban airport upon receipt of an application from the State or a political subdivision thereof for approval of an airport layout plan for a south suburban airport, subject in each case only to application in due course of Federal laws respecting environmental protection and environmental analysis including, without limitation, the National Environmental Policy Act; and the Administrator's determinations with respect to practicability, safety and, efficiency, and consistency with Federal Aviation Administration design criteria.

(c) The State shall not enact or enforce any law respecting aeronautics that interferes with, or has the effect of interfering with, implementation of Federal policy with respect to the runway redesign plan including, without limitation, sections 38.01, 47 and 48 of the Illinois Aeronautics Act.

(d) All environmental reviews, analyses, and opinions related to issuance of permits, licenses, or approvals by operation of Federal law relating to the runway redesign plan or the south suburban airport shall be conducted on an expedited basis. Every Federal agency shall complete environmental-related reviews on an expedited and coordinated basis.

(e) If the Administrator determines that construction or operation of the runway redesign plan would not conform, within the meaning of section 176(c) of the Clean Air Act, to an applicable implementation plan approved or promulgated under section 110 of the Clean Air Act, the Environmental Protection Agency shall forthwith cause or promulgate a revision of such implementation plan sufficient for the runway redesign plan to satisfy the requirements of section 176(c) of the Clean Air Act.

(f) The term "runway redesign plan" means (i) six parallel runways at O'Hare oriented in the east-west direction with the capability, to the extent determined by the Administrator to be practicable, safe and efficient, for four simultaneous independent instrument aircraft arrivals, and all associated taxiways, navigational facilities, passenger handling facilities and other related facilities, and (ii) the closure of existing runways 14L–32R, 14R–32L and 18–36.

(g) The term "south suburban airport" means a supplemental air carrier airport in the vicinity of Peotone, Illinois.

SEC. 2. PHASING OF CONSTRUCTION.

Approval by the Administrator of an airport layout plan that includes the runway redesign plan shall provide that any runway located more than 2500 feet south of existing runway 9R–27L shall not begin construction before January 1, 2011.

SEC. 3. WESTERN PUBLIC ROADWAY ACCESS.

The Administrator shall not consider, and shall reject as incomplete, an airport layout plan submitted by Chicago that includes the runway redesign plan, unless it includes public roadway access through the western boundary of O'Hare to passenger terminal and parking facilities. Approval of western public road access shall be subject to the condition that its cost of construction will be paid from airport revenues.

SEC. 4. NOISE MITIGATION.

(a) Approval by the Administrator of an airport layout plan that includes the runway redesign plan shall require Chicago to offer acoustical treatment of all single-family houses and schools located within the 65 DNL noise contour for each construction phase of the runway redesign plan, subject to Federal Aviation Administration guidelines and specifications of general applicability. The Administrator shall determine that Chicago's plan for acoustical treatment is financially feasible.

(b) (1) Approval by the Administrator of an airport layout plan that includes the runway redesign plan shall be subject to the condition that noise impact of aircraft operations at O'Hare in the calendar year immediately following the year in which the first new runway is first used, and in each calendar year thereafter, will be less than the noise impact in calendar year 2000. The Administrator shall make the determination required by this Section.

(2) The Administrator shall—

(i) make the determination using, to the extent practicable, the procedures specified in part 150 of title 14 of the Code of Federal Regulations;

(ii) use the same method for 2000 as for each forecast year;

(iii) determine noise impact solely in terms of the aggregate number of square miles and the aggregate number of single-family houses and schools exposed to 65 or greater decibels using the DNL metric, including for this purpose only single-family houses and schools in existence on the last day of calendar year 2000.

(3) The condition described in subsection (a) shall be enforceable exclusively by the Administrator, using noise mitigation measures approved or approvable under Part 150 of title 14 the Code of Federal Regulations.

SEC. 5. SOUTH SUBURBAN AIRPORT FEDERAL FUNDING.

The Administrator shall give priority consideration to a letter of intent application submitted by the State of Illinois or a political subdivision thereof for the construction of the south suburban airport. This consideration shall be given not later than 90 days after a final record of decision approving the airport layout plan for the south suburban airport has been issued by the Administrator.

SEC. 6. FEDERAL CONSTRUCTION.

(a) On July 1, 2004, or as soon thereafter as may be possible, the Administrator shall construct the runway redesign plan as a Federal project, provided—

(1) the Administrator finds, after notice and opportunity for public comment, that a continuous course of construction of the runway redesign plan has not commenced and is not reasonably expected to commence by December 1, 2004.

(2) Chicago agrees in writing to construction of the runway redesign plan as a Federal project by the Administrator.

(3) Chicago enters into an agreement, acceptable to the Administrator, to protect the interests of the United States Government with respect to the construction, operation and maintenance of the runway redesign plan, and,

(4) Chicago provides, without cost to the United States Government, land easements, rights-of-way, rights of entry and other interests in land poverty deemed necessary and sufficient by the Administrator to permit construction of the runway redesign plan as a Federal project and to protect the interests of the United States Government in its construction, operation, maintenance and use.

(b) The Administrator may make an agreement with Chicago under which Chicago will provide the work described in subsection (a), for the benefit of the Administrator.

(c) The Administrator is authorized and directed to acquire in the name of the United States all land, easements, rights-of-way, rights of entry, or other interests in land or property necessary for the runway redesign plan under this Section, subject to such terms and conditions as the Administrator deems necessary to protect the interests of the United States.

SEC. 7. MERRILL C. MEIGS FIELD.

(a) Until January 1, 2026, the Administrator shall withhold all airport grant funds respecting O'Hare Airport, other than grants respecting national security and safety, unless the Administrator is reasonably satisfied that the following conditions have been met—

(1) Merrill C. Meigs Field in Chicago either is being operated by Chicago as an airport or has been closed for reasons beyond Chicago's control. If Meigs Field is closed for reasons beyond Chicago's control, none of the following conditions in subparagraphs 2 through 5 shall apply.

(2) Chicago is providing at its expense all off-airport roads and other access, services, equipment and other personal property that it provided in connection with the operation of Meigs on and prior to December 1, 2001,

(3) Chicago is operating Meigs Field, at its expense, at all times as a public airport in good condition and repair open to all users capable of utilizing the airport, and is maintaining the airport for such public operations at least from 6:00 a.m. to 10:00 p.m. seven days per week whenever weather conditions permit,

(4) Chicago is providing or causing its agents or independent contractors to provide all services (including police and fire protection services) provided or offered at Meigs on or immediately prior to December 1, 2001, including such tie-down, terminal, refueling and repair services as were then provided as rates that reflect actual costs of providing such goods and services at Meigs Field, provided that after January 1, 2006 the Administrator shall not withhold grant funds under this Section to the extent he determines that withholding of grant funds would create an unreasonable burden on interstate commerce.

(b) The Administrator shall not enforce the conditions specified in subsection (a) if the State of Illinois enacts a law on or after January 1, 2006 authorizing the closure of Meigs Field.

(c) Net operating losses resulting from operation of Meigs, to the extent consistent with law; are expected to be paid by the two air carriers at O'Hare that paid the highest amount of airport fees and charges at O'Hare for the immediately preceding calendar year. Notwithstanding any other provision of law, Chicago may use airport revenues generated at O'Hare to fund the operation of Meigs Field.

SEC. 8. JUDICIAL REVIEW.

An order issued by the Administrator in whole or in part under this Section shall be deemed to be an order issued under Title 49, United States Code, Subtitle VII, Part A, and shall be reviewed exclusively in accordance with the procedures in Section 46110 of Title 49, United States Code.

Mr. INHOFE. Will the Senator yield?

Mr. FITZGERALD. Yes.

Mr. INHOFE. I heard the other Senator from Illinois talking about all of the people and the officials in Illinois who wanted this. I wanted to give another perspective on this issue.

I was elected in 1986, the same time DENNY HASTERT, now Speaker of the House, was elected. All I have heard from DENNY HASTERT and from my colleagues on the House side all these years was they wanted to have a third airport.

I have to admit I prefer the provisions of Senator DURBIN's bill. On a freestanding bill, I am a cosponsor. I think it is a good idea. This also affects something no one has talked about, and that is Meigs Field. So I have some selfish reasons I would like to see that, but not on a Defense appropriations bill. I think it is the wrong place for it, and I will oppose it, even though I agree with the provisions of the bill.

I have talked to House Members since 1986, and as near as I can tell they are split down the middle, so there is no unanimity in the delegation that I can see.

Mr. FITZGERALD. The Senator from Oklahoma makes a very good point. I appreciate that point, and I appreciate his efforts to keep Meigs Field open because I think that is an important asset for the city of Chicago. I have worked with the Senator on that issue before and would like to continue working with him in that regard.

I do not believe it is appropriate to have this language on a Defense appropriations bill. This language has nothing to do with our national defense. It has nothing to do with protecting our troops in Afghanistan, and I regret the Senate has to be in session tonight debating this and, in fact, substituting itself for the Illinois State Legislature.

I served for 6 years in the Illinois State Senate. Whether we would amend the Illinois Aeronautics Act is the sort of issue we used to debate and vote on in the Illinois State Senate. It is not by my choosing, I assure my colleagues, that the Senate is tonight substituting itself for the Illinois Legislature, which would probably not approve this plan. We are being asked to preempt the laws of the State of Illinois and specifically the Illinois Aeronautics Act.

I am going to give some summary remarks at the outset, and then I will want to walk through a section-by-section analysis of Senator DURBIN's language.

There is no reason for us to be in the Chamber tonight debating this. There is no reason to ask the Federal Government to step in. The mayor of the city of Chicago has never requested the State of Illinois for a permit to do his expansion plan at O'Hare. If he wants to do it, he should formally request that the State grant him a permit. If the FAA also grants him a permit, presumably he could go forward and do his expansion plan.

What we are being asked to do tonight is to gut the State permitting program, to rip out and make of no effect the Illinois Aeronautics Act. Of course, we are also being asked to gut State environmental laws that might protect the environment and the health and safety of the people around O'Hare Airport.

Nor did the mayor of the city of Chicago ever bring this issue up to the State legislature. If it were a problem he could not get a permit from the State of Illinois, clearly he could ask the State legislature to amend State law. No attempt has been made to go to the State legislature and ask them to amend State law. Instead, as a first step they came to the Senate and asked the Senate to come in and rewrite and preempt State law.

In my judgment, a project such as this should be a bottoms-up project, not a top down; not people in Washington making these decisions; I do not think I would be qualified to act on a runway project in Hawaii or New York or at LaGuardia or JFK or Newark; I would not know the situation. This is not an appropriate issue for the Senate to be debating. As Senator GRAMM said, we are not an aviation panel.

In addition to gutting the State permit process, the other thing this language would do is it would gut the analytical framework that we in Congress, in the Senate and the House, have mandated for approving airport plans. We have no studies, no reports, no FAA modeling available. We do not have any idea, other than news reports, of the cost of tearing up the seven runways at O'Hare and repositioning them. We have no FAA models of how much new capacity we would get. We do not have any studies that suggest it would improve or cut down on delays. We do not know what the future capacity would be. We do not know whether it is a safe plan.

I have two charts. The first chart is a diagram of the existing layout at O'Hare Airport where we have seven runways, six of which are active. O'Hare is the world's busiest airport and, in fact, this year we have had more operations and enplanements than Atlanta's Hartsfield Airport. Mayor Daley's plan is to tear up those existing runways and to reorient them so he would have six parallel runways, six of them parallel east/west and two running from the northeast to the southwest, for a total of eight runways.

We are not safety experts in this body. We do not know if that is a good design. We do not know if that is a cost-effective design. I had an air traffic controller in my office on Monday of this week saying he was concerned there could be safety problems. The reason he said he thought there could be safety problems is because FAA regulations normally require a 4,300-foot separation between runways. In fact, I have a brochure from the Federal Aviation Administration that suggests proper separation between runways is an extremely important issue with respect to the safety of an airport.

This is the brochure. This is called "Improving Runway Safety Through Airfield Configuration." It is a little pamphlet put out by the Federal Aviation Administration. One of the points it makes for building safe airports is that layouts should be avoided that result in closely spaced parallel runways.

It says, provide adequate distance between parallel runways so a landing aircraft can exit the runway, decelerate, and hold short of the parallel runway without interfering with subsequent operations on either runway.

The FAA says the standard separation requires 4,300 feet, but it is my understanding this city of Chicago plan which has not been subjected to any vetting by any engineering firms or engineering designers, airport designers, airport layout experts, any Federal or State panel that those two runways would be 1,300 feet apart.

Mr. DURBIN. Will the Senator yield?

Mr. FITZGERALD. I would like to speak for a while.

Mr. DURBIN. Very quickly, I would close and give the Senator as much time as he wants to speak if the Senator and I can agree to a unanimous consent request to limit the debate on this amendment. I want to give him whatever time he wants, a few minutes to close, and let the Members go to consideration of the bill. Will the Senator give me an indication?

Mr. FITZGERALD. I would object to a unanimous consent agreement on the time.

Mr. President, we are not in a position to approve a runway design plan. This is probably the first time Congress has ever been asked to codify a runway design plan. I am not sure whether it is safe to have two sets of parallel runways only 1,300 feet apart. That seems pretty close to me. Maybe it is a good design and maybe it works. The point is, we don't have the expertise in this body, and we should not get the framework that we in Congress have set up for approving and subjecting such proposals to a rigorous analysis.

Another point I make at the outset is that as you read the language that Senator DURBIN would like to get in the conference committee report, you see that the Federal Government takes a role in this whole process of building the O'Hare redevelopment plan. The language in the bill could arguably drain airport improvement funds from every Senator's airport around the country and put it in at O'Hare, when some members of the Illinois delegation, including myself, don't even favor that plan.

I favor the construction of a third airport in the south suburbs. That is something that the FAA and the city of Chicago and the States of Illinois, Wisconsin, and Indiana concluded was the right thing to do back in 1986–1988 when they did the Chicago Airport Capacity Study. That study concluded that it was not practicable to expand the capacity of O'Hare Airport and that the appropriate solution for the future was to build a third airport. It was suggested that the south suburbs of Chicago would be a good place to start a third airport.

My message to my colleagues from around the country is, if you are willing to risk airport improvement funds in your own States for your airports, then you should support Senator DURBIN. But if you want to keep your share of airport improvement funds for your airports and not send them for an expansion plan that I don't even support in Illinois, then you should vote with me.

It should also be pointed out at this point that this is a project that involves blockbuster amounts. In August, the State of Illinois transportation director suggested that the cost of the total project would be as much as $13 billion. And the reason it is so costly is because you are tearing up existing runways that are very deep—one is one of the longest in the country—and you are repositioning them. Of course, the mayor of Chicago already has a $4 billion terminal expansion plan that is on the table, and then included in this language that Senator DURBIN has is a western access road that could cost as much as $3 billion, depending on where it goes.

Mr. DURBIN. Will the Senator yield?

Mr. FITZGERALD. Yes.

Mr. DURBIN. Will the Senator indicate who will pay for the western access?

Mr. FITZGERALD. That is unclear. I think under certain circumstances the western access would have to be paid for out of airport improvement funds because in section 6 of your bill you provide for Federal construction of the project.

Mr. DURBIN. Is the Senator aware the western access would be paid for by the city of Chicago?

Mr. FITZGERALD. No, and that is certainly not clear from the language. I cite section 1(f) of your language where you define the runway design plan to include related facilities, which I take to include related roadway improvements. So I don't know how many Senators want airport improvement funds drained from their States to go for a road in the Chicago area which would be part of this overall O'Hare expansion plan. That road happens to be a good idea if they do it in the right way. If they do it in the wrong way, it will take up 20 percent of the business and an industrial park in the city of Elk Grove, the largest industrial park in the country. Twenty percent of that would be taken out.

Mr. DURBIN. Will the Senator yield?

Mr. FITZGERALD. I will yield for one more question.

Mr. DURBIN. I refer the Senator to specific language which says, approval of western public road access shall be subject to conditioning that the cost of construction be paid for from airport revenues.

It does not come from airport improvement by the Federal Government.

Mr. FITZGERALD. Where do you have that language?

Mr. DURBIN. Airport improvement funds come from Washington; airport revenues——

Mr. FITZGERALD. But they would be revenues of O'Hare Airport.

Mr. DURBIN. From the ticket charges.

Mr. FITZGERALD. O'Hare revenues would include whatever revenues they took in, from any source. You don't say that.

Mr. DURBIN. I say to my colleague, airport improvement funds are from Washington, from the General Treasury; and the passenger facility charge is generated by the airport itself. And it specifically says the western access will be paid for from airport revenues, not from the Federal Treasury.

I say to the Senator, we can disagree and do disagree, but I want him to represent this as it is written.

Mr. FITZGERALD. To my colleague from Illinois I say I am sure if I got an annual report of O'Hare and looked at the income statements, they would include as airport revenues the funds they receive from whatever source—from airport improvement funds, from PFCs, from concessions, or any source that is part of total revenue. I differ on how this language reads.

As I said earlier, there are safety issues raised by this project, this proposal. We currently have 25 taxi runway crossings at O'Hare. That brochure that I held up earlier that the FAA puts out on airport safety, one point it makes is layouts of airports that require aircraft and vehicles to cross runways need to be avoided. This goes on to say that every crossing represents a potential runway incursion. Vehicle crossings can be eliminated by constructing all-weather perimeter and service roads. At busy airports with a large volume of vehicles traveling from one side of the airport to the other, it may be cost beneficial to construct vehicle roadway tunnels under the runways.

It goes on and emphasizes that the number of crossings, taxiway and runway crossings affect safety. My understanding is the current layout at O'Hare Airport has 25 taxiways and runway crossings, but this new plan would have 43. It is a much more complicated design. Under the standard set up by the FAA, in their own brochure, there could be an increased threat of a runway incursion.

The point has been previously made by my colleagues from Arizona and elsewhere that the language Senator DURBIN is offering tonight bypasses the authorizing committees in the House and the Senate. It is, in my judgment, a circumvention of the process. The appropriations, the Defense appropriations bill is not the appropriate vehicle to have a transportation or an aviation measure. In the Senate, we have the Commerce Committee that governs transportation and aviation. If there is any expertise in the Senate staff and among the Senators who have a lot of experience in aviation, it is in the Senate Commerce Committee, and in the House it is the House Transportation Committee. The House has, in fact, told our Commerce Committee staff that they will oppose this language in conference because they believe this is not going through the proper channels. There were no hearings in the appropriate committee.

As I said, why aren't we doing this in the State legislature? If for some reason they couldn't do it in the State legislature—say they weren't meeting for the next year and they had to come to the Senate—you would think the way to do this would be to bring a bill and go through the appropriate channels, go through the authorizing committee, and have hearings in the Senate Commerce Committee.

Of course, I was in Chicago with Senator DURBIN and Senator MCCAIN earlier. We had an informational hearing on aviation in Chicago. At that time, Mayor Daley had decided he was going to come out with a plan. But the plan that was just agreed to that we are now being asked to vote on is 48 hours old. It was a backroom deal between two people. It didn't involve the State legislature. It is not available to the public. No details are available to the public. We are being asked right now to enact it into Federal law.

The other thing this language that the city of Chicago is offering does is take the unprecedented step of saying if this new airport violates the Clean Air Act, if we are going to violate the EPA laws, then the EPA must revise their own regulations so that the plan can fly. Isn't that nice? We are just going to give them in Federal law a cart blanche to violate the permissible levels of toxic pollutants put out, and we are going to do that in the Senate. Isn't that a good idea?

My understanding is there are airports around the country that have had problems because they haven't been able to comply with the Clean Air Act. But they have to make modifications so they comply with the Clean Air Act.

I would like O'Hare Airport—whether the current airport or a redesigned O'Hare—to comply with the Clean Air Act. I wouldn't want the Clean Air Act modified or weakened or the burden put on some other industry to make up for the added pollution given out by O'Hare Airport.

Of course, one of the problems we have in airports such as O'Hare in a congested urban and suburban surrounding is that you pose a risk of toxic pollutants to hundreds of thousands of people.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. FITZGERALD. I would prefer to continue and give the Senator plenty of time to respond at the end of my speech.

Mr. DURBIN. Thank you.

Mr. FITZGERALD. Mr. President, another issue I have been concerned about and Congressman JACKSON and Congressman HYDE have been concerned about for a very long period of time is that we have two airlines that have 87 percent of the aviation market at O'Hare. Those airlines are United and American. I applaud the hardworking employees of those airlines. I have a great deal of respect for them. They have been through a very difficult fall.

But one of the issues I am concerned about is that there is not adequate competition on long-haul flights to Chicago. We have some competition coming out of Midway Airport, and very good competition from great airlines, ATA and Southwest. It is difficult to do long-haul flights because the runways are so short.

I thought it would be preferable to build a third airport because that would provide new entrants in the Chicago aviation area and an opportunity to compete with United and American.

A GAO study commissioned by Congress a couple of years ago said monopoly overcharges at Chicago's O'Hare Airport—additional fees that consumers of air travel in the Chicago area pay that result from monopoly conditions at O'Hare—amount to $623 million a year. In fact, Governor Ryan, when he was campaigning for Governor, put out a policy paper that cited that GAO report in support of his then position favoring the third airport.

While I think Senator DURBIN's ultimate objective and certainly Mayor Daley's objective would to be expand capacity at O'Hare, my question is how construction would proceed. When they are tearing up and rebuilding O'Hare, my worry would be we would, in fact, have less capacity than we do right now due to construction.

Anybody in the Chicago area who drives the expressways from the suburbs to the city or from the city to the suburbs knows what happens when there is a construction project during the summer on the expressways. It causes huge bottlenecks. People's commutes to work are doubled.

My fear is that, while we are doing this massive tearing up and rebuilding of O'Hare, the delays we have been enduring for the last few years at O'Hare and around the country would, in fact, be exacerbated.

In addition, one of the things that the language Senator DURBIN will be offering in the conference committee, if he succeeds in getting this language adopted tonight, in my judgment—and I think Senator DURBIN will probably dispute it, but I will let him speak for himself—this language is a backdoor means of killing the third airport at the south suburban site.

There is a section in the bill that mentions Peotone, but it really is just lipservice. It says the FAA must consider Peotone. But I think I will be able to demonstrate as we go on tonight that the specific terms of the language, because they mandate a reconstruction project at O'Hare, would have the effect of drying up the justification for going forward with a third airport.

The State's premise for building the third airport has always been that there was not going to be an expansion of O'Hare. The Chicago Airport Capacity Study of 1986 to 1988, in fact, concluded that it wasn't feasible—I agree with them—to expand the capacity at O'Hare, which leads me to my discussion of the wisdom of expanding O'Hare as opposed to going forward with a third airport in the south suburbs.

The bottom line, in my argument, is that we would get more capacity more quickly at less cost by building a third airport in the south suburbs than we would by going forward with Mayor Daley's expansion plan at O'Hare. Of course, going forward with the third airport would still leave money for everybody else's airports in the country. I don't think Mayor Daley's plan would.

If I could point to a couple of the advantages, first with respect to cost. There have been many estimates of the cost. I think we can count on the O'Hare expansion being at least $13 billion. That was the figure cited by Kirk Brown, director of the department of transportation of the State of Illinois in August with respect to Mayor Daley's expansion plan. That is because there is $6 billion in runway reconstruction that is being proposed and talked about right now. There is $4 billion for the World Gateway Terminal Program that is already underway. Then there is $3 billion in related roadway improvements.

In contrast, the third airport would be on a greenfield site on 24,000 acres in a rural area and would only cost $5 billion to $6 billion, roughly the same amount at Denver International Airport. It is laid out similarly on a lot of land with a lot of space. It is easier to build in an open space than it is to go into a congested urban area. It is easier than going into an existing airport such as O'Hare, tearing up and moving the runways, and in some cases tearing them up and moving them over 500 feet. You don't have that waste if you just go ahead and build the third airport.

Capacity: Mayor Daley's plan would add 700,000 additional flight operations at O'Hare. It is now at 900,000 operations. An additional 700,000 a year would bring it to 1.6 million operations in a year.

But, in fact, for a third of the cost, the capacity could be 1.6 million operations, much greater for the long-term future of our country.

Construction of the third airport: By the terms of the legislation, which Senator DURBIN will provide to the conference committee, you can see they aren't even anticipating getting to the final runway at O'Hare until 2011. That project is going to go on for more than a decade. It will go on and on and on, and people will probably, in my judgment, be delayed during the construction.

In contrast, it is estimated that phase I of the third airport could be up in 3 to 5 years after we got approval. And a request for approval has already been started at the FAA. The State has already submitted that plan. The city of Chicago has not submitted its plan yet to the FAA.

Community: With respect to O'Hare, you have significant opposition from communities surrounding O'Hare. The quality of life of hundreds of thousands of people would be adversely affected by that proposal. Yet in the south suburbs, you generally have significant community support, although there is, of course, some local opposition from homeowners; there is no question about that.

Going back to the competition point, the O'Hare expansion, in one of the designs of this whole O'Hare expansion, is to goldplate United's and American's position at O'Hare. At United and American, they do a good job. I fly them back and forth every week between Washington and Illinois. But they do enjoy a monopoly position. They have an 87-percent market share at Chicago O'Hare Airport. The fact is, they have been opposing O'Hare expansion for years, probably as much as 30 years.

O'Hare first reached capacity in 1969. That is when the FAA had to cap the number of flights there because the demand for flights started to exceed capacity. The former Mayor Daley tried to build a third airport. He tried to build an airport at Lake Michigan, a third airport. He recognized back in the early 1970s the need for a new airport.

What this O'Hare expansion would do is, it would lock in American's and United's dominance of the aviation market in Chicago. That is good for the shareholders of United and American. But I would say that is not good for consumers. We benefit by having more choices, by having competition, by having new entrants come into the airport.

If we had a new airport, we would have new entrants coming into the Chicago market almost certainly. We have had testimony before the Senate Commerce Committee that new entrants have a hard time or cannot get into O'Hare. In fact, a representative of JetBlue testified earlier this year that they wanted to run flights to Chicago out of New York, but they could not get into Midway or O'Hare.

We have to confront this issue because passenger travel has gone up 400 percent in this country since deregulation. But the major hub carriers have blocked every single new airport in the last 20 years with the exception of Denver. And in Denver's case, they insisted that Stapleton Airport be shut down so they could not get a maverick carrier like Southwest in there competing.

So you look around the country now. What Congress has allowed to happen is we have monopolies by region in aviation. If you go to Atlanta, Delta has a dominant position. If you go to Minneapolis-St. Paul, you have Northwest, which has a dominant position. They have also a dominant position in Memphis and Detroit. If you look at Dallas, in Senator GRAMM's State, you have a dominant position by American Airlines.

In Chicago, United and American share their dominance. We are blessed in Chicago because we have a duopoly as opposed to a monopoly; and that is somewhat better. But the fact of the matter is, consumers around the country are suffering because they do not have aviation choices in their communities. And the airlines kind of like this situation. You do not see Delta making much of an attempt to go into United's and American's turf in Chicago, and you do not see much of an attempt by United and American to go and intrude on Delta's dominant position at Atlanta's Hartsfield Airport. They have kind of carved up the Nation's aviation market like slices of apple pie.

I would like to focus and turn our attention now to a section-by-section analysis of the language that Senator DURBIN would like to introduce into the conference committee on the Defense appropriations bill.

If we start right at the beginning of section (1), it is entitled: "Necessity Of O'Hare Runway Redesign And Development of South Suburban Airport."

Section (1) (a) reads:

> The Congress hereby declares that redesign and reconstruction of Chicago-O'Hare International Airport in Cook and DuPage Counties, Illinois in accordance with the runway redesign plan——

And that is later defined——

> and the development of a south suburban airport in the Chicago metropolitan region, are each required to improve the efficiency of, and relieve congestion in, the national air transportation system.

I submit that the very first paragraph of Senator DURBIN's language that he hopes to put into the conference committee report—that there is no basis for this language. There is not a single report, no finding, no study, no cost analysis, no cost-benefit analysis to support the idea that we should both build a massive O'Hare and go forward with the south suburban airport that I discussed.

As we discussed, the State's premise for the third airport is that O'Hare would not and could not be expanded. There are studies—there are reams of studies—going back many years that say we need a third airport. Those studies are premised on the belief that there is no way that O'Hare could be feasibly expanded. And so there is justification for Peotone.

There is no study—nothing—that supports the notion that we need both a massive new O'Hare and a Peotone.

Now 49 U.S.C., section 47115, subsection (c), says that as a condition of any discretionary grants a cost-benefit analysis of the project should be done.

We are mandating a project right now. And apparently we are not going to do a cost-benefit analysis. Why is Congress, why is the Senate being asked to gut our mechanism for applying an analytical review process to improvements and changes at runways and airports around the country? What are the costs and benefits here? We do not know. This is a backroom deal that happened about 48 hours ago. In fact, it was less than 48 hours ago that they reached that backroom deal. And we do not have any of the details. We do not have any of the internal documents. We do not have any of the background information that we need. And, moreover, we are not the ones who should be passing on this backroom deal.

If there is a runway plan that the city of Chicago has, they should submit it through the appropriate channels. The other thing that the FAA's cost-benefit analysis, that Congress has mandated, requires is that it requires a consideration of alternatives. If an airport is proposing an expansion plan, the FAA would make them go through a rigorous analysis of what would be the alternative. What are the costs and the benefits of an alternative?

Isn't that the sort of analytical approach we should take on these things? Why are we mandating, codifying in Federal law, and preordaining the outcome? No one is going to look at whether this plan makes sense. We are just going to make it a Federal statute. And it does not matter whether it makes sense.

No one has introduced details of costs. There are no benefits that have been suggested and no alternatives. There is no such analysis available for O'Hare. And they have not offered any new analysis on Peotone.

So, in short, this language that Senator DURBIN hopes to put in the conference committee report guts the analytical framework mandated by Congress and makes this the only mandated runway construction plan in the country.

Mr. President, we talked earlier about how the costs would probably be borne by the airport improvement fund to some extent around the country. If you go to section 1(b), it says that "The Federal Aviation Administrator shall implement this Federal policy by facilitating approval, funding, construction, and implementation of" the runway design plan. So the FAA, its hands are tied. It must facilitate, it shall—the word is "shall"—shall facilitate the approval, the funding, construction, and implementation.

What if the FAA were to decide they didn't want to give this any discretionary grants? I would think anybody who had bought a bond that was issued in reliance on this language that the FAA would be compelled to facilitate the funding might have a claim there. They would be in a position, the city would be in a position to force the FAA to cough up money, and it would be forced to cough up perhaps at the expense of other airports around the country.

We have said this involves blockbuster amounts. This is not a $1 billion project, this is a $2 or a $3 billion project. This is $6 billion for the construction of runways, and then it is $2 to $3 billion for a ring road and even more costs if it goes through a lot of businesses.

With respect to Peotone in that first paragraph, it says that there is a necessity for O'Hare runway redesign and development of a south suburban airport. But it doesn't say what kind of a south suburban airport. Is this a one-runway south suburban airport or a six-runway south suburban airport? There have been different proposals in that regard. The State of Illinois has already submitted a proposal to the FAA for a starter south suburban airport that would have one runway initially but could be expanded to six. This language does not say.

With respect to airport financing, it is pretty well gone, certainly on the Senate Commerce Committee. And I am sure, as most of the Senators, that these projects are typically paid for with a combination of general airport revenue bonds that the airlines agree to help retire over time, and also another element is passenger facility charges, so-called PFC fees. Of course, one major component is the one I was discussing before that I would suggest would be depleted for other airports around the country. That is the airport improvement funds. Huge amounts of airport improvements funds would be sucked up for O'Hare, for a controversial plan that the residents, the legislature, the congressional delegation of Illinois are split on, and many don't even want it.

Congress should not obligate itself to these huge expenditures in Senator DURBIN's language. It is clear to me that Congress, if it enacted into law Senator DURBIN's language, would be obligating itself to huge expenditures. But we don't even know what those expenditures would be because those haven't been introduced or shown to anybody. We don't know what it would cost. But we would be obligating ourselves.

(Mr. CORZINE assumed the chair.)

Mr. FITZGERALD. I suppose it would not be the first time we have picked up some unspecified liability, but I know the Presiding Officer has been a fiscal watchdog for the taxpayers, and he and I worked together to make sure that the taxpayers were not abused with respect to the airline bailout bill. We were concerned about the amounts there, and others in this Chamber were. I would suggest to the Presiding Officer and all Members of this body that we should be very cautious in obligating ourselves to unknown costs. We are assuming liabilities that are not specified in this language.

The airport improvement funds have two components. Two-thirds of AIP funding is based on a formula which is in turn based on the size of the airport and the number of enplanements at the airport. If O'Hare is the busiest airport in the Nation this year, that means that based on the formula, it is probably getting the most airport improvement money of any airport in the country.

If its size is doubled, then indeed its share of the airport improvement funds, formula funds, would in fact be close to double. That would come out of other airports around the country.

The other third of the airport improvement funds comes from discretionary grants. I suggest to my colleagues in the Senate that this language would obligate the FAA to take huge chunks of their discretionary money and put it into this project at O'Hare that I don't support, that Congressman HYDE does not support, that JESSE JACKSON, Jr., doesn't support, that the State Senate of Illinois does not support. All that money would be obligated to come from all of your projects.

So, again, why not just go forward and build the third airport? The State committed the proposal for the third airport. We would get more capacity by building Peotone alone, and we would have money left over for airport improvements elsewhere in the country.

I would also be concerned for the airports I have in downstate Illinois. Some of their AIP funds could be sucked up and given to O'Hare. This project could in fact be done at the expense of some of the downstate airports in Illinois. We would be doing this all at a time when we have a complete absence of models, a complete absence of FAA models, a complete absence of specifics, a complete absence of studies, a complete absence of detailed financial cost disclosures, and a complete absence of alternatives.

With respect to the costs, the costs are written. And in fact the runway design plan that would be mandated here is written and defined in such a way as to include undefined elements. In fact, in section 1(f), it says that the term "runway design plan" means six parallel runways at O'Hare oriented in the east-west direction with the capability for four simultaneous, independent instrument aircraft arrivals and all associated taxiways, navigational facilities—what does that mean?—passenger handling facilities—is that terminals?—and other related facilities, and on top, the FAA would be mandated to facilitate this, presumably with funds, and the closure of existing runways 14L-32R, 14R-32L, and 18-36.

I said earlier that the State was preempted and that really is the crux of why we are here. You have a plan that cannot get approved by the State legislature, and therefore we are being asked to substitute ourselves for the State legislature of Illinois.

I am proud to have served in the Illinois State Senate. Many distinguished people, including Abraham Lincoln, served in the Illinois General Assembly. I would suggest to my colleagues that it is not appropriate for us to be substituting ourselves for the Illinois General Assembly. If the mayor needs their help in getting this plan approved, he ought to go submit his plans to the Illinois General Assembly. But instead, if you look at section 1(c) of Senator DURBIN's language, what the bill attempts to do is preempt State laws. I will read the language here that is the crux of Senator DURBIN's bill:

> The State shall not enact or enforce any law respecting aeronautics that interferes with or has the effect of interfering with implementation of Federal policy with respect to the runway redesign plan including, without limitation, sections 38.01, 47 and 48 of the Illinois Aeronautics Act.

This clearly preempts the Illinois Aeronautics Act. It preempts specifically and gives specific mention to the sections of that act that require a hearing process, a vetting process, a permitting process. It wipes out the State's permitting process.

I believe this language is broad enough. It does not just say it wipes out the Illinois Aeronautics Act, although it does mention it specifically. It says any law respecting aeronautics that interferes with or has the effect of interfering with the implementation of this law. So that would wipe out, in my judgment, environmental laws if they were a roadblock. If Mayor Daley could not comply with State environmental laws, he would have a Federal mandate to blow those away. He would not have to comply with the environmental laws of the State of Illinois.

Mr. DURBIN. Will the Senator yield for a question?

Mr. FITZGERALD. I would rather yield at the end, I say to my colleague, my good friend from Illinois.

State securities laws could come into play if there are airport bonds that are issued. If they had the effect of interfering with this, could they be overridden?

There are other States that are in this position, in fact, that have some State laws in this area. I have a chart. This chart was actually prepared for a different bill, H.R. 2107. That was an attempt by Congressman LIPINSKI in the House to preempt local and State laws regarding airport approval processes.

I believe there are a total of 26 States that have some control to give approval to local airport projects. Of course, Illinois is one of them, and all these other States—in fact, Mr. President, some of your neighboring States—Pennsylvania, Maryland, Delaware, New Hampshire, Vermont, Massachusetts, Missouri, Indiana, Michigan, Wisconsin, Iowa, Minnesota, North Dakota, South Dakota, Nebraska, Oklahoma, Texas, New Mexico, Alaska, Utah, Wyoming, Idaho, Tennessee, Alabama, Mississippi—they all have some State laws in this regard to regulate airports. In my judgment, it is a bad precedent for the Federal Government to begin overriding those laws. Perhaps some of those people in those State legislatures and some of the local permitting authorities know something about their local projects and we in Washington should not be substituting our judgment for their judgment.

I do not think it is a good idea we come in and blow out the laws of the State of Illinois that have been enacted by people duly elected to serve and represent their interests. We would be obliterating the say of the people in the Illinois General Assembly by enacting this measure.

Again, the mayor could have gone to the legislature to pass this plan, but he did not want to or he could not, so he came to Congress to wipe out the State's legislature law. At the heart of this legislation, more than anything else, is really an attack on the Illinois General Assembly, if you want my opinion.

If we turn to section 1(e) of the bill, this section indicates there is a fear on the part of the proponents that the mayor's expansion proposal will violate national air quality standards. Therefore, what this language does in section 1(e) of the bill is it will force the U.S. EPA to rewrite and weaken environmental regulations to keep them at the same strength by having some other industry in Illinois pay for it. Either that or it would just cause them to weaken their regulations altogether.

Section 1(e) reads as follows:

> If the Administrator determines that construction or operation of the runway redesign plan would not conform, within the meaning of section 176(c) of the Clean Air Act, to an applicable implementation plan approved or promulgated under section 110 of the Clean Air Act, the Environmental Protection Agency shall forthwith cause or promulgate a revision of such implementation plan sufficient for the runway redesign plan to satisfy the requirements of section 176(c) of the Clean Air Act.

What does that mean? It means if Mayor Daley's runway redesign plan violates the Clean Air Act, then the EPA must weaken the Clean Air Act so the plan no longer violates the Clean Air Act, or they must, through their crediting process, put the burden on some other industry. Not many industries in Illinois are aware of that.

Right after that, we have section 1(g) that, again, refers to the "south suburban airport." It says:

> The term "south suburban airport" means a supplemental air carrier airport in the vicinity of Peotone, Illinois.

Again, there is no definition. Is that a 6-runway or a 10-runway airport? We do not know. There have been different proposals, so I do not think this language is necessarily well done.

Section 2 of the bill is on phasing of construction. This bill suggests that, in fact, the city would be forbidden from beginning construction of the sixth runway until 2011. What that means is that prior to 2011, there will not be six parallel runways at O'Hare.

We have seven runways at O'Hare today. Prior to 2011, there will only be five parallel runways? Will we have less capacity at O'Hare until the sixth runway is finally built in 2011? It raises interesting questions. Western roadway access, again—and I had this colloquy with my colleague from Illinois. He disputes this, but I believe the language would require that the airport revenues be made available to pay for western public roadway access and revenues of the airport.

As the Presiding Officer would know, having been the chairman of Goldman Sachs, one of our country's leading investment banking firms, the revenues of the airport would include all their revenues, whatever source derived, whether passenger facility charges or airport improvement funds. They could apparently use airport improvement funds to help with the roadway project.

> The Administrators shall not consider, and shall reject as incomplete, an airport layout plan submitted by Chicago that includes the runway redesign plan, unless it includes public roadway access through the western boundary of O'Hare to passenger terminal and parking facilities.

I do believe that roadway access would help with O'Hare. The problem is right now we have to build another terminal out there on the western side for it to be truly as valuable as it should be. There is a question as to where this roadway would go. It would be a massive roadway. Would it take out several villages, such as Elk Grove and other villages, in the area?

In fact, Mr. President, we have some maps that show some of the surrounding communities. We see the problems we get into when we start a massive plan such as this in a congested urban and suburban area.

That western ring road would be on the western boundary of O'Hare. It would go from I–90 presumably on the north down somewhere to Irving Park Road on the south.

I will point out that Elk Grove Village is there. The largest industrial park in the entire Nation is right about here. If this road goes through, it would take out perhaps 20 percent or more of the largest industrial park in the country. I do not favor that.

If they wanted to do the western access on airport property, I think I would favor that, but I would not favor this. Will we give Federal impetus to something that nobody in this body was intending, perhaps not even sponsored the language, and that is the destruction of a large portion of Elk Grove Village, IL?

I know Elk Grove Village, IL, very well. I represented that area when I was in the State senate. I represented the northwest suburbs. I know the mayor of Elk Grove is very concerned about losing the tax base in his village and hundreds of wonderful, strong businesses that use the industrial park.

There is a large section on noise mitigation, and I will address that section as well. There seems to be an attempt to address the noise concerns that would be created by this expansion program, but I think there is a trick. If we look at section (4)(b)(1), it says:

> Approval by the administrator of an airport layout plan that includes the runway redesign plan shall be subject to the condition that noise impact of aircraft operations at O'Hare in the calendar year immediately following the year in which the first new runway is first used, and in each calendar year thereafter, will be less than the noise impact in calendar year 2000. The administrator shall make the determination required by this section.

The trick is they are comparing today's fleet with a much quieter fleet in the future. It is not an apples to apples comparison. The apples to apples comparison would be to take the future fleet at the current level of operations and to compare that future fleet at the future level with the current level with the future fleet. So it gets complicated. What they are doing is clever but misleading.

I say to my constituents who are worried about that issue, there is not a lot to help them with their concern of the disruption in their life caused by this massive expansion plan. Of course, this expansion is in a very congested urban and suburban area with hundreds of thousands of people living in and around there, most of whom—our phones have been ringing off the hook—are opposed to this plan, but the Senate is being asked to approve this plan tonight.

I apologize for that because I do not think this is an appropriate bill, the Defense appropriations bill, and I regret that we have to be debating this specific issue tonight.

Section 5 of the bill pays lipservice to the south suburban airport issue. It says:

> The administrator shall give priority consideration to a letter of intent application submitted by the State of Illinois or a political subdivision thereof for the construction of the south suburban airport. This consideration shall be given not later than 90 days after final record of decision approving the airport layout plan for the south suburban airport has been issued by the administrator.

This has been billed and portrayed in Illinois as legislation that would actually move the ball forward with respect to the third airport. I suggest to my colleagues this language, in fact, kills the third airport in the south suburbs. The reason I say that is any airport funding for the south suburban airport would be, one, soaked up by the massive expansion at O'Hare and, two, all this language requires is the administrator give consideration to a letter of intent submitted by the State of Illinois.

The FAA is already going to consider the letter of intent submitted by the FAA. We do not need this language. They are already going to consider it. Maybe it would speed it up a little bit, but that is about all. There is no guarantee the third airport would be approved. In fact, I believe the justification for the third airport would vanish in light of the massive expansion of O'Hare. Again, the whole premise for the third airport was it is not feasible to expand O'Hare.

Make no mistake about it, everyone in Illinois should know this language is a Peotone killer. It is a backdoor way of ensuring the third south suburban airport will never be built in the State of Illinois.

There is no justification—no cost-benefit analysis would suggest the FAA should approve that plan once the massive expansion of O'Hare has been approved.

The next section, section 6, is a section I think should be of special concern to every Member in this body from every State in this country. This is the section that would require the Federal Government to construct this massive plan at O'Hare, which I have said I do not want, many Members of Congress in my State do not want, and the State legislature will not approve. The Senate will be asked to pay for it as a Federal project. That would be nice if the Chair would, for instance, give me his airport funds from Newark Airport to pay for this project, except I do not want this project.

I think every Member in this body should think long and hard whether they want their airport improvement funds to be sucked up by a massive O'Hare expansion plan, a $13 billion plan at least, in my judgment, something that I do not even want in my State, that is very controversial in my State.

What this language says is:

> On July 1, 2004, or as soon thereafter as may be possible, the administrator shall construct the runway redesign plan as a Federal project, provided (1) the administrator finds, after notice and opportunity for public comment, that a continuous course of construction of the runway redesign plan has not commenced and is not reasonably expected to commence by December 1, 2004.

I am not sure whether those are the exact dates they are going to want, but that is the language Senator DURBIN shared with me, and I appreciate that. He did not spring this language on me. He shared this with me. I called him yesterday and I asked him to fax the language he wanted to introduce in the conference committee. I compliment him for not taking me by surprise and for disclosing his intentions as to the conference report.

What that means is if there has not been a continuous course of construction on the runway redesign plan, then the Federal Government, the FAA, the Administrator, the Federal Aviation Administrator, shall take this project over and shall construct a runway redesign plan as a Federal project. So all the taxpayers and all the other States would pay for it.

I love it when the Senate gives money to my State. Our State has not gotten its fair share of Federal funds over the years. I think we are doing a lot better. Thanks to the leadership of the Speaker of the House, who is from Illinois, we are doing better in that regard in recent years. I enjoy it when my colleagues are generous with money for my State, but this is a project I do not support. So I ask, please, do not take money out of your airports and deprive them of revenue to put into a project in my State that I do not support.

One of the interesting parts of this whole thing is if we go back to section (1)(c) of Senator DURBIN's language, the first thing this bill really does is it preempts the Illinois Aeronautics Act.

The interesting thing about the bill, it goes on to say the city of Chicago shall not build the runway redesign plan, and if for some reason they did not, the Federal Government will step into its place and do it. But it can delegate those responsibilities, then, back to the city of Chicago.

Interestingly, under our State law, municipalities such as city of Chicago don't have any authority except from State law to operate its airports. That is where the city of Chicago gets its authority to operate O'Hare. They have it from the Illinois Aeronautics Act. But this Federal bill would obliterate the Illinois Aeronautics Act. How would Illinois or Chicago have the authority to even have the airport? Would O'Hare airport or the city of Chicago become a Federal reservation? It is not clear. Very unusual language, in my judgment.

I am sure the proponents, especially United and American, have a lot of employees, a lot of contractors and subcontractors, a lot of people who do work for them.

They have influential directorships, they are very active and involved in the community in Chicago. This is a bonanza for them because it blocks a third airport for generations to come and they would be assured, in my judgment, of not having any effective competition in the Chicago market from any other long-haul carriers for as long as the eye can see, as far as we can see into the future. In my judgment, this is not in the interests of the general public.

Once the legislature's granted authority is obliterated by this Federal legislation, then interestingly the city has no authority to build. The city would lose its legal authority to contract for an airport, so this is very curious language. That would point out that is exactly why we shouldn't be acting in the Senate as though we were the Illinois State Legislature. You get these problems, unintended consequences, when you start rewriting the Illinois Aeronautics Act or preempting it at the Federal level. You get all sorts of unintended consequences. It is not a good idea, in my judgment, to come in and rewrite a State act, especially on a Defense appropriations bill at 8:30 in the evening on Friday night when we should be debating defense amendments.

We have our troops on the ground in Afghanistan. This, clearly, isn't the appropriate forum to debate the propriety of the Illinois Aeronautics Act. Let the State legislature take up the Illinois Aeronautics Act when they get back into session next January.

Then if you go on—and the language is many pages long—if you go to the end, they do have the provision I support and that is keeping Meigs Field open in Chicago. I don't know if the President has ever flown in or out of Meigs Field, but it is a beautiful airport on the Chicago lakefront. The business community loves that airport. People are able to fly right into the heart of downtown Chicago. They are right in the city and can easily get to a meeting. It is a great general aviation airport. There is a provision that would do something to assist keeping Meigs Field open. I support that. It was regrettable the city of Chicago wanted to close Meigs Field.

I always thought that was a mistake. Meigs Field has handled as many as 50,000 flight operations a year. If it shuts down, you will put those flights into Midway and O'Hare—a large number of them, anyway—which will add to congestion at Midway and O'Hare.

I have always felt closing Meigs Field was inconsistent with alleviating air traffic congestion in the Chicago area. I was disappointed the city wanted to close it.

This backroom deal we are being asked to codify, which is under 48 hours old, and no specifics or financing or details or studies have been released to the general public back in Illinois, has been portrayed in the press as keeping Meigs Field open until January 1 of the year 2026. It appears to give it another 25 years. But they have a provision in here that would allow the Illinois General Assembly to close Meigs Field in 6 years.

Now, is this not odd? On the one hand, they take away, obliterate the State statute passed by the Illinois General Assembly, passed by all the State representatives and State senators in Illinois and enacted into law by the Governor, we are asked to obliterate one act, but on the other hand, we are writing a law that the State legislature in Illinois would have to comply with, and that is they can't shut Meigs Field down prior to January 1, 2006. But after January 1, 2006, Meigs Field could be shut down by the Illinois Legislature. In fact, it says in section (7)(4)(b):

> The administrator shall not enforce the conditions specified in subsection (a) if the State of Illinois enacts a law on or after January 1, 2006, authorizing the closure of Meigs Field.

So we are at the Federal level granting the State of Illinois the authority in Federal statute to close Meigs Field. However, we are taking away the Illinois General Assembly's authority to have anything to do with O'Hare. It is wildly inconsistent. There is no principle behind what they are doing. That is what you get with a backroom deal that is the product of people saying: I will scratch your back if you scratch mine.

We are being asked to put a secret backroom deal into Federal law.

Now, I get to the final section on judicial review. That is section 8. It says that what this is designed to do, as I read it—and I have to say I have not yet looked up title 49, United States Code, subtitle VII, part A, but I have a feeling what this is meant to do is basically to cut off the right of trial and to deprive anyone who would question this backroom deal; they would never get their day in court. So this section 8 curtails the judicial review and says you never get your day in court. If you want to challenge this deal, that is tough luck. What happens is you won't get a right of trial in the district court. You will have to go right to a court of appeals and the FAA will control all the facts below and you will get 20 minutes in a court of appeals and that is it.

This is a way of cutting off anybody who may object to this, cutting off their right to use their legal rights they might have. Those rights would be curtailed.

Going back to the safety issue, I have great concerns. I am concerned that two sets of parallel runways in the proposal of the new design at O'Hare would be too close together. My understanding is—and we only have what we know from news accounts because no details are released—there has not ever been a formal plan submitted to the FAA or to the State, so we don't have all the details. We have maps that have appeared in newspapers and the like. It is everybody's best guess as to what is in the backroom deal we are being asked to codify into Federal law tonight. But it looks, from what I understand of the information available to me, that these two sets of parallel runways on which they would like to have simultaneous takeoffs and landings would be only 1,300 feet apart. The FAA regulations require ordinarily, without a waiver, a 4,300 foot separation between runways.

Now, the problem with that is if a plane is landing in one direction and another taking off in another direction and a plane turns here, it could hit a plane coming into another runway. We are not cutting down the margin of error.

I can understand why they can't make a 4,300 foot separation between runways on this airport land in Chicago. They don't have enough room. O'Hare's footprint is only about 7,000 acres. They would try to take 500 homes in the city of Bensenville and displace those people and bulldoze their homes. They would be moving some roadways. Mr. President, you and other Senators might be paying for that out of your airport improvement funds under this language.

But the problem is they are trying to jam too much in here. There are only 7,000 acres. A newer airport—the third, south suburban airport in a location known as Peotone in Will County south of Cook County where Chicago is located—would be on 24,000 acres. There would be plenty of room to have parallel runways. They would be appropriately spaced.

We also talked about in addition to the runways being too close together, several of these—I don't know how far the distance is between 927-L, the arriving runway, and the south 927 runway. I don't know what that would be. I haven't even seen press accounts of what that would be. Again, there is no formal plan. All of these seem awfully close together.

In my judgment, we could be working against ourselves by going forward with a plan such as that. God forbid. If there ever were a problem that resulted by packing too many runways in too close, we would have made a horrible mistake.

Some Members of this body may believe they are capable of passing on the safety of a runway design plan. But I certainly can tell you that I don't have that expertise, and I suspect none of us really has the kind of engineering background and experience that would require. Maybe somebody here has that expertise, but I don't think so. That is why I don't think it is appropriate for us to enact into law a runway design plan. Never before has Congress, to my knowledge, enacted into Federal law a runway design plan. We allow this to go through a vetting process. We allow people to study and vet and test, and we get input from air traffic controllers, from pilots, from experts, and from engineers. They are the ones who need to come and give us their views on the propriety of such a layout.

You shouldn't be called upon, Mr. President, as the Senator from New Jersey, at a quarter to 9 on a Friday night, to decide whether this is a good runway design plan. Maybe it is, but maybe it isn't. Do you believe we can guarantee to the people of this country that in fact this is a safe design plan? I had an air traffic controller in my office this week who told me he had grave concerns that he thought this was an unsafe plan.

In fact, I have a letter, which I ask unanimous consent to have printed in the RECORD, dated November 30, 2001, from the facility representative of the National Air Traffic Controllers Association.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL AIR TRAFFIC
CONTROLLERS ASSOCIATION,
CHICAGO O'HARE TOWER,
Chicago, Illinois, November 30, 2001.

Hon. PETER FITZGERALD,
U.S. Senate, Washington, DC.

SENATOR FITZGERALD, as requested from your staff, I have summarized the most obvious concerns that air traffic controllers at O'Hare have with the new runway plans being considered by Mayor Daley and Governor Ryan. They are listed below along with some other comments.

1. The Daley and Ryan plans both have a set of east/west parallel runways directly north of the terminal and in close proximity to one another. Because of their proximity to each other (1200′) they cannot be used simultaneously for arrivals. They can only be used simultaneously if one is used for departures and the other is used for arrivals, but only during VFR (visual flight rules), or good weather conditions. During IFR (instrument flight rules, ceiling below 1000′ and visibility less than 3 miles) these runways cannot be used simultaneously at all. They basically must be operated as one runway for safety reasons. The same is true for the set of parallels directly south of the terminal; they too are only 1200′ apart.

2. Both sets of parallel runways closest to the terminals (the ones referred to above) are all a minimum of 10,000′ long. This creates a runway incursion problem, which is a very serious safety issue. Because of their length and position, all aircraft that land or depart O'Hare would be required to taxi across either one, or in some cases two runways to get to and from the terminal. This design flaw exists in both the Daley and the Ryan plan. A runway incursion is when an aircraft accidentally crosses a runway when another aircraft is landing or departing. They are caused by either a mistake or misunderstanding by the pilot or controller. Runway incursions have skyrocketed over the past few years and are on the NTSB's most wanted list of safety issues that need to be addressed. Parallel runway layouts create the potential for runway incursions; in fact the FAA publishes a pamphlet for airport designers and planners that urge them to avoid parallel runway layouts that force taxiing aircraft to cross active runways. Los Angeles International Airport has led the nation in runway incursions for several years. A large part of their incursion problem is the parallel runway layout; aircraft must taxi across runways to get to and from the terminals.

3. The major difference in Governor Ryan's counter proposal is the elimination of the southern most runway. If this runway were eliminated the capacity of the new airport would be less than we have now during certain conditions (estimated at about 40 percent of the time). If you look at Mayor Daley's plan, it calls for six parallel east-west runways and two parallel northeast-southwest runways. The northeast-southwest parallels are left over from the current O'Hare layout. These two runways simply won't be usable in day-to-day operations because of the location of them (they are wedged in between, or pointed at the other parallels). We would not use these runways except when the wind was very strong (35 knots or above) which we estimate would be less than 1 percent of the time. That leaves the six east/west parallels for use in normal day-to-day operations. This is the same number of runways available and used at O'Hare today. If you remove the southern runway (Governor Ryan's counter proposal), you are leaving us five runways which is one less than we have now. That means less capacity than today's O'Hare during certain weather conditions. With good weather, you may get about the same capacity we have now. If this is the case, then why build it?

4. The Daley-Ryan plans call for the removal of the NW/SE parallels (Runways 32L and 32R). This is a concern because during the winter it is common to have strong winds out of the northwest with snow, cold temperatures and icy conditions. During these times, it is critical to have runways that point as close as possible into the wind. Headwinds mean slower landing speeds for aircraft, and they allow for the airplane to decelerate quicker after landing which is important when landing on an icy runway. Landing into headwinds makes it much easier for the pilot to control the aircraft as well. Without these runways, pilots would have to land on icy conditions during strong cross-wind conditions. This is a possible safety issue.

These are the four major concerns we have with the Daley-Ryan runway plans. There are many more minor issues that must be addressed. Amongst them are taxiway layouts, clear zones (areas off the ends of each runway required to be clear of obstructions, ILS critical areas (similar to clear zones, but for navigation purposes), airspace issues (how arrivals and departures will be funneled into these runways) and all sorts of other procedural type issues. These kinds of things all have to go through various parts of the FAA (flight standards, airport certification etc.) eventually. These groups should have been involved with the planning portion from day one. Air traffic controllers at the tower are well versed on what works well with the current airport and what does not. We can provide the best advice on what needs to be accomplished to increase capacity while maintaining safety. It is truly amazing that these groups were not consulted in the planning of a new O'Hare. The current Daley—Ryan runway plans, if built as publicized, will do little for capacity and/or will create serious safety issues. This simply cannot happen. The fear is that the airport will be built, without our input, and then handed to us with expectations that we find a way to make it work. When it doesn't, the federal government (the FAA and the controllers) will be blamed for safety and delay problems.

Sincerely,

CRAIG BURZYCH,
Facility Representative, NATCA—O'Hare Tower.

Mr. FITZGERALD. Mr. President, this letter raises several concerns. I have to say that Mr. Burzych and the local chapter of air traffic controllers support expanding O'Hare. They have made that very clear. I certainly know they want an expanded, modernized O'Hare. There may be some need to modernize O'Hare. I am not disputing that. I am just saying we shouldn't be enacting a runway design plan into law.

In his letter, Mr. Burzych told me he had some concerns about what he knew of Chicago's O'Hare expansion plan. He said:

The Daley and Ryan plans both have a set of east/west parallel runways directly north of the terminal and in close proximity to one another.

That is the set of east/west runways in close proximity to one another that are just north of the terminal.

Because of their proximity to each other (1200′)—

According to Mr. Burzych; I thought it was 1,300 feet—

they cannot be used simultaneously for arrivals.

The idea that we would have parallel runways—I know the intent of the mayor of Chicago is to expand the capacity at O'Hare, but this raises the question. The idea of the city was they could have simultaneous takeoff and landing and they would get more capacity out of these six active runways than they get out of their current configuration, which has six active runways as well, but they converge. There are three sets of parallel runways running east-west, northwest-southeast, and northeast-southwest. There are six active and one unused runway now at O'Hare.

The idea has been that by tearing up and rebuilding these runways at O'Hare, we get with this configuration about the same number of runways—actually eight, one runway more than we have now—but there would be greater capacity.

It appears to me that the whole premise of this expansion program is in question because as this air traffic controller, certainly an expert in the field, said, because of their proximity to each other, they cannot be used simultaneously for arrivals. They can only be used simultaneously as one is used for departures and the other is used for arrivals, but only during VFR, visual flight rules, or good weather conditions. During IFR, instrument flight rules—ceilings below 1,000 feet and visibility less than 3 miles—these runways cannot be used simultaneously; they basically must be operated as one parallel runway for safety reasons. The same is true for the set of parallels directly south of the terminal. They, too, are only 1,200 feet apart.

This shows why enacting into law a $13 billion plan at 9 o'clock on a Friday night as part of the Defense appropriations bill, which has nothing to do with the subject of aviation—enacting this plan into Federal law with the intention of increasing capacity at O'Hare, that whole premise may be wrong. Maybe it is not wrong, but we don't know. There is no study. There is no basis in the record. There is no record whatsoever, no FAA model, and not a shred of any evidence that this backroom deal will in fact accomplish what they are hoping to accomplish.

Then, if you go on to point No. 2 of this letter, both sets of parallel runways closest to the terminals—the ones referred to above—are all a minimum of 10,000 feet long. This creates a runway incursion problem, which is a very serious safety issue. Because of their length and position, all aircraft that land or depart O'Hare would be required to taxi across either one or, in some cases, two runways to get to and from a terminal. Design flaw exists in both the Daley and the Ryan plan. A runway incursion is when an aircraft accidentally crosses the runway when another aircraft is landing or departing. They are caused by either a mistake or misunderstanding by the pilot or controller. Runway incursions have skyrocketed over the past few years and are on the National Transportation Safety Board's most-wanted list of safety issues that need to be addressed.

> Parallel runway layouts create the potential for runway incursions; in fact the FAA publishes a pamphlet for airport designers. . . .

That is the pamphlet I referred to earlier. The pamphlet is entitled: "Improving Runway Safety Through Airfield Configuration." It mentions the problems that you can have with closely spaced parallel runways, which I suggest these are. There are serious safety issues here.

> Los Angeles International Airport has led the nation in runway incursions for several years. A large part of their incursion problem is the parallel runway layout; aircraft must taxi across runways to get to and from the terminals.

That is the problem. If a plane is landing or taking off here, it has to first come out of the gate over here. And to get from the gate over here, down to this runway to take off, it has to go through at least two other runways, perhaps three. Each time it goes through one of those other runways, there is the potential for an incursion.

I noted earlier that the current O'Hare Airport has, I think, according to the State of Illinois, 25 so-called taxiway runway crossings. This new plan would greatly increase that number, making it much harder for air traffic controllers. I believe, on the basis of the information available to me, that would go from 25 taxiway runway crossings that they have currently at O'Hare up to 43 under the Daley plan. We would be nearly doubling the potential for runway incursions just on the basis of how many new crossings we would have.

I want to be clear, Mr. Burzych and air traffic controllers at O'Hare do favor expanding at O'Hare. Maybe they are right and I am wrong. But I do believe they were not consulted in this backroom deal. This backroom deal that we are being asked to codify in Federal law involved two people, and that was it. They did not have air traffic controllers and pilots involved in that deal. We do not even know the details of that deal that we are being asked to codify in Federal law. But there were other issues that he raised in his letter to me dated November 30:

> The major difference in Governor Ryan's counter proposal is the elimination of the southern most runway.

The Governor had originally proposed eliminating that runway because it involves the condemnation of 500 homes and businesses in the city of Bensenville. He later gave in to the mayor and granted him that sixth runway. The letter reads:

> If this runway were eliminated, the capacity of the new airport would be less than we now have during certain conditions (estimated at about 40 percent of the time).

So what he is saying is that this plan, until that runway is in place, under certain conditions, would have less capacity about 40 percent of the time at O'Hare. We would spend $13 billion for less capacity at O'Hare—at least until 2011—at least 40 percent of the time.

That is another reason this is not good government, to try to stick placeholder language in the Defense appropriations bill while our country is at war in Afghanistan and we need the Defense appropriations bill. That is why we should not be acting as an aviation commission for the State of Illinois.

The letter goes on:

> If you look at Mayor Daley's plan, it calls for six parallel east-west runways and two parallel northeast-southwest runways. The northeast-southwest parallels are left over from the current O'Hare layout.

Let me read that again.

> If you look at Mayor Daley's plan, it calls for six parallel east-west runways and two parallel northeast-southwest runways.

So we have six parallel east-west runways; these are the northeast-southwest parallels, these two runways.

> The northeast-southwest parallels are left over from the current O'Hare layout.

This, again, is the current O'Hare layout. These two runways would be preserved in this new plan of the city of Chicago.

> These two runways simply won't be usable in day-to-day operations because of the location of them (they are wedged in between, or pointed at the other parallels). We would not use these runways except when the wind was very strong (35 knots or above) which we estimate would be less than 1 percent of the time.

So they leave these runways. Fortunately, I guess, there is not much expense in leaving these runways. All these other runways would be torn up from the existing O'Hare Airport. Other runways would be torn up and moved. In some cases you would be paying nearly $1 billion to dig up a runway and move it a few hundred feet north or south.

Mr. McCAIN. Will the Senator yield for a question?

Mr. FITZGERALD. Yes.

Mr. McCAIN. How long has the Senator from Illinois been involved in this particular issue?

Mr. FITZGERALD. At least dating back to 1992.

Mr. McCAIN. In 1992. Was that when the Senator was a member of the State legislature?

Mr. FITZGERALD. When I first got elected as an Illinois State senator.

Mr. McCAIN. May I ask, just since the Senator is well versed on this issue, was there a debate on this during the course of his campaign for the Senate?

Mr. FITZGERALD. Absolutely. This was an issue when I was in the State senate in every election. Right prior to my going into the State senate, the city of Chicago at that time did not propose expanding O'Hare. They proposed a third airport in the south part of Chicago in the Lake Calumet area. Mayor Daley supported building a third airport at that time, but the Illinois General Assembly did not approve that plan because they favored the site in Peotone.

Since that time, because this third airport would not be within his political jurisdiction, Mayor Daley has fought the south suburban airport and worked toward just expanding O'Hare. That way, in my judgment, it would keep all aviation within the city limits of the city of Chicago.

Mr. McCAIN. Well, is it true that there was a list of proposed airports and airport expansion that had been formulated by the Department of Transportation, and then this proposed Peotone Airport disappeared from that list? Is that correct? Can you illuminate us on what happened there?

Mr. FITZGERALD. Yes. What happened there was that Governor Edgar, who was Governor in the late 1980s and early 1990s, was moving forward with this south suburban airport. When President Clinton took office, at the request of the mayor, the FAA removed the south suburban airport from the so-called NPIAS list, the National Plan for Integrated Airport Systems, for airport improvements. Otherwise, we might have that airport now.

The Chicago airport capacity study of 1986 to 1988 had said we needed the south suburban airport by the year 2000. The city of Chicago blocked that by calling President Clinton and asking him to remove the Peotone project because it was not within the political jurisdiction of the city of Chicago from that planning list.

Aviation capacity around the country and in Chicago would be far greater today if we had that airport up and running. We would not be having this discussion. So this has, indeed, been going on a very long time. I believe, as Governor Edgar did believe, and as did Governor Thompson before him, that we ought to go forward and build that south suburban airport. It is a major issue for Congressman JACKSON.

It is interesting, as a Senator for our whole State, I do not think it is in our interest to concentrate all our economic development within one 7,000-acre spot at O'Hare. I have 2.5 million people who live in the south suburbs of Illinois who have to drive 3, 3½ hours to get up to O'Hare to wait in line because it is too congested.

I would like to, in addition to bringing more aviation capacity, have some economic development in other parts of the State of Illinois besides 7,000 acres at O'Hare. I understand the city would like to retain jurisdiction over all economic activity in the State of Illinois, but I don't think it is in the interest of my State. I have been working very hard with Congressman JACKSON to, in fact, bring some economic development to areas outside there.

Incidentally, in the northwest suburbs where this is located, they have what they would term too much development. There is so much traffic and congestion that it is difficult to get into O'Hare. If you were to double the number of people going into O'Hare Airport, in my judgment—right now it takes so long to get into O'Hare Airport because these traffic arteries, the northwest tollway, I–90, the Kennedy Expressway, are jammed at all hours of the day practically every day of the week with people going into O'Hare—if we expand O'Hare Airport, already the busiest airport in the country for a long time, by far the busiest airport in the world, we are going to make it almost twice as big.

I don't know where the State of Illinois will get the money to double the size of the roadways going in there because you can't get in there now. There is no possible way that it will be feasible to funnel all the people who would be going into O'Hare under this plan put forward by the city of Chicago.

Mr. MCCAIN. If the Senator will yield for a couple more questions, perhaps you can explain the importance of this NPIAS list. Many of our colleagues who are not on the committee would like to know the significance of that list and whether you have ever heard of an airport project being taken off a list of that importance. And my additional question is, since it seems that one of the arguments against the Durbin amendment that the Senator from Illinois has is that this is being done in a fairly precipitous fashion, has the Illinois State legislature had any input into this? Have they made an agreement? Is there opposition? Is there support?

Also, what is the situation with our friends on the other side of the Capitol in the other body? I think all of our colleagues should know, as the Senator from Texas earlier described—and you did—that this is really the so-called placeholder that will allow in conference, basically, a mandate to start funding a multibillion-dollar project. Although it is wonderful that the mayor and the Governor have been in agreement—and I think that is a remarkable step forward; all of us applaud it—aren't there other significant players here, not only in the State legislature but our colleagues from the other side of the Capitol as well?

My other question is, why would there be a reason for such haste to put something such as this on a Defense appropriations bill?

Mr. FITZGERALD. The Senator brings up many good points. One, you don't have the benefit of the language that they are going to try and put into a conference committee report. I do have a copy. And I have to say, Senator DURBIN was very straightforward in sharing it with me. But for all the other Members of this body, it is phantom language, so-called placeholder language that would be used later to create an opening in parliamentary rules to slip in the real deal, the real backroom deal between George Ryan and Mayor Daley.

The point you made is, that deal has not been shared with you. You have gotten no specifics from Mayor Daley or Governor Ryan.

Interestingly, it is not the Governor who actually has the authority by himself to just decree that a runway plan be done in Illinois under State law. There is, in fact, a permitting process. There are hearings, and these plans are subjected to an adversary proceeding. There is opportunity for controllers and pilots and other interested parties to come and testify. There is a whole permitting process.

We are being asked, in codifying the backroom deal made by two people, just 48 hours ago, to preempt the Illinois Aeronautics Act. We are being asked to do what the Illinois State Senate should be doing. They can take a look at the Illinois Aeronautics Act. I had 6 years in the State Senate. I didn't think when I got to Washington I would be put in the position of debating the sorts of issues they debate in the Illinois State Senate.

The NPIAS list is the national plan for integrated airport improvements around the country. Many airports, most of your small local airports, are on the NPIAS list, and that makes them eligible for grants from the airport improvement fund, the AIP fund. It was a very momentous step when the FAA put the south suburban airport on the NPIAS list about 10 years ago. That plan was moving forward. The State of Illinois Department of Transportation, with the strong backing of local officials and the State, was going forward with the south suburban airport.

The State legislature had rejected plans for an airport in a different location that Mayor Daley had favored. So Peotone was on the NPIAS list. It was eligible for Federal funding, and after it had gone through the planning process, I believe that it would have gotten Federal funding.

But when President Clinton took office, that created an opportunity. The mayor of Chicago obviously was good friends with the President, and they were able to prevail upon the FAA at that time to simply remove Peotone from the NPIAS list and take it off. I think it was probably the only airport, of the 3,000 airports around the country, that has ever been taken off. At that time the FAA said: Well, there wasn't local consensus. So they did not know whether they wanted to go forward. There was local consensus among some, but Mayor Daley, the mayor of the city of Chicago, opposed it.

I have to tell you, there is no local consensus on this plan, this backroom deal, this $13 billion deal that will take money from your States and put it into a plan in my State that I oppose. I oppose it. The State legislature has never supported this deal.

The reason they are coming to you is because they can't get the approval of the State legislature. They didn't even try. You are being asked at 9 o'clock at night, while our country is at war in Afghanistan, on a Defense appropriations bill, to debate this transportation issue. Clearly, I do not think this is the appropriate forum.

I don't think it should be before the Federal Government at all. I think if the mayor wants that plan at O'Hare, he ought to submit a plan to the FAA. He has never even done that.

I applaud many of the things the mayor of the city of Chicago has done. It is a wonderful city. O'Hare is a wonderful airport. It is a great airport.

I want to make it clear, it will have to be modernized sometime. There is a problem that bigger jets can't taxi around at O'Hare. The Boeing 747–400, for example, is so wide that other planes have to get off taxiways when it is taxying around. I think we need to modernize O'Hare. I will be supportive of that. I think a $13 billion project to tear up and rebuild O'Hare is wasteful, however, of the funds that would be applied.

The bottom line is, there may be good arguments, and there are good arguments on both sides of this issue. But they should be presented to the FAA and the State's panel on aviation. The interesting thing is—the Senator from Arizona would be interested in this—we are preempting here the Illinois Aeronautics Act which, in fact, is the act that grants the city of Chicago the right to run an airport. The city of Chicago doesn't have a right, except one deriving from the State government, the Illinois Aeronautics Act, to even operate an airport. We would be asked to obliterate——

Mr. REID. Mr. President, will the Senator yield?

Mr. FITZGERALD. Senator, I wish to go on. I will yield at the end of the evening.

Mr. MCCAIN. The Senator from Illinois has the floor. I ask for the regular order.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. MCCAIN. Will the Senator yield for a further question?

Mr. FITZGERALD. Yes, from the Senator from Arizona.

Mr. McCAIN. I would ask the Senator if it is not true that there is no legislative approval. The legislature has not been consulted. You were not consulted on this, as I understand it. I am asking if that is true. The congressional delegation was not consulted and the local people have not been consulted. Is it true that only in the last 48 hours this agreement was made, and in only 48 hours we are expected, without a hearing, without any consultation or advice or information provided to the Committee on Commerce, Science, and Transportation, we are taking on this appropriations bill an issue that entails billions of dollars of Illinois taxpayers' money and billions of dollars of national taxpayers' money? Is it true we are going to try to push this through in order that it can be done on a Defense appropriations bill, I ask my colleague?

Mr. FITZGERALD. The Senator from Arizona is exactly right. We have never been shown any details of this plan. No Member of this body has been shown details of this plan. Senator DURBIN may have some details of which I am not aware. I have not been shown any details. It is a backroom agreement that was reached at about 9 or 10 o'clock in the evening two nights ago, Wednesday night.

Maybe the rush to pass this is because they do not want anybody to know the deals and know the details. Perhaps there is a problem with the details. I think we ought to be very reluctant to codify into Federal law a plan obligating the Federal Government to unspecified expenditures of money in the future without knowing the details when there are questions of safety and when we do not have the expertise in this body to do this. None of us has a background in airport engineering.

Mr. REID. Mr. President, I ask the Senator from Illinois to yield to the Senator from Nevada for a question without his losing the floor.

The PRESIDING OFFICER. Will the Senator yield?

Mr. FITZGERALD. I yield.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask my friend from Illinois, we have been talking now for quite a few hours—I should say you have been talking. I am wondering if my friend can advise me and the rest of the Senate if he is going to take some more time tonight.

Mr. FITZGERALD. Yes.

Mr. REID. Will the Senator allow me to ask another question through the Chair? I walked by his desk a few times and saw he has a lot of speaking material. It appears the Senator is going to be speaking for an extended period of time; is that a fair statement?

Mr. FITZGERALD. Yes, I have many more charts.

(Laughter.)

Mr. REID. I say to my friend from Illinois, it is 10 after 9, and as the Senator knows, we are trying to complete this most important Defense bill. The fact is, the Senator from Illinois has several more hours of speaking; is that right, if that is necessary?

Mr. FITZGERALD. If necessary.

Mr. REID. I appreciate the Senator yielding. I was just trying to gauge whether or not the Senator was getting tired yet.

(Laughter.)

Mr. FITZGERALD. I am doing OK. Thank you.

Mr. BYRD. Mr. President, will the distinguished Senator yield without losing his right to the floor?

Mr. FITZGERALD. Yes, I yield for a question.

Mr. BYRD. Mr. President, will the distinguished Senator yield to this Senator to call up the package that Senator STEVENS, Senator INOUYE, and I have been working on, and present it to the Senate and perhaps have a vote up or down, with the understanding that upon the conclusion of that action, the Senator from Illinois would regain the floor?

Mr. FITZGERALD. I thank the Senator. I have the greatest respect for the Senator from West Virginia. I respect him as much as any of my colleagues, but I must respectfully decline that request. I have to say, as the Senator from West Virginia will recall, when I first came to the Senate, I read his book on the history of the Roman Republic. On my first opportunity to be back in the Illinois State senate and appear before them, I gave as a gift to every State Senator in Illinois a copy of your book.

Mr. BYRD. You did?

Mr. FITZGERALD. I gave them the Senator's admonition that the Senate should never yield too much power to the executive, and that was the decline of the ancient Roman Republic.

Mr. BYRD. I hope the Senator will keep that rule in mind. Let's not give too much power to the executive. If we could present our amendment, let Senators vote on the amendment——

Mr. FITZGERALD. I am afraid——

Mr. REID. Mr. President, will the Senator yield for another question?

The PRESIDING OFFICER. Without losing his right to the floor.

Mr. FITZGERALD. I yield for a question only.

Mr. REID. Will the Senator from Illinois, without losing his right to the floor, yield to his colleague from Illinois for 10 minutes?

Mr. FITZGERALD. No, I am not in a position to do that. I will yield temporarily to the Senator from Illinois with the understanding that when he completes his 10 minutes, automatically the floor reverts to me.

The PRESIDING OFFICER. Is there objection?

Without objection, the Senator from Illinois is yielding time to his colleague from Illinois without losing his right to the floor.

AMENDMENT NO. 2343, WITHDRAWN

Mr. DURBIN. I thank the Chair. Mr. President, I thank my colleagues from Illinois and Nevada for this opportunity.

When we were preparing for this debate, it was very important to me we keep it in the context of the bill that was being amended. I cannot think of more important legislation facing our Nation than the passage of the Defense appropriations bill at a time when America is at war.

Before I prepared the amendment which is before the Senate, I received assurances that we would not face a filibuster. I received assurances that we would not face what we have seen this evening. I was told there would be an up-or-down vote, and I was prepared to accept the outcome of that vote. Something has changed. As a result of that change, the Senate has been here for 3 hours. The most important appropriations bill we can consider has been stalled and slowed down.

I feel very strongly about this issue, but I also feel very strongly about our responsibility in the Senate. I am prepared to save this battle for another day because I do not want to diminish the ability of this Nation in its war against terrorism or diminish in any way the resources available to the men and women in uniform. I do not know when that day will come. I hope it will be soon for the sake of my State that we will consider this important legislation for our airport, for our aviation needs in our State.

I express my apologies to the Senate. I never believed for a moment that we would face a filibuster over this. In fact, I received assurances otherwise. That is not the case. I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn. The Senator from Illinois still has the floor.

Mr. FITZGERALD. Mr. President, I thank my colleague from Illinois for withdrawing the amendment. I say to him that I do not think I made clear exactly how I would respond. I did say that I was willing to take an up-or-down vote, and perhaps we may yet have an up-or-down vote on this issue before the Senate. I do not believe I made those representations.

I do appreciate my friendship with Senator DURBIN. I hope there are not many more issues that we disagree with amongst ourselves with respect to our State.

In many cases, we have been able to have a great impact for the people of Illinois, and we will continue to do that. We have a difference of opinion on this issue. It has been tough for both of us because normally we work together and do not have differences of opinions on major issues such as this. So I appreciate Senator DURBIN's withdrawal of the amendment, and I look forward to continuing to work with him on this and other issues in the Senate.

I do think it was important for the Nation and the Senate to be educated on this issue because aviation in the heartland does affect all of us, and Senator DURBIN is certainly right on that. I believe this was a very important discussion, both for the citizens of Illinois and also for the citizens around the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, Senator STEVENS, Senator INOUYE, and I have worked during the afternoon with our staffs to bring to the Senate an amendment which would provide for the carrying out of the purposes that I announced earlier when I presented the amendment which was brought down by the failure of the Senate to waive a point of order.

We have drawn up an amendment which stays within the $40 billion which was voted by Congress 3 days after the attack.

A point of order was made against the amendment I had offered. I sought to waive the point of order, and it was the Senate's judgment the motion to waive not be adopted. Consequently, what is left before the Senate now is the House bill. So in an effort to move ahead with something for homeland security and in the attempt to at least try to do something on all three of our original purposes—namely, fund adequately defense appropriations, live up to our agreement to New York as much as we can under the circumstances, and to provide a homeland defense bill, which while not going as far as we had earlier hoped, at least does something for the cities and rural areas of this country—Senator STEVENS, Senator INOUYE, and I are proposing the following amendment. It is the Byrd/Stevens/Inouye amendment to Defense appropriations.

We are living within the $40 billion structure we have already voted on several weeks ago. The amendment allocates $20 billion. It was according to the law we passed that the Appropriations Committee would pass upon the final $20 billion of that $40 billion, and this is the final bill. We are attempting to follow the law in that respect and provide in this bill how that money should be allocated.

The amendment allocates $20 billion as follows: Defense, $2 billion; New York, New Jersey, the District of Columbia, Maryland, and Virginia, all coming under the rubric of New York as a designation, $9.5 billion; homeland defense, $8.5 billion.

When combined with the $20 billion allocated by the President, the amendment results in the following allocation of the $40 billion approved: Homeland defense, $10.1 billion; foreign aid allocated by the President, $1.5 billion.

Highlights of the $20 billion are these: New York and other communities directly impacted by the September 11 attacks, $9.5 billion, and the examples follow. FEMA disaster relief, which funds debris removal at the World Trade Center site, repair of public infrastructure such as the damaged subway, the damaged PATH commuter train, all government offices, and provides assistance to individuals for housing, burial expenses, and relocation assistance, receives $5.82 billion.

Secondly, community development block grants, $2 billion to help New York restore its economy; Amtrak security, $100 million for security in Amtrak tunnels; mass transit security, funding of $100 million for improving security in the New York and New Jersey subways; New York-New Jersey ferry improvements, $100 million; hospital reimbursement, $140 million to reimburse the hospitals in New York that provided critical care on September 11, and the weeks and months that followed.

Workers compensation job training, $175 million that would help New York to process workers compensation claims for the victims of the September 11 attacks. Fifty-eight million dollars is provided for job training, environmental health, and other programs; Federal facilities, $200 million for the costs of keeping Federal agencies operating that were in the World Trade Center, such as the Social Security Administration, the Occupational Safety and Health Administration, the Pension and Welfare Benefits Administration, the Commodity Futures and Trading Commission, the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Securities and Exchange Commission, the EEOC, the General Services Administration, and the National Labor Relations Board.

Emergency highway repairs, $85 million for damaged roads in New York City; mental health services for children, $10 million that would help New York schools to provide mental health services to the children of the victims of the World Trade Center bombing; law enforcement reimbursement, $220 million for New Jersey, Maryland, and Virginia to reimburse for the costs of law enforcement and fire personnel for costs incurred on September 11 and the weeks that followed; $68 million to provide for the crime victims fund; District of Columbia, $200 million for the District and for Washington Metro for improved security; small business disaster loans, $150 million; national monument security, $86 million for improved security at national parks and monuments such as the Statue of Liberty, the Washington Monument, the Smithsonian, Kennedy Center, and other facilities. For the Department of Defense, $2 billion including funding to repair the Pentagon; bioterrorism/food safety, $3.1 billion, including $525 million for food security; provides $1.1 billion for upgrading our State and local public health and hospital infrastructure.

Recent events have made it clear our State and local public health departments have been allowed to deteriorate.

The head of the CDC testified only last week that at least $1 billion is needed immediately to begin to upgrade our State and local health departments. Our package would provide $165 million for the CDC capacity improvements. It would provide $205 million for security improvements and research at the CDC and the NIH. It would provide $593 million for the national pharmaceutical stockpile. It would provide $512 million to contracts for smallpox vaccine to protect all Americans. The USDA Office of the Secretary would receive $81 million for enhanced facility security and operational security at USDA locations. The Agriculture Research Service would receive $70 million for enhanced facility security and for research in the areas of food safety and bioterrorism. The Agriculture Research Service buildings and facilities would receive $73 million for facility enhancement at Plum Island, NY, and Ames, IA, which includes funding necessary to complete construction on a biocontainment facility at the National Animal Disease Laboratory at Ames, IA.

The Cooperative State Research, Education and Extension Service would receive $50 million for enhanced facility security at land grant university research locations and for research into areas of food safety and bioterrorism. The Animal and Plant Health Inspection Service buildings and facilities would receive $109 million for enhanced facility security, for support of border inspections, for pest detection activities, and for other areas related to biosecurity and for relocation of the facility at the National Animal Disease Laboratory.

Next is $15 million provided to the Food Safety Inspection Service for enhanced operational security and for implementation of the food safety bioterrorism protection program; $127 million would be provided to the Food and Drug Administration for food safety and counterbioterrorism, including support of additional food security inspections, expedited review of drugs, vaccines and diagnostic tests, and for enhanced physical and operational security.

As to State and local law enforcement, the amendment would provide $400 million. The amendment would also provide $290 million for FEMA firefighters to improve State and local government capacity to respond to terrorist attacks.

The amendment would provide $600 million to the Postal Service to provide equipment to cope with biological and chemical threats such as anthrax.

For Federal Antiterrorism Law Enforcement, the amendment would provide $1.7 billion to be used as follows: $614 million for the FBI; $61 million for U.S. Marshals; $100 million for cybersecurity; $23 million for the Federal Law Enforcement Training Center for training new law enforcement personnel; $21 million for the Bureau of Alcohol, Tobacco and Firearms; $124 million for overtime and expanded aviation and border support for the Customs Service; $73 million for the Secret Service; $273 million for increased Coast Guard surveillance; $95 million for Federal courts security; $84 million for Justice Department legal activity; $68 million for the crime victims fund; $83 million for EPA for anthrax cleanup costs and drinking water vulnerability assessments; $38 million for EPA for bioterrorism response teams and EPA laboratory security; $20 million for the FEMA Office of National Preparedness.

Now, for the airport transit security, there would be $530 million, including $200 million for airport improvement grants; $251 million for FAA operations for cockpit security; $50 million for FAA research to expedite deployment of new aviation security technology; $23 million for transit security; $6 million for transportation security.

Now, as to port security improvements, there will be $50 million which would be broken down as follows: Coast Guard, $12 million; Maritime Administration, $23 million; and Customs, $15 million.

Finally, for nuclear powerplant, lab, Federal facility improvements, there would be $775 million. There would be $140 million for energy for enhanced security at U.S. nuclear weapons plants and laboratories. There would be $139 million for the Corps of Engineers to provide enhanced security at 300 critical dams, drinking water reservoirs and navigation facilities; $30 million for the Bureau of Reclamation for similar purposes; $36 million for Nuclear Regulatory Commission to enhance security at commercial nuclear reactors; $50 million for security at the White House; $31 million for GSA and the Archives to improve Federal building security; $93 million for NASA for security upgrades at the Kennedy, Johnson, and other space centers; $256 million for improved security for the legislative branch.

For nuclear nonproliferation, there would be $226 million for the safeguarding and acquisition of Russian and former Soviet Union fissile nuclear materials and to help transition and retrain Russian nuclear scientists.

Finally, for border security, there would be $709 million of which $160 million would be for Customs for increased inspectors on the border and for the construction of border facilities and there would be $549 million for the Immigration and Naturalization Service.

These are the breakdowns of the moneys that would be included in this amendment if agreed to by the Senate. At some point I will ask unanimous consent that the substitute be agreed to and considered as original text for the purpose of further amendment, and that no points of order be waived.

I yield the floor.

Mr. STEVENS. The Senator has not made that unanimous consent request yet, but I do believe I will support that unanimous consent request. I want the Senate to know that the Senator and Senator INOUYE and I have conferred about the allocation of $20 billion, and while I regret we reduced defense in this allocation to $20 billion, I point out to the Senate that this year we have provided $317 billion in the Defense bill in section (a) of this substitute. We have added the $15.3 billion here in this allocation of the moneys from the $15.7 from the $40 billion. There has been a total of over a $42 billion increase in defense spending from the beginning of this year to now. I do believe there is sufficient money to carry us through until the President may make a request.

Again, I point out to the Senate that the law we passed on September 18 does require the President shall submit to the Congress as soon as practical detailed requests to meet any further funding requirements for the purposes specified in this act.

I also call the Senate's attention once more, there were five purposes outlined in the act: First, providing State, Federal-State, and local preparedness for mitigating and responding to the attacks; second, providing support to counterinvestigate and prosecute international terrorism; third, providing increased transportation security; fourth, repairing public facilities and transportation systems damaged by attacks; and five, supporting national security.

All these funds may be delivered for any authorized Government activity to meet those purposes.

This presentation tonight by Senator BYRD meets those requirements. All of the money is transferred to a Federal system under an authorized program, and all are within the five stated purposes that the Congress used in providing the $40 billion in September.

We all differ some in terms of our priorities. In the final analysis, the priorities for this $20 billion will be decided in conference. I have assured Senator BYRD that I will cosponsor this substitute and fight for its approval in the conference. I fully expect there will be some changes in the conference with the House in terms of the allocation of this money. I am confident we will be hearing from the administration in the meantime.

I take the floor to urge the Senate to approve the amendment and to allow the Senator's request to be granted. He has, in fact, now offered and asked for a unanimous consent, but we jointly are offering this as original text to replace the Senate substitute that was reported from the appropriations committee. It will be open to further amendment, as I understand, on all parts of the bill.

It is my hope that we would close their section B soon, because I think this allocation, as I said, will primarily absolutely be done in the final analysis insofar as the $20 billion in conference. And we could argue here all night about where the money would go.

We met the President's request to limit that amount to $20 billion. I think that is where we should stop.

I yield the floor.

Does the Senator from West Virginia wish to renew his request?

AMENDMENT NO. 2348

Mr. BYRD. Mr. President, if the Senator will yield to me for that purpose, I ask unanimous consent that the substitute be agreed to, that it be considered as original text for the purpose of further amendment, and that no points of order be waived.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD], for himself, Mr. INOUYE, and Mr. STEVENS proposes an amendment numbered 2348.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

The amendment (No. 2348) was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I raise a point of order that section 8132 of the pending amendment constitutes legislation on appropriations and violates rule XVI of the standing rules of the Senate.

Mr. INOUYE. Mr. President, may I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I wonder if we might be able to temporarily lay aside this point of order so the Senate could proceed with an amendment by Mr. FEINGOLD, have the debate on that, and then return to the point of order by Mr. GRAMM.

Mr. STEVENS. Could we get a time agreement on that amendment?

Mr. BYRD. Could we get a time agreement?

Mr. FEINGOLD. Sure.

Mr. McCAIN. I reserve the right to object. I do believe we have an agreement on a proposal by Senator GRAMM. I would like to dispense with that if the Senator from Alaska is ready and the Senator from West Virginia is ready to do that.

Mr. REID. If the Senator from Arizona will yield, or whoever has the floor will yield briefly, we are waiting for another Senator to come to the Chamber.

Mr. McCAIN. I remove my objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President. And I certainly thank the Senator from West Virginia.

AMENDMENT NO. 2349

Mr. President, I send an amendment to the desk.

Mr. REID. Will the Senator from Wisconsin answer a question?

Mr. FEINGOLD. The Senator yields for a question.

Mr. REID. The Senator from Alaska asked if the Senator from Wisconsin would agree to a time limit.

Mr. FEINGOLD. I agree to a 10-minute limit.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I would just say, of course, that all points of order and stuff would still be available.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. BAUCUS, and Mr. HELMS, proposes an amendment numbered 2349.

Mr. FEINGOLD. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2002)

At the appropriate place in the bill insert the following sections:

SEC. . COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2002.

Mr. FEINGOLD. Mr. President, my amendment is very straightforward. It would eliminate the $4,900 pay raise scheduled to go into effect in just a few weeks for Members of Congress. And I am very pleased to be joined in this effort by the senior Senator from Montana, Mr. BAUCUS, and the senior Senator from North Carolina, Mr. HELMS. Our economy is in a recession and hundreds of thousands of workers have been laid off. Many families face enormous financial pressures.

Shortly, we will debate how best to address this problem, and central for me in that debate is how to produce a short-term economic boost without undermining our long-term economic and budget position. The budget surpluses that were projected last spring have proved to be as illusory as many of us feared. The supplemental spending passed in the spring, along with the irresponsible tax cut passed this summer left us on the brink. The economic slowdown pushed us over the edge. So, when it came time to respond to the horrific events of September 11, we were forced to return to deficit spending.

We have spent all of the on-budget surplus, and are well into the surplus that represents Social Security Trust Fund balances. That is something that has only been done to meet the most critical national prorities. A $4,900 pay raise for Members is not a critical national priority.

As I said when I last brought this amendment to the floor, I think the idea of an automatic congressional pay raise is never appropriate. It is an unusual thing to have the power to raise our own pay. Few people have that ability. Most of our constitutents do not have that power. And that this power is so unusual is good reason for the Congress to exercise that power openly, and to exercise it subject to regular procedures that include debate, amendment, and a vote on the RECORD.

As I noted during the debate of the Foreign Operations Appropriations measure, a number of my colleagues have approached me about this pay raise in the past few weeks, and some have indicated they support the pay raise. In fact, one of my colleagues said they would offer an amendment that actually increased the scheduled $4,900 pay raise because they felt it was too low. I strongly disagree with that position, but I certainly respect those who hold that position. But whatever one's position on the pay raise, I do think, the Senate ought to be on record on the matter if it is to go into effect.

The current pay raise system allows a pay raise without any recorded vote. Even those who support a pay raise should be willing to insist that Members go on record on this issue. I think this process of stealth pay raises has to end, and I have introduced legislation to stop this practice. But the amendment I offer today does not go that far. All it does is simply stop the $4,900 pay raise that is scheduled to go into effect in January.

When I offered this amendment to the Foreign Operations appropriations bill several weeks ago, a point of order was raised against it as not being germane to that bill. Let me say here that unlike that bill, the measure before us today has already raised the issue of a pay increase in the legislative branch in Section 810 of the House-passed bill. So this amendment is plainly germane to the bill before us.

It is possible—in fact, obviously likely—that a Senator may raise a point of order against this amendment, and maybe some people will try to hide behind the procedural vote that would result. But make no mistake, the vote in relation to this amendment will be the vote on the congressional pay raise.

Just a few weeks ago, Iowa's State employees voted to delay their own cost-of-living adjustment in order to help that State cope with its budget problems. Members of the Florida house voted to eliminate the cost-of-living pay increase they got on July 1 to help meet that State's budget get through a softening economy, and South Carolina's Governor Jim Hodges is taking a $4,000 pay cut as part of his efforts to keep this State's budget in balance.

I hope my colleagues will follow the examples set by Iowa's State employees, the Florida house, and Governor Hodges. Given all that has happened, all that will happen, and the sacrifices that will be asked of all Americans, this isn't time for Congress to accept a $4,900 pay raise. Let's stop this backdoor pay raise, and then let's enact legislation to end this practice once and for all.

Right this minute, our Nation is sending the men and women of our Armed Services into harm's way. I do not think it is the time for Congress to accept a pay raise. Let's stop this backdoor pay raise, and then let's enact legislation to end this practice once and for all.

Mr. President, at this point I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. FEINGOLD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The sponsor's time has expired.

Who yields time?

The Senator from Colorado.

Mr. CAMPBELL. Mr. President, as the former chairman and now ranking member of the Appropriations Subcommittee on Treasury and General Government, I would like to make a few observations on this amendment and tell my colleagues at the outset that my comments are not designed to bring into question the motives of any Senator who votes for the amendment. But there is an old adage: If the shoe fits, wear it.

We have had to wrestle with some pretty important issues since September 11. During that time, I think Members of this body have displayed a great deal of courage. And their constituents certainly have the right to expect that kind of courage. But that is the way it should be.

Neither bombs nor fires, terrorists nor wars have been able to shake our resolve, but the mention of a pay raise somehow makes a lot of Senators' courage melt like snowballs in summer, and that iron will begins to make them shake in their boots.

Some Senators may honestly believe we should not receive a pay raise at any cost. Some, in fact, think we should be working here for nothing. Some maybe just don't think they are worth the salary. But I tell you, there is an old saying that has developed over the years, and I would like to invite our constituents and the press to explore the actions of a Member who falls into the definition of what has been called: "Vote no, but take the dough." That phrase is a pretty good description of politicians who want the money but do not want the heat of voter displeasure, even though setting our own salaries is a constitutional requirement.

I have voted a number of times on pay raises—sometimes for, sometimes against. Every time I voted against them, and they passed, I donated those pay raises to charity. I could not, in good conscience, keep the money if I would not support it with my vote. I gave a total of five $1,000 scholarships and gave other money to a homeless shelter. At no time when I voted against it did I keep it. I know there are a number of other Members who have done the same thing. But those times I thought the increase was warranted, I voted for it, and I kept it and I justified it, as many other Members have also done. I think I can justify it this time, too.

With the tragedies at the Pentagon and the World Trade Center still fresh in our minds, I would recommend to those who oppose a cost-of-living increase and, therefore do not want the COLA, to donate it to a charity involved in the aftermath of September 11, if they really truly believe they don't deserve it.

If they are that guilt ridden, they can, in fact, simply return it back to the Federal Treasury. There is no law that prevents them from doing that.

Every Member has to live with his own conscience and decisions, but there certainly are Members who fall into that category "vote no and take the dough." In the past, in fact, some have come to the floor to emphatically denounce the increase while letting other Members shoulder the burden to pass the bill and they quietly pocket the money and sneak off in the night hoping nobody will notice that their outrage does not jibe with their actions.

We have been here 16 hours—at least I have, since 6 o'clock this morning—with no end in sight, with important amendments with which we have yet to deal. This bill simply is the wrong vehicle for this amendment. It should have been offered on the Treasury-Postal-general government bill. It was not.

To make matters worse, many of the very people who speak out against this COLA have asked money to be earmarked in that bill where this should have been addressed. It is automatic, as all of our Members know. I would also remind the Members that the Treasury-Postal-general government bill has all the courthouse construction money, the Federal courts money, the money to fight the war on drugs, security money for the Olympics, other things in it that make it a very important bill.

To try to amend this bill, the Department of Defense supplemental, with a decision for Members after it has already been approved in the Treasury-general government bill, is not a good policy and opens a Pandora's box of other amendments that have already been settled in the other eight bills that have passed both the House and Senate, and conference committees, too. If the opponents of the COLA don't like it, they should have offered an amendment to delete it when our bill, the Treasury-general government bill, was on the floor. They had ample opportunity when Chairman DORGAN and I were pleading with Members to come to the floor and offer amendments.

This amendment may be great theater, but one thing is clear, it is not an automatic ticket to reelection. Self-flagellation never is.

As I have already stated, I don't question the motives of any Member on how they vote. But I would invite our constituents to look into the Member's past votes on this issue and see what they did with the money the last time, if they voted against it. I believe their constituents would like to know if they were driven by a deeply held belief about self-worth or if they were in the category of "vote no and take the dough."

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Nevada.

Mr. REID. Mr. President, I raise a point of order that the amendment is not germane.

Mr. FEINGOLD. Mr. President, I raise the defense of germaneness, and I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I would like to amend my point of order. I failed to mention it was also legislation on an appropriations bill.

The PRESIDING OFFICER. The Chair understands that the point of order is that it is legislation on an appropriations bill. The defense of germaneness has been raised.

Mr. FEINGOLD. I raise the defense of germaneness and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Is the amendment germane? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "no."

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 33, nays 65, as follows:

[Rollcall Vote No. 360 Leg.]

YEAS—33

Allard
Baucus
Brownback
Bunning
Carnahan
Cleland
Collins
Corzine
DeWine
Durbin
Edwards
Ensign
Enzi
Feingold
Fitzgerald
Grassley
Hutchinson
Hutchison
Johnson
Levin
Lincoln
McCain
Miller
Reid
Roberts
Schumer
Sessions
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Wellstone
Wyden

NAYS—65

Akaka
Allen
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Clinton
Cochran
Conrad
Craig
Crapo
Daschle
Dayton
Dodd
Domenici
Dorgan
Feinstein
Frist
Graham
Gramm
Gregg
Hagel
Harkin
Hatch
Hollings
Inhofe
Inouye
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Lieberman
Lott
Lugar
McConnell
Mikulski
Murkowski
Murray
Nelson (NE)
Nelson (FL)
Nickles
Reed
Reid
Rockefeller
Santorum
Sarbanes
Shelby
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner

NOT VOTING—2

Helms
Jeffords

The PRESIDING OFFICER. On this vote, the ayes are 33, the nays are 65. The amendment is not germane, and it falls for that reason.

Mr. REID. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that section 8132 on page 117 of the substitute amendment be stricken.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2352

Mr. STEVENS. Mr. President, I have at the desk an amendment numbered 2352 which I call up on behalf of Senator McCAIN and Senator GRAMM.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. REID and Mr. GRAMM, proposes an amendment numbered 2352.

(Purpose: To provide the President the authority to increase national security and save lives)

Section 8628(f), insert the following:

(g) Notwithstanding any other provision of this act or any other provision of law, the President shall have the sole authority to reprogram, for any other defense purpose, the funds authorized by this section if he determines that doing so will increase national security or save lives.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, the amendment as written speaks for itself. I thank the Senator from Alaska and the Senator from West Virginia for agreeing to it. This resolves a great concern that many Members had concerning the issue of the tanker aircraft.

I thank the Senator from Alaska.

Mr. STEVENS. I yield back any remaining time.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 2352.

The amendment (No. 2352) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2553

Mr. BOND. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Mrs. CARNAHAN, proposes an amendment numbered 2553.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SECTION 1. SENSE OF CONGRESS

It is the sense of Congress that the military aircraft industrial base of the United States be preserved. In order to ensure this we must retain—

(1) Adequate competition in the design, engineering, production, sale and support of military aircraft;

(2) Continued innovation in the development and manufacture of military aircraft;

(3) Actual and future capability of more than one aircraft company to design, engineer, produce and support military aircraft.

SEC. 2. STUDY OF IMPACT ON THE INDUSTRIAL BASE.

In order to determine the current and future adequacy of the military aircraft industrial base a study shall be conducted. Of the funds made available under the heading "Procurement, Defense-Wide" in this Act, up to $1,500,000 may be made available for a comprehensive analysis of and report on the risks to innovation and cost of limited or no competition in contracting for military aircraft and related weapon systems for the Department of Defense, including the cost of contracting where there is no more than one primary manufacturer with the capacity to bid for and build military aircraft and related weapon systems, the impact of any limited competition in primary contracting on innovation in the design, development, and construction of military aircraft and related weapon systems, the impact of limited competition in primary contracting on the current and future capacity of manufacturers to design, engineer and build military aircraft and weapon systems. The Secretary of Defense shall report to the House and Senate Committees on Appropriations on the design of this analysis, and shall submit a report to these committees no later than 6 months from the date of enactment of this Act.

Mr. BOND. Mr. President, I again express my sincere thanks to Senator INOUYE and Senator STEVENS for the very effective way they brought together a very important bill in these difficult times.

Mr. President, I rise today to discuss the future of our national security as it pertains to U.S. air superiority—the key to ensuring victory in modern war, and to propose an amendment requesting a study of our current and future tactical and military aircraft industrial base.

The recent Joint Strike Fighter competition was a tough fight between two well matched and seasoned competitors, Lockheed Martin and Boeing. The next generation of Air Force, Navy and Marine fighter pilots will benefit from this fierce competition. But the Defense Department's long term acquisition strategy has revealed a potential and troubling weakness in the future health of our tactical and military aircraft industrial base.

I have long maintained that no matter which company won this contract, the only way to guarantee our national security over the long haul is to maintain the robust aircraft industrial base that preserves innovation and competition which are critical to the development and success of future tactical and military aircraft programs.

When the Joint Strike Fighter competition was announced, I stated my strongly held view and supposition that the award would be split so that the loser of the competition would remain in business.

Maintaining a robust industrial base is not about Boeing or Lockheed Martin or any one commercial enterprise but what is best for our Nation. I have said for years that, since the cold war's end, we have funded and structured our military on a minimum to get by. And that is wrong. Investing the future of American air superiority, or any other critical defense program, in one company is a risky proposition. The weakened industrial base that results adversely impacts the kind of surge production capability this Nation may need someday to offset unforeseen attrition in our aircraft force structure.

The Department of Defense has stated that with regards to the Joint Strike Fighter it will maintain a "winner-take-all" strategy. By their our account the winner will be the only U.S. producer of tactical fighter aircraft after F–22 and F/A–18 E/F production ceases.

As recently as April of last year, the Honorable Jacques S. Gansler in a statement provided to the Senate Armed Services Committee on defense industrial base considerations said:

> Today, there exist two or three major (robust and technologically superior) firms in each critical area of defense needs. However, with the potential to go even below that number in the future, we are in danger of losing our greatest weapon in containing costs and insuring rapid innovation; namely, competition.

DoD's determination to maintain the "winner-take-all" strategy, even in light of their assessment that we will be left with one tactical fighter aircraft producer, deserves a thorough and exhaustive review. A number of broad questions present themselves that must be answered.

Will the U.S. Government be able to ensure sufficient expertise exists in the long term so we can preserve a competitive and innovative industrial base in the design, production, and support of tactical and military aircraft?

Will the Joint Strike Fighter be the last manned tactical fixed-wing fighter as asserted by Undersecretary of Defense E.C. Aldridge in a letter to Senator LEVIN? And does the ability to bid on unmanned combat or surveillance aircraft, as asserted by Under Secretary Aldridge, provide ample opportunity for a tactical aircraft manufacturer to retain a robust design, production and support team?

Can an aerospace manufacturer reconstitute a tactical and/or military capability once it is lost, and when the barrier to re-entry become too high?

Does this Nation's national security interests outweigh the economic benefits to any one company? And will our national security be affected if we cannot continue to ensure a high level of innovation and competitiveness in the development and production of tactical and military aircraft?

This includes the presence, or lack of, a robust surge capacity in the event our nation faces high attrition rates with its tactical aircraft force structure.

The Department of Defense commissioned a RAND study to examine both near-term and long-term competition options within the Joint Strike Fighter program. The study concluded that the additional costs of split production, estimated to range from $.5 to $1 billion, would not be recouped over the life of the program, currently expected to extend through the year 2040. But does the nation's national security take priority when added costs are less than $1 billion over the life of a 40 plus year program (a cost of less than $25 million per year to preserve more than one source for our fighter aircraft)?

A Wall St. Journal article published on Oct. 18, 2001, discusses the stinging defeat handed to General Dynamics in their takeover bid of Newport News Shipbuilding, Inc., when the Justice Department filed an anti-trust suit in federal district court seeking to block the proposed acquisition on the grounds it would eliminate competition in the market for nuclear submarines. The article states:

> The critical issue in the review process was whether a combination of General Dynamics with Newport News would eliminate competition in the market for naval submarines and whether the loss of that competition would hurt innovation.

Comments made by the Under Secretary of Defense for Acquisition, Technology and Logistics, the Honorable "Pete" Aldridge, in a letter to my distinguished colleague Senator Carl Levin, and at a Press Conference announcing the JSF winner, make it clear that not only is DoD going to pursue the winner-take-all strategy but that they are taking a "hands off" approach to any potential teaming effort between Lockheed Martin—with its coalition of manufacturers—and Boeing. This puts the responsibility and weight of the health of our future industrial base in the hands of a commercial enterprise, and not the administration or the Congress. This is not a wise policy and it justifiably applies to all aspects of our critical needs military industrial base.

Finally, on Oct. 23, 2001, the Department of Justice announced they were filing suit to block General Dynamics' purchase of Newport News Shipbuilding. In the body of their press release the Department of Justice states: Our armed forces need the most innovative and highest quality products to protect our country. This merger-to-monopoly would reduce innovation and, ultimately, the quality of the products supplied to the military, while raising prices to the U.S. military and to U.S. taxpayers.

The Fiscal Year 2001 Defense Appropriations Bill in discussing the Joint Strike Fighter program on page 117 of the report contains the following language: The Committee believes that industrial base concerns can best be addressed AFTER the source selection decision. While the future industrial base may be a concern, DoD can be partner in discussion to address these concerns as companies work on viable teaming or work sharing agreements.

As I have noted, it is clear that DoD will not be a partner in any teaming arrangements so it is up to the Congress to act. In order to do so we must acquire a body of data on our tactical aircraft industrial base. And determine if this base will provide sufficient "innovation AND competition" in the years after only one company remains to build follow-on aircraft to those currently in production or in development.

My amendment specifically asks that the Secretary of Defense conduct the study. I will furthermore recommend that Secretary Rumsfeld select RAND Corporation to perform the study. Why RAND? They are already familiar with the Joint Strike Fighter program, having conducted the DoD study that examined the near and long term competition options. The Department of Defense should have no difficulty working with RAND, and in providing them the data they need to do a thorough study of the impact to the industrial base of DoD's acquisition strategy.

In summary, my amendment calls for a study of the costs, risks, and implications to national security of vesting all our tactical aircraft expertise in one prime contractor. The simple fact is that we, as a nation, do not know the risks, costs and implications of this move. We do know intuitively that the loss of competition and innovation can have a disastrous impact on the nation's ability to field future state of the art weapons programs.

The Defense Department has never studied this issue even though they acknowledge that the continuing shrinkage of our industrial base is cause for concern. It has never examined the risks or the national security implications. The DoD study regarding the JSF program looked exclusively at the financial costs of keeping two production lines to build Joint Strike Fighter aircraft.

That study concluded that there is an additional financial cost associated with two JSF production lines. But what the study failed to examine was the national security risks associated with vesting the future of American air superiority into the hands of a single company.

We must not allow our industrial base to shrink down to one company in any critical needs area without close examination and an understanding of the risks and implications. The stakes are too large.

We do not—we cannot—know what the future holds for this country 20, 30 or 40 years hence. We learned on September 11 that there are heavy penalties for misjudging unforeseen risks. We cannot afford a similar mistake when it comes to the health of our industrial base and the men and women responsible for flying into harms way. We cannot go down the road to one company blindly.

As my amendment clearly states: We must retain adequate competition in the design, engineering, production, sale and support of military aircraft; We must retain continued innovation in the development and manufacture of military aircraft; and We must retain the actual and future capability of more than "one" aircraft company to design, engineer, produce and support military aircraft.

This study will help to arm us with the knowledge Congress and the President need to make a wise decision. We need the results of this study. And I urge my colleagues to join me in supporting this amendment.

I ask my colleagues to support this amendment.

Mrs. CARNAHAN. Mr. President, I am pleased to support the amendment proposed by my friend and colleague from Missouri. Senator BOND's legislation requires the Defense Department to report to Congress on the future of the tactical aircraft industry.

This is an important piece of legislation. It will allow the Pentagon to examine the long term impact of the largest contract award in world history on October 26 of this year, the Defense Department awarded the Joint Strike Fighter contract exclusively to the Lockheed Martin JSF team. Senator BOND and I are concerned that this decision might put America's tactical aircraft industry in jeopardy, and set a bad precedent for other defense contracts. The JSF program is the largest defense contract in history. It is the only fighter jet contract planned in the next 30 years.

Up until October 26th, Boeing and Lockheed remained America's only major contractors in the tactical aircraft industry. Now, if the Lockheed team performs the entire contract, Boeing would likely be forced out of the fighter jet business. Competition in the industry would be eliminated. Future innovation would be stifled. Costs would rise. Our national security would be put at risk. The preeminent military power in the world cannot have just one company building fighter jets. That would be unacceptable to me and many members in our defense community.

Just 3 years ago, the Defense Department blocked the largest merger in defense industry history due to concerns that the merger would stifle innovation and reduce competition in key aspects of defense production. It cannot now stand idly by and allow the elimination of competition for fighter jets.

When the Joint Strike Fighter award was announced last month, many of us in the Missouri delegation made it clear that we believe it is imperative for Boeing to play a role in the production of this aircraft. Now we are proposing a study to examine the consequences if we should fail to secure a major role for Boeing in this important program.

Senator BOND has posed some pertinent questions today. I hope this body will support a study that simply seeks to answer these questions. Above all, we must examine how the U.S. Government will be able to preserve sufficient expertise in this industry, if Boeing is driven out of the tactical aircraft business.

When the JSF award was announced, the Defense Department issued a statement that said that the Pentagon would encourage Lockheed and Boeing to work together on this program. A Department of Defense press release stated on October 26 that, and I quote,

> The expertise resident in the teams not selected today can still make a contribution to the JSF effort through revised industrial teaming arrangements. DOD will encourage teaming arrangements that make the most efficient use of the expertise in the industrial base to deliver the 'best value' product."

I fully agree with this statement. I expect the Department of Defense to follow through on its commitment to encourage teaming between Lockheed Martin and Boeing. Boeing should be a major partner in this project. Boeing and Lockheed Martin executives are currently engaged in negotiations on this very subject. I believe that Boeing has a strong case for why it should play a major role in this critical program.

Boeing and its predecessor McDonnell-Douglas have a long history of delivery top-quality airplanes to militaries around the globe. Its award-winning management team has built a solid reputation for meeting production deadlines. Boeing makes some of the most affordable aircraft in the world. Boeing's workforce has a unique expertise. Boeing remains the world leader in developing short take-off fighters for the Marines. Boeing also produces for the Navy the foremost jet fighter for aircraft carrier operations.

Lockheed Martin could use Boeing's vast experience in building these aircraft. Lockheed Martin executives should bear this in mind during their discussions with Boeing. I believe that the next generation of tactical jets must be built by an experienced team.

This team should include Boeing Managers, engineers and technicians, who have helped build the Navy's F/A-18 Super Hornets as well as the Marine Corps' AV-8B Harriers. Lockheed should keep in mind the concerns of the Pentagon, and Democratic and Republican leaders alike. Lockheed's discussion with Boeing will have some serious long-term effects. With only major companies in the tactical aircraft industry, Lockheed's decisions will directly impact the industrial base of the Nation's fighter business.

Let there be no mistake. My colleagues and I in the Missouri delegation will not rest until we are assured that Boeing's role in the tactical aircraft business is secure. Senator BOND and I are united in our determination to pursue every avenue, in the Armed Services Committee and the Appropriations Committee, to ensure that the industrial base of this critical industry is preserved.

Our colleagues in the House, including the Democratic leader, the majority deputy whip, and the ranking member of the Armed Services Committee, and committed to this effort. Today, we must take this first step. We must examine the consequences of the JSF contact award, and ensure that the future of America's tactical aircrafts remains secure.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, Senator STEVENS and I commend the Senator from Missouri for his amendment. We are pleased to accept it. We urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2353) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2354

Mr. BOND. Mr. President, I send another amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 2354.

Mr. BOND. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require procedures that ensure the fair and equitable resolution of labor integration issues in transactions for the combination of air carriers)

At the appropriate place, insert:

SEC. . (a) The purpose of this section is to require procedures that ensure the fair and equitable resolution of labor integration issues, in order to prevent further disruption to transactions for the combination of air carriers, which would potentially aggravate the disruption caused by the attack on the United States on September 11, 2001.

(b) In this section:

(1) The term "air carrier" means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

(2) The term "covered employee" means an employee who—

(A) is not a temporary employee; and

(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

(3) The term "covered transaction" means a transaction that—

(A) is a transaction for the combination of multiple air carriers into a single air carrier;

(B) involves the transfer of ownership or control of—

(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

(ii) 50 percent or more (by value) of the assets of the air carrier;

(C) became a pending transaction, or was completed, not earlier than January 1, 2001; and

(D) did not result in the creation of a single air carrier by September 11, 2001.

(c) If an eligible employee is a covered employee of an air carrier involved in a covered transaction that leads to the combination of crafts or classes that are subject to the Railway Labor Act, the eligible employee may receive assistance under this title only if the parties to the transaction—

(1) apply sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 CAB 45) to the covered employees of the air carrier; and

(2) subject to paragraph (1), in a case in which a collective bargaining agreement provides for the application of sections 3 and 13 of the labor protective provisions in the process of seniority integration for the covered employees, apply the terms of the collective bargaining agreement to the covered employees, and do not abrogate the terms of the agreement.

(d) Any aggrieved person (including any labor organization that represents the person) may bring an action to enforce this section, or the terms of any award or agreement resulting from arbitration or a settlement relating to the requirements of this section. The person may bring the action in an appropriate Federal district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy.

Mr. BOND. Mr. President, this amendment reflects a bill previously entered with my colleague, Senator CARNAHAN, and other Senators. I ask they be given an opportunity to add themselves as cosponsors to this amendment.

This arises out of the attacks of September 11. It helps solve a serious problem in the airline industry. And it provides for fair treatment of the parties involved. I think this is a reasonable response.

Mr. President, the attacks of September 11 created severe strains on our Nation and its economy. The economic harm from those attacks has been most pronounced in our airline industry, the backbone of our transportation system.

Congress moved quickly and properly to respond to the crisis facing the commercial airlines with relief legislation in September. The fallout of the attacks, however, continues to be felt by the airlines and airline employees even after the Federal help.

Many will argue that a crisis continues in the airline industry.

All of our major airlines received aid through the industry relief bill. The Federal help was distributed fairly in proportion to the carrier's share of the market.

American Airlines received the largest share of that aid based on its combined size as a result of its acquisitions from TWA.

Unlike the other major carriers and their employees, the American and TWA employees faced the repercussions of September 11 with the uncertainty of the fact that their carriers had not completed the combination of operations envisioned by the AA/TWA transaction.

With the severe disruption of the airline industry caused by the attacks, the TWA employees in particular faced an uncertain future of layoffs knowing that there was no process in place to fairly and reasonably integrate their groups into the much larger American groups.

Indeed, the potential exists for them to suffer disproportionate job losses because there is no fair process in place.

In support of that principle of fair treatment, I have proposed the Airline Workers Fairness Act.

This legislation is designed to achieve a simple yet essential purpose—to provide a neutral and fair process to integrate employee groups of airlines involved in uncompleted mergers and transactions. It achieves this goal through:

A third party neutral arbitrator selected by the parties to make a final and binding decision based on the principles of fairness and equity.

This is not a new idea, but is the long-established process set forth by the former Civil Aeronautics Board some thirty years ago.

The notion of a fair and equitable seniority integration before a neutral arbitrator has been the industry standard for over fifty years in dozens of different airline mergers and acquisitions.

This bill recognizes that especially in the midst of severe disruption in the airline industry, none of the interested parties have the ability to determine a fair and equitable resolution.

It puts the decision making out of the realm of passion and self-interest and into the hands of an experienced and fair-minded professional arbitrator.

Finally, this bill gives both sides the chance for a fair hearing.

We are not talking about micro-managing airlines or interfering in private contracts. The procedures this bill establishes are recognized widely as industry standard for seniority integrations.

They are also needed by employees and their families facing the loss of a lifetime's work.

Layoffs seem inevitable, but we can ensure that in the midst of the severe dislocations and upheaval in the lives of these airlines employees that our fundamental values were preserved, fair treatment and a fair hearing.

I have heard from all sides on this issue.

Both pilots unions have been on the phone and in my office on countless occasions. I have also been contacted by the International Association of Machinists representing both flight attendants and machinists.

All parties have clearly expressed to me and my staff that they want this seniority integration to come to a conclusion. It is ultimately clear, however, that an agreement cannot be reached under the status quo.

A fair process is desperately needed by thousands of hard working and dedicated employees and their families who face enormous dislocation and insecurity.

I ask that we echo the words of our Commander in Chief and our colleagues in the Congress; in a time of crisis we must not give up our fundamental values.

The Airlines Workers Fairness Act preserves our fundamental value of fair treatment during the crisis facing the airline industry.

It says that we will not abandon that value, rather we will recognize the enormous sacrifices made by the workers in this industry, both now and in the past. We will give them that simple assurance of fair treatment in the face of the crisis and sacrifice.

We are not meddling with collective bargaining or union politics * * * rather, we are simply helping two parties find the parameters to reach a fair and equitable resolution.

I urge my colleagues to support this important principle to assure fair and adequate treatment for all airline employees.

I ask my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate?

The Senator from Hawaii.

Mr. INOUYE. Mr. President, Senator STEVENS and I are pleased to accept this amendment and take it to conference. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 2354) was agreed to.

Mr. INOUYE. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORZINE). Without objection, it is so ordered.

Mr. BYRD. Mr. President, while Senators are working out some matters, I ask unanimous consent that I may speak for not to exceed 8 minutes on another matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING SENATOR STROM THURMOND ON HIS 99TH BIRTHDAY

Mr. BYRD. Mr. President, I did not speak on the day that was the most famous of all such days, the day of Senator THURMOND's birthday. I was busy on appropriations matters. I did not want to let this week go by without my saying just a few words about Senator THURMOND.

It was 99 years ago that STROM THURMOND was born in Edgefield, SC. Ninety-nine years old. What a feat, 99. Abraham lived to be 175 years old. Isaac lived to be 180. Jacob lived to be 147, and Joseph lived to be 110. Moses lived to be 120. Joshua lived to be 110. And STROM THURMOND has lived now to be 99. What a feat. That makes him old enough to be my big brother.

Well, when STROM THURMOND was born on December 5, 1902, the Wright Brothers had not yet made their historic flight at Kitty Hawk. He has lived to see men walking on the Moon. He has lived to see American space vessels exploring the far reaches of our galaxy. When he was born, Theodore Roosevelt was President of the United States. Since then, we have had 16 more Presidents.

When he was born, the Kaiser still ruled in Germany. Since then, that country has seen the rise and fall of the Weimar Republic, the rise and fall of Nazi Germany, a divided Germany, and now a united Germany. When STROM THURMOND was born, the Czar still ruled in Russia. Since then, that country has experienced the Russian Revolution of 1917—that was the year I was born—the Bolshevist government, the Communist government, the Soviet empire, and now Russia again.

Almost as intriguing has been the extraordinary career of our remarkable colleague. During the same time period, Senator THURMOND has been a teacher, an athletic coach, an educational administrator, a lawyer, a State legislator, and a circuit court judge.

Joseph wore a coat of many colors, but STROM THURMOND has held all of these offices, these professions, before coming to the U.S. Senate.

He won his first elective office, county superintendent, the same year that Herbert Hoover won his first elective office, 1928. STROM THURMOND was a soldier in World War II where he took part in the D-Day invasion of Normandy. He was a Presidential nominee in 1948. He was Governor of his beloved State of South Carolina from 1947 to 1951.

He has been a Democrat, Dixiecrat, and a Republican. Most of all, he has been and is a great American.

All of this would have been more than enough experiences and achievements in one lifetime for most mortals, but incredibly STROM THURMOND's greatest days were still ahead of him. In 1954, he won his first election to the U.S. Senate as a write-in candidate. That is saying something for any man who can win on a write-in seat in the Senate, making him the only person in history to be elected to the Senate as a write-in candidate. He pledged to the people of South Carolina that if they elected him as a write-in candidate, he would resign and he would run again and win the election the old-time way. And he did just what he promised he would do. So now he has become the longest serving Senator in history and the oldest person ever to have served in the Senate.

It is more than just longevity that has made STROM THURMOND an extraordinary Senator. As chairman of the Senate Armed Services Committee and chairman of the Senate Judiciary Committee, he has fought for a stronger military, to keep our country free, and he has fought for tougher anti-crime laws to make our streets safer. As President pro tempore of the Senate, he has brought dignity and style and a southern refinement to this important position. For these and other achievements, he has had high schools, State and Federal buildings, as well as streets and dams and town squares named in his honor.

A few years ago in 1991, the Senate designated room S-238 here in the U.S. Capitol as the "Strom Thurmond Room" in recognition of the selfless and dedicated service he has provided to our Nation and its people.

I remember that day, a long time ago, when STROM THURMOND suffered the loss of his wife. I used to see her sitting in the galleries. I can see her right now sitting in that first seat. We are not supposed to call attention to the people in the galleries, but I can remember having seen her sitting in that very first seat where the gentleman is sitting right at this minute and watching the Senate.

I remember the day that that lady passed away. I came to the Senate. STROM THURMOND was sitting right back here where Senator JOE LIEBERMAN is sitting tonight. I walked up to him, gripped his hand, and told him I was sorry. And he was his spartan self. He thanked me and continued in his service.

On this his 99th birthday, I wish to say what a privilege and an honor it has been to have served with this remarkable man for all of these remarkable years, a man whom the good Lord has blessed with this long lifetime of service to his people. He has always been an outstanding legislator, a southern gentleman, and foremost, a good friend.

Count your garden by the flowers,
Never by the leaves that fall;
Count your days by the sunny hours,
Not remembering clouds at all.
Count your nights by stars, not shadows;
Count your life by smiles, not tears;
And on this beautiful December evening,
Strom, count your age by friends, not years.

Happy birthday, Senator. May God always bless you.

(Applause, Senators rising.)

Mr. THURMOND. Mr. President, Senator BYRD is a man of character, a man of ability, a man of dedication, and we are all proud of him. Thank you very much.

(Applause.)

Mr. BYRD. Mr. President, I thank all the Senators.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, this has been a very hectic day for everyone. Before the night passed, I wanted to make sure everyone understood how much we on this side of the aisle appreciate the Senator from Hawaii. Senator STEVENS today gave a very emotional speech regarding Senator INOUYE, and it was not appropriate after that very emotional presentation was given by Senator STEVENS to say anything about Senator INOUYE. I did not want the night to pass without everyone understanding how we feel about Senator INOUYE. In fact, he is one of the most revered people in the history of the Senate. I do not know of anyone I have ever heard who has said an unkind word about the Senator from Hawaii, Mr. INOUYE. Just because we were silent earlier today does not negate the strength of the feeling we have for Senator INOUYE. In the time I have served in the Senate, there is no one I respect or admire more than the Senator from Hawaii, Mr. INOUYE.

The work he has done on this bill is as exemplary as the work he has done as a Senator.

(Applause, Senators rising.)

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2355

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration. n

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 2355.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funding for necessary expenses of the HUBZone program authorized under the Small Business Act, and for other purposes)

At the appropriate place insert:

"SMALL BUSINESS ADMINISTRATION

"DISASTER LOAN PROGRAM ACCOUNT

"SEC. 115. Of the amount made available under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Public Law 107–77), for administrative expenses to carry out the direct loan program, $5,000,000 shall be made available for necessary expenses of the HUBZone program as authorized by section 31 of the Small Business Act, as amended (15 U.S.C. 657a), of which, not more than $500,000 may be used for the maintenance and operation of the Procurement Marketing and Access Network (PRO-Net). The Administrator of the Small Business Administration shall make quarterly reports to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives regarding all actions taken by the Small Business Administration to address the deficiencies in the HUBZone program, as identified by the General Accounting Office in report number GAO–02–57 of October 26, 2001.".

Mr. BOND. Mr. President, this amendment is an attempt to close a gap that was opened as a result of the Commerce-State-Justice appropriations bill. During the consideration of that bill, the conference committee deleted funding for a small but important program known as the Hubzone program. We enacted it in this body in 1997 with unanimous, bipartisan support to direct Federal contracting dollars to the Nation's most depressed areas of high poverty and high unemployment; that is, in the inner cities, in the rural areas, in the Native American communities, and in the Alaskan Native villages.

We find small firms do not normally want to locate in these areas because they do not have enough customer traffic to buy their products, but as a result they cannot find a customer base. In the Hubzone program, the Government acts as a customer and it buys about $190 billion of goods and services each year.

This amendment does not appropriate new money. It simply restores the program to be implemented using the recommendations made in a General Accounting Office report. I ask the support of my colleagues in adopting this amendment.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, the amendment submitted by Senator BOND has been cleared on our side, and on behalf of Senator STEVENS, we accept that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2355) was agreed to.

Mr. BOND. I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

AMENDMENT NO. 2356

Mr. TORRICELLI. Mr. President, on behalf of myself, Senator CORZINE, Senator BIDEN, Senator CARPER, I have an amendment that would assure the Nation will for the next year have two independent suppliers of antitank and short-range missiles. Without this, we fear the Nation will be reduced to a single supply.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. TORRICELLI], for himself, Mr. CORZINE, Mr. BIDEN, and Mr. CARPER, proposes an amendment numbered 2356.

The amendment is as follows:

(Purpose: To require a production grant of $2,000,000 to Green Tree Chemcial Technologies in order to sustain the company through fiscal year 2002)

At the appropriate place in division A, insert the following:

SEC. . The Secretary of the Army shall, using amounts appropriated by title II of this division under the heading "OPERATION AND MAINTENACE, ARMY", make a production grant in the amount of,$2,000,000 to Green Tree Chemical Technologies of Parlin, New Jersey, in order to help sustain that company through fiscal year 2002.

Mr. INOUYE. Mr. President, the managers of the bill have studied the amendment and we are pleased to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 2356.

The amendment (No. 2356) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. TORRICELLI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, in accordance with paragraph 2 of Rule VI of the Standing Rules of the Senate, I ask unanimous consent that I may absent myself from the Senate for the rest of the evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have been asked to announce by the majority leader, after having conferred with the minority leader, that there will be no more rollcall votes tonight.

Mr. MCCAIN. I object.

Mr. REID. We thought we had this cleared. I apologize.

Mr. MCCAIN. Mr. President, I would like the RECORD to note that on a recorded vote I would have voted against this bill.

The PRESIDING OFFICER. The RECORD so notes.

The Senator from Hawaii.

AMENDMENTS NOS. 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, AND 2366, EN BLOC

Mr. INOUYE. Mr. President, on behalf of the managers of the bill, I am pleased to present the following amendments, and I ask unanimous consent they be considered, voted on, and agreed to, en bloc: an amendment by Senator NICKLES concerning the modeling and simulation program; an amendment by Senator LOTT concerning the Armed Forces retirement homes; an amendment by Senator KENNEDY concerning pullover shirts for the Marine Corps; an amendment by Senator REID regarding radar modernization; an amendment by Senator REID regarding the Clark County bioterrorism and public health laboratory; an amendment by Senator REID regarding the rural low bandwidth medical collaboration system; an amendment for Senator WARNER concerning the critical infrastructure protection initiative; an amendment for Senator LINCOLN concerning the Battlespace Logistics Readiness and Sustainment Program; an amendment for Senator INOUYE concerning the Counternarcotics and Antiterrorism Operational Medical Support Program; an amendment for Senator MCCONNELL directing the Department of Defense to undertake an assessment of the Chemical Demilitarization Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2357 through 2366) were agreed to en bloc, as follows:

AMENDMENT NO. 2357

At the appropriate place in the bill, insert the following:

SEC. . Of the funds appropriated in the Act under the heading "Research, Development, Test and Evaluation, Air Force" up to $4,000,000 may be made available to extend the modeling and re-engineering program now being performed at the Oklahoma City Air Logistics Center Propulsion Directorate.

AMENDMENT NO. 2358

(Purpose: To increase by $7,500,000 the amount available for Armed Forces Retirement Homes)

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by title VI under the heading "OTHER DEPARTMENT OF DEFENSE APPROPRIATIONS", $7,500,000 may be available for Armed Forces Retirement Homes.

AMENDMENT NO. 2359

(Purpose: To set aside Marine Corps operation and maintenance for completing the fielding of half-zip, pullover, fleece uniform shirts for all members of the Marine Corps, including the Marine Corps Reserve)

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by this division for operation and maintenance, Marine Corps, $2,800,000 may be used for completing the fielding of half-zip, pullover, fleece uniform shirts for all members of the Marine Corps, including the Marine Corps Reserve.

AMENDMENT NO. 2360

(Purpose: To make available from aircraft procurement, Air Force, $6,000,000 for 10 radars in the Air Force Radar Modernization Program for C–130H2 aircraft (PE040115) for aircraft of the Nevada Air National Guard at Reno, Nevada)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title III of this division under the heading "AIRCRAFT PROCUREMENT, AIR FORCE", $6,000,000 may be available for 10 radars in the Air Force Radar Modernization Program for C–130H2 aircraft for aircraft of the Nevada Air National Guard at Reno, Nevada.

AMENDMENT NO. 2361

(Purpose: To make available from research, development, test, and evaluation, Army, $3,000,000 for Medical Development (PE604771N) for the Clark County, Nevada, bioterrorism and public health laboratory)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", $3,000,000 may be made available for Medical Development for the Clark County, Nevada, bioterrorism and public health laboratory.

AMENDMENT NO. 2362

(Purpose: To make available from research, development, test, and evaluation, Air Force, $1,000,000 for Agile Combat Support (PE64617) for the Rural Low Bandwidth Medical Collaboration System)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE", $1,000,000 may be made available for Agile Combat Support for Rural Low Bandwidth Medical Collaboration System.

AMENDMENT NO. 2363

(Purpose: To set aside funds for the critical infrastructure protection initiative of the Navy)

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by this division for operation and maintenance, Navy, $6,000,000 may be made available for critical infrastructure protection initiative.

AMENDMENT NO. 2364

At the appropriate place in the bill, insert the following:

SEC. . Of the funds provided in this Act the heading, "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE", $2,000,000 may be made available for Battlespace Logistics Readiness and Sustainment project in Fayetteville, Arkansas."

AMENDMENT NO. 2365

(Purpose: To provide funds for the Counter Narcotics and Terrorism Operational Medical Support Program)

At the appropriate place in division A, insert the following:

SEC. . Of the funds appropriated by title VI of this division under the heading "DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE", $2,400,000 may be made available for the Counter Narcotics and Terrorism Operational Medical Support Program at the Uniformed Services University of the Health Sciences.

AMENDMENT NO. 2366

(Purpose: To require an assessment of various alternatives to the current Army plan for the destruction of chemical weapons)

At the appropriate place in division A, insert the following:

SEC. . (a) ASSESSMENT REQUIRED.—Not later than March 15, 2002, the Secretary of the Army shall submit to the Committees on Appropriations of the Senate and House of Representatives a report containing an assessment of current risks under, and various alternatives to, the current Army plan for the destruction of chemical weapons.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description and assessment of the current risks in the storage of chemical weapons arising from potential terrorist attacks.

(2) A description and assessment of the current risks in the storage of chemical weapons arising from storage of such weapons after April 2007, the required date for disposal of such weapons as stated in the Chemical Weapons Convention.

(3) A description and assessment of various options for eliminating or reducing the risks described in paragraphs (1) and (2).

(c) CONSIDERATIONS.—In preparing the report, the Secretary shall take into account the plan for the disassembly and neutralization of the agents in chemical weapons as described in Army engineering studies in 1985 and 1996, the 1991 Department of Defense Safety Contingency Plan, and the 1993 findings of the National Academy of Sciences on disassembly and neutralization of chemical weapons.

Mr. INOUYE. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2367 THROUGH 2385, EN BLOC

Mr. INOUYE. Mr. President, I am pleased to present, on behalf of the managers, the second managers' package. I ask unanimous consent that the Senate proceed to consider, vote on, and agree to en bloc: an amendment for Senator KERRY concerning operational nuclear test monitoring; an amendment for Senators KERRY and KENNEDY concerning sensor fused weapons CBU–97; an amendment for Senator FEINSTEIN concerning the Tactical Support Center Mobile Acoustic Analysis System; an amendment for Senator KENNEDY regarding the Air National Guard for an information analysis network; an amendment for Senator KENNEDY concerning the DLAMP program; an amendment for Senator HELMS concerning the Display Performance and Environmental Laboratory Project; two amendments for Senator HELMS concerning the Joint Airborne Tactical Electronic Combat Training Program; an amendment for Senator INOUYE concerning environmental studies in the Philippines; an amendment for Senator WARNER concerning the burial of veterans; an amendment for Senator BURNS concerning the National Business Center; an amendment for Senator STEVENS concerning crewmen's headsets; an amendment for Senator MCCONNELL concerning low-cost digital modems; an amendment for Senator GREGG concerning multifunctional composite materials; an amendment for Senator SHELBY concerning the Collaborative Engineering Center of Excellence and the Cooperative Microsatellite Experiment; an amendment for Senator BIDEN concerning metal matrix composites; an amendment for Senator SPECTER concerning the Solid Electrolyte Oxygen Separation Program; an amendment for Senator GRASSLEY that concerns unmatched disbursements; and an amendment for Senator VOINOVICH concerning three dimensional ultrasound imaging.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2367 through 2385) were agreed to en bloc, as follows:

AMENDMENT NO. 2367

(Purpose: To make available $12,500,000 from research, development, test, and evaluation, Defense-wide, for operational nuclear test monitoring requirements of the Air Force)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE" and available for the Advanced Technology Development for Arms Control Technology element, $7,000,000 may be made available for the Nuclear Treaty sub-element of such element for peer-reviewed seismic research to support Air Force operational nuclear test monitoring requirements.

AMENDMENT NO. 2368

(Purpose: To make available $14,200,000 for procurement for the Air Force for procurement of Sensor Fused Weapons (CBU–97))

At the appropriate place in division A, insert the following:

SEC. . Of the amount available in title III of this division under the heading "PROCUREMENT OF AMMUNITIONS, AIR FORCE", $10,000,000 may be available for procurement of Sensor Fused Weapons (CBU–97).

AMENDMENT NO. 2369

(Purpose: To make available from other procurement, Navy, $8,000,000 for procurement of the Tactical Support Center, Mobile Acoustic Analysis System)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, NAVY", $8,000,000 may be made available for procurement of the Tactical Support Center, Mobile Acoustic Analysis System.

AMENDMENT NO. 2370

(Purpose: To set aside funds for continuation of the Air National Guard Information Analysis Network (GUARDIAN))

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by this division for operation and maintenance, Air National Guard, $4,000,000 may be used for continuation of the Air National Guard Information Analysis Network (GUARDIAN)).

AMENDMENT NO. 2371

(Purpose: To set aside a specified amount of operation and maintenance, Defense-wide funds for the DLAMP program)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title II for operation and maintenance, Defense-wide, $55,700,000 may be available for the Defense Leadership and Management Program.

AMENDMENT NO. 2372

(Purpose: To provide funding for the Display Performance and Environment Evaluation Laboratory Project of the Army Research Laboratory)

At the appropriate place in division A, add the following new section:

SEC. . Of the funds made available in Title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to $4,000,000 may be made available for the Display Performance and Environmental Evaluation Laboratory Project of the Army Research Laboratory.

AMENDMENT NO. 2373

(Purpose: To expand the number of U.S. Navy combat aircrews who can benefit from Airborne Tactical Adversary Electronic Warfare/Electronic Attack training)

At the appropriate place in division A, add the following new section:

SEC. . Of the funds made available in Title II of this Act under the heading "OPERATION AND MAINTENANCE, NAVY", up to $2,000,000 may be made available for the U.S. Navy to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

AMENDMENT NO. 2374

(Purpose: To expand the number of U.S. Air Force combat aircrews who can benefit from Airborne Tactical Adversary Electronic Warfare/Electronic Attack training)

At the appropriate place in division A, add the following new section:

SEC. . Of the funds made available in Title II of this Act under the heading "Operation and Maintenance, Air Force", up to $2,000,000 may be made available for the U.S. Air Force to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

AMENDMENT NO. 2375

(Purpose: To express the sense of the Senate regarding environmental contamination and health effects emanating from the former United States military facilities in the Philippines)

At the appropriate place, insert:

SEC. . SENSE OF THE SENATE REGARDING ENVIRONMENTAL CONTAMINATION IN THE PHILIPPINES.

It is the sense of the Senate that—

(1) the Secretary of State, in cooperation with the Secretary of Defense, should continue to work with the Government of the Philippines and with appropriate non-governmental organizations in the United States and the Philippines to fully identify and share all relevant information concerning environmental contamination and health effects emanating from former United States military facilities in the Philippines following the departure of the United States military forces from the Philippines in 1992;

(2) the United States and the Government of the Philippines should continue to build upon the agreements outlined in the Joint Statement by the United States and the Republic of the Philippines on a Framework for Bilateral Cooperation in the Environment and Public Health, signed on July 27, 2000; and

(3) Congress should encourage an objective non-governmental study, which would examine environmental contamination and health effects emanating from former United States military facilities in the Philippines, following the departure of United States military forces from the Philippines in 1992.

AMENDMENT NO. 2376

(Purpose: To authorize the burial in Arlington National Cemetery of any former Reservist who died in the September 11, 2001, terrorist attacks and would have been eligible for burial in Arlington National Cemetery but for age at time of death)

At the end of title VIII of division A, add the following:

SEC. 8135. (a) AUTHORITY FOR BURIAL OF CERTAIN INDIVIDUALS AT ARLINGTON NATIONAL CEMETERY.—The Secretary of the Army shall authorize the burial in a separate gravesite at Arlington National Cemetery, Virginia, of any individual who—

(1) died as a direct result of the terrorist attacks on the United States on September 11, 2001; and

(2) would have been eligible for burial in Arlington National Cemetery by reason of service in a reserve component of the Armed Forces but for the fact that such individual was less than 60 years of age at the time of death.

(b) ELIGIBILITY OF SURVIVING SPOUSE.—The surviving spouse of an individual buried in a gravesite in Arlington National Cemetery under the authority provided under subsection (a) shall be eligible for burial in the gravesite of the individual to the same extent as the surviving spouse of any other individual buried in Arlington National Cemetery is eligible for burial in the gravesite of such other individual.

AMENDMENT NO. 2377

(Purpose: To provided for the retention of certain contracting authorities by the Department of the Interior's National Business Center)

At the appropriate place in the bill, add the following:

"SEC. . In fiscal year 2002, the Department of the Interior National Business Center may continue to enter into grants, cooperative agreements, and other transactions, under the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, and other related legislation."

AMENDMENT NO. 2378

(Purpose: To set aside funds for the Product Improved Combat Vehicle Crewman's Headset)

At the appropriate place in division A, insert the following:

Of the total amount appropriated by this division for other procurement, Army, $9,000,000 may be available for the "Product Improved Combat Vehicle Crewman's Headset."

AMENDMENT NO. 2379

(Purpose: To set aside funds to be used to support development and testing of new designs of low cost digital modems for wideband common data link)

At the appropriate place in division A, insert the following:

SEC. 8135. Of the funds appropriated by this division for research, development, test and evaluation, Navy, up to $4,000,000 may be used to support development and testing of new designs of low cost digital modems for Wideband Common Data Link.

AMENDMENT NO. 2380

(Purpose: To set aside Army RDT&E funds for research and development of key enabling technologies for producing low cost, improved performance, reduced signature, multifunctional composite materials)

At the appropriate place in division A, insert the following:

SEC. 8135. Of the amount appropriated by this division for the Army for research, development, test, and evaluation, $2,000,000 may be available for research and development of key enabling technologies (such as filament winding, braiding, contour weaving, and dry powder resin towpregs fabrication) for producing low cost, improved performance, reduced signature, multifunctional composite materials.

AMENDMENT NO. 2381

(Purpose: To set aside Army RDT&E funding for certain programs)

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated under title IV for research, development, test and evaluation, Army, $2,000,000 may be available for the Collaborative Engineering Center of Excellence, $3,000,000 may be available for the Battlefield Ordnance Awareness, and $4,000,000 may be available for the Cooperative Microsatellite Experiment.

AMENDMENT NO. 2382

(Purpose: To make available from research, development, test, and evaluation, Army, $5,000,000 to develop high-performance 81mm and 120mm mortar systems that use metal matrix composites to substantially reduce the weight of such system)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" that is available for Munitions $5,000,000 may be available to develop high-performance 81mm and 120mm mortar systems that use metal matrix composites to substantially reduce the weight of such systems.

AMENDMENT NO. 2383

(Purpose: To set aside Air Force RDT&E funds for human effectiveness applied research (PE 602202F) for continuing development under the solid electrolyte oxygen separation program of the Air Force)

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Air Force, up to $6,000,000 may be used for human effectiveness applied research for continuing development under the solid electrolyte oxygen separation program of the Air Force.

AMENDMENT NO. 2384

(Purpose: To continue to apply in fiscal year 2002 a requirement (in an appropriations Act for the Department of Defense for a previous fiscal year) for matching each DOD disbursement in excess of $500,000 to a particular obligation before the disbursement is made)

At the appropriate place in division A, insert the following:

SEC. . Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111, 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2002.

Mr. GRASSLEY. Mr. President, this is my annual Defense Department accounting amendment.

I call it my accounting 101 amendment.

I call it accounting 101 because it calls on DOD to apply one of the most elementary accounting procedures in existence.

It request that DOD match disbursements with obligations before making payments.

Accountants and bookkeepers have been using this procedure since the beginning of time. It is an important internal control check. But it is simple and effective. Most people do it when they reconcile their monthly credit card bills.

Before a bill is approved for payment, someone has to check to make sure that the item in question was, in fact, ordered and received; and it can be located in the warehouse or elsewhere. It is a way of detecting and deterring theft and fraud. Today, it can be done electronically with computers.

For unexplained reasons in the past, DOD has not followed this simple procedure. DOD likes to pay the bill first and at some later date—maybe a year or two later—try to match the payment with a bill. In the Pentagon, they call it "pay and chase." In many cases, the bill is never found.

Pay and chase is one big reason why DOD piled up $50 billion in unmatched disbursements in the 1990's.

Sloppy bookkeeping leaves DOD's financial resources vulnerable to fraud and abuse.

Earlier this year, the very distinguished chairman of the Appropriations Committee, Senator BYRD, raised a series of very troublesome questions about DOD accounting practices. He did it at a hearing before the Armed Services Committee on January on Mr. Rumsfeld's nomination.

Senator BYRD said and I quote: "The Pentagon's books are in such utter disarray that no one knows what America's military actually owns or spends."

Senator BYRD also said and I quote: "The Department of Defense's own auditors say the department cannot account for $2.3 trillion in transactions in one year alone."

The failure to match disbursements with obligations is a big driver behind the problem identified by Senator BYRD.

Senator BYRD's inquiry set off a firestorm at the Pentagon. It became a catalyst for change. Secretary Rumsfeld and his team are now committed to reform.

As a former chief executive officer with a large corporation, Mr. Rumsfeld understands that he must have accurate, up-to-date information at his fingertips.

He knows that he can't make good decisions with lousy information. But that's all he gets right now—lousy financial information.

Secretary Rumsfeld knows that financial reform is mandatory.

This year I have had the privilege of working with the very distinguished chairman of the Appropriations Committee, Senator BYRD, to solve this problem.

Our financial reform initiative was accepted by the committee and is now part of the Fiscal Year 2002 Defense authorization bill.

Secretary Rumsfeld's initiatives and the provisions in the Defense authorization bill are part of a long-term effort.

It may take four years or more before the new systems are up and running and producing reliable financial information.

The amendment that I offer today is a short-term, stopgap measure. It will help to maintain pressure and discipline in accounting before the new systems can kick in to action.

Mr. President, the policy embodied in this amendment has been incorporated in the last seven appropriations acts—fiscal years 1995 through 2001.

Under current law, Section 8137 of the act for Fiscal Year 2001, the matching threshold is set at $500,000.00.

By a unanimous vote taken on June 9, 2000, the Senate agreed to keep the threshold at the $500,000.00 level.

Both the General Accounting Office and the inspector general believe that this policy is helping the department avoid "problem disbursements" and other related accounting problems.

Secretary Rumsfeld has made a firm commitment to "clean up" the books and bring some financial management reform to the process at the Pentagon.

Mr. President, that's half of the battle right there—the will to do it. And the will is there.

Having that kind of attitude at the top gives me a high level of confidence. Maybe we can get the job done this time.

Since Secretary Rumsfeld's proposed reforms are still in the development phase and may be several years down the road, I am recommending that the matching threshold be maintained at the current level of $5,000,000.00.

I urge my colleagues to support this amendment.

AMENDMENT NO. 2385

(Purpose: To set aside Army RDT&E funds for the Three-Dimensional Ultrasound Imaging Initiative II)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division for the Army for research, development, test, and evaluation, $5,000,000 may be available for the Three-Dimensional Ultrasound Imaging Initiative II.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2386 THROUGH 2395, EN BLOC

Mr. INOUYE. Mr. President, if may I continue with the managers' package, on behalf of the managers of the bill, I am pleased to offer the following amendments, and I ask unanimous consent that the Senate proceed to consider, vote on, and agree to, en bloc: an amendment for Senator KERRY on solid dye laser technology; an amendment for Senator FEINSTEIN on Shortstop Electronic Protection System; an amendment for Senator FEINSTEIN on Broad Area Maritime Surveillance Program; an amendment for Senator LUGAR, Increase Former SU Threat Reduction (FSUTR); an amendment for Senator LOTT, initiative; an amendment for Senator LOTT on military personnel research; an amendment for Senator LOTT on C–130 Roadmap; an amendment for Senator HELMS on LOGTECH; an amendment for Senator LOTT on LDH–9; an amendment for Senator COLLINS on the Striker advanced lightweight grenade launcher.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2386 through 2395) were agreed to, en bloc, as follows:

AMENDMENT NO. 2386

(Purpose: To make available from research, development, test, and evaluation, Army, $5,000,000 for the Surveillance Denial Solid Dye Laser Technology program of the Aviation and Missile Research, Development and Engineering Center of the Army)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount available in title IV of this division under the heading "RESEARCH DEVELOPMENT, TEST AND EVALUATION, ARMY" that is available for missile technology, $5,000,000 may be available for the Surveillance Denial Solid Dye Laser Technology program of the Aviation and Missile Research, Development and Engineering Center of the Army.

AMENDMENT NO. 2387

(Purpose: To make available from other procurement, Army, $10,000,000 for procurement of Shortstop Electronic Protection Systems for critical force protection)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, ARMY", $10,000,000 may be made available for procurement of Shortstop

Electronic Protection Systems for critical force protection.

AMENDMENT NO. 2388

(Purpose: To make available from research, development, test, and evaluation, Navy, $20,000,000 for the Broad Area Maritime Surveillance program)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $5,000,000 may be made available for the Broad Area Maritime Surveillance program.

AMENDMENT NO. 2389

(Purpose: To increase by $46,000,000 the amount available for former Soviet Union threat reduction and to provide an offset)

At the end of title VIII of division A, add the following:

SEC. . (a) INCREASE IN AMOUNT AVAILABLE FOR FORMER SOVIET UNION THREAT REDUCTION.—The amount appropriated by title II of this division under the heading "FORMER SOVIET UNION THREAT REDUCTION" is hereby increased by $46,00,000.

(b) Offset.—The amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE" is hereby decreased by $46,000,000.

AMENDMENT NO. 2390

(Purpose: To provide funding for a Processible Rigid-Rod Polymeric Material Supplier Initiative under title III of the Defense Production Act of 1950)

On page 223, line 23, insert before the period ", of which, $3,000,000 may be used for a Processible Rigid-Rod Polymeric Material Supplier Initiative under title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) to develop affordable production methods and a domestic supplier for military and commercial processible rigid-rod materials".

AMENDMENT NO. 2391

(Purpose: To increase by $2,000,000 the amount available for Military Personnel Research (PE61103D))

At the appropriate place, insert the following:

SEC. . Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE WIDE", $2,000,000 may be made available for Military Personnel Research.

AMENDMENT NO. 2392

(Purpose: To express the support of the Senate for the Air Force's long-range beddown plan for the C-130J fleet)

At the appropriate place, insert the following:

SEC. . Provided, That the funds appropriated by this act for C-130J aircraft shall be used to support the Air Force's long-range plan called the "C-130 Roadmap" to assist in the planning, budgeting, and beddown of the C-130J fleet. The "C-130 Roadmap" gives consideration to the needs of the service, the condition of the aircraft to be replaced, and the requirement to properly phase facilities to determine the best C-130J aircraft beddown sequence.

AMENDMENT NO. 2393

(Purpose: To provide funding for the U.S. Army Materiel Command's Logistics and Technology Project (LOGTECH))

At the appropriate place in the bill, add the following new section:

SEC. . Of the funds made available in Title II of this Act under the heading "Operation and Maintenance, Army", $2,550,000 may be available for the U.S. Army Materiel Command's Logistics and Technology Project (LOGTECH).

AMENDMENT NO. 2394

(Purpose: To increase by $5,000,000 the amount available for the planning and design for evolutionary improvements for the next LHD-type Amphibious Assault Ship (PE603564N))

At the appropriate place, insert the following:

SEC. . Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $5,000,000 is available for the planning and design for evolutionary improvements for the next LHD-type Amphibious Assault Ship.

AMENDMENT NO. 2395

(Purpose: To set aside $5,000,000 of Procurement, Defense-Wide funds for low-rate initial production of the Striker advanced lightweight grenade launcher (ALGL1160444BBB), and $1,000,000 of RDT&E, Navy funds for the Warfighting Laboratory for delivery and evaluation of prototype units of the Striker ALGL (PE 0603640M))

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. (a) Of the total amount appropriated by title III of this division for procurement, Defense-Wide, up to $5,000,000 may be made available for low-rate initial production of the Striker advanced lightweight grenade launcher.

(b) Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Navy, up to $1,000,000 may be made available for the Warfighting Laboratory for delivery and evaluation of prototype units of the Striker advanced lightweight grenade launcher.

Mr. INOUYE. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2396 THROUGH 2405, EN BLOC

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to consider, vote on, and agree to the following amendments on behalf of the managers, en bloc: an amendment for Senator COLLINS on Smart Maps initiative; an amendment for Senator COLLINS on chemical and biological agents sensors; an amendment for Senator LANDRIEU on Army Nutrition Program; an amendment for Senator LANDRIEU on Partnership for Peace; an amendment for Senator THOMPSON on communicator system for Army National Guard; an amendment for Senator DORGAN on miniaturized wireless system; an amendment for Senator HARKIN on Consolidated Interactive Virtual Information Center of the National Guard; an amendment for Senator REED on Navy warfighting experimentation and demonstration for high-speed vessels; another amendment for Senator REED on Impact Aid for children with severe disabilities; and an amendment for Senators BIDEN and CARPER on worker safety demonstration programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2396 through 2405) were agreed to en bloc, as follows:

AMENDMENT NO. 2396

(Purpose: To set aside $4,000,000 of RDT&E, Defense-Wide funds for the Intelligent Spatial Technologies for Smart Maps Initiative of the National Imagery and Mapping Agency (PE 0305102BQ))

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Defense-Wide, up to $4,000,000 may be made available for the Intelligent Spatial Technologies for Smart Maps Initiative of the National Imagery and Mapping Agency.

AMENDMENT NO. 2397

(Purpose: To set aside $5,000,000 of research, development, test, and evaluation, Defense-Wide funds for further development of light weight sensors of chemical and biological agents using fluorescence-based detection (PE 0602384BP))

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Defense-Wide, $5,000,000 may be available for further development of light weight sensors of chemical and biological agents using fluorescence-based detection.

AMENDMENT NO. 2398

(Purpose: To authorize the availability of $2,500,000 for the Army Nutrition Project)

At the end of title VIII of division A, add the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" $2,500,000 may be made available for the Army Nutrition Project.

AMENDMENT NO. 2399

(Purpose: To authorize the availability of an additional $2,000,000 for the Partnership for Peach (PFP) Information Management System)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", $2,000,000 may be made available for the Partnership for Peace (PFP) Information Management System. Any amount made available for the Partnership for Peace Information Management System under this section is in addition to other amounts available for the Partnership for Peace Information Management System under this Act.

AMENDMENT NO. 2400

(Purpose: To make available $4,892,000 for the Communicator Automated Emergency Notification System of the Army National Guard)

At the end of title VII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, ARMY", $4,892,000 may be used for the Communicator Automated Emergency Notification System of the Army National Guard.

AMENDMENT NO. 2401

(Purpose: To provide funds for a miniaturized wireless system)

At the appropriate place in the bill, add the following:

SEC. . Of the funds provided for Research, Development, Test and Evaluation in this bill, the Secretary of Defense may use $10,000,000 to initiate a university-industry program to utilize advances in 3-dimensional chip scale packaging (CSP) and high temperature superconducting (HTS) transceiver performance, to reduce the size, weight, power consumption, and cost of advanced military wireless communications systems for covert military and intelligence operations, especially HUMINT.

AMENDMENT NO. 2402

(Purpose: To make available $5,000,000 for the Consolidated Interactive Virtual Information Center for the National Guard)

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR NATIONAL GUARD CONSOLIDATED INTERACTIVE VIRTUAL INFORMATION CENTER.—Of the amount appropriated by title II of this division under the heading "Operation and Maintenance, Air National Guard," $5,000,000 may be available for the Consolidated Interactive Virtual Information Center for the National Guard.

(b) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (a) for the Consolidated Interactive Virtual Information Center of the National Guard is in addition to any other amounts available under this Act for the Consolidated Interactive Virtual Information Center.

AMENDMENT NO. 2403

(Purpose: To make available $1,200,000 for concept development and composite construction of high speed vessels currently implemented by the Navy Warfare Development Command)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY" and available for Navy Space and Electronic Warfare (SEW) Architecture/Engine, $1,200,000 may be made available for concept development and composite construction of high speed vessels currently implemented by the Navy Warfare Development Command.

AMENDMENT NO. 2404

(Purpose: To set aside operation and maintenance, Defense-Wide funds for impact aid for children with severe disabilities)

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by this division for operation and maintenance, Defense-Wide, $5,000,000 may be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-396; 114 Stat. 1654A-77).

AMENDMENT NO. 2405

(Purpose: To make funds available to enhance the worker safety demonstration programs of the military departments)

At the appropriate place in division A, insert the following:

SEC. . (a) FINDINGS.—The Senate makes the following findings:

(1) The military departments have recently initiated worker safety demonstration programs.

(2) These programs are intended to improve the working conditions of Department of Defense personnel and save money.

(3) These programs are in the public interest, and the enhancement of these programs will lead to desirable results for the military departments.

(b) FUNDS FOR ENHANCEMENT OF ARMY PROGRAM.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, ARMY", $3,300,000 may be available to enhance the Worker Safety Demonstration Program of the Army.

(c) FUNDS FOR ENHANCEMENT OF NAVY PROGRAM.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, NAVY", $3,300,000 may be available to enhance the Worker Safety Demonstration Program of the Navy.

(d) FUNDS FOR ENHANCEMENT OF AIR FORCE PROGRAM.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, AIR FORCE", $3,300,000 may be available to enhance the Worker Safety Demonstration Program of the Air Force.

Mr. INOUYE. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2406 THROUGH 2414, EN BLOC

Mr. INOUYE. Mr. President, if I may proceed further, I ask unanimous consent that the Senate proceed to consider, vote on, and agree to, en bloc: an amendment for Senator CARNAHAN on Rosecrans Memorial Airport; an amendment for Senator NELSON of Florida on the Center for Advanced Power Systems; an amendment for Senator DEWINE on collaborative technology clusters; an amendment for Senator CLELAND on Army live fire ranges; an amendment for Senator CLELAND on Aging Aircraft Program; an amendment for Senator SNOWE on Navy Pilot Human Resources Call Center; an amendment for Senator SNOWE on compact kinetic energy missile; an amendment for Senator CLELAND on engineering control and surveillance systems; and an amendment for Senator BUNNING on Navy Medical Research Center.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2406 through 2414) were agreed to en bloc, as follows:

AMENDMENT NO. 2406

(Purpose: To set aside Air National Guard operation and maintenance funds for certain replacement and repair projects for facilities used by the Air National Guard at Rosecrans Memorial Airport, St. Joseph, Missouri)

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by this division for operation and maintenance, Air National Guard, $435,000 may be available (subject to section 2805(c) of title 10, United States Code) for the replacement of deteriorating gas lines, mains, valves, and fittings at the Air National Guard facility at Rosecrans Memorial Airport, St. Joseph, Missouri, and (subject to section 2811 of title 10, United States Code) for the repair of the roof of the Aerial Port Facility at that airport.

AMENDMENT NO. 2407

At the appropriate place in Division A, insert the following:

SEC. . Of the amount appropriated in title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $7,000,000 may be made available for the Center for Advanced Power Systems.

AMENDMENT NO. 2408

(Purpose: To set aside Air Force RDT&E funds to complete the research and development tasks under the Collaborative Technology Clusters program of the Air Force Research Laboratory)

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the amount appropriated by title IV of this division for the Air Force for research, development, test, and evaluation, $3,500,000 may be available for the Collaborative Technology Clusters program.

AMENDMENT NO. 2409

(Purpose: To make available $7,000,000 for Army live fire ranges)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, ARMY", $7,000,000 may be available for Army live fire ranges.

AMENDMENT NO. 2410

(Purpose: To make available $3,900,000 for the aging aircraft program of the Air Force)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, AIR FORCE", $3,900,000 may be available for the aging aircraft program of the Air Force.

AMENDMENT NO. 2411

(Purpose: To set aside Navy operation and maintenance funds for the Navy Pilot Human Resources Call Center, Cutler, Maine (Civilian Manpower and Personnel Management, BLN 480))

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated in title II of this division for operation and maintenance, Navy, for civilian manpower and personnel management, $1,500,000 may be used for the Navy Pilot Human Resources Call Center, Cutler, Maine.

AMENDMENT NO. 2412

(Purpose: To set aside Army RDT&E funds for Compact Kinetic Energy Missile Inertial Future Missile Technology Integration (PE 0602303A, BLN 10))

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated in title IV of this division for research, development, test and evaluation, Army, $5,000,000 may be used for Compact Kinetic Energy Missile Inertial Future Missile Technology Integration.

AMENDMENT NO. 2413

(Purpose: To make available $1,600,000 for the Navy for Engineering Control and Surveillance Systems)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, NAVY", $1,600,000 may be available for the Navy for Engineering Control and Surveillance Systems.

AMENDMENT NO. 2414

(Purpose: To provide $5,000,000 for a program at the Naval Medical Research Center (NMRC) to treat victims of radiation exposure (PE0604771N))

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $5,000,000 may made be available for a program at the Naval Medical Research Center (NMRC) to treat victims of radiation exposure.

Mr. INOUYE. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2415 THROUGH 2425, EN BLOC

Mr. INOUYE. Mr. President, if I may proceed further, I ask unanimous consent that the Senate proceed to consider, vote on, and agree to, en bloc: an amendment for Senator LANDRIEU, Gulf States Initiative; an amendment for Senator COLLINS, laser fabricated steel reinforcement for ship construction; an amendment for Senator DODD on report on progress of CTR to India, Pakistan; an amendment for Senator DODD on the M4 carbine; an amendment for Senator DODD on the AN/AVR-2A; an amendment for Senator DODD on the F-16 batteries; an amendment for Senator DODD on the four hushkits for C-9; an amendment for Senator SARBANES on Operating Room of the Future; an amendment for Senator TORRICELLI on Coalition for Advanced Biomaterials; an amendment for Senator TORRICELLI on advanced digital recorders for P-3; and an amendment for Senator BINGAMAN on Big Crow, Defense Systems Evaluation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2415 through 2425) were agreed to en bloc, as follows:

AMENDMENT NO. 2415

(Purpose: To make available $10,000,000 for the Gulf States Initiative)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", $10,000,000 may be available for the Gulf States Initiative.

AMENDMENT NO. 2416

(Purpose: To set aside $4,300,000 of Research, Development, Test, and Evaluation, Navy funds for the demonstration and validation of laser fabricated steel reinforcement for ship construction (PE 0603123N))

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Navy, $4,000,000 may be available for the demonstration and validation of laser fabricated steel reinforcement for ship construction.

AMENDMENT NO. 2417

(Purpose: To require a report on progress toward implementation of comprehensive nuclear threat reduction programs to safeguard Pakistani and Indian missile nuclear stockpiles and technology)

At the appropriate place in the Committee amendment, insert the following new section:

SEC. . REPORT ON PROGRESS TOWARD IMPLEMENTATION OF COMPREHENSIVE NUCLEAR THREAT REDUCTION PROGRAMS TO SAFEGUARD PAKISTANI AND INDIAN MISSILE NUCLEAR STOCKPILES AND TECHNOLOGY.

(a) FINDINGS.—Congress makes the following findings:

(1) Since 1991 the Nunn-Lugar cooperative threat reduction initiative with the Russian Federation has sought to address the threat posed by Soviet-era stockpiles of nuclear, chemical, and biological weapons-grade materials being illicitly acquired by terrorist organizations or rogue states.

(2) India and Pakistan have acquired or developed independently nuclear materials, detonation devices, warheads, and delivery systems as part of their nuclear weapons programs.

(3) Neither India nor Pakistan is currently a signatory of the Nuclear Non-Proliferation Treaty or the Comprehensive Test Ban Treaty or an active participant in the United Nations Conference of Disarmament, nor do these countries voluntarily submit to international inspections of their nuclear facilities.

(4) Since the commencement of the military campaign against the Taliban regime and the al-Qaeda terrorist network in Afghanistan, Pakistan has taken additional steps to secure its nuclear assets from theft by members of al-Qaeda or other terrorists sympathetic to Osama bin Laden or the Taliban.

(5) Self-policing of nuclear materials and sensitive technologies by Indian and Pakistani authorities without up-to-date Western technology and expertise in the nuclear security area is unlikely to prevent determined terrorists or sympathizers from gaining access to such stockpiles over the long term.

(6) The United States has a significant national security interest in cooperating with India and Pakistan in order to ensure that effective nuclear threat reduction programs and policies are being pursued by the governments of those two countries.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense, in cooperation with the Secretaries of State and Energy, shall submit a report to Congress describing the steps that have been taken to develop cooperative threat reduction programs with India and Pakistan. Such report shall include recommendations for changes in any provision of existing law that is currently an impediment to the full establishment of such programs, a timetable for implementation of such programs, and an estimated five-year budget that will be required to fully fund such programs.

AMENDMENT NO. 2418

(Purpose: To make available $5,000,000 for the Marine Corps for M-4 Carbine, Modular Weapon Systems)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "PROCUREMENT, MARINE CORPS", $5,000,000 may be available for M-4 Carbine, Modular Weapon Systems.

AMENDMENT NO. 2419

(Purpose: To make available $7,500,000 for the Army for AN/AVR-2A laser detecting sets)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "AIRCRAFT PROCUREMENT, ARMY", $7,500,000 may be available for AN/AVR-2A laser detecting sets.

AMENDMENT NO. 2420

(Purpose: To make available $2,500,000 for the Air Force for Industrial Preparedness (PE0708011F) for continuing development of the nickel-metal hydride replacement battery for F-16 aircraft)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH DEVELOPMENT, TEST AND EVALUATION, AIR FORCE", $2,500,000 may be available for Industrial Preparedness (PE0708011F) for continuing development of the nickel-metal hydride replacement battery for F-16 aircraft.

AMENDMENT NO. 2421

(Purpose: To make available $8,960,000 for the Navy for four Hushkit noise inhibitors for C-9 aircraft)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III under the heading "AIRCRAFT PROCUREMENT, NAVY", $8,960,000 may be available for the Navy for four Hushkit noise inhibitors for C-9 aircraft.

AMENDMENT NO. 2422

(Purpose: To make available $5,000,000 for the development of the Operating Room of the Future, an applied technology test bed at the University of Maryland Medical Center in collaboration with the Telemedicine and Advanced Technology Research Center of the Army)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title VI of this division under the heading "DEFENSE HEALTH PROGRAM", $5,000,000 may be available for the Army for the development of the Operating Room of the Future, an applied technology test bed at the University of Maryland Medical Center.

AMENDMENT NO. 2423

(Purpose: To make available $5,700,000 for the Army for the Coalition for Advanced Biomaterials Technologies and Therapies (CABTT) program to maximize far-forward treatment and for the accelerated return to duty of combat casualties)

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriated by title IV of this division under the heading "Research Development, Testt and Evaluation, Army", $5,700,000 may be made available for the Coalition for Advanced Biomaterials Technologies and Therapies (CABTT) program to maximize far-forward treatment and for the accelerated return to duty of combat casualties.

AMENDMENT NO. 2424

(Purpose: To make available $9,800,000 for the Navy for Advanced Digital Recorders and Digital Recorder Producers for P–3 aircraft)

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriated by title III of this division under the heading "Aircraft Procurement, Navy", $9,800,000 may be available only for Advanced Digital Recorders and Digital Recorder Producers for P–3 aircraft.

AMENDMENT NO. 2425

(Purpose: To make funds available for Big Crow (PE605118D))

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Funding for Certain Programs and Projects.—From amounts appropriated by this division, amounts may hereby be made available as follows:

(1) $8,000,000 for Big Crow (PE605118D).

Mr. INOUYE. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2426 THROUGH 2438, EN BLOC

Mr. INOUYE. And finally, Mr. President——

Mr. STEVENS. No. Two more.

Mr. INOUYE. For the managers of the bill, I ask unanimous consent the Senate proceed to consider, vote on, and agree to, en bloc: an amendment for Senator Cochran, domed housing units on the Marshall Islands; an amendment for Senator Rick Santorum, National Tissue Engineering Center; an amendment for Senator Santorum, M107 HE 155 millimeter; an amendment for Senator Santorum on Integrated Medical Information Tech System; an amendment for Senator Santorum on modular helmet; an amendment for Senator Santorum on information operations; an amendment for Senator Kennedy on NULKA; an amendment for Senator Harkin on health protection of workers at Iowa AAP; an amendment for Senator Shelby on low-cost launch vehicle technology; an amendment for Senator Bunning on study of the Army trainee barracks; an amendment for Senator Hutchinson on pilot program for efficient inventory management; an amendment for Senator McCain, strike Section 902 of Division B for funding certain military construction projects; and an amendment for Senator Stabenow on advanced safety tether operations.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2426 through 2438) were agreed to en bloc, as follows:

AMENDMENT NO. 2426

(Purpose: To provide for the acquisition, installation, and maintenance of domed housing units on the Marshall Islands)

At the end of title VIII of this division, add the following:

Sec. 8135. (a) Funding for Domed Housing Units on Marshall Islands.—From within amounts appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" the Commanding General of the Army Space and Missile Defense Command may acquire, and maintain domed housing units for military personnel on Kwajalein Atoll and other islands and locations in support of the mission of the command.

AMENDMENT NO. 2427

(Purpose: To set aside for medical technology, National Tissue Engineering Center $4,000,000 of the amount provided for Army, research, development, test and evaluation)

Of the funds made available in title IV of the act under the heading "Research, Development, Test and Evaluation, Army" $4,000,000 may be available for a national tissue engineering center.

AMENDMENT NO. 2428

(Purpose: To set aside for artillery projectiles, M107, HE, 155mm, $5,000,000 of the amount provided for Army, Ammunition Procurement)

Of the funds in Title III for Ammunition Procurement, Army, $5,000,000 may be available for M107, HE, 155mm.

AMENDMENT NO. 2429

(Purpose: To set aside for Agile Combat Support, Integrated Medical Information Technology System (PE 604617) $1,000,000 of the amount for Air Force, research, development, test, and evaluation)

Of the funds in Title IV for Research, Development, Test and Evaluation, Air Force, $1,000,000 may be available for Integrated Medical Information Technology System.

AMENDMENT NO. 2430

(Purpose: To set aside for Air Crew Systems Development, Modular Helmet Development (PE 604264N) $3,000,000 of the amount for the Navy for research, development, test and evaluation)

Of the funds authorized in Title IV for appropriation for Research, Development, Test and Evaluation, Navy, $3,000,000 may be available for modular helmet.

AMENDMENT NO. 2431

(Purpose: To set aside for land forces readiness-information operations sustainment (PE 19640) $5,000,000 of the amount provided for the Army Reserve for operations and maintenance)

Of the funds available in Title II for Operation & Maintenance, Army Reserve, $5,000,000 may be available for land forces readiness-information operations.

AMENDMENT NO. 2432

(Purpose: To set aside $10,000,000 of other procurement, Navy funds for the NULKA decoy procurement)

At the appropriate place in the bill, insert the following:

Sec. . Of the total amount appropriated by title III of this division for other procurement, Navy, $10,000,000 may be available for the NULKA decoy procurement.

AMENDMENT NO. 2433

(Purpose: To facilitate the protection of the health of current and former workers at Iowa Army Ammunition Plant)

At the end of title VIII of division A, insert the following:

Sec. . (a) * * *.—Section 1078(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–283) is amended—

(1) in paragraph (1), by inserting ", or its contractors or subcontractors," after "Department of Defense"; and

(2) in paragraph (3), by striking "stored, assembled, disassembled, or maintained" and inserting "manufactured, assembled, or disassembled".

(b) Determination of Exposures at IAAP.—The Secretary of Defense shall take appropriate actions to determine the nature and extent of the exposure of current and former employees at the Army facility at the Iowa Army Ammunition Plant, including contractor and subcontractor employees at the facility, to radioactive or other hazardous substances at the facility, including possible pathways for the exposure of such employees to such substances.

(c) Notification of Employees Regarding Exposure.—(1) The Secretary shall take appropriate actions to—

(A) identify current and former employees at the facility referred to in subsection (b), including contractor and subcontractor employees at the facility; and

(B) notify such employees of known or possible exposures to radioactive or other hazardous substances at the facility.

(2) Notice under paragraph (1)(B) shall include—

(A) information on the discussion of exposures covered by such notice with health care providers and other appropriate persons who do not hold a security clearance; and

(B) if necessary, appropriate guidance on contacting health care providers and officials involved with cleanup of the facility who hold an appropriate security clearance.

(3) Notice under paragraph (1)(B) shall be by mail or other appropriate means, as determined by the Secretary.

(d) Deadline for Actions.—The Secretary shall complete the actions required by subsections (b) and (c) not later than 90 days after the date of the enactment of this Act.

(e) Report.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the results of the actions undertaken by the

Secretary under this section, including any determinations under subsection (b), the number of workers identified under subsection (c)(1)(A), the content of the notice to such workers under subsection (c)(1)(B), and the status of progress on the provision of the notice to such workers under subsection (c)(1)(B).

AMENDMENT NO. 2434

(Purpose: To add funding for Air Force RDT&E for Low Cost Launch Vehicle Technology)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE" $1,000,000, may be available for Low Cost Launch Vehicle Technology.

AMENDMENT NO. 2435

(Purpose: To require a Comptroller General study of the physical state of Initial Entry Trainee housing and barracks of the Armed Services)

At the end of title VIII of division A, add the following:

SEC. 8135. (a) STUDY OF PHYSICAL STATE OF ARMED SERVICES INITIAL ENTRY TRAINEE HOUSING AND BARRACKS.—The Comptroller General of the United States shall carry out a study of the physical state of the Initial Entry Trainee housing and barracks of the Armed Services.

(b) REPORT TO CONGRESS.—Not later than nine months after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the study carried out under subsection (a). The report shall set forth the results of the study, and shall include such other matters relating to the study as the Comptroller General considers appropriate.

(c) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—In this section, the term "congressional defense committees" means—

(1) the Committees on Appropriations and Armed Services of the Senate; and

(2) the Committees on Appropriations and Armed Services of the House of Representatives.

AMENDMENT NO. 2436

(Purpose: To provide funds for a pilot program for the development of an efficient inventory management system for the Department of Defense)

On page 326, between lines 17 and 18, insert the following:

PILOT PROGRAM FOR EFFICIENT INVENTORY MANAGEMENT SYSTEM FOR THE DEPARTMENT OF DEFENSE

SEC. 8135. (a) Of the total amount appropriated by this division for operation and maintenance, Defense-Wide, $1,000,000 may be available for the Secretary of Defense to carry out a pilot program for the development and operation of an efficient inventory management system for the Department of Defense. The pilot program may be designed to address the problems in the inventory management system of the Department that were identified by the Comptroller General of the United States as a result of the General Accounting Office audit of the inventory management system of the Department in 1997.

(b) In entering into any contract for purposes of the pilot program, the Secretary may take into appropriate account current Department contract goals for small business concerns owned and controlled by socially and economically disadvantaged individuals.

(c) Not later than one year after the date of the enactment of this Act, the Secretary may submit to Congress a report on the pilot program. The report shall describe the pilot program, assess the progress of the pilot program, and contain such recommendations at the Secretary considers appropriate regarding expansion or extension of the pilot program.

AMENDMENT NO. 2437

(Purpose: To provide funds to carry out authorized military construction projects funds for which are diverted to military construction projects for the national emergency)

Strike section 902 of division B and insert the following:

SEC. 902. (a) FUNDING FOR CERTAIN MILITARY CONSTRUCTION PROJECTS.—If in exercising the authority in section 2808 of title 10, United States Code, to carry out military construction projects not authorized by law, the Secretary of Defense utilizes, whether in whole or in part, funds appropriated but not yet obligated for a military construction project previously authorized by law, the Secretary may carry out such military construction project previously authorized by law using amounts appropriated by the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107-38; 115 Stat. 220), or any other appropriations Act to provide funds for the recovery from and response to the terrorist attacks on the United States that is enacted after the date of the enactment of this Act, and available for obligation.

AMENDMENT NO. 2438

(Purpose: To make available $2,000,000 for the Advanced Safety Tether Operation and Reliability/Space Transfer using Electrodynamic Propulsion (STEP-AIRSEDS) program (PE0602236N))

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR ADVANCED SAFETY TETHER OPERATION AND RELIABILITY/SPACE TRANSFER USING ELECTRODYNAMIC PROPULSION (STEP-AIRSEDS) PROGRAM.—Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION NAVY", $2,000,000 may be allocated to the Advanced Safety Tether Operation and Reliability/Space Transfer using Electrodynamic Propulsion (STEP-AIRSEDS) program (PE0602236N) of the Office of Naval Research/Navy Research Laboratory.

Mr. INOUYE. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2439 THROUGH 2459, EN BLOC

Mr. INOUYE. Mr. President, on behalf of the managers of the bill, I ask unanimous consent that the Senate proceed to consider, vote on, and agree to the following amendments, en bloc: an amendment for Senator STABENOW, community service projects; an amendment for Senator STEVENS, NOAA; an amendment for Senator GREGG, date change; an amendment for Senator DURBIN, legislative branch, technical; an amendment for Senator SPECTER, intelligent transportation system; an amendment for Senator LANDRIEU, dirty bombs; an amendment for Senator MURRAY, apples; an amendment for Senator DOMENICI, waste isolation; an amendment for Senator DURBIN, Nutwood Levee; an amendment for Senator DOMENICI, electrical energy systems; an amendment for Senator HARKIN, essential air service; an amendment for Senator STEVENS, GSA provision; an amendment for Senator STEVENS, Postal Service product rates; an amendment for Senator BOND, Smithsonian Institution artifacts; an amendment for Senator DASCHLE, Kennedy Center; an amendment for Senator STEVENS, Cook Inlet Housing Authority; an amendment for Senator DOMENICI, dam safety; an amendment for Senator STEVENS, Alaska Native contracting; an amendment for Senators BIDEN and HOLLINGS on the National Railroad Passenger Corporation; and an amendment for Senator DASCHLE on mining.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2439 through 2459) were agreed to, en bloc, as follows:

AMENDMENT NO. 2439

(Purpose: To establish a program to name national and community service projects in honor of victims killed as a result of the terrorist attacks on September 11, 2001)

On page 201, after line 22, insert the following:

SEC. 1202. UNITY IN THE SPIRIT OF AMERICA.

(a) SHORT TITLE.—This title may be cited as the "Unity in the Spirit of America Act" or the "USA Act".

(b) PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS.—The National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) is amended by inserting before title V the following:

"TITLE IV—PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS

"SEC. 401. PROJECTS.

"(a) DEFINITION.—In this section, the term 'Foundation' means the Points of Light Foundation funded under section 301, or another nonprofit private organization, that enters into an agreement with the Corporation to carry out this section.

"(b) IDENTIFICATION OF PROJECTS.—

"(1) ESTIMATED NUMBER.—Not later than December 1, 2001, the Foundation, after obtaining the guidance of the heads of appropriate Federal agencies, such as the Director of the Office of Homeland Security and the Attorney General, shall—

"(A) make an estimate of the number of victims killed as a result of the terrorist attacks on September 11, 2001 (referred to in this section as the 'estimated number'); and

"(B) compile a list that specifies, for each individual that the Foundation determines to be such a victim, the name of the victim and the State in which the victim resided.

"(2) IDENTIFIED PROJECTS.—The Foundation may identify approximately the estimated number of community-based national and community service projects that meet the requirements of subsection (d). The Foundation shall name each identified project in honor of a victim described in subsection (b)(1)(A), after obtaining the permission of an appropriate member of the victim's family and the entity carrying out the project.

"(c) Eligible Entities.—To be eligible to have a project named under this section, the entity carrying out the project shall be a political subdivision of a State, a business, a nonprofit organization (which may be a religious organization, such as a Christian, Jewish, or Muslim organization), an Indian tribe, or an institution of higher education.

"(d) Projects.—The Foundation shall name, under this section, projects—

"(1) that advance the goals of unity, and improving the quality of life in communities; and

"(2) that will be planned, or for which implementation will begin, within a reasonable period after the date of enactment of the Unity in Service to America Act, as determined by the Foundation.

"(e) Website and Database.—The Foundation shall create and maintain websites and databases, to describe projects named under this section and serve as appropriate vehicles for recognizing the projects.".

AMENDMENT NO. 2440

On page 152, after line 19, insert:

Sec. 204. From within funds available to the State of Alaska or the Alaska Region of the National Marine Fisheries Service, an additional $500,000 shall be made available for the cost of guaranteeing the reduction loan authorized under section 144(d)(4)(A) of title I, Division B of Public Law 106–554 (114 Stat. 2763A–242) and that subparagraph is amended to read as follows: "(4)(A) The fishing capacity reduction program required under this subsection is authorized to be financed through a reduction loan of $100,000,000 under section 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1279f and 1279g).".

AMENDMENT NO. 2441

(Purpose: To improve the bill)

On page 205, after line 12, insert the following:

Sec. 104. Section 612 of P.L. 107-77 is amended by striking "June 30, 2002" and inserting "April 1, 2002".

AMENDMENT NO. 2442

On page 209, after line 25, insert:

Sec. 110. (a) Section 133(a) of the Legislative Branch Appropriations Act, 2001, (Public Law 107–68) is amended—

(1) by striking "90-day" in paragraph (1) and inserting "180-day", and

(2) by striking "90-days" in paragraph (2)(C) and inserting "180 days".

(b) The amendments made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2001 (Public Law 107–68).

AMENDMENT NO. 2443

(Purpose: To expedite the deployment of the intelligent transportation infrastructure system)

On page 191, after line 12 insert:

Sec. 1001.—Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 449; 23 U.S.C. 502 note) is amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (F), and (G), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) Follow-on deployment.—(i) After an intelligent transportation infrastructure system deployed in an initial deployment area pursuant to a contract entered into under the program under this paragraph has received system acceptance, the Department of Transportation has the authority to extend the original contract that was competitively awarded for the deployment of the system in the follow-on deployment areas under the contract, using the same asset ownership, maintenance, fixed price contract, and revenue sharing model, and the same competitively selected consortium leader, as were used for the deployment in that initial deployment area under the program.

"(ii) If any one of the follow-on deployment areas does not commit, by July 1, 2002, to participate in the deployment of the system under the contract, then, upon application by any of the other follow-on deployment areas that have committed by that date to participate in the deployment of the system, the Secretary shall supplement the funds made available for any of the follow-on deployment areas submitting the applications by using for that purpose the funds not used for deployment of the system in the nonparticipating area. Costs paid out of funds provided in such a supplementation shall not be counted for the purpose of the limitation on maximum cost set forth in subparagraph (B).";

(4) by inserting after subparagraph (D), as redesignated by paragraph (1), the following new subparagraph (E):

"(E) Definitions.—In this paragraph:

"(i) The term 'initial deployment area' means a metropolitan area referred to in the second sentence of subparagraph (A).

"(ii) The term 'follow-on deployment areas' means the metropolitan areas of Baltimore, Birmingham, Boston, Chicago, Cleveland, Dallas/Ft. Worth, Denver, Detroit, Houston, Indianapolis, Las Vegas, Los Angeles, Miami, New York/Northern New Jersey, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Salt Lake, San Diego, San Francisco, St. Louis, Seattle, Tampa, and Washington, District of Columbia."; and

(5) in subparagraph (D), as redesignated by paragraph (1), by striking "subparagraph (D)" and inserting "subparagraph (F)".

AMENDMENT NO. 2444

(Purpose: To provide that funds available to improve nuclear nonproliferation and verification research and development shall be available to research and development with respect to radiological dispersion devices)

In chapter 5 of division B, under the heading "National Nuclear Security Administration" under the paragraph "defense nuclear proliferation", insert after "nuclear nonproliferation and verification research and development" the following: "(including research and development with respect to radiological dispersion devices, also known as 'dirty bombs')".

AMENDMENT NO. 2445

On page 138, after line 2, insert the following:

Sec. 101. Section 741(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (P.L. 107–76), is amended by striking "20,000,000 pounds" and inserting "5,000,000 pounds".

AMENDMENT NO. 2446

(Purpose: Technical modification of authority to improve safety of transportation routes to the Waste Isolation Pilot Plant)

On page 165, after 22, insert the following:

Sec. 501. Of the funds provided in this or any Act for "Defense Environmental Restoration and Waste Management" at the Department of Energy, up to $500,000 may be available to the Secretary of Energy for safety improvements to roads along the shipping route to the Waste Isolation Pilot Plant site.

AMENDMENT NO. 2447

(Purpose: To make a technical correction to the FY 2002 Energy and Water Appropriations Act, P.L. 107–66 for Nutwood Levee, IL)

On page 165, after line 22, insert the following:

Sec. 503. Nutwood Levee, Illinois.—The Energy and Water Development Appropriation Act, 2002 (Public Law 107–66) is amended under the heading "Title I, Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil, Construction, General" by inserting after "$3,500,000" but before the "." ": *Provided further*, That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, may initiate construction on the Nutwood Levee, Illinois project"

AMENDMENT NO. 2448

(Purpose: To make available, with an offset, an additional $14,000,000 for the electric energy systems and storage program of the Department of Energy)

On page 165, after line 22, add the following:

Sec. 502. Title II of the Energy and Water Development Appropriations Act, 2002 (Public Law 107–66) is amended by adding at the end the following new section:

"Sec. 313. (a) Increase in Amount Available for Electric Energy Systems and Storage Program.—The amount appropriated by this title under the heading 'DEPARTMENT OF ENERGY' under the heading 'ENERGY PROGRAMS' under the paragraph 'Energy Supply' is hereby increased by $14,000,000, with the amount of the increase to be available under the paragraph for the electric energy systems and storage program.

"(b) Decrease in Amount Available for Department of Energy Generally.—The amount appropriated by this title under the heading 'DEPARTMENT OF ENERGY' (other than under the heading "National Nvd. Security Administration or under the heading 'ENERGY PROGRAMS' under the paragraph 'Energy Supply') is hereby decreased by $14,000,000, with the amount of the decrease to be distributed among amounts available under the heading 'DEPARTMENT OF ENERGY' in a manner determined by the Secretary of Energy and approved by the Committees of Appropriations.".

AMENDMENT NO. 2449

(Purpose: To assure minimum service levels under the Essential Air Service Program)

On page 186, line 22, before the period, insert: *Provided*, That it is the Sense of the Senate that funds provided under this paragraph shall be used to provide subsidized service at a rate of not less than three flights per day for eligible communities with significant enplanement levels that enjoyed said rate of service, with or without subsidy, prior to September 11, 2001.".

AMENDMENT NO. 2450

On page 196, after line 16, insert:

SEC. 1101. None of the funds appropriated by this Act or any other Act may be used after June 30, 2002 for the operation of any federally owned building if determined to be appropriate by the Administrator of the General Services Administration; or to enter into any lease or lease renewal with any person for office space for a federal agency in any other building, unless such operation, lease, or lease renewal is in compliance with a regulation or Executive Order issued after the date of enactment of this section that requires redundant and physically separate entry points to such buildings, and the use of physically diverse local network facilities, for the provision of telecommunications services to federal agencies in such buildings.

AMENDMENT NO. 2451

(Purpose: To set new criteria and rates for delivery of services under Section 5402 of Title 39)

On page 195, on line 20 before the period, insert: "*Provided*, That the Postal Service is authorized to review rates for product delivery and minimum qualifications for eligible service providers under section 5402 of title 39, and to recommend new rates and qualifications to reduce expenditures without reducing service levels."

AMENDMENT NO. 2452

On page 168, after line 9, insert:

SEC. 601. (a) IN GENERAL.—The Secretary of the Smithsonian Institution may collect and preserve in the National Museum of American History artifacts relating to the September 11th attacks on the World Trade Center and the Pentagon.

(b) TYPES OF ARTIFACTS.—In carrying out subsection (a), the Secretary of the Smithsonian Institution shall consider collecting and perserving—

(1) pieces of the World Trade Center and the Pentagon;

(2) still and video images made by private individuals and the media;

(3) personal narratives of survivors, rescuers, and government officials; and

(4) other artifacts, recordings, and testimonials that the Secretary of the Smithsonian Institution determines have lasting historical significance.

(c) There is authorized to be appropriated to the Smithsonian Institution $5,000,000 to carry out this section.

AMENDMENT NO. 2453

(Purpose: To increase the number of general trustees of the John F. Kennedy Center for the Performing Arts and to designate the Secretary of State as a trustee)

At the appropriate place, insert the following:

SEC. . TRUSTEES OF THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.

(a) MEMBERSHIP.—Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)) is amended—

(1) by striking "There is hereby" and inserting the following:

"(1) IN GENERAL.—There is"; and

(2) by striking the second sentence and inserting the following:

"(2) MEMBERSHIP.—The Board shall be composed of—

"(A) the Secretary of Health and Human Services;

"(B) the Librarian of Congress;

"(C) the Secretary of State;

"(D) the Chairman of the Commission of Fine Arts;

"(E) the Mayor of the District of Columbia;

"(F) the Superintendent of Schools of the District of Columbia;

"(G) the Director of the National Park Service;

"(H) the Secretary of Education;

"(I) the Secretary of the Smithsonian Institution;

"(J)(i) the Speaker and the Minority Leader of the House of Representatives;

"(ii) the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives; and

"(iii) 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives;

"(K)(i) the Majority Leader and the Minority Leader of the Senate;

"(ii) the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate; and

"(iii) 3 additional Members of the Senate appointed by the President of the Senate; and

"(L) 36 general trustees, who shall be citizens of the United States, to be appointed in accordance with subsection (b).".

(b) TERMS OF OFFICE FOR NEW GENERAL TRUSTEES.—Section 2(b) of the John F. Kennedy Center Act (20 U.S.C. 76h(b)) shall apply to each general trustee of the John F. Kennedy Center for the Performing Arts whose position is established by the amendment made by subsection (a)(2) (referred to in this subsection as a "new general trustee"), except that the initial term of office of each new general trustee shall—

(1) commence on the date on which the new general trustee is appointed by the President; and

(2) terminate on September 1, 2007.

AMENDMENT NO. 2454

On page 168, after line 9, insert the following:

SEC. 602. (a) GENERAL TRUSTEES.—

(1) IN GENERAL.—Subsection (a) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is amended in its last clause by striking out the word "thirty" and inserting in lieu thereof the word "thirty-six".

(2) TERMS OF OFFICE FOR NEW GENERAL TRUSTEES.—

(A) INITIAL TERMS OF OFFICE.—

(i) COMMENCEMENTS OF INITIAL TERM.—The initial terms of office for all new general trustee offices created by this Act shall commence upon appointment by the President.

(ii) EXPIRATIONS OF INITIAL TERM.—The initial terms of office for all new general trustee offices created by this Act shall continue until September 1, 2007.

(iii) VACANCIES AND SERVICE UNTIL THE APPOINTMENT OF A SUCCESSOR.—For all new general trustee offices created by this Act, subsections (b)(1) and (b)(2) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) shall apply.

(B) SUCCEEDING TERMS OF OFFICE.—Upon the expirations of the initial terms of office pursuant to Section 1(b)(1) of this Act, the terms of office for all new general trustee offices created by this Act shall be governed by subsection (b) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h).

(b) EX OFFICIO TRUSTEES.—Subsection (a) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is further amended by inserting in the second sentence "the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives," after "the Secretary of the Smithsonian Institution,".

(c) HOUSEKEEPING AMENDMENT.—To conform with the previous abolition of the United States Information Agency and the transfer of all functions of the Director of the United States Information of Agency to the Secretary of State (sections 1311 and 1312 of Public Law 105-277, 112 Stat. 2681-776), subsection (a) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is further amended by striking in the second sentence "the Director of the United States Information Agency," and inserting in lieu thereof "the Secretary of State,".

AMENDMENT NO. 2455

(Purpose: To allow for expenditures of previously appropriated housing funds)

On page 201, after line 22, insert the following:

SEC. 1201. Within funds previously appropriated as authorized under the Native American Housing and Self Determination Act of 1996 (Pub. L. 104-330, §§1(a), 110 Stat. 4016) and made available to Cook Inlet Housing Authority, Cook Inlet Housing Authority may use up to $9,500,000 of such funds to construct student housing for Native college students, including an on-site computer lab and related study facilities, and, notwithstanding any provision of such Act to the contrary, Cook Inlet Housing Authority may use a portion of such funds to establish a reserve fund and to provide for maintenance of the project."

AMENDMENT NO. 2456

(Purpose: To make a technical correction to the FY 2002 Energy and Water Appropriations Act, P.L. 107-66 for the Bureau of Reclamation Dam Safety Program)

On page 165, after line 22, insert the following:

GENERAL PROVISION, THIS CHAPTER

SEC. 501. The Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended as follows:

(1) by inserting in Section 4(c) after "2000," and before "costs" the following: "and the additional $32,000,000 further authorized to be appropriated by amendments to the Act in 2001,"; and

(2) by inserting in Section 5 after "levels)," and before "plus" the following: "and, effective October 1, 2001, not to exceed an additional $32,000,000 (October 1, 2001, price levels),".

AMENDMENT NO. 2457

(Purpose: To clarify Federal procurement law for certain qualified entities)

On page 168, after line 9, insert the following new section:

SEC. 603. Section 29 of P.L. 92-203, as enacted under section 4 of P.L. 94-204 (43 U.S.C. 1626), is amended by adding at the end of subsection (e) the following:

"(4)(A) Congress confirms that Federal procurement programs for tribes and Alaska Native Corporations are enacted pursuant to its authority under Article I, Section 8 of the United States Constitution.

"(B) Contracting with an entity defined in subparagraph (e)(2) of this section or section 3(c) of P.L. 93-262 shall be credited towards the satisfaction of a contractor's obligations under section 7 of P.L. 87-305.

"(C) Any entity that satisfies subparagraph (e)(2) of this section that has been certified under section 8 of P.L. 85-536 is a Disadvantaged Business Enterprise for the purposes of P.L. 105-178.".

AMENDMENT NO. 2458

At the appropriate place in the bill insert: No appropriated funds or revenues generated by the National Railroad Passenger Corporation may be used to implement Section 204(c)(2) of P.L. 105–134 until the Congress has enacted an Amtrak reauthorization Act.

AMENDMENT NO. 2459

(Purpose: To provide for the conveyance of certain real property in South Dakota to the State of South Dakota with indemnification by the United States Government, and for other purposes)

(The text of the amendment is printed in the RECORD under "Amendments Submitted.")

Mr. REID. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. I yield the floor.

NAVAL SHIPBUILDING

Ms. COLLINS. Mr. President, I rise today to discuss with the distinguished chairman and ranking member of the Appropriations Subcommittee on Defense, a matter of great importance to our national security—our naval shipbuilding programs. As my colleagues are aware, both the House and Senate national Defense authorization bills for the current fiscal year contain provisions supporting continued production of the DDG–51 *Arleigh Burke*-class destroyers, the investment of research and development in a next generation destroyer or "DD(X)" program, and advanced procurement for the LPD 17 program. I am elated to see that the Senate version of the Defense Appropriations bill for FY2002 contain similar provisions, but troubled by the action that was taken in the house, particularly on the DD(X) program.

I appreciate the chairman and ranking Member's support for these shipbuilding programs and would like to take a few minutes to discuss the vital need for them. All of these programs are critical to sustaining a strong forward deployed naval presence, while addressing the anti-access challenges faced by our men and women who continue to protect our nation's assets, interests, and freedom.

Mr. INOUYE. Mr. President, I join with the Senator from Maine in recognizing the critical need for us to acquire and modernize our naval fleet in order to strengthen our Navy and Marine Corps for the 21st century. The Senator from Main has been a real advocate for the Navy's shipbuilding programs and I look forward to this and future discussions on these very important issues.

Ms. COLLINS. I thank the distinguished Chairman and would like to begin with the DDG–51 *Arleigh Burke*-class destroyer, which has been the backbone of the Navy's surface fleet. The Navy has indicated in its most recent study of the *Arleigh Burke* (DDG–51)-class destroyer industrial base, and in testimony before the Senate Armed Services Committee, that three DDG–51 destroyers per year is the most economical rate of procurement. Last year, the National Defense Authorization Act provided the authority to the Secretary of the Navy to enter into contracts to procure three vessels in each fiscal year 2002 and 2003. The FY2002 National Defense Authorization bill includes $2.966 billion for the procurement of three *Arleigh Burke*-class destroyers.

This year, the Senate Armed Services Committee added report language agreeing with the Navy's long standing assessment that the destroyer industrial base is at risk unless three destroyers are built each year, or unless the destroyer shipbuilders attain significant other work beyond their historic level. As such, the FY2002 national Defense authorization report reiterates that the Secretary of the Navy should include procurement of three *Arleigh Burke*-class destroyers in the FY2003 budget request. I strongly support the inclusion in the fiscal year 2003 defense budget of a third DDG–51, which would be built at Bath Iron Works in my home state. The integrity of our shipbuilding industrial base largely depends upon it. I would ask that chairman and ranking Member whether they agree with me on this important point.

Mr. STEVENS. I join my colleague in her expressed concern with the procurement rate of the DDG–51 program. I am particularly sensitive to recent reports that indicate the DDG–51 procurement rate is projected to drop below three ships per year after FY2002 for the first time in the program's history. Such a rate could place this unique, specialized industrial base at risk to meet future naval requirements. It could, in fact, jeopardize efforts to sustain an adequately sized surface force and maintain the continued affordability of the ships required for our future naval forces. And so I do support the inclusion of a third DDG–51, to be built by Bath Iron Works, in next year's budget.

Mr. INOUYE. Mr. President, my colleagues are correct in stating that the DDG–51 *Arleigh Burke*-class destroyers have played, and will continue to play, a critical role as a vital part of our naval fleet. The DDG–51 program is a mature and highly successful major acquisition program providing front-line state-of-the-art combatants for the fleet. At the same time, we need to make a smooth transition from the DDG–51 to a next generation destroyer. Our committee will continue to support the DDG–51 program and the transition to building a next generation destroyer.

Ms. COLLINS. The next generation destroyer, now the DD(X) program, is the Navy's future and way ahead to transform our naval forces to meet the challenges of the 21st century. This program, which will emphasize a common hullform and technology development, will form the foundation of our future destroyer and cruiser production. The Navy will use the advanced technology and networking capabilities from the DD(X) in the development of additional ships in the DD(X) family of ships program. As Chief of Naval Operations testified before the Senate Armed Services Committee, earlier this year, the DD(X) program "is central to our [naval] transformation effort . . . and is another step toward the creation of a more integrated Navy/Marine Corps team." It is therefore critical that the Senate's FY2002 budget level for the DD(X) program be increased or at least retained in conference.

Mr. STEVENS. I could not agree more with my colleague that while there is some uncertainty surrounding the restructuring of the DD–21 program, a continued investment and commitment to a next generation destroyer needs to be sustained to transform the Navy and Marine Corps. While we are waiting for that program to develop, it makes sound defense, fiscal, and industrial base policy to sustain an annual three-ship DDG–51 procurement rate after FY2002, and most immediately, in FY2003, and I encourage the Navy to do so.

Ms. COLLINS. Mr. President, I also would like to briefly speak on the LPD–17 program, which is a critical ship for the modernization of the Navy's amphibious force. Each of these ships can carry more than 700 Marines and their equipment to shore to perform their mission. The LPD–17 program is critical to replace four aging classes of ships and to significantly increase the operational capabilities of the Marine Corps.

Mr. STEVENS. I have always been a supporter of the LPD–17 program and the committee very much appreciates the need for the lift capacity of this ship. In 2010, when the last LPD–17 class ship is scheduled to join the fleet, the amphibious force will consist of 36 ships or 12, three-ship Amphibious Ready Groups (ARGs), consisting of one LHA or LHD, one LPD and one LSD. I assure you that we are committed to seeing this program through production.

Ms. COLLINS. As always, I am impressed by the ranking member's knowledge and his grasp of the issues, and I appreciate that we are in agreement as to the value and need for this critical ship. I look forward to our continued work together in support of this and all of these shipbuilding programs.

Mr. INOUYE. I thank the Senator from Maine for her continued commitment to our naval forces ensuring that we build enough ships to meet the Nation's defense needs. I recognize and am sensitive to the fact that the Navy needs to sustain an investment of $10 to $12 billion in the shipbuilding account to maintain a minimum shipbuilding rate of 8–10 ships per year before it will be able to fulfill all the required missions for our naval forces, and I will work with the Navy and my colleagues in the Senate to address this issue. I thank my colleague for her dedication to these issues and I look forward to continuing these types of discussions on the critical needs of our military forces.

Ms. COLLINS. Again, I thank the chairman and ranking member for their forthrightness, their knowledge and their determination to keep America strong. I also commend them for their continued dedication to our men and women in uniform and the efforts they have undertaken in this important appropriations bill to provide them with the compensation, tools and equipment they need to maintain America's pre-eminence in the world.

CRUSADER PROGRAM

Mr. NICKLES. Mr. President, I am concerned about the funding reductions to the Crusader program, and the impact that may have on the procurement of long lead items for the Crusader. The Crusader is an important new weapon system for the Army and we should not do anything that could delay this important program during this critical time that we are now in.

Mr. INOUYE. I assure my friend from Oklahoma that we will do what we can in the conference to ensure adequate funding for the Crusader.

Mr. STEVENS. I know my friend from Oklahoma has been watching the Crusader program for some time and is keenly interested in its progress, as is the Army. I want to add my assurance to that of the chairman's that we will do all we can in conference to ensure the Crusader is not delayed by inadequate funding.

DEFENSE PERSONNEL RECORDS IMAGING SYSTEM

Mr. THOMPSON. Mr. President, will the ranking member yield briefly for the purpose of a colloquy?

Mr. STEVENS. I yield to the Senator from Tennessee for the purpose of a colloquy.

Mr. THOMPSON. Mr. President, I'd like to bring to the attention of the Senate an important information technology program. The Defense Personnel Records Imaging System (DPRIS) is the follow-on records management system needed to process, store, and distribute military personnel information.

Currently, DPRIS is not ready to move from the Concept Advanced Demonstration phase to the System Integration phase. In order for the program to complete developmental activities to mature the system to the point that it is ready for Low-Rate Initial Production, $2 million is required for further demonstration/validation work.

Mr. President, the recent call up of thousands of National Guardsmen and Reservists to respond to the war on terrorism has further taxed an already overburdened personnel records management system. We need to get DPRIS completely through R&D, so we can make a smooth transition from the old system to the new.

I know the chairman and ranking member of the Defense Appropriations Subcommittee understand the importance of this program, and would hope that they would give this DPRIS funding every consideration during conference with the House. At a minimum, I hope the chairman and ranking member will encourage the Department of Defense to either reprogram funds for this purpose, or to request these funds in a supplemental appropriations request that is likely to come early next year.

Mr. STEVENS. Mr. President, the Senator from Tennessee raises an important issue in this IT program. We will do our best to work with the Senator on this matter during the conference with the House. We will also work with the Senator and the Department of Defense on this issue in the future.

Mr. THOMPSON. Mr. President, I thank the chairman and ranking member for their attention to this matter, and appreciate the challenges they face in crafting the Department of Defense spending bill.

SMART PAY CARD PROGRAM

Mr. BURNS. I rise to ask a point of clarification by the chairman and ranking member relating to a letter that Senator BAUCUS and I sent to the CBO regarding the use of the Smart Pay Card used by Department of Defense employees, the armed services, and contractors with the Department of Defense.

Mr. STEVENS. I yield, for the purpose of your question regarding the Smart Pay Card.

Mr. BURNS. I thank the Senator. At this point, I would ask unanimous consent that the November 15, 2001 letter from Senator BAUCUS and me to CBO Director, Dan Crippen, be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 15, 2001.

Mr. DAN L. CRIPPEN, Director,
Congressional Budget Office, Ford House Office Building, Washington, DC.

DEAR MR. CRIPPEN: In view of the increased federal expenditures generated as a result of the September 11 terrorist attacks, we believe that, more than ever, the federal government should explore new ways of managing federal outlays by adopting more efficient ways to control federal spending. In that regard, we are requesting CBO to score our proposal for improvements to the GSA SmartPay program, which we believe will provide to the GSA's management of the SmartPay program a positive material effect on the fiscal operations of current and future implementations of SmartPay programs. We would like your comments on the following proposal.

By way of background, the SmartPay program was established in 1998 to improve the speed of acquisition and reduce the cost of payments handling for many classes of purchases and acquisitions in the federal agencies, offices and departments. There are approximately 3.5 million active cards, accounting for approximately $20 billion in annual purchases. The GSA estimates that the SmartPay card programs currently save the government approximately $1.2 billion annually in administrative costs. While these numbers are impressive, recent congressional hearings convince us that there have also been tens of millions of dollars of rebate opportunities lost by the government due to card misuse, along with millions in additional savings that have not been realized in the program's implementation thus far.

THE PROPOSAL

There are four specific areas of proposed savings that we would like you to examine:

1. *Pricing Concession Management:* PCM is the measure of unit pricing reductions enjoyed by the government as a result of discount agreements with high-use vendors.

a. Roughly 200 retailers nationwide represent 65% of all Visa and MasterCard credit card purchases today. It is our belief that analysis of SmartPay use might show analogous concentrations, and would allow for targeted negotiations with key vendors who provide significant levels of products and services to the federal government.

b. There are currently few if any discounts being offered for SmartPay users that are directly tied to the SmartPay card as the purchase mechanism.

c. Based on the volume of SmartPay use today, we estimate that there is over $50 million available in discounts from volume purchase agreements that could be negotiated if more detailed analysis were being routinely performed on government-wide purchases made with SmartPay products.

2. *Rebates Management:* RM is the aggressive tracking, invoicing, and collection of all applicable rebates that are negotiated with SmartPay issuers. RM improvements consist of collection all existing rebates and future rebates as well as ensuring that the Issuing Banks are correctly calculating the rebates.

3. *Loss and Abuse Reduction:* GSA rebates from SmartPay card issuers are net of chargeoffs within the program. Currently, these chargeoffs amount to more than $55 million, and delinquency rates on T&E cards are between 7–14%.

a. GSA should enable the use of commercially proven strategies and technologies for reducing, minimizing, or eliminating the current unacceptable level of fraud or abuse losses on the card programs, such strategies could save a significant portion of the $55 million.

b. Using the best practices employed by card issuers, as well as those used by corporations for their own card programs, will provide benefits from both the Issuer and the User side of SmartPay programs.

4. *Increasing SmartPay Administrative Efficiencies:* Outsourcing portions of the management of the SmartPay program will allow for application of commercially proven expertise in some areas. It will also serve to expedite timely approval of card charges and increase risk review and validation. As a result, existing personnel will be able to spend

less time on the activities required for approving, processing, monitoring, and validating all of the administrative functions associated with procurement, payment and audit processes.

a. Automated Daily Approval and Control: Using an outside vendor's system to automated many of the paper processes currently in many SmartPay program implementations would save significant time for SmartPay administrative personnel in the various departments and agencies that use the programs.

b. Statement Reconciliation and Payment Approval: Using an outside vendor to perform statement reconciliations, payment approval authorization, and exception reporting will lower fraud as well as the cycle time required to identify potential fraud or abuse issues.

For additional information on our proposal please contact Zak Andersen in Senator Baucus's office and Stan Ullman in Senator Burns's office.

We appreciate your active consideration of this matter, and we would welcome your office's analysis of this proposal before the next budget cycle begins early next year.

Sincerely,

MAX BAUCUS,
U.S. Senator.
CONRAD BURNS,
U.S. Senator.

Mr. BURNS. Before asking my first question, I want to provide a very brief context for my letter to CBO and the issues I will be raising. The subject of the letter is whether the federal government can save even more money than it has been saving with the use of the Smart Pay Card program. This matter was brought to the attention of Senator BAUCUS and myself by Michael B. Walker, a Montanan who has considerable experience in the credit industry. Mr. Walker, who is CEO of Payment Programs Management Corporation, believes that there is an opportunity for the federal government to save hundreds of millions of more dollars with its use of credit cards issued to federal employees. Senator BAUCUS and I wanted to get an independent confirmation of those savings from the CBO before encouraging Congress to adopt the refinement outlined in our letter. It is my understanding that CBO will score the various proposed improvements in our letter before the end of this year, but the scoring may not arrive in time to affect appropriations bills for the current fiscal year. Since the largest users of the card are the employees of DOD, I thought that it would be appropriate to raise this matter in connection with this bill. Assuming that CBO does respond with a scoring that the improvements suggested in our letter will potentially save hundreds of millions of dollars, will the Senator from Alaska tell me whether he will work with the Department of Defense to encourage the consideration of any and all potential savings and benefits suggested in the letter send to CBO by Senator BAUCUS and myself?

Mr. STEVENS. I would be happy to work with the Senator.

Mr. BURNS. I thank the Senator. My next question is a follow up question. Assuming that the armed services are prepared to offer proposed improvements in the use of federal credit cards, would you encourage them to work with the General Services Administration, which is charged with the overall administration of the Smart Pay Card Program, to get these improvements adopted?

Mr. STEVENS. I would be happy to work with the Senator to ensure every opportunity to meet with the General Services Administration and discuss this important issue.

NETFIRES—FOGM

Mr. SHELBY. Mr. President, I applaud and share Senator INOUYE's desire to strongly support the Army in its transformation to a lighter, more deployable, agile, lethal and survivable force, in order to meet the challenges we have today and certainly expect in the future. This transformation to an Objective Force is very ambitious in terms of new capabilities, and I think we should all recognize the significant technological risks associated with this endeavor.

Mr. INOUYE. I thank the Senator for his support as a member of the subcommittee and for his work on this bill. Army transformation is ambitious, and, while we are all very supportive of the Army's efforts to transform, I know we are equally sensitive to the technology challenges facing the Army.

Mr. SHELBY. While the Objective Force and the Future Combat System are relatively new terms, many people may not be aware that Army scientists and engineers have been working on transformation technology since before the end of the cold war. For example, the Fiber Optic Guided Missile, FOGM, has been demonstrated with soldiers and has performed most of the objectives required for the artillery component of the Future Combat System known as NetFires. FOGM is inherently immune to radio-frequency jamming, a serious concern for NetFires. It does not require a not-yet-developed automatic target recognition capability like NetFires. It is soldier-proven technology already in service or in development in several other countries. It offers the potential for significant savings in time and money in getting to low rate initial production, compared with NetFires. I fully support work on leap-ahead technology programs like NetFires, but I believe we should take prudent steps to mitigate against high risk programs by continuing work on alternative capabilities.

Mr. INOUYE. As we know well, all weapon development programs involve significant risk. The NetFires—FOGM example is instructive. We will continue to monitor the Future Combat System program as the required technologies mature, and the Senator can be sure we will continue to pay close attention to alternative capability programs.

Mr. SHELBY. I believe the off-the-shelf FOGM can provide an acceptable alternative to NetFires if circumstances require it. I know that with Senator INOUYE's leadership, we will keep on top of these critical technology issues. I look forward to our continuing to work together as we face funding decisions about these important transformation programs.

PROJECT ALPHA

Mr. HARKIN. Mr. President, I wish to engage in a brief colloquy with the chairman of the subcommittee. We are all too aware of the terrible terrorist threats we face and of the difficulty in predicting and assessing these threats. I have been especially concerned about possible threats to the U.S. food supply and about our lack of protections and monitoring of our food.

Project Alpha is a proactive approach using advanced technologies, expert systems, and thinking "outside the box" in order to predict, assess, and analyze terrorist threats. I am proud that Iowa State University and the National Animal Disease Center in Ames, IA, would play a key role in this project. I hope the committee will open to the use of funds in this bill, and I ask for the chairman's support for implementation of Project Alpha and its National Decision Assessment Immersion Center, with emphasis on protecting the U.S. food supply.

Mr. INOUYE. I am aware of the potential of Project Alpha and of the participation of the Maui High Performance Computing Center as another key partner. You can be sure I will give careful consideration to this project as we guide this bill through conference.

BIOINFORMATICS

Mrs. CLINTON. Mr. President, I wish to engage my colleague, the distinguished chair of the Defense Appropriations Subcommittee, in a colloquy.

Mr. INOUYE. Mr. President, I will be glad to engage in a discussion with Senator CLINTON.

Mrs. CLINTON. Mr. President, I thank the senior Senator from Hawaii. I want to discuss the emerging field of Bioinformatics. Bionformatics has become one of our most important emerging technologies. Bioinformatics is the use of high-powered computing techniques to analyze the data generated by the Human Genome Project. Massive computing power is needed in order to interpret this vast amount of data. The University at Buffalo is seeking to establish a Center of Excellence in Bioinformatics. The University at Buffalo is home to the Center for Computational Research, one of the top ten supercomputing sites in the nation. The University at Buffalo would forge an academic and industrial partnership with renowned academic, medical, and research institutions, including Binghamton University. Will the Senator agree that Buffalo's blend of leading academic, research, industrial, and medical institutions make Buffalo an ideal location for a Center of Excellence in Bioinformatics?

Mr. INOUYE. I agree with my colleague that Buffalo is an ideal location for a Center of Excellence in the important emerging field of bioinformatics.

Mrs. CLINTON. I thank my colleague. I am aware that funds are made available in both the House version of the Defense appropriations fiscal year 2002 bill and the bill the Senator has proposed. I ask that the Senator from Hawaii support as much funding for bioinformatics programs as possible, within the fiscal constraints we face, as the Defense spending bill completes conference.

Mr. INOUYE. I assure the Senator we will do all we can.

HYBRID ELECTRIC VEHICLE TECHNOLOGIES

Mr. SCHUMER. Mr. President, it is my understanding that the fiscal year 2002 Defense appropriations bill contains funding for Hybrid Electric Vehicle, HEV, technologies. I am seeking the chairman's assistance to ensure that the funding in this bill for HEVs will also be dedicated to the work of applying currently developed and demonstrated HEV technology to a weapons system.

The U.S. Army High Mobility Artillery Rocket System, HIMARS, program has an HEV initiative that will put hybrid propulsion on the Family of Medium Tactical Vehicles, FMTV, platform. As the chairman well knows, the Army has identified Hybrid Electric Drive as the key technology for transformation. Hybrid electric propulsion provides greater fuel and logistics cost savings, increased survivability thorough silent mode operations, provides improved mobility, and supplies a new capability to the vehicle systems power management that currently does not exist within any Army weapons system. This initiative that I am referring to will jump-start the Army's effort to weaponize an HEV platform with the HIMARS program. The timing of these funds for this conversion effort of HIMARS to HEV is critical. Providing the funds now, in fiscal year 2002, would allow the hybrid drive initiative to dovetail with the current production planned for HIMARS. Missing the opportunity this year would require untimely changes to the HIMARS production line, and would be excessively more expensive for the U.S. Army conversion to the HEV platform.

This significant HEV series technology has already been accomplished under the Dual Use Science and Technology initiative by the National Automotive Command under TACOM contract. The contract converted the FMTV platform into series HEV technology. The contract should be continued for a timely series HIMARS HEV conversion. It is my understanding that the FY 2002 MRLS Product Improvement Program line contains $20 million of which $10 million should be programmed to begin the timely conversion of the hybrid series FMTV truck to a HIMARS series hybrid electric vehicle platform. I urge the Chairman to support this important transformation project.

Mr. INOUYE. I agree with the senior Senator from New York that HEV technology is vital to the future success of the Army transformation and believe the Congress should support such technologies. This initiative of placing series HEV on a current successful weapon development program leverages the existing technologies and is the right course of action. I understanding that this modification will support initiating the timely introduction of series HEV onto a HIMARS platform. I can assure the senior Senator from New York that this committee will review this issue during the conference. I understand that utilizing the existing contract and previous accomplished work may be the best means to leverage the taxpayers' investment, as well as to accelerate the HEV weaponization for Army transformation.

Mr. SCHUMER. I appreciate the leadership that Senator INOUYE is taking on this issue in light of today's recognized need to accelerate the Army's transformation and reduction of logistic infrastructure and skyrocketing costs associated with supporting fuel requirements on today's battlefields.

Mr. INOUYE. I will ensure that the committee will thoroughly review this issue during the conference of the Defense appropriations bill.

CRUSADER PROGRAM

Mr. INHOFE. Mr. President, I say to Senator STEVENS that I appreciate all his hard work on the Defense appropriations bill. I would like to discuss pending actions on the Crusader Program. Crusader is a critical transformation system, which is already a generation ahead of the existing Paladin system. When fielded, Crusader will have unparalleled rate of fire, range of fire and lethality unmatched by any system in the world. We must continue to fund this program in its entirety. To do this we must put $80,972,000 into the Defense appropriations bill. Again, I thank the Senate and the committee for their hard work.

Mr. STEVENS. I agree with my colleague, Senator INOHFE, and I also feel that this program warrants full funding under the Defense appropriations bill. During conference we must restore the funding in its entirety.

Mr. NICKLES. I share the concerns of Senator INHOFE and I, too, believe that we need to fully fund the program. The Crusader is meeting performance tests; it is on schedule and on budget. We must address the funding requirements in conference.

Mr. INOUYE. The Crusader Program is vital to Army transformation and should be fully funded to meet the needs of the Army.

Mr. INOUYE. Mr. President, I say to Senators STEVENS, INOUYE, and NICKLES that I appreciate their attention and continued support on this matter.

CONSOLIDATED INTERACTIVE VIRTUAL INFORMATION CENTER

Mr. HARKIN. Mr. President, I wish to engage in a brief colloquy with the chairman of the subcommittee. There is an important project in the Iowa National Guard to bring unique networking and secure storage capabilities to bear on distance learning and simulations, including real-time simulations at multiple sites. The Consolidated Interactive Virtual Information Center has taken on new immediacy since September 11 along with the National Guard as a whole. It has been used to train Guard members in protecting our airports and could play a critical role in homeland defense.

I am pleased that the Appropriations Committee has recommended this project for funding within National Guard distance learning accounts, but I wanted to clarify the intent. Is it your expectation that the CIVIC project will receive sufficient funding for a second year of development, and a level at least equal to last year's?

Mr. INOUYE. I am happy to recognize the value of the CIVIC project. While there are other worthy distance learning programs, it is important that sufficient funds be made available to the CIVIC project for its continued development at a level at least as great as last year. In addition, as stated in the committee report, I hope this worthy project will be funded in next year's budget.

TRANSIT CAPITAL INVESTMENT GRANTS

Mr. SCHUMER. Mr. President, I rise to enter into a brief colloquy with the distinguished chairman of the Senate Appropriations Committee regarding a section which would provide $100,000,000 in badly needed transit capital investment grants to those transit agencies that were most severely impacted by the terrorist attacks of September 11, 2001.

Mr. Chairman, it is my understanding that the Metropolitan Transportation Authority (MTA) of New York State and the Port Authority Trans-Hudson (PATH) commuter rail system as well as transit authorities in New Jersey would be eligible for the assistance provided under this provision as these agencies would have to be considered among the most severely impacted by the terrorist attacks of September 11, 2001.

Mr. BYRD. The Senator from New York is correct.

Mr. SCHUMER. It is also my understanding that the portion of this provision that precludes any transit agency that receives a direct Federal payment under any other section of this bill from receiving any of the $100,000,000 in capital investment grants is not intended to apply to the Metropolitan Transportation Authority, the Port Authority Trans-Hudson commuter rail system; or the transit authorities in New Jersey.

Mr. BYRD. The Senator from New York is correct. That provision is intended to address the Washington, D.C. Metro System, which receives a direct federal payment elsewhere in the bill.

Mr. SCHUMER. I thank the distinguished chairman of the Senate Appropriations Committee, the Senator from West Virginia, for his clarification on this point and for his leadership on this essential homeland security package. Mr. President, I yield the floor.

ANIMAL RESEARCH FACILITIES

Mr. HARKIN. Mr. President, after many visits over the years to the animal disease facilities at Ames, Iowa, I am all too aware of the very great need to modernize them, providing the security, safety, and capability to conduct necessary work that will both protect animal agriculture and human health as well. The Appropriations Committee concurred when it approved the amendment proposed by Senator BYRD that provided very necessary funds for those facilities those at Plum Island.

We do not know when a major emergency will be upon us for which these facilities could be crucial. Hopefully, we will have them built when that time comes. In order to maximize the likelihood that will be the case, I believe it is clear that the Secretary should do all that she can to accelerate the design and the construction of the Ames, Iowa facilities, and the design of facilities at Plum Island.

Clearly, to the extent that it is prudent, the authorities that are available should be used in the Federal Acquisition Regulations to accelerate the planning, design of the entire modernization plan, and the construction of those facilities for which funds are available. I also expect that the Department will provide appropriate support to maximize the speed of planning design and construction, moving to the construction phases as soon as possible for this important project. Certainly, the portion of the design for which construction funds are available should receive the highest priority.

Mr. KOHL. Mr. President, I fully concur with the remarks of the Senator from Iowa and the chairman of the Senate Agriculture Committee. The Department should move with the greatest dispatch to design and construct these biosecurity-3 facilities. It is important that we move forward quickly in order to enhance research in this critical area, and it is also important that research facilities of this nature be in compliance with very strict biosecurity standards. Every area of our nation would see very significant damage to animal agriculture if certain diseases manifest themselves. The Department should use the authorities it has to accelerate the design and construction of these important facilities.

CALIFORNIA ANTI-TERRORISM INFORMATION CENTER

Mrs. FEINSTEIN. Mr. President, I rise with my colleague from California and the chairman of the Appropriations Committee to address the dangerous gap that exists in the counterterrorism intelligence network in this country. Information pertaining to terrorist threats is not currently collected in a centralized place for review, analysis, and dissemination. Statewide counter terrorist data is therefore not accessible to every law enforcement agency that may need it. The collection, analysis, and accessibility of this information to law enforcement are critically important to protect the health and safety of citizens.

In late September, the California Governor and Attorney General signed a memorandum of understanding that established The California Anti Terrorism Information Center (CATIC) to address this critical problem. Every day, State and local law enforcement learn information that may be useful to Federal intelligence authorities or that may actually prevent terrorist events from taking place. Despite this obvious point, there is currently no reliable and secure system to ensure that this information flows back and forth among the right people in a rapid and organized manner.

The California Anti-Terrorism Information Center is designed to solve this problem by developing a sophisticated data system that includes trained intelligence specialist, extensive technology infrastructure, and strong safeguards to protect constitutionally guaranteed civil liberties.

This new system represents a crucial advance in counter-terrorism intelligence sharing and some federal agencies have already committed analysts to CATIC. Dozens of State and local personnel will also be detailed to the various investigative and analytic units of CATIC. I believe Federal resources are also a necessary component of this project if it is to achieve maximum effectiveness.

Mrs. BOXER. It has become increasingly clear that the coordination between Federal, State and local law enforcement is crucial if we are to keep our citizens safe. The California Governor and Attorney General have combined their efforts and devised a system to meet these critical needs. The California Anti-Terrorism Information Center will provide law enforcement agencies with valuable intelligence support, enhancing their efforts to combat the threat of terrorism. I join my colleague in urging the Department of Justice to fund the California Anti-Terrorism Information Center.

Mr. BYRD. I understand the concerns raised by the Senators from California. I urge the Department of Justice and other national security agencies to give due consideration to projects such as the California Anti-Terrorism Information Center that ensure a reliable system of intelligence sharing between local, State, and Federal law enforcement agencies.

REVERSE COMMUTE PILOT PROJECT

Mr. LEVIN. I would like to engage in a colloquy with my colleague, the distinguished chairman of the Appropriations Committee, regarding a border security need along our northern border. First, let me commend the chairman for recognizing the many areas of our homeland defense that are in need of funding and for providing that funding in this economic stimulus package. I am especially encouraged to see a large border security initiative that will finally address the lack of resources given to the northern border in the past to ensure the safety and integrity of our northern border without negatively impacting the free flow of commerce.

While much has been done over the last decade to improve security on our border with Mexico, the northern border has largely been ignored. For example, only 1,773 Customs Service personnel are present at our border with Canada, while 8,300 protect our southern border. Similarly, while 8,000 Border Patrol agents monitor our 2,000 mile southern border, only 300 are stationed at our 4,000 mile northern border. This policy of neglect must be corrected without delay and I think the additional funding you are recommending will do that.

One of the vulnerabilities which has come to light regarding our international bridges and tunnels on our border with Canada is that potentially dangerous vehicles are inspected only after they have crossed into our country. With the increased security risks faced by our Nation in the post-September 11 climate, it seems obvious that inspecting vehicles for dangerous materials such as bombs or explosives after they enter our tunnels or cross our bridges is ineffective, at best.

To rectify this homeland security vulnerability, we must work with our neighbors to establish a reverse inspection program that would inspect vehicles before they have entered into our country. This would reduce the possibility that important transportation infrastructure could be endangered or destroyed.

One way to move this process forward would be to establish a pilot program on reverse inspection. Customs could work in consultation and partnership with the Canadian Customs Service and identify any hurdles and the details that would need to be worked out. One logical place to start would be in Southeast Michigan where 50 percent of the U.S.-Canada trade traverses the border, and where we have the Ambassador Bridge and Detroit Windsor Tunnel, two of the busiest border crossings.

I would like to inquire of Chairman BYRD if he would agree that this is something the Customs Service should take a hard look at?

Mr. BYRD. I see no reason why the U.S. Customs Service should not look at the issue of reverse inspection and I would support their doing so.

Mr. THURMOND. Mr. President, I would like to take this opportunity to first offer my thanks to the servicemen and women serving our Nation in the War on Terror. Their courage, sacrifice, and professionalism assures us of victory over our terrorist enemies, and is a testament to America.

As the first stage of this war ends, a number of promising developments have taken place. In Afghanistan many of our enemies have been routed. In Germany, Afghan political leaders have taken great steps to secure peace and stability for the future of their nation. As we ask the Afghan people to turn towards peace and democracy, it is our duty to help them. Otherwise we risk facing another similar crisis in the future.

Tackling the job ahead in Afghanistan will require men and women of the highest caliber. They must be equal parts warrior and statesman. For it is these men and women who will help secure peace for this troubled land and build the foundation for the future of democracy in Afghanistan. I speak of course of the soldiers and Marines of the Civil Affairs community.

As a former Civil Affairs commander, and Deputy Chief of the Office of Civil Affairs, I know first hand what a contribution these fine warriors can make. They have made a positive impact on nearly every continent of the globe. In fact, during the last five years alone, over 4,600 Civil Affairs personnel have utilized their expertise in securing the peace and rebuilding the Balkans.

Civil Affairs soldiers are warriors of the finest sort. They train to fight and work for peace. Civil Affairs soldiers are experts in humanitarian operations and institution building. Consequently, I can think of no time when the role of Civil Affairs would be more crucial than it will be in Afghanistan.

I would like to take this opportunity to call upon the Department of Defense to take advantage of the unique skills that these men and women possess. Furthermore, we owe it to these men and women to equip them as we do our finest soldiers and Marines in accordance with the gravity of their mission. If we do this I have no doubt that these soldiers will succeed in any mission that comes their way.

Mr. HATCH. Mr. President, I rise in support of the Defense appropriations bill.

I believe this bill provides the right balance of funding for the Department of Defense given the administration's efforts to reorganize and realign the missions and architecture of this pillar of our freedom. I am particularly heartened that President Bush and Secretary Rumsfeld are working hard to revitalize the Department. I am totally in support of their efforts and feel it is important that the administration be allowed to determine the new force structure in light of our rapidly developing military posture at home and overseas.

While we can not fix 10 years of neglect overnight, this bill does many things to help the Defense Department and the men and women who serve so proudly. In particular, I am very pleased that this appropriations bill fully funds an average 5 percent military pay raise. It also provides additional pay raises for military personnel in middle level ranks, thus helping the Department to retain these valuable personnel. Again, this bill addresses the needs of the soldiers, sailors, airmen, and marines by reducing out of pocket costs for housing from 15 percent in 2001 to 11.3 percent in 2002. I am also glad that we are trying to make our troops lives more stable by asking the Department of Defense to develop a plan that reduces the number of permanent change of station moves for the military.

This year's defense starts us on the right road to fixing the military's readiness, training, and depot support programs. It provides almost $10 billion increase over fiscal year 2001 funding levels for these critical programs. It also fully funds the Army Transformation initiatives which I support wholeheartedly. Additionally, this bill enhances critical defense health programs such as breast and prostate cancer research and adequately funds TRICARE for life.

The fiscal year 2002 Defense bill has made a significant contribution to this Nation's intelligence-gathering capability by funding the Senior Scout Program which I have long supported. I also pleased that the President's request for missile defense is supported in this bill. We cannot ignore the threat that our Nation faces from enemies who each year grow more and more capable of reaching our Nation with nuclear missiles.

However, I am very disappointed about the funding reduction of $50 million for the D-5 Life Extension Program. This reduction means that some of our submarines will carry outdated and possibly dangerous trident missile systems.

In closing, I would like to recognize the exceptional efforts of U.S. Air Force Major James R. Byrne, who has served me as a legislative fellow for the past year. Jim's command of the legislative process and his ability to research complex legal questions have been exceptional. I want to recognize particularly Jim's outstanding counsel on homeland defense issues including security preparation for the Olympics.

Major Jim Byrne is a true patriot, an officer, and a gentleman. I want to thank him for his dedication and hard work, and to wish him well on his new assignment as he departs the Senate for Germany. The staff and I will miss him. I have every confidence, however, that he will continue to serve our Nation with distinction.

Mr. WELLSTONE. Mr. President, I rise today to support the 2002 appropriations bill, particularly some key provisions that will help ease the financial burdens of our men and women in the National Guard and support those on the front lines in the fight against terrorism.

The 2002 DOD appropriations bill provides $317 billion to our Armed Forces. I think it is especially important that the bill provides a 5 percent across the board pay raise and targeted raises for skilled positions in the Armed Forces. I believe we must provide the best possible training, equipment, and preparation for our military forces, so they can effectively carry out whatever peacekeeping, humanitarian, warfighting, or other missions they are given. For many years running, those in our armed forces have been suffering from a declining quality of life, despite rising Pentagon budgets. The pressing needs of our dedicated men and women in uniform, and those of their families, must be addressed, especially as they continue to be mobilized for duty in response to the attacks of September 11th. It is because of this that I want to take a second to discuss a very important provision for our armed forces included in this bill.

This bill includes a provision expanding the protections of the Soldiers' and Sailors' Civil Relief Act to National Guard personnel protecting our Nation's airports and other vulnerable public facilities. This act suspends certain civil obligations to enable service members to devote full attention to duty. It protects our Armed Forces from foreclosures, evictions, and installment contracts; reinstates any health insurance that may have been terminated during the time of service, protects against cancellation of life insurance, and limits interest on debt to 6 percent.

It is my belief that the SSCRA was never meant to purposely exclude Guard called up by the Governor at the request of the President—as the case of the Guard mobilized today. Passing this bill will provide the men and women of the National Guard some financial security, and more importantly, a little peace of mind.

Although I support this bill, I am against its provision of $8.3 billion for missile defense. I oppose the plan to deploy a national missile defense shield for many reasons. The crucial question is whether a missile shield will make the United States more or less secure. After studying the matter carefully, I have concluded that deploying a missile shield is likely to make us less secure, and that we would be better off using these funds to finance key antiterrorism initiatives.

The new funding language in the bill allows the President to choose between missile defense research and development and combating terrorism. I believe that fighting terrorism should take priority over missile defense, and should receive most or all of the new funding. I am hopeful that the President will choose that option. I would also like to take a moment to talk about the importance of the money included in this bill to improve our homeland security. We have some absolutely urgent national security needs here at home and I thank my colleague from West Virginia for his leadership on this homeland security appropriation. Although I had hoped we could have provided more money for the important programs in this package, and believe we must re-visit this issue again, I am grateful for what was worked out and am hopeful that we will be able to pass this bill quickly and get the funding in the communities where it belongs.

We need to beef up our ability to anticipate future acts of terrorism. We need to better insure the safety of our borders. We need to ensure the safety of our transportation system and our energy facilities. And we need to make sure that first responders to any future acts of terrorism have the resources and training they need to fully, adequately, and safely respond.

I won't go too much into the details of the homeland security appropriation but I would like to mention a few provisions. This appropriation has funding for: Health and Human Services for lab security, disaster response, smallpox and anthrax vaccines; Department of Agriculture and FDA to hire food inspectors, improve lab security and expand lab facilities; aid state and local law enforcement agencies; FEMA firefighting grants; border security including funds for INS and Customs on the northern border.

This homeland security appropriation has money allocated for state and local law enforcement to prevent and respond to terrorist attacks. This is money that can be used for programs such as a local homeland defense emergency reserve fund. Since September 11, support for local public service and servants has never been more important. This type of fund would support local communities whose resources have been exhausted by our current national emergency posture. Specifically, this money could be used to create an emergency fund for counties and local entities to dip into when their local resources have been exhausted by extreme and unforeseen circumstances. In Minnesota, for example, county sheriffs provide additional security for nuclear power plants, water treatment facilities, refineries, chemical and other facilities vulnerable to terrorist targets; but additional security costs were never factored into local budgets. The extra costs of new hiring and staff overtime have already taken their toll on Minnesota communities' local budgets and other unexpected costs are sure to arise in the future. This type of fund would provide much needed relief and adequate economic security to our overtaxed communities.

The homeland security appropriation also has money for a FEMA Firefighters Grant Program. The FEMA Firefighters Grant Program provides grants to state and local communities to expand and improve firefighting programs. Over 50 percent of funding goes to volunteer fire departments in rural communities. In recent weeks, I have had the opportunity to meet with fire department officials and first responders throughout the State of Minnesota. The one request that they have all made to me is for additional support for training and equipment. We have learned since the events of September 11 what a crucial role our fire departments play in all of our communities. The FEMA Fire Grant program is an efficient vehicle to get funding out to these departments to provide increased training and to purchase new equipment. Given that the issues local fire departments now confront are national in nature, it is reasonable that the federal government provide these additional resources for training and new equipment.

The bill in front of us now also has money to enhance our border security, particularly our northern border with Canada. Specifically, the money will be used to increase the number of INS border patrol agents and INS facilities, to create a data base for monitoring foreign student visas, to increase Customs Service border patrol agents and facilities, and for GSA facilities.

In Minnesota, the agencies protecting our borders—even in normal times—are understaffed. Given Sept. 11, the situation is now urgent. Border patrol, INS and the Customs Service simply do not have the capacity to do regular inspections as people come across the border and then to follow-up after they enter the country. Some borders are only open part-time in the summer—such as the border at Crane Lake. Borders such as these are basically wide-open. Some are even staffed via telephone and video. For example, a person wanting to cross into the United States from Canada simply arrives and calls the Border Patrol to announce "we are here." Many border crossings do not even have a facility and the checks are conducted outdoors. International Falls is one place that although open full time, conducts much of its business outdoors.

When I first heard about the security situation on our northern border I was absolutely amazed. The situation there demands immediate attention and even now I question if we are providing enough. The anti-terrorism legislation we passed earlier authorized money to triple the number of security agents on our northern border, the money is appropriated today will not make that a reality. But it is a good start.

This homeland security appropriation also contains money that is essential for fighting bioterrorism. We need to improve our State and local public health capacity. There is widespread agreement that the public health system has been underfunded for years. We need more laboratories, more epidemiologist, more equipment. This appropriations bill provides money to do that. Many local public health departments don't have e-mail capacity. Many don't even have fax capacity. In the event of bioterrorism, good communication is an absolute necessity. This appropriations bill helps made sure that communication can take place.

The recent antrax attacks have shown us that early detection and treatment saves lives. We learned that hospitals need help to be able to recognize the pathogens that may be used in a bioterrorist attack. This appropriations bill provides that help. We learned that bioterrorism can have a powerful effect on the workplace. I have been advocating that we work on identifying the best ways to maintain the safety of our workers in the event of bioterrorism. I am pleased that this bill provides money for training and education regarding effective workplace responses to bioterrorism. We learned how important the CDC is for the security of all of us. This bill makes sure that they have the money they need to do their job to protect us. This bill provides funds to make sure there are adequate supplies of vaccines, antibiotics and other medicines necessary to protect all of us. These are not optional programs. They are an essential part of protecting the public health.

We have got to do a better job of addressing the needs of our most important assets in the fight against terrorism: our law enforcement, firefighters, health care providers, and other first responders. We have a long way to go but we have taken an important first step today with this appropriations bill.

Ms. LANDRIEU. Mr. President, on this day in 1941, our Nation was "suddenly" and "deliberately" attacked by an enemy who sought to conquer our homeland and destroy our way of life. Today marks the 60th anniversary of the Japanese attack on Pearl Harbor, a day which saw 2,388 Americans perish and 1,178 wounded. Many though that American shores would never again be breeched by enemies, but that most tragic day in September visited sadness on our Nation again.

I would have liked to have been in the city of New Orleans today, as the National D-Day Museum opens up a new wing dedicated to the war in the Pacific. The D-Day museum is a fitting tribute to all of those who stormed the shores of foreign nations to ensure that future generations, would enjoy the fruits of liberty and democracy. The sneak attack on American Naval and Air Forces in Hawaii marked the end of a distinct period in American history, and the beginning of another. In the years that followed that fateful day, America help up the mantle of Liberty for all civilized and freedom loving people and she still does today.

I ask my colleagues to join me in supporting the Senate amendment, which pays tribute to all the soldiers, sailors, airmen, and marines who gave the ultimate sacrifice to the Nation 60 years ago today at Pearl Harbor. It also pays tribute to the American spirit that triumphed over enemies in two theaters of the world in the most horrible war man had ever known. This amendment will also commemorate the opening of an institute dedicated to commemorating the unique and powerful spirit of America at the National D-Day Museum in New Orleans.

Victory in the Second World War by the United States and her allies will probably be known as one of the greatest achievements in all of history. The ultimate victory over enemies in the Pacific and in Europe is a testament to the uncommon valor of American soldiers, sailors, airmen, and marines. The years 1941–1945 also witnessed an unprecedented mobilization of domestic industry which in large measure contributed to our safety at home and supplied our fighting men on two distant fronts. As the generation that faced this challenge takes its final lap, it is important that we take the time this day and every day to honor them for the many sacrifices they made. These men and women can always be remembers in the promising words of President Franklin D. Roosevelt when he proclaimed in a 1942 fireside chat: "We are going to win the war, and we are going to win the peace that follows." It was the gallantry of American troops abroad and the tireless devotion of workers at home that made these words come true.

Though our Nation has seen war many time, the strength of American democracy has ensured that war is an aberration and not the norm in our society. The conflict we now face will put great strains upon our Nation and will ask of us to sacrifice in unprecedented ways. In times of peace, it is the natural order that children live to bury their parents. War violates this National order. War causes parents to bury those children who have been cut down in their prime by the arrows of conflict and discord. War makes young men and women widowers and widows long before the proper time, and deprives our youth of parents to teach them the wonders of life. This conflict has already deprived our nation of so many brave men and women, and many more will perish before it is concluded.

Indeed, the valorous acts of veterans are normally remembered in bronze and stone on battlefields both at home and abroad. American orators have been inspired by their deeds to utter words of uncommon elegance. Today in this Chamber and in many places across the Nation, the events of Pearl Harbor will be remembered. But the greatest honor we can give to our veterans is the unwritten memorial of memory, etched not on stone but in the hearts of all who survive and gladly toil on liberty's behalf.

Mr. REED. Mr. President, I rise to express my support for the fiscal year 2002 Defense appropriations bill. I believe this bill reflects the difficult times we face, both in the bill's priorities and in the spirit of bipartisanship in which it was crafted. I want to commend the Chairman and Ranking Member of the Defense Appropriations Subcommittee for their patience and hard work.

I believe this bill provides funding for the urgent needs of military personnel who are risking their lives every day in this war against terrorism. It provides for a 5 percent increase in basic pay for all service members and a targeted pay raise for midgrade officers and E–4 to E–9 enlisted personnel. It increases readiness accounts by $9.6 billion to aid our soldiers and sailors carrying out Operation Enduring Freedom and Operation Noble Eagle. In addition, while taking care of immediate needs, this bill also considers the future, and provides funding for the services' transformation.

One major transformation effort funded by this bill is the Navy's SSGN program. The President's budget request included a proposal to begin converting two of the four Trident submarines that would otherwise be retired under the Defense Department's plan to reduce the Trident ballistic missile submarine force from the current level of eighteen boats to a new level of fourteen boats. This bill adds $193 million to accelerate the program and preserve the option for converting all four boats.

These converted submarines will provide the Navy with next generation technology. In one scenario, the SSGN can be configured to carry as many as 154 tomahawk missiles, more missiles in one vessel than are now carried in an entire carrier battlegroup and almost as many tomahawks used in Operation Allied Force. During operations against Iraq and in Kosovo, several submarines and surface ships were dedicated solely for missile strikes. With the SSGN, one vessel would be dedicated for strike operations and the remaining platforms would be freed up for other missions. In addition, this strike capacity would remain hidden so it would retain the element of surprise and be relatively invulnerable to attack.

These converted submarines could also be configured to carry up to 66 special operations forces along with two advanced seal delivery systems or two drydock shelters. The ability to insert such a large number of special operations forces from a position of stealth would give the navy an unmatched capability to conduct covert operations or prepare for a larger landing force.

Operations in Afghanistan are revealing on a daily basis the need for the invaluable tools that the SSGN can provide. I am pleased that this bill is providing this funding.

Now, I would like to address an area of the bill where I have concerns. The recent events in Afghanistan and the reported attempts by Osama bin Laden to obtain chemical and biological weapons, and nuclear weapons materials and technology, including plutonium and highly enriched uranium, have increased the importance of the Nunn-Lugar programs at the Department of Defense and the related programs at the Department of Energy. These programs account for, secure and destroy weapons of mass destruction and supporting materials in Russia and the states of the former Soviet Union. I believe there is general consensus that these programs should not only be accelerated but that they should also be expanded.

As a result, I was surprised and disappointed when I saw that the Nunn-Lugar Cooperative Threat Reduction program at the Department of Defense was cut in the Defense appropriations bill by $46 million. This cut is particularly troublesome because the fiscal year 2002 budget request for this program had already been reduced by $49 million by the administration. With this additional cut to Nunn-Lugar Cooperative Threat Reduction program the program is $85 million below the fiscal year 2001 funding level. This is a 19 percent reduction in this important program, a program which after September 11, is even more important.

I want to note that the additional supplemental funding that has been proposed would increase the funding for the companion programs at the Department of Energy, which I fully support, but there is no additional money for the Nunn- Lugar Cooperative

Threat Reduction Programs at the Department of Defense in the proposed supplemental funding.

I hope the funds for the Nunn-Lugar programs can be restored at least to the budget request level of $403 million before deliberations on this bill are concluded .

I would also like to take a few minutes to discuss the funding for ballistic missile defense. Before September 11, ballistic missile defense was the administration's top priority. Today, despite weeks of evidence of other pressing needs and vulnerabilities that must be addressed, ballistic missile defense seems to still be the administration's top national security priority.

In its July budget submission, the administration requested a staggering $8.3 billion for ballistic missile defense, a 57 percent increase from last year's funding level. The consensus of the Democratic members of the Senate Appropriations Committee was that of the $8.3 billion proposed for missile defense, $1.3 billion was ill-considered, and could best be spent elsewhere, for example on counter-terrorism programs. This is consistent with the report of the Senate Armed Services Committee, which also recommended a $1.3 billion reduction for missile defense.

I find it interesting that today many of my colleagues opposed the homeland security provisions in this bill, stating there it was unwise to allocate additional funds despite the obvious needs. Yet, there is still support for a 57 percent increase in the ballistic missile defense accounts when the program addresses a remote threat and is in some respects overfunded.

Even if we had a working missile defense system, such a system could not have defended us from the attacks on the World Trade Center, nor the anthrax attacks, nor any of the other potential threats we face from worldwide terrorist networks.

The fact is that terrorist networks do not have ballistic missiles, let alone missiles capable of reaching the United States. A ballistic missile leaves an easily detectable "return address" against which the United States could immediately and devastatingly retaliate. Such a weapon is not appropriate for terrorists who operate in shadows and in caves, eluding and evading detection. Furthermore, what nation would allow a terrorist organization to launch a ballistic missile from its soil, knowing that it would mean certain destruction for that Nation?

Taking into account recent events, this appropriation bill places ballistic missile defense into a larger context and takes $1.3 billion of the $8.3 billion budgeted for missile defense and allocates it for missile defense and/or counterterrorism programs, whichever the President decides is in the best interest of national security. This provision is consistent with the fiscal year 2002 National Defense Authorization bill previously passed by the Senate.

Given the seriousness of the terrorist attacks on our country, and the continuing alerts of possible additional terrorist attacks, I urge President Bush to spend that $1.3 billion on counterterrorism programs. In the months following September 11, the nation has come to recognize just how vulnerable we are to the scourge of terrorism, and now many resources are needed to bolster our security. By contrast, if President Bush chooses to spend the $1.3 billion on missile defense, he will not be addressing the most likely and imminent threats we face, and he will not be furthering the cause of missile defense, either. That is because the $1.3 billion reduction approved by the Appropriations Committee is for activities that are ill-considered and poorly justified.

Four simple principles ought to apply to missile defense programs, or any other development program for that matter.

First, avoid deploying equipment that has not been thoroughly tested. We should know the equipment works prior to giving it to our soldiers.

Second, do not fund activities that cannot be executed. This simply wastes scarce resources.

Third, avoid excessive funding for non-specific activities without a firm justification or plan of how to spend the funding.

And finally, avoid undue program growth rates—programs that have been moving along well should not be drastically accelerated without justification.

The administration proposed spending over $200 million to procure 10 untested missiles and an untested radar for the THAAD theater missile defense system. The administration also proposed spending another $100 million to buy untested missiles for the Navy Theater-Wide system. These missiles would, if funded, permit the administration to claim "contingency deployments" for these systems by 2004, long before the systems are fully developed, tested and demonstrated to work effectively.

Deploying systems that are not fully developed and tested is not the best way to get an effective missile defense capability for our nation, nor is it a wise way to spend our defense dollars. To do this would be to invite what retired Air Force Chief of Staff General Larry Welch called a "rush to failure," which we have previously experienced in missile defense programs, most notably in the THAAD program a few short years ago. We should not head down that road again. It leads to delays, cost overruns and program failure.

The administration's desire for "contingency deployments" is particularly puzzling since the administration itself has spoken out on the risks of such deployments. Lieutenant General Ronald Kadish, the Director of the Ballistic Missile Defense Organization, stated in his testimony to the Senate Armed Services Committee that "emergency deployments are disruptive and can set back normal development programs by years." Deputy Secretary of Defense Paul Wolfowitz provided similar testimony to the committee.

The funding reductions for missile defense recommended by Senate Appropriations Committee would eliminate funding for "contingency deployments" of untested systems, freeing the funding for the fight against terrorism. I hope President Bush chooses to provide these funds for counter-terrorism rather than for "contingency deployments" of unproven missile defense systems.

Hundreds of millions more dollars were in the administration's request to accelerate missile defense programs that are not yet fully designed, and for testing of programs that haven't even been fully conceived. For example, the budget request included $50 million for development and testing of a sea-based boost program. However, the design of a sea-based boost system does not yet exist, and it is unreasonable to request funding to test a nonexistent system. The Appropriations Committee substantially reduced funding for this activity, to a level more appropriate to a program still in its conceptual stage. I strongly support this reduction.

The administration unduly accelerated a number of programs that are not ready for acceleration, thereby putting hundreds of millions of dollars at risk of being wasted on programs that will have to be reworked later. A prime example of this is the SBIRS-Low program, a very complex program of satellites intended to track missile targets by detecting the heat they emit while in space. Not only is this a very challenging mission, but the program has undergone substantial cost growth recently—the current cost estimate for the program now stands at over $20 billion. A few years ago the cost of three SBIRS-Low prototype satellites grew so high that the prototypes were canceled outright.

Substantial cost growth is indicative of programmatic problems which should be resolved before spending more on the program. Options to the current plan should be considered and weighed. Yet the administration has proposed over $380 million for SBIRS-Low in 2002, a 60 percent increase over last year's funding level. Such a huge funding increase is not appropriate. The Appropriations Committee recommended a reduction of $120 million for SBIRS-Low, and I think this reduction is very wise.

The Senate Appropriations Committee has given the President of the

United States a very important choice to make. Following the lead of the Senate Armed Services Committee, the Appropriations Committee has recommended $1.3 billion of funding reductions for missile defense. These reductions are not based on ideology or partisanship. They are based on an objective technical assessment of each missile defense program, and are consistent with the four principles I outlined earlier.

Even with these reductions, the administration would still receive $7.0 billion for missile defense, 40 percent more funding than last year. By comparison, the Department of Defense only proposed $650 million for research in chemical and biological defense, a mere 16 percent more than last year.

The President can choose to spend the $1.3 billion the Senate Appropriations Committee has offered him on the real threats the nation is facing today—on combating terrorism. Or he can choose instead to spend that money on unwise, ill-justified ballistic missile defense programs that will not increase our Nation's security. I urge him to choose counter-terrorism.

This bill was drafted in trying times. It had to be immensely difficult to discern which of the innumerable pressing needs should receive scarce resources. I believe this appropriations bill strikes the proper balance and will provide our fighting men and women with what they need for victory. I urge my colleagues to support this bill.

Mr. DAYTON. Mr. President, dislocated workers in Minnesota and throughout America need assistance now. The Nation's unemployment rate took another big leap upward in November, to 5.7 percent, the highest level in 6 years. An additional 331,000 Americans lost their jobs last month.

For these families, there is no time to waste. As many of us worry about what to buy our loved ones for the holidays, unemployed workers are worrying about how to provide for their families. Unemployment benefits are running out and savings are being depleted. Laid-off workers are left worrying about how they will pay for the basic necessities of life; housing, clothing, food, and health insurance for their families.

In Minnesota, the Department of Economic Security reported the number of applications for unemployment benefits increased nearly 24 percent this November compared to November of last year. Today there are 55,000 workers receiving unemployment assistance in Minnesota, with an additional 55,000 unemployed who receive no unemployment assistance.

As the State of Minnesota faces a budget deficit of almost $2 billion, the problem is only getting worse. Today, Minneapolis-based Sun Country Airlines announced that it will immediately lay off 900 employees. This underscores the immediate need for Congress to help America's financially pressed unemployed now.

We must extend unemployment insurance for laid-off workers, putting money into the hands of dislocated workers and their families. These are the people most likely to immediately spend any additional funds they receive. This spending on necessary goods and services will not only help these families make it through tough times, they will help spur our economy. Workers need assistance now.

Mr. KENNEDY. Mr. President, I commend my colleagues, Senator BYRD, Senator STEVENS, and Senator INOUYE, for their leadership on this important proposal. In particular, their proposal provides the resources that are urgently needed to begin to address the challenge of bioterrorism.

Our public health and medical professionals at the State and local levels will be on the joint lines in any bioterrorist attack. The legislation that Senator FRIST and I introduced recognizes the importance of strengthening preparedness at the State and local levels. The Byrd-Stevens-Inouye proposal provides over $1 billion to begin to prepare our health defenses against bioterrorism.

The proposal provides the resources needed to enhance the ability of CDC to respond effectively to bioterrorism. By investing $165 million in new laboratories at CDC, the proposal will allow the disease detectives at CDC to identify dangerous pathogens accurately and rapidly.

The proposal will expand stockpiles of pharmaceuticals and medical supplies that will be needed to protect Americans in a bioterrorist attack. It will allow work to begin immediately on production of new smallpox vaccine.

The bipartisan proposal will enhance the safety of the food supply by providing the resources needed to train more food inspectors and conduct research on biological threats against American agriculture.

The Byrd-Stevens-Inouye proposal takes the first important steps in preparing the nation for bioterrorism. We should support this proposal and do all we can to see that our national investment in bioterrorism preparedness is sustained in the years to come.

Mr. DASCHLE. Mr. President, I thank Senator BYRD for his extraordinary leadership in putting together a plan that addresses America's most urgent homeland defense needs. I also thank him for his tremendous eloquence, which has helped all of us, and all of America, understand the critical importance of strengthening our homeland security.

I also thank Senator INOUYE and Senator STEVENS for their persistence in making sure we didn't leave here before we acted to protect Americans at home and abroad. Thanks to our colleagues, Senators SCHUMER and CLINTON, for making sure this agreement helps keep commitment we made to stand with the people of New York as they recover from September 11. And, as always, I thank my friend, the assistant majority leader. Once again, HARRY REID's patience and his mastery of politics, policy, and process have enabled us to find a principled, bipartisan compromise.

Sixty years ago, America was attacked at Pearl Harbor. After Pearl Harbor, Americans instantly and instinctively came together to protect our nation. Together, we defeated a mighty enemy. Nearly 3 months ago, America was again attacked on our soil by a foreign enemy. It was the first time since Pearl Harbor.

Now we must decide. Will we do what that earlier generation did? Are we willing, in this Congress, to put aside our party's agendas, and perhaps our personal agendas, and do what it takes to protect our Nation.

It had seemed that the answer to that question was clear. After September 11, Congress and the President worked together to respond quickly to the terrorist attacks and the ongoing threat. We expressed our strong support for the President's leadership in the war on terrorism, and authorized the use of force in the war. We worked together to keep the airlines flying, and to make America's airports safer. We made a commitment to the Pentagon, and to the people of New York and Pennsylvania, that we would help them rebuild and recover from the horrific attacks of September 11. We did all of those things with strong, bipartisan agreement. We had hoped that support for strengthening America's homeland security would be just as broad.

Clearly, the need is just as urgent. Yesterday, we learned that the President is preparing his own homeland security package that he intends to send Congress next year. The President's plan reportedly will cost $20 billion—nearly three times what is our plan. We also know that, after Congress authorized $20 billion to strengthen homeland security and help communities recover from the terrorist attacks, the President's own agencies submitted to the White House requests totaling more than $200 billion for homeland security alone. The President's own Cabinet members identified $200 billion in domestic security needs they said urgently needed to be addressed to prevent future terrorist attacks.

So we all understand that the need is great, and urgent. We also understand, on our side, that the Senate can only act when there is broad support. So, we will support this bipartisan agreement. The amount is different than our plan, but the priorities are the same.

We said there must be more money to fight bioterrorism. This agreement includes more money for bioterrorism.

We said there has to be more money to prevent terrorists from acquiring nuclear weapons or the materials to build them. This agreement includes more money to do just that. We said we must keep our word to New York. This package does that. It doesn't meet all of America's homeland security needs. It doesn't even meet all of our most urgent homeland security needs. But it is better than the inadequate proposal we started out with. It is a downpayment on a stronger, more secure America. In that regard, it is at least a partial victory for the American people. For that reason, I intend to support it, and I hope my colleagues will as well.

When this debate began, Democrats proposed a $20 billion homeland security package as part of a larger economic recovery plan. We believe strongly that was the right thing to do. After all, if we want people to get back on planes, and go on with their business and their lives, they need to know they are safe. But our Republican colleagues refused to even talk about homeland security as long as it was part of an economic recovery plan. So we agreed to take homeland security out of our economic plan. Then, the other side said $20 billion is too much for homeland security. So we cut $5 billion from our proposal. They said even that was too much. So we cut our proposal in half—to $7.5 billion.

Again and again, we have made principled compromises in an effort to reach a bipartisan solution. Now we are accepting even further reductions in size of the package—in exchange for a commitment from our Republican friends that they will support more money for bioterrorism and other urgent homeland security needs. We want to caution our friends, however. We will not compromise our principles. We will not compromise the safety of the American people. We expect to see these commitments in the final conference report. We do not want a plan that sells our homeland security short.

Sixty years ago today, more than 4,000 American sailors and soldiers were killed at Pearl Harbor. Three months ago next week, more than 4,000 innocent civilians were killed in New York, at the Pentagon, and in Pennsylvania. The attacks of September 11 revealed, in a horrific way, some of the gaps in our homeland defense. With this vote, we are taking an important first step toward closing some of the most dangerous gaps.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 3338), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, on the behalf of the leader, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, with no intervening action or debate.

There being no objection, the Presiding Officer appointed Mr. INOUYE, Mr. HOLLINGS, Mr. BYRD, Mr. LEAHY, Mr. HARKIN, Mr. DORGAN, Mr. DURBIN, Mr. REID, Mrs. FEINSTEIN, Mr. KOHL, Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, and Mrs. HUTCHISON conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank my good friend from Hawaii and congratulate him and his staff for doing such a marvelous job on a very complex bill in such a short period of time. It is a pleasure to work with him. I also include in that thanks to Steve Cortese, our chief of staff, and the staff working with him. It is a very complex bill. It is my hope we will bring this bill back to the Senate by early next week for final passage.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, this has been a long day. I wish to thank all of my colleagues for their patience and their cooperation. The measure that we have just adopted, I have been told, is the most expensive appropriations bill ever adopted by the U.S. Senate.

I wish to thank the staff, Mr. Charles Houy and his team. Without Mr. Houy and Mr. Steve Cortese, we would not be here at this moment. We thank them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I want everyone to know, Senator DASCHLE said we would finish the bill today, and we did it, with a minute's grace.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business, with Senators allowed to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN AGRICULTURE'S VULNERABILITY TO BIOTERRORISM

Mr. AKAKA. Mr. President, I rise today to address the issue of detecting biological agents that could be used in malicious attacks against our Nation's agricultural industry.

Last month, I introduced S. 1560, the Biological Agent-Environmental Detection Act of 2001, which calls for the development of new technologies to detect disease agents that can be used as terrorist weapons against humans.

I am drafting legislation to address concerns about agricultural security that will complement the provisions in S. 1715, the Bioterrorism Preparedness Act of 2001, which I have cosponsored.

We have heard testimony in hearings before the Governmental Affairs Subcommittee on International Security, Proliferation and Federal Services illustrating the vulnerability of American agriculture to acts of biological terrorism directed against livestock and crops, commonly known as "agroterrorism."

Any agroterrorist attacks could have a profound effect on the overall American economy. The combined cash receipts for crops, livestock, and poultry in the United States reached nearly $200 billion last year, or 2 percent of our gross domestic product. An agroterrorist attack would also create a ripple effect on businesses that rely on American agricultural products, especially grocery stores and restaurants.

For example, agroterrorist attacks could reach across the agricultural industry of Hawaii, which had $521 million in revenues last year. Our livestock could be attacked with viral agents such as foot and mouth disease. In Hawaii, this would affect the price and availability of beef, pork, and dairy products. 51,000 cattle and 26,000 hogs were brought to market and slaughtered in Hawaii last year, while 90 million gallons of milk were produced by the Hawaiian dairy industry. Our $100 million pineapple industry could be attacked with a nematode pest that causes an estimated 40-percent loss of crop in the first year of infection, and 80- to 100-percent losses in subsequent crops. Hawaii's growing agricultural tourism industry was worth $26 million in 2000, and any attacks on Hawaiian agriculture would also impact those revenues.

However, the impact of terrorist attacks against American agriculture would not be measured in economic terms alone. A significant loss of agricultural production would also affect the health and welfare of our nation's citizens, not to mention hundreds of millions of men, women, and children around the globe who depend on American agricultural production for some part of their daily meals.

My colleagues are aware of the recent completion of the Human Genome Project to map the basic genetic information contained in human chromosomes. This vast undertaking involved the sequencing of over three billion base pairs of genetic information.

The diseases that attack crops and livestock are caused primarily by bacteria, fungi, and viruses. Each of these microorganisms has its own miniature genome that can be sequenced with a fraction of the effort involved in the Human Genome Project. For example, only last month, scientists at the Department of Energy's Joint Genome Institute sequenced the genomes of 15 bacterial species, including plant and human pathogens.

In many cases, we still seek to understand the most rudimentary features of disease-causing microorganisms, regardless of whether they infect humans, livestock, or plants. By sequencing the DNA of select agricultural diseases agents, we can develop diagnostic tests to rapidly identify agricultural diseases; we gain fundamental information about how each disease is caused; and we learn how to mitigate or prevent the negative effects of diseases that infect crops and livestock.

By preparing to detect the intentional spread of disease through bioterrorist attacks on America's agriculture, we are also protecting American crops and livestock from the accidental or natural spread of diseases. With rapid diagnostic tests based on genomic information, we can avoid the spread of such diseases as the papaya ringspot virus, which is carried by aphids throughout infected orchards in Hawaii. However, Hawaii's agricultural system clearly is not the only industry that would benefit from pathogen detection systems. The fungal pathogen Fusarium, which infects many Hawaiian crops, including sugarcane, ginger, and banana, also attacks watermelons in Texas, potatoes in Idaho, and tomatoes in Ohio.

I commend my colleagues for their efforts to protect our urban areas from further bioterrorist attacks. However, let's not forget agricultural America. We must support the development of rapid detection methods that are based on genomic information from disease agents that could be used in bioterrorist attacks against American agriculture.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred April 16, 1995 in Seattle, WA. An attacker threatened a gay man by holding a gun to the victim's head and using anti-gay slurs. The assailant, Daniel Gooch, 30, was charged with fourth-degree assault in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

VETERANS' BENEFITS IMPROVEMENT ACT

Mr. JOHNSON. Mr. President, I rise today to urge an anonymous Senate colleague to lift his or her hold that has been placed on critical legislation for America's veterans.

As you are aware, the Senate Veterans' Affairs Committee approved important legislation in October that will make significant improvements to the Montgomery GI Bill, expand benefits for Persian Gulf War veterans, and enhance the VA Home Loan program. The Senate must act on the Veterans' Benefits Improvement Act of 2001 before the end of this legislative session.

I have advocated updating education benefits for veterans and introduced comprehensive legislation with Senator SUSAN COLLINS (R–ME) at the beginning of the year to bring Montgomery GI Bill benefits in line with the rising costs of higher education. The Veterans' Benefits Improvement Act represents an important first step in ultimately restoring the effectiveness of the Montgomery GI Bill as a tool in the recruitment and retention of the best and brightest in our armed forces.

Unfortunately, an anonymous member of the Senate is preventing veterans from receiving these expanded educational benefits.

I am equally disappointed that this anonymous hold is threatening our ability to increase the VA home loan guaranty in order to keep pace with FHA loan guaranties and extend housing loan guaranties for members of the Selected Reserve.

Finally, I find it disturbing that during a time of war an anonymous member of Congress is willing to halt legislation that would help Persian Gulf War veterans with service-connected disabilities and Vietnam Veterans exposed to Agent Orange. The Veterans' Benefits Improvement Act rectifies several oversights for these brave men and women who served their country while also illustrating to members of the Armed Forces that our country keeps its promises to our veterans.

The Veterans of Foreign Wars (VFW) recently wrote Senate Minority Leader TRENT LOTT (R–MS) and urged him to prevail upon his colleagues to release the anonymous hold on this bill. The VFW correctly points out that with American servicemen and women currently in harms way, there is no justification for blocking action on legislation that recognizes veterans' service to our nation. I ask unanimous consent to have a copy of the VFW's letter printed in the CONGRESSIONAL RECORD following my remarks.

I urge all Senators to help expedite passage of this important legislation and look forward to continue working with my colleagues on veterans legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, DC, December 3, 2001.

Hon. TRENT LOTT,
Senate Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: On behalf of the 2.7 million members of the Veterans of Foreign Wars and its Ladies Auxiliary, I urge you, as Senate Majority Leader, to prevail upon one of your Republican colleagues to release an anonymous hold he has placed on a piece of legislation of great importance to our nation's veterans.

This bill, the Veterans' Benefits Improvement Act of 2001, would significantly benefit the men and women who have served in our Armed Forces as well as those serving today and tomorrow.

It is our understanding that the Senator who is blocking action on this bill is concerned that, along with a number of other important provisions, it would authorize too much money on enhancements to the Montgomery GI Bill. We are disappointed and angered that this individual would single handedly prevent a vote on this much needed legislation, particularly for the sake of preventing an essential increase in a educational benefit for veterans.

With American servicemen and women on guard at home and standing in harms way abroad, we assert that there is no justification for blocking action on legislation that appropriately recognizes and rewards their very special service to the nation.

This measure is much needed and enjoys strong support in both the House and Senate. It is time that it be brought up and voted upon.

Sincerely,

ROBERT E. WALLACE,
Executive Director.

RETIREMENT OF JENNY OGLE

Mr. VOINOVICH. Mr. President, I rise today to pay tribute to Ms. Jenny Ogle, who is retiring at the end of this month after 23 years of service to the citizens of Ohio and the United States of America.

Many of my colleagues might not realize this but Senator MIKE DEWINE and I have one of the few joint casework operations in the Senate. Shortly after I was elected, Senator DEWINE graciously offered to combine our casework services in an effort to better serve our constituents in Ohio by avoiding duplication of effort and by saving money on staff and office expenses.

To head up this office, MIKE and I asked Jenny Ogle, who had been MIKE's own Director of Constituent Services since 1995, and who had been a caseworker for MIKE from 1982 to 1989 when he was in the House of Representatives. In the interim years, while MIKE was serving as my Lieutenant Governor, Jenny brought her experience to Congressman DAVE HOBSON, where she served as casework manager.

I knew that Senator DEWINE and I were asking a lot of Jenny to run this new one-stop operation, but I was confident, given the great work that she had done for MIKE and for DAVE, that she could handle the load and do it well.

And I was right. For the past 3 years Jenny has been our Director of Constituent Services, and has done an excellent job in ensuring that all our casework is handled properly and in a timely manner.

One of the things that I have come to respect about Jenny is her leadership and interpersonal skills and her ability to reach out and make a difference in the lives of so many people. In fact, she could probably write a book based on the cases she handled personally as well as the cases she "quarterbacked" as Constituent Services Director. Jenny has a unique ability to bring out the best in herself, but more important, she has a real talent for bringing out the best in her staff.

I have often said that the most important work that my office does is outreach to my fellow Ohioans, and in terms of outreach and getting things done for the people of Ohio, Jenny has had a major impact. She can rest assured that her accomplishments are appreciated by me and my entire staff and her influence will continue to be felt for many years to come.

I will genuinely miss Jenny's service because she is a consummate professional. Throughout her career in constituent services in both the House and Senate, Jenny has dedicated herself to helping solve the problems of tens of thousands of Ohioans, many of whom have had nowhere else to turn. She is one of those rare individuals who can honestly say that they have made a difference in the lives of their fellow man.

I am proud of what she has been able to accomplish, and I know that her family is just as proud of her, if not more so. I thank Jenny for her service, and I wish her and her husband, Mike, a happy and healthy retirement together.

PRESIDENT HARRY S TRUMAN

Mrs. CARNAHAN. Mr. President, as you know, the Senate seat I currently hold was previously occupied by a distinguished man from Independence, MO, President Harry S Truman. So it is with great enthusiasm and pride that I take this opportunity to recognize the Grand Rededication of the Harry S Truman Presidential Museum and Library on December 9, 2001.

This weekend, the Truman Museum and Library will open a remarkable new permanent exhibit, "Harry S Truman: The Presidential Years." This compelling installation provides current and future generations with an interactive experience that allows them to fully immerse themselves in the Truman Presidency. Visitors will feel the pressure on Truman and his administration during the formative post-World War II years as President Truman and his advisors debated crucial decisions, such as use of the atomic bomb and recognition of the state of Israel. Those decisions continue to shape the world we now live in. This exhibit comes after the addition of the new White House Decision Center, which opened in October. The White House Decision Center is a replica of the West Wing and provides students with the opportunity to take on the role of President Truman or of his advisors during the Truman Presidency.

Since its opening in 1957, the Truman Museum and Library has remained true to the wishes of President Truman, who felt his papers should be the property of the people and accessible to them. With this directive in mind, the Truman Museum and Library house and preserve White House files as well as papers that document President Truman's life and career. These new projects are just the latest innovative exhibits, seminars, and public programs that have engaged and educated the public for over 40 years.

I commend all who have made this renovation and grand rededication possible, particularly the staff at the Truman Museum and Library. Their remarkable work and dedication to public service exemplify the integrity that Harry S Truman brought to the office of the Presidency. Each day as I represent the people of Missouri in the United States Senate, I am humbled by the honor to succeed this great man and Missouri's own, Harry S Truman.

FATHER MYCHAL F. JUDGE

Mrs. CLINTON. Mr. President, I ask for unanimous consent that the following statement, which I was honored to deliver at the funeral mass for Father Mychal F. Judge in New York City on September 15, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HILLARY RODHAM CLINTON AT THE MASS OF CHRISTIAN BURIAL FOR FATHER MYCHAL F. JUDGE, O.F.M., CHAPLAIN FOR THE FIRE DEPARTMENT OF NEW YORK CITY, CHURCH OF SAINT FRANCIS OF ASSISI, SATURDAY, SEPTEMBER 15, 2001

Your Eminence, members of Father Mike's family, especially his sisters Erin and Dympna, his nieces and nephews, members of his beloved Franciscan community:

Father Mike left us one last earthly gift with Father Duffy's homily. That will long be remembered for its humanity, its love, and its humor.

My husband and I first heard of Father Mike during the White House years. We kept hearing about this charismatic Franciscan who ministered to the homeless, to AIDS victims, to immigrants, with perhaps a special touch for Irish immigrants and who loved his firefighters. So we invited him to the White House for our annual prayer breakfast, and because I was so intrigued by everything I had heard about him, and because I knew that in a big event like that I might not get much time to spend with him, I took the hostess' prerogative and put him at my table. What a beacon of light. He lit up the White House as he lit up every place he ever found himself.

We had just purchased our home here in New York so, of course, we first spoke about his love for this city, and he told me the stories of growing up and shining shoes and exploring on his own. And we talked about what drew him to become the chaplain for the fire department and how grateful he was because he felt, as you know so well, that it was a mission he'd been called to do.

On Tuesday, when the worst of evil struck our city, I was heading toward my office at the Senate, and I heard first of the crash into the tower and, like so many people, thought it must have been a terrible accident and, shortly thereafter, the second. As I frantically began making phone calls, we were evacuated because of the third crash into the Pentagon. I called the Mayor and the Governor and the President. And I think for so many people in those initial hours it was unimaginable except for those of you and your comrades who were there in the midst of it. And then I was called and told that Father Mychal Judge had died doing what he was called to do, and all of a sudden the enormity of the tragedy became very personal.

It will take a very long time before any of us can even find the words to express what this cowardly evil act meant and did to people we knew and loved, to our city and to our country. But as a Christian, I think often of another terrible day, a Friday of despair, darkness and death, a Friday that left behind so much pain and hopelessness and yet Sunday was coming and Sunday did come.

As we continue the work of rescue, recovery, rebuilding, reconstruction, we have to remember the spirit, the life, and the love that Father Mike left us. Pulling us one to the other, giving us strength where it seems hard to imagine it could ever come again. And being resolute in our commitment to do everything we can to ensure that not one person that lost his or her life on our Tuesday of death and darkness will have died in vain.

So thank you Father Judge. Father, you gave us so many gifts when you were alive. Gifts of laughter and love. Blessed is he who comes in the name of the Lord, and you came to us. And now you've gone ahead, but you will never be forgotten, and we are grateful for the blessings of your life. Thank you.

HONORING WILBUR FAISS

Mr. REID. Mr. President, recent weeks, one of Nevada's leading families, the Faiss Family, has marked important milestones. The patriarch, Wilbur Faiss, observed his 90th birthday and the matriarch, Theresa Faiss, observed her 86th birthday. In doing so, they and their children and grandchildren could reflect on 57 years of contributions to the growth and success of Nevada.

Wilbur and Theresa Faiss and their three sons, Bob, Don, and Ron, arrived in North Las Vegas, NV, in 1944. North Las Vegas then was an unincorporated city. Wilbur opened a small business and devoted a great deal of his time to his community, including service as a volunteer firefighter.

Wilbur became one of the first workers at the Nevada Test Site in the 1950s. He later retired from work as a member of the Teamsters Union on the Las Vegas Strip.

Upon retirement at the age of 65, when many of us might think of slowing down a bit, Wilbur answered the call of his constituents to become a Democratic candidate for the Nevada State Senate. He won that first effort for public office by one of the highest margins in the State.

Wilbur served two distinguished terms in the Nevada Senate, giving priority to the areas of working men and women, senior citizens, education, civil rights, and protection of the environments.

Theresa's achievements were recognized in 1996, when she was selected as Clark County's Pioneer Mother of the Year. Of Theresa it was written that she "has not won any public honors or held any office, but she held her family together through adversity and provided her sons a model of caring, support, hard work, sacrifice, commitment, integrity and compassion."

Their sons have followed the example of their parents.

Bob Faiss is a senior member of Nevada's largest law firm, Lionel Sawyer & Collins. Prior to joining his firm, Bob served as Executive Assistant to Governor Grant Sawyer of Nevada and staff assistant to President Lyndon B. Johnson in the White House. The National Law Journal in 1997 named him one of "The 100 Most Influential Lawyers in America."

Don Faiss recently retired as an executive of Bally's Resort in Las Vegas, formerly the MGM Grand Hotel. Among his public contributions was service as a member of the Clark County School Board.

Ron Faiss recently retired as General Manager of the Horseshoe Hotel/Casino in Las Vegas, after 30 years of involvement in the spectacular growth of the Nevada gaming industry.

The Faiss grandchildren are also making their ways as responsible and productive citizens, as follows: Mitch Faiss is the co-founder of a leading electrical contracting company in Gardnerville, NV; Michael Faiss, after many years as manager for a chain of restaurants, has joined his brother Mitch in the electrical contracting business; Philip Faiss is a member of the staff of a major museum in Southern California; Marceline Faiss Ayres is an educator in Northampton, MA; and Justin Chambers, is a member of the news staff of KTNV—Channel 13 in Las Vegas.

Wilbur and Theresa Faiss are in good health and continue to be active. It is fitting to wish them happy birthdays and a happy, rewarding and secure future.

Mr. President, Nevada is a much better place because of the Faiss family.

RETIREMENT OF JOAN DOUGLAS

Mr. VOINOVICH. Mr. President, I rise today to pay tribute to Ms. Joan Douglas who will celebrate here retirement later this month after many years of dedicated service to the citizens of Ohio and the United States of America.

For the past 12 years, Joan has been an integral part of my team, from my earliest days on the campaign trail when I was running for Governor of Ohio, to my current service in the U.S. Senate. Not only has Joan been a valued employee, she has been a friend to me and my wife, Janet.

One of the things that I admire about Joan is her passion for public service, for it is something that both of us share. Just like I once did, Joan served in the Ohio Legislature, and she has also given back to her community at the local level, serving 8 years on the Mansfield, OH, City Council and by also serving on the Mansfield Elections Board.

Given her interest in helping her fellow Ohioans, I was extremely pleased that Joan joined my campaign for Governor in 1990 and that she stayed through both my terms. Joan was the first impression that people had of the Governor's office whether in-person or on the phone, and I believe that her professionalism and compassion made thousands of great first impressions on visitors and callers alike.

Joan has always had a wonderful way to make anyone who deals with her feel immediately at ease, whether it was frustrated constituents, harried staff or individuals with special needs. She has also always been cool under pressure, witnessing numerous demonstrations and protests and dealing with more than her fair share of troublesome individuals. And Joan always let me know what "the pulse of the people" was by keeping track of the calls we received and letting me know what our constituents were saying.

Not only did Joan smooth over the problems of countless Ohioans, she also shared her talents with fellow staff members, serving as "den mother" to many of the younger staff members in my office. Whether it was a shoulder to cry on, or motherly advice, I know that many people cherished her guidance, her comfort and her companionship.

When I was elected Senator, I was genuinely pleased that Joan continued to serve the people of Ohio when she stayed on to work for me. A whole new generation of staff and thousands more Ohioans had a chance to get to know her and experience her warmth and charm.

My wife, Janet and I appreciate all that Joan has done for us and the people of Ohio and the fellowship that she has shared with so many. We will always treasure Joan's friendship, and we wish her many years of a happy and healthy retirement.

ADDITIONAL STATEMENTS

Tribute to Chick Matthews

• Mrs. LINCOLN. Mr. President, I rise today to pay tribute to a true American hero from my home State—Mr. Chick Matthews of Greenbrier, AR.

Mr. Matthews was born on August 19, 1901, in a one-room house in Bailey Town, AR. Growing up in the most modest of circumstances, Mr. Matthews went on to a distinguished career of service to his country, serving in four wars in the twentieth century. Mr. Matthews served honorably in World War I, World War II, Korea, and Vietnam, either in the uniforms of the Army, the Navy, or the Merchant Marine. It is a service record that he can be proud of, and we are proud of him for it.

In 1931, Mr. Matthews married Icie Lee, who served as a postal worker in Greenbrier and a postmistress in Wooster, AR. Icie Matthews passed away in 1999 after 68 years of marriage to Chick. She is deeply missed.

Chick Matthews retired from the Merchant Marine in 1970, but since then he has stayed extremely busy. He has been around the world more than a dozen times. According to his count, Mr. Matthews has visited over 100 countries. This past summer, just before his one hundredth birthday, he traveled with his son James on a trip that took him to 18 foreign countries.

Today, Mr. Matthews leads an equally energetic lifestyle at home, tending to a one-acre garden and visiting frequently with his neighbors and friends at the Greenbrier Senior Citizen Center, where he regales his companions with tales of his adventures. We should all hope to maintain such a full and active schedule in our senior years.

Through his service to his country, his love of family and community, his commitment to making the most of his life, Chick Matthews represents the most admirable qualities in the American spirit. In this new century, in these difficult times, when a new generation of young Americans is taking up arms to defend our freedoms against the threat of international terrorism, let's follow the example set by Chick Matthews in the last century. In this, the one hundred and first year of Chick Matthews' life, it is an honor for me to pay tribute to his example on the floor of the United States Senate.•

SUPPORT ON THE COLLEGE CAMPUSES

• Mr. BOND. Mr. President, Today I rise to recognize John K. Sheridan and Christopher A. Benson from the University of Missouri-Columbia for their outstanding accomplishment as journalism students.

The terrorist attacks on the World Trade Center and the Pentagon and the subsequent American response has caused a huge upsurge in American patriotism. Flags are proudly flying everywhere from balconies and lapel pins. "God Bless America" is the spontaneous song of note in arenas, ballparks, and homes. The fervor is evident in all walks of society, not the least of which is the college campus.

In my home State of Missouri, we have the world's first journalism school at the University of Missouri-Columbia. Recently, two of the top journalism students published articles in the Columbia Missourian, one calling for the reinstatement of the draft with universal service and the other criticizing Harvard University for refusing to reinstate ROTC on the Campus.

I commend John K. Sheridan and Christopher A. Benson for their thoughtful and Intriguing commentary.•

IN RECOGNITION OF THE COMPLETION OF THE ARCTIC RING OF LIFE AT THE DETROIT ZOO, ROYAL OAK, MI

• Mr. LEVIN. Mr. President, I ask that the Senate join me today in congratulating the Detroit Zoological Institute upon the completion of the Arctic Ring of Life. For over 75 years, the Detroit Zoo has educated and inspired millions, while promoting conservation and advancing our understanding of the natural world.

The Arctic Ring of Life is one of the cornerstones of the Celebrating Wildlife Campaign, a series of projects which also includes the National Amphibian Conservation Center, and two other structures that are yet to be built: The Ford Center for Environmental Conservation Education and a new Animal Health Complex. Continuing the renaissance which the Detroit Zoo has experienced over the past 20 years, the completion of these projects will further solidify the Detroit Zoo's position as one of the leading zoos in the world.

Polar bears have lived at the Institute since it first opened its gates in 1928. The Arctic Ring of Life builds upon the Institute's long relationship with the bears of the North. Sprawling over 4.2 acres, this exhibit will showcase more than just polar bears. It will provide a glimpse into life above the Arctic Circle. At the entrance of the Arctic Ring of Life, visitors will be greeted by a nine-foot granite polar bear sculpture. From there, visitors will travel through an Inuit village as it appeared in the early 1900's. The exhibit also includes a display of a tundra area containing colorful grasses, wildflowers and other arctic plants. This area will also be home to snowy owls and arctic fox, two of the most common arctic animals. Visitors will then enter into the Nunavut Gallery, an indoor room containing Inuit art as well as interpretive graphics.

Beyond the gallery is the most unique part of the exhibit: a spectacular 70-foot-long passage that allows visitors to wind through a 300,000 gallon marine environment. The first of its kind in the world, the tunnel will take visitors beneath both the polar bear and seal areas. Those visitors lucky enough to be in the tunnel when the bears are in the water are able to look around and marvel at the grace of the largest land predator swimming effortlessly in the water.

After exiting the tunnel, visitors follow the edge of the glacier to the "Exploration Station." Maintaining the exhibit's goal of educating while entertaining, children and adults can have a first hand experience with the tools of the arctic scientist while at the station. The equipment in the building includes a thermal imaging station which children can use to see how heat is escaping the body, and a remote video camera which can be used to survey the exhibit. Following one last spectacular overview of the whole exhibit, visitors exit with a new and enhanced understanding of the fragile arctic region and its importance for the world.

The Zoological Institute is one of Detroit's most important cultural centers. Nevertheless, the zoo, like the city itself, has gone through periods of difficulty and turmoil. However, thanks to the dedicated work and contributions of thousands, the Detroit Zoo has prevailed. Beginning with the completion of the Great Apes of Harambee in the late 1980's, the Detroit Zoo has renovated or opened many new exhibits in the past two decades. While the Detroit Zoological Institute has long been one of the best zoos in the country, it is now undisputably one of the best in the world.

As a lifelong resident of Detroit, I am heartened to see the renovations done to the Detroit Zoo and the opening of this new exhibit. The Detroit Zoological Institute is an important cultural institution for not only the city of Detroit, but the entire State of Michigan. I trust that my Senate colleagues will join me in congratulating the Detroit Zoo on its growth and wishing it the best in the coming years.•

TRIBUTE TO FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF HAZARD, KENTUCKY

• Mr. BUNNING. Mr. President, I rise today to applaud the extraordinary and selfless efforts of the First Federal Savings & Loan Association of Hazard, Kentucky in furthering the educational development of Hazard Community College and the surrounding area of Eastern Kentucky.

In the aftermath of the attacks perpetrated on September 11, Hazard Community College found themselves at a loss for adequate funding for their newly planned building when a major philanthropist had to withdraw previously committed funds. The building was projected to be the campus' main building with plans to include a student center, bookstore, cafeteria, meeting area, economic development center for Eastern Kentucky, and a community center. Without proper funding, the project appeared to be heading for failure. However, in a Herculean display of courage and character, First Federal Savings & Loan Association, led by President and CEO Tony Whitaker, stepped in and played the heroic role.

By locally rising $3 to $4 million through an eleventh-hour fundraising campaign to match state and federal funds and also graciously providing a half million dollars directly from the bank, First Federal Savings & Loan was able to secure appropriate funding for the project to continue as planned.

In trying times such as these, we all can learn from the example set by Mr. Whitaker and the First Federal Savings & Loan Association of Hazard with their commitment to education and the community.•

CONGRATULATIONS DAN WENK, SUPERINTENDENT OF MT. RUSHMORE

• Mr. JOHNSON. Mr. President, I rise today to congratulate Dan Wenk, former Superintendent of Mt. Rushmore National Memorial. Dan was recently promoted and is currently serving the National Park Service as the director of the Denver Service Center.

Dan started serving as Superintendent of Mt. Rushmore 16 years ago. Over the past 16 years, Dan has had oversight over numerous big events, including the 50th anniversary observance in 1991, which was a national observance that highlighted the memorial's significance as this country's 'Shrine of Democracy'. President George Bush, actor Jimmy Stewart and many other national and statewide celebrities took part in the event.

In recent years, Mount Rushmore has also been placed on the national stage with its awesome and impressive Independence Day fireworks celebration. Thousands of people descend upon the monument around the July 4th holiday to listen to patriotic music, witness one of the Nation's best fireworks displays and unite in a patriotic spirit.

During his tenure, Wenk helped showcase Mount Rushmore National Memorial to a worldwide audience, numbering in excess of two million visitors annually. These visitors have included presidents, cabinet members, members of Congress, and national celebrities. But I know Dan's biggest reward came in visiting with the general public and answering countless questions from inquiring folks of all ages.

In recent years, Dan shepherded a massive $30 million renovation project to redesign outdated facilities and expand the visitor experience at the memorial. The expanded amphitheater, the Lincoln Borglum Museum and the Presidential Trail are just a few of the renovations that marked this project. Expanded and renovated parking, dining and gift shop facilities greet today's visitors to Mount Rushmore.

Over the years, Dan has not been afraid to tackle challenging issues affecting Mount Rushmore. He has dealt with the occasional protester and anthrax threat. As the renovation took several years to complete, Dan recognized the importance of continued leadership to oversee the project. It was very important to communicate the status of the project and the intricacies of the rebuilding phases to the local citizenry, many of whom were skeptical of any changes made to the memorial. At times, during the renovation and parking fee debates, Dan tackled the challenge of keeping the local public informed, addressed opponents' questions and letters to the editor, and even answered the occasional congressional inquiry—all with calmness, all with a professional attitude and all with a dedication to the final goal, which was completion of a massive renovation to one of this nation's most prized symbols. As if overseeing the political wrangling was not enough, Dan would sometimes get away from it all and come down from the mountain to don a striped shirt and officiate local basketball games. I do not know which was the bigger challenge: dealing with intricate construction details and the occasional verbal or written jab, or whistling a foul in the final seconds of a tightly-contested high school basketball game between city rivals.

Dan's responsibilities for his new position will include the oversight of planning, design and construction in national parks throughout the United States. Although this is a big loss for Mt. Rushmore and South Dakota, I know his experience and leadership will benefit the entire country. Dan and I started roughly at the same time. I was first elected to Congress in 1986 and Dan started at Mt. Rushmore in 1985. It has been an honor for me and my staff to work with Dan and his staff, and he will be sorely missed. I have appreciated Dan's insight, honesty and professional attitude over the years. I look forward to continuing my relationship with Dan in his new position and I know that he will show the same professionalism in Denver that he showed in South Dakota.

Congratulations Dan and I wish you and your family the best of luck in Denver and in your new position.●

IN RECOGNITION OF LEE BOLLINGER'S SERVICE AS PRESIDENT OF THE UNIVERSITY OF MICHIGAN

● Mr. LEVIN: Mr. President, today I would like to pay tribute to a dynamic and visionary leader in my home State of Michigan, Mr. Lee Bollinger.

For nearly 5 years, Lee Bollinger has served as the president of one of the world's premier institutions of higher learning, the University of Michigan. During the Bollinger administration, the University of Michigan has experienced a period of dynamic growth and change.

At a time when it is essential to keep higher education affordable for all Americans, it is imperative that universities do all they can to provide a quality education at an affordable price. Lee Bollinger has worked hard to place the University of Michigan in a healthy financial position so that it can meet its financial obligations. The University has operated its fiscal affairs astutely under Lee's leadership. U of M's endowment is now the fourth largest among public universities.

In recent years, some have suggested that university presidents are chosen more for their ability to raise money than for their academic prowess or vision for the modern research university. Despite his success at managing the University's fiscal affairs, Lee Bollinger was not such a university president. He is truly a Renaissance man whose vision of the University as a tool for academic and social progress permeated all that he did while in Ann Arbor.

Lee Bollinger's vision for the University has reinforced Michigan's role as a leader in the arts and sciences. He was instrumental in the construction of the Walgreen Drama Center, which houses the 450-seat theater named in honor of the most famous living American playwright and an alumnus of the University of Michigan, Arthur Miller. In addition, he made it possible to bring the Royal Shakespeare Company to campus.

The sciences have also flourished under Lee's tenure. He has worked to develop the University's Life Sciences Initiative, which will soon house hundreds of researchers who will probe the human genome and will work to discover new treatments for a variety of diseases. This initiative has the potential to make both the University and the State of Michigan leaders in the emerging field of biotechnology.

My admiration for Lee has also been shaped by his unwavering support of the University's affirmative action policy in admissions. Under his stewardship, the University has made inclusion and diversity its bywords. Lee has steadfastly led the defense of the University's policies in two separate lawsuits that are currently being heard in Federal court, and which may ultimately be heard before the Supreme Court. I thank him for his tremendous commitment to making sure that the University of Michigan continues to provide a diverse learning environment for all of its students. I know the University will continue to fight for these issues even after Lee moves on to his new position as President of Columbia University.

Just last month, Lee was recognized by the Association of Academic Health Centers with the Herbert W. Nickens Award in honor of his strong advocacy for diversity at the University and in our Nation. It is an award that is well deserved.

As Lee Bollinger leaves Ann Arbor for New York City, I want to take this opportunity to wish him and his wife, Jean, all the best. During his tenure as President, Lee Bollinger enhanced the University of Michigan's stature as one of the premier institutions of learning in the world. I know that my Senate colleagues will join me in congratulating Lee Bollinger on his tenure as President of the University of Michigan. I trust that the Columbia University community will soon come to admire him as much as we have in Michigan.●

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 1786. A bill to expand aviation capacity in the Chicago area.

S. 1789. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, without amendment:

H.R. 2336: A bill to make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers. (Rept. No. 107–111).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with amendments:

S. 835: A bill to establish the Detroit River International Wildlife Refuge in the State of Michigan, and for other purposes. (Rept. No. 107–112).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment:

H.R. 700: A bill to reauthorize the Asian Elephant Conservation Act of 1997. (Rept. No. 107–113).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

S. 1621: A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of community members, volunteers, and workers in a disaster area. (Rept. No. 107–114).

S. 1623: A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to direct the President to appoint Children's Coordinating Officers for disaster areas in which children have lost 1 or more custodial parents. (Rept. No. 107–115).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1624: A bill to establish the Office of World Trade Center Attack Claims to pay claims for injury to businesses and property suffered as a result of the attack on the World Trade Center in New York City that occurred on September 11, 2001, and for other purposes. (Rept. No. 107–116).

By Mr. HARKIN, from the Committee on Agriculture, Nutrition, and Forestry:

Report to accompany S. 1731, An original bill to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes. (Rept. No. 107–117).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

S. Con. Res. 80: A concurrent resolution expressing the sense of Congress regarding the 30th anniversary of the enactment of the Federal Water Pollution Control Act.

NOMINATIONS DISCHARGED

The following nominations were discharged from the Committee on Health, Education, Labor, and Pension pursuant to the order of December 7, 2001:

DEPARTMENT OF LABOR

Tammy Dee McCutchen, of Illinois, to be Administrator of the Wage and Hour Division, Department of Labor.

PUBLIC HEALTH SERVICE

Public Health Service nominations beginning Ketty M. Gonzalez and ending Amanda D. Stoddard, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 21, 2001.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1783. A bill expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and of other purposes; to the Committee on Indian Affairs.

By Mr. STEVENS (for himself and Mr. INOUYE):

S. 1784. A bill to provide that all American citizens living abroad shall (for purposes of the apportionment of Representatives in Congress among the several States and for other purposes) being included in future decennial census of population, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CLELAND (for himself, Mr. DEWINE, Mr. BIDEN, Mr. BINGAMAN, Mrs. CARNAHAN, Mrs. CLINTON, Mr. LEVIN, Mr. LIEBERMAN, Mr. MILLER, Ms. MIKULSKI, Mr. HAGEL, and Mr. REID):

S. 1785. A bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. DASCHLE, Mr. INHOFE, Mr. REID, Mr. DORGAN, Mr. BURNS, Mr. ROCKEFELLER, Mr. BREAUX, Mr. BROWNBACK, Mr. TORRICELLI, and Mr. JOHNSON):

S. 1786. A bill to expand aviation capacity in the Chicago area, read the first time.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1787. A bill to promote rural safety and improve rural law enforcement; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mr. KENNEDY, Mr. REED, Mr. TORRICELLI, Mr. LEVIN, Mrs. BOXER, and Mr. CORZINE):

S. 1788. A bill to give the Federal Bureau of Investigation access to NICS records in law enforcement investigations, and for other purposes; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. DEWINE):

S. 1789. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children; read the first time.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 1790. A bill to designate the lobby of the James A. Byrne United States Courthouse located at 601 Market Street in Philadelphia, Pennsylvania, as the "Edward R. Becker Lobby"; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORZINE (for himself and Mr. FEINGOLD):

S. Res. 188. A resolution expressing the sense of the Senate that lobbyist should not be granted special access privileges to the Capitol and congressional offices that are not available to other American citizens; to the Committee on Rules and Administration.

By. Mr. SCHUMER:

S. Con. Res. 89. A concurrent resolution recognizing and honoring Joseph Henry for his significant and distinguished role in the development and advancement of science and the use of electricity; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 94

At the request of Mr. DORGAN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 94, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for electricity produced from wind.

S. 926

At the request of Mr. HARKIN, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 926, a bill to prohibit the importation of any article that is produced, manufactured, or grown in Burma.

S. 942

At the request of Mr. HUTCHINSON, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 942, a bill to authorize the supplemental grant for population increases in certain states under the temporary assistance to needy families program for fiscal year 2002.

S. 1214

At the request of Mr. HOLLINGS, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1214, a bill to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes.

S. 1271

At the request of Mr. VOINOVICH, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1271, a bill to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small business concerns with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small business concerns, and for other purposes.

S. 1324

At the request of Mr. LIEBERMAN, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1324, a bill to provide relief from the alternative minimum tax with respect to incentive stock options exercised during 2000.

S. 1478

At the request of Mr. SANTORUM, the name of the Senator from Maryland

(Mr. SARBANES) was added as a cosponsor of S. 1478, a bill to amend the Animal Welfare Act to improve the treatment of certain animals, and for other purposes.

S. 1552

At the request of Mr. HARKIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1552, a bill to provide for grants through the Small Business Administration for losses suffered by general aviation small business concerns as a result of the terrorist attacks of September 11, 2001.

S. 1566

At the request of Mr. REID, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1566, a bill to amend the Internal Revenue code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

S. 1605

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1605, a bill to amend title XVIII of the Social Security Act to provide for payment under the Medicare Program for four hemodialysis treatments per week for certain patients, to provide for an increased update in the composite payment rate for dialysis treatments, and for other purposes.

S. 1663

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1663, a bill to amend title 4, United States Code, to add National Korean War Veterans Armistice Day to the list of days on which the flag should especially be displayed.

S. 1675

At the request of Mr. BROWNBACK, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1675, a bill to authorize the President to reduce or suspend duties on textiles and textile products made in Pakistan until December 31, 2004.

S. 1686

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1686, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program.

S. 1707

At the request of Mr. JEFFORDS, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Florida (Mr. NELSON), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1745

At the request of Mrs. LINCOLN, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S. 1765

At the request of Mr. FRIST, the names of the Senator from California (Mrs. BOXER) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 1765, a bill to improve the ability of the United States to prepare for and respond to a biological threat or attack.

S. 1782

At the request of Mr. WARNER, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Missouri (Mr. BOND), the Senator from California (Mrs. FEINSTEIN), the Senator from Maine (Ms. COLLINS), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1782, a bill to authorize the burial in Arlington National Cemetery of any former Reservist who died in the September 11, 2001, terrorist attacks and would have been eligible for burial in Arlington National Cemetery but for age at time of death.

S. RES. 109

At the request of Mr. REID, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. Res. 109, a resolution designating the second Sunday in the month of December as "National Children's Memorial Day" and the last Friday in the month of April as "Children's Memorial Flag Day".

S. RES. 187

At the request of Mr. CLELAND, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 187, a resolution commending the staffs of Members of Congress, the Capitol Police, the Office of the Attending Physician and his health care staff, and other members of the Capitol Hill community for their courage and professionalism during the days and weeks following the release of anthrax in Senator DASCHLE's office.

S. CON. RES. 88

At the request of Mr. HARKIN, his name was added as a cosponsor of S. Con. Res. 88, a concurrent resolution expressing solidarity with Israel in the fight against terrorism.

AMENDMENT NO. 2268

At the request of Mr. WARNER, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Missouri (Mr. BOND), the Senator from California (Mrs. FEINSTEIN), the Senator from Maine (Ms. COLLINS), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of amendment No. 2268 intended to be proposed to H.R. 3338, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 2305

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 2305 intended to be proposed to H.R. 3338, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 2368

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 2368 proposed to H.R. 3338, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 2372

At the request of Mr. EDWARDS, his name was added as a cosponsor of amendment No. 2372 proposed to H.R. 3338, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 2376

At the request of Mr. ALLEN, his name was added as a cosponsor of amendment No. 2376 proposed to H.R. 3338, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

At the request of Mr. CLELAND, his name was added as a cosponsor of amendment No. 2376 proposed to H.R. 3338, supra.

At the request of Mr. INOUYE, his name was added as a cosponsor of amendment No. 2376 proposed to H.R. 3338, supra.

At the request of Mr. STEVENS, his name was added as a cosponsor of amendment No. 2376 proposed to H.R. 3338, supra.

AMENDMENT NO. 2401

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of amendment No. 2401 proposed to H.R. 3338, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 2405

At the request of Mr. CARPER, his name was added as a cosponsor of amendment No. 2405 proposed to H.R. 3338, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 2409

At the request of Mr. DAYTON, his name was added as a cosponsor of amendment No. 2409 proposed to H.R. 3338, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 2418

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of amendment No. 2418 proposed to H.R. 3338, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 2419

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of amendment No. 2419 proposed to H.R. 3338, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 2420

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of amendment No. 2420 proposed to H.R. 3338, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 2439

At the request of Mr. KYL, his name was added as a cosponsor of amendment No. 2439 proposed to H.R. 3338, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS (for himself and Mr. INOUYE):

S. 1784. A bill to provide that all American citizens living abroad shall (for purposes of the apportionment of Representatives in Congress among the several States and for other purposes) be included in future decennial census of population, and for other purposes; to the Committee on Governmental Affairs.

Mr. STEVENS. Mr. President, I thank Senator INOUYE for joining me today in introducing an important piece of legislation, the Full Equality for Americans Abroad Act. This legislation directs the Secretary of Commerce to ensure that all American citizens living abroad be included in each future decennial census for the purposes of the tabulations required for the apportionment of Representatives in Congress. The Secretary of Commerce will report its findings to Congress no later than September 30, 2002.

Americans living abroad play an important role in shaping the World's view of our country. As the trade becomes more and more global, Americans living abroad will have an even larger role in the exports overseas that help our Nation's economy. They vote and pay taxes in the United States, yet they are not included in the census. They spread the seeds of democracy in areas throughout the world and help to promote the value of freedom that Americans hold so dear. We count the men and women of the Armed Services and other government employees who serve this country abroad, it is time that we count private citizens living abroad as well.

I commend Representative GILMAN for his work on this issue in the House and look forward working with my colleagues in the Senate to pass this important legislation.

By Mr. CLELAND (for himself, Mr. DEWINE, Mr. BIDEN, Mr. BINGAMAN, Mrs. CARNAHAN, Mrs. CLINTON, Mr. LEVIN, Mr. LIEBERMAN, Mr. MILLER, Ms. MIKULSKI, Mr. HAGEL, and Mr. REID):

S. 1785. A bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes; to the Committee on the Judiciary.

Mr. CLELAND. Mr. President, I am here today, on the 60th anniversary of the attack on Pearl Harbor. My father served in World War II at Pearl Harbor after the attack, and I grew up with the legend of Pearl Harbor in my own life.

I will introduce a bill urging the President to establish the White House Commission on National Military Appreciation Month.

I want to begin by thanking my colleagues and cosponsors, Senators BIDEN, BINGAMAN, CARNAHAN, CLINTON, DEWINE, HAGEL, LEVIN and LIEBERMAN, MIKULSKI, MILLER, and SENATOR HARRY REID.

Thanks also are due to General Tilleli, the president of the USO, and to Ms. Alice Wax, whose support and tireless efforts on behalf of National Military Appreciation Month have made this day a reality.

The bill is framed to afford the President the widest possible flexibility with regard to the recommended Commission and National Military Appreciation Month itself. There is no money authorized in this bill. The establishment of the Commission, the composition of the Commission, and the scope of the Commission's activities are framed as recommendations. I have framed it in this way to make it an easy bill to support, because I believe it is a bill we should all support, and I will tell you why.

Sixty years ago today, just before 8 a.m. on a Sunday morning, the first wave of bombers began the attack on Pearl Harbor that thrust the United States into World War II. It was an unforgettable day for those who lived through it, one which called America forth from an isolationist slumber to defend itself, and in so doing, inspired a generation of Americans to rise and lead the defense of freedom around the world. In the years since that fateful day, our Nation has become the most powerful and prosperous nation in the world. A few short years ago, with the generation that secured this prosperity and power still in our midst, I and my colleagues on the Senate Armed Services Committee heard testimony from the leaders of our military concerning the difficulties they were having recruiting and retaining sufficient numbers of young Americans in our Armed Forces. We crafted a package of incentives, and began the process of restoring military compensation to a more appropriate level. Even today, with recruiting and retention back to more acceptable levels, we continue to struggle to meet the funding levels required to sustain a strong military.

Eighty-seven days ago, America was attacked again, and for only the second time in modern history, American blood was shed on American soil by a foreign foe. Most of the casualties of this most recent attack were civilians, a reflection of the many ways in which the world has changed since 1941. Once again, a generation of Americans has been called to rise to the defense of our way of life—this time not against an aggressor nation but against the global terrorist networks that have targeted us. Osama bin Laden's network in Afghanistan is our target now. It is not as clear how many other networks lie in wait.

Some things are clear, though. The American military has been essential in responding to this latest attack. There will continue to be challenges, but we must recognize our military in every special way we can.

That is why we, as a nation, cannot afford to forget the price of our freedom.

Maintaining our military and our readiness is one of the keys to our freedom. I support this National Day of Military Recognition and urge the support by this body of the Commission that recommends the month of May as National Military Appreciation Month.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1787. A bill to promote rural safety and improve rural law enforcement; to the Committee on the Judiciary.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1787

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Safety Act of 2001".

TITLE I—SMALL COMMUNITY LAW ENFORCEMENT IMPROVEMENT GRANTS

SEC. 101. SMALL COMMUNITY GRANT PROGRAM.

Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-2) is amended by adding at the end the following:

"(d) RETENTION GRANTS.—

"(1) IN GENERAL.—The Attorney General may make grants to units of local government and tribal governments located outside a Standard Metropolitan Statistical Area, which grants shall be targeted specifically for the retention for 1 additional year of police officers funded through the COPS Universal Hiring Program, the COPS FAST Program, the Tribal Resources Grant Program-Hiring, or the COPS in Schools Program.

"(2) PREFERENCE.—In making grants under this subsection, the Attorney General shall give preference to grantees that demonstrate financial hardship or severe budget constraint that impacts the entire local budget and may result in the termination of employment for police officers described in paragraph (1).

"(3) LIMIT ON GRANT AMOUNTS.—The total amount of a grant made under this subsection shall not exceed 20 percent of the original grant to the grantee.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 2002 through 2006.

"(B) SET-ASIDE.—Of the amount made available for grants under this subsection for each fiscal year, 10 percent shall be awarded to tribal governments.".

SEC. 102. SMALL COMMUNITY TECHNOLOGY GRANT PROGRAM.

Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by striking subsection (k) and inserting the following:—

"(k) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—

"(1) IN GENERAL.—Grants made under subsection (a) may be used to assist the police departments of units of local government and tribal governments located outside a Standard Metropolitan Statistical Area, in employing professional, scientific, and technological advancements that will help those police departments to—

"(A) improve police communications through the use of wireless communications, computers, software, videocams, databases and other hardware and software that allow law enforcement agencies to communicate and operate more effectively; and

"(B) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities.

"(2) COST SHARE REQUIREMENT.—A recipient of a grant made under subsection (a) and used in accordance with this subsection shall provide matching funds from non-Federal sources in an amount equal to not less than 10 percent of the total amount of the grant made under this subsection, subject to a waiver by the Attorney General for extreme hardship.

"(3) ADMINISTRATION.—The COPS Office shall administer the grant program under this subsection.

"(4) NO SUPPLANTING.—Federal funds provided under this subsection shall be used to supplement and not to supplant local funds allocated to technology.

"(5) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated $40,000,000 for each of fiscal years 2002 through 2006 to carry out this subsection.

"(B) SET-ASIDE.—Of the amount made available for grants under this subsection for each fiscal year, 10 percent shall be awarded to tribal governments.".

SEC. 103. RURAL 9-1-1 SERVICE.

(a) PURPOSE.—The purpose of this section is to provide access to, and improve a communications infrastructure that will ensure a reliable and seamless communication between, law enforcement, fire, and emergency medical service providers in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area and in States.

(b) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall make grants, in accordance with such regulations as the Attorney General may prescribe, to units of local government and tribal governments located outside a Standard Metropolitan Statistical Area for the purpose of establishing or improving 9-1-1 service in those communities. Priority in making grants under this section shall be given to communities that do not have 9-1-1 service.

(c) DEFINITION.—In this section, the term "9-1-1 service" refers to telephone service that has designated 9-1-1 as a universal emergency telephone number in the community served for reporting an emergency to appropriate authorities and requesting assistance.

(d) LIMIT ON GRANT AMOUNT.—The total amount of a grant made under this section shall not exceed $250,000.

(e) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2002, to remain available until expended.

(2) SET-ASIDE.—Of the amount made available for grants under this section, 10 percent shall be awarded to tribal governments.

SEC. 104. JUVENILE OFFENDER ACCOUNTABILITY.

(a) PURPOSES.—The purposes of this section are to—

(1) hold juvenile offenders accountable for their offenses;

(2) involve victims and the community in the juvenile justice process;

(3) obligate the offender to pay restitution to the victim and to the community through community service or through financial or other forms of restitution; and

(4) equip juvenile offenders with the skills needed to live responsibly and productively.

(b) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall make grants, in accordance with such regulations as the Attorney General may prescribe, to units of rural local governments and tribal governments located outside a Standard Metropolitan Statistical Area to establish restorative justice programs, such as victim and offender mediation, family and community conferences, family and group conferences, sentencing circles, restorative panels, and reparative boards, as an alternative to, or in addition to, incarceration.

(c) PROGRAM CRITERIA.—A program funded by a grant made under this section shall—

(1) be fully voluntary by both the victim and the offender (who must admit responsibility), once the prosecuting agency has determined that the case is appropriate for this program;

(2) include as a critical component accountability conferences, at which the victim will have the opportunity to address the offender directly, to describe the impact of the offense against the victim, and the opportunity to suggest possible forms of restitution;

(3) require that conferences be attended by the victim, the offender and, when possible, the parents or guardians of the offender, and the arresting officer; and

(4) provide an early, individualized assessment and action plan to each juvenile offender in order to prevent further criminal behavior through the development of appropriate skills in the juvenile offender so that the juvenile is more capable of living productively and responsibly in the community.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $10,000,000 for fiscal year 2002 for grants to establish programs; and

(B) $5,000,000 for each of fiscal years 2003 and 2004 to continue programs established in fiscal year 2002.

(2) SET-ASIDE.—Of the amount made available for grants under this section for each fiscal year, 10 percent shall be awarded to tribal governments.

TITLE II—CRACKING DOWN ON METHAMPHETAMINE

SEC. 201. METHAMPHETAMINE TREATMENT PROGRAMS IN RURAL AREAS.

Subpart I of part B of title V of the Public Health Service Act (42 U.S.C. 290bb et seq.) is amended by inserting after section 509 the following:

"SEC. 510A. METHAMPHETAMINE TREATMENT PROGRAMS IN RURAL AREAS.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Center for Substance Abuse Treatment, shall make grants to community-based public and nonprofit private entities for the establishment of substance abuse (particularly methamphetamine) prevention and treatment pilot programs in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area.

"(b) ADMINISTRATION.—Grants made in accordance with this section shall be administered by a single State agency designated by a State to ensure a coordinated effort within that State.

"(c) APPLICATION.—To be eligible to receive a grant under subsection (a), a public or nonprofit private entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(d) USE OF FUNDS.—A recipient of a grant under this section shall use amounts received under the grant to establish a methamphetamine abuse prevention and treatment pilot program that serves one or more rural areas. Such a pilot program shall—

"(1) have the ability to care for individuals on an in-patient basis;

"(2) have a social detoxification capability, with direct access to medical services within 50 miles;

"(3) provide neuro-cognitive skill development services to address brain damage caused by methamphetamine use;

"(4) provide after-care services, whether as a single-source provider or in conjunction with community-based services designed to continue neuro-cognitive skill development to address brain damage caused by methamphetamine use;

"(5) provide appropriate training for the staff employed in the program; and

"(6) use scientifically-based best practices in substance abuse treatment, particularly in methamphetamine treatment.

"(e) AMOUNT OF GRANTS.—The amount of a grant under this section shall be at least $19,000 but not greater than $100,000.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated $2,000,000 to carry out this section.

"(2) SET-ASIDE.—Of the amount made available for grants under this section, 10 percent shall be awarded to tribal governments to ensure the provision of services under this section.".

SEC. 202. METHAMPHETAMINE PREVENTION EDUCATION.

Section 519E of the Public Health Service Act (42 U.S.C. 290bb-25e) is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (F), by striking "and" at the end;

(B) in subparagraph (G), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(H) to fund programs that educate rural communities, particularly parents, teachers, and others who work with youth, concerning the early signs and effects of methamphetamine use, however, as a prerequisite to receiving funding, these programs shall—

"(i) prioritize methamphetamine prevention and education;

"(ii) have past experience in community coalition building and be part of an existing coalition that includes medical and public health officials, educators, youth-serving community organizations, and members of law enforcement;

"(iii) utilize professional prevention staff to develop research and science based prevention strategies for the community to be served;

"(iv) demonstrate the ability to operate a community-based methamphetamine prevention and education program;

"(v) establish prevalence of use through a community needs assessment;

"(vi) establish goals and objectives based on a needs assessment; and

"(vii) demonstrate measurable outcomes on a yearly basis.";

(2) in subsection (e)—

(A) by striking "subsection (a), $10,000,000" and inserting "subsection (a)—

"(1) $10,000,000";

(B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(2) $5,000,000 for each of fiscal years 2002 through 2006 to carry out the programs referred to in subsection (c)(1)(H)."; and

(3) by adding at the end the following:

"(f) SET-ASIDE.—Of the amount made available for grants under this section, 10 percent shall be used to assist tribal governments.

"(g) AMOUNT OF GRANTS.—The amount of a grant under this section, with respect to each rural community involved, shall be at least $19,000 but not greater than $100,000.".

SEC. 203. METHAMPHETAMINE CLEANUP.

(a) IN GENERAL.—The Attorney General shall, through the Department of Justice or through grants to States or units of local government and tribal governments located outside a Standard Metropolitan Statistical Area, in accordance with such regulations as the Attorney General may prescribe, provide for—

(1) the cleanup of methamphetamine laboratories and related hazardous waste in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area; and

(2) the improvement of contract-related response time for cleanup of methamphetamine laboratories and related hazardous waste in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area by providing additional contract personnel, equipment, and facilities.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated $20,000,000 for fiscal year 2002 to carry out this section.

(2) FUNDING ADDITIONAL.—Amounts authorized by this section are in addition to amounts otherwise authorized by law.

(3) SET-ASIDE.—Of the amount made available for grants under this section, 10 percent shall be awarded to tribal governments.

TITLE III—LAW ENFORCEMENT TRAINING.

SEC. 301. SMALL TOWN AND RURAL TRAINING PROGRAM.

(a) IN GENERAL.—There is established a Rural Policing Institute, which shall be administered by the National Center for State and Local Law Enforcement Training of the Federal Law Enforcement Training Center (FLETC) as part of the Small Town and Rural Training (STAR) Program to—

(1) assess the needs of law enforcement in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area;

(2) develop and deliver export training programs regarding topics such as drug enforcement, airborne counterdrug operations, domestic violence, hate and bias crimes, computer crimes, law enforcement critical incident planning related to school shootings, and other topics identified in the training needs assessment to law enforcement officers in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area; and

(3) conduct outreach efforts to ensure that training programs under the Rural Policing Institute reach law enforcement officers in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $10,000,000 for fiscal year 2002, and $5,000,000 for each of fiscal years 2003 through 2006 to carry out this section, including contracts, staff, and equipment.

(2) SET-ASIDE.—Of the amount made available for grants under this section for each fiscal year, 10 percent shall be awarded to tribal governments.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 1790. A bill to designate the lobby of the James A. Byrne United States Courthouse located at 601 Market Street in Philadelphia, Pennsylvania, as the "Edward R. Becker Lobby"; to the Committee on Environmental and Public Works.

Mr. SPECTER. Mr. President, today, I am introducing legislation on behalf of Senator RICK SANTORUM and myself to name the newly remodeled lobby of the United States Courthouse at Sixth and Market Streets, Philadelphia, PA, in honor of Chief Judge Edward R. Becker of the United States Court of Appeals for the Third Circuit.

It would be impossible to find a Federal jurist in the United States more deserving of recognition than Chief Judge Becker. I say that from my intimate knowledge of Ed Becker for more than fifty years, since we first rode the elevated train from Northeast Philadelphia to the campus of the University of Pennsylvania in September of 1950 when he was a freshman and I was a senior. We studied together, debated together, socialized together, and married beautiful young women, Flora Lyman and Joan Levy, who sat next to each other at Olney High School.

Ed was an honors student at Penn where he was elected to Phi Beta Kappa and similarly an outstanding student at the Yale Law School, where our law school studies overlapped for two years with Ed graduating in 1957. For thirteen years, he was a distinguished Philadelphia lawyer in partnership with his father, Herman Becker, and his brother-in-law, Lewis Fryman. During his legal career he was active in Republican politics. It is, of course, an open secret that nomination to the Federal Bench has a political aspect as well as the requirement for legal skills. After all, the President makes the appointments with some consideration for the recommendations of United States Senators. Ed Becker is an unusual example of qualifying for a seat on the United States District Court, where he was appointed in 1970, for being a Republican loyalist and political activist as well as an astute, accomplished lawyer. Most are appointed with only one of those two credentials. In addition to being counsel to the Republican City Committee, Ed took on candidacies for State Senate and City Council in Philadelphia which are kamikaze ventures except in rare and extraordinary circumstances.

Judge Becker served on the United States District Court for the Eastern District of Pennsylvania from December 1970 until January 1982 when he was elevated to the United States District court for the Third Circuit. On the Federal Bench, Ed's legal scholarship has been prolific and prodigious. His 958 opinions cover the cutting edge of evolving jurisprudential issues. He once wrote an opinion in rhyme. His opinion in the Japanese Electronics Case was more than 500 pages long replete with extensive footnote documentation, as is his practice. He was recently honored by the University of Pennsylvania Law Review in May 2001 which details his extraordinary judicial service. He is the fifth most senior active Federal judge in the United States.

To name the Federal Courthouse Lobby for Chief Judge Becker would be a reciprocal honor. It would be an honor to Judge Becker. It would also be an honor to the Federal Courthouse Lobby.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 188—EXPRESSING THE SENSE OF THE SENATE THAT LOBBYISTS SHOULD NOT BE GRANTED SPECIAL ACCESS PRIVILEGES TO THE CAPITOL AND CONGRESSIONAL OFFICES THAT ARE NOT AVAILABLE TO OTHER AMERICAN CITIZENS

Mr. CORZINE (for himself and Mr. FEINGOLD) submitted the followintg resolution; whichwas referred to the Committee on Rules and Administration:

S. RES. 188

Whereas a fundamental principle of American democracy is that all citizens are created equal and all should have access to Government leaders;

Whereas there is a perception among many Americans that special interest groups and lobbyists for special interest groups have access to decision makers that ordinary citizens do not have;

Whereas this perception contributes to a belief that middle-class citizens, and those of more modest means, are treated unfairly in the political process;

Whereas it is important that Americans have confidence that Congress will treat all citizens equitably, regardless of whether they are represented by professional lobbyists;

Whereas recent terrorist events have increased the need for security precautions at the Capitol and surrounding congressional office buildings;

Whereas tightened security measures may make it more difficult for members of the public and lobbyists to gain access to the Capitol complex;

Whereas some lobbyists are now seeking to gain special privileges for access to the Capitol complex that would not be available to other members of the general public who have official business before Congress;

Whereas giving lobbyists privileged access to congressional offices that is not available to the general public who have official business before Congress would further contribute to the perception that ordinary citizens are treated unfairly in the legislative process; and

Whereas granting privileged access for lobbyists is likely to increase public cynicism about Congress and the political process and heighten concerns about the excessive influence of special interests and lobbyists: Now, therefore, be it

Resolved, That it is the sense of the Senate that in establishing rules governing access to the Capitol or congressional offices for those who have official business before Congress, lobbyists should not be granted special privileges that are not available to other American citizens.

Mr. CORZINE. Mr. President, today, along with Senator FEINGOLD, I am submitting a resolution expressing the sense of the Senate that in establishing rules governing access to the Capitol or congressional offices for those who have official business before the Congress, lobbyists should not be granted special privileges that are not available to other American citizens.

A fundamental principle of American democracy is that all citizens are created equal and all should have access to government leaders. Unfortunately, there is a perception among many Americans that special interests and their lobbyists have access to decision-makers that ordinary citizens lack. This contributes to the widespread belief that middle class citizens, and those of more modest means, are treated unfairly in the political process. In my view, it is critically important that we do everything reasonably practicable to give Americans confidence that Congress will treat all citizens equitably, regardless of whether they are represented by professional lobbyists.

Recent terrorist events have focused attention on the need for security precautions at the Capitol and surrounding congressional office buildings. Already, tightened security measures have restricted access to the Capitol. I expect that other changes will be considered in the future as we seek to find an appropriate balance between legitimate security concerns and the need to give citizens access to their elected representatives. Unfortunately, in recent weeks, we have heard increasingly that some professional lobbyists are seeking to gain special privileges for access to the Capitol complex that would not be available to other members of the general public who have official business before the Congress. I believe that granting such special access would be a mistake, and that is why I am introducing this resolution.

I understand that lobbyists can play an important role in the legislative process and have legitimate rights to participate in that process, just like other Americans. In my view, however, it would not be fair to provide lobbyists with special privileges that are not provided to other citizens who have official business before the Congress. Such privileged access would further contribute to the perception that ordinary citizens are treated unfairly in the legislative process and heighten concerns about the excessive influence of special interests and lobbyists. All Americans have a stake in debates before the Congress, not just lobbyists. If an elderly individual spends her own money to come to Washington to protect her Social Security benefits, there is no reason why she should face greater restrictions than a lobbyist representing a corporation seeking a special tax break. I hope my colleagues will support this resolution.

SENATE CONCURRENT RESOLUTION 89—RECOGNIZING AND HONORING JOSEPH HENRY FOR HIS SIGNIFICANT AND DISTINGUISHED ROLE IN THE DEVELOPMENT AND ADVANCEMENT OF SCIENCE AND THE USE OF ELECTRICITY

Mr. SCHUMER submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 89

Whereas Joseph Henry, a native of New York, deserves recognition and honor for his distinguished contributions to the development and advancement of science and the use of electricity and for his public service to the United States during the 19th century;

Whereas Joseph Henry was born December 17, 1797, in Albany, New York, the son of William and Ann Henry;

Whereas Joseph Henry served as an apprentice to John Doty, a watchmaker and jeweler, in preparation for attendance at the Albany Academy;

Whereas from 1819 to 1822, Joseph Henry attended advanced classes at the Albany Academy and, in the spring of 1826, was elected to the professorship of Mathematics and Natural Philosophy in the Albany Academy;

Whereas Joseph Henry revolutionized scientific education by using experiment-based teaching methods at the Albany Academy, and in 1829 was awarded an honorary master's degree by Union College, despite having no formal college education;

Whereas Joseph Henry conducted many experiments with electromagnets, which led to his successful design and construction of an electromagnet capable of lifting 750 pounds;

Whereas Joseph Henry continued to improve upon the development of the electromagnet, building an electromagnet for Yale University in 1831 that was capable of lifting 2,300 pounds, and another electromagnet in 1833, known as "Big Ben", that was capable of lifting 3,500 pounds, and was, at the time, the most powerful electromagnet ever built;

Whereas in January 1831, Joseph Henry helped lay the groundwork for the development of the electromagnetic telegraph by distinguishing between quantity and intensity magnets and by publishing those findings in the American Journal of Science;

Whereas the modern practical unit of induction is commonly referred to as the "Henry" in honor of Joseph Henry's research and discoveries regarding self-induction;

Whereas Joseph Henry, while conducting research at the Albany Academy, invented an electromagnetic motor made of a horizontally poised bar electromagnet that would rock back and forth as the current through it was automatically reversed;

Whereas Joseph Henry, while serving as Professor of Natural Philosophy in the College of New Jersey at Princeton (later renamed "Princeton University"), conducted experiments from 1838 to 1842 that laid the theoretical groundwork for modern step-up and step-down transformers;

Whereas, on December 14, 1846, Joseph Henry was selected as the first Secretary and Director of the Smithsonian Institution;

Whereas, in his first report to the Board of Regents of the Smithsonian Institution, Joseph Henry proclaimed that the purpose of the Smithsonian Institution, the increase and diffusion of knowledge among men, would be best achieved by supporting original research and providing for the wide distribution of the most recent findings in the various fields of natural sciences;

Whereas in 1850 Joseph Henry, as Secretary of the Smithsonian Institution, established the system of receiving weather reports by telegraph and utilizing such reports to predict weather conditions and issue storm warnings;

Whereas in 1869 Congress established a national weather bureau upon the recommendation of Joseph Henry;

Whereas Joseph Henry was appointed as a member of the Light House Board in 1852, and served as its president from 1871 until his death in 1878;

Whereas Joseph Henry was an original member of the National Academy of Sciences, its vice president in 1866, and its president from 1868 until his death in 1878;

Whereas Joseph Henry died in the District of Columbia on May 13, 1878;

Whereas Joseph Henry's prominence was such that a memorial service was held in his honor on January 16, 1879, in the Hall of the House of Representatives, and was attended by the President, Vice President, members of the President's Cabinet, Justices of the Supreme Court, Members of Congress, and members of the Board of Regents of the Smithsonian Institution; and

Whereas the memory of Joseph Henry was honored at the opening of the Library of Congress in 1890 by including a statue of Joseph Henry among the 16 bronze portrait statues on display which represent human development and civilization: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress recognizes and honors Joseph Henry for his significant and distinguished role in the development and advancement of science and the use of electricity.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2310. Mr. LUGAR (for himself, Mr. Levin, Mr. Biden, Mr. Hagel, Mr. Domenici, Mr. Bingaman, Mr. Torricelli, Mr. Dodd, Mr. Daschle, Mr. Kennedy, Mr. McCain, Mr. Graham, Mr. Kerry, Mr. Smith, of Oregon, Mr. Reed, Mr. Conrad, and Mr. Cleland) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

SA 2311. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2312. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2313. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2314. Mr. BUNNING (for himself and Mr. McConnell) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2315. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2316. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2317. Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2318. Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2319. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2320. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2321. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2322. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2323. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2324. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2325. Mr. REID (for Mr. Wellstone (for himself, Mr. Gregg, Mr. Dayton, Mr. Durbin, Mr. Leahy, Mr. Biden, Mr. Carper, Mr. Reid, Mr. Schumer, Mr. Johnson, Mr. Bond, and Mrs. Clinton)) proposed an amendment to the bill H.R. 3338, supra.

SA 2326. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2327. Ms. SNOWE (for herself and Ms. Collins) submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2328. Ms. SNOWE (for herself and Ms. Collins) submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2329. Ms. SNOWE (for herself and Ms. Collins) submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2330. Ms. SNOWE (for herself and Ms. Collins) submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2331. Ms. SNOWE (for herself and Ms. Collins) submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2332. Ms. SNOWE (for herself and Ms. Collins) submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2333. Ms. SNOWE (for herself and Ms. Collins) submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2334. Ms. SNOWE (for herself and Ms. Collins) submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2335. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2336. Mr. HELMS (for himself, Mr. Miller, Mr. Hagel, Mr. Hatch, Mr. Shelby, Mr. Murkowski, Mr. Bond, Mr. Warner, Mr. Allen, Mr. Frist, and Mr. Hutchinson) proposed an amendment to the bill H.R. 3338, supra.

SA 2337. Mr. REID (for Mr. Dodd) proposed an amendment to the bill H.R. 3338, supra.

SA 2338. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2339. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2340. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2341. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2342. Mr. BAYH (for himself and Mr. Santorum) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2343. Mr. DURBIN (for himself, Mr. Grassley, Mr. Harkin, Mr. Dorgan, Mr. Inhofe, Mr. Burns, Mr. Breaux, Mr. Reid, Mr. Rockefeller, Mr. Torricelli, and Mr. Johnson) proposed an amendment to the bill H.R. 3338, supra.

SA 2344. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2345. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2346. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2347. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2348. Mr. BYRD (for himself, Mr. Stevens, and Mr. Inouye) proposed an amendment to the bill H.R. 3338, supra.

SA 2349. Mr. FEINGOLD (for himself and Mr. Helms) proposed an amendment to the bill H.R. 3338, supra.

SA 2350. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2351. Mr. SMITH, of Oregon submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2352. Mr. STEVENS (for Mr. Gramm (for himself and Mr. McCain)) proposed an amendment to the bill H.R. 3338, supra.

SA 2353. Mr. BOND (for himself and Mrs. Carnahan) proposed an amendment to the bill H.R. 3338, supra.

SA 2354. Mr. BOND proposed an amendment to the bill H.R. 3338, supra.

SA 2355. Mr. BOND proposed an amendment to the bill H.R. 3338, supra.

SA 2356. Mr. TORRICELLI (for himself, Mr. Corzine, Mr. Biden, and Mr. Carper) proposed an amendment to the bill H.R. 3338, supra.

SA 2357. Mr. STEVENS (for Mr. Nickles) proposed an amendment to the bill H.R. 3338, supra.

SA 2358. Mr. STEVENS (for Mr. Lott) proposed an amendment to the bill H.R. 3338, supra.

SA 2359. Mr. STEVENS (for Mr. Kennedy) proposed an amendment to the bill H.R. 3338, supra.

SA 2360. Mr. INOUYE (for Mr. Reid) proposed an amendment to the bill H.R. 3338, supra.

SA 2361. Mr. INOUYE (for Mr. Reid) proposed an amendment to the bill H.R. 3338, supra.

SA 2362. Mr. INOUYE (for Mr. Reid) proposed an amendment to the bill H.R. 3338, supra.

SA 2363. Mr. STEVENS (for Mr. Warner) proposed an amendment to the bill H.R. 3338, supra.

SA 2364. Mr. INOUYE (for Mrs. Lincoln) proposed an amendment to the bill H.R. 3338, supra.

SA 2365. Mr. INOUYE proposed an amendment to the bill H.R. 3338, supra.

SA 2366. Mr. STEVENS (for Mr. McConnell) proposed an amendment to the bill H.R. 3338, supra.

SA 2367. Mr. INOUYE (for Mr. Kerry) proposed an amendment to the bill H.R. 3338, supra.

SA 2368. Mr. INOUYE (for Mr. Kerry) proposed an amendment to the bill H.R. 3338, supra.

SA 2369. Mr. INOUYE (for Mrs. Feinstein) proposed an amendment to the bill H.R. 3338, supra.

SA 2370. Mr. INOUYE (for Mr. Kennedy) proposed an amendment to the bill H.R. 3338, supra.

SA 2371. Mr. INOUYE (for Mr. Kennedy) proposed an amendment to the bill H.R. 3338, supra.

SA 2372. Mr. STEVENS (for Mr. Helms) proposed an amendment to the bill H.R. 3338, supra.

SA 2373. Mr. STEVENS (for Mr. Helms) proposed an amendment to the bill H.R. 3338, supra.

SA 2374. Mr. STEVENS (for Mr. Helms) proposed an amendment to the bill H.R. 3338, supra.

SA 2375. Mr. INOUYE proposed an amendment to the bill H.R. 3338, supra.

SA 2376. Mr. STEVENS (for Mr. Warner) proposed an amendment to the bill H.R. 3338, supra.

SA 2377. Mr. STEVENS (for Mr. Burns) proposed an amendment to the bill H.R. 3338, supra.

SA 2378. Mr. STEVENS proposed an amendment to the bill H.R. 3338, supra.

SA 2379. Mr. STEVENS (for Mr. McConnell) proposed an amendment to the bill H.R. 3338, supra.

SA 2380. Mr. STEVENS (for Mr. Gregg) proposed an amendment to the bill H.R. 3338, supra.

SA 2381. Mr. STEVENS (for Mr. Shelby) proposed an amendment to the bill H.R. 3338, supra.

SA 2382. Mr. INOUYE (for Mr. Biden) proposed an amendment to the bill H.R. 3338, supra.

SA 2383. Mr. STEVENS (for Mr. Specter) proposed an amendment to the bill H.R. 3338, supra.

SA 2384. Mr. STEVENS (for Mr. Grassley) proposed an amendment to the bill H.R. 3338, supra.

SA 2385. Mr. STEVENS (for Mr. Voinovich) proposed an amendment to the bill H.R. 3338, supra.

SA 2386. Mr. INOUYE (for Mr. Kerry (for himself and Mr. Smith, of New Hampshire)) proposed an amendment to the bill H.R. 3338, supra.

SA 2387. Mr. INOUYE (for Mrs. Feinstein) proposed an amendment to the bill H.R. 3338, supra.

SA 2388. Mr. INOUYE (for Mrs. Feinstein) proposed an amendment to the bill H.R. 3338, supra.

SA 2389. Mr. STEVENS (for Mr. Lugar (for himself, Mr. Levin, Mr. Biden, Mr. Hagel, Mr. Domenici, Mr. Bingaman, Mr. Torricelli, Mr. Dodd, Mr. Daschle, Mr. Kennedy, Mr. McCain, Mr. Graham, Mr. Kerry, Mr. Smith, of Oregon, Mr. Reed, Mr. Conrad, and Mr. Cleland)) proposed an amendment to the bill H.R. 3338, supra.

SA 2390. Mr. STEVENS (for Mr. Lott (for himself and Mr. Cochran)) proposed an amendment to the bill H.R. 3338, supra.

SA 2391. Mr. STEVENS (for Mr. Lott) proposed an amendment to the bill H.R. 3338, supra.

SA 2392. Mr. STEVENS (for Mr. Lott) proposed an amendment to the bill H.R. 3338, supra.

SA 2393. Mr. STEVENS (for Mr. Helms (for himself and Mr. Edwards)) proposed an amendment to the bill H.R. 3338, supra.

SA 2394. Mr. STEVENS (for Mr. Lott) proposed an amendment to the bill H.R. 3338, supra.

SA 2395. Mr. STEVENS (for Ms. Collins) proposed an amendment to the bill H.R. 3338, supra.

SA 2396. Mr. STEVENS (for Ms. Collins) proposed an amendment to the bill H.R. 3338, supra.

SA 2397. Mr. STEVENS (for Ms. Collins) proposed an amendment to the bill H.R. 3338, supra.

SA 2398. Mr. INOUYE (for Ms. Landrieu) proposed an amendment to the bill H.R. 3338, supra.

SA 2399. Mr. INOUYE (for Ms. Landrieu) proposed an amendment to the bill H.R. 3338, supra.

SA 2400. Mr. STEVENS (for Mr. Thompson) proposed an amendment to the bill H.R. 3338, supra.

SA 2401. Mr. INOUYE (for Mr. Dorgan) proposed an amendment to the bill H.R. 3338, supra.

SA 2402. Mr. INOUYE (for Mr. Harkin) proposed an amendment to the bill H.R. 3338, supra.

SA 2403. Mr. INOUYE (for Mr. Reed) proposed an amendment to the bill H.R. 3338, supra.

SA 2404. Mr. INOUYE (for Mr. Reed) proposed an amendment to the bill H.R. 3338, supra.

SA 2405. Mr. INOUYE (for Mr. Biden) proposed an amendment to the bill H.R. 3338, supra.

SA 2406. Mr. INOUYE (for Mrs. Carnahan) proposed an amendment to the bill H.R. 3338, supra.

SA 2407. Mr. INOUYE (for Mr. Nelson, of Florida) proposed an amendment to the bill H.R. 3338, supra.

SA 2408. Mr. INOUYE (for Mr. DeWine) proposed an amendment to the bill H.R. 3338, supra.

SA 2409. Mr. INOUYE (for Mr. Cleland) proposed an amendment to the bill H.R. 3338, supra.

SA 2410. Mr. INOUYE (for Mr. Cleland) proposed an amendment to the bill H.R. 3338, supra.

SA 2411. Mr. STEVENS (for Ms. Snowe) proposed an amendment to the bill H.R. 3338, supra.

SA 2412. Mr. STEVENS (for Ms. Snowe) proposed an amendment to the bill H.R. 3338, supra.

SA 2413. Mr. INOUYE (for Mr. Cleland) proposed an amendment to the bill H.R. 3338, supra.

SA 2414. Mr. STEVENS (for Mr. Bunning) proposed an amendment to the bill H.R. 3338, supra.

SA 2415. Mr. INOUYE (for Ms. Landrieu) proposed an amendment to the bill H.R. 3338, supra.

SA 2416. Mr. STEVENS (for Ms. Collins) proposed an amendment to the bill H.R. 3338, supra.

SA 2417. Mr. INOUYE (for Mr. Dodd) proposed an amendment to the bill H.R. 3338, supra.

SA 2418. Mr. INOUYE (for Mr. Dodd) proposed an amendment to the bill H.R. 3338, supra.

SA 2419. Mr. INOUYE (for Mr. Dodd) proposed an amendment to the bill H.R. 3338, supra.

SA 2420. Mr. INOUYE (for Mr. Dodd) proposed an amendment to the bill H.R. 3338, supra.

SA 2421. Mr. INOUYE (for Mr. Dodd) proposed an amendment to the bill H.R. 3338, supra.

SA 2422. Mr. INOUYE (for Mr. Sarbanes) proposed an amendment to the bill H.R. 3338, supra.

SA 2423. Mr. INOUYE (for Mr. Torricelli) proposed an amendment to the bill H.R. 3338, supra.

SA 2424. Mr. INOUYE (for Mr. Torricelli) proposed an amendment to the bill H.R. 3338, supra.

SA 2425. Mr. INOUYE (for Mr. Bingaman) proposed an amendment to the bill H.R. 3338, supra.

SA 2426. Mr. STEVENS (for Mr. Cochran) proposed an amendment to the bill H.R. 3338, supra.

SA 2427. Mr. STEVENS (for Mr. Shelby) proposed an amendment to the bill H.R. 3338, supra.

SA 2428. Mr. STEVENS (for Mr. Santorum) proposed an amendment to the bill H.R. 3338, supra.

SA 2429. Mr. STEVENS (for Mr. Santorum) proposed an amendment to the bill H.R. 3338, supra.

SA 2430. Mr. STEVENS (for Mr. Santorum) proposed an amendment to the bill H.R. 3338, supra.

SA 2431. Mr. STEVENS (for Mr. Santorum) proposed an amendment to the bill H.R. 3338, supra.

SA 2432. Mr. INOUYE (for Mr. Kennedy) proposed an amendment to the bill H.R. 3338, supra.

SA 2433. Mr. INOUYE (for Mr. Harkin) proposed an amendment to the bill H.R. 3338, supra.

SA 2434. Mr. STEVENS (for Mr. Shelby) proposed an amendment to the bill H.R. 3338, supra.

SA 2435. Mr. STEVENS (for Mr. Bunning) proposed an amendment to the bill H.R. 3338, supra.

SA 2436. Mr. STEVENS (for Mr. Hutchinson) proposed an amendment to the bill H.R. 3338, supra.

SA 2437. Mr. STEVENS (for Mr. McCain) proposed an amendment to the bill H.R. 3338, supra.

SA 2438. Mr. INOUYE (for Ms. Stabenow) proposed an amendment to the bill H.R. 3338, supra.

SA 2439. Mr. INOUYE (for Ms. Stabenow) proposed an amendment to the bill H.R. 3338, supra.

SA 2440. Mr. STEVENS proposed an amendment to the bill H.R. 3338, supra.

SA 2441. Mr. STEVENS (for Mr. Gregg) proposed an amendment to the bill H.R. 3338, supra.

SA 2442. Mr. INOUYE (for Mr. Durbin) proposed an amendment to the bill H.R. 3338, supra.

SA 2443. Mr. STEVENS (for Mr. Specter) proposed an amendment to the bill H.R. 3338, supra.

SA 2444. Mr. INOUYE (for Mr. Reid) proposed an amendment to the bill H.R. 3338, supra.

SA 2445. Mr. INOUYE (for Mrs. MURRAY) proposed an amendment to the bill H.R. 3338, supra.

SA 2446. Mr. STEVENS (for Mr. DOMENICI) proposed an amendment to the bill H.R. 3338, supra.

SA 2447. Mr. INOUYE (for Mr. DURBIN) proposed an amendment to the bill H.R. 3338, supra.

SA 2448. Mr. STEVENS (for Mr. DOMENICI) proposed an amendment to the bill H.R. 3338, supra.

SA 2449. Mr. INOUYE (for Mr. HARKIN) proposed an amendment to the bill H.R. 3338, supra.

SA 2450. Mr. STEVENS proposed an amendment to the bill H.R. 3338, supra.

SA 2451. Mr. STEVENS proposed an amendment to the bill H.R. 3338, supra.

SA 2452. Mr. STEVENS (for Mr. BOND) proposed an amendment to the bill H.R. 3338, supra.

SA 2453. Mr. INOUYE (for Mr. DASCHLE) proposed an amendment to the bill H.R. 3338, supra.

SA 2454. Mr. STEVENS proposed an amendment to the bill H.R. 3338, supra.

SA 2455. Mr. STEVENS proposed an amendment to the bill H.R. 3338, supra.

SA 2456. Mr. STEVENS (for Mr. DOMENICI) proposed an amendment to the bill H.R. 3338, supra.

SA 2457. Mr. STEVENS proposed an amendment to the bill H.R. 3338, supra.

SA 2458. Mr. INOUYE (for Mr. BIDEN) proposed an amendment to the bill H.R. 3338, supra.

SA 2459. Mr. INOUYE (for Mr. DASCHLE) proposed an amendment to the bill H.R. 3338, supra.

SA 2460. Mr. REID (for Mr. KERRY (for himself and Mr. BOND)) proposed an amendment to the bill S. 1196, to amend the Small Business Investment Act of 1958, and for other purposes.

SA 2461. Mr. REID (for Mr. STEVENS) proposed an amendment to the bill S. 703, to extend the effective period of the consent of Congress to the interstate compact relating to the restoration of Atlantic salmon to the Connecticut River Basin and creating the Connecticut River Atlantic Salmon Commission, and for other purposes.

SA 2462. Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. SPECTER)) proposed an amendment to the bill S. 1088, to amend title 38, United States Code, to facilitate the use of educational assistance under the Montgomery GI Bill for education leading to employment in high technology industry, and for other purposes.

SA 2463. Mr. REID (for Mr. ROCKEFELLER) proposed an amendment to the bill H.R. 1291, to amend title 38, United States Code, to modify and improve authorities relating to education benefits, burial benefits, and vocational rehabilitation benefits for veterans, to modify certain authorities relating to the United States Court of Appeals for Veterans Claims, and for other purposes.

TEXT OF AMENDMENTS

SA 2310. Mr. LUGAR (for himself, Mr. LEVIN, Mr. BIDEN, Mr. HAGEL, Mr. DOMENICI, Mr. BINGAMAN, Mr. TORRICELLI, Mr. DODD, Mr. DASCHLE, Mr. KENNEDY, Mr. MCCAIN, Mr. GRAHAM, Mr. KERRY, Mr. SMITH of Oregon, Mr. REED, Mr. CONRAD, and Mr. CLELAND) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135 (a) INCREASE IN AMOUNT AVAILABLE FOR FORMER SOVIET UNION THREAT REDUCTION.—The amount appropriated by title II of this division under the heading "FORMER SOVIET UNION THREAT REDUCTION" is hereby increased by $46,000,000.

(b) OFFSET.—The amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE" is hereby decreased by $46,000,000.

SA 2311. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", $2,500,000 may be made available for the High Speed Assault Craft Advanced Composite Engineering and Manufacturing Demonstrator.

SA 2312. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", $15,000,000 may be made available for the Gulf States Initiative.

SA 2313. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the amount appropriated by title VI of this division for the Defense Health Program for the Peer Reviewed Medical Research Program, $10,000,000 may be used for applied clinical research to measure medical and health care outcomes in the military health care system.

SA 2314. Mr. BUNNING (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $5,000,000 may made be available for a program at the Naval Medical Research Center (NMRC) to treat victims of radiation exposure (PE0604771N).

SA 2315. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill for Technical Corrections, insert the following:

Section XXX. Of the funds provided in this or any other Act for "Defense Environmental Restoration and Waste Management" at the Department of Energy, up to $500,000 shall be available to the Secretary of Energy for safety improvements to roads along the shipping route to the Waste Isolation Pilot Plant site.

SA 2316. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

TITLE COMMERCIAL REUSABLE IN-SPACE TRANSPORTATION

SEC. . SHORT TITLE.

(a) Short Title—This Act may be cited as the "Commercial Reusable In-Space Transportation Act of 2001".

SEC. . FINDINGS.

The Congress makes the following findings:

(1) It is in national interest to encourage the development of cost-effective, in-space transportation systems, which would be developed and operated by the private sector on commercial basis;

(2) Reusable in-space transportation systems will introduce higher levels of performance into in-space operations, more efficient and safe end of life satellite disposal and increase the capability and reliability of existing ground-to-space launch vehicles;

(3) Commercial reusable in-space transportation systems will enhance the Nation's economic well-being and national security by reducing space operations costs for commercial and national space programs, adding new space capabilities to space operations;

(4) Commercial reusable in-space transportation systems will provide new cost-effective space capabilities, including: orbital transfers from low altitude orbits to high altitude orbits and return; correct erroneous orbits of satellites; recover, refurbish, and refuel satellites; and, provide upper stage functions to increase ground-to-orbit launch vehicle payloads to geostationary and other high energy orbits;

(5) Commercial reusable in-space transportation systems can enhance and enable the space exploration of the United States by providing lower cost trajectory injection from earth orbit, transit trajectory control, and planet arrival deceleration to support potential Mars, Pluto, and other NASA planetary missions;

(6) Satellites stranded in erroneous earth orbits due to deficiencies in their launch represent major situations of economic loss to

the United States, which has been as high as $3,000,000,000 to $4,000,000,000 within a 12 month period, and present major concerns for the current backlog of national space assets valued at $20,000,000,000;

(7) A commercial reusable in-space transportation system can provide new options for alternative planning approaches and risk management to enhance the mission assurance of national space assets;

(8) A commercial reusable in-space transportation system developed by the private sector can provide in-space transportation services to the National Aeronautics and Space Administration, Department of Defense, National Reconnaissance Office, and other agencies without the need for the United States to bear the cost of development;

(9) The provision of limited direct loans or loan guarantees, with the cost of credit risk to the United States paid by the private-sector, is an effective means by which the United States can help qualifying private-sector companies secure otherwise unattainable private financing, while at the same time minimizing government commitment and involvement; and

(10) It is in the national interest to utilize existing loan and loan guarantee programs to promote the development of in-space transportation systems, which are reusable and provide cost-effective solutions to operations within the space environment.

SEC. . DEFINITIONS.

For purpose of this Act:

(1) The term "commercial provider" means any person or entity providing commercial reusable in-orbit space transportation services, primary control of which is held by personal other than Federal, State, local and foreign governments;

(2) The term "United States commercial provider" means any commercial provider, organized under the laws of the United States, which is more than 50 percent owned by United States national;

(3) The term "in-space transportation services" means those operations and activities involved in the direct transportation or attempted transportation of a payload or object from one orbit to another by means of an in-space transportation vehicle;

(4) The term "in-space transportation vehicle" means any vehicle designed to be based and operated in space; designed to transport various payloads or objects from one orbit to another orbit; and, designed to be reusable and refueled in space;

(5) The term "in-space transportation system" means the space and ground elements, including in-space transportation vehicles and support space systems, and ground administration and control facilities and associated equipment, necessary for the provision of in-space transportation services;

(6) The term "Administrator" means the Administrator of the National Aeronautics and Space Administration; and

(7) The term "Borrower" means any United States commercial provider receiving a loan or loan guarantee under this title to develop an in-space transportation system for the purpose of providing in-space transportation services.

SEC. . COMMERCIAL REUSABLE IN-SPACE TRANSPORTATION SYSTEMS AUTHORITY.

(1) The Administrator is authorized to make or guarantee loans to Borrowers for the purpose of developing in-space transportation systems.

(2) There is authorized the total amount not to exceed in the aggregate $1,500,000,000 for the loan commitments authorized in subsection (1).

(3) The Administrator is authorized to receive from any Borrower a credit subsidy amount such that no appropriated funds are required for any direct loan or loan guarantee authorized in this title, as finally determined by the Administrator in accordance with the Federal Credit Reform Act of 1990.

(4) The credit subsidy is authorized to be paid to the Administrator in amounts proportional to the amounts of loan disbursements received by any Borrower under the direct loan or loan guarantee, as determined by the Administrator.

(5) The Administrator is authorized to collect from any Borrower, and use, an amount not to exceed 0.5% of the amount borrowed for the administrative expenses and other annual costs of the direct loan or the loan guarantee.

(6) The Administrator is authorized to administer and oversee the Federal credit programs authorized under this title in accordance with existing law.

SEC. . TERMS AND CONDITIONS.

Loans made or guaranteed under this Act will be on such terms and conditions as the Administrator may prescribe, except that:

(1) Loans made or guaranteed will provide for complete amortization within a period not to exceed 20 years, or 100 percent of the useful life of any physical asset to be financed by the loan, whichever is shorter as determined by the Administrator;

(2) No loan made or guaranteed will be subordinated to another debt contracted by the Borrower or to any other claim against the Borrower;

(3) No loan will be guaranteed unless the Administrator determines that the Borrower is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interests of the United States;

(4) No loan will be guaranteed if the income from such loan is excluded from gross income for the purposes of Chapter 1 of the Internal Revenue Code of 1986, as amended, or if the guarantee provides significant collateral or security, as determined by the Administrator, for other obligations the income from which is so excluded;

(5) Direct loans and interest supplements on guaranteed loans will be at an interest rate that is set by reference to a benchmark interest rate (yield) on marketable Treasury securities with a similar maturity to the direct loans being made or the non-Federal loans being guaranteed. The minimum interest rate of these loans will be at the interest rate of the benchmark financial instrument; and

(6) Any guarantee will be conclusive evidence that said guarantee has been properly obtained; that the underlying loan qualifies for such guarantee; and that, but for fraud or material misrepresentation by the holder, such guarantee will be presumed to be valid, legal, and enforceable.

SEC. . PAYMENT OF LOSSES.

(a) The Attorney General will take such action as may be appropriate to enforce any right accruing to the United states as a result of the issuance of any guarantee under this Act.

(b) Nothing in this section will be construed to preclude any forbearance for the benefit of the Borrower which may be agreed upon by the parties to the guaranteed loan and approved by the Administrator, provided that there will be no cost to the Government as defined under the Federal Credit Reform Act of 1990.

(c) In the event the Borrower defaults on the loan and not withstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Administrator will have the right in his discretion to complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by him pursuant to the provisions of this Act.

SA 2317. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . (a) ASSESSMENT REQUIRED.—Not later than March 15, 2002, the Secretary of the Army shall submit to the Committees on Appropriations of the Senate and House of Representatives a report containing an assessment of current risks under, and various alternatives to, the current Army plan for the destruction of chemical weapons.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description and assessment of the current risks in the storage of chemical weapons arising from potential terrorist attacks.

(2) A description and assessment of the current risks in the storage of chemical weapons arising from storage of such weapons after April 2007, the required date for disposal of such weapons as stated in the Chemical Weapons Convention.

(3) A description and assessment of various options for eliminating or reducing the risks described in paragraphs (1) and (2).

(c) CONSIDERATIONS.—In preparing the report, the Secretary shall take into account the plan for the disassembly and neutralization of the agents in chemical weapons as described in Army engineering studies in 1985 and 1996, the 1991 Department of Defense Safety Contingency Plan, and the 1993 findings of the National Academy of Sciences on disassembly and neutralization of chemical weapons.

SA 2318. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the funds appropriated by this division for research, development, test and evaluation, Navy, up to $4,000,000 may be used to support development and testing of new designs of low cost digital modems for Wideband Common Data Link.

SA 2319. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the Appropriate place in DIVISION E—TECHNICAL CORRECTIONS, insert the following:

Sec. . Nutwood Levee, Illinois. The Energy and Water Development Appropriations Act, 2002 (Public Law 107–66) is amended under the heading "Title I, Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil, Construction, General" by inserting after "$3,500,000" but before the "." ": Provided further, That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction on the Nutwood Levee, Illinois project".

SA 2320. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. The amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Air Force" is hereby increased by $1,000,000, with the amount of the increase to be available for Low Cost Launch Vehicle Technology.

SA 2321. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

Sec. 8135. Of the total amount appropriated under title IV for research, development, test and evaluation, Army, $2,000,000 shall be available for the Collaborative Engineering Center of Excellence, $3,000,000 shall be available for the Battlefield Ordnance Awareness and $4,000,000 shall be available for the Cooperative Micro-satellite Experiment.

SA 2322. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 250, strike line 20 and all that follows through page 251, line 14.

SA 2323. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 266, strike lines 4 through 19.

SA 2324. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 267, strike lines 4 through 10.

SA 2325. Mr. REID (for Mr. WELLSTONE (for himself, Mr. GREGG, Mr. DAYTON, Mr. DURBIN, Mr. LEAHY, Mr. BIDEN, Mr. CARPER, Mr. REID, Mr. SCHUMER, Mr. JOHNSON, Mr. BOND, and Mrs. CLINTON) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, add the following:

Sec. 8135. Section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking "and all" and inserting "all"; and

(B) by inserting before the period the following: ", and all members of the National Guard on duty described in the following sentence"; and

(2) in the second sentence, by inserting before the period the following: ", and, in the case of a member of the National Guard, shall include training or other duty authorized by section 502(f) of title 32, United States Code, at the request of the President, for or in support of an operation during a war or national emergency declared by the President or Congress".

SA 2326. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

Sec. 8135. Of the amount appropriated by title IV of this division for the Army for research, development, test, and evaluation, $5,000,000 shall be available for the Three-Dimensional Ultrasound Imaging Initiative II.

SA 2327. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. The amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Navy" is hereby increased by $1,000,000, with the amount of the increase to be allocated to Environmental Quality and Logistics Advanced Technology and made available for Smart Base Technologies (PE0603712N) for continuation of funding of pilot program testing at Kittery-Portsmouth Naval Shipyard for purposes of increasing shipyard efficiencies.

SA 2328. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Increased Funding for LPD-17 Advance Procurement.—The amount appropriated by title III of this division under the heading "Shipbuilding and Conversion, Navy" is hereby increased by $266,300,000, with the amount of the increase to be available for LPD–17 Advance Procurement.

(b) Supplement Not Supplant—The amount available under subsection (a) for LPD–17 Advance Procurement is in addition to any other amounts available under this Act for LPD–17 Advance Procurement.

SA 2329. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Increased Funding for SC–21 total Ship System Engineering.—The amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Navy" is hereby increased by $74,000,000, with the amount of the increase to be available for SC–21 Total Ship System Engineering (PE0604300N).

(b) Supplement Not Supplant.—The amount available under subsection (a) for SC–21 Total Ship System Engineering is in addition to any other amounts available under this Act for SC–21 Total Ship System Engineering.

SA 2330. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Increased Funding for P-3 Aircraft Modifications.—The amount appropriated by title III of this division under the heading "Aircraft Procurement, Navy" and available for P–3 aircraft modifications is hereby increased by $41,000,000.

(b) Supplement Not Supplant.—The amount available under subsection (a) for P-3 aircraft modifications is in addition to any other amounts available under this Act for P–3 aircraft modifications.

(c) Availability of Funds.—(1) Of the funds available under subsection (a) for P-3 aircraft modifications, amounts shall be available as follows:

(A) $20,000,000 shall be available for anti-surface warfare improvements to P–3 aircraft.

(B) $10,000,000 shall be available for P–3 aircraft sustained readiness program (SRP) kits to curtail corrosion and extend the service life of P–3 aircraft.

(C) $7,500,000 shall be for P-3 aircraft instrument landing system (ILS) upgrades.

(D) $16,500,000 shall be for P–3 aircraft autopilot upgrades.

(2) The amount made available by paragraph (1)(A) for the purpose set forth in that paragraph shall be in addition to any other amounts made available by this Act for that purpose.

SA 2331. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title VI of this division under the heading "DEFENSE HEALTH PROGRAM" and available for research, development, test, and evaluation for the Peer Reviewed Medical Research Program, $12,000,000 may be available for osteoporosis research.

SA 2332. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) INCREASED FUNDING FOR OCEAN MODELING FOR MINE AND EXPEDITIONARY WARFARE.—The amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY" is hereby increased by $300,000, with the amount of the increase to be available for Ocean Modeling for Mine and Expeditionary Warfare.

(b) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (a) for Ocean Modeling for Mine and Expeditionary Warfare is in addition to any other amounts available under this Act for Ocean Modeling for Mine and Expeditionary Warfare.

SA 2333. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated in title II of this division for operation and maintenance, Navy, for civilian manpower and personnel management, $1,500,000 may be used for the Navy Pilot Human Resources Call Center, Cutler, Maine.

SA 2334. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated in title IV of this division for research, development, test and evaluation, Army, $5,000,000 may be used for Compact Kinetic Energy Missile Inertial Future Missile Technology Integration.

SA 2335. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the amount appropriated by this division for the Army for research, development, test and evaluation, $2,000,000 shall be available for research and development of key enabling technologies (such as filament winding, braiding, contour weaving, and dry powder resin towpregs fabrication) for producing low cost, improved performance, reduced signature, multifunctional composite materials.

SA 2336. Mr. HELMS (for himself, Mr. MILLER, Mr. HAGEL, Mr. HATCH, Mr. SHELBY, Mr. MURKOWSKI, Mr. BOND, Mr. WARNER, Mr. ALLEN, Mr. FRIST, and Mr. HUTCHINSON) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of division A, add the following new title:

TITLE—AMERICAN SERVICEMEMBERS' PROTECTION ACT OF 2001

SEC. 01. SHORT TITLE.

This title may be cited as the "American Servicemembers' Protection Act of 2001".

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) On July 17, 1998, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the "Rome Statute of the International Criminal Court". The vote on whether to proceed with the statute was 120 in favor to 7 against, with 21 countries abstaining. The United States voted against final adoption of the Rome Statute.

(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 126 of the Rome Statute, the statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the statute.

(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft documents to implement the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.

(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives of the United States had not been achieved. As a result, he stated: "We are left with consequences that do not serve the cause of international justice."

(5) Ambassador Scheffer went on to tell the Congress that: "Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the Court's jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States to use its military to meet alliance obligations and participate in multinational operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed.".

(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000. In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, "I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied".

(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.

(8) Members of the Armed Forces of the United States should be free from the risk of prosecution by the International Criminal Court, especially when they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces, to the maximum extent possible, against criminal prosecutions carried out by the International Criminal Court.

(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression over United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government should be free from the risk of prosecution by the International Criminal Court, especially with respect to official actions taken by them to protect the national interests of the United States.

(10) Any agreement within the Preparatory Commission on a definition of the Crime of Aggression that usurps the prerogative of the United Nations Security Council under Article 39 of the charter of the United Nations to "determine the existence of any .... act of aggression" would contravene the charter of the United Nations and undermine deterrence.

(11) It is a fundamental principle of international law that a treaty is binding upon its parties only and that it does not create obligations for nonparties without their consent to be bound. The United States is not a party to the Rome Statute and will not be bound by any of its terms. The United States will not recognize the jurisdiction of the International Criminal Court over United States nationals.

SEC. 03. WAIVER AND TERMINATION OF PROHIBITIONS OF THIS TITLE.

(a) Authority To Waive Sections 04 and 05 With Respect to an Investigation or Prosecution of a Named Individual.—The President is authorized to waive the prohibitions and requirements of sections 04 and 05 to the degree such prohibitions and requirements would prevent United States cooperation with an investigation or prosecution of a named individual by the International Criminal Court. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that—

(A) there is reason to believe that the named individual committed the crime or crimes that are the subject of the International Criminal Court's investigation or prosecution;

(B) it is in the national interest of the United States for the International Criminal Court's investigation or prosecution of the named individual to proceed; and

(C) in investigating events related to actions by the named individual, none of the following persons will be investigated, arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court with respect to actions undertaken by them in an official capacity:

(i) Covered United States persons.

(ii) Covered allied persons.

(iii) Individuals who were covered United States persons or covered allied persons.

(b) Termination of Prohibitions of This Title.—The prohibitions and requirements of sections 04 and 05 shall cease to apply, and the authority of section 06 shall terminate, if the United States becomes a party to the International Criminal Court pursuant to a treaty made under article II, section 2, clause 2 of the Constitution of the United States.

SEC. 04. PROHIBITION ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT.

(a) Application.—The provisions of this section—

(1) apply only to cooperation with the International Criminal Court and shall not apply to cooperation with an ad hoc international criminal tribunal established by the United Nations Security Council before or after the date of the enactment of this Act to investigate and prosecute war crimes committed in a specific country or during a specific conflict; and

(2) shall not prohibit—

(A) any action permitted under section 06; or

(B) communication by the United States of its policy with respect to a matter.

(b) Prohibition on Responding to Requests for Cooperation.—Notwithstanding section 1782 of title 28, United States Code, or any other provision of law, no United States Court, and no agency or entity of any State or local government, including any court, may cooperate with the International Criminal Court in response to a request for cooperation submitted by the International Criminal Court pursuant to the Rome Statute.

(c) Prohibition on Transmittal of Letters Rogatory From the International Criminal Court.—Notwithstanding section 1781 of title 28, United States Code, or any other provision of law, no agency of the United States Government may transmit for execution any letter rogatory issued, or other request for cooperation made, by the International Criminal Court to the tribunal, officer, or agency in the United States to whom it is addressed.

(d) Prohibition on Extradition to the International Criminal Court.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government may extradite any person from the United States to the International Criminal Court, nor support the transfer of any United States citizen or permanent resident alien to the International Criminal Court.

(e) Prohibition on Provision of Support to the International Criminal Court.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government, including any court, may provide support to the International Criminal Court.

(f) Prohibition on Use of Appropriated Funds To Assist the International Criminal Court.—Notwithstanding any other provision of law, no funds appropriated under any provision of law may be used for the purpose of assisting the investigation, arrest, detention, extradition, or prosecution of any United States citizen or permanent resident alien by the International Criminal Court.

(g) Restriction on Assistance Pursuant to Mutual Legal Assistance Treaties.—The United States shall exercise its rights to limit the use of assistance provided under all treaties and executive agreements for mutual legal assistance in criminal matters, multilateral conventions with legal assistance provisions, and extradition treaties, to which the United States is a party, and in connection with the execution or issuance of any letter rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.

(h) Prohibition on Investigative Activities of Agents.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

SEC. 05. PROHIBITION ON DIRECT OR INDIRECT TRANSFER OF CLASSIFIED NATIONAL SECURITY INFORMATION AND LAW ENFORCEMENT INFORMATION TO THE INTERNATIONAL CRIMINAL COURT.

(a) In General.—Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(b) Indirect Transfer.—The procedures adopted pursuant to subsection (a) shall be designed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(c) Construction.—The provisions of this section shall not be construed to prohibit any action permitted under section 06.

SEC. 06. AUTHORITY TO FREE MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND CERTAIN OTHER PERSONS DETAINED OR IMPRISONED BY OR ON BEHALF OF THE INTERNATIONAL CRIMINAL COURT.

(a) Authority.—The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.

(b) Persons Authorized To Be Freed.—The authority of subsection (a) shall extend to the following persons:

(1) Covered United States persons.

(2) Covered allied persons.

(3) Individuals detained or imprisoned for official actions taken while the individual was a covered United States person or a covered allied person, and in the case of a covered allied person, upon the request of such government.

(c) Authorization of Legal Assistance.—When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide—

(1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, United States Code, representation and other assistance in the manner provided in that section);

(2) exculpatory evidence on behalf of that person; and

(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.

(d) Bribes and Other Inducements Not Authorized.—This section does not authorize the payment of bribes or the provision of other such incentives to induce the release of a person described in subsection (b).

SEC. 07. ALLIANCE COMMAND ARRANGEMENTS.

(a) Report on Alliance Command Arrangements.—Not later than 6 months after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party—

(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a party to the International Criminal Court; and

(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.

(b) Description of Measures To Achieve Enhanced Protection for Members of the

ARMED FORCES OF THE UNITED STATES.—Not later than one year after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2).

(c) SUBMISSION IN CLASSIFIED FORM.—The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form.

SEC. 08. WITHHOLDINGS.

Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 705 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–460), are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.

SEC. 09. APPLICATION OF SECTIONS 04 AND 05 TO EXERCISE OF CONSTITUTIONAL AUTHORITIES.

(a) IN GENERAL.—Sections 04 and 05 shall not apply to any action or actions with respect to a specific matter involving the International Criminal Court taken or directed by the President on a case-by-case basis in the exercise of the President's authority as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution.

(b) NOTIFICATION TO CONGRESS.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) that would otherwise be prohibited under section 04 or 05, the President shall submit a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that the action is in the national interest of the United States, and a justification for the action.

(2) EXCEPTION.—If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under paragraph (1) not later than 15 days after the reasons for the determination under this paragraph no longer apply.

(c) CONSTRUCTION.—Nothing in this section shall be construed as a grant of statutory authority to the President to take any action.

SEC. 10. NONDELEGATION.

The authorities vested in the President by sections 03 and 09(a) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law.

SEC. 11. DEFINITIONS.

As used in this title and in section 706 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) CLASSIFIED NATIONAL SECURITY INFORMATION.—The term "classified national security information" means information that is classified or classifiable under Executive Order 12958 or a successor Executive order.

(3) COVERED ALLIED PERSONS.—The term "covered allied persons" means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the International Criminal Court.

(4) COVERED UNITED STATES PERSONS.—The term "covered United States persons" means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court.

(5) EXTRADITION.—The terms "extradition" and "extradite" mean the extradition of a person in accordance with the provisions of chapter 209 of title 18, United States Code, (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 102 of the Rome Statute.

(6) INTERNATIONAL CRIMINAL COURT.—The term "International Criminal Court" means the court established by the Rome Statute.

(7) MAJOR NON-NATO ALLY.—The term "major non-NATO ally" means a country that has been so designated in accordance with section 517 of the Foreign Assistance Act of 1961.

(8) PARTICIPATE IN ANY PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term "participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations" means to assign members of the Armed Forces of the United States to a United Nations military command structure as part of a peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations in which those members of the Armed Forces of the United States are subject to the command or operational control of one or more foreign military officers not appointed in conformity with article II, section 2, clause 2 of the Constitution of the United States.

(9) PARTY TO THE INTERNATIONAL CRIMINAL COURT.—The term "party to the International Criminal Court" means a government that has deposited an instrument of ratification, acceptance, approval, or accession to the Rome Statute, and has not withdrawn from the Rome Statute pursuant to Article 127 thereof.

(10) PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term "peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations" means any military operation to maintain or restore international peace and security that—

(A) is authorized by the United Nations Security Council under chapter VI or VII of the charter of the United Nations; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping or peace enforcement activities.

(11) ROME STATUTE.—The term "Rome Statute" means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

(12) SUPPORT.—The term "support" means assistance of any kind, including financial support, transfer of property or other material support, services, intelligence sharing, law enforcement cooperation, the training or detail of personnel, and the arrest or detention of individuals.

(13) UNITED STATES MILITARY ASSISTANCE.—The term "United States military assistance" means—

(A) assistance provided under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

(B) defense articles or defense services furnished with the financial assistance of the United States Government, including through loans and guarantees, under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

SEC. 12. PERIOD OF EFFECTIVENESS OF THE TITLE.

Except as otherwise provided in this title, the provisions of this title shall take effect on the date of enactment of this Act and remain in effect without regard to the expiration of fiscal year 2002.

SA 2337. Mr. REID (for Mr. DODD) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Strike all after the first word in the pending amendment and insert in lieu thereof the following:

SEC. . (a) FINDINGS.—(1) The Rome Statute establishing an International Criminal Court will not enter into force for several years;

(2) The Congress has great confidence in President Bush's ability to effectively protect U.S. interests and the interests of American citizens and service members as it relates to the International Criminal Court; and

(3) The Congress believes that Slobodan Milosovic, Saddam Hussein or any other individual who commits crimes against humanity should be brought to justice and that the President should have sufficient flexibility to accomplish that goal, including the ability to cooperate with foreign tribunals and other international legal entities that may be established for that purpose on a case by case basis.

(b) REPORT.—The President shall report to the Congress on any additional legislative actions necessary to advance and protect U.S. interests as it relates to the establishment of the International Criminal Court or the prosecution of crimes against humanity.

SA 2338. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 384, line 23, after the period insert "SEC. 1303. For purposes of any appropriations made pursuant to Public Law 107-38, (1) the term "public facilities" as used in that Act and in 42 U.S.C. 5122(8) includes facilities and equipment of boards of trade regulated by the Commodity Futures Trading Commission; (2) the term "reporting public facilities" in such Act includes replacing and restoring facilities and equipment lost, damaged and destroyed."

SA 2339. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal yearr ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriated by title IV of this division under the heading "Research, Development. Test and Evaluation, Defense-Wide", $10,000,000 may be available for the Gulf States Initiative.

SA 2340. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Study of Physical State of Army Initial Entry Trainee Housing and Barracks.—The Comptroller General of the United States shall carry out a study of the physical state of the Initial Entry Trainee housing and barracks of the Army.

(b) Report to Congress.—Not later than nine months after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the study carried out under subsection (a). The report shall set forth the results of the study, and shall include such other matters relating to the study as the Comptroller General considers appropriate.

(c) Congressional Defense Committees Defined.—In this section, the term "congressional defense committees" means—

(1) the Committees on Appropriations and Armed Services of the Senate; and

(2) the Committees on Appropriations and Armed Services of the House of Representatives.

SA 2341. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division E, add the following:

Sec. 115. Title III of the Energy and Water Development Appropriations Act, 2002 (Public Law 107-66) is amended by adding at the end the following new section:

"Sec. 313. (a) Increase in Amount Available for Electric Energy Systems and Storage Program.—The amount appropriated by this title under the heading 'DEPARTMENT OF ENERGY' under the heading 'ENERGY PROGRAMS' under the paragraph 'Energy Supply' is hereby increased by $14,000,000, with the amount of the increase to be available under that paragraph for the electric energy systems and storage program.

"(b) Decrease in Amount Available for Department of Energy Generally.—The amount appropriated by this title under the heading 'DEPARTMENT OF ENERGY' (other than under the heading "National Nuclear Security Administration or under the heading 'ENERGY PROGRAMS' under the paragraph 'Energy Supply') is hereby decreased by $14,000,000, with the amount of the decrease to be distributed among amounts available under the heading 'DEPARTMENT OF ENERGY' in a manner determined by the Secretary of Energy and approved by the Committees on Appropriation.".

SA 2342. Mr. BAYH (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 409, after line 21, insert the following:

DIVISION F—HOUSING REVITALIZATION

SEC. 6101. REVITALIZATION PROJECT.

(a) Definitions.—In this section:

(1) Secretary.—The term "Secretary" means the Secretary of Housing and Urban Development.

(2) Section 8.—The term "section 8" means section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(b) Pennsylvania and Indiana Revitalization Projects.—

(1) Definition.—In this subsection, the term "projects" includes—

(A) Penn Circle Tower, East Mall Apartments, and Liberty Park in Pittsburgh, Pennsylvania; and

(B) Parkwood and Parkwood II in Indianapolis, Indiana.

(2) In general.—Notwithstanding any other provisions of law, the Secretary shall facilitate the redevelopment of the projects in a manner that facilitates the ability of tenants to remain in the area and allows those projects to advance neighborhood revitalization by—

(A) dividing or relocating the use restrictions and other requirements of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) (referred to in this section as "MAHRAA") among multiple properties having 1 or more owners, including newly constructed properties, with all such changes completed by December 31, 2007, and permitting the Secretary to use discretion when modifying or waiving the requirement of a recorded use restriction with respect to temporary relocation units;

(B) providing that an interim conveyance of those projects, or any portion of those projects, shall be permitted prior to completion of reconstruction or revitalization of those projects, if—

(i) the transferee is a tenant-endorsed, community-based owner, affiliated with the owner of the project at the time of debt restructuring or forgiveness; and

(ii) all applicable MAHRAA requirements related to the sale of property apply when the reconstruction or revitalization of those projects is completed, which completion shall be not later than December 31, 2007;

(C) maintaining the project-based assistance under section 8 to those projects at the same level in effect as of December 31, 2001, subject to customary annual adjustments (applicable to all project recipients of project-based assistance under section 8) in the ordinary course of the administration by the Secretary of the section 8 program;

(D) exercising authority under section 8 to permit any owner of a project to convert portions of the project-based section 8 budget authority provided with respect to such project to tenant-based assistance or temporary project or tenant-based relocation assistance, without restriction on the mix of such assistance, while requiring that the number of project-based section 8 assisted units (as reconstructed or revitalized), when summed with the number of tenant-based section 8 certificates converted by such owner from the original section 8 budget authority for such projects, shall equal a number that is not more than 773 at any time;

(E) permitting any owner of a project to use previously committed interest reduction payments for debt service on capital expenditures for rehabilitation or new construction in lieu of capital reserve account deposits; and

(F) permitting the owner of the Penn Circle Tower project—

(i) to convert that project to an elderly-only facility;

(ii) to demolish the existing retail building on the site;

(iii) to subdivide the project site and release any use restrictions encumbering nonresidential portions of the site; and

(iv) sell portions of the project to an affiliated entity for mixed use or income development.

(c) Colorado Revitalization Projects.—

(1) In general.—Notwithstanding any other provision of law, the Secretary shall permit the housing authority of the city and county of Denver, located in the city and county of Denver, Colorado, to transfer the current housing assistance payments basic renewal contract for 167 existing units that shall be demolished in the East Village Apartments, to 167 units of housing to be constructed beginning in 2002 and completed by 2006.

(2) Project-based assistance.—The project-based assistance under section 8 for the property described in paragraph (1) shall be maintained at the same level as in effect as of December 31, 2001, subject to customary annual adjustments in the ordinary course of the administration by the Secretary of the section 8 program.

SA 2343. Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. DORGAN, Mr. INHOFE, Mr. BURNS, Mr. BREAUX, Mr. REID, Mr. ROCKEFELLER, Mr. TORRICELLI, and Mr. JOHNSON) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the following: "*Provided further:* That before the release of funds under this account for O'Hare International Airport security improvements, the Secretary of Transportation shall, in cooperation with the Federal Aviation Administrator, encourage a locally developed and executed plan between the State of Illinois, the city of Chicago, and affected communities for the purpose of modernizing O'Hare International Airport, including parallel runways oriented in an east-west direction; constructing a south suburban airport near Peotone, Illinois; addressing traffic congestion along the Northwest Corridor, including western airport access; continuing the operation of Merrill C. Meigs Field in Chicago; and increasing commercial air service at Gary-Chicago Airport and Greater Rockford Airport. If such a plan cannot be developed and executed by said parties, the Secretary and the FAA Administrator shall work with Congress to enact a federal solution to address the aviation capacity crisis in the Chicago area while addressing quality of life issues around the affected airports."

SA 2344. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111, 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2002.

SA 2345. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FINDINGS.—The Senate makes the following findings:

(1) On December 7, 1941, 60 years ago, Imperial Japanese forces conducted a sneak attack against the United States at Pearl Harbor, Hawaii.

(2) 15 Medals of Honor were awarded for heroism in the American forces that faced that attack.

(3) 2,388 Americans gave their lives that day in the cause of liberty.

(4) The American people responded to that attack by committing themselves to, and achieving, total victory over the forces of fascism and oppression around the world.

(5) The United States was brutally attacked on September 11, 2001.

(6) The American people shall respond to this attack by committing themselves to, and achieving, total victory over the forces of terror and radicalism around the world.

(7) On December 7, 2001, in the City of New Orleans, Louisiana, the National D-Day Museum commemorates United States victory in the Pacific during World War II with the opening of a new Pacific Theater wing.

(8) This commemoration is symbolic of coming victory in the war against terror.

(b) SENSE OF SENATE.—It is the sense of the Senate that, on December 7, 2001, National Pearl Harbor Remembrance Day, the United States should pay tribute—

(1) to the soldiers, sailors, marines, and civilians who gave the ultimate sacrifice to the Nation 60 years ago, on December 7, 1941, at Pearl Harbor, Hawaii;

(2) to the spirit of the American people that ensured victory in World War II; and

(3) to commemorations at the National D-Day Museum in New Orleans, Louisiana, and across the country, that highlight the sacrifice and contributions of the generation who served during World War II, America's greatest generation.

SA 2346. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. The amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE" is hereby increased by $1,000,000, with the amount of the increase to be available for Low Cost Launch Vehicle Technology.

SA 2347. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE", $1,000,000, may be be available for Low Cost Launch Vehicle Technology.

SA 2348. Mr. BYRD (for himself, Mr. STEVENS, and Mr. INOUYE) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

DIVISION A—DEPARTMENT OF DEFENSE APPROPRIATIONS, 2002

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $23,446,734,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $19,465,964,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $7,335,370,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $20,032,704,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,670,197,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,650,523,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $466,300,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,061,160,000.

National Guard Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,052,695,000.

National Guard Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,783,744,000.

TITLE II

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $10,794,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $22,941,588,000.

Operation and Maintenance, Navy

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,569,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $27,038,067,000.

Operation and Maintenance, Marine Corps

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $2,903,863,000.

Operation and Maintenance, Air Force

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,998,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $26,303,436,000.

Operation and Maintenance, Defense-Wide

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $12,864,644,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $33,500,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes.

Operation and Maintenance, Army Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,771,246,000.

Operation and Maintenance, Navy Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,003,690,000.

Operation and Maintenance, Marine Corps Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $144,023,000.

Operation and Maintenance, Air Force Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,023,866,000.

Operation and Maintenance, Army National Guard

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $3,743,808,000.

Operation and Maintenance, Air National Guard

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $3,998,361,000.

United States Courts of Appeals for the Armed Forces

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $9,096,000, of which not to exceed $2,500 can be used for official representation purposes.

Environmental Restoration, Army

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $389,800,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Navy

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $257,517,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Air Force

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $385,437,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Defense-Wide

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $23,492,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Formerly Used Defense Sites

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $230,255,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Overseas Humanitarian, Disaster, and Civic Aid

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code), $44,700,000, to remain available until September 30, 2003.

Former Soviet Union Threat Reduction

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $357,000,000, to remain available until September 30, 2004: *Provided*, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

Support for International Sporting Competitions, Defense

For logistical and security support for international sporting competitions (including pay and non-travel related allowances only for members of the Reserve Components of the Armed Forces of the United States called or ordered to active duty in connection with providing such support), $15,800,000, to remain available until expended.

TITLE III

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,893,891,000, to remain available for obligation until September 30, 2004.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,774,154,000, to remain available for obligation until September 30, 2004.

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,174,546,000, to remain available for obligation until September 30, 2004.

Procurement of Ammunition, Army

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,171,465,000, to remain available for obligation until September 30, 2004.

Other Procurement, Army

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 29 passenger motor vehicles for replacement only; and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,160,186,000, to remain available for obligation until September 30, 2004.

Aircraft Procurement, Navy

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $8,030,043,000, to remain available for obligation until September 30, 2004.

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $1,478,075,000, to remain available for obligation until September 30, 2004.

Procurement of Ammunition, Navy and Marine Corps

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $442,799,000, to remain available for obligation until September 30, 2004.

Shipbuilding and Conversion, Navy

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), $138,890,000;

SSGN (AP), $279,440,000;

NSSN, $1,608,914,000;

NSSN (AP), $684,288,000;

CVN Refuelings, $1,118,124,000;

CVN Refuelings (AP), $73,707,000;

Submarine Refuelings, $382,265,000;

Submarine Refuelings (AP), $77,750,000;

DDG–51 destroyer program, $2,966,036,000;

Cruiser conversion (AP), $458,238,000;

LPD–17 (AP), $155,000,000;

LHD–8, $267,238,000;

LCAC landing craft air cushion program, $52,091,000;

Prior year shipbuilding costs, $725,000,000; and

For craft, outfitting, post delivery, conversions, and first destination transformation transportation, $307,230,000;

In all: $9,294,211,000, to remain available for obligation until September 30, 2006: *Provided*, That additional obligations may be incurred after September 30, 2006, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 152 passenger motor vehicles for replacement only, and the purchase of five vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per unit for two units and not to exceed $115,000 per unit for the remaining three units; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $4,146,338,000, to remain available for obligation until September 30, 2004.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 25 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $974,054,000, to remain available for obligation until September 30, 2004.

Aircraft Procurement, Air Force

For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $10,617,332,000, to remain available for obligation until September 30, 2004.

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $3,657,522,000, to remain available for obligation until September 30, 2004.

Procurement of Ammunition, Air Force

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $873,344,000, to remain available for obligation until September 30, 2004.

Other Procurement, Air Force

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 216 passenger motor vehicles for replacement only, and the purchase of three vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $8,144,174,000, to remain available for obligation until September 30, 2004.

Procurement, Defense-Wide

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 115 passenger motor vehicles for replacement only; the purchase of 10 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $250,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $1,473,795,000, to remain available for obligation until September 30, 2004.

Defense Production Act Purchases

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $15,000,000 to remain available until expended.

National Guard and Reserve Equipment

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $560,505,000, to remain available for obligation until September 30, 2004: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Research, Development, Test and Evaluation, Army

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $6,742,123,000, to remain available for obligation until September 30, 2003.

Research, Development, Test and Evaluation, Navy

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $10,742,710,000, to remain available for obligation until September 30, 2003.

Research, Development, Test and Evaluation, Air Force

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $13,859,401,000, to remain available for obligation until September 30, 2003.

Research, Development, Test and Evaluation, Defense-Wide

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $14,445,589,000, to remain available for obligation until September 30, 2003.

Operational Test and Evaluation, Defense

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $216,855,000, to remain available for obligation until September 30, 2003.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

Defense Working Capital Funds

For the Defense Working Capital Funds; $1,826,986,000: *Provided*, That during fiscal year 2002, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 330 passenger carrying motor vehicles for replacement only for the Defense Security Service.

National Defense Sealift Fund

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), $407,408,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $18,376,404,000, of which $17,656,185,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2003; of which $267,915,000, to remain available for obligation until September 30, 2004, shall be for Procurement; of which $452,304,000, to remain available for obligation until September 30, 2003, shall be for Research, development, test and evaluation.

Chemical Agents and Munitions Destruction, Army

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,104,557,000, of which $739,020,000 shall be for Operation and maintenance to remain available until September 30, 2003, $164,158,000 shall be for Procurement to remain available until September 30, 2004, and $201,379,000 shall be for Research, development, test and evaluation to remain available until September 30, 2003.

Drug Interdiction and Counter-Drug Activities, Defense

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $865,981,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

Office of the Inspector General

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $152,021,000, of which $150,221,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,800,000 to remain available until September 30, 2004, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY

Central Intelligence Agency Retirement and Disability System Fund

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $212,000,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

Intelligence Community Management Account

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $144,776,000, of which $28,003,000 for the Advanced Research and Development Committee shall remain available until September 30, 2003: *Provided*, That of the funds appropriated under this heading, $27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2004, and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2003: *Provided further*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities to conduct document exploitation of materials collected in Federal, State, and local law enforcement activity.

Payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, $75,000,000, to remain available until expended.

National Security Education Trust Fund

For the purposes of title VIII of Public Law 102–183, $8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS—DEPARTMENT OF DEFENSE

Sec. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

Sec. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: *Provided further*, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to March 31, 2002.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

C–17; and

F/A–18E and F engine.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to the Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2002, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2002 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2003.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual: *Provided further*, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent ownership by an Indian tribe, as defined in section 450b(e) of title 25, United States Code, or a Native Hawaiian organization, as defined in section 637(a)(15) of title 15, United States Code.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Funds available in this Act and hereafter may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8019. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for fiscal year 2002 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8020. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8021. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8022. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That a subcontractor at any tier shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

SEC. 8023. During the current fiscal year and hereafter, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5, United States Code, or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code, or the National Guard, as described in section 101 of title 32, United States Code;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, United States Code, or other provision of law, as applicable; or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, United States Code, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, United States Code, and such leave shall be considered leave under section 6323(b) of title 5, United States Code.

SEC. 8024. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8025. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8026. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8027. Of the funds made available in this Act, not less than $61,100,000 shall be available to maintain an attrition reserve force of 18 B–52 aircraft, of which $3,300,000 shall be available from "Military Personnel, Air Force", $37,400,000 shall be available from "Operation and Maintenance, Air Force", and $20,400,000 shall be available from "Aircraft Procurement, Air Force": *Provided*, That the Secretary of the Air Force shall maintain a total force of 94 B–52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2002: *Provided further*, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2003 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8028. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the

Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

SEC. 8029. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8030. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8031. Of the funds made available in this Act, not less than $24,303,000 shall be available for the Civil Air Patrol Corporation, of which $22,803,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes $1,500,000 for the Civil Air Patrol counterdrug program: *Provided*, That funds identified for "Civil Air Patrol" under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8032. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2002 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2002, not more than 6,227 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,029 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2003 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $60,000,000.

SEC. 8033. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8034. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8035. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8036. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2001. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8037. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8039. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees by February 1, 2002, a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 2003 budget request was reduced because the Congress appropriated funds above the President's budget request for that specific activity for fiscal year 2002.

SEC. 8040. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8041. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8042. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8043. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $100,000.

SEC. 8044. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2003 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2003 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8045. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2003: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended.

SEC. 8046. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8047. Of the funds appropriated by the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8048. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year and hereafter pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

(TRANSFER OF FUNDS)

SEC. 8049. In addition to the amounts appropriated elsewhere in this Act, $10,000,000 is hereby appropriated to the Department of Defense: *Provided*, That at the direction of the Assistant Secretary of Defense for Reserve Affairs, these funds shall be transferred to the Reserve component personnel accounts in Title I of this Act: *Provided further*, That these funds shall be used for incentive and bonus programs that address the most pressing recruitment and retention issues in the Reserve components.

SEC. 8050. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8051. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided*, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8052. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8053. During the current fiscal year and hereafter, funds appropriated or made available by the transfer of funds in this or subsequent Appropriations Acts, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) until the enactment of the Intelligence Authorization Act for that fiscal year and funds appropriated or made available by transfer of funds in any subsequent Supplemental Appropriations Act enacted after the enactment of the Intelligence Authorization Act for that fiscal year are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 8054. Notwithstanding section 303 of Public Law 96–487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: *Provided*, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

(RESCISSIONS)

SEC. 8055. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded as of the date of the enactment of this Act from the following accounts in the specified amounts:

"Aircraft Procurement, Army, 2001/2003", $15,500,000;

"Aircraft Procurement, Air Force, 2001/2003", $43,983,000;

"Missile Procurement, Air Force, 2001/2003", $58,550,000;

"Procurement, Defense-Wide, 2001/2003", $64,170,000;

"Research, Development, Test and Evaluation, Air Force, 2001/2002", $13,450,000; and

"Research, Development, Test and Evaluation, Defense-Wide, 2001/2002", $5,664,000.

SEC. 8056. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8057. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8058. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: *Provided*, That during the performance of such duty, the members of the National Guard shall be under State command and control: *Provided further*, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8059. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8060. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act, for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8061. Of the funds made available under the heading "Operation and Maintenance, Air Force", $12,000,000 shall be available to realign railroad track on Elmendorf Air Force Base and Fort Richardson.

SEC. 8062. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8063. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8064. None of the funds made available in this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8065. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8066. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8067. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8068. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8069. Of the funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide", up to $5,000,000 shall be available to provide assistance, by grant or otherwise, to public school systems that have unusually high concentrations of special needs military dependents enrolled: *Provided*, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments: *Provided further*, That up to $2,000,000 shall be available for DOD to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: *Provided further*, That to the extent a federal agency provides this assistance, by contract, grant or otherwise, it may accept and expend non-federal funds in combination with these federal funds to provide assistance for the authorized purpose, if the non-federal entity requests such assistance and the non-federal funds are provided on a reimbursable basis.

SEC. 8070. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8071. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: *Provided*, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: *Provided further*, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: *Provided further*, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: *Provided further*, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8072. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8073. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8074. Up to $3,000,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems critical to base operations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8075. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8076. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8077. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8078. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8079. During the current fiscal year, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: *Provided*, That costs for which reimbursement is waived pursuant to this section shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8080. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8081. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8082. Notwithstanding 31 U.S.C. 3902, during the current fiscal year and hereafter, interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

SEC. 8083. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8084. Of the funds made available under the heading "Operation and Maintenance, Air Force", not less than $1,500,000 shall be made available by grant or otherwise, to the Council of Athabascan Tribal Governments, to provide assistance for health care, monitoring and related issues associated with research conducted from 1955 to 1957 by the former Arctic Aeromedical Laboratory.

SEC. 8085. In addition to the amounts appropriated or otherwise made available in this Act, $5,000,000, to remain available until September 30, 2002, is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make a grant in the amount of $5,000,000 to the American Red Cross for Armed Forces Emergency Services.

SEC. 8086. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8087. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8088. Funds made available to the Civil Air Patrol in this Act under the heading "Drug Interdiction and Counter-Drug Activities, Defense" may be used for the Civil Air Patrol Corporation's counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State, and local government agencies; and for equipment needed for mission support or performance: *Provided*, That the Department of the Air Force should waive reimbursement from the Federal, State, and local government agencies for the use of these funds.

SEC. 8089. Section 8125 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259), is hereby repealed.

SEC. 8090. Of the funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Navy", up to $3,000,000 may be made available for a Maritime Fire Training Center at Barbers Point, including provision for laboratories, construction, and other efforts associated with research, development, and other programs of major importance to the Department of Defense.

SEC. 8091. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8092. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian health service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8093. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $140,591,000 to reflect savings from favorable foreign currency fluctuations, to be distributed as follows:

"Operation and Maintenance, Army", $89,359,000;

"Operation and Maintenance, Navy", $15,445,000;

"Operation and Maintenance, Marine Corps", $1,379,000;

"Operation and Maintenance, Air Force", $24,408,000; and

"Operation and Maintenance, Defense-Wide", $10,000,000.

SEC. 8094. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8095. Notwithstanding any other provision of law, the total amount appropriated in this Act under Title I and Title II is hereby reduced by $50,000,000: *Provided*, That during the current fiscal year, not more than 250 military and civilian personnel of the Department of Defense shall be assigned to legislative affairs or legislative liaison functions: *Provided further*, That of the 250 personnel assigned to legislative liaison or legislative affairs functions, 20 percent shall be assigned to the Office of the Secretary of Defense and the Office of the Chairman of the Joint Chiefs of Staff, 20 percent shall be assigned to the Department of the Army, 20 percent shall be assigned to the Department of the Navy, 20 percent shall be assigned to the Department of the Air Force, and 20 percent shall be assigned to the combatant commands: *Provided further*, That of the personnel assigned to legislative liaison and legislative affairs functions, no fewer than 20 percent shall be assigned to the Under Secretary of Defense (Comptroller), the Assistant Secretary of the Army (Financial Management and Comptroller), the Assistant Secretary of the Navy (Financial Management and Comptroller), and the Assistant Secretary of the Air Force (Financial Management and Comptroller).

SEC. 8096. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8097. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8098. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $171,296,000, to reduce cost growth in travel, to be distributed as follows:

"Operation and Maintenance, Army", $9,000,000;

"Operation and maintenance, Marine Corps", $296,000;

"Operation and Maintenance, Air Force", $150,000,000;

"Operation and Maintenance, Army Reserve", $2,000,000; and

"Operation and maintenance, Defense-wide" $10,000,000.

SEC. 8099. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8100. (a) REGISTERING INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. An information technology system shall be considered a mission critical or mission essential information technology system as defined by the Secretary of Defense.

(b) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—(1) During the current fiscal year, a major automated information system may not receive Milestone I approval, Milestone II approval, or Milestone III approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(3) The term "major automated information system" has the meaning given that term in Department of Defense Directive 5000.1.

SEC. 8101. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8102. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API-T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8103. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8104. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8105. During the current fiscal year, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance.

SEC. 8106. (a) The Department of Defense is authorized to enter into agreements with the Veterans Administration and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 8107. In addition to the amounts provided elsewhere in this Act, the amount of $10,000,000 is hereby appropriated for "Operation and Maintenance, Defense-Wide", to be available, notwithstanding any other provision of law, only for a grant to the United Service Organizations Incorporated, a federally chartered corporation under chapter 2201 of title 36, United States Code. The grant provided for by this section is in addition to any grant provided for under any other provision of law.

SEC. 8108. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $141,700,000 shall be made available for the Arrow missile defense program: *Provided*, That of this amount, $107,700,000 shall be made available for the purpose of continuing the Arrow System Improvement Program (ASIP), continuing ballistic missile defense interoperability with Israel, and establishing an Arrow production capability in the United States: *Provided further*, That the remainder, $34,000,000, shall be available for the purpose of adjusting the cost-share of the parties under the Agreement between the Department of Defense and the Ministry of Defense of Israel for the Arrow Deployability Program.

SEC. 8109. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8110. Of the amounts appropriated in this Act under the heading "Operation and Maintenance, Defense-Wide", $115,000,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

SEC. 8111. In addition to the amounts appropriated or otherwise made available in this Act, $1,300,000,000 is hereby appropriated to the Department of Defense for whichever of the following purposes the President determines to be in the national security interests of the United States:

(1) research, development, test and evaluation for ballistic missile defense; and

(2) activities for combating terrorism.

SEC. 8112. In addition to amounts appropriated elsewhere in this Act, $5,000,000 is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of the Army shall make a grant in the amount of $5,000,000 to the Fort Des Moines Memorial Park and Education Center.

SEC. 8113. In addition to amounts appropriated elsewhere in this Act, $5,000,000 is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make a grant in the amount of $5,000,000 to the National D-Day Museum.

SEC. 8114. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2002.

SEC. 8115. (a) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106-79) is amended—

(1) by redesignating subsection (m) as subsection (o); and

(2) by adding after subsection (l) the following:

"(m) AUTHORITY TO ESTABLISH MEMORIAL.—

"(1) IN GENERAL.—The Commission may establish a permanent memorial to Dwight D. Eisenhower on land under the jurisdiction of the Secretary of the Interior in the District of Columbia or its environs.

"(2) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.).".

(b) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106-79) is amended—

(1) in subsection (j)(2), by striking "accept gifts" and inserting "solicit and accept contributions"; and

(2) by inserting after subsection (m) (as added by subsection (a)(2)) the following:

"(n) MEMORIAL FUND.—

"(1) ESTABLISHMENT.—There is created in the Treasury a fund for the memorial to Dwight D. Eisenhower that includes amounts contributed under subsection (j)(2).

"(2) USE OF FUND.—The fund shall be used for the expenses of establishing the memorial.

"(3) INTEREST.—The Secretary of the Treasury shall credit to the fund the interest on obligations held in the fund.".

(c) In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $3,000,000, to remain available until expended is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make a grant in the amount of $3,000,000 to the Dwight D. Eisenhower Memorial Commission for direct administrative support.

SEC. 8116. In addition to amounts appropriated elsewhere in this Act, $8,000,000 shall be available only for the settlement of subcontractor claims for payment associated with the Air Force contract F19628-97-C-0105, Clear Radar Upgrade, at Clear AFS, Alaska: *Provided*, That the Secretary of the Air Force shall evaluate claims as may be submitted by subcontractors, engaged under the contract, and, notwithstanding any other provision of law shall pay such amounts from the funds provided in this paragraph which the

Secretary deems appropriate to settle completely any claims which the Secretary determines to have merit, with no right of appeal in any forum: *Provided further*, That subcontractors are to be paid interest, calculated in accordance with the Contract Disputes Act of 1978, 41 U.S.C. Sections 601–613, on any claims which the Secretary determines to have merit: *Provided further*, That the Secretary of the Air Force may delegate evaluation and payment as above to the U.S. Army Corps of Engineers, Alaska District on a reimbursable basis.

Sec. 8117. Notwithstanding any other provision of this Act, the total amount appropriated in this Act is hereby reduced by $1,650,000,000, to reflect savings to be achieved from business process reforms, management efficiencies, and procurement of administrative and management support: *Provided*, That none of the funds provided in this Act may be used for consulting and advisory services for legislative affairs and legislative liaison functions.

Sec. 8118. In addition to amounts provided elsewhere in this Act, $21,000,000 is hereby appropriated for the Secretary of Defense to establish a Regional Defense Counter-terrorism Fellowship Program: *Provided*, That funding provided herein may be used by the Secretary to fund foreign military officers to attend U.S. military educational institutions and selected regional centers for non-lethal training: *Provided further*, That United States Regional Commanders in Chief will be the nominative authority for candidates and schools for attendance with joint staff review and approval by the Secretary of Defense: *Provided further*, That the Secretary of Defense shall establish rules to govern the administration of this program.

Sec. 8119. Notwithstanding any other provision of law, from funds appropriated in this or any other Act under the heading, "Aircraft Procurement, Air Force", that remain available for obligation, not to exceed $16,000,000 shall be available for recording, adjusting, and liquidating obligations for the C–17 aircraft properly chargeable to the fiscal year 1998 Aircraft Procurement, Air Force account: *Provided*, That the Secretary of the Air Force shall notify the congressional defense committees of all of the specific sources of funds to be used for such purpose.

Sec. 8120. Notwithstanding any provisions of the Southern Nevada Public Land Management Act of 1998, Public Law 105–263, or the land use planning provision of Section 202 of the Federal Land Policy and Management Act of 1976, Public Law 94–579, or of any other law to the contrary, the Secretary of the Interior may acquire non-federal lands adjacent to Nellis Air Force Base, through a land exchange in Nevada, to ensure the continued safe operation of live ordnance departure areas at Nellis Air Force Base, Las Vegas, Nevada. The Secretary of the Air Force shall identify up to 220 acres of non-federal lands needed to ensure the continued safe operation of the live ordnance departure areas at Nellis Air Force Base. Any such identified property acquired by exchange by the Secretary of the Interior shall be transferred by the Secretary of the Interior to the jurisdiction, custody, and control of the Secretary of the Air Force to be managed as a part of Nellis Air Force Base. To the extent the Secretary of the Interior is unable to acquire non-federal lands by exchange, the Secretary of the Air Force is authorized to purchase those lands at fair market value subject to available appropriations.

Sec. 8121. Of the amounts appropriated in this Act under the heading, "Shipbuilding and Conversion, Navy", $725,000,000 shall be available until September 30, 2002, to fund prior year shipbuilding cost increases: *Provided*, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: *Provided further*, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1995/2002":

Carrier Replacement Program, $172,364,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2002":

LPD–17 Amphibious Transport Dock Ship Program, $172,989,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1997/2002":

DDG–51 Destroyer Program, $37,200,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002":

NSSN Program, $168,561,000;

DDG–51 Destroyer Program, $111,457,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1999/2002":

NSSN Program, $62,429,000.

(TRANSFER OF FUNDS)

Sec. 8122. Upon enactment of this Act, the Secretary of the Navy shall make the following transfers of funds: *Provided*, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: *Provided further*, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1990/2002":

TRIDENT ballistic missile submarine program, $78,000;

SSN–21 attack submarine program, $66,000;

DDG–51 destroyer program, $6,100,000;

ENTERPRISE refueling modernization program, $964,000;

LSD–41 dock landing ship cargo variant ship program, $237,000;

MCM mine countermeasures program, $118,000;

Oceanographic ship program, $2,317,000;

AOE combat support ship program, $164,000;

AO conversion program, $56,000;

Coast Guard icebreaker ship program, $863,000;

Craft, outfitting, post delivery, and ship special support equipment, $529,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002":

DDG–51 destroyer program, $11,492,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1993/2002":

DDG–51 destroyer program, $3,986,000;

LHD–1 amphibious assault ship program, $85,000;

LSD–41 dock landing ship cargo variant program, $428,000;

AOE combat support ship program, $516,000;

Craft, outfitting, post delivery, and first destination transportation, and inflation adjustments, $1,034,000;

To:

Under the heading, "Shipbuilding, and Conversion, Navy, 1998/2002":

DDG–51 destroyer program, $6,049,000;

From:

Under the heading, "Other Procurement, Navy, 2001/2003":

Shallow Water MCM, $16,248,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 2001/2005":

Submarine Refuelings, $16,248,000.

Sec. 8123. (a) The Secretary of Defense shall convey to Gwitchyaa Zhee Corporation the lands withdrawn by Public Land Order No. 1996, Lot 1 of United States Survey 7008, Public Land Order No. 1396, a portion of Lot 3 of United States Survey 7161, lands reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916, Lot 13 of United States Survey 7161, Lot 1 of United States Survey 7008 described in Public Land Order No. 1996, and Lot 13 of the United States Survey 7161 reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916.

(b) Following site restoration and survey by the Department of the Air Force that portion of Lot 3 of United States Survey 7161 withdrawn by Public Land Order No. 1396 and no longer needed by the Air Force shall be conveyed to Gwitchyaa Zhee Corporation.

Sec. 8124. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the USS GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: *Provided*, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

Sec. 8125. (a) Not later than February 1, 2002, the Secretary of Defense shall report to the congressional defense committees on the status of the safety and security of munitions shipments that use commercial trucking carriers within the United States.

(b) Report Elements.—The report under subsection (a) shall include the following:

(1) An assessment of the Department of Defense's policies and practices for conducting background investigations of current and prospective drivers of munitions shipments.

(2) A description of current requirements for periodic safety and security reviews of commercial trucking carriers that carry munitions.

(3) A review of the Department of Defense's efforts to establish uniform safety and security standards for cargo terminals not operated by the Department that store munitions shipments.

(4) An assessment of current capabilities to provide for escort security vehicles for shipments that contain dangerous munitions or sensitive technology, or pass through high-risk areas.

(5) A description of current requirements for depots and other defense facilities to remain open outside normal operating hours to receive munitions shipments.

(6) Legislative proposals, if any, to correct deficiencies identified by the Department of Defense in the report under subsection (a).

(c) Not later than six months after enactment of this Act, the Secretary shall report to Congress on safety and security procedures used for U.S. munitions shipments in European NATO countries, and provide recommendations on what procedures or technologies used in those countries should be adopted for shipments in the United States.

Sec. 8126. In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $15,000,000, to remain available until September 30, 2002 is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make a grant in the amount of $15,000,000 to the Padgett Thomas Barracks in Charleston, South Carolina.

SEC. 8127. (a) DESIGNATED SPECIAL EVENTS OF NATIONAL SIGNIFICANCE.—

(1) Notwithstanding any other provision of law, at events determined by the President to be special events of national significance for which the United States Secret Service is authorized pursuant to Section 3056(e)(1), title 18, United States Code, to plan, coordinate, and implement security operations, the Secretary of Defense, after consultation with the Secretary of the Treasury, shall provide assistance on a temporary basis without reimbursement in support of the United States Secret Service's duties related to such designated events.

(2) Assistance under this subsection shall be provided in accordance with an agreement that shall be entered into by the Secretary of Defense and the Secretary of the Treasury within 120 days of the enactment of this Act.

(b) REPORT ON ASSISTANCE.—Not later than January 30 of each year following a year in which the Secretary of Defense provides assistance under this section, the Secretary shall submit to Congress a report on the assistance provided. The report shall set forth—

(1) a description of the assistance provided; and

(2) the amount expended by the Department in providing the assistance.

(c) RELATIONSHIP TO OTHER LAWS.—The assistance provided under this section shall not be subject to the provisions of sections 375 and 376 of this title.

SEC. 8128. MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM. (a) The Secretary of the Air Force may, from funds provided in this Act or any future appropriations Act, establish a multi-year pilot program for leasing general purpose Boeing 767 aircraft in commercial configuration.

(b) Sections 2401 and 2401a of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

(c) Under the aircraft lease Pilot Program authorized by this section:

(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee, but only those that are not inconsistent with any of the terms and conditions mandated herein.

(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed 10 years, inclusive of any options to renew or extend the initial lease term.

(3) The Secretary may provide for special payments in a lessor if the Secretary terminates or cancels the lease prior to the expiration of its term. Such special payments shall not exceed an amount equal to the value of one year's lease payment under the lease.

(4) Subchapter IV of chapter 15 of Title 31, United States Code shall apply to the lease transactions under this section, except that the limitation in section 1553(b)(2) shall not apply.

(5) The Secretary shall lease aircraft under terms and conditions consistent with this section and consistent with the criteria for an operating lease as defined in OMB Circular A–11, as in effect at the time of the lease.

(6) Lease arrangements authorized by this section may not commence until:

(A) The Secretary submits a report to the congressional defense committees outlining the plans for implementing the Pilot Program. The report shall describe the terms and conditions of proposed contracts and describe the expected savings, if any, comparing total costs, including operation, support, acquisition, and financing, of the lease, including modification, with the outright purchase of the aircraft as modified.

(B) A period of not less than 30 calendar days has elapsed after submitting the report.

(7) Not later than 1 year after the date on which the first aircraft is delivered under this Pilot Program, and yearly thereafter on the anniversary of the first delivery, the Secretary shall submit a report to the congressional defense committees describing the status of the Pilot Program. The Report will be based on at least 6 months of experience in operating the Pilot Program.

(8) The Air Force shall accept delivery of the aircraft in a general purpose configuration.

(9) At the conclusion of the lease term, each aircraft obtained under that lease may be returned to the contractor in the same configuration in which the aircraft was delivered.

(10) The present value of the total payments over the duration of each lease entered into under this authority shall not exceed 90 percent of the fair market value of the aircraft obtained under that lease.

(d) No lease entered into under this authority shall provide for—

(1) the modification of the general purpose aircraft from the commercial configuration, unless and until separate authority for such conversion is enacted and only to the extent budget authority is provided in advance in appropriations Acts for that purpose; or

(2) the purchase of the aircraft by, or the transfer of ownership to, the Air Force.

(e) The authority granted to the Secretary of the Air Force by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter into leases under a provision of law other than this section.

(f) The authority provided under this section may be used to lease not more than a total of one hundred aircraft for the purposes specified herein.

SEC. 8129. From within amounts made available in the Title II of this Act, under the heading "Operation and Maintenance, Army National Guard", and notwithstanding any other provision of law, $2,500,000 shall be available only for repairs and safety improvements to the segment of Camp McCain Road which extends from Highway 8 south toward the boundary of Camp McCain, Mississippi and originating intersection of Camp McCain Road; and for repairs and safety improvements to the segment of Greensboro Road which connects the Administration Offices of Camp McCain to the Troutt Rifle Range: *Provided*, That these funds shall remain available until expended: *Provided further*, That the authorized scope of work includes, but is not limited to, environmental documentation and mitigation, engineering and design, improving safety, resurfacing, widening lanes, enhancing shoulders, and replacing signs and pavement markings.

SEC. 8130. From funds made available under Title II of this Act, the Secretary of the Army may make available a grant of $3,000,000 to the Chicago Park District for renovation of the Broadway Armory, a former National Guard facility in the Edgewater community in Chicago.

SEC. 8131. Notwithstanding any other provision of law, none of the funds in this Act may be used to alter specifications for insulation to be used on U.S. naval ships or for the procurement of insulation materials different from those in use as of November 1, 2001, until the Department of Defense certifies to the Appropriations Committees that the proposed specification changes or proposed new insulation materials will be as safe, provide no increase in weight, and will not increase maintenance requirements when compared to the insulation material currently used.

SEC. 8132. The provisions of S. 746 of the 107th Congress, as reported to the Senate on September 21, 2001, are hereby enacted into law.

SEC. 8133. (a)(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2228. Department of Defense strategic loan and loan guaranty program

"(a) AUTHORITY.—The Secretary of Defense may carry out a program to make direct loans and guarantee loans for the purpose of supporting the attainment of the objectives set forth in subsection (b).

"(b) OBJECTIVES.—The Secretary may, under the program, make a direct loan to an applicant or guarantee the payment of the principal and interest of a loan made to an applicant upon the Secretary's determination that the applicant's use of the proceeds of the loan will support the attainment of any of the following objectives:

"(1) Sustain the readiness of the United States to carry out the national security objectives of the United States through the guarantee of steady domestic production of items necessary for low intensity conflicts to counter terrorism or other imminent threats to the national security of the United States.

"(2) Sustain the economic stability of strategically important domestic sectors of the defense industry that manufacture or construct products for low-intensity conflicts and counter terrorism to respond to attacks on United States national security and to protect potential United States civilian and military targets from attack.

"(3) Sustain the production and use of systems that are critical for the exploration and development of new domestic energy sources for the United States.

"(c) CONDITIONS.—A loan made or guaranteed under the program shall meet the following requirements:

"(1) The period for repayment of the loan may not exceed five years.

"(2) The loan shall be secured by primary collateral that is sufficient to pay the total amount of the unpaid principal and interest of the loan in the event of default.

"(d) EVALUATION OF COST.—As part of the consideration of each application for a loan or for a guarantee of the loan under the program, the Secretary shall evaluate the cost of the loan within the meaning of section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).".

(2) The table of sections at the beginning of such section is amended by adding at the end the following new item:

"*2228. Department of Defense strategic loan and loan guaranty program.*".

(b) Of the amounts appropriated by Public Law 107–38, there shall be available such sums as may be necessary for the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) of direct loans and loan guarantees made under section 2228 of title 10, United States Code, as added by subsection (a).

SEC. 8134. REGULATION OF BIOLOGICAL AGENTS AND TOXINS. (a) BIOLOGICAL AGENTS

Provisions of the Antiterrorism and Effective Death Penalty Act of 1996; Codification in the Public Health Service Act, With Amendments.—

(1) Public health service act.—Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by inserting after section 351 the following:

"SEC. 351A. ENHANCED CONTROL OF BIOLOGICAL AGENTS AND TOXINS.

"(a) Regulatory Control of Biological Agents and Toxins.—

"(1) List of biological agents and toxins.—

"(A) In general.—The Secretary shall by regulation establish and maintain a list of each biological agent and each toxin that has the potential to pose a severe threat to public health and safety.

"(B) Criteria.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

"(i) consider—

"(I) the effect on human health of exposure to the agent or toxin;

"(II) the degree of contagiousness of the agent or toxin and the methods by which the agent or toxin is transferred to humans;

"(III) the availability and effectiveness of pharmacotherapies and immunizations to treat and prevent any illness resulting from infection by the agent or toxin; and

"(IV) any other criteria, including the needs of children and other vulnerable populations, that the Secretary considers appropriate; and

"(ii) consult with appropriate Federal departments and agencies, and scientific experts representing appropriate professional groups, including those with pediatric expertise.

"(2) Biennial review.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall, through rulemaking, revise the list as necessary to incorporate additions or deletions to ensure public health, safety, and security.

"(3) Exemptions.—The Secretary may exempt from the list under paragraph (1)—

"(A) attenuated or inactive biological agents or toxins used in biomedical research or for legitimate medical purposes; and

"(B) products that are cleared or approved under the Federal Food, Drug, and Cosmetic Act or under the Virus-Serum-Toxin Act, as amended in 1985 by the Food Safety and Security Act.";

"(b) Regulation of Transfers of Listed Biological Agents and Toxins.—The Secretary shall by regulation provide for—

"(1) the establishment and enforcement of safety procedures for the transfer of biological agents and toxins listed pursuant to subsection (a)(1), including measures to ensure—

"(A) proper training and appropriate skills to handle such agents and toxins; and

"(B) proper laboratory facilities to contain and dispose of such agents and toxins;

"(2) safeguards to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

"(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

"(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

"(c) Possession and Use of Listed Biological Agents and Toxins.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of biological agents and toxins listed pursuant to subsection (a)(1) in order to protect the public health and safety, including the measures, safeguards, procedures, and availability of such agents and toxins described in paragraphs (1) through (4) of subsection (b), respectively.

"(d) Registration and Traceability Mechanisms.—Regulations under subsections (b) and (c) shall require registration for the possession, use, and transfer of biological agents and toxins listed pursuant to subsection (a)(1), and such registration shall include (if available to the registered person) information regarding the characterization of such biological agents and toxins to facilitate their identification and traceability. The Secretary shall maintain a national database of the location of such biological agents and toxins with information regarding their characterizations.

"(e) Inspections.—The Secretary shall have the authority to inspect persons subject to the regulations under subsections (b) and (c) to ensure their compliance with such regulations, including prohibitions on restricted persons under subsection (g).

"(f) Exemptions.—

"(1) In general.—The Secretary shall establish exemptions, including exemptions from the security provisions, from the applicability of provisions of—

"(A) the regulations issued under subsection (b) and (c) when the Secretary determines that the exemptions, including exemptions from the security requirements, and for the use of attenuated or inactive biological agents or toxins in biomedical research or for legitimate medical purposes are consistent with protecting public health and safety; and

"(B) the regulations issued under subsection (c) for agents and toxins that the Secretary determines do not present a threat for use in domestic or international terrorism, provided the exemptions are consistent with protecting public health and safety.

"(2) Clinical laboratories.—The Secretary shall exempt clinical laboratories and other persons that possess, use, or transfer biological agents and toxins listed pursuant to subsection (a)(1) from the applicability of provisions of regulations issued under subsections (b) and (c) only when—

"(A) such agents or toxins are presented for diagnosis, verification, or proficiency testing;

"(B) the identification of such agents and toxins is, when required under Federal or State law, reported to the Secretary or other public health authorities; and

"(C) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary in regulation.

"(g) Security Requirements for Registered Persons.—

"(1) Security.—In carrying out paragraphs (2) and (3) of subsection (b), the Secretary shall establish appropriate security requirements for persons possessing, using, or transferring biological agents and toxins listed pursuant to subsection (a)(1), considering existing standards developed by the Attorney General for the security of government facilities, and shall ensure compliance with such requirements as a condition of registration under regulations issued under subsections (b) and (c).

"(2) Limiting access to listed agents and toxins.—Regulations issued under subsections (b) and (c) shall include provisions—

"(A) to restrict access to biological agents and toxins listed pursuant to subsection (a)(1) only to those individuals who need to handle or use such agents or toxins; and

"(B) to provide that registered persons promptly submit the names and other identifying information for such individuals to the Attorney General, with which information the Attorney General shall promptly use criminal, immigration, and national security databases available to the Federal Government to identify whether such individuals—

"(i) are restricted persons, as defined in section 175b of title 18, United States Code; or

"(ii) are named in a warrant issued to a Federal or State law enforcement agency for participation in any domestic or international act of terrorism.

"(3) Consultation and implementation.—Regulations under subsections (b) and (c) shall be developed in consultation with research-performing organizations, including universities, and implemented with timeframes that take into account the need to continue research and education using biological agents and toxins listed pursuant to subsection (a)(1).

"(h) Disclosure of Information.—

"(1) In general.—Any information in the possession of any Federal agency that identifies a person, or the geographic location of a person, who is registered pursuant to regulations under this section (including regulations promulgated before the effective date of this subsection), or any site-specific information relating to the type, quantity, or characterization of a biological agent or toxin listed pursuant to subsection (a)(1) or the site-specific security mechanisms in place to protect such agents and toxins, including the national database required in subsection (d), shall not be disclosed under section 552(a) of title 5, United States Code.

"(2) Disclosures for public health and safety; congress.—Nothing in this section may be construed as preventing the head of any Federal agency—

"(A) from making disclosures of information described in paragraph (1) for purposes of protecting the public health and safety; or

"(B) from making disclosures of such information to any committee or subcommittee of the Congress with appropriate jurisdiction, upon request.

"(i) Civil Penalty.—Any person who violates any provision of a regulation under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding $250,000 in the case of an individual and $500,000 in the case of any other person. The provisions of section 1128A of the Social Security Act (other than subsections (a), (b), (h), and (i), the first sentence of subsection (c), and paragraphs (1) and (2) of subsection (f)) small apply to civil money penalties under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of the Social Security Act. The secretary may delegate authority under this section in the same manner as provided in section 1128A(j)(2) of the Social Security Act and such authority shall include all powers as contained in 5 U.S.C. App., section 6."

"(j) Definitions.—For purposes of this section, the terms 'biological agent' and 'toxin' have the same meaning as in section 178 of title 18, United States Code.".

(2) Regulations.—

(A) Date certain for promulgation; effective date regarding criminal and civil penalties.—Not later than 180 days after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate an interim final rule for carrying out section 351A(c) of the Public Health Service Act, which amends the Antiterrorism and Effective Death Penalty Act of 1996. Such interim final rule will take effect 60 days after the date on which such rule is promulgated, including for purposes of—

(i) section 175(b) of title 18, United States Code (relating to criminal penalties), as added by subsection (b)(1)(B) of this section; and

(ii) section 351A(i) of the Public Health Service Act (relating to civil penalties).

(B) SUBMISSION OF REGISTRATION APPLICATIONS.—A person required to register for possession under the interim final rule promulgated under subparagraph (A), shall submit an application for such registration not later than 60 days after the date on which such rule is promulgated.

(3) CONFORMING AMENDMENT.—Subsections (d), (e), (f), and (g) of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 262 note) are repealed.

(4) EFFECTIVE DATE.—Paragraph (1) shall take effect as if incorporated in the Antiterrorism and Effective Death Penalty Act of 1996, and any regulations, including the list under subsection (d)(1) of section 511 of that Act, issued under section 511 of that Act shall remain in effect as if issued under section 351A of the Public Health Service Act.

(b) SELECT AGENTS.—

(1) IN GENERAL.—Section 175 of title 18, United States Code, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following:

"(b) SELECT AGENTS.—

"(1) UNREGISTERED FOR POSSESSION.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulation issued under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

"(2) TRANSFER TO UNREGISTERED PERSON.—Whoever transfers a select agent to a person who the transferor has reasons to believe has not obtained a registration required by regulations issued under section 351A(b) or (c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.".

(2) DEFINITIONS.—Section 175 of title 18, United States Code, as amended by paragraph (1), is further amended by striking subsection (d) and inserting the following:

"(d) DEFINITIONS.—As used in this section:

"(1) The terms 'biological agent' and 'toxin' have the meanings given such terms in section 178, except that, for purposes of subsections (b) and (c), such terms do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, cultured, collected, or otherwise extracted from its natural source.

"(2) The term 'for use as a weapon' includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system, other than for prophylactic, protective, or other peaceful purposes.

"(3) The term 'select agent' means a biological agent or toxin, as defined in paragraph (1), that is on the list that is in effect pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132), or as subsequently revised under section 351A(a) of the Public Health Service Act.".

(3) CONFORMING AMENDMENT.—

(A) Section 175(a) of title 18, United States Code, is amended in the second sentence by striking "under this section" and inserting "under this subsection".

(B) Section 175(c) of title 18, United States Code, (as redesignated by paragraph (1)), is amended by striking the second sentence.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with other appropriate Federal agencies, shall submit to the Congress a report that—

(1) describes the extent to which there has been compliance by governmental and private entities with applicable regulations under section 351A of the Public Health Service Act, including the extent of compliance before the date of the enactment of this Act, and including the extent of compliance with regulations promulgated after such date of enactment;

(2) describes the actions to date and future plans of the Secretary for updating the list of biological agents and toxins under section 351A(a)(1) of the Public Health Service Act;

(3) describes the actions to date and future plans of the Secretary for determining compliance with regulations under such section 351A of the Public Health Service Act and for taking appropriate enforcement actions; and

(4) provides any recommendations of the Secretary for administrative or legislative initiatives regarding such section 351A of the Public Health Service Act.

This division may be cited as the "Department of Defense Appropriations Act, 2002".

DIVISION B—TRANSFERS FROM THE EMERGENCY RESPONSE FUND PURSUANT TO PUBLIC LAW 107-38

The funds appropriated in Public Law 107-38 subject to subsequent enactment and previously designated as an emergency by the President and Congress under the Balanced Budget and Emergency Deficit Control Act of 1985, are transferred to the following chapters and accounts as follows:

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Office of the Secretary", $80,919,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $70,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

BUILDINGS AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Buildings and Facilities", $73,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and Education", $50,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $95,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38, of which $50,000,000 may be transferred and merged with the Agriculture Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Buildings and Facilities", $14,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

FOOD SAFETY AND INSPECTION SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Food Safety and Inspection Service", $15,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)", $39,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107-38: *Provided*, That of the amounts provided in this Act and any amounts available for reallocation in fiscal year 2002, the Secretary shall reallocate funds under section 17(g)(2) of the Child Nutrition Act of 1966, as amended, in the manner and under the formula the Secretary deems necessary to respond to the effects of unemployment and other conditions caused by the recession, and starting no later than March 1, 2002, such reallocation shall occur no less frequently than every other month throughout the fiscal year.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $127,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

RELATED AGENCY

COMMODITY FUTURES TRADING COMMISSION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Commodity Futures Trading Commission", $10,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

PATRIOT ACT ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the

United States, for "Patriot Act Activities", $25,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38, of which $2,000,000 shall be for a feasibility report, as authorized by Section 405 of Public Law 107-56, and of which $23,000,000 shall be for implementation of such enhancements as are deemed necessary: *Provided*, That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107-77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ADMINISTRATIVE REVIEW AND APPEALS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Administrative Review and Appeals", $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, General Legal Activities", $21,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38, of which $15,000,000 shall be for a cyber security initiative.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, United States Attorneys", $74,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, United States Marshals Service", $26,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38, of which $9,125,000 shall be for courthouse security equipment.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", $35,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Federal Bureau of Investigation

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $654,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38, of which $10,283,000 is for the refurbishing of the Engineering and Research Facility and $14,135,000 is for the decommissioning and renovation of former laboratory space in the Hoover building, of which $66,000,000 shall be for a cyber security initiative at the National Infrastructure Protection Center.

Immigration and Naturalization Service

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for all costs associated with the reorganization of the Immigration and Naturalization Service, for "Salaries and Expenses", $449,800,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38, of which $10,000,000 shall be for additional border patrols along the Southwest border, of which $55,800,000 shall be for additional inspectors and support staff on the northern border, and of which $23,900,000 shall be for transfer of and additional border patrols and support staff on the northern border.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", $99,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Office of Justice Programs

JUSTICE ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Justice Assistance", $400,000,000, to remain available until expended, for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and section 1014 of the USA PATRIOT ACT (Public Law 107-56) and for other counter terrorism programs, to be obligated from amounts made available in Public Law 107-38, of which $9,800,000 is for an aircraft for counterterrorism and other required activities for the City of New York.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $245,900,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which $81,700,000 shall be for Northern Virginia, of which $81,700,000 shall be for New Jersey; of which $56,500,000 shall be for Maryland, of which $17,000,000 shall be for a grant for the Utah Olympic Public Safety Command for security equipment and infrastructure related to the 2002 Winter Olympics, including the Paralympics and related events, and of which $9,000,000 shall be made available for discretionary grants to State and local law enforcement agencies to establish or enhance cybercrime units aimed at investigating and prosecuting cybersecurity offenses, to remain available until expended, and to be obligated from amounts made available in Public Law 107-38.

CRIME VICTIMS FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Crime Victims Fund", $68,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

DEPARTMENT OF COMMERCE

International Trade Administration

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Administration", $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Export Administration

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Administration", $1,756,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Economic Development Administration

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $335,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

National Telecommunications and Information Administration

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For emergency grants authorized by section 392 of the Communications Act of 1934, as amended, to respond to the September 11, 2001, terrorist attacks on the United States, $8,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

United States Patent and Trademark Office

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $3,360,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

National Institute of Standards and Technology

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Scientific and Technical Research and Services", $10,400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38, of which $10,000,000 shall be for a cyber security initiative.

CONSTRUCTION OF RESEARCH FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction of Research Facilities", $1,225,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations, Research and Facilities", $2,750,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Departmental Management

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $881,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

THE JUDICIARY

Supreme Court of the United States

CARE OF THE BUILDINGS AND GROUNDS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Care of the Buildings and Grounds", $30,000,000, to remain available until expended for security enhancements, to be obligated from amounts made available in Public Law 107–38.

Court of Appeals, District Courts, and Other Judicial Services

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $5,000,000, is for Emergency Communications Equipment, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COURT SECURITY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Court Security", $57,521,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for security of the Federal judiciary, of which not less than $4,000,000 shall be available to reimburse the United States Marshals Service for a Supervisory Deputy Marshal responsible for coordinating security in each judicial district and circuit: *Provided*, That the funds may be expended directly or transferred to the United States Marshals Service.

Administrative Office of the United States Courts

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,879,000, to remain available until expended, to enhance security at the Thurgood Marshall Federal Judiciary Building, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

Department of Transportation

Maritime Administration

OPERATIONS AND TRAINING

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Training", $11,000,000, for a port security program, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, $12,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,301,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Securities and Exchange Commission

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $20,705,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Small Business Administration

BUSINESS LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for "Business Loans Program Account", $75,000,000, for the cost of loan subsidies and for loan modifications as authorized by section 202 of this Act, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DISASTER LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for "Disaster Loans Program Account", $75,000,000, for the cost of loan subsidies and for loan modifications as authorized by section 201 of this Act, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 201. For purposes of assistance available under section 7(b)(2) and (4) of the Small Business Act (15 U.S.C. 636(b)(2) and (4)) to small business concerns located in disaster areas declared as a result of the September 11, 2001, terrorist attacks—

(i) the term "small business concern" shall include not-for-profit institutions and small business concerns described in United States Industry Codes 522320, 522390, 523210, 523920, 523991, 524113, 524114, 524126, 524128, 524210, 524291, 524292, and 524298 of the North American Industry Classification System (as described in 13 C.F.R. 121.201, as in effect on January 2, 2001);

(ii) the Administrator may apply such size standards as may be promulgated under such section 121.201 after the date of enactment of this provision, but no later than one year following the date of enactment of this Act; and

(iii) payments of interest and principal shall be deferred, and no interest shall accrue during the two-year period following the issuance of such disaster loan.

SEC. 202. Notwithstanding any other provision of law, the limitation on the total amount of loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) outstanding and committed to a borrower in the disaster areas declared in response to the September 11, 2001, terrorist attacks shall be increased to $10,000,000 and the Administrator shall, in lieu of the fee collected under section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)), collect an annual fee of 0.25 percent of the outstanding balance of deferred participation loans made under section 7(a) to small businesses adversely affected by the September 11, 2001, terrorist attacks and their aftermath, for a period of one year following the date of enactment and to the extent the costs of such reduced fees are offset by appropriations provided by this Act.

SEC. 203. Not later than April 1, 2002, the Secretary of State shall submit to the Committees on Appropriations, in both classified and unclassified form, a report on the United States-People's Republic of China Science and Technology Agreement of 1979, including all protocols. The report is intended to provide a comprehensive evaluation of the benefits of the agreement to the Chinese economy, military, and defense industrial base. The report shall include the following elements:

(1) an accounting of all activities conducted under the Agreement for the past five years, and a projection of activities to be undertaken through 2010;

(2) an estimate of the annual cost to the United States to administer the Agreement;

(3) an assessment of how the Agreement has influenced the policies of the People's Republic of China toward scientific and technological cooperation with the United States;

(4) an analysis of the involvement of Chinese nuclear weapons and military missile specialists in the activities of the Joint Commission;

(5) a determination of the extent to which the activities conducted under the Agreement have enhanced the military and industrial base of the People's Republic of China, and an assessment of the impact of projected activities through 2010, including transfers of technology, on China's economic and military capabilities; and

(6) recommendations on improving the monitoring of the activities of the Commission by the Secretaries of Defense and State.

The report shall be developed in consultation with the Secretaries of Commerce, Defense, and Energy, the Directors of the National Science Foundation and the Federal Bureau of Investigation, and the intelligence community.

CHAPTER 3

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

Defense Emergency Response Fund

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for "Defense Emergency Response Fund", $1,525,000,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38: *Provided*, That $20,000,000 shall be made available for the National Infrastructure Simulation and Analysis Center (NISAC): *Provided further*, That $500,000 shall be made available only for the White House Commission on the National Moment of Remembrance: *Provided further*, That—

(1) $35,000,000 shall be available for the procurement of the Advance Identification Friend-or-Foe system for integration into F-16 aircraft of the Air National Guard that are being used in continuous air patrols over Washington, District of Columbia, and New York, New York; and

(2) $20,000,000 shall be available for the procurement of the Transportation Multi-Platform Gateway for integration into the AWACS aircraft that are being used to perform early warning surveillance over the United States.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 301. Amounts available in the "Defense Emergency Response Fund" shall be available for the purposes set forth in the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38): *Provided*, That the Fund may be used to reimburse other appropriations or funds of the Department of Defense only for costs incurred for such purposes between September 11 and December 31, 2001: *Provided further*, That such Fund may be used to liquidate obligations incurred by the Department under the authorities in 41 U.S.C. 11 for any costs incurred for such purposes between September 11 and September 30, 2001: *Provided further*, That the Secretary of Defense may transfer funds from the Fund to the appropriation, "Support for International Sporting Competitions, Defense", to be merged with, and available for the same time period and for the same purposes as that appropriation: *Provided further*, That the transfer authority provided by this section is in addition to any other transfer authority available to the Secretary of Defense: *Provided further*, That the Secretary of Defense shall report to the Congress quarterly all transfers made pursuant to this authority.

SEC. 302. Amounts in the "Support for International Sporting Competitions, Defense", may be used to support essential security and safety for the 2002 Winter Olympic Games in Salt Lake City, Utah, without the certification required under subsection 10 U.S.C. 2564(a). Further, the term "active duty", in section 5802 of Public Law 104–208 shall include State active duty and full-time National Guard duty performed by members of the Army National Guard and Air National Guard in connection with providing essential security and safety support to the 2002 Winter Olympic Games and logistical and security support to the 2002 Paralympic Games.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR PROTECTIVE CLOTHING AND BREATHING APPARATUS

For a Federal payment to the District of Columbia for protective clothing and breathing apparatus, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $7,144,000, of which $922,000 is for the Fire and Emergency Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, and $453,000 is for the Department of Public Works.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR SPECIALIZED HAZARDOUS MATERIALS EQUIPMENT

For a Federal payment to the District of Columbia for specialized hazardous materials equipment, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $1,032,000, for the Fire and Emergency Medical Services Department.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR CHEMICAL AND BIOLOGICAL WEAPONS PREPAREDNESS

For a Federal payment to the District of Columbia for chemical and biological weapons preparedness, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $10,355,000, of which $205,000 is for the Fire and Emergency Medical Services Department, $258,000 is for the Metropolitan Police Department, and $9,892,000 is for the Department of Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR PHARMACEUTICALS FOR RESPONDERS

For a Federal payment to the District of Columbia for pharmaceuticals for responders, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $2,100,000, for the Department of Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR RESPONSE AND COMMUNICATIONS CAPABILITY

For a Federal payment to the District of Columbia for response and communications capability, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $14,960,000, of which $7,755,000 is for the Fire and Emergency Medical Services Department, $5,855,000 is for the Metropolitan Police Department, $113,000 is for the Department of Public Works Division of Transportation, $58,000 is for the Office of Property Management, $60,000 is for the Department of Public Works, $750,000 is for the Department of Health, $309,000 is for the Department of Human Services, and $60,000 is for the Department of Parks and Recreation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR SEARCH, RESCUE AND OTHER EMERGENCY EQUIPMENT AND SUPPORT

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for search, rescue and other emergency equipment and support, $8,850,000, of which $5,442,000 is for the Metropolitan Police Department, $208,000 is for the Fire and Emergency Medical Services Department, $398,500 is for the Department of Consumer and Regulatory Affairs, $1,178,500 is for the Department of Public Works, $542,000 is for the Department of Human Services, and $1,081,000 is for the Department of Mental Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR EQUIPMENT, SUPPLIES AND VEHICLES FOR THE OFFICE OF THE CHIEF MEDICAL EXAMINER

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for equipment, supplies and vehicles for the Office of the Chief Medical Examiner, $1,780,000.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR HOSPITAL CONTAINMENT FACILITIES FOR THE DEPARTMENT OF HEALTH

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for hospital containment facilities for the Department of Health, $8,000,000.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR THE OFFICE OF THE CHIEF TECHNOLOGY OFFICER

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for the Office of the Chief Technology Officer, $43,994,000, for a first response land-line and wireless interoperability project, of which $1,000,000 shall be used to initiate a comprehensive review, by a non-vendor contractor, of the District's current technology-based systems and to develop a plan for integrating the communications systems of the District of Columbia Metropolitan Police and Fire and Emergency Medical Services Departments with the systems of regional and federal law enforcement agencies, including but not limited to the United States Capitol Police, United States Park Police, United States Secret Service, Federal Bureau of Investigation, Federal Protective Service, and the Washington Metropolitan Area Transit Authority Police: *Provided*, That such plan shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2002.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR EMERGENCY TRAFFIC MANAGEMENT

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for emergency traffic management, $20,700,000, for the Department of Public Works Division of Transportation, of which $14,000,000 is to upgrade traffic light controllers, $4,700,000 is to establish a video traffic monitoring system, and $2,000,000 is to disseminate traffic information.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR TRAINING AND PLANNING

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for training and planning, $11,449,000, of which $4,400,000 is for the Fire and Emergency Medical Services Department, $990,000 is for the Metropolitan Police Department, $1,200,000 is for the Department of Health, $200,000 is for the Office of the Chief Medical Examiner, $1,500,000 is for the Emergency Management Agency, $500,000 is for the Office of Property Management, $500,000 is for the Department of Mental Health, $469,000 is for the Department of Consumer and Regulatory Affairs, $240,000 is for the Department of Public Works, $600,000 is for the Department of Human Services, $100,000 is for the Department of Parks and Recreation, $750,000 is for the Division of Transportation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR INCREASED SECURITY

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for increased facility security, $25,536,000, of which $3,900,000 is for the Emergency Management Agency, $14,575,000 for the public schools, and $7,061,000 for the Office of Property Management.

FEDERAL PAYMENT TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For a Federal payment to the Washington Metropolitan Area Transit Authority to meet region-wide security requirements, a contribution of $39,100,000, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, of which $5,000,000 shall be used for protective clothing and breathing apparatus, $17,200,000 shall be for completion of the fiber optic network project and an automatic vehicle locator system, and $16,900,000 shall be for increased employee and facility security.

FEDERAL PAYMENT TO THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

For a Federal payment to the Metropolitan Washington Council of Governments to enhance regional emergency preparedness, coordination and response, $5,000,000, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, of which $1,500,000 shall be used to contribute to the development of a comprehensive regional emergency preparedness, coordination and response plan, $500,000 shall be used to develop a critical infrastructure threat assessment model, $500,000 shall be used to develop and implement a regional communications plan, and $2,500,000 shall be used to develop protocols and procedures for training and outreach exercises.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 401. Notwithstanding any other provision of law, the Chief Financial Officer of the District of Columbia may transfer up to 5 percent of the funds appropriated to the District of Columbia in this chapter between these accounts: *Provided*, That no such transfer shall take place unless the Chief Financial Officer of the District of Columbia notifies in writing the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of such transfer.

SEC. 402. The Chief Financial Officer of the District of Columbia and the Chief Financial Officer of the Washington Metropolitan Area Transit Authority shall provide quarterly reports to the President and the Committees on Appropriations of the Senate and the House of Representatives on the use of the funds under this chapter beginning no later than March 15, 2002.

CHAPTER 5

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation and Maintenance, General", $139,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Water and Related Resources", $30,259,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for "Weapons Activities", $131,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE NUCLEAR NONPROLIFERATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to improve nuclear nonproliferation and verification research and development, for "Defense Nuclear Nonproliferation", $226,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OTHER DEFENSE RELATED ACTIVITIES

OTHER DEFENSE ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses necessary to support activities related to countering potential biological threats to civilian populations, for "Other Defense Activities", $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Defense Environmental Restoration and Waste Management", $8,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCY

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear power plants, for "Salaries and Expenses", $36,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That the funds appropriated herein shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation of the National Park System", $10,098,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PARK POLICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "United States Park Police", $25,295,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", $21,624,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,205,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for the working capital fund of the Department of the Interior.

RELATED AGENCIES

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $21,707,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,148,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Maintenance", $4,310,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $758,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 7

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Training and employment services", $32,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That such amount shall be provided to the Consortium for Worker Education, established by the New York City Central Labor Council and the New York City Partnership, for an Emergency Employment Clearinghouse.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "State Unemployment Insurance and Employment Service Operations", $4,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

WORKERS COMPENSATION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Workers Compensation Programs", $175,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That, of such amount, $125,000,000 shall be for payment to the New York State Workers Compensation Review Board, for the processing of claims related to the terrorist attacks: *Provided further*, That, of such amount, $25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the terrorist attacks: *Provided further*, That, of such amount, $25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the first response emergency services personnel who were injured, were disabled, or died due to the terrorist attacks.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the

United States, for "Salaries and Expenses", $5,880,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

DISEASE CONTROL, RESEARCH, AND TRAINING

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Disease control, research, and training" for baseline safety screening for the emergency services personnel and rescue and recovery personnel, $12,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Institutes of Health

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "National Institute of Environmental Health Sciences" for carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, $10,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Office of the Secretary

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, to provide grants to public entities, not-for-profit entities, and Medicare and Medicaid enrolled suppliers and institutional providers to reimburse for health care related expenses or lost revenues directly attributable to the public health emergency resulting from the September 11, 2001, terrorist acts, for "Public Health and Social Services Emergency Fund", $140,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That none of the costs have been reimbursed or are eligible for reimbursement from other sources.

For emergency expenses necessary to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for "Public Health and Social Services Emergency Fund", $2,575,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38. Of this amount, $1,000,000,000 shall be for the Centers for Disease Control and Prevention for improving State and local capacity; $100,000,000 shall be for grants to hospitals, in collaboration with local governments, to improve capacity to respond to bioterrorism; $165,000,000 shall be for upgrading capacity at the Centers for Disease Control and Prevention, including research; $10,000,000 shall be for the establishment and operation of a national system to track biological pathogens; $99,000,000 shall be for the National Institute of Allergy and Infectious Diseases for bioterrorism-related research and development and other related needs; $71,000,000 shall be for the National Institute of Allergy and Infectious Diseases for the construction of biosafety laboratories and related infrastructure costs; $593,000,000 shall be for the National Pharmaceutical Stockpile; $512,000,000 shall be for the purchase, deployment and related costs of the smallpox vaccine, and $25,000,000 shall be for improving laboratory security at the National Institutes of Health and the Centers for Disease Control and Prevention. At the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

SCHOOL IMPROVEMENT PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "School Improvement Programs", for the Project School Emergency Response to Violence program, $10,000,000, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

Social Security Administration

LIMITATION ON ADMINISTRATIVE EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Limitation on Administrative Expenses", $7,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Labor Relations Board

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 8

LEGISLATIVE BRANCH

JOINT ITEMS

LEGISLATIVE BRANCH EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the terrorist attacks on the United States, $256,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That $34,500,000 shall be transferred to the "SENATE", "Sergeant at Arms and Doorkeeper of the Senate" and shall be obligated with the prior approval of the Senate Committee on Appropriations: *Provided further*, That $40,712,000 shall be transferred to "HOUSE OF REPRESENTATIVES", "Salaries and Expenses" and shall be obligated with the prior approval of the House Committee on Appropriations: *Provided further*, That the remaining balance of $180,869,000 shall be transferred to the Capitol Police Board, which shall transfer to the affected entities in the Legislative Branch such amounts as are approved by the House and Senate Committees on Appropriations: *Provided further*, That any Legislative Branch entity receiving funds pursuant to the Emergency Response Fund established by Public Law 107–38 (without regard to whether the funds are provided under this chapter or pursuant to any other provision of law) may transfer any funds provided to the entity to any other Legislative Branch entity receiving funds under Public Law 107–38 in an amount equal to that required to provide support for security enhancements, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

SENATE

Administrative Provisions

SEC. 801. (a) ACQUISITION OF BUILDINGS AND FACILITIES.—Notwithstanding any other provision of law, in order to respond to an emergency situation, the Sergeant at Arms of the Senate may acquire buildings and facilities, subject to the availability of appropriations, for the use of the Senate, as appropriate, by lease, purchase, or such other arrangement as the Sergeant at Arms of the Senate considers appropriate (including a memorandum of understanding with the head of an Executive Agency, as defined in section 105 of title 5, United States Code, in the case of a building or facility under the control of such Agency). Actions taken by the Sergeant at Arms of the Senate must be approved by the Committees on Appropriations and Rules and Administration.

(b) AGREEMENTS.—Notwithstanding any other provision of law, for purposes of carrying out subsection (a), the Sergeant at Arms of the Senate may carry out such activities and enter into such agreements related to the use of any building or facility acquired pursuant to such subsection as the Sergeant at Arms of the Senate considers appropriate, including—

(1) agreements with the United States Capitol Police or any other entity relating to the policing of such building or facility; and

(2) agreements with the Architect of the Capitol or any other entity relating to the care and maintenance of such building or facility.

(c) AUTHORITY OF CAPITOL POLICE AND ARCHITECT.—

(1) ARCHITECT OF THE CAPITOL.—Notwithstanding any other provision of law, the Architect of the Capitol may take any action necessary to carry out an agreement entered into with the Sergeant at Arms of the Senate pursuant to subsection (b).

(2) CAPITOL POLICE.—Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a) is amended—

(A) by striking "The Capitol Police" and inserting "(a) The Capitol Police"; and

(B) by adding at the end the following new subsection:

"(b) For purposes of this section, 'the United States Capitol Buildings and Grounds' shall include any building or facility acquired by the Sergeant at Arms of the Senate for the use of the Senate for which the Sergeant at Arms of the Senate has entered into an agreement with the United States Capitol Police for the policing of the building or facility.".

(d) TRANSFER OF CERTAIN FUNDS.—Subject to the approval of the Committee on Appropriations of the Senate, the Architect of the Capitol may transfer to the Sergeant at Arms of the Senate amounts made available to the Architect for necessary expenses for the maintenance, care and operation of the Senate office buildings during a fiscal year in order to cover any portion of the costs incurred by the Sergeant at Arms of the Senate during the year in acquiring a building or facility pursuant to subsection (a).

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 802. (a) Notwithstanding any other provision of law—

(1) subject to subsection (b), the Sergeant at Arms of the Senate and the head of an Executive Agency (as defined in section 105 of title 5, United States Code) may enter into a memorandum of understanding under which the Agency may provide facilities, equipment, supplies, personnel, and other support services for the use of the Senate during an emergency situation; and

(2) the Sergeant at Arms of the Senate and the head of the Agency may take any action

necessary to carry out the terms of the memorandum of understanding.

(b) The Sergeant at Arms of the Senate may enter into a memorandum of understanding described in subsection (a)(1) consistent with the Senate Procurement Regulations.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

OTHER LEGISLATIVE BRANCH

Administrative Provisions

Sec. 803. (a) Section 1(c) of Public Law 96-152 (40 U.S.C. 206-1) is amended by striking "but not to exceed" and all that follows and inserting the following: "but not to exceed $2,500 less than the lesser of the annual salary for the Sergeant at Arms of the House of Representatives or the annual salary for the Sergeant at Arms and Doorkeeper of the Senate.".

(b) The Assistant Chief of the Capitol Police shall receive compensation at a rate determined by the Capitol Police Board, but not to exceed $1,000 less than the annual salary for the chief of the United States Capitol Police.

(c) This section and the amendment made by this section shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

Sec. 804. (a) Assistance for Capitol Police From Executive Departments and Agencies.—Notwithstanding any other provision of law, Executive departments and Executive agencies may assist the United States Capitol Police in the same manner and to the same extent as such departments and agencies assist the United States Secret Service under section 6 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note), except as may otherwise be provided in this section.

(b) Terms of Assistance.—Assistance under this section shall be provided—

(1) consistent with the authority of the Capitol Police under sections 9 and 9A of the Act of July 31, 1946 (40 U.S.C. 212a and 212a-2);

(2) upon the advance written request of—

(A) the Chairman of the Capitol Police Board, or

(B) in the absence of the Chairman of the Capitol Police Board—

(i) the Sergeant at Arms and Doorkeeper of the Senate, in the case of any matter relating to the Senate; or

(ii) the Sergeant at Arms of the House of Representatives, in the case of any matter relating to the House; and

(3) either—

(A) on a temporary and non-reimbursable basis,

(B) on a temporary and reimbursable basis, or

(C) on a permanent reimbursable basis upon advance written request of the Chairman of the Capitol Police Board.

(c) Reports on Expenditures for Assistance.—

(1) Reports.—With respect to any fiscal year in which an Executive department or Executive agency provides assistance under this section, the head of that department or agency shall submit a report not later than 30 days after the end of the fiscal year to the Chairman of the Capitol Police Board.

(2) Contents.—The report submitted under paragraph (1) shall contain a detailed account of all expenditures made by the Executive department or Executive agency in providing assistance under this section during the applicable fiscal year.

(3) Summary of Reports.—After receipt of all reports under paragraph (2) with respect to any fiscal year, the Chairman of the Capitol Police Board shall submit a summary of such reports to the Committees on Appropriations of the Senate and the House of Representatives.

(d) Effective Date.—This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

Sec. 805. (a) The Chief of the Capitol Police may, upon any emergency as determined by the Capitol Police Board, deputize members of the National Guard (while in the performance of Federal or State service), members of components of the Armed Forces other than the National Guard, and Federal, State or local law enforcement officers as may be necessary to address that emergency. Any person deputized under this section shall possess all the powers and privileges and may perform all duties of a member or officer of the Capitol Police.

(b) The Capitol Police Board may promulgate regulations, as determined necessary, to carry out provisions of this section.

(c) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

Sec. 806. (a) Notwithstanding any other provision of law, the United States Capitol Preservation Commission established under section 801 of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a) may transfer to the Architect of the Capitol amounts in the Capitol Preservation Fund established under section 803 of such Act (40 U.S.C. 188a-2) if the amounts are to be used by the Architect for the planning, engineering, design, or construction of the Capitol Visitor Center.

(b) Any amounts transferred pursuant to subsection (a) shall remain available for the use of the Architect of the Capitol until expended.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

CHAPTER 9

MILITARY CONSTRUCTION

Military Construction, Defense-Wide

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Defense-wide", $475,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

GENERAL PROVISIONS, THIS CHAPTER

Sec. 901. (a) Availability of Amounts for Military Construction Relating to Terrorism.—Amounts made available to the Department of Defense from funds appropriated in Public Law 107-38 and this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

(b) Notice to Congress.—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection the Secretary shall notify the appropriate committees of Congress the following:

(1) The determination to use such amounts for the project.

(2) The estimated cost of the project.

(c) Appropriate Committees of Congress Defined.—In this section the term "appropriate committees of Congress" has the meaning given that term in section 2801 (4) of title 10, United States Code.

Sec. 902. (a) Funding for Certain Military Construction Projects.—If in exercising the authority in section 2808 of title 10, United States Code, to carry out military construction projects not authorized by law, the Secretary of Defense utilizes, whether in whole or in part, funds appropriated but not yet obligated for a military construction project previously authorized by law, the Secretary shall carry out such military construction project previously authorized by law using amounts appropriated by the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107-38; 115 Stat. 220), or any other appropriations Act to provide funds for the recovery from and response to the terrorist attacks on the United States that is enacted after the date of the enactment of this Act, and available for obligation.

(b) Notice to Congress of Transfer of Funds from Authorized Military Construction Projects.—(1) The Secretary of Defense shall notify the congressional defense committees before transferring funds from a military construction project previously authorized by law for purposes of undertaking a military construction project under section 2808 of title 10, United States Code. The notice of a transferal shall specify the military construction project previously authorized by law, and shall set forth the amount of the funds to be so transferred (including whether such funds are all or part of the amount appropriated for such military construction project previously authorized by law).

(2) In this subsection, the term "congressional defense committees" means—

(A) the Committees on Appropriations and Armed Services of the Senate; and

(B) the Committees on Appropriations and Armed Services of the House of Representatives.

CHAPTER 10

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", for the Office of Intelligence and Security, $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, in addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, to be derived from the Airport and Airway Trust Fund, $57,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Coast Guard

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", $285,350,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107-38.

Federal Aviation Administration

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations", $251,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until

September 30, 2003, to be obligated from amounts made available in Public Law 107-38.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research, Engineering, and Development", $50,000,000, to be derived from the Airport and Airway Trust Fund, to be obligated from amounts made available in Public Law 107-38.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, notwithstanding any other provision of law, for "Grants-in-aid for airports", to enable the Federal Aviation Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, $200,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended, to be obligated from amounts made available in Public Law 107-38

FEDERAL HIGHWAY ADMINISTRATION

MISCELLANEOUS APPROPRIATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Miscellaneous Appropriations", including the operation and construction of ferrys and ferry facilities, $110,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Emergency Relief Program", as authorized by section 125 of title 23, United States Code, $75,000,000, to be derived from the Highway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Safety and Operations", $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $100,000,000, to remain available until expended, and to be obligated from amounts made available in Public Law 107-38.

FEDERAL TRANSIT ADMINISTRATION

FORMULA GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Formula Grants", $23,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

CAPITAL INVESTMENT GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Capital Investment Grants", $100,000,000, to be obligated from amounts made available in Public Law 107-38: *Provided*, That in administering funds made available under this paragraph, the Federal Transit Administrator shall direct funds to those transit agencies most severely impacted by the terrorist attacks of September 11, 2001, excluding any transit agency receiving a Federal payment elsewhere in this Act: *Provided further*, That the provisions of 49 U.S.C. 5309(h) shall not apply to funds made available under this paragraph.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and Special Programs", $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for other safety and security related audit and monitoring responsibilities, for "Salaries and Expenses", $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

RELATED AGENCY

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $836,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

CHAPTER 11

DEPARTMENT OF THE TREASURY

INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,032,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $22,846,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $31,431,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $292,603,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38; of this amount, not less than $140,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders, of which $10,000,000 shall be available for hiring inspectors along the Southwest border; not less than $15,000,000 shall be available for seaport security; and not less than $30,000,000 shall be available for the procurement and deployment of non-intrusive and counterterrorism inspection technology, equipment and infrastructure improvements to combat terrorism at the land and sea border ports of entry.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation, Maintenance and Procurement, Air and Marine Interdiction Programs", $6,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Processing, Assistance and Management", $16,658,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

TAX LAW ENFORCEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Tax Law Enforcement", $4,544,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

INFORMATION SYSTEMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Information Systems", $15,991,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $104,769,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $50,040,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For emergency expenses to the Postal Service Fund to enable the Postal Service to build and establish a system for sanitizing and screening mail matter, to protect postal employees and postal customers from exposure to biohazardous material, and to replace or repair Postal Service facilities destroyed or damaged in New York City as a result of the September 11, 2001, terrorist attacks, $600,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

General Services Administration

REAL PROPERTY ACTIVITIES

FEDERAL BUILDING FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Federal Buildings Fund", $126,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Archives and Records Administration

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", $4,818,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

REPAIRS AND RESTORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Repairs and Restoration", $2,180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 12

DEPARTMENT OF VETERANS AFFAIRS

CONSTRUCTION, MAJOR PROJECTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction, Major Projects", $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development

COMMUNITY DEVELOPMENT FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Community development fund", $2,000,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That such funds shall be subject to the first through sixth provisos in section 434 of Public Law 107–73: *Provided further*, That within 45 days of enactment, the State of New York, in conjunction with the City of New York, shall establish a corporation for the obligation of the funds provided under this heading, issue the initial criteria and requirements necessary to accept applications from individuals, nonprofits and small businesses for economic losses from the September 11, 2001, terrorist attacks, and begin processing such applications: *Provided further*, That the corporation shall respond to any application from an individual, nonprofit or small business for economic losses under this heading within 45 days of the submission of an application for funding: *Provided further*, That individuals, nonprofits or small businesses shall be eligible for compensation only if located in New York City in the area located on or south of Canal Street, on or south of East Broadway (east of its intersection with Canal Street), or on or south of Grand Street (east of its intersection with East Broadway): *Provided further*, That, of the amount made available under this heading, no less than $500,000,000 shall be made available for individuals, nonprofits or small businesses described in the prior three provisos with a limit of $500,000 per small business for economic losses.

Management and Administration

OFFICE OF INSPECTOR GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Office of Inspector General", $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

Environmental Protection Agency

SCIENCE AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Science and Technology", $41,514,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Environmental Programs and Management", $38,194,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

HAZARDOUS SUBSTANCE SUPERFUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Hazardous Substance Superfund", $41,292,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

STATE AND TRIBAL ASSISTANCE GRANTS

For making grants for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering potential biological and chemical threats to populations, for "State and Tribal Assistance Grants", $5,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Federal Emergency Management Agency

DISASTER RELIEF

For disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia, and Pennsylvania on September 11, 2001, for "Disaster Relief", $5,824,344,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $20,000,000, to remain available until expended, for the Office of National Preparedness, to be obligated from amounts made available in Public Law 107–38.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and to support activities related to countering terrorism, for "Emergency Management Planning and Assistance", $290,000,000, to remain available until September 30, 2003, for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), to be obligated from amounts made available in Public Law 107–38: *Provided*, That up to 5 percent of this amount shall be transferred to "Salaries and expenses" for program administration.

National Aeronautics and Space Administration

HUMAN SPACE FLIGHT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Human Space Flight", $64,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Science, Aeronautics and Technology", $28,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Science Foundation

RESEARCH AND RELATED ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and Related Activities", $300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 13

GENERAL PROVISIONS, THIS DIVISION

SEC. 1301. Amounts which may be obligated pursuant to this division are subject to the terms and conditions provided in Public Law 107–38.

SEC. 1302. No part of any appropriation contained in this division shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This division may be cited as the "Emergency Supplemental Act, 2002".

DIVISION C—SPENDING LIMITS AND BUDGETARY ALLOCATIONS FOR FISCAL YEAR 2002

SEC. 101. (a) DISCRETIONARY SPENDING LIMITS.—Section 251(c)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraph (A) and inserting the following:

"(A) for the discretionary category: $681,441,000,000 in new budget authority and $670,447,000,000 in outlays;".

(b) REVISED AGGREGATES AND ALLOCATIONS.—Upon the enactment of this section, the chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall each—

(1) revise the aggregate levels of new budget authority and outlays for fiscal year 2002 set in sections 101(2) and 101(3) of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress), to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a);

(2) revise allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations of their respective House as initially set forth in the joint explanatory statement of managers accompanying the conference report on that

concurrent resolution, to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a); and

(3) publish those revised aggregates and allocations in the Congressional Record.

(c) Repeal of Section 203 of Budget Resolution for Fiscal Year 2002.—Section 203 of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress) is repealed.

(d) Adjustments.—If, for fiscal year 2002, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category due to technical estimates made by the Director of the Office of Management and Budget, the Director shall make an adjustment equal to the amount of the excess, but not to exceed an amount equal to 0.2 percent of the sum of the adjusted discretionary limits on new budget authority for all categories for fiscal year 2002.

Sec. 102. Pay-As-You-Go Adjustment.—In preparing the final sequestration report for fiscal year 2002 required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Director of the Office of Management and Budget shall change any balance of direct spending and receipts legislation for fiscal years 2001 and 2002 under section 252 of that Act to zero.

DIVISION D—TECHNICAL CORRECTIONS

Sec. 101. Title VI of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Public Law 107–76) is amended under the heading "Food and Drug Administration, Salaries and Expenses" by striking "$13,207,000" and inserting "$13,357,000".

Sec. 102. Title IV of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended in the third proviso of the first undesignated paragraph under the heading "Diplomatic and Consular Programs" by striking "this heading" and inserting "the appropriations accounts within the Administration of Foreign Affairs".

Sec. 103. Title V of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended in the proviso under the heading "Commission on Ocean Policy" by striking "appointment" and inserting "the first meeting of the Commission".

Sec. 104. Section 626(c) of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended by striking "1:00CV03110(ESG)" and inserting "1:00CV03110(EGS)".

Sec. 105. Jicarilla, New Mexico, Municipal Water System. Public Law 107–66 is amended—

(1) under the heading of "Title I, Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Construction, General"—

(A) by striking "*Provided further*, That using $2,500,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico:"; and

(B) insert at the end before the period the following: ": *Provided further*, That using funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to transfer $2,500,000 to the Secretary of the Interior for the Bureau of Reclamation to proceed with the Jicarilla Municipal Water System in the town of Dulce, New Mexico"; and

(2) under the heading of "Title II, Department of the Interior, Bureau of Reclamation, Water and Related Resources, (Including the Transfer of Funds)"—

(A) insert at the end before the period the following: ": *Provided further*, That using $2,500,000 of the funds provided herein, the Secretary of the Interior is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico".

Sec. 106. (a) Public Law 107–68 is amended by adding at the end the following:

"This Act may be cited as the 'Legislative Branch Appropriations Act, 2002'.".

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of Public Law 107–68.

Sec. 107. Section 102 of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended—

(1) in subsection (a), by striking paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively;

(2) in subsection (g)(1)—

(A) in subparagraph (A), by striking "subsection (i)(1)(A)" and inserting "subsection (h)(1)(A)"; and

(B) in subparagraph (B), by striking "subsection (i)(1)(B)" and inserting "subsection (h)(1)(B)".

Sec. 108. (a) Section 209 of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended in the matter amending Public Law 106–173 by striking the quotation marks and period at the end of the new subsection (g) and inserting the following: "Any reimbursement under this subsection shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

"(h) Employment Benefits.—

"(1) In general.—The Commission shall fix employment benefits for the Director and for additional personnel appointed under section 6(a), in accordance with paragraphs (2) and (3).

"(2) Employment benefits for the Director.—

"(A) In general.—The Commission shall determine whether or not to treat the Director as a Federal employee for purposes of employment benefits. If the Commission determines that the Director is to be treated as a Federal employee, then he or she is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title. If the Commission determines that the Director is not to be treated as a Federal employee for purposes of employment benefits, then the Commission or its administrative support service provider shall establish appropriate alternative employment benefits for the Director. The Commission's determination shall be irrevocable with respect to each individual appointed as Director, and the Commission shall notify the Office of Personnel Management and the Department of Labor of its determination. Notwithstanding the Commission's determination, the Director's service is deemed to be Federal service for purposes of section 8501 of title 5, United States Code.

"(B) Detailee serving as Director.—Subparagraph (A) shall not apply to a detailee who is serving as Director.

"(3) Employment benefits for additional personnel.—A person appointed to the Commission staff under subsection (b)(2) is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title.".

(b) The amendments made by this section shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68).

Sec. 109. (a) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, $29,542,304 shall be set aside for the project as authorized under title IV of the National Highway System Designation Act of 1995, as amended: *Provided*, That, if funds authorized under these provisions have been distributed then the amount so specified shall be recalled proportionally from those funds distributed to the States under section 110(b)(4)(A) and (B) of title 23, United States Code.

(b) Notwithstanding any other provision of law, for fiscal year 2002, funds available for environmental streamlining activities under section 104(a)(1)(A) of title 23, United States Code, may include making grants to, or entering into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, authority, association nonprofit or for-profit corporation, or institution of higher education.

(c) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, and made available for the National motor carrier safety program, $5,896,000 shall be for State commercial driver's license program improvements.

(d) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, and made available for border infrastructure improvements, up to $2,300,000 shall be made available to carry out section 1119(d) of the Transportation Equity Act for the 21st Century, as amended.

Sec. 110. Notwithstanding any other provision of law, of the amounts appropriated for in fiscal year 2002 for the Research and Special Programs Administration, $3,170,000 of funds provided for research and special programs shall remain available until September 30, 2004; and $22,786,000 of funds provided for the pipeline safety program derived from the pipeline safety fund shall remain available until September 30, 2004.

Sec. 111. Item 1497 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 312), relating to Alaska, is amended by inserting "and construct capital improvements to intermodal marine freight and passenger facilities and access thereto" before "in Anchorage".

Sec. 112. Of the funds made available in H.R. 2299, the Fiscal Year 2002 Department of Transportation and Related Agencies Appropriations Act, of funds made available for the Transportation and Community and System Preservation Program, $300,000 shall be for the US–61 Woodville widening project in Mississippi and, of funds made available for the Interstate Maintenance program, $5,000,000 shall be for the City of Renton/Port Quendall, WA project.

SEC. 113. Section 652(c)(1) of Public Law 107-67 is amended by striking "Section 414(c)" and inserting "Section 416(c)".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

SEC. 114. Of the amounts made available under both this heading and the heading "Salaries and Expenses" in title II of Public Law 107-73, not to exceed $20,000,000 shall be for the recordation and liquidation of obligations and deficiencies incurred in prior years in connection with the provision of technical assistance authorized under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 ("section 514"), and for new obligations for such technical assistance: *Provided*, That of the total amount provided under this heading, not less than $2,000,000 shall be made available from salaries and expenses allocated to the Office of General Counsel and the Office of Multifamily Housing Assistance Restructuring in the Department of Housing and Urban Development: *Provided further*, That of the total amount provided under this heading, no more than $10,000,000 shall be made available for new obligations for technical assistance under section 514: *Provided further*, That from amounts made available under this heading, the Inspector General of the Department of Housing and Urban Development ("HUD Inspector General") shall audit each provision of technical assistance obligated under the requirements of section 514 over the last 4 years: *Provided further*, That, to the extent the HUD Inspector General determines that the use of any funding for technical assistance does not meet the requirements of section 514, the Secretary of Housing and Urban Development ("Secretary") shall recapture any such funds: *Provided further*, That no funds appropriated under title II of Public Law 107-73 and subsequent appropriations acts for the Department of Housing and Urban Development shall be made available for four years to any entity (or any subsequent entity comprised of significantly the same officers) that has been identified as having violated the requirements of section 514 by the HUD Inspector General: *Provided further*, That, notwithstanding any other provision of law, no funding for technical assistance under section 514 shall be available for carryover from any previous year: *Provided further*, That the Secretary shall implement the provisions under this heading in a manner that does not accelerate outlays.

SA 2349. Mr. FEINGOLD (for himself and Mr. HELMS) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the bill insert the following sections:

SEC. . COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2002.

SA 2350. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . APPROPRIATIONS FOR NORTHERN VIRGINIA EMERGENCY RESPONSE AND PREPAREDNESS.

Notwithstanding any other provisions of this bill the following amounts shall be appropriated:

(1) $45 million for emergency response communications technologies and equipment for Northern Virginia police, fire, and rescue.

(2) $20 million for the Capitol Wireless Integrated Network in the Washington Metropolitan Area

(3) $20 million for a chemical sensor program within the Washington, D.C. subway system

(4) $40 million for the Metropolitan Washington Area Transit Authority for security enhancements at terminals.

(5) $30 million to upgrade 911 technology in Northern Virginia

(6) $10 million to cover losses incurred by the Metropolitan Washington Airports Authority and on site concessionaires due to the federal closure and subsequent restriction of operation at Ronald Reagan Washington National Airport.

(7) $55 million for workers at Ronald Reagan Washington National Airport who have lost their jobs due to the federal restrictions still experienced at the airport and resulting decline in business for the period of September 14, 2001 through December 24, 2001.

(8) $8 million for the Virginia State Unemployment Trust Fund for benefits paid between September 14, 2001 and December 24, 2001 to employees laid off at Ronald Reagan Washington National Airport.

(9) $9 million to improve the flow of traffic in both north and southbound lanes of the 14th Street Bridge on Interstate 395 for the function of evacuation of the Metropolitan Washington area and the federal workforce.

SEC. . ACCELERATED FUNDING FOR METRO STYLE RAIL TO DULLES

DULLES CORRIDOR TRANSIT PROJECT.—To facilitate the extension of rail service to Washington Dulles International Airport, the Administrator of the Federal Transit Administration shall work with the Commonwealth of Virginia, Northern Virginia municipalities, the Metropolitan Washington Airports Authority, and the Washington Metropolitan Area Transit Authority to develop and implement a financing plan for the Dulles Corridor rapid transit project.

SA 2351. Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert the following:

SECTION 1. AUTHORIZATION FOR 99-YEAR LEASES.

The first section of the Act entitled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955 (25 U.S.C. 415(a)), is amended—

(1) by inserting ", the reservation of the Confederated Tribes of the Warm Springs Reservation of Oregon," after "Spanish Grant")"; and

(2) by inserting "lands held in trust for the Confederated Tribes of the Warm Springs Reservation of Oregon" before ", lands held in trust for the Cherokee Nation of Oklahoma".

SEC. 2. USE OF CERTAIN TRUST LANDS AND RESOURCES FOR ECONOMIC DEVELOPMENT.

(a) APPROVAL OF AGREEMENT.—The use of tribal lands, resources, and other assets described in the document entitled "Long-Term Global Settlement and Compensation Agreement", dated April 12, 2000 (hereafter referred to as the "GSA"), entered into by the Department of the Interior, the Confederated Tribes of the Warm Springs Reservation of Oregon (in this section referred to as the "Tribes"), and the Portland General Electric Company, and in the Included Agreements, as attached to the GSA on April 12, 2000, and delivered to the Department of the Interior on that date, is approved and ratified. The authorization, execution, and delivery of the GSA is approved. In this section, the GSA and the Included Agreements are collectively referred to as the "Agreement". Any provision of Federal law which applies to tribal land, resources, or other assets (including proceeds derived therefrom) as a consequence of the Tribes' status as a federally recognized Indian tribe shall not—

(1) render the Agreement unenforceable or void against the parties; or

(2) prevent or restrict the Tribes from pledging, encumbering, or using funds or other assets that may be paid to or received by or on behalf of the Tribes in connection with the Agreement.

(b) AUTHORITY OF SECRETARY.—

(1) IN GENERAL.—Congress hereby deems that the Secretary of the Interior had and has the authority—

(A) to approve the Agreement; and

(B) to implement the provisions of the Agreement under which the Secretary has obligations as a party thereto.

(2) OTHER AGREEMENTS.—Any agreement approved by the Secretary prior to or after the date of the enactment of this Act under the authority used to approve the Agreement shall not require Congressional approval or ratification to be valid and binding on the parties thereto.

(c) RULES OF CONSTRUCTION.—

(1) SCOPE OF SECTION.—This section shall be construed as addressing only—

(A) the validity and enforceability of the Agreement with respect to provisions of Federal law referred to in section 2(a) of this Act; and

(B) approval of provisions of the Agreement and actions that are necessary to implement provisions of the Agreement that the parties may be required to obtain under Federal laws referred to in section 2(a) of this Act.

(2) AUTHORITY.—Nothing in this Act shall be construed to imply that the Secretary of the Interior did not have the authority under Federal law as in effect immediately before the enactment of this Act to approve the use of tribal lands, resources, or other assets in the manner described in the Agreement or in the implementation thereof.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect as of April 12, 2000.

SA 2352. Mr. STEVENS (for Mr. GRAMM (for himself and Mr. MCCAIN)) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Section 8628(f), insert the following:

(g) Notwithstanding any other provision of this Act or any other provision of law, the President shall have the sole authority to reprogram, for any other Defense purpose, the funds authorized by this section if he determines that doing so will increase national security or save lives.

SA 2353. Mr. BOND (for himself and Mrs. CARNAHAN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

SECTION 1. SENSE OF CONGRESS.

It is the sense of Congress that the military aircraft industrial base of the United States be preserved. In order to ensure this we must retain—

(1) Adequate competition in the design, engineering, production, sale and support of military aircraft;

(2) Continued innovation in the development and manufacture of military aircraft;

(3) Actual and future capability of more than one aircraft company to design, engineer, produce and support military aircraft.

SEC. 2. STUDY OF IMPACT ON THE INDUSTRIAL BASE.

In order to determine the current and future adequacy of the military aircraft industrial base a study shall be conducted. Of the funds made available under the heading "Procurement, Defense-Wide" in this Act, up to $1,500,000 may be made available for a comprehensive analysis of and report on the risks to innovation and cost of limited or no competition in contracting for military aircraft and related weapons systems for the Department of Defense, including the cost of contracting where there is no more than one primary manufacturer with the capacity to bid for and build military aircraft and related weapon systems, the impact of any limited competition in primary contracting on innovation in the design, development, and construction of military aircraft and related weapon systems, the impact of limited competition in primary contracting on the current and future capacity of manufacturers to design, engineer and build military aircraft and weapon systems. The Secretary of Defense shall report to the House and Senate Committees on Appropriations on the design of this analysis, and shall submit a report to these committees no later than 6 months from the date of enactment of this Act.

SA 2354. Mr. BOND proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert:

SEC. . (a) The purpose of this section is to require procedures that ensure the fair and equitable resolution of labor integration issues, in order to prevent further disruption to transactions for the combination of air carriers, which would potentially aggravate the disruption caused by the attack on the United States on September 11, 2001.

(b) In this section:

(1) The term "air carrier" means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

(2) The term "covered employee" means an employee who—

(A) is not a temporary employee; and

(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

(3) The term "covered transaction" means a transaction that—

(A) is a transaction for the combination of multiple air carriers into a single air carrier;

(B) involves the transfer of ownership or control of—

(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

(ii) 50 percent or more (by value) of the assets of the air carrier;

(C) became a pending transaction, or was completed, not earlier than January 1, 2001; and

(D) did not result in the creation of a single air carrier by September 11, 2001.

(c) If an eligible employee is a covered employee of an air carrier involved in a covered transaction that leads to the combination of crafts or classes that are subject to the Railway Labor Act, the eligible employee may receive assistance under this title only if the parties to the transaction—

(1) apply sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 CAB 45) to the covered employees of the air carrier; and

(2) subject to paragraph (1), in a case in which a collective bargaining agreement provides for the application of sections 3 and 13 of the labor protective provisions in the process of seniority integration for the covered employees, apply the terms of the collective bargaining agreement to the covered employees, and do not abrogate the terms of the agreement.

(d) Any aggrieved person (including any labor organization that represents the person) may bring an action to enforce this section, or the terms of any award or agreement resulting from arbitration or a settlement relating to the requirements of this section. The person may bring the action in an appropriate Federal district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy.

SA 2355. Mr. BOND proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes: as follows:

At the appropriate place insert:

"SMALL BUSINESS ADMINISTRATION

"DISASTER LOAN PROGRAM ACCOUNT

"SEC. 115. Of the amount made available under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Public Law 107–77), for administrative expenses to carry out the direct loan program, $5,000,000 shall be made available for necessary expenses of the HUBZone program as authorized by section 31 of the Small Business Act, as amended (15 U.S.C. 657a), of which, not more than $500,000 may be used for the maintenance and operation of the Procurement Marketing and Access Network (PRO-Net). The Administrator of the Small Business Administration shall make quarterly reports to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives regarding all actions taken by the Small Business Administration to address the deficiencies in the HUBZone program, as identified by the General Accounting Office in report number GAO–02–57 of October 26, 2001.".

SA 2356. Mr. TORRICELLI (for himself, Mr. CORZINE, Mr. BIDEN, and Mr. CARPER) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows

At the appropriate place in division A, insert the following:

SEC. . The Secretary of the Army shall, using amounts appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, ARMY", make a production grant in the amount of $2,000,000 to Green Tree Chemical Technologies of Parlin, New Jersey, in order to help sustain that company through year 2002.

SA 2357. Mr. STEVENS (for Mr. NICKLES) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

SEC. . Of the funds appropriated in the Act under the heading "Research, Development, Test and Evaluation, Air Force" up to $4,000,000 may be made available to extend the modeling and reengineering program now being performed at the Oklahoma City Air Logistics Center Propulsion Directorate.

SA 2358. Mr. STEVENS (for Mr. LOTT) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by title VI under the heading "OTHER DEPARTMENT OF DEFENSE APPROPRIATIONS", $7,500,000 may be available for Armed Forces Retirement Homes.

SA 2359. Mr. STEVENS (for Mr. KENNEDY) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by this division for operation and maintenance, Marine Corps, $2,800,000 may be used for completing the fielding of half-zip, pullover, fleece uniform shirts for all members of the Marine Corps, including the Marine Corps Reserve.

SA 2360. Mr. INOUYE (for Mr. REID) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title III of this division under the heading "AIRCRAFT PROCUREMENT, AIR FORCE", $6,000,000 may be available for 10 radars in the Air Force Radar Modernization Program for C-130H2 aircraft for aircraft of the Nevada Air National Guard at Reno, Nevada.

SA 2361. Mr. INOUYE (for Mr. REID) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", $3,000,000 may be made available for Medical Development for the Clark County, Nevada, bioterrorism and public health laboratory.

SA 2362. Mr. INOUYE (for Mr. REID) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE", $1,000,000 may be made available for Agile Combat Support for the Rural Low Bandwidth Medical Collaboration System.

SA 2363. Mr. STEVENS (for Mr. WARNER) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by this division for operation and maintenance, Navy, $6,000,000 may be available for the critical infrastructure protection initiative.

SA 2364. Mr. INOUYE (for Mrs. LINCOLN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows.

At the appropriate place in the bill, insert the following:

"SEC. . Of the funds provided in this Act under the heading, 'Research, Development, Test and Evaluation, Air Force,' $2,000,000 may be made available for Battlespace Logistics Readiness and Sustainment project in Fayetteville, Arkansas."

SA 2365. Mr. INOUYE proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, add the following:

Section . Of the funds appropriated by title VI of this division under the heading "Drug Interdiction and Counter-Drug Activities, Defense", $2,400,000 may be made available for the Counter Narcotics and Terrorism Operational Medical Support Program at the Uniformed Services University of the Health Sciences.

SA 2366. Mr. STEVENS (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

SEC. . (a) ASSESSMENT REQUIRED.—Not later than March 15, 2002, the Secretary of the Army shall submit to the Committees on Appropriations of the Senate and House of Representatives a report containing an assessment of current risks under, and various alternatives to, the current Army plan for the destruction of chemical weapons.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description and assessment of the current risks in the storage of chemical weapons arising from potential terrorist attacks.

(2) A description and assessment of the current risks in the storage of chemical weapons arising from storage of such weapons after April 2007, the required date for disposal of such weapons as stated in the Chemical Weapons Convention.

(3) A description and assessment of various options for eliminating or reducing the risks described in paragraphs (1) and (2).

(c) CONSIDERATIONS.—In preparing the report, the Secretary shall take into account the plan for the disassembly and neutralization of the agents in chemical weapons as described in Army engineering studies in 1985 and 1996, the 1991 Department of Defense Safety Contingency Plan, and the 1993 findings of the National Academy of Sciences on disassembly and neutralization of chemical weapons.

SA 2367. Mr. INOUYE (for Mr. KERRY) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE" and available for the Advanced Technology Development for Arms Control Technology element, $7,000,000 may be made available for the Nuclear Treaty sub-element of such element for peer-reviewed seismic research to support Air Force operational nuclear test monitoring requirements.

SA 2368. Mr. INOUYE (for Mr. KERRY) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the apropriate place in division A, insert the following:

SEC. . Of the amount available in title III of this division under the heading "PROCUREMENT OF AMMUNITION, AIR FORCE", $10,000,000 may be available for procurement of Sensor Fused Weapons (CBU-97).

SA 2369. Mr. INOUYE (for Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, NAVY", $8,000,000 may be made available for procurement of the Tactical Support Center, Mobile Acoustic Analysis System.

SA 2370. Mr. INOUYE (for Mr. KENNEDY) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by this division for operation and maintenance, Air National Guard, $4,000,000 may be used for continuation of the Air National Guard Information Analysis Network (GUARDIAN).

SA 2371. Mr. INOUYE (for Mr. KENNEDY) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title II for operation and maintenance, Defense-wide, $55,700,000 may be available for the Defense Leadership and Management Program.

SA 2372. Mr. STEVENS (for Mr. HELMS) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, add the following new section:

SEC. . Of the funds made available in Title IV of this Act under the heading "Research, Development, Test and Evaluation, Army", up to $4,000,000 may be made available for the Display Performance and Environmental Evaluation Laboratory Project of the Army Research Laboratory.

SA 2373. Mr. STEVENS (for Mr. HELMS) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, add the following new section:

SEC. . Of the funds made available in Title II of this Act under the heading "Operation and Maintenance, Navy", up to $2,000,000 may be made available for the U.S. Navy to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

SA 2374. Mr. STEVENS (for Mr. HELMS) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, add the following new section:

Sec. . Of the funds made available in Title II of this Act under the heading "Operation and Maintenance, Air Force", up to $2,000,000 may be made available for the U.S. Air Force to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

SA 2375. Mr. INOUYE proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page , between lines and , insert the following:

SEC. . SENSE OF THE SENATE REGARDING ENVIRONMENTAL CONTAMINATION IN THE PHILIPPINES.

It is the sense of the Senate that—

(1) the Secretary of State, in cooperation with the Secretary of Defense, should continue to work with the Government of the Philippines and with appropriate non-governmental organizations in the United States and the Philippines to fully identify and share all relevant information concerning environmental contamination and health effects emanating from former United States military facilities in the Philippines following the departure of the United States military forces from the Philippines in 1992;

(2) the United States and the Government of the Philippines should continue to build upon the agreements outlined in the Joint Statement by the United States and the Republic of the Philippines on a Framework for Bilateral Cooperation in the Environment and Public Health, signed on July 27, 2000; and

(3) Congress should encourage an objective non-governmental study, which would examine environmental contamination and health effects emanating from former United States military facilities in the Philippines, following the departure of United States military forces from the Philippines in 1992.

SA 2376. Mr. STEVENS (for Mr. WARNER) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Authority for Burial of Certain Individuals at Arlington National Cemetery.—The Secretary of the Army shall authorize the burial in a separate gravesite at Arlington National Cemetery, Virginia, of any individual who—

(1) died as a direct result of the terrorist attacks on the United States on September 11, 2001; and

(2) would have been eligible for burial in Arlington National Cemetery by reason of service in a reserve component of the Armed Forces but for the fact that such individual was less than 60 years of age at the time of death.

(b) Eligibility of Surviving Spouse.—The surviving spouse of an individual buried in a gravesite in Arlington National Cemetery under the authority provided under subsection (a) shall be eligible for burial in the gravesite of the individual to the same extent as the surviving spouse of any other individual buried in Arlington National Cemetery is eligible for burial in the gravesite of such other individual.

SA 2377. Mr. STEVENS (for Mr. BURNS) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the bill, add the following:

"Sec. . In fiscal year 2002, the Department of the Interior National Business Center may continue to enter into grants, cooperative agreements, and other transactions, under the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, and other related legislation."

SA 2378. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

Of the total amount appropriated by this division for other procurement, Army, $9,000,000 may be available for the "Product Improved Combat Vehicle Crewman's Headset".

SA 2379. Mr. STEVENS (for Mr. McCONNELL) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

Sec. 8135. Of the fund appropriated by this division for research, development, test and evaluation, Navy, up to $4,000,000 may be used to support development and testing of new designs of low cost digital modems for Wideband Common Data Link.

SA 2380. Mr. STEVENS (for Mr. GREGG) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

Sec. 8135. Of the amount appropriated by this division for the Army for research, development, test, and evaluation, $2,000,000 may be available for research and development of key enabling technologies (such as filament winding, braiding, contour weaving, and dry powder resin towpregs fabrication) for producing low cost, improved performance, reduced signature, multifunctional composite materials.

SA 2381. Mr. STEVENS (for Mr. SHELBY) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

Sec. . Of the total amount appropriated under title IV for research, development, test and evaluation, Army, $2,000,000 may be available for the Collaborative Engineering Center of Excellence, $3,000,000 may be available for the Battlefield Ordnance Awareness, and $4,000,000 may be available for the Cooperative Micro-satellite Experiment.

SA 2382. Mr. INOUYE (for Mr. BIDEN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

Sec. . Of the amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Army" that is available for Munitions, $5,000,000 may be available to develop high-performance 81mm and 120mm mortar systems that use metal matrix composites to substantially reduce the weight of such systems.

SA 2383. Mr. STEVENS (for Mr. SPECTER) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

Sec. . Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Air Force, up to $6,000,000 may be used for human effectiveness applied research for continuing development under the solid electrolyte oxygen separation program of the Air Force.

SA 2384. Mr. STEVENS (for Mr. GRASSLEY) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

Sec. . Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111, 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2002.

SA 2385. Mr. STEVENS (for Mr. VOINOVICH) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

Sec. . Of the amount appropriated by title IV of this division for the Army for research, development, test, and evaluation, $500,000,000 may be available for the Three-Dimensional Ultrasound Imaging Initiative II.

SA 2386. Mr. INOUYE (for Mr. KERRY (for himself and Mr. SMITH of New Hampshire)) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount available in title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" that is available for missile technology, $5,000,000 may be available for the Surveillance Denial Solid Dye Laser Technology program of the Aviation and Missile Research, Development and Engineering Center of the Army.

SA 2387. Mr. INOUYE (for Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title III of this division under the heading "Other Procurement, Army", $10,000,000 may be made available for procurement of Shortstop Electronic Protection Systems for critical force protection.

SA 2388. Mr. INOUYE (for Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", up to, $5,000,000 may be made available for the Broad Area Maritime Surveillance program.

Sa 2389. Mr. STEVENS (for himself, Mr. LUGAR, Mr. LEVIN, Mr. BIDEN, Mr. HAGEL, Mr. DOMENICI, Mr. BINGAMAN, Mr. TORRICELLI, Mr. DODD, Mr. DASCHLE, Mr. KENNEDY, Mr. MCCAIN, Mr. GRAHAM, Mr. KERRY, Mr. SMITH, of Oregon, Mr. REED, Mr. CONRAD, and Mr. CLELAND) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes, as follows:

At the end of title VIII of division A, add the following:

SEC. . (A) INCREASE IN AMOUNT AVAILABLE FOR FORMER SOVIET UNION THREAT REDUCTION.—The amount appropriated by title II of this division under the heading "FORMER SOVIET UNION THREAT REDUCTION" is hereby increased by $46,000,000.

(b) OFFSET.—The amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE" is hereby decreased by $46,000,000.

SA 2390. Mr. STEVENS (for Mr. LOTT (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 223, line 23, insert before the period ", of which, $3,000,000 may be used for a Processible Rigid-Rod Polymeric Material Supplier Initiative under title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) to develop affordable production methods and a domestic supplier for military and commercial processible rigid-rod materials".

SA 2391. Mr. STEVENS (for Mr. LOTT) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page of the original text, or at the appropriate place, insert the following:

SEC. . Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE WIDE", $2,000,000 may be made available for Military Personnel Research.

SA 2392. Mr. STEVENS (for Mr. LOTT) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page of the original text, or at the appropriate place, insert the following:

SEC. . *Provided*, That the funds appropriated by this act for C–130J aircraft shall be used to support the Air Force's long-range plan called the "C–130 Roadmap" to assist in the planning, budgeting, and beddown of the C–130J fleet. The "C–130 Roadmap" gives consideration to the needs of the service, the condition of the aircraft to be replaced, and the requirement to properly phase facilities to determine the best C–130J aircraft beddown sequence.

SA 2393. Mr. STEVENS (for Mr. HELMS (for himself and Mr. EDWARDS)) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the bill, add the following new section:

Of the funds made available in Title II of this Act under the heading "Operation and Maintenance, Army", $2,550,000 may be available for the U.S. Army Materiel Command's Logistics and Technology Project (LOGTECH).

SA 2394. Mr. STEVENS (for Mr. LOTT) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page of the original text, or at the appropriate place, insert the following:

SEC. . Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $5,000,000 is available for the planning and design for evolutionary improvements for the next LHD-type Amphibious Assault Ship.

SA 2395. Mr. STEVENS (for Ms. COLLINS) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. (a) Of the total amount appropriated by title III of this division for procurement, Defense-Wide, up to $5,000,000 may be made available for low-rate initial production of the Striker advanced lightweight grenade launcher.

(b) Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Navy, up to $1,000,000 may be made available for the Warfighting Laboratory for delivery and evaluation of prototype units of the Striker advanced lightweight grenade launcher.

SA 2396. Mr. STEVENS (for Ms. COLLINS) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. (a) Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Defense-Wide, up to $4,000,000 may be made available for the Intelligent Spatial Technologies for Smart Maps Initiative of the National Imagery and Mapping Agency.

SA 2397. Mr. STEVENS (for Ms. COLLINS) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Defense-Wide, $5,000,000 may be available for further development of light weight sensors of chemical and biological agents using fluorescence-based detection.

SA 2398. Mr. INOUYE (for Ms. LANDRIEU) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

SEC. Of the amount appropriated by title IV of this division under the heading "RESEARCH DEVELOPMENT, TEST AND EVALUATION ARMY" $2,5000,000 may be made available for the Army Nutrition Project.

SA 2399. Mr. INOUYE (for Ms. LANDRIEU) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", $2,000,000 may be made available for the Partnership for Peace (PFP) Information Management System. Any amount made available for the Partnership for Peace Information Management System under this section is in addition to other amounts available for the Partnership for Peace Information Management System under this Act.

SA 2400. Mr. STEVENS (for Mr. THOMPSON) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, ARMY", $4,892,000 may be used for the Communicator Automated Emergency Notification System of the Army National Guard.

SA 2401. Mr. INOUYE (for Mr. DORGAN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the bill, add the following:

SEC. .—Of the funds provided for Research, Development, Test and Evaluation in this bill, the Secretary of Defense may use $10,000,000 to initiate a university-industry program to utilize advances in 3-dimensional chip scale packaging (CSP) and high temperature superconducting (HTS) transceiver performance, to reduce the size, weight, power consumption, and cost of advanced military wireless communications systems for covert military and intelligence operations, especially HUMINT.

SA 2402. Mr. INOUYE (for Mr. HARKIN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR NATIONAL GUARD, CONSOLIDATED INTERACTIVE VIRTUAL INFORMATION CENTER.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, AIR NATIONAL GUARD", $5,000,000 may be available for the Consolidated Interactive Virtual Information Center of the National Guard.

(b) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (a) for the Consolidated Interactive Virtual Information Center of the National Guard is in addition to any other amounts available under this Act for the Consolidated Interactive Virtual Information Center.

SA 2403. Mr. INOUYE (for Mr. REED) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY" and available for Navy Space and Electronic Warfare (SEW) Architecture/Engine, $1,200,000 may be made available for concept development and composite construction of high speed vessels currently implemented by the Navy Warfare Development Command.

SA 2404. Mr. INOUYE (for Mr. REED) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by this division for operation and maintenance, Defense-Wide, $5,000,000 may be available for payments under section 363 of the Floyd D. Spence, National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77).

SA 2405. Mr. INOUYE (for Mr. BIDEN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in division A, insert the following:

SEC. . (a) FINDINGS.—The Senate makes the following findings:

(1) The military departments have recently initiated worker safety demonstration programs.

(2) These programs are intended to improve the working conditions of Department of Defense personnel and save money.

(3) These programs are in the public interest, and the enhancement of these programs will lead to desirable results for the military departments.

(b) FUNDS FOR ENHANCEMENT OF ARMY PROGRAM.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, ARMY", $3,300,000 may be available to enhance the Worker Safety Demonstration Program of the Army.

(c) FUNDS FOR ENHANCEMENT OF NAVY PROGRAM.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, NAVY", $3,300,000 may be available to enhance the Worker Safety Demonstration Program of the Navy.

(d) FUNDS FOR ENHANCEMENT OF AIR FORCE PROGRAM.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, AIR FORCE", $3,300,000 may be available to enhance the Worker Safety Demonstration Program of the Air Force.

SA 2406. Mr. INOUYE (for Mrs. CARNAHAN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by this division for operation and maintenance, Air National Guard, $435,000 may be available (subject to section 2085(c) of title 10, United States Code) for the replacement of deteriorating gas lines, mains, valves, and fittings at the Air National Guard facility at Rosecrans Memorial Airport, St. Joseph, Missouri, and (subject to section 2811 of title 10, United States Code) for the repair of the roof of the Aerial Port Facility at that airport.

SA 2407. Mr. INOUYE (for Mr. NELSON of Florida) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in Division A, insert the following:

SEC. . Of the amount appropriated in title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $7,000,000 may be made available for the Center for Advanced Power Systems.

SA 2408. Mr. INOUYE (for Mr. DEWINE) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the amount appropriated by title IV of this division for the Air Force for research, development, test, and evaluation, $3,500,000 may be available for the Collaborative Technology Clusters program.

SA 2409. Mr. INOUYE (for Mr. CLELAND) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title II of this division under the heading "OTHER PROCUREMENT, ARMY", $7,000,000 may be available for Army live fire ranges.

SA 2410. Mr. INOUYE (for Mr. CLELAND) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, AIR FORCE", $3,900,000 may be available for the aging aircraft program of the Air Force.

SA 2411. Mr. STEVENS (for Ms. SNOWE) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated in title II of this division for operation and maintenance, Navy, for civilian manpower and personnel management, $1,500,000 may be used for the Navy Pilot Human Resources Call Center, Cutler, Maine.

SA 2412. Mr. STEVENS (for Ms. SNOWE) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated in title IV of this division for research, development, test and evaluation, Army, $5,000,000 may be used for Compact Kinetic Energy Missile Inertial Future Missile Technology Integration.

SA 2413. Mr. INOUYE (for Mr. CLELAND) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriated by title III of this division under the heading "Other Procurement, Navy", $1,600,000 may be available for the Navy for Engineering Control and Surveillance Systems.

SA 2414. Mr. STEVENS (for Mr. Bunning) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Navy", $5,000,000 may made be available for a program at the Naval Medical Research Center (NMRC) to treat victims of radiation exposure.

SA 2415. Mr. INOUYE (for Ms. Landrieu) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Defense-Wide", $10,000,000 may be available for the Gulf States Initiative.

SA 2416. Mr. STEVENS (for Ms. Collins) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, between lines 17 and 18, insert the following:

Sec. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Navy, $4,300,000 may be available for the demonstration and validation of laser fabricated steel reinforcement for ship construction.

SA 2417. Mr. INOUYE (for Mr. Dodd) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the Committee amendment, insert the following new section:

SEC. . REPORT ON PROGRESS TOWARD IMPLEMENTATION OF COMPREHENSIVE NUCLEAR THREAT REDUCTION PROGRAMS TO SAFEGUARD PAKISTANI AND INDIAN NUCLEAR STOCKPILES AND TECHNOLOGY.

(a) Findings.—Congress makes the following findings:

(1) Since 1991 the Nunn-Lugar cooperative threat reduction initiative with the Russian Federation has sought to address the threat posed by Soviet-era stockpiles of nuclear, chemical, and biological weapons-grade materials being illicitly acquired by terrorist organizations or rogue states.

(2) India and Pakistan have acquired or developed independently nuclear materials, detonation devices, warheads, and delivery systems as part of their nuclear weapons programs.

(3) Neither India nor Pakistan is currently a signatory of the Nuclear Non-Proliferation Treaty or the Comprehensive Test Ban Treaty or an active participant in the United Nations Conference of Disarmament, nor do these countries voluntarily submit to international inspections of their nuclear facilities.

(4) Since the commencement of the military campaign against the Taliban regime and the al-Qaeda terrorist network in Afghanistan, Pakistan has taken additional steps to secure its nuclear assets from theft by members of al-Qaeda or other terrorists sympathetic to Osama bin Laden or the Taliban.

(5) Self-policing of nuclear materials and sensitive technologies by Indian and Pakistani authorities without up-to-date Western technology and expertise in the nuclear security area is unlikely to prevent determined terrorists or sympathizers from gaining access to such stockpiles over the long term.

(6) The United States has a significant national security interest in cooperating with India and Pakistan in order to ensure that effective nuclear threat reduction programs and policies are being pursued by the governments of those two countries.

(b) Report.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense, in cooperation with the Secretaries of State and Energy, shall submit a report to Congress describing the steps that have been taken to develop cooperative threat reduction programs with India and Pakistan. Such report shall include recommendations for changes in any provision of existing law that is currently an impediment to the full establishment of such programs, a timetable for implementation of such programs, and an estimated five-year budget that will be required to fully fund such programs.

SA 2418. Mr. INOUYE (Mr. Dodd) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriated by title III of this division under the heading "Procurement, Marine Corps", $5,000,000 may be available for M-4 Carbine, Modular Weapon Systems.

SA 2419. Mr. INOUYE (Mr. Dodd) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriatred by title III of this division under the heading "Aircraft Procurement, Army", $7,500,000 may be available for AVR-2A laser detecting sets.

SA 2420. Mr. INOUYE (Mr. Dodd) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriatred by title IV of this division under the heading "Research, Development, Test and Evaluation, Air Force", $2,500,000 may be available for Industrial Preparedness (PE0708011F) for continuing development of the nickel-mental hydride replacement battery for F-16 aircraft.

SA 2421. Mr. INOUYE (Mr. Dodd) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriatred by title III of this division under the heading "Aircraft Procurement, Navy", $8,960,000 may be available for the Navy for four Hushkit noise inhibitors for C–9 aircraft.

SA 2422. Mr. INOUYE (for Mr. Sarbanes) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriated by title VI of this division under the heading "Defense Health Program", $5,000,000 may be available for the Army for the development of the Operating Room of the Future, an applied technology test bed at the University of Maryland Medical Center.

SA 2423. Mr. INOUYE (for Mr. Torricelli) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes, as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Army", $5,700,000 may be made available or the Coalition for Advanced Biomaterials Technologies and Therapies (CABTT) program to maximize far-forward treatment and for the accelerated return to duty of combat casualties.

SA 2424. Mr. INOUYE (for Mr. Torricelli) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriated by title III of this division under the heading "Aircraft Procurement, Navy", $9,800,000 may be available for Advanced Digital Recorders and Digital Recorder Producers for P–3 aircraft.

SA 2425. Mr. INOUYE (for Mr. Bingaman) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Funding for Certain Programs and Projects.—From amounts appropriated by this division, amounts may hereby be made available as follows:

(1) $8,000,000 for Big Crow (PE 605118D).

SA 2426. Mr. STEVENS (for Mr. Cochran) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of this division, add the following:

Sec. 8135. (a) Funding For Domed Housing Units on Marshall Islands.—From within amounts appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" the Commanding General of the Army Space and Missile Defense Command may acquire, and maintain domed housing units for military personnel on Kwajalein Atoll and other islands and locations in support of the mission of the command.

SA 2427. Mr. STEVENS (for Mr. Shelby) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Of the funds made available in Title IV of the act under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" $4,000,000 may be available for a national tissue engineering center.

SA 2428. Mr. STEVENS (for Mr. Santorum) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Of the funds in Title III for Ammunition Procurement, Army, $5,000,000 may be available for M107, HE, 155mm.

SA 2429. Mr. STEVENS (for Mr. Santorum) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Of the funds by Title IV for Research, Development, Test and Evaluation, Air Force, $1,000,000 may be available for Integrated Medical Information Technology System.

SA 2430. Mr. STEVENS (for Mr. Santorum) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Of the funds authorized in Title IV for appropriation for Research, Development, Test and Evaluation, Navy, $3,000,000 may be available for modular helmet.

SA 2431. Mr. STEVENS (for Mr. Santorum) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Of the funds available in Title II for Operation & Maintenance, Army Reserve, $5,000,000 may be available for land forces readiness-information operations.

SA 2432. Mr. INOUYE (for Mr. Kennedy) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

Sec. , Of the total amount appropriated by title III of this division for other procurement, Navy, $10,000,000 may be available for the NULKA decoy procurement.

SA 2433. Mr. INOUYE (for Mr. Harkin) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, insert the following:

Sec. (a).—Section 1078(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–283) is amended—

(1) in paragraph (1), by inserting ", or its contractors or subcontractors," after "Department of Defense"; and

(2) in paragraph (3), by striking "stored, assembled, disassembled, or maintained" and inserting "manufactured, assembled, or disassembled".

(b) Determination of Exposures at IAAP.—The Secretary of Defense shall take appropriate actions to determine the nature and extent of the exposure of current and former employees at the Army facility at the Iowa Army Ammunition Plant, including contractor and subcontractor employees at the facility, to radioactive or other hazardous substances at the facility, including possible pathways for the exposure of such employees to such substances.

(c) Notification of Employees Regarding Exposure.—(1) The Secretary shall take appropriate actions to—

(A) identify current and former employees at the facility referred to in subsection (b), including contractor and subcontractor employees at the facility; and

(B) notify such employees of known or possible exposures to radioactive or other hazardous substances at the facility.

(2) Notice under paragraph (1)(B) shall include—

(A) information on the discussion of exposures covered by such notice with health care providers and other appropriate persons who do not hold a security clearance; and

(B) if necessary, appropriate guidance on contacting health care providers and officials involved with cleanup of the facility who hold an appropriate security clearance.

(3) Notice under paragraph (1)(B) shall be by mail or other appropriate means, as determined by the Secretary.

(d) Deadline for Actions.—The Secretary shall complete the actions required by subsections (b) and (c) not later than 90 days after the date of the enactment of this Act.

(e) Report.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the results of the actions undertaken by the Secretary under this section, including any determinations under subsection (b), the number of workers identified under subsection (c)(1)(A), the content of the notice to such workers under subsection (c)(1)(B), and the status of progress on the provision of the notice to such workers under subsection (c)(1)(B).

SA 2434. Mr. STEVENS (for Mr. Shelby) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. Of the amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Air Force" $1,000,000, may be available for Low Cost Launch Vehicle Technology.

SA 2435. Mr. STEVENS (for Mr. Bunning) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Study of Physical State of Armed Services Initial Entry Trainee Housing and Barracks.—The Comptroller General of the United States shall carry out a study of the physical state of the Initial Entry Trainee housing and barracks of the Armed Services.

(b) Report to Congress.—Not later than nine months after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the study carried out under subsection (a). The report shall set forth the results of the study, and shall include such other matters relating to the study as the Comptroller General considers appropriate.

(c) Congressional Defense Committees Defined.—In this section, the term "congressional defense committees" means—

(1) the Committees on Appropriations and Armed Services of the Senate; and

(2) the Committees on Appropriations and Armed Services of the House of Representatives.

SA 2436. Mr. STEVENS (for Mr. Hutchinson) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, between lines 17 and 18, insert the following:

PILOT PROGRAM FOR EFFICIENT INVENTORY MANAGEMENT SYSTEM FOR THE DEPARTMENT OF DEFENSE

Sec. 8135. (a) Of the total amount appropriated by this division for operation and maintenance, Defense-Wide, $1,000,000 may be available for the Secretary of Defense to carry out a pilot program for the development and operation of an efficient inventory management system for the Department of Defense. The pilot program may be designed to address the problems in the inventory management system of the Department that were identified by the Comptroller General of the United States as a result of the General Accounting Office audit of the inventory management system of the Department in 1997.

(b) In entering into any contract for purposes of the pilot program, the Secretary may take into appropriate account current Department contract goals for small business concerns owned and controlled by socially and economically disadvantaged individuals.

(c) Not later than one year after the date of the enactment of this Act, the Secretary may submit to Congress a report on the pilot program. The report shall describe the pilot program, assess the progress of the pilot program, and contain such recommendations at the Secretary considers appropriate regarding expansion or extension of the pilot program.

SA 2437. Mr. STEVENS (for Mr. McCain) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Strike section 902 of division B and insert the following:

Sec. 902. (a) Funding for Certain Military Construction Projects.—If in exercising the authority in section 2808 of title 10, United States Code, to carry out military construction projects not authorized by law, the Secretary of Defense utilizes, whether in whole or in part, funds appropriated but not yet obligated for a military construction project previously authorized by law, the Secretary may carry out such military construction project previously authorized by law using amounts appropriated by the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38; 115 Stat. 220), or any other appropriations Act to provide funds for the recovery from and response to the terrorist attacks on the United States that is enacted after the date of the enactment of this Act, and available for obligation.

SA 2438. Mr. INOUYE (for Ms. Stabenow) proposed an amendment to the bill H.R. 3338, making appopriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the end of title VIII of division A, add the following:

Sec. 8135. (a) Funding for Advanced Safety Tether Operation and Reliability/Space Transfer using Electrodynamic Propulsion (STEP-AIRSEDS) Program.—Of the amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Navy" $2,000,000, may be allocated to the Advanced Safety Tether Operation and Reliability/Space Transfer using Electrodynamic Propulsion (STEP-AIRSEDS) program (PE0602236N) of the Office of Naval Research/Navy Research Laboratory.

SA 2439. Mr. INOUYE (for Ms. Stabenow) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 201, after line 22 insert the following:

SEC. 1202. —UNITY IN THE SPIRIT OF AMERICA.

(a) Short Title.—This title may be cited as the "Unity in the Spirit of America Act" or the "USA Act".

(b) Projects Honoring Victims of Terrorist Attacks.—The National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) is amended by inserting before title V the following:

"TITLE IV—PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS

"SEC. 401. PROJECTS.

"(a) Definition.—In this section, the term 'Foundation' means the Points of Light Foundation funded under section 301, or another nonprofit private, organization, that enters into an agreement with the Corporation to carry out this section.

"(b) Identification of Projects.—

"(1) Estimated number.—Not later than December 1, 2001, the Foundation, after obtaining the guidance of the heads of appropriate Federal agencies, such as the Director of the Office of Homeland Security and the Attorney General, shall—

"(A) make an estimate of the number of victims killed as a result of the terrorist attacks on September 11, 2001 (referred to in this section as the 'estimated number'); and

"(B) compile a list that specifies, for each individual that the Foundation determines to be such a victim, the name of the victim and the State in which the victim resided.

"(2) Identified projects.—The Foundation may identify approximately the estimated number of community-based national and community service projects that meet the requirements of subsection (d). The Foundation shall name each identified project in honor of a victim described in subsection (b)(1)(A), after obtaining the permission of an appropriate member of the victim's family and the entity carrying out the project.

"(c) Eligible Entities.—To be eligible to have a project named under this section, the entity carrying out the project shall be a political subdivision of a State, a business, a nonprofit organization (which may be a religious organization, such as a Christian, Jewish, or Muslim organization), an Indian tribe, or an institution of higher education.

"(d) Projects.—The Foundation shall name, under this section, projects—

"(1) that advance the goals of unity, and improving the quality of life in communities; and

"(2) that will be planned, or for which implementation will begin, within a reasonable period after the date of enactment of the Unity in Service to America Act, as determined by the Foundation.

"(e) Website and Database.—The Foundation shall create and maintain websites and databases, to describe projects named under this section and serve as appropriate vehicles for recognizing the projects.".

SA 2440. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 152, after line 19, insert:

Sec. 204. From within funds available to the State of Alaska or the Alaska Region of the National Marine Fisheries Service, an additional $500,000 may be made available for the cost of guaranteeing the reduction loan authorized under section 144(d)(4)(A) of title I, Division B of Public Law 106–554 (114 Stat. 2763A–242) and that subparagraph is amended to read as follows: "(4)(A) The fishing capacity reduction program required under this subsection is authorized to be financed through a reduction loan of $100,000,000 under-section 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g).".

SA 2441. Mr. STEVENS (for Mr. Gregg) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 205, after line 12, insert the following:

Sec. 104. Section 612 of P.L. 107–77 is amended by striking "June 30, 2002" and inserting "April 1, 2002".

SA 2442. Mr. INOUYE (for Mr. Durbin) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 209, after line 25, insert:

Sec. 110. (a) Section 133(a) of the Legislative Branch Appropriations Act, 2001 (Public Law 107–68) is amended—

(1) by striking "90-day" in paragraph (1) and inserting "180-day", and

(2) by striking "90-day" in paragraph (2)(C) and inserting "180 days".

(b) The amendments made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2001 (Public Law 107–68).

SA 2443. Mr. STEVENS (for Mr. Specter) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 191, after line 12 insert: General Provisions, This Chapter

Sec. 1001. Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 449; 23 U.S.C. 502 note) is amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (F), and (G), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) Follow-on deployment.—(i) After an intelligent transportation infrastructure system deployed in an initial deployment area pursuant to a contract entered into under the program under this paragraph has received system acceptance, the Department of Transportation has the authority to extend the original contract that was competitively awarded for the deployment of the system in the follow-on deployment areas under the contract, using the same asset ownership, maintenance, fixed price contract, and revenue sharing model, and the same competitively selected consortium leader, as were used for the deployment in that initial deployment area under the program.

"(ii) If any one of the follow-on deployment areas does not commit, by July 1, 2002, to participate in the deployment of the system under the contract, then, upon application by any of the other follow-on deployment areas that have committed by that date to participate in the deployment of the system, the Secretary shall supplement the funds made available for any of the follow-on deployment areas submitting the applications by using for that purpose the funds not used for deployment of the system in the nonparticipating area. Costs paid out of funds provided in such a supplementation shall not be counted for the purpose of the limitation on maximum cost set forth in subparagraph (B).";

(4) by inserting after subparagraph (D), as redesignated by paragraph (1), the following new subparagraph (E):

"(E) DEFINITIONS.—In this paragraph:

"(i) The term 'initial deployment area' means a metropolitan area referred to in the second sentence of subparagraph (A).

"(ii) The term 'follow-on deployment areas' means the metropolitan areas of Baltimore, Birmingham, Boston, Chicago, Cleveland, Dallas/Ft. Worth, Denver, Detroit, Houston, Indianapolis, Las Vegas, Los Angeles, Miami, New York/Northern New Jersey, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Salt Lake, San Diego, San Francisco, St. Louis, Seattle, Tampa, and Washington, District of Columbia."; and

(5) in subparagraph (D), as redesignated by paragraph (1), by striking "subparagraph (D)" and inserting "subparagraph (F)".

SA 2444. Mr. INOUYE (for Mr. REID) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

In chapter 5 of division B, under the heading "NATIONAL NUCLEAR SECURITY ADMINISTRATION" under the paragraph "DEFENSE NUCLEAR PROLIFERATION", insert after "nuclear proliferation and verification research and development" the following: "(including research and development with respect to radiological dispersion devices, also known as 'dirty bombs')".

SA 2445. Mr. INOUYE (for Mrs. MURRAY) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 138, after line 2, insert the following:

SEC. 101. Section 741(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (P.L. 107-76), is amended by striking "20,000,000 pounds" and inserting "5,000,000 pounds".

SA 2446. Mr. STEVENS (for Mr. DOMENICI) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 165, after line 22, insert the following:

SEC. 501. Of the funds provided in this or any other Act for "Defense Environmental Restoration and Waste Management" at the Department of Energy, up to $500,000 may be available to the Secretary of Energy for safety improvements to roads along the shipping route to the Waste Isolation Pilot Plant site.

SA 2447. Mr. INOUYE (for Mr. DURBIN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 165, after line 22, insert the following:

SEC. 503. NUTWOOD LEVEE, ILLINOIS.—The Energy and Water Development Appropriations Act, 2002 (Public Law 107-66) is amended under the heading "Title I, Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil, Construction, General" by inserting after "$3,500,000" but before the "." ": *Provided further*, That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, may initiate construction on the Nutwood Levee, Illinois project".

SA 2448. Mr. STEVENS (for Mr. DOMENICI) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 165, after line 22, add the following:

SEC. 502. Title III of the Energy and Water Development Appropriations Act, 2002 (Public Law 107-66) is amended by adding at the end the following new section:

"SEC. 313. (a) INCREASE IN AMOUNT AVAILABLE FOR ELECTRIC ENERGY SYSTEMS AND STORAGE PROGRAM.—The amount appropriated by this title under the heading 'DEPARTMENT OF ENERGY' under the heading 'ENERGY PROGRAMS' under the paragraph 'ENERGY SUPPLY' is hereby increased by $14,000,000, with the amount of the increase to be available under that paragraph for the electric energy systems and storage program.

"(b) DECREASE IN AMOUNT AVAILABLE FOR DEPARTMENT OF ENERGY GENERALLY.—The amount appropriated by this title under the heading 'DEPARTMENT OF ENERGY' (other than under the heading "National Nuclear Security Administration or under the heading 'ENERGY PROGRAMS' under the paragraph 'ENERGY SUPPLY') is hereby decreased by $14,000,000, with the amount of the decrease to be distributed among amounts available under the heading 'DEPARTMENT OF ENERGY' in a manner determined by the Secretary of Energy and approved by the Committees on Appropriation.".

SA 2449. Mr. INOUYE (for Mr. HARKIN) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 186, line 22 before the period, insert:

"*Provided*, That it be the Sense of the Senate that funds provided under this paragraph shall be used to provide subsidized service at a rate of not less than three flights per day for eligible communities with significant enplanement levels that enjoyed said rate of service, with or without subsidy, prior to September 11, 2001.

SA 2450. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 196, after line 15, insert:

SEC. 1101. None of the funds appropriated by this Act or any other Act may be used after June 30, 2002 for the operation of any federally owned building if determined to be appropriate by the Administrator of the General Services Administration or to enter into any lease or lease renewal with any person for office space for a federal agency in any other building, unless such operation, lease, or lease renewal is in compliance with a regulation or Executive Order issued after the date of enactment of this section that requires redundant and physically separate entry points to such buildings, and the use of physically diverse local network facilities, for the provision of telecommunications services to federal agencies in such buildings.

SA 2451. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 195, on line 20 before the period, insert:

"*Provided*, That the Postal Service is authorized to review rates for product delivery and minimum qualifications for eligible service providers under section 5402 of title 39, and to recommend new rates and qualifications to reduce expenditures without reducing service levels."

SA 2452. Mr. STEVENS (for Mr. BOND) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Purpose: On page 168, after line 9, insert:

SECTION 601. SHORT TITLE.

(a) IN GENERAL.—The Secretary of the Smithsonian Institution may collect and preserve in the National Museum of American History artifacts relating to the September 11th attacks on the World Trade Center and the Pentagon.

(b) TYPES OF ARTIFACTS.—In carrying out subsection (a), the Secretary of the Smithsonian Institution shall consider collecting and preserving—

(1) pieces of the World Trade Center and the Pentagon;

(2) still and video images made by private individuals and the media;

(3) personal narratives of survivors, rescuers, and government officials; and

(4) other artifacts, recordings, and testimonials that the Secretary of the Smithsonian Institution determines have lasting historical significance.

(c) There is authorized to be appropriated to the Smithsonian Institution $5,000,000 to carry out this section.

SA 2453. Mr. INOUYE (for Mr. DASCHLE) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . TRUSTEES OF THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.

(a) MEMBERSHIP.—Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)) is amended—

(1) by striking "There is hereby" and inserting the following:

"(1) IN GENERAL.—There is"; and

(2) by striking the second sentence and inserting the following:

"(2) MEMBERSHIP.—The Board shall be composed of—

"(A) the Secretary of Health and Human Services;

"(B) the Librarian of Congress;

"(C) the Secretary of State;

"(D) the Chairman of the Commission of Fine Arts;

"(E) the Mayor of the District of Columbia;

"(F) the Superintendent of Schools of the District of Columbia;

"(G) the Director of the National Park Service;

"(H) the Secretary of Education;

"(I) the Secretary of the Smithsonian Institution;

"(J)(i) the Speaker and the Minority Leader of the House of Representatives;

"(ii) the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives; and

"(iii) 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives;

"(K)(i) the Majority Leader and the Minority Leader of the Senate;

"(ii) the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate; and

"(iii) 3 additional Members of the Senate appointed by the President of the Senate; and

"(L) 36 general trustees, who shall be citizens of the United States, to be appointed in accordance with subsection (b).".

(b) Terms of Office for New General Trustees.—Section 2(b) of the John F. Kennedy Center Act (20 U.S.C. 76h(b)) shall apply to each general trustee of the John F. Kennedy Center for the Performing Arts whose position is established by the amendment made by subsection (a)(2) (referred to in this subsection as a "new general trustee"), except that the initial term of office of each new general trustee shall—

(1) commence on the date on which the new general trustee is appointed by the President; and

(2) terminate on September 1, 2007.

SA 2454. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 168, after line 9, insert the following:

Sec. (a) General Trustees.—

(1) In general.—Subsection (a) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is amended in its last clause by striking out the word "thirty" and inserting in lieu thereof the word "thirty-six".

(2) Terms of office for new general trustees.—

(A) Initial terms of office.—

(i) Commencement of initial term.—The initial terms of office for all new general trustee offices created by this Act shall commence upon appointment by the President.

(ii) Expirations of initial term.—The initial terms of office for all new general trustee offices created by this Act shall continue until September 1, 2007.

(iii) Vacancies and service until the appointment of a successor.—For all new general trustee offices created by this Act, subsections (b)(1) and (b)(2) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) shall apply.

(B) Succeeding terms of office.—Upon the expirations of the initial terms of office pursuant to Section 1(b)91) of this Act, the terms of office for all new general trustee offices created by this Act shall be governed by subsection (b) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h).

(b) Ex Officio Trustees.—Subsection (a) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is further amended by inserting in the second sentence "the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives," after "the Secretary of the Smithsonian Institution,".

(c) Housekeeping Amendment.—To conform with the previous abolition of the United States Information Agency and the transfer of all functions of the Director of the United States Information Agency to the Secretary of State (sections 1311 and 1312 of Public Law 105-277, 112 Stat. 2681-776), subsection (a) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is further amended by striking in the second sentence "the Director of the United States Information Agency," and inserting in lieu thereof "the Secretary of State,".

SA 2455. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 201, after line 22, insert the following:

Sec. 1201. Within funds previously appropriated as authorized under the Native American Housing and Self Determination Act of 1996 (Pub.L. 104-330, §§1(a), 110 Stat. 4016) and made available to Cook Inlet Housing Authority, Cook Inlet Housing Authority may use up to $9,500,000 of such funds to construct student housing for Native college students, including an on-site computer lab and related study facilities, and, notwithstanding any provision of such Act to the contrary, Cook Inlet Housing Authority may use a portion of such funds to establish a reserve fund and to provide for maintenance of the project."

SA 2456. Mr. STEVENS (for Mr. Domenici) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 165, after line 22, insert the attached.

GENERAL PROVISION, THIS CHAPTER

Sec. 501. The Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended as follows:

(1) by inserting in Section 4(c) after "2000," and before "costs" the following: "and the additional $32,000,000 further authorized to be appropriated by amendments to the Act in 2001,"; and

(2) by inserting in Section 5 after "levels)," and before "plus" the following: "and, effective October 1, 2001, not to exceed an additional $32,000,000 (October 1, 2001, price levels),".

SA 2457. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 168, after line 9, insert the following new section:

"Sec. 603. Section 29 of P.L. 92-203, as enacted under section 4 of P.L. 94-204 (43 U.S.C. 1626), is amended by adding at the end of subsection (e) the following:

"(4)(A) Congress confirms that Federal procurement programs for tribes and Alaska Native Corporations are enacted pursuant to its authority under Article I, Section 8 of the United States Constitution.

(B) Contracting with an entity defined in subparagraph (e)(2) of this section or section 3(c) of P.L. 93-262 shall be credited towards the satisfaction of a contractor's obligations under section 7 of P.L. 87-305.

(C) Any entity that satisfies subparagraph (e)(2) of this section that has been certified under section 8 of P.L. 85-536 is a Disadvantaged Business Enterprise for the purposes of P.L. 105-178.".

SA 2458. Mr. INOUYE (for Mr. Biden) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

No appropriated funds or revenues generated by the National Railroad Passenger Corporation may be used to implement Section 204(c)(2) of P.L. 105-134 until the Congress has enacted an Amtrak reauthorization Act.

SA 2459. Mr. INOUYE (for Mr. Daschle) proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the bill, add the following:

TITLE —HOMESTAKE MINE CONVEYANCE

SEC. .1. SHORT TITLE.

This title may be cited as the "Homestake Mine Conveyance Act of 2001".

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States is among the leading nations in the world in conducting basic scientific research;

(2) that leadership position strengthens the economy and national defense of the United States and provides other important benefits;

(3) the Homestake Mine in Lead, South Dakota, owned by the Homestake Mining Company of California, is approximately 8,000 feet deep and is situated in a unique physical setting that is ideal for carrying out certain types of particle physics and other research;

(4) the Mine has been selected by the National Underground Science Laboratory Committee, an independent panel of distinguished scientists, as the preferred site for the construction of the National Underground Science Laboratory;

(5) such a laboratory would be used to conduct scientific research that would be funded and recognized as significant by the United States;

(6) the establishment of the laboratory is in the national interest, and would substantially improve the capability of the United States to conduct important scientific research;

(7) for economic reasons, Homestake intends to cease operations at the Mine in 2001;

(8) on cessation of operations of the Mine, Homestake intends to implement reclamation actions that would preclude the establishment of a laboratory at the Mine;

(9) Homestake has advised the State that, after cessation of operations at the Mine, instead of closing the entire Mine, Homestake is willing to donate the underground portion of the Mine and certain other real and personal property of substantial value at the Mine for use as the National Underground Science Laboratory;

(10) use of the Mine as the site for the laboratory, instead of other locations under consideration, would result in a savings of millions of dollars for the Federal Government;

(11) if the Mine is selected as the site for the laboratory, it is essential that closure of the Mine not preclude the location of the laboratory at the Mine;

(12) Homestake is unwilling to donate, and the State is unwilling to accept, the property at the Mine for the laboratory if Homestake and the State would continue to have potential liability with respect to the transferred property; and

(13) to secure the use of the Mine as the location for the laboratory, and to realize the benefits of the proposed laboratory, it is necessary for the United States to—

(A) assume a portion of any potential future liability of Homestake concerning the Mine; and

(B) address potential liability associated with the operation of the laboratory.

SEC. 3. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AFFILIATE.—

(A) IN GENERAL.—The term "affiliate" means any corporation or other person that controls, is controlled by, or is under common control with Homestake.

(B) INCLUSIONS.—The term "affiliate" includes a director, officer, or employee of an affiliate.

(3) CONVEYANCE.—The term "conveyance" means the conveyance of the Mine to the State under section 4(a).

(4) FUND.—The term "Fund" means the Environment and Project Trust Fund established under section 8.

(5) HOMESTAKE.—

(A) IN GENERAL.—The term "Homestake" means the Homestake Mining Company of California, a California corporation.

(B) INCLUSION.—The term "Homestake" includes—

(i) a director, officer, or employee of Homestake;

(ii) an affiliate of Homestake; and

(iii) any successor of Homestake or successor to the interest of Homestake in the Mine.

(6) INDEPENDENT ENTITY.—The term "independent entity" means an independent entity selected jointly by Homestake, the South Dakota Department of Environment and Natural Resources, and the Administrator—

(A) to conduct a due diligence inspection under section 4(b)(2)(A); and

(B) to determine the fair value of the Mine under section 5(a).

(7) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) LABORATORY.—

(A) IN GENERAL.—The term "laboratory" means the national underground science laboratory proposed to be established at the Mine after the conveyance.

(B) INCLUSION.—The term "laboratory" includes operating and support facilities of the laboratory.

(9) MINE.—

(A) IN GENERAL.—The term "Mine" means the portion of the Homestake Mine in Lawrence County, South Dakota, proposed to be conveyed to the State for the establishment and operation of the laboratory.

(B) INCLUSIONS.—The term "Mine" includes—

(i) real property, mineral and oil and gas rights, shafts, tunnels, structures, backfill, broken rock, fixtures, facilities, and personal property to be conveyed for establishment and operation of the laboratory, as agreed upon by Homestake and the State; and

(ii) any water that flows into the Mine from any source.

(C) EXCLUSIONS.—The term "Mine" does not include—

(i) the feature known as the "Open Cut";

(ii) any tailings or tailings storage facility (other than backfill in the portion of the Mine described in subparagraph (A)); or

(iii) any waste rock or any site used for the dumping of waste rock (other than broken rock in the portion of the Mine described in subparagraph (A)).

(10) PERSON.—The term "person" means—

(A) an individual;

(B) a trust, firm, joint stock company, corporation (including a government corporation), partnership, association, limited liability company, or any other type of business entity;

(C) a State or political subdivision of a State;

(D) a foreign governmental entity;

(E) an Indian tribe; and

(F) any department, agency, or instrumentality of the United States.

(11) PROJECT SPONSOR.—The term "project sponsor" means an entity that manages or pays the costs of 1 or more projects that are carried out or proposed to be carried out at the laboratory.

(12) SCIENTIFIC ADVISORY BOARD.—The term "Scientific Advisory Board" means the entity designated in the management plan of the laboratory to provide scientific oversight for the operation of the laboratory.

(13) STATE.—

(A) IN GENERAL.—The term "State" means the State of South Dakota.

(B) INCLUSIONS.—The term "State" includes an institution, agency, officer, or employee of the State.

SEC. 4. CONVEYANCE OF REAL PROPERTY.

(a) IN GENERAL.—

(1) DELIVERY OF DOCUMENTS.—Subject to paragraph (2) and subsection (b) and notwithstanding any other provision of law, on the execution and delivery by Homestake of 1 or more quit-claim deeds or bills of sale conveying to the State all right, title, and interest of Homestake in and to the Mine, title to the Mine shall pass from Homestake to the State.

(2) CONDITION OF MINE ON CONVEYANCE.—The Mine shall be conveyed as is, with no representations as to the condition of the property.

(b) REQUIREMENTS FOR CONVEYANCE.—

(1) IN GENERAL.—As a condition precedent of conveyance and of the assumption of liability by the United States in accordance with this title, the Administrator shall accept the final report of the independent entity under paragraph (3).

(2) DUE DILIGENCE INSPECTION.—

(A) IN GENERAL.—As a condition precedent of conveyance and of Federal participation described in this title, Homestake shall permit an independent entity to conduct a due diligence inspection of the Mine to determine whether any condition of the Mine may present an imminent and substantial endangerment to public health or the environment.

(B) CONSULTATION.—As a condition precedent of the conduct of a due diligence inspection, Homestake, the South Dakota Department of Environment and Natural Resources, the Administrator, and the independent entity shall consult and agree upon the methodology and standards to be used, and other factors to be considered, by the independent entity in—

(i) the conduct of the due diligence inspection;

(ii) the scope of the due diligence inspection; and

(iii) the time and duration of the due diligence inspection.

(3) REPORT TO THE ADMINISTRATOR.—

(A) IN GENERAL.—The independent entity shall submit to the Administrator a report that—

(i) describes the results of the due diligence inspection under paragraph (2); and

(ii) identifies any condition of or in the Mine that may present an imminent and substantial endangerment to public health or the environment.

(B) PROCEDURE.—

(i) DRAFT REPORT.—Before finalizing the report under this paragraph, the independent entity shall—

(I) issue a draft report;

(II) submit to the Administrator, Homestake, and the State a copy of the draft report;

(III) issue a public notice requesting comments on the draft report that requires all such comments to be filed not later than 45 days after issuance of the public notice; and

(IV) during that 45-day public comment period, conduct at least 1 public hearing in Lead, South Dakota, to receive comments on the draft report.

(ii) FINAL REPORT.—In the final report submitted to the Administrator under this paragraph, the independent entity shall respond to, and incorporate necessary changes suggested by, the comments received on the draft report.

(4) REVIEW AND APPROVAL BY ADMINISTRATOR.—

(A) IN GENERAL.—Not later than 60 days after receiving the final report under paragraph (3), the Administrator shall—

(i) review the report; and

(ii) notify the State in writing of acceptance or rejection of the final report.

(B) CONDITIONS FOR REJECTION.—The Administrator may reject the final report only if the Administrator identifies 1 or more conditions of the Mine that—

(i) may present an imminent and substantial endangerment to the public health or the environment, as determined by the Administrator; and

(ii) require response action to correct each condition that may present an imminent and substantial endangerment to the public health or the environment identified under clause (i) before conveyance and assumption by the Federal Government of liability concerning the Mine under this title.

(C) RESPONSE ACTIONS AND CERTIFICATION.—

(i) RESPONSE ACTIONS.—

(I) IN GENERAL.—If the Administrator rejects the final report, Homestake may carry out or bear the cost of, or permit the State or another person to carry out or bear the cost of, such response actions as are necessary to correct any condition identified by the Administrator under subparagraph (B)(i) that may present an imminent and substantial endangerment to public health or the environment.

(II) Long-term response actions.—

(aa) In general.—In a case in which the Administrator determines that a condition identified by the Administrator under subparagraph (B)(i) requires continuing response action, or response action that can be completed only as part of the final closure of the laboratory, it shall be a condition of conveyance that Homestake, the State, or another person deposit into the Fund such amount as is estimated by the independent entity, on a net present value basis and after taking into account estimated interest on that basis, to be sufficient to pay the costs of the long-term response action or the response action that will be completed as part of the final closure of the laboratory.

(bb) Limitation on use of funds.—None of the funds deposited into the Fund under item (aa) shall be expended for any purpose other than to pay the costs of the long-term response action, or the response action that will be completed as part of the final closure of the Mine, identified under that item.

(ii) Contribution by Homestake.—The total amount that Homestake may expend, pay, or deposit into the Fund under subclauses (I) and (II) of clause (i) shall not exceed—

(I) $75,000,000; less

(II) the fair value of the Mine as determined under section 5(a).

(iii) Certification.—

(I) In general.—After any response actions described in clause (i)(I) are carried out and any required funds are deposited under clause (i)(II), the independent entity may certify to the Administrator that the conditions for rejection identified by the Administrator under subparagraph (B) have been corrected.

(II) Acceptance or rejection of certification.—Not later than 60 days after an independent entity makes a certification under subclause (I), the Administrator shall accept or reject the certification.

(c) Review of Conveyance.—For the purposes of the conveyance, the requirements of this section shall be considered to be sufficient to meet any requirement of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 5. ASSESSMENT OF PROPERTY.

(a) Valuation of Property.—The independent entity shall assess the fair value of the Mine.

(b) Fair Value.—For the purposes of this section, the fair value of the Mine shall include the estimated cost, as determined by the independent entity under subsection (a), of replacing the shafts, winzes, hoists, tunnels, ventilation system, and other equipment and improvements at the Mine that are expected to be used at, or that will be useful to, the laboratory.

(c) Report.—Not later than the date on which each report developed in accordance with section 4(b)(3) is submitted to the Administrator, the independent entity described in subsection (a) shall submit to the State a report that identifies the fair value assessed under subsection (a).

SEC. 6. LIABILITY.

(a) Assumption of Liability.—

(1) Assumption.—Subject to paragraph (2), notwithstanding any other provision of law, on completion of the conveyance in accordance with this title, the United States shall assume any and all liability relating to the Mine and laboratory, including liability for—

(A) damages;

(B) reclamation;

(C) the costs of response to any hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)), contaminant, or other material on, under, or relating to the Mine and laboratory; and

(D) closure of the Mine and laboratory.

(2) Claims against United States.—In the case of any claim brought against the United States, the United States shall be liable for—

(A) damages under paragraph (1)(A), only to the extent that an award of damages is made in a civil action brought under chapter 171 of title 28, United States Code; and

(B) response costs under paragraph (1)(C), only to the extent that an award of response costs is made in a civil action brought under—

(i) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(ii) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(iii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

(iv) any other applicable Federal environmental law, as determined by the Administrator.

(b) Liability Protection.—On completion of the conveyance, neither Homestake nor the State shall be liable to any person or the United States for injuries, costs, injunctive relief, reclamation, damages (including damages to natural resources or the environment), or expenses, or liable under any other claim (including claims for indemnification or contribution, claims by third parties for death, personal injury, illness, or loss of or damage to property, or claims for economic loss), under any law (including a regulation) for any claim arising out of or in connection with contamination, pollution, or other condition, use, or closure of the Mine and laboratory, regardless of when a condition giving rise to the liability originated or was discovered.

(c) Indemnification.—Notwithstanding any other provision of law, on completion of the conveyance in accordance with this title, the United States shall indemnify, defend, and hold harmless Homestake and the State from and against—

(1) any and all liabilities and claims described in subsection (a), without regard to any limitation under subsection (a)(2); and

(2) any and all liabilities and claims described in subsection (b).

(d) Waiver of Sovereign Immunity.—For purposes of this Act, the United States waives any claim to sovereign immunity.

(e) Timing for Assumption of Liability.—If the conveyance is effectuated by more than 1 legal transaction, the assumption of liability, liability protection, indemnification, and waiver of sovereign immunity provided for under this section shall apply to each legal transaction, as of the date on which the transaction is completed and with respect to such portion of the Mine as is conveyed under that transaction.

(f) Exceptions for Homestake Claims.—Nothing in this section constitutes an assumption of liability by the United States, or relief of liability of Homestake, for—

(1) any unemployment, worker's compensation, or other employment-related claim or cause of action of an employee of Homestake that arose before the date of conveyance;

(2) any claim or cause of action that arose before the date of conveyance, other than an environmental claim or a claim concerning natural resources;

(3) any violation of any provision of criminal law; or

(4) any claim, injury, damage, liability, or reclamation or cleanup obligation with respect to any property or asset that is not conveyed under this title, except to the extent that any such claim, injury, damage, liability, or reclamation or cleanup obligation arises out of the continued existence or use of the Mine subsequent to the date of conveyance.

SEC. 7. INSURANCE COVERAGE.

(a) Property and Liability Insurance.—

(1) In general.—To the extent property and liability insurance is available and subject to the requirements described in paragraph (2), the State shall purchase property and liability insurance for the Mine and the operation of the laboratory to provide coverage against the liability described in subsections (a) and (b) of section 6.

(2) Requirements.—The requirements referred to in paragraph (1) are the following:

(A) Terms of insurance.—In determining the type, extent of coverage, and policy limits of insurance purchased under this subsection, the State shall—

(i) periodically consult with the Administrator and the Scientific Advisory Board; and

(ii) consider certain factors, including—

(I) the nature of the projects and experiments being conducted in the laboratory;

(II) the availability and cost of commercial insurance; and

(III) the amount of funding available to purchase commercial insurance.

(B) Additional terms.—The insurance purchased by the State under this subsection may provide coverage that is—

(i) secondary to the insurance purchased by project sponsors; and

(ii) in excess of amounts available in the Fund to pay any claim.

(3) Financing of insurance purchase.—

(A) In general.—Subject to section 8, the State may finance the purchase of insurance required under this subsection by using—

(i) funds made available from the Fund; and

(ii) such other funds as are received by the State for the purchase of insurance for the Mine and laboratory.

(B) No requirement to use State funds.—Nothing in this title requires the State to use State funds to purchase insurance required under this subsection.

(4) Additional insured.—Any insurance purchased by the State under this subsection shall—

(A) name the United States as an additional insured; or

(B) otherwise provide that the United States is a beneficiary of the insurance policy having the primary right to enforce all rights of the United States under the policy.

(5) Termination of obligation to purchase insurance.—The obligation of the State to purchase insurance under this subsection shall terminate on the date on which—

(A) the Mine ceases to be used as a laboratory; or

(B) sufficient funding ceases to be available for the operation and maintenance of the Mine or laboratory.

(b) Project Insurance.—

(1) In general.—The State, in consultation with the Administrator and the Scientific Advisory Board, may require, as a condition of approval of a project for the laboratory, that a project sponsor provide property and liability insurance or other applicable coverage for potential liability associated with the project described in subsections (a) and (b) of section 6.

(2) Additional insured.—Any insurance obtained by the project sponsor under this section shall—

(A) name the State and the United States as additional insureds; or

(B) otherwise provide that the State and the United States are beneficiaries of the insurance policy having the primary right to enforce all rights under the policy.

(c) State Insurance.—

(1) In general.—To the extent required by State law, the State shall purchase, with respect to the operation of the Mine and the laboratory—

(A) unemployment compensation insurance; and

(B) worker's compensation insurance.

(2) Prohibition on use of funds from fund.—A State shall not use funds from the Fund to carry out paragraph (1).

SEC. 8. ENVIRONMENT AND PROJECT TRUST FUND.

(a) Establishment.—On completion of the conveyance, the State shall establish, in an interest-bearing account at an accredited financial institution located within the State, the Environment and Project Trust Fund.

(b) Amounts.—The Fund shall consist of—

(1) an annual deposit from the operation and maintenance funding provided for the laboratory in an amount to be determined—

(A) by the State, in consultation with the Administrator and the Scientific Advisory Board; and

(B) after taking into consideration—

(i) the nature of the projects and experiments being conducted at the laboratory;

(ii) available amounts in the Fund;

(iii) any pending costs or claims that may be required to be paid out of the Fund; and

(iv) the amount of funding required for future actions associated with the closure of the facility;

(2) an amount determined by the State, in consultation with the Administrator and the Scientific Advisory Board, and to be paid by the appropriate project sponsor, for each project to be conducted, which amount—

(A) shall be used to pay—

(i) costs incurred in removing from the Mine or laboratory equipment or other materials related to the project;

(ii) claims arising out of or in connection with the project; and

(iii) if any portion of the amount remains after paying the expenses described in clauses (i) and (ii), other costs described in subsection (c); and

(B) may, at the discretion of the State, be assessed—

(i) annually; or

(ii) in a lump sum as a prerequisite to the approval of the project;

(3) interest earned on amounts in the Fund, which amount of interest shall be used only for a purpose described in subsection (c); and

(4) all other funds received and designated by the State for deposit in the Fund.

(c) Expenditures From Fund.—Amounts in the Fund shall be used only for the purposes of funding—

(1) waste and hazardous substance removal or remediation, or other environmental cleanup at the Mine;

(2) removal of equipment and material no longer used, or necessary for use, in conjunction with a project conducted at the laboratory;

(3) a claim arising out of or in connection with the conducting of such a project;

(4) purchases of insurance by the State as required under section 7;

(5) payments for and other costs relating to liability described in section 6; and

(6) closure of the Mine and laboratory.

(d) Federal Payments From Fund.—The United States—

(1) to the extent the United States assumes liability under section 6—

(A) shall be a beneficiary of the Fund; and

(B) may direct that amounts in the Fund be applied to pay amounts and costs described in this section; and

(2) may take action to enforce the right of the United States to receive 1 or more payments from the Fund.

(e) No Requirement of Deposit of Public Funds.—Nothing in this section requires the State to deposit State funds as a condition of the assumption by the United States of liability, or the relief of the State or Homestake from liability, under section 6.

SEC. 9. WASTE ROCK MIXING.

After completion of the conveyance, the State shall obtain the approval of the Administrator before disposing of any material quantity of laboratory waste rock if—

(1) the disposal site is on land not conveyed under this title; and

(2) the State determines that the disposal could result in commingling of laboratory waste rock with waste rock disposed of by Homestake before the date of conveyance.

SEC. 10. REQUIREMENTS FOR OPERATION OF LABORATORY.

After the conveyance, nothing in this title exempts the laboratory from compliance with any law (including a Federal environmental law).

SEC. 11. CONTINGENCY.

This title shall be effective contingent on the selection, by the National Science Foundation, of the Mine as the site for the laboratory.

SEC. 12. OBLIGATION IN THE EVENT OF NON-CONVEYANCE.

If the conveyance under this title does not occur, any obligation of Homestake relating to the Mine shall be limited to such reclamation or remediation as is required under any applicable law other than this title.'

SEC. 13. PAYMENT AND REIMBURSEMENT OF COSTS.

The United States may seek payment—

(1) from the Fund, under section 8(d), to pay or reimburse the United States for amounts payable or liabilities incurred under this title; and

(2) from available insurance, to pay or reimburse the United States and the Fund for amounts payable or liabilities incurred under this title.

SEC. 14. CONSENT DECREES.

Nothing in this title affects any obligation of a party under—

(1) the 1990 Remedial Action Consent Decree (Civ. No. 90-5101 D. S.D.); or'

(2) the 1999 Natural Resource Damage Consent Decree (Civ. Nos. 97-5078 and 97-5100, D. S.D.).

SEC. 15. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by inserting after "September 30, 2003," the following: "except that fees shall continue to be charged under paragraphs (1) through (8) of that subsection through January 31, 2004.".

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SA 2460. Mr. REID (for Mr. KERRY (for himself and Mr. BOND)) proposed an amendment to the bill S. 1196, to amend the Small Business Investment Act of 1958, and for other purposes; as follows:

Strike section 6 and all that follows through the end of the matter proposed to be inserted by the House of Representatives, and insert the following:

SEC. 6. REDUCTION OF FEES.

(a) Two-Year Reduction of Section 7(a) Fees.—

(1) Guarantee fees.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended by adding at the end the following:

"(C) Two-year reduction in fees.—With respect to loans approved during the 2-year period beginning on October 1, 2002, the guarantee fee under subparagraph (A) shall be as follows:

"(i) A guarantee fee equal to 1 percent of the deferred participation share of a total loan amount that is not more than $150,000.

"(ii) A guarantee fee equal to 2.5 percent of the deferred participation share of a total loan amount that is more than $150,000, but not more than $700,000.

"(iii) A guarantee fee equal to 3.5 percent of the deferred participation share of a total loan amount that is more than $700,000.".

(2) Annual fees.—Section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)) is amended by adding at the end the following: "With respect to loans approved during the 2-year period beginning on October 1, 2002, the annual fee assessed and collected under the preceding sentence shall be in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.".

(b) Reduction of Section 504 Fees.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (b)(7)(A)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the margins 2 ems to the right;

(B) by striking "not exceed the lesser" and inserting "not exceed—

"(i) the lesser"; and

(C) by adding at the end the following:

"(ii) 50 percent of the amount established under clause (i) in the case of a loan made during the 2-year period beginning on October 1, 2002, for the life of the loan; and"; and

(2) by adding at the end the following:

"(i) Two-Year Waiver of Fees.—The Administration may not assess or collect any up front guarantee fee with respect to loans made under this title during the 2-year period beginning on October 1, 2002.".

(c) Budgetary Treatment of Loans and Financings.—Assistance made available under any loan made or approved by the Small Business Administration under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or financings made under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), during the 2-year period beginning on October 1, 2002, shall be treated as separate programs of the Small Business Administration for purposes of the Federal Credit Reform Act of 1990 only.

(d) Use of Funds.—The amendments made by this section to section 503 of the Small Business Investment Act of 1958, shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized by the Administrator to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) of such amendments.

(e) Effective Date.—The amendments made by this section shall become effective on October 1, 2002.

SA 2461. Mr. REID (for Mr. STEVENS) proposed an amendment to the bill S. 703, to extend the effective period of the consent of Congress to the interstate compact relating to the restoration of Atlantic salmon to the Connecticut River Basin and creating the Connecticut River Atlantic Salmon Commission, and for other purposes; as follows:

On page 2, after line 14, insert the following new section:

SEC. 2. FISHING CAPACITY REDUCTION PROGRAM.

Section 144(d)(4)(A) of division B of the Miscellaneous Appropriations Act, 2001 (as enacted into law by section 1(a)(4) of Public Law 106-554; 114 Stat. 2763A-242) is amended—

(1) by striking "in equal parts through a reduction loan of $50,000,000" and inserting "through any combination of a reduction loan of up to $100,000,000"; and

(2) by striking "and $50,000,000" and inserting "and up to $50,000,000".

SA 2462. Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. SPECTER)) proposed an amendment to the bill S. 1088, to amend title 38, United States Code, to facilitate the use of educational assistance under the Montgomery GI Bill for education leading to employment in high technology industry, and for other purposes; as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Improvement Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—EDUCATION MATTERS

Sec. 101. Increase in rates of basic educational assistance under Montgomery GI Bill.
Sec. 102. Authority for accelerated payments of basic educational assistance under Montgomery GI Bill.
Sec. 103. Accelerated payments of educational assistance under Montgomery GI Bill for education leading to employment in high technology industry.
Sec. 104. Eligibility for Montgomery GI Bill benefits of certain additional Vietnam era veterans.
Sec. 105. Treatment of educational allowances paid to persons called to active duty for the national emergency of September 11, 2001.
Sec. 106. Increase in rates of survivors' and dependents' educational assistance.
Sec. 107. Eligibility for survivors' and dependents' educational assistance of spouses and surviving spouses of veterans with total service-connected disabilities.
Sec. 108. Inclusion of certain private technology entities in definition of educational institution.

TITLE II—COMPENSATION AND PENSION MATTERS

Sec. 201. Modification and extension of authorities on presumption of service-connection for herbicide-related disabilities of Vietnam era veterans.
Sec. 202. Compensation for disabilities of Persian Gulf War veterans.
Sec. 203. Expansion of presumptions of permanent and total disability for veterans applying for nonservice-connected pension.
Sec. 204. Exclusion of certain additional income from determinations of annual income for pension purposes.
Sec. 205. Time limitation on receipt of claim information pursuant to request by Department of Veterans Affairs.
Sec. 206. Effective date of change in recurring income for pension purposes.
Sec. 207. Prohibition on provision of certain benefits with respect to veterans who are fugitive felons.
Sec. 208. Limitation on payment of compensation for veterans remaining incarcerated for felonies committed before October 7, 1980.
Sec. 209. Repeal of limitation on payments of benefits to incompetent institutionalized veterans.
Sec. 210. Extension of limitation on pension for certain recipients of medicaid-covered nursing home care.

TITLE III—HOUSING MATTERS

Sec. 301. Increase in home loan guaranty amount for construction and purchase of homes.
Sec. 302. Four-year extension of Native American Veterans Housing Loan Program.
Sec. 303. Extension of other expiring authorities.

TITLE IV—BURIAL MATTERS

Sec. 401. Increase in burial and funeral expense benefit for veterans who die of service-connected disabilities.
Sec. 402. Authority to provide bronze grave markers for privately marked graves.

TITLE V—OTHER BENEFITS MATTERS

Sec. 501. Repeal of fiscal year limitation on number of veterans in programs of independent living services and assistance.

TITLE VI—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Sec. 601. Temporary expansion of United States Court of Appeals for Veterans Claims to facilitate staggered terms of judges.
Sec. 602. Repeal of requirement for written notice regarding acceptance of reappointment as condition to retirement from United States Court of Appeals for Veterans Claims.
Sec. 603. Termination of notice of disagreement as jurisdictional requirement for United States Court of Appeals for Veterans Claims.
Sec. 604. Registration fees.
Sec. 605. Administrative authorities.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EDUCATION MATTERS

SEC. 101. INCREASE IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) ACTIVE DUTY EDUCATIONAL ASSISTANCE.—Section 3015 is amended—

(1) in subsection (a)(1), by striking "$650 (as increased from time to time under subsection (h))" and inserting "$700, for months beginning after September 30, 2001, but before September 30, 2002, $800 for months beginning after September 30, 2002, but before September 30, 2003, and $950 for months beginning after September 30, 2003, but before September 30, 2004, and as increased from time to time under subsection (h) after September 30, 2004,"; and

(2) in subsection (b)(1), by striking "$528 (as increased from time to time under subsection (h))" and inserting "$569, for months beginning after September 30, 2001, but before September 30, 2002, $650 for months beginning after September 30, 2002, but before September 30, 2003, and $772 for months beginning after September 30, 2003, but before September 30, 2004, and as increased from time to time under subsection (h) after September 30, 2004,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2001, and shall apply with respect to educational assistance allowances paid under chapter 30 of title 38, United States Code, for months after September 2001. However, no adjustment shall be made under section 3015(h) of title 38, United States Code, for fiscal year 2002, 2003, or 2004.

SEC. 102. AUTHORITY FOR ACCELERATED PAYMENTS OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) IN GENERAL.—Section 3014 is amended by adding at the end the following new subsection:

"(c)(1)(A) Notwithstanding any other provision of this chapter and subject to subparagraph (B), an individual entitled to basic educational assistance under this subchapter may elect to receive an accelerated payment of the basic educational assistance allowance.

"(B) The Secretary may not make an accelerated payment under this subsection for a course to an individual who has received an advance payment under section 3014A or 3680(d) of this title for the same enrollment period.

"(2)(A) Pursuant to an election under paragraph (1), the Secretary shall make an accelerated payment to an individual for a course in a lump-sum amount equal to the lesser of—

"(i) the amount of the educational assistance allowance for the month, or fraction thereof, in which the course begins plus the educational assistance allowance for each of the succeeding four months; or

"(ii)(I) in the case of a course offered on a quarter, semester, or term basis, the amount of aggregate monthly educational assistance allowance otherwise payable under this subchapter for the course for the entire quarter, semester, or term; or

"(II) in the case of a course that is not offered on a quarter, semester, or term basis, the amount of aggregate monthly educational assistance allowance otherwise payable under this subchapter for the entire course.

"(B) In the case of an adjustment under section 3015(h) of this title in the monthly rate of basic educational assistance that occurs during a period for which an accelerated payment is made under this subsection, the Secretary shall pay—

"(i) on an accelerated basis the amount of the allowance otherwise payable under this subchapter for the period without regard to the adjustment under that section; and

"(ii) on the date of the adjustment any additional amount of the allowance that is payable for the period as a result of the adjustment.

"(3) For each accelerated payment made to an individual under this subsection, the individual's entitlement under this subchapter shall be charged at the same rate at which the entitlement would be charged if the individual had received a monthly educational assistance allowance for the period of educational pursuit covered by the accelerated payment.

"(4) The Secretary shall prescribe regulations to carry out this subsection. The regulations

shall include the requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is six months after the date of the enactment of this Act, and shall apply with respect to courses of education beginning on or after that date.

SEC. 103. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.

(a) IN GENERAL.—(1) Chapter 30 is amended by inserting after section 3014 the following new section:

"§3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology industry

''(a) An individual described in subsection (b) who is entitled to basic educational assistance under this subchapter may elect to receive an accelerated payment of the basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

''(b) An individual described in this subsection is an individual who is—

''(1) enrolled in an approved program of education that leads to employment in a high technology industry (as determined pursuant to regulations prescribed by the Secretary); and

''(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

''(c)(1) The amount of the accelerated payment of basic educational assistance made to an individual making an election under subsection (a) for a program of education shall be the lesser of—

''(A) the amount equal to 60 percent of the established charges for the program of education; or

''(B) the aggregate amount of basic educational assistance to which the individual remains entitled under this chapter at the time of the payment.

''(2) In this subsection, the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

''(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

''(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

''(3) The educational institution providing the program of education for which an accelerated payment of basic educational assistance allowance is elected by an individual under subsection (a) shall certify to the Secretary the amount of the established charges for the program of education.

''(d) An accelerated payment of basic educational assistance made to an individual under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary receives a certification from the educational institution regarding—

''(1) the individual's enrollment in and pursuit of the program of education; and

''(2) the amount of the established charges for the program of education.

''(e)(1) Except as provided in paragraph (2), for each accelerated payment of basic educational assistance made to an individual under this section, the individual's entitlement to basic educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

''(2) If the monthly rate of basic educational assistance allowance otherwise payable to an individual under section 3015 of this title increases during the enrollment period of a program of education for which an accelerated payment of basic educational assistance is made under this section, the charge to the individual's entitlement to basic educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the matter provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary.

''(f) The Secretary may not make an accelerated payment under this section for a program of education to an individual who has received an advance payment under section 3014(c) or 3680(d) of this title for the same enrollment period.

''(g) The Secretary shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under this section.''.

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 3014 the following new item:

''3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology industry.''.

(b) RESTATEMENT AND ENHANCEMENT OF CERTAIN ADMINISTRATIVE AUTHORITIES.—Subsection (g) of section 3680 is amended to read as follows:

''(g)(1) The Secretary may, pursuant to regulations which the Secretary shall prescribe, determine and define with respect to an eligible veteran and eligible person the following:

''(A) Enrollment in a course or a program of education or training.

''(B) Pursuit of a course or program of education or training.

''(C) Attendance at a course or program of education and training.

''(2) The Secretary may withhold payment of benefits to an eligible veteran or eligible person until the Secretary receives such proof as the Secretary may require of enrollment in and satisfactory pursuit of a program of education by the eligible veteran or eligible person. The Secretary shall adjust the payment withheld, when necessary, on the basis of the proof the Secretary receives.

''(3) In the case of an individual other than an individual described in paragraph (4), the Secretary may accept the individual's monthly certification of enrollment in and satisfactory pursuit of a program of education as sufficient proof of the certified matters.

''(4) In the case of an individual who has received an accelerated payment of basic educational assistance under section 3014A of this title during an enrollment period for a program of education, the Secretary may accept the individual's certification of enrollment in and satisfactory pursuit of the program of education as sufficient proof of the certified matters if the certification is submitted after the enrollment period has ended.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect eight months after the date of the enactment of this Act, and shall apply with respect to enrollments in courses or programs of education or training beginning on or after that date.

SEC. 104. ELIGIBILITY FOR MONTGOMERY GI BILL BENEFITS OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS.

(a) ACTIVE DUTY PROGRAM.—Section 3011(a)(1) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by adding ''or'' at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

''(C) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title and—

''(i) was not on active duty on October 19, 1984;

''(ii) reenlists or reenters on a period of active duty after the date specified in clause (i); and

''(iii) after July 1, 1985, either—

''(I) serves at least three years of continuous active duty in the Armed Forces; or

''(II) is discharged or released from active duty (aa) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph, (bb) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date, or (cc) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy;''.

(b) SELECTED RESERVE PROGRAM.—Section 3012(a)(1) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by adding ''or'' at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

''(C) as of December 31, 1989, is eligible for educational assistance under chapter 34 of this title and—

''(i) was not on active duty on October 19, 1984;

''(ii) reenlists or reenters on a period of active duty after the date specified in clause (i); and

''(iii) after July 1, 1985—

''(I) serves at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

''(II) subject to subsection (b) of this section and beginning within one year after completion of such two years of service, serves at least four continuous years in the Selected Reserve during which the individual participates satisfactorily in training as prescribed by the Secretary concerned;''.

(c) TIME FOR USE OF ENTITLEMENT.—Section 3031 is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) in the case of an individual who becomes entitled to such assistance under section 3011(a)(1)(C) or 3012(a)(1)(C) of this title, on the date of the enactment of this paragraph."; and

(2) in subsection (e)(1), by striking "section 3011(a)(1)(B) or 3012(a)(1)(B)" and inserting "section 3011(a)(1)(B), 3011(a)(1)(C), 3012(a)(1)(B), or 3012(a)(1)(C)".

SEC. 105. TREATMENT OF EDUCATIONAL ALLOWANCES PAID TO PERSONS CALLED TO ACTIVE DUTY FOR THE NATIONAL EMERGENCY OF SEPTEMBER 11, 2001.

(a) Montgomery GI Bill.—Section 3013(f)(2) is amended—

(1) in subparagraph (A), by inserting ", or in support of or response to the National Emergency declared by the Presidential Proclamation dated September 14, 2001," after "Persian Gulf War"; and

(2) in subparagraph (B), by inserting "or Presidential Proclamation" after "such War".

(b) VEAP.—Section 3231(a)(5) is amended—

(1) in subparagraph (B)(i), by inserting ", or in support of or response to the National Emergency declared by the Presidential Proclamation dated September 14, 2001," after "Persian Gulf War"; and

(2) in subparagraph (B)(ii), by inserting "or Presidential Proclamation" after "such War".

(c) Survivors' and Dependents' Educational Assistance.—Section 3511(a)(2)(B)(i) is amended by inserting ", or in support of or response to the National Emergency declared by the Presidential Proclamation dated September 14, 2001," after "Persian Gulf War".

SEC. 106. INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) In General.—Section 3532(a)(1) is amended—

(1) by striking "$588" and inserting "$690";

(2) by striking "$441" and inserting "$517"; and

(3) by striking "$294" and inserting "$345".

(b) Training in Business or Industry.—Section 3532(b) is amended by striking "$588" and inserting "$690".

(c) Correspondence Courses.—Section 3534(b) is amended by striking "$588" and inserting "$690".

(d) Special Restorative Training.—Section 3542 is amended by striking "$588" and inserting "$690".

(e) Effective Date.—The amendments made by this section shall take effect on October 1, 2001, and shall apply with respect to educational assistance allowances payable under chapter 35 of title 38, United States Code, for months beginning on or after that date. No adjustment in amounts of educational assistance shall be made under section 3564 of title 38, United States Code, for fiscal year 2002.

SEC. 107. ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE OF SPOUSES AND SURVIVING SPOUSES OF VETERANS WITH TOTAL SERVICE-CONNECTED DISABILITIES.

(a) Designation of Eligibility.—Section 3501(a)(1)(D) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by inserting "(ii)" after "or".

(b) Restatement and Expansion of Treatment of Use of Eligibility.—(1) Section 3511 is amended by adding at the end the following new subsection:

"(c) Any entitlement used by an eligible person as a result of eligibility under section 3501(a)(1)(A)(iii), 3501(a)(1)(C), or 3501(a)(1)(D)(i) of this title shall be deducted from any entitlement to which such person may subsequently be entitled under this chapter.".

(2) Section 3512 is amended by striking subsection (g).

(c) Delimiting Period.—(1) Section 3512(b) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph (1):

"(1)(A) Except as provided in subparagraph (B), a person made eligible by subparagraph (B) or (D) of section 3501(a)(1) of this title may be afforded educational assistance under this chapter during the 10-year period beginning on the date (as determined by the Secretary) the person becomes an eligible person within the meaning of section 3501(a)(1)(B), 3501(a)(1)(D)(i), or 3501(a)(1)(D)(ii) of this title. In the case of a surviving spouse made eligible by clause (ii) of section 3501(a)(1)(D) of this title, the 10-year period may not be reduced by any earlier period during which the person was afforded educational assistance under this chapter as a spouse made eligible by clause (i) of that section.

"(B) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph may, subject to the Secretary's approval, elect a later beginning date for the 10-year period than would otherwise be applicable to the person under that subparagraph. The beginning date so elected may be any date between the beginning date determined for the person under subparagraph (A) and whichever of the following dates applies:

"(i) The date on which the Secretary notifies the veteran from whom eligibility is derived that the veteran has a service-connected total disability permanent in nature.

"(ii) The date on which the Secretary determines that the veteran from whom eligibility is derived died of a service-connected disability."; and

(B) by striking paragraph (3).

(2) The amendments made by paragraph (1) shall apply with respect to any determination (whether administrative or judicial) of the eligibility of a spouse or surviving spouse for educational assistance under chapter 35 of title 38, United States Code, made on or after the date of the enactment of this Act, whether pursuant to an original claim for such assistance or pursuant to a reapplication or attempt to reopen or readjudicate a claim for such assistance.

SEC. 108. INCLUSION OF CERTAIN PRIVATE TECHNOLOGY ENTITIES IN DEFINITION OF EDUCATIONAL INSTITUTION.

(a) In General.—Sections 3452(c) and 3501(a)(6) are each amended by adding at the end the following new sentence: "Such term also includes any private entity (that meets such requirements as the Secretary may establish) that offers, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary).".

(b) Effective Date.—The amendments made by subsection (a) shall apply to enrollments in courses occurring on or after the date of the enactment of this Act.

TITLE II—COMPENSATION AND PENSION MATTERS

SEC. 201. MODIFICATION AND EXTENSION OF AUTHORITIES ON PRESUMPTION OF SERVICE-CONNECTION FOR HERBICIDE-RELATED DISABILITIES OF VIETNAM ERA VETERANS.

(a) Repeal of 30-Year Limitation on Manifestation of Respiratory Cancers.—Subsection (a)(2)(F) of section 1116 is amended by striking "within 30 years" and all that follows through "May 7, 1975".

(b) Presumption of Exposure to Herbicide Agents in Vietnam During Vietnam Era.—(1) Section 1116 is further amended—

(A) by transferring paragraph (3) of subsection (a) to the end of the section and redesignating such paragraph, as so transferred, as subsection (f);

(B) in subsection (a), by redesignating paragraph (4) as paragraph (3); and

(C) in subsection (f), as transferred and redesignated by subparagraph (B) of this paragraph—

(i) by striking "For the purposes of this subsection, a veteran" and inserting "For purposes of establishing service connection for a disability or death resulting from exposure to a herbicide agent, including a presumption of service-connection under this section, a veteran"; and

(ii) by striking "and has a disease referred to in paragraph (1)(B) of this subsection".

(2)(A) The section heading of that section is amended to read as follows:

"§ 1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure".

(B) The table of section at the beginning of chapter 11 is amended by striking the item relating to section 1116 and inserting the following new item:

"1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure.".

(c) Extension of Authority To Presume Service-Connection for Additional Diseases.—(1) Subsection (e) of section 1116 is amended by striking "10 years" and inserting "20 years".

(2) Section 3(i) of the Agent Orange Act of 1991 (38 U.S.C. 1116 note) is amended by striking "10 years" and inserting "20 years".

SEC. 202. COMPENSATION FOR DISABILITIES OF PERSIAN GULF WAR VETERANS.

(a) Presumptive Period for Undiagnosed Illnesses.—Section 1117 is amended—

(1) in subsection (a)(2), by striking "within the presumptive period prescribed under subsection (b)" and inserting "before December 31, 2011, or such later date as the Secretary may prescribe by regulation";

(2) by striking subsection (b); and

(3) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

(b) Illnesses That Cannot be Clearly Defined.—Subsection (a) of that section is further amended by inserting "or any poorly defined chronic multisymptom illness of unknown etiology, regardless of diagnosis, characterized by two or more of the signs or symptoms listed in subsection (f)" after "illnesses)".

(c) Signs or Symptoms That May Indicate Undiagnosed Illnesses.—That section is further amended by adding at the end the following new subsection:

"(f) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness include the following:

"(1) Fatigue.

"(2) Unexplained rashes or other dermatological signs or symptoms.

"(3) Headache.

"(4) Muscle pain.

"(5) Joint pain.

"(6) Neurologic signs or symptoms.

"(7) Neuropsychological signs or symptoms.

"(8) Signs or symptoms involving the respiratory system (upper or lower).

"(9) Sleep disturbances.

"(10) Gastrointestinal signs or symptoms.

"(11) Cardiovascular signs or symptoms.

"(12) Abnormal weight loss.

"(13) Menstrual disorders.".

(d) Presumption of Service Connection Program.—Section 1118(a) is amended by adding at the end the following new paragraph:

"(4) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness include the signs and symptoms listed in section 1117(f) of this title.".

(e) Effective Date.—The amendments made by this section shall take effect on April 1, 2002.

SEC. 203. EXPANSION OF PRESUMPTIONS OF PERMANENT AND TOTAL DISABILITY FOR VETERANS APPLYING FOR NONSERVICE-CONNECTED PENSION.

(a) In General.—Section 1502(a) is amended by striking "such a person" and all that follows through the end of the subsection and inserting the following: "such a person—

"(1) is a patient in a nursing home for long-term care because of disability;

"(2) has been determined by the Social Security Administration to be disabled for purposes of any benefits administered by the Administration and the Administration, based on evidence available to the Administration, does not expect such person's condition to improve;

"(3) is at least 65 years old and, based on evidence available to the Secretary, has no current, recurring income from employment;

"(4) is unemployable as a result of disability reasonably certain to continue throughout the life of the disabled person; or

"(5) is suffering from—

"(A) any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the disabled person; or

"(B) any disease or disorder determined by the Secretary to be of such a nature or extent as to justify a determination that persons suffering therefrom are permanently and totally disabled.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on September 10, 2001.

SEC. 204. EXCLUSION OF CERTAIN ADDITIONAL INCOME FROM DETERMINATIONS OF ANNUAL INCOME FOR PENSION PURPOSES.

(a) Life Insurance Proceeds.—Subsection (a) of section 1503 is amended—

(1) in paragraph (9), by striking "and" at the end;

(2) in paragraph (10), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraph (11):

"(11) proceeds (in an amount equal to or less than the amount prescribed by the Secretary for purposes of this paragraph, subject to subsection (c)) of any life insurance policy of a veteran; and".

(b) Other Non-Recurring Income.—That subsection is further amended by inserting after paragraph (11), as added by subsection (a)(3) of this section, the following new paragraph (12):

"(12) any other non-recurring income (in an amount equal to or less than the amount prescribed by the Secretary for purposes of this paragraph, subject to subsection (c)) from any source.".

(c) Excludable Amounts of Life Insurance Proceeds and Other Non-Recurring Income.—That section is further amended by adding at the end the following new subsection:

"(c) In prescribing amounts for purposes of paragraph (11) or (12) of subsection (a), the Secretary shall take into consideration the amount of income from insurance proceeds or other non-recurring income, as the case may be, that is reasonable for individuals eligible for pension to consume for their maintenance.".

(d) Effective Date.—The amendments made by this section shall take effect on January 1, 2002, and shall apply with respect to determinations of annual income under section 1503 of title 38, United States Code, as so amended, on or after that date.

SEC. 205. TIME LIMITATION ON RECEIPT OF CLAIM INFORMATION PURSUANT TO REQUEST BY DEPARTMENT OF VETERANS AFFAIRS.

(a) In General.—Section 5102 is amended by adding at the end the following new subsection:

"(c) Time Limitation.—(1) If information that a claimant and the claimant's representative, if any, are notified under subsection (b) is necessary to complete an application is not received by the Secretary within one year from the date of such notification, no benefit may be paid or furnished by reason of the claimant's application.

"(2) This subsection shall not apply to any application or claim for Government life insurance benefits.".

(b) Repeal of Superseded Provisions.—Section 5103 is amended—

(1) by striking "(a) Required Information and Evidence.—"; and

(2) by striking subsection (b).

(c) Effective Date.—The amendments made by this section shall take effect as if enacted on November 9, 2000, immediately after the enactment of the Veterans Claims Assistance Act of 2000 (Public Law 106–475; 114 Stat. 2096).

SEC. 206. EFFECTIVE DATE OF CHANGE IN RECURRING INCOME FOR PENSION PURPOSES.

Section 5112(b)(4) is amended by striking subparagraph (A) and inserting the following new subparagraph (A):

"(A) change in recurring income will be the last day of the calendar year in which the change occurred (with the pension rate for the following calendar year based on all anticipated countable income); and".

SEC. 207. PROHIBITION ON PROVISION OF CERTAIN BENEFITS WITH RESPECT TO VETERANS WHO ARE FUGITIVE FELONS.

(a) Prohibition.—(1) Chapter 53 is amended by inserting after section 5313A the following new section:

"§5313B. Prohibition on providing certain benefits with respect to veterans who are fugitive felons

"(a) A veteran described in subsection (b), or dependent of the veteran, who is otherwise eligible for a benefit described in subsection (c) may not be paid or otherwise provided such benefit during any period in which the veteran is a fugitive as described in subsection (b).

"(b)(1) A veteran described in this subsection is a veteran who is a fugitive by reason of—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the veteran flees; or

"(B) violating a condition of probation or parole imposed under Federal or State law.

"(2) For purposes of this subsection, the term 'felony' includes a high misdemeanor under the laws of a State which characterizes as high misdemeanors offenses that would be felony offenses under Federal law.

"(c) A benefit described in this subsection is any benefit under the following:

"(1) Chapter 11 of this title.

"(2) Chapter 13 of this title.

"(3) Chapter 15 of this title.

"(4) Chapter 17 of this title.

"(5) Chapter 19 of this title.

"(6) Chapters 30, 31, 32, 34, and 35 of this title.

"(7) Chapter 37 of this title.

"(d)(1) The Secretary shall furnish to any Federal, State, or local law enforcement official, upon the written request of such official, the most current address maintained by the Secretary of a veteran who is eligible for a benefit described in subsection (c) if such official—

"(A) provides the Secretary such information as the Secretary may require to fully identify the veteran;

"(B) identifies the veteran as being a fugitive described in subsection (b); and

"(C) certifies to the Secretary that the location and apprehension of the veteran is within the official duties of such official.

"(2) The Secretary shall enter into memoranda of understanding with Federal law enforcement agencies, and may enter into agreements with State and local law enforcement agencies, for purposes of furnishing information to such agencies under paragraph (1).".

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 5313A the following new item:

"5313B. Prohibition on providing certain benefits with respect to veterans who are fugitive felons.".

(b) Sense of Congress on Entry Into Memoranda of Understanding and Agreements.—It is the sense of Congress that the memoranda of understanding and agreements referred to in section 5313B(d)(2) of title 38, United States Code (as added by subsection (a)), should be entered into as soon as practicable after the date of the enactment of this Act, but not later than six months after that date.

SEC. 208. LIMITATION ON PAYMENT OF COMPENSATION FOR VETERANS REMAINING INCARCERATED FOR FELONIES COMMITTED BEFORE OCTOBER 7, 1980.

(a) Limitation.—Notwithstanding any other provision of law, the payment of compensation to or with respect to a veteran described in subsection (b) shall, for the remainder of the period of incarceration of the veteran described in that subsection, be subject to the provisions of section 5313 of title 38, United States Code, other than subsection (d) of that section.

(b) Covered Veterans.—A veteran described in this subsection is any veteran entitled to compensation who—

(1) was incarcerated on October 7, 1980, for a felony committed before that date; and

(2) remains incarcerated for conviction of that felony after the date of the enactment of this Act.

(c) Effective Date.—This section shall take effect 90 days after the date of the enactment of this Act, and shall apply with respect to the payment of compensation for months beginning on or after that date.

(d) Compensation Defined.—For purposes of this section, the term "compensation" shall have the meaning given that term in section 5313 of title 38, United States Code.

SEC. 209. REPEAL OF LIMITATION ON PAYMENTS OF BENEFITS TO INCOMPETENT INSTITUTIONALIZED VETERANS.

(a) Repeal.—Section 5503 is amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(b) Conforming Amendments.—(1) Section 1114(r) is amended by striking "section 5503(e)" and inserting "section 5503(c)".

(2) Section 5112 is amended by striking subsection (c).

SEC. 210. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Paragraph (7) of subsection (d) of section 5503, as redesignated by section 209(a)(2) of this Act, is amended by striking "September 30, 2008" and inserting "September 30, 2011".

TITLE III—HOUSING MATTERS

SEC. 301. INCREASE IN HOME LOAN GUARANTY AMOUNT FOR CONSTRUCTION AND PURCHASE OF HOMES.

Section 3703(a)(1) is amended by striking "$50,750" each place it appears in subparagraphs (A)(i)(IV) and (B) and inserting "$63,175".

SEC. 302. FOUR-YEAR EXTENSION OF NATIVE AMERICAN VETERANS HOUSING LOAN PROGRAM.

(a) Extension of Pilot Program.—Section 3761(c) is amended by striking "December 31, 2001" and inserting "December 31, 2005".

(b) Annual Reports.—Section 3762(j) is amended by striking "2002" and inserting "2006".

SEC. 303. EXTENSION OF OTHER EXPIRING AUTHORITIES.

(a) Housing Loans for Members of the Selected Reserve.—Section 3702(a)(2)(E) is amended by striking "September 30, 2007" and inserting "September 30, 2011".

(b) Enhanced Loan Asset Sale Authority.—Section 3720(h)(2) is amended by striking "December 31, 2008" and inserting "December 31, 2011".

(c) Home Loan Fee Authorities.—The table in section 3729(b)(2) is amended by striking "October 1, 2008" each place it appears and inserting "October 1, 2011".

(d) Procedures Applicable to Liquidation Sales on Defaulted Home Loans Guaranteed by the Department of Veterans Affairs.—Section 3732(c)(11) is amended by striking "October 1, 2008" and inserting "October 1, 2011".

TITLE IV—BURIAL MATTERS

SEC. 401. INCREASE IN BURIAL AND FUNERAL EXPENSE BENEFIT FOR VETERANS WHO DIE OF SERVICE-CONNECTED DISABILITIES.

(a) Burial and Funeral Expenses.—Section 2307(1) is amended by striking "$1,500" and inserting "$2,000".

(b) Effective Date.—The amendment made by subsection (a) shall apply to deaths occurring on or after the date of the enactment of this Act.

SEC. 402. AUTHORITY TO PROVIDE BRONZE GRAVE MARKERS FOR PRIVATELY MARKED GRAVES.

(a) Authority.—Section 2306 is amended by adding at the end the following new subsection:

"(f) In the case of the grave of an individual described in subsection (a) that has been marked by a privately-furnished headstone or marker, the Secretary may furnish, when requested, a bronze marker to commemorate the individual's military service. The bronze marker may be placed at the gravesite or at another location designated by the cemetery concerned as a location for the commemoration of the individual's military service.".

(b) Applicability.—Subsection (f) of section 2306 of title 38, United States Code, as added by subsection (a) of this section, shall apply with respect to deaths as follows:

(1) Any death occurring on or after the date of the enactment of this Act.

(2) Any death occurring before that date, but after on or after November 1, 1990, if request is made to the Secretary of Veterans Affairs with respect to such death under such subsection (f) not later than four years after the date of the enactment of this Act.

(c) Stylistic Amendment.—Subsection (c) of section 2306 is amended by striking "of this section".

TITLE V—OTHER BENEFITS MATTERS

SEC. 501. REPEAL OF FISCAL YEAR LIMITATION ON NUMBER OF VETERANS IN PROGRAMS OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.

(a) Repeal of Limitation.—Section 3120(e) is amended by striking "Programs" and all that follows through "such programs" and inserting "First priority in the provision of programs of independent living services and assistance under this section".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on September 30, 2001.

TITLE VI—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SEC. 601. TEMPORARY EXPANSION OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS TO FACILITATE STAGGERED TERMS OF JUDGES.

(a) In General.—(1) Section 7253 is amended by adding at the end the following new subsection:

"(h) Temporary Expansion of Court.—(1) Notwithstanding subsection (a) and subject to the provisions of this subsection, the authorized number of judges of the Court from the date of the enactment of this subsection until August 15, 2005, is nine judges.

"(2) Of the two additional judges authorized by this subsection—

"(A) only one judge may be appointed pursuant to a nomination made in 2001 or 2002;

"(B) only one judge may be appointed pursuant to a nomination made in 2003; and

"(C) if no judge is appointed pursuant to a nomination covered by subparagraph (A), a nomination covered by subparagraph (B), or neither a nomination covered by subparagraph (A) nor a nomination covered by subparagraph (B), the number of judges authorized by this subsection but not appointed as described in subparagraph (A), (B), or both, as the case may be, may be appointed pursuant to a nomination or nominations made in 2004, but only if such nomination or nominations, as the case may be, are made before September 30, 2004.

"(3) The term of office and eligibility for retirement of a judge appointed under this subsection, other than a judge described in paragraph (4), shall be governed by the provisions of section 1012 of the Court of Appeals for Veterans Claims Amendments of 1999 (title X of Public Law 106–117; 113 Stat. 1590; 38 U.S.C. 7296 note) if the judge is one of the first two judges appointed to the Court after November 30, 1999.

"(4) A judge of the Court as of the date of the enactment of this subsection who was appointed before 1991 may accept appointment as a judge of the Court under this subsection notwithstanding that the term of office of the judge on the Court has not yet expired under this section.".

(2) No appointment may be made under section 7253 of title 38, United States Code, as amended by paragraph (1), if the appointment would provide for a number of judges in excess of seven judges (other than judges serving in recall status under section 7257 of title 38, United States Code) who were appointed to the United States Court of Appeals for Veterans Claims after January 1, 1997.

(b) Stylistic Amendments.—That section is further amended—

(1) in subsection (b), by inserting "Appointment.—" before "The judges";

(2) in subsection (c), by inserting "Term of Office.—" before "The terms";

(3) in subsection (f), by striking "(f)(1)" and inserting "(f) Removal.—(1)"; and

(4) in subsection (g), by inserting "Rules.—" before "The Court".

SEC. 602. REPEAL OF REQUIREMENT FOR WRITTEN NOTICE REGARDING ACCEPTANCE OF REAPPOINTMENT AS CONDITION TO RETIREMENT FROM UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Section 7296(b)(2) is amended by striking the second sentence.

SEC. 603. TERMINATION OF NOTICE OF DISAGREEMENT AS JURISDICTIONAL REQUIREMENT FOR UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

(a) Termination.—Section 402 of the Veterans' Judicial Review Act (division A of Public Law 100–687; 102 Stat. 4122; 38 U.S.C. 7251 note) is repealed.

(b) Attorney Fees.—Section 403 of the Veterans' Judicial Review Act (102 Stat. 4122; 38 U.S.C. 5904 note) is repealed.

(c) Construction.—The repeal in subsection (a) may not be construed to confer upon the United States Court of Appeals for Veterans Claims jurisdiction over any appeal or other matter not within the jurisdiction of the Court as provided in section 7266(a) of title 38, United States Code.

(d) Applicability.—The repeals made by subsections (a) and (b) shall apply to—

(1) any appeal filed with the United States Court of Appeals for Veterans Claims on or after the date of the enactment of this Act; and

(2) any appeal pending before the Court on that date, other than an appeal in which the Court has made a final disposition under section 7267 of title 38, United States Code, even though such appeal is not yet final under section 7291(a) of title 38, United States Code.

SEC. 604. REGISTRATION FEES.

(a) Registration Fees for Participation in Other Court-Sponsored Activities.—Subsection (a) of section 7285 is amended to read as follows:

"(a) The Count of Appeals for Veterans Claims may impose registration fees as follows:

"(1) Periodic registration fees on persons admitted to practice before the Court, in such frequency and amount (not to exceed $30 per year) as the Court may provide.

"(2) Registration fees on persons (other than judges of the Court) participating at judicial conferences convened pursuant to section 7286 of this title, and at other Court-sponsored activities.".

(b) Availability of Registration Fees.—Subsection (b) of that section is amended—

(1) in paragraph (1), by striking "employing independent counsel" and inserting "conducting investigations and proceedings, including the employment of independent counsel,"; and

(2) in paragraph (2), by striking "administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court" and inserting "the expenses of judicial conferences convened pursuant to section 7286 of this title, and of other Court-sponsored activities covered by paragraph (2) of that subsection, and the expenses of other activities and programs of the Court intended to support and foster communications and relationships between the Court and persons practicing before the Court, or the study, understanding, public commemoration, or improvement of veterans law or of the work of the Court".

(c) Conforming and Clerical Amendments.—(1) The section heading for section 7285 is amended to read as follows:

"§ 7285. Registration fees".

(2) The table of sections at the beginning of chapter 72 is amended by striking the item relating to section 7285 and inserting the following new item:

"7285. Registration fees.".

SEC. 605. ADMINISTRATIVE AUTHORITIES.

(a) In General.—Subchapter III of chapter 72 is amended by inserting after section 7286 the following new section:

"§ 7287. Administration

"Notwithstanding any other provision of law, the Court of Appeals for Veterans Claims may *exercise, for purposes of management, administration, and expenditure of funds of the Court, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision of law) applicable to a court of the United States (as that term is defined in section 451 of title 28), except to the extent that such provision of law is inconsistent with a provision of this chapter.".*

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 72 is amended by inserting after the item related to section 7286 the following new item:

"7287. Administration."

SA 2463. Mr. REID (for Mr. ROCKFELLER) proposed an amendment to the bill H.R. 1291, to amend title 38, United States Code, to modify and improve authorities relating to education benefits, burial benefits, and vocational rehabilitation benefits for veterans to modify certain authorities relating to the United States Court of Appeals for Veterans Claims, and for other purposes; as follows:

Amend the title so as the read: "A Bill to amend title 38, United State Code, to modify and improve authorities relating to education benefits, compensation and pension benefits, housing benefits, burial benefits, and vocational rehabilitation benefits for veterans, to modify certain authorities relating to the United States Court of Appeals for Veterans Claims, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Friday, December 7, 2001, at 9:30 a.m., on the nomination of Sean O'Keefe to be NASA Administrator.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. CLELAND. Mr. President, I ask unanimous consent that my military fellow, Steve Tryon, be granted the privilege of the floor during the Senate's consideration of the Defense Appropriations Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Mr. President, I ask unanimous consent that Pat Jones, a legislative fellow who serves on my staff, be granted floor privileges during the deliberation of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Jeff Freeman, a Fellow serving in Senator COCHRAN's office, and Stewart Holmes, a staff member of Senator COCHRAN, be granted the privilege of the floor during the duration of the consideration of the fiscal year 2002 Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MILLER. Mr. President, I ask unanimous consent that Stephen Kay, a legislative fellow in my office, be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations: Calendar Nos. 606, 608 to and including 615, and all nominations on the Secretary's desk in the Army and Navy; further, that the HELP Committee be discharged from further consideration of the following nominations: Tammy Dee McCutchen, to be Administrator of the Wage and Hour Division of the Department of Labor, and the list of Public Health nominations beginning with Ketty Gonzalez and ending with Amanda Stoddard. I ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid on the table en bloc, any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Peter B. Teets, of Maryland, to be Under Secretary of the Air Force.

AIR FORCE

The following named officers for appointment in the Regular Air Force of the United States to the positions and grade indicated under title 10, U.S.C. section 8307:

To be the judge advocate general of the United States Air Force

Maj. Gen. Thomas J. Fiscus, 5444.

To be major general and to be the deputy judge advocate general of the United States Air Force

Brig. Gen. Jack L. Rives, 0540.

ARMY

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Bruce H. Barlow, 0873.

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Keith B. Alexander, 9763.
Brigadier General Eldon A. Bargewell, 6135.
Brigadier General David W. Barno, 9794.
Brigadier General John R. Batiste, 9665.
Brigadier General Peter W. Chiarelli, 6598.
Brigadier General Claude V. Christianson, 1982.
Brigadier General Robert T. Dail, 5056.
Brigadier General Paul D. Eaton, 1993.
Brigadier General Karl W. Eikenberry, 5198.
Brigadier General Robert H. Griffin, 5619.
Brigadier General John W. Holly, 6285.
Brigadier General David H. Huntoon, Jr., 1919.
Brigadier General James C. Hylton, 8014.
Brigadier General Gene M. LaCoste, 2941.
Brigadier General Dee A. McWilliams, 1427.
Brigadier General Raymond T. Odierno, 8425.
Brigadier General Virgil L. Packett, II, 9367.
Brigadier General Joseph F. Peterson, 2747.
Brigadier General David H. Petraeus, 1960.
Brigadier General Marilyn A. Quagliotti, 8480.
Brigadier General Michael D. Rochelle, 4381.
Brigadier General Donald J. Ryder, 5451.
Brigadier General Henry W. Stratman, 1226.
Brigadier General Joe G. Taylor, Jr., 0884.
Brigadier General N. Ross Thompson, III, 5240.
Brigadier General James D. Thurman, 8182.
Brigadier General Thomas R. Turner, II, 7116.
Brigadier General Michael A. Vane, 9890.
Brigadier General William G. Webster, Jr., 9468.

NAVY

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C. section 624:

To be rear admiral

Rear Adm. (lh) Anthony W. Lengerich, 9020.

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Richard B. Porterfield, 3989.

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Stephen A. Turcotte, 3628.

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) David Architzel, 0731.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice Admiral

Vice Adm. Charles W. Moore, Jr., 5696.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

ARMY

PN1242 Army nominations (655) beginning VERN J ABDOO, and ending DOUGLAS K ZIMMERMAN, II, which nominations were received by the Senate and appeared in the Congressional Record of November 27, 2001

PN1243 Navy nominations of John B. Stockel, which was received by the Senate and appeared in the Congressional Record of November 27, 2001

PN1244 Navy nominations of Philip F. Stanley, which was received by the Senate and appeared in the Congressional Record of November 27, 2001

NOMINATIONS DISCHARGED

DEPARMENT OF LABOR

Tammy Dee McCutchen, of Illinois, to be Administrator of the Wage and Hour Division, Department of Labor.

PUBLIC HEALTH SERVICE

Public Health Service nominations beginning Ketty M. Gonzalez and ending Amanda D. Stoddard, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2001.

To be medical director

Ketty M. Gonzalez.
Gunta I. Obrams.

To be senior surgeon

Vito M. Caserta.
Olga Grajales.
Mary L. Kamb.
Dawn L. Wyllie.

To be surgeon

Andrew Biauvelt.
Michael J. Boquard.
J Russell Bowman.
Monica E. Parise.
Lisa G. Rider.
Abigail M. Shefer.
Darrell P. Stone.

To be senior assistant surgeon

Dahna L. Batts-Osborne.
Stephen M. Hewitt.
James F. Lando.
John T. Ning.
Alexander K. Rowe.
Stephen M. Rudd.
Seymour G. Williams.

To be senior dental surgeon

Michael L. Campsmith.
A. Isabel Garcia.

To be dental surgeon

Ronald E. Bajuscak.
Tania M. Macias.
Wilnetta A. Sweeting.
Michael P. Winkler.

To be senior assistant dental surgeon

Dawn A. Breeden.
Katherine T. Cotton.
Bryan S. Dawson.
Stanley K. Gordon.
Maria-Paz U. Smith.
Valerie D. Wilson.

To be senior nurse officer

Robert E. Eaton.
Mary I. Lambert.
Susanne R. Rohrer.
Marjorie Lynn Witman.

To be nurse officer

Eileen D. Bonneau.
Ruth M. Coleman.
Terri L. Dodds.
Susan D. Hillis.
Barbara W. Kilbourne.
Gwethlyn J. Sabatinos.
Amanda S. Waugaman.

To be senior assistant nurse officer

Thomas C. Arminio.
Deborah M. Carter.
Charles D. Duke Jr.
Keyla E. Gammarano.
Mary C. Karlson.
Julie D. King.
Kimberly M. Mock.
Lisa S. Penix.
Laverne Puckett.
Keysha L. Ross.
Michael R. Sanchez.
Jeanne D. Shaffer.
Steven M. Wacha.

To be assistant nurse officer

Benjamin F. Brown Jr.
Serina A. Hunter.
Patricia K. Mitchell.
Todd A. Ridge.
William Ruiz-Colon.
Tonia L. Sawyer.
Thomas R. Stanley.
Robbie K. Taylor.

To be engineer officer

Kevin B. Milne.

To be senior assistant engineer officer

Donald C. Antrobus.
Mark A. Calkins.
Edward A. Cayous.
Tracy D. Gilchrist.
Steven M. McGovern.
Dale M. Mossefin.
Jeffrey S. Reynolds.
Hilda F. Scharen-Guivel.
Jerry A. Smith.
Michael A. Stover.
Darrall F. Tillock.
Mary M. Weber.

To be scientist director

Victor Krauthamer.

To be senior scientist

Young H. Lee.
H. Edward Murray.

To be scientist

Kate M. Brett.
Angela M. Gonzalez.
O'Neal A. Walker.

To be senior assistant scientist

Nelson Adekoya.
Mehran S. Massoudi.
Darin J. Weber.

To be sanitarian

Matthew E. Taylor.
Daniel C. Weaver.

To be assistant therapist

Corey S. Dahl.

To be senior health services officer

Ilze L. Ruditis.

To be health services officer

Steven M. Glover.
Darlene A. Harris.
Carmencita T. Palma.
Julia A. Stokes.

To be senior assistant health services officer

Sherlene Bailey.
Kathy L. Balasko.
Marinna A. Banks.
Jose H. Belardo.
Julie Wofford Black.
Dawn M. Clary.
Sandra L. Ferguson.
Kathleen D. Heiden.
Mary C. Hollister.
David W. Keene.
Scott A. Middlekauff.
Godwin O. Odia.
Elizabeth A. Pierce.
Brian E. Richmond:
Renee S. Roberson.
Lisa D. Starnes.
Scott W. Tobias.
Gilbert E. Varney Jr.
Kimberly A. Walker.

To be assistant health services officer

Parmjeet S. Saini.
Amanda D. Stoddard.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

SMALL BUSINESS INVESTMENT COMPANY AMENDMENTS ACT OF 2001

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 1196.

The Presiding Officer laid before the Senate a message from the House as follows:

Resolved, That the bill from the Senate (S. 1196) entitled "An Act to amend the Small Business Investment Act of 1958, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Investment Company Amendments Act of 2001".

SEC. 2. SUBSIDY FEES.

(a) IN GENERAL.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b)—

(A) by striking "of not more than 1 percent per year";

(B) by inserting "which amount may not exceed 1.38 percent per year, and" before "which shall be paid"; and

(C) by striking "September 30, 2000" and inserting "September 30, 2001"; and

(2) in subsection (g)(2)—

(A) by striking "of not more than 1 percent per year";

(B) by inserting "which amount may not exceed 1.38 percent per year, and" before "which shall be paid"; and

(C) by striking "September 30, 2000" and inserting "September 30, 2001".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 2001.

SEC. 3. CONFLICTS OF INTEREST.

Section 312 of the Small Business Investment Act of 1958 (15 U.S.C. 687d) is amended by striking "(including disclosure in the locality most directly affected by the transaction)".

SEC. 4. PENALTIES FOR FALSE STATEMENTS.

(a) CRIMINAL PENALTIES.—Section 1014 of title 18, United States Code, is amended by inserting ", as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or the Small Business Administration in connection with any provision of that Act" after "small business investment company".

(b) CIVIL PENALTIES.—Section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) in subsection (c)—

(A) in paragraph (1), by striking "or" at the end;

(B) in paragraph (2)—

(i) by striking "1341;" and inserting "1341"; and

(ii) by striking "institution." and inserting "institution; or";

(C) by inserting immediately after paragraph (2) the following:

"(3) section 16(a) of the Small Business Act (15 U.S.C. 645(a)),"; and

(D) by striking "This section shall" and inserting the following:

"(d) EFFECTIVE DATE.—This section shall".

SEC. 5. REMOVAL OR SUSPENSION OF MANAGEMENT OFFICIALS.

Section 313 of the Small Business Investment Act of 1958 (15 U.S.C. 687e) is amended to read as follows:

"SEC. 313. REMOVAL OR SUSPENSION OF MANAGEMENT OFFICIALS.

"(a) DEFINITION OF 'MANAGEMENT OFFICIAL'.—In this section, the term 'management official' means an officer, director, general partner, manager, employee, agent, or other participant in the management or conduct of the affairs of a licensee.

"(b) REMOVAL OF MANAGEMENT OFFICIALS.—

"(1) NOTICE OF REMOVAL.—The Administrator may serve upon any management official a written notice of its intention to remove that management official whenever, in the opinion of the Administrator—

"(A) such management official—

"(i) has willfully and knowingly committed any substantial violation of—

"(I) this Act;

"(II) any regulation issued under this Act; or

"(III) a cease-and-desist order which has become final; or

"(ii) has willfully and knowingly committed or engaged in any act, omission, or practice which constitutes a substantial breach of a fiduciary duty of that person as a management official; and

"(B) the violation or breach of fiduciary duty is one involving personal dishonesty on the part of such management official.

"(2) CONTENTS OF NOTICE.—A notice of intention to remove a management official, as provided in paragraph (1), shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon.

"(3) HEARINGS.—

"(A) TIMING.—A hearing described in paragraph (2) shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of notice of the hearing, unless an earlier or a later date is set by the Administrator at the request of—

"(i) the management official, and for good cause shown; or

"(ii) the Attorney General of the United States.

"(B) CONSENT.—Unless the management official shall appear at a hearing described in this paragraph in person or by a duly authorized representative, that management official shall be deemed to have consented to the issuance of an order of removal under paragraph (1).

"(4) ISSUANCE OF ORDER OF REMOVAL.—

"(A) IN GENERAL.—In the event of consent under paragraph (3)(B), or if upon the record made at a hearing described in this subsection, the Administrator finds that any of the grounds specified in the notice of removal has been established, the Administrator may issue such orders of removal from office as the Administrator deems appropriate.

"(B) EFFECTIVENESS.—An order under subparagraph (A) shall—

"(i) become effective at the expiration of 30 days after the date of service upon the subject licensee and the management official concerned (except in the case of an order issued upon consent as described in paragraph (3)(B), which shall become effective at the time specified in such order); and

"(ii) remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court in accordance with this section.

"(c) AUTHORITY TO SUSPEND OR PROHIBIT PARTICIPATION.—

"(1) IN GENERAL.—The Administrator may, if the Administrator deems it necessary for the protection of the licensee or the interests of the Administration, suspend from office or prohibit from further participation in any manner in the management or conduct of the affairs of the licensee, or both, any management official referred to in subsection (b)(1), by written notice to such effect served upon the management official.

"(2) EFFECTIVENESS.—A suspension or prohibition under paragraph (1)—

"(A) shall become effective upon service of notice under paragraph (1); and

"(B) unless stayed by a court in proceedings authorized by paragraph (3), shall remain in effect—

"(i) pending the completion of the administrative proceedings pursuant to a notice of intention to remove served under subsection (b); and

"(ii) until such time as the Administrator shall dismiss the charges specified in the notice, or, if an order of removal or prohibition is issued against the management official, until the effective date of any such order.

"(3) JUDICIAL REVIEW.—Not later than 10 days after any management official has been suspended from office or prohibited from participation in the management or conduct of the affairs of a licensee, or both, under paragraph (1), that management official may apply to the United States district court for the judicial district in which the home office of the licensee is located, or the United States District Court for the District of Columbia, for a stay of the suspension or prohibition pending the completion of the administrative proceedings pursuant to a notice of intent to remove served upon the management official under subsection (b), and such court shall have jurisdiction to stay such action.

"(d) AUTHORITY TO SUSPEND ON CRIMINAL CHARGES.—

"(1) IN GENERAL.—Whenever a management official is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the Administrator may, by written notice served upon that management official, suspend that management official from office or prohibit that management official from further participation in any manner in the management or conduct of the affairs of the licensee, or both.

"(2) EFFECTIVENESS.—A suspension or prohibition under paragraph (1) shall remain in effect until the subject information, indictment, or complaint is finally disposed of, or until terminated by the Administrator.

"(3) AUTHORITY UPON CONVICTION.—If a judgment of conviction with respect to an offense described in paragraph (1) is entered against a management official, then at such time as the judgment is not subject to further appellate review, the Administrator may issue and serve upon the management official an order removing that management official, which removal shall become effective upon service of a copy of the order upon the licensee.

"(4) AUTHORITY UPON DISMISSAL OR OTHER DISPOSITION.—A finding of not guilty or other disposition of charges described in paragraph (1) shall not preclude the Administrator from thereafter instituting proceedings to suspend or remove the management official from office, or to prohibit the management official from participation in the management or conduct of the affairs of the licensee, or both, pursuant to subsection (b) or (c).

"(e) NOTIFICATION TO LICENSEES.—Copies of each notice required to be served on a management official under this section shall also be served upon the interested licensee.

"(f) PROCEDURAL PROVISIONS; JUDICIAL REVIEW.—

"(1) HEARING VENUE.—Any hearing provided for in this section shall be—

"(A) held in the Federal judicial district or in the territory in which the principal office of the licensee is located, unless the party afforded the hearing consents to another place; and

"(B) conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

"(2) ISSUANCE OF ORDERS.—After a hearing provided for in this section, and not later than 90 days after the Administrator has notified the parties that the case has been submitted for final decision, the Administrator shall render a decision in the matter (which shall include findings of fact upon which its decision is predicated), and shall issue and cause to be served upon each party to the proceeding an order or orders consistent with the provisions of this section.

"(3) AUTHORITY TO MODIFY ORDERS.—The Administrator may modify, terminate, or set aside any order issued under this section—

"(A) at any time, upon such notice, and in such manner as the Administrator deems proper, unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (4)(B), and thereafter until the record in the proceeding has been filed in accordance with paragraph (4)(C); and

"(B) upon such filing of the record, with permission of the court.

"(4) JUDICIAL REVIEW.—

"(A) IN GENERAL.—Judicial review of an order issued under this section shall be exclusively as provided in this subsection.

"(B) PETITION FOR REVIEW.—Any party to a hearing provided for in this section may obtain a review of any order issued pursuant to paragraph (2) (other than an order issued with the consent of the management official concerned, or an order issued under subsection (d)), by filing in the court of appeals of the United States for the circuit in which the principal office of the licensee is located, or in the United States Court of Appeals for the District of Columbia Circuit, not later than 30 days after the date of service of such order, a written petition praying that the order of the Administrator be modified, terminated, or set aside.

"(C) NOTIFICATION TO ADMINISTRATION.—A copy of a petition filed under subparagraph (B) shall be forthwith transmitted by the clerk of the court to the Administrator, and thereupon the Administrator shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

"(D) COURT JURISDICTION.—Upon the filing of a petition under subparagraph (A)—

"(i) the court shall have jurisdiction, which, upon the filing of the record under subparagraph (C), shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Administrator, except as provided in the last sentence of paragraph (3)(B);

"(ii) review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code; and

"(iii) the judgment and decree of the court shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, United States Code.

"(E) JUDICIAL REVIEW NOT A STAY.—The commencement of proceedings for judicial review under this paragraph shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Administrator under this section.".

SEC. 6. REDUCTION OF FEES.

(a) TWO-YEAR REDUCTION OF SECTION 7(a) FEES.—

(1) GUARANTEE FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended by adding at the end the following:

"(C) TWO-YEAR REDUCTION IN FEES.—With respect to loans approved during the 2-year period beginning on October 1, 2002, the guarantee fee under subparagraph (A) shall be as follows:

"(i) A guarantee fee equal to 2 percent of the deferred participation share of a total loan amount that is not more than $250,000.

"(ii) A guarantee fee equal to 3 percent of the deferred participation share of a total loan amount that is more than $250,000.".

(2) ANNUAL FEES.—Section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)) is amended by adding at the end the following: "With respect to loans approved during the 2-year period beginning on October 1, 2002, the annual fee assessed and collected under the preceding sentence shall be in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.".

(b) REDUCTION OF SECTION 504 FEES.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (b)(7)(A)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the margins 2 ems to the right;

(B) by striking "not exceed the lesser" and inserting "not exceed—

"(i) the lesser"; and

(C) by adding at the end the following:

"(ii) 50 percent of the amount established under clause (i) in the case of a loan made during the 2-year period beginning on October 1, 2002, for the life of the loan; and"; and

(2) by adding at the end the following:

"(i) TWO-YEAR WAIVER OF FEES.—The Administration may not assess or collect any up front guarantee fee with respect to loans made under this title during the 2-year period beginning on October 1, 2002.".

(c) BUDGETARY TREATMENT OF LOANS AND FINANCINGS.—Assistance made available under any loan made or approved by the Small Business Administration under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or financings made under title III or V of the Small Business Investment Act of 1958 (15 U.S.C. 697a), during the 2-year period beginning on October 1, 2002, shall be treated as separate programs of the Small Business Administration for purposes of the Federal Credit Reform Act of 1990 only.

(d) USE OF FUNDS.—The amendments made by this section shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized by the Administrator to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) of such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 2002.

Mr. REID. Mr. President, I ask unanimous consent that the Senate concur in the House amendment with a further amendment which is at the desk; that the amendment be agreed to and the motion to reconsider be laid on the table, with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2460) was agreed to, as follows:

Strike section 6 and all that follows through the end of the matter proposed to be inserted by the House of Representatives, and insert the following:

SEC. 6. REDUCTION OF FEES.

(a) TWO-YEAR REDUCTION OF SECTION 7(a) FEES.—

(1) GUARANTEE FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended by adding at the end the following:

"(C) TWO-YEAR REDUCTION IN FEES.—With respect to loans approved during the 2-year period beginning on October 1, 2002, the guarantee fee under subparagraph (A) shall be as follows:

"(i) A guarantee fee equal to 1 percent of the deferred participation share of a total loan amount that is not more than $150,000.

"(ii) A guarantee fee equal to 2.5 percent of the deferred participation share of a total loan amount that is more than $150,000, but not more than $700,000.

"(iii) A guarantee fee equal to 3.5 percent of the deferred participation share of a total loan amount that is more than $700,000.".

(2) ANNUAL FEES.—Section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)) is amended by adding at the end the following: "With respect to loans approved during the 2-year period beginning on October 1, 2002, the annual fee assessed and collected under the preceding sentence shall be in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.".

(b) REDUCTION OF SECTION 504 FEES.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (b)(7)(A)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the margins 2 ems to the right;

(B) by striking "not exceed the lesser" and inserting "not exceed—

"(i) the lesser"; and

(C) by adding at the end the following:

"(ii) 50 percent of the amount established under clause (i) in the case of a loan made during the 2-year period beginning on October 1, 2002, for the life of the loan; and"; and

(2) by adding at the end the following:

"(i) TWO-YEAR WAIVER OF FEES.—The Administration may not assess or collect any up front guarantee fee with respect to loans made under this title during the 2-year period beginning on October 1, 2002.".

(c) BUDGETARY TREATMENT OF LOANS AND FINANCINGS.—Assistance made available under any loan made or approved by the Small Business Administration under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or financings made under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), during the 2-year period beginning on October 1, 2002, shall be treated as separate programs of the Small Business Administration for purposes of the Federal Credit Reform Act of 1990 only.

(d) USE OF FUNDS.—The amendments made by this section to section 503 of the Small Business Investment Act of 1958, shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized by the Administrator to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) of such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 2002.

Mr. KERRY. Mr. President, I want to say a few words about S. 1196, the Small Business Investment Company, SBIC, Amendments Act of 2001.

For those who don't know, the SBIC program is a very successful partnership between the SBA and private venture capital firms. It has accounted for about half of all venture capital deals done in the country over the past few years, and it has helped finance some of America's companies that are now house-hold names—Federal Express, Intel, Outback Steakhouse, America Online, Callaway Golf, and Massachusetts' own Staples.

The main purpose of this act is to adjust the fees charged to Participating Security SBICs from 1 percent to 1.38 percent. The change is necessary because, at the President's request, all funding for this program was eliminated. I disagree with that. I preferred to show fiscal responsibility by level funding the program and then increasing the fees only as much as necessary to raise the program level from $2 billion to $3.5 billion. Consistent with that opinion, as my colleagues may remember, Senator BOND and I offered an amendment to the Budget Resolution, Amendment No. 183, that did just that. It was agreed to in the Senate by voice vote in April and retained in the final budget resolution. Unfortunately, the appropriators had very tough decisions to make and the funding agreed to in our budget amendment was not included in the appropriations process. Despite my disagreement, I am supporting S. 1196 because if we want to continue this program, it must be funded entirely through fees, which forces us to authorize the fee change.

For the record, let me state that the National Association of Small Business Investment Companies testified before both the Senate and House Committees on Small Business in favor of increasing the program level from $2 billion to $3.5 billion and raising the fees to make that level possible. As I just explained, this legislation makes that possible.

This bill also includes modifications to the program in order to strengthen the oversight and authority of the SBA to take action against bad actors, to protect the integrity of the SBIC program, and to streamline operations.

With this bill, I am offering an amendment, cosponsored by Senator BOND, to reinforce our efforts to keep the economy strong. The amendment strikes section six, which my colleagues in the House included when they deliberated and voted on this bill, and replaces it with similar language which accommodates changes requested by the Administration. Specifically, starting in FY2003, it reduces for two years the fees for the Small Business Administration's 7(a) and 504 loan guarantee programs in order to make these loans more affordable for borrowers to access capital and lenders to make. In reducing the fees, it gives the largest reduction to the smallest small business borrowers, those who take out loans of less than $150,000. It also provides fee relief for small business borrowers who need working capital for medium-sized loans, those in amounts of between $150,000 and $700,000.

The 7(a) program is one of the SBA's most popular and successful small business credit programs. In FY2000, 43,748 small businesses were approved for 7(a) loans, which added up to $9.3 billion. Of those billions, 31 percent went to minority business owners, 11 percent went to veteran business owners, and 16 percent went to women business owners. These loans would not have been made but for the SBA; in order to get an SBA loan, borrowers must demonstrate that they are unable to get comparable credit, at comparable rates, from an area lender. Year after year, as this program has generated billions of dollars in small business development, fueled job creation and generated tax revenue, its default rates by cohort have dropped sharply since 1990 from more than 6 percent to less than 2 percent. Not only have these loans contributed to the economy, but the program has largely paid for itself. From fiscal years 1992 through 1998, Congress appropriated close to $1.4 billion to run the program, and the lenders and borrowers paid $1.3 billion more than necessary in fees to participate in the program.

The track record of the 504 program is equally impressive, and they too have overpaid because the SBA and OMB have over-estimated the cost of providing these loans. Reducing fees will help encourage lending at a time when surveys from the Federal Reserve have found that anywhere from 35 to 45 percent of banks have tightened credit to small businesses, making it harder and more expensive to get loans.

Originally, my amendment also included a provision to require the SBA to give new markets venture capital companies two years to raise their matching capital. Even though we had legislated in the 106th Congress to give them two years, and Senator HOLLINGS and Senator GREGG reinforced this by making the relevant matching capital available until expended as part of supplemental funding to the FY2001 Commerce, Justice, State appropriations bill, the Small Business Administration required the approved new markets venture capital companies to raise their money first in six months, and later proposed extending the period to one year. The declining economy, particularly in the aftermath of September 11, has made raising capital even more difficult. Consequently, these companies need more time than one year. Here is what Dr. Julia Sass Rubin, a community development venture capital expert from the Harvard Business School, has explained about the nature of raising funds these days: "This task of raising capital for a new fund is particularly challenging during an economic slowdown, when the sources of funds for any kind of venture capital become more difficult to access. Additionally, with the dramatic recent slowdown in initial public offerings, even traditional venture capitalists are having a very difficult time raising money. It is simply not practical to expect a new CDVC fund to capitalize within one year."

I am very happy to report that we were able to work out a compromise with the Small Business Administration to give these companies to year and half to raise their capital. It's not the full two years, but I am hopeful that the new markets venture capital companies can raise their capital in the that time. The Administration has also recommitted to offering a second round of funding starting in the August/September time frame of 2002.

Let me quickly explain a bit about this innovative venture capital initiative. The new markets venture capital initiative is modeled after the SBA's very successful SBIC program, which I talked about earlier. However, unlike the SBIC program which makes larger deals, new markets venture capital companies target smaller investments to the development of high-growth small businesses in our country's poorest urban and rural areas. They tie those investments to the creation of local jobs with livable wages and benefits for individuals who historically have no opportunities for employment or who are the working poor. One excellent example of such a company is City Fresh Foods in Dorchester, Massachusetts. They run a smart business, providing a needed service to the elderly in their community by producing and distributing meals for the Meals-on-Wheels program. They hire from the community, and they provide good jobs with sustainable wages. The SBA's new markets venture capital investments, if given a real chance to work, could help develop more companies like City Fresh Foods.

I ask my colleagues to support this bill, and ask my colleagues in the House to pass this bill as soon as possible.

I thank Senator BOND for his work on this legislation.

Mr. BOND. Mr. President, I rise today to urge my colleagues in the Senate to support passage of the Small Business Investment Company Amendments Act of 2001, S. 1196 and an amendment being offered by Senator JOHN KERRY, which I strongly support. Time is of the essence since a critical component of the Small Business Investment Company, SBIC, Program was shut down on November 28, 2001, when the Commerce Justice State appropriations bill became law, while the bill modifying the annual fees paid by the Participating Securities SBICs had not been enacted. Once S. 1196 becomes law, it paves the way for more investment capital to be available for more small businesses that are seeking to grow and hire new employees.

When the Committee on Small Business and Entrepreneurship unanimously approved S. 1196 on July 19, 2001, the Committee adopted a fee increase from 1.0 percent to 1.28 percent. At that time, some members of the committee believed they could obtain an appropriation for the SBIC Participating Securities Program that would offset part of the fee increase. The final version of the Fiscal Year 2002 Commerce Justice State appropriations bill did not include any funds for the SBIC program. Consequently, it is critical that legislation be enacted increasing the program fee to 1.38 percent. So long as the fee is not increased, the SBIC Participating Securities will remain shut down as required by the Federal Credit Reform Act of 1990.

Last month, on November 15, the Senate unanimously passed S. 1196, after approving a managers' amendment increasing the annual fee to 1.38 percent. When the House of Representatives considered the bill, it included an amendment that changed the fee structure for two other credit programs at the Small Business Administration, SBA: the 7(a) Guaranteed Business Loan Program and the 504 Development Company Program. Today, Senator KERRY and I are offering an amendment to S. 1196 that makes minor modifications to the House-passed amendment on the 7(a) and 504 loan programs.

There has been a significant growth in the small business sector of the U.S. economy over the past two decades. Today, small businesses make up over one-half of the entire U.S. economy. Over 99 percent of all employers in the United States are small businesses. They employ over 50 percent of workers and provide 75 percent of the net new jobs each year. Small businesses generate 51 percent of the Nation's private sector output. In light of the ongoing dip in the U.S. economy with the accompanying retrenchment by many businesses, both large and small, S. 1196 will serve as part of the solution to move us toward a recovery.

In 1958, Congress created the SBIC program to assist small business owners in obtaining investment capital. Forty years later, small businesses continue to experience difficulty in obtaining investment capital from banks and traditional investment sources. Although investment capital is readily available to large businesses from traditional Wall Street investment firms, small businesses seeking investments in the range of $500,000—$3 million have to look elsewhere. SBICs are frequently the only sources of investment capital for growing small businesses.

Often we are reminded that the SBIC program has helped some of our Nations best known companies. It has provided a financial boost at critical points in the early growth period for many companies that are familiar to all of us. For example, Federal Express received a needed infusion of capital from two SBA-licensed SBICs at a critical juncture in its development stage. The SBIC program also helped other well-known companies, when they were not so well-known, such as Intel, Outback Steakhouse, America Online, and Callaway Golf.

What is not well known is the extraordinary help the SBIC program provides to Main Street America small businesses. These are companies we know from home towns all over the United States. Main Street companies provide both stability and growth in our local business communities. A good example of a Main Street company is Steelweld Equipment Company, founded in 1932, which designs and manufacturers utility truck bodies in St. Clair, Missouri. The truck bodies are mounted on chassis made by Chrysler, Ford, and General Motors. Steelweld provides truck bodies for Southwestern Bell Telephone Co., Texas Utilities, Paragon Cable, GTE, and GE Capital Fleet.

Steelweld is a privately held, woman-owned corporation. The owner, Elaine Hunter, went to work for Steelweld in 1966 as a billing clerk right out of high school. She rose through the ranks of the company and was selected to serve on the board of directors. In December 1995, following the death of Steelweld's founder and owner, Ms. Hunter received financing from a Missouri-based SBIC, Capital for Business CFB, Venture Fund II, to help her complete the acquisition of Steelweld. CFB provided $500,000 in subordinated debt. Senior bank debt and seller debt were also used in the acquisition.

Since Ms. Hunter acquired Steelweld, its manufacturing process was redesigned to make the company run more efficiently. By 1997, Steelweld's profitability had doubled, with annual sales of $10 million and 115 employees. SBIC program success stories like Ms. Hunter's experience at Steelweld occur regularly throughout the United States.

In 1991, the SBIC program was experiencing major losses, and the future of the program was in doubt. Consequently, in 1992 and 1996, the Committee on Small Business worked closely with the Small Business Administration to correct deficiencies in the law in order to ensure the future of the program.

Today, the SBIC Program is expanding rapidly in an effort to meet the growing demands of small business owners for debt and equity investment capital. And it is important to focus on the significant role that is played by the SBIC program in support of growing small businesses. When Fortune Small Business compiled its list of 100 fastest growing small companies in 2000, 6 of the top 12 businesses on the list received SBIC financing during their critical growth years.

The "Small Business Investment Company Amendments Act of 2001," as amended, would permit the annual interest fee paid by Participating Securities SBICs to increase from 1.0 percent to no more than 1.38 percent. In addition, the bill would make three technical changes to the Small Business Investment Act of 1958 ('58 Act) that are intended to make improvements in the day-to-day operation of the SBIC program.

Projected demand for the Participating Securities SBIC program for FY 2002 is $3.5 billion, a significant increase over the FY 2001 program level of $2.5 billion. It is imperative that Congress approve this relatively small increase in the annual interest charge paid by the Participating Securities SBICs before the end of the fiscal year. The fee increase included in the bill, 1.38 percent, will allow the program to operate at its authorized level—$3.5 billion—an amount needed to help support small businesses as they help lead our country to an economic recovery.

The Small Business Investment Company Amendments Act of 2001 would also make some relatively technical changes the '58 Act that are drafted to improve the operations of the SBIC program. Section 3 would remove the requirement that the SBA take out local advertisements when it seeks to determine if a conflict of interest exists involving an SBIC. This section has been recommended by the SBA, that has informed me that it has never received a response to a local advertisement and believes the requirement is unnecessary.

The bill would amend title 12 and title 18 of the United States Code to insure that false statements made to the SBA under the SBIC program would have the same penalty as making false statements to an SBIC. This section would make it clear that a false statement to SBA or to an SBIC for the purpose of influencing their respective actions taken under the '58 Act would be a criminal violation. The courts could then assess civil and criminal penalties for such violations.

Section 5 of the bill would amend section 313 of the '58 Act to permit the SBA to remove or suspend key management officials of an SBIC when they have willfully and knowingly committed a substantial violation of the '58 Act, any regulation issued by the SBA under the act, a cease-and-desist order that has become final, or committed or engaged in any act, omission or practice that constitutes a substantial breach of a fiduciary duty of that person as a management official."

The amendment expands the definition of persons covered by section 313 to be "management official," which includes officers, directors, general partners, managers, employees, agents or other participants in the management or conduct of the SBIC. At the time section 313 of the '58 Act was enacted in November 1966, an SBIC was organized as a corporation. Since that time, SBIC has been organized as partnerships and Limited Liability Companies, LLCs, and this amendment would take into account those organizations.

The Kerry-Bond amendment would reduce the fees paid by the participants in two SBA programs: the 7(a) guaranteed business loan program (7(a) program) and the 504 Development Company program (504 program). The need for this legislation to reduce fees has been growing in recent years. The issues surrounding the fees paid by small business borrowers and the banks came to a head earlier this year, when the General Accounting Office determined that the Federal government had collected over $950 million in excess fees paid by the borrowers and lenders and taxpayers' funds appropriated by the Congress. The driving force behind this amendment is to adjust the fees paid by small business borrowers and lenders to reflect more accurately their appropriate share of the cost of the program.

On May 4, 2001, Senator KERRY, Mr. MANZULLO, Ms. VELÁZQUEZ, and I asked the Comptroller General to undertake an in-depth analysis of the SBA's 7(a) credit subsidy rate calculations. Specifically, we asked the GAO to assess the level of difference between the projected cost of the 7(a) program's financing account, or loan loss reserve, and the actual cost. This calculation is required by the Federal Credit Reform Act of 1990. The purpose of the credit subsidy rate is to determine the amount of funds that should be appropriated each year to cover expected losses when the Federal government guarantees 7(a) loans.

What the GAO uncovered confirmed our worst concerns. The GAO pointed out that defaults and recoveries are key variables in the calculation of the 7(a) credit subsidy rate. Since FY 1992, the first year under the rules of the Federal Credit Reform Act, defaults and recoveries were significantly overestimated by the SBA and OMB. Defaults have been overestimated by nearly $2 billion and recoveries by $450 billion. What the overestimates mean in real costs is that the Federal government collected significantly more money than needed to fund its loss reserve accounts. Specifically, the Federal government collected over $950 million in excess fees paid by borrowers and lenders and by taxpayers' funds appropriated by Congress.

My shade tree analysis leads me to believe that small business borrowers, banks and taxpayers have been and continue to be overcharged for the 7(a) program. First, it is clear that they are paying too much because each year the SBA and OMB overestimated the default rate for the 7(a) program. Second, if a more accurate default rate were adopted, the credit subsidy rate could be reduced. Third, a lower credit subsidy rate could mean lower fees paid by small business borrowers. And fourth, the 7(a) loan program could expand to meet the demands of small businesses without requiring a larger appropriation.

Mr. President, time is of the essence. We need to act promptly and pass the Small Business Investment Company Act of 2001 today, so that the House of Representatives has time to act before the Congress adjourns in the coming weeks.

AUTHORIZATION FOR PRINTING

Mr. REID. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of H. Con. Res. 90, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 90) authorizing the printing of a revised and updated version of the House document entitled "Hispanic Americans in Congress."

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the concurrent resolution be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 90) was agreed to.

AUTHORIZATION FOR PRINTING

Mr. REID. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of H. Con. Res. 244 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 244) authorizing the printing of a revised edition of the publication entitled "Our Flag."

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 244) was agreed to.

CONNECTICUT RIVER ATLANTIC SALMON COMPACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 151, S. 703.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 703) to extend the effective period of the consent of Congress to the interstate compact relating to the restoration of Atlantic salmon to the Connecticut River Basin and creating the Connecticut River Atlantic Salmon Commission, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the Stevens amendment, which is at the desk, be agreed to and that no other amendments be in order, that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2461) was agreed to, as follows:

(Purpose: To amend the method for financing the fishing capacity reduction program required under the Miscellaneous Appropriations Act, 2001)

On page 2, after line 14, insert the following new section:

SEC. 2. FISHING CAPACITY REDUCTION PROGRAM.

Section 144(d)(4)(A) of division B of the Miscellaneous Appropriations Act, 2001 (as enacted into law by section 1(a)(4) of Public Law 106–554; 114 Stat. 27663A–242) is amended—

(1) by striking "in equal parts through a reduction loan of $50,000,000" and inserting "through any combination of a reduction loan of up to $100,000,000"; and

(2) by striking "and $50,000,000" and inserting "and up to $50,000,000".

The bill (S. 703), as amended, was read the third time and passed, as follows:

S. 703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONNECTICUT RIVER ATLANTIC SALMON COMPACT.

(a) EFFECTIVE PERIOD OF CONGRESSIONAL CONSENT.—Section 3(2) of Public Law 98–138 (97 Stat. 870) is amended by striking "twenty years" and inserting "40 years".

(b) AUTHORIZATION OF APPROPRIATIONS.—Public Law 98–138 (97 Stat. 866) is amended by adding at the end the following:

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to the Secretary of the Interior to carry out the activities of the Connecticut River Atlantic Salmon Commission $9,000,000 for each of fiscal years 2002 through 2010.".

SEC. 2. FISHING CAPACITY REDUCTION PROGRAM.

Section 144(d)(4)(A) of division B of the Miscellaneous Appropriations Act, 2001 (as enacted into law by section 1(a)(4) of Public Law 106–554; 114 Stat. 2763A–242) is amended—

(1) by striking "in equal parts through a reduction loan of $50,000,000" and inserting "through any combination of a reduction loan of up to $100,000,000"; and

(2) by striking "and $50,000,000" and inserting "and up to $50,000,000".

DETROIT RIVER INTERNATIONAL WILDLIFE REFUGE ESTABLISHMENT ACT

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 1230, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1230) to provide for the establishment of the Detroit River International Wildlife Refuge in the State of Michigan, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table without any intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The bill (H.R. 1230) was read the third time and passed.

TANF SUPPLEMENTAL GRANTS ACT OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 216, S. 942.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 942) to authorize the supplemental grant for population increases in certain States under the temporary assistance to needy families program for fiscal year 2002.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "TANF Supplemental Grants Act of 2001".

SEC. 2. REAUTHORIZATION OF TANF SUPPLEMENTAL GRANTS FOR POPULATION INCREASES FOR FISCAL YEAR 2002.

Section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3)) is amended by adding at the end the following:

"(H) REAUTHORIZATION OF GRANTS FOR FISCAL YEAR 2002.—Notwithstanding any other provision of this paragraph—

"(i) any State that was a qualifying State under this paragraph for fiscal year 2001 or any prior fiscal year shall be entitled to receive from the Secretary for fiscal year 2002 a grant in an amount equal to the amount required to be paid to the State under this paragraph for the most recent fiscal year in which the State was a qualifying State;

"(ii) subparagraph (G) shall be applied as if '2002' were substituted for '2001'; and

"(iii) out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 2002 such sums as are necessary for grants under this subparagraph.".

SEC. 3. FISCAL YEAR 2002 TANF PAYMENTS.

Notwithstanding any other provision of law, any payment under section 403 of the Social Security Act (42 U.S.C. 603) that would otherwise be sent to a State on September 30, 2002, by the Secretary of the Treasury shall be sent on October 1, 2002.

SEC. 4. TANF BONUSES FOR HIGH PERFORMANCE STATES.

(a) RESCISSION.—Effective upon the date of enactment of this Act or October 1, 2001, whichever is later, $319,000,000 of the amount appropriated under section 403(a)(4)(F) of the Social Security Act (42 U.S.C. 603(a)(4)(F)) is rescinded.

(b) APPROPRIATION.—Effective October 1, 2002, out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated $319,000,000 for bonus grants under section 403(a)(4) of the Social Security Act (42 U.S.C. 603(a)(4)). Amounts appropriated under this subsection shall be in addition to amounts appropriated under subparagraph (F) of section 403(a)(4) of such Act (42 U.S.C. 603(a)(4)).

Mr. REID. I ask unanimous consent that the committee substitute amendment be agreed to, the bill be read the third time and passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 942), as amended, was read the third time and passed.

VETERANS' BENEFITS IMPROVEMENT ACT OF 2001

Mr. REID. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 194, S. 1088.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1088) to amend title 38, United States Code, to facilitate the use of educational assistance under the Montgomery GI Bill for education leading to employment in high technology industry, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Improvement Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—EDUCATION MATTERS

Sec. 101. Increase in rates of basic educational assistance under Montgomery GI Bill.
Sec. 102. Authority for accelerated payments of basic educational assistance under Montgomery GI Bill.
Sec. 103. Accelerated payments of educational assistance under Montgomery GI Bill for education leading to employment in high technology industry.
Sec. 104. Eligibility for Montgomery GI Bill benefits of certain additional Vietnam era veterans.
Sec. 105. Inclusion of certain private technology entities in definition of educational institution.

TITLE II—COMPENSATION AND PENSION MATTERS

Sec. 201. Modification and extension of authorities on presumption of service-connection for herbicide-related disabilities of Vietnam era veterans.
Sec. 202. Compensation for disabilities of Persian Gulf War veterans.
Sec. 203. Exclusion of certain additional income from determinations of annual income for pension purposes.
Sec. 204. Time limitation on receipt of claim information pursuant to request by Department of Veterans Affairs.
Sec. 205. Effective date of change in recurring income for pension purposes.
Sec. 206. Prohibition on provision of certain benefits with respect to veterans who are fugitive felons.
Sec. 207. Limitation on payment of compensation for veterans remaining incarcerated for felonies committed before October 7, 1980.
Sec. 208. Repeal of limitation on payments of benefits to incompetent institutionalized veterans.
Sec. 209. Extension of certain expiring authorities.

TITLE III—HOUSING MATTERS

Sec. 301. Increase in home loan guaranty amount for construction and purchase of homes.
Sec. 302. Four-year extension of Native American Veterans Housing Loan Program.
Sec. 303. Extension of other expiring authorities.

TITLE IV—BURIAL MATTERS

Sec. 401. Increase in burial and funeral expense benefit for veterans who die of service-connected disabilities.
Sec. 402. Authority to provide bronze grave markers for privately marked graves.

TITLE V—OTHER BENEFITS MATTERS

Sec. 501. Repeal of fiscal year limitation on number of veterans in programs of independent living services and assistance.

TITLE VI—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Sec. 601. Temporary expansion of United States Court of Appeals for Veterans Claims to facilitate staggered terms of judges.
Sec. 602. Repeal of requirement for written notice regarding acceptance of reappointment as condition to retirement from United States Court of Appeals for Veterans Claims.
Sec. 603. Termination of notice of disagreement as jurisdictional requirement for United States Court of Appeals for Veterans Claims.
Sec. 604. Registration fees.
Sec. 605. Administrative authorities.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EDUCATION MATTERS

SEC. 101. INCREASE IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) ACTIVE DUTY EDUCATIONAL ASSISTANCE.—Section 3015 is amended—

(1) in subsection (a)(1), by striking "$650 (as increased from time to time under subsection (h))" and inserting "$700, for months beginning after September 30, 2001, but before September 30, 2002, $800 for months beginning after September 30, 2002, but before September 30, 2003, and $950 for months beginning after September 30, 2003, but before September 30, 2004, and as increased from time to time under subsection (h) after September 30, 2004,"; and

(2) in subsection (b)(1), by striking "$528 (as increased from time to time under subsection (h))" and inserting "$569, for months beginning after September 30, 2001, but before September 30, 2002, $650 for months beginning after September 30, 2002, but before September 30, 2003, and $772 for months beginning after September 30, 2003, but before September 30, 2004, and as increased from time to time under subsection (h) after September 30, 2004,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2001, and shall apply with respect to educational assistance allowances paid under chapter 30 of title 38, United States Code, for months after September 2001. However, no adjustment shall be made under section 3015(h) of title 38, United States Code, for fiscal years 2002, 2003, or 2004.

SEC. 102. AUTHORITY FOR ACCELERATED PAYMENTS OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) IN GENERAL.—Section 3014 is amended by adding at the end the following new subsection:

"(c)(1)(A) Notwithstanding any other provision of this chapter and subject to subparagraph (B), an individual entitled to basic educational assistance under this subchapter may elect to receive an accelerated payment of the basic educational assistance allowance.

"(B) The Secretary may not make an accelerated payment under this subsection for a course to an individual who has received an advance payment under section 3014A or 3680(d) of this title for the same enrollment period.

"(2)(A) Pursuant to an election under paragraph (1), the Secretary shall make an accelerated payment to an individual for a course in a lump-sum amount equal to the lesser of—

"(i) the amount of the educational assistance allowance for the month, or fraction thereof, in which the course begins plus the educational assistance allowance for each of the succeeding four months; or

"(ii)(I) in the case of a course offered on a quarter, semester, or term basis, the amount of aggregate monthly educational assistance allowance otherwise payable under this subchapter for the course for the entire quarter, semester, or term; or

"(II) in the case of a course that is not offered on a quarter, semester, or term basis, the amount of aggregate monthly educational assistance allowance otherwise payable under this subchapter for the entire course.

"(B) In the case of an adjustment under section 3015(h) of this title in the monthly rate of basic educational assistance that occurs during a period for which an accelerated payment is made under this subsection, the Secretary shall pay—

"(i) on an accelerated basis the amount of the allowance otherwise payable under this subchapter for the period without regard to the adjustment under that section; and

"(ii) on the date of the adjustment any additional amount of the allowance that is payable for the period as a result of the adjustment.

"(3) For each accelerated payment made to an individual under this subsection, the individual's entitlement under this subchapter shall be charged at the same rate at which the entitlement would be charged if the individual had received a monthly educational assistance allowance for the period of educational pursuit covered by the accelerated payment.

"(4) The Secretary shall prescribe regulations to carry out this subsection. The regulations shall include the requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under this subsection.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date that is six months after the date of the enactment of this Act, and shall apply with respect to courses of education beginning on or after that date.

SEC. 103. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.

(a) In General.—(1) Chapter 30 is amended by inserting after section 3014 the following new section:

“§3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology industry

“(a) An individual described in subsection (b) who is entitled to basic educational assistance under this subchapter may elect to receive an accelerated payment of the basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

“(b) An individual described in this subsection is an individual who is—

“(1) enrolled in an approved program of education that leads to employment in a high technology industry (as determined pursuant to regulations prescribed by the Secretary); and

“(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

“(c)(1) The amount of the accelerated payment of basic educational assistance made to an individual making an election under subsection (a) for a program of education shall be the lesser of—

“(A) the amount equal to 60 percent of the established charges for the program of education; or

“(B) the aggregate amount of basic educational assistance to which the individual remains entitled under this chapter at the time of the payment.

“(2) In this subsection, the term ‘established charges’, in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

“(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

“(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

“(3) The educational institution providing the program of education for which an accelerated payment of basic educational assistance allowance is elected by an individual under subsection (a) shall certify to the Secretary the amount of the established charges for the program of education.

“(d) An accelerated payment of basic educational assistance made to an individual under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary receives a certification from the educational institution regarding—

“(1) the individual’s enrollment in and pursuit of the program of education; and

“(2) the amount of the established charges for the program of education.

“(e)(1) Except as provided in paragraph (2), for each accelerated payment of basic educational assistance made to an individual under this section, the individual’s entitlement to basic educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

“(2) If the monthly rate of basic educational assistance allowance otherwise payable to an individual under section 3015 of this title increases during the enrollment period of a program of education for which an accelerated payment of basic educational assistance is made under this section, the charge to the individual’s entitlement to basic educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the matter provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary.

“(f) The Secretary may not make an accelerated payment under this section for a program of education to an individual who has received an advance payment under section 3014(c) or 3680(d) of this title for the same enrollment period.

“(g) The Secretary shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under this section.”.

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 3014 the following new item:

“3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology industry.”.

(b) Restatement and Enhancement of Certain Administrative Authorities.—Subsection (g) of section 3680 is amended to read as follows:

“(g)(1) The Secretary may, pursuant to regulations which the Secretary shall prescribe, determine and define with respect to an eligible veteran and eligible person the following:

“(A) Enrollment in a course or a program of education or training.

“(B) Pursuit of a course or program of education or training.

“(C) Attendance at a course or program of education and training.

“(2) The Secretary may withhold payment of benefits to an eligible veteran or eligible person until the Secretary receives such proof as the Secretary may require of enrollment in and satisfactory pursuit of a program of education by the eligible veteran or eligible person. The Secretary shall adjust the payment withheld, when necessary, on the basis of the proof the Secretary receives.

“(3) In the case of an individual other than an individual described in paragraph (4), the Secretary may accept the individual’s monthly certification of enrollment in and satisfactory pursuit of a program of education as sufficient proof of the certified matters.

“(4) In the case of an individual who has received an accelerated payment of basic educational assistance under section 3014A of this title during an enrollment period for a program of education, the Secretary may accept the individual’s certification of enrollment in and satisfactory pursuit of the program of education as sufficient proof of the certified matters if the certification is submitted after the enrollment period has ended.”.

(c) Effective Date.—The amendments made by this section shall take effect eight months after the date of the enactment of this Act, and shall apply with respect to enrollments in courses or programs of education or training beginning on or after that date.

SEC. 104. ELIGIBILITY FOR MONTGOMERY GI BILL BENEFITS OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS.

(a) Active Duty Program.—Section 3011(a)(1) is amended—

(1) by striking “or” at the end of subparagraph (A);

(2) by adding “or” at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

“(C) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title and—

“(i) was not on active duty on October 19, 1984;

“(ii) reenlists or reenters on a period of active duty after the date specified in clause (i); and

“(iii) after July 1, 1985, either—

“(I) serves at least three years of continuous active duty in the Armed Forces; or

“(II) is discharged or released from active duty (aa) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph, (bb) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date, or (cc) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy;”.

(b) Selected Reserve Program.—Section 3012(a)(1) is amended—

(1) by striking “or” at the end of subparagraph (A);

(2) by adding “or” at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

“(C) as of December 31, 1989, is eligible for educational assistance under chapter 34 of this title and—

“(i) was not on active duty on October 19, 1984;

“(ii) reenlists or reenters on a period of active duty after the date specified in clause (i); and

“(iii) after July 1, 1985—

“(I) serves at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

“(II) subject to subsection (b) of this section and beginning within one year after completion of such two years of service, serves at least four continuous years in the Selected Reserve during which the individual participates satisfactorily in training as prescribed by the Secretary concerned;”.

(c) Time for Use of Entitlement.—Section 3031 is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

"(3) in the case of an individual who becomes entitled to such assistance under section 3011(a)(1)(C) or 3012(a)(1)(C) of this title, on the date of the enactment of this paragraph."; and

(2) in subsection (e)(1), by striking "section 3011(a)(1)(B) or 3012(a)(1)(B)" and inserting "section 3011(a)(1)(B), 3011(a)(1)(C), 3012(a)(1)(B), or 3012(a)(1)(C)".

SEC. 105. INCLUSION OF CERTAIN PRIVATE TECHNOLOGY ENTITIES IN DEFINITION OF EDUCATIONAL INSTITUTION.

(a) IN GENERAL.—Sections 3452(c) and 3501(a)(6) are each amended by adding at the end the following new sentence: "Such term also includes any private entity (that meets such requirements as the Secretary may establish) that offers, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to enrollments in courses occurring on or after the date of the enactment of this Act.

TITLE II—COMPENSATION AND PENSION MATTERS

SEC. 201. MODIFICATION AND EXTENSION OF AUTHORITIES ON PRESUMPTION OF SERVICE-CONNECTION FOR HERBICIDE-RELATED DISABILITIES OF VIETNAM ERA VETERANS.

(a) PRESUMPTION OF EXPOSURE TO HERBICIDE AGENTS IN VIETNAM DURING VIETNAM ERA.—(1) Section 1116 is amended—

(A) by transferring paragraph (3) of subsection (a) to the end of the section and redesignating such paragraph, as so transferred, as subsection (f);

(B) in subsection (a), by redesignating paragraph (4) as paragraph (3); and

(C) in subsection (f), as transferred and redesignated by subparagraph (B) of this paragraph—

(i) by striking "For the purposes of this subsection, a veteran" and inserting "For purposes of establishing service connection for a disability or death resulting from exposure to a herbicide agent, including a presumption of service-connection under this section, a veteran"; and

(ii) by striking "and has a disease referred to in paragraph (1)(B) of this subsection".

(2)(A) The section heading of that section is amended to read as follows:

"§1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure".

(B) The table of section at the beginning of chapter 11 is amended by striking the item relating to section 1116 and inserting the following new item:

"1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure.".

(b) EXTENSION OF AUTHORITY TO PRESUME SERVICE-CONNECTION FOR ADDITIONAL DISEASES.—(1) Subsection (e) of section 1116 is amended by striking "10 years" and inserting "20 years".

(2) Section 3(i) of the Agent Orange Act of 1991 (38 U.S.C. 1116 note) is amended by striking "10 years" and inserting "20 years".

SEC. 202. COMPENSATION FOR DISABILITIES OF PERSIAN GULF WAR VETERANS.

(a) PRESUMPTIVE PERIOD FOR UNDIAGNOSED ILLNESSES.—Section 1117 is amended—

(1) in subsection (a)(2), by striking "within the presumptive period prescribed under subsection (b)" and inserting "before December 31, 2011, or such later date as the Secretary may prescribe by regulation";

(2) by striking subsection (b); and

(3) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

(b) ILLNESSES THAT CANNOT BE CLEARLY DEFINED.—Subsection (a) of that section is further amended by inserting "or any poorly defined chronic multisymptom illness of unknown etiology, regardless of diagnosis, characterized by two or more of the signs or symptoms listed in subsection (f)" after "illnesses)".

(c) SIGNS OR SYMPTOMS THAT MAY INDICATE UNDIAGNOSED ILLNESSES.—That section is further amended by adding at the end the following new subsection:

"(f) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness include the following:

"(1) Fatigue.

"(2) Unexplained rashes or other dermatological signs or symptoms.

"(3) Headache.

"(4) Muscle pain.

"(5) Joint pain.

"(6) Neurologic signs or symptoms.

"(7) Neuropsychological signs or symptoms.

"(8) Signs or symptoms involving the respiratory system (upper or lower).

"(9) Sleep disturbances.

"(10) Gastrointestinal signs or symptoms.

"(11) Cardiovascular signs or symptoms.

"(12) Abnormal weight loss.

"(13) Menstrual disorders.".

(d) PRESUMPTION OF SERVICE CONNECTION PROGRAM.—Section 1118(a) is amended by adding at the end the following new paragraph:

"(4) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness include the signs and symptoms listed in section 1117(f) of this title.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2002.

SEC. 203. EXCLUSION OF CERTAIN ADDITIONAL INCOME FROM DETERMINATIONS OF ANNUAL INCOME FOR PENSION PURPOSES.

(a) LIFE INSURANCE PROCEEDS.—Subsection (a) of section 1503 is amended—

(1) in paragraph (9), by striking "and" at the end;

(2) in paragraph (10), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraph (11):

"(11) proceeds (in an amount equal to or less than the amount prescribed by the Secretary for purposes of this paragraph, subject to subsection (c)) of any life insurance policy of a veteran; and".

(b) OTHER NON-RECURRING INCOME.—That subsection is further amended by inserting after paragraph (11), as added by subsection (a)(3) of this section, the following new paragraph (12):

"(12) any other non-recurring income (in an amount equal to or less than the amount prescribed by the Secretary for purposes of this paragraph, subject to subsection (c)) from any source.".

(c) EXCLUDABLE AMOUNTS OF LIFE INSURANCE PROCEEDS AND OTHER NON-RECURRING INCOME.—That section is further amended by adding at the end the following new subsection:

"(c) In prescribing amounts for purposes of paragraph (11) or (12) of subsection (a), the Secretary shall take into consideration the amount of income from insurance proceeds or other non-recurring income, as the case may be, that is reasonable for individuals eligible for pension to consume for their maintenance.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002, and shall apply with respect to determinations of annual income under section 1503 of title 38, United States Code, as so amended, on or after that date.

SEC. 204. TIME LIMITATION ON RECEIPT OF CLAIM INFORMATION PURSUANT TO REQUEST BY DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Section 5102 is amended by adding at the end the following new subsection:

"(c) TIME LIMITATION.—(1) If information that a claimant and the claimant's representative, if any, are notified under subsection (b) is necessary to complete an application is not received by the Secretary within one year from the date of such notification, no benefit may be paid or furnished by reason of the claimant's application.

"(2) This subsection shall not apply to any application or claim for Government life insurance benefits.".

(b) REPEAL OF SUPERSEDED PROVISIONS.—Section 5103 is amended—

(1) by striking "(a) REQUIRED INFORMATION AND EVIDENCE.—"; and

(2) by striking subsection (b).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if enacted on November 9, 2000, immediately after the enactment of the Veterans Claims Assistance Act of 2000 (Public Law 106–475; 114 Stat. 2096).

SEC. 205. EFFECTIVE DATE OF CHANGE IN RECURRING INCOME FOR PENSION PURPOSES.

Section 5112(b)(4) is amended by striking subparagraph (A) and inserting the following new subparagraph (A):

"(A) change in recurring income will be the last day of the calendar year in which the change occurred (with the pension rate for the following calendar year based on all anticipated countable income); and".

SEC. 206. PROHIBITION ON PROVISION OF CERTAIN BENEFITS WITH RESPECT TO VETERANS WHO ARE FUGITIVE FELONS.

(a) PROHIBITION.—(1) Chapter 53 is amended by inserting after section 5313A the following new section:

"§5313B. Prohibition on providing certain benefits with respect to veterans who are fugitive felons

"(a) A veteran described in subsection (b), or dependent of the veteran, who is otherwise eligible for a benefit described in subsection (c) may not be paid or otherwise provided such benefit during any period in which the veteran is a fugitive as described in subsection (b).

"(b)(1) A veteran described in this subsection is a veteran who is a fugitive by reason of—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the veteran flees; or

"(B) violating a condition of probation or parole imposed under Federal or State law.

"(2) For purposes of this subsection, the term 'felony' includes a high misdemeanor under the laws of a State which characterizes as high misdemeanors offenses that would be felony offenses under Federal law.

"(c) A benefit described in this subsection is any benefit under the following:

"(1) Chapter 11 of this title.

"(2) Chapter 13 of this title.

"(3) Chapter 15 of this title.

"(4) Chapter 17 of this title.

"(5) Chapter 19 of this title.

"(6) Chapters 30, 31, 32, 34, and 35 of this title.

"(7) Chapter 37 of this title.

"(d)(1) The Secretary shall furnish to any Federal, State, or local law enforcement official, upon the written request of such official, the most current address maintained by the Secretary of a veteran who is eligible for a benefit described in subsection (c) if such official—

"(A) provides the Secretary such information as the Secretary may require to fully identify the veteran;

"(B) identifies the veteran as being a fugitive described in subsection (b); and

"(C) certifies to the Secretary that the location and apprehension of the veteran is within the official duties of such official.

"(2) The Secretary shall enter into memoranda of understanding with Federal law enforcement agencies, and may enter into agreements with State and local law enforcement agencies, for purposes of furnishing information to such agencies under paragraph (1).".

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 5313A the following new item:

"5313B. Prohibition on providing certain benefits with respect to veterans who are fugitive felons.".

(b) Sense of Congress on Entry Into Memoranda of Understanding and Agreements.—It is the sense of Congress that the memoranda of understanding and agreements referred to in section 5313B(d)(2) of title 38, United States Code (as added by subsection (a)), should be entered into as soon as practicable after the date of the enactment of this Act, but not later than six months after that date.

SEC. 207. LIMITATION ON PAYMENT OF COMPENSATION FOR VETERANS REMAINING INCARCERATED FOR FELONIES COMMITTED BEFORE OCTOBER 7, 1980.

(a) Limitation.—Notwithstanding any other provision of law, the payment of compensation to or with respect to a veteran described in subsection (b) shall, for the remainder of the period of incarceration of the veteran described in that subsection, be subject to the provisions of section 5313 of title 38, United States Code, other than subsection (d) of that section.

(b) Covered Veterans.—A veteran described in this subsection is any veteran entitled to compensation who—

(1) was incarcerated on October 7, 1980, for a felony committed before that date; and

(2) remains incarcerated for conviction of that felony after the date of the enactment of this Act.

(c) Effective Date.—This section shall take effect 90 days after the date of the enactment of this Act, and shall apply with respect to the payment of compensation for months beginning on or after that date.

(d) Compensation Defined.—For purposes of this section, the term "compensation" shall have the meaning given that term in section 5313 of title 38, United States Code.

SEC. 208. REPEAL OF LIMITATION ON PAYMENTS OF BENEFITS TO INCOMPETENT INSTITUTIONALIZED VETERANS.

(a) Repeal.—Section 5503 is amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(b) Conforming Amendments.—(1) Section 1114(r) is amended by striking "section 5503(e)" and inserting "section 5503(c)".

(2) Section 5112 is amended by striking subsection (c).

SEC. 209. EXTENSION OF CERTAIN EXPIRING AUTHORITIES.

(a) Income Verification Authority.—Section 5317(g) is amended by striking "September 30, 2008" and inserting "September 30, 2011".

(b) Limitation on Pension for Certain Recipients of Medicaid-Covered Nursing Home Care.—Paragraph (7) of subsection (d) of section 5503, as redesignated by section 208(a)(2) of this Act, is amended by striking "September 30, 2008" and inserting "September 30, 2011".

TITLE III—HOUSING MATTERS

SEC. 301. INCREASE IN HOME LOAN GUARANTY AMOUNT FOR CONSTRUCTION AND PURCHASE OF HOMES.

Section 3703(a)(1) is amended by striking "$50,750" each place it appears in subparagraphs (A)(i)(IV) and (B) and inserting "$63,175".

SEC. 302. FOUR-YEAR EXTENSION OF NATIVE AMERICAN VETERANS HOUSING LOAN PROGRAM.

(a) Extension of Pilot Program.—Section 3761(c) is amended by striking "December 31, 2001" and inserting "December 31, 2005".

(b) Annual Reports.—Section 3762(j) is amended by striking "2002" and inserting "2006".

SEC. 303. EXTENSION OF OTHER EXPIRING AUTHORITIES.

(a) Housing Loans for Members of the Selected Reserve.—Section 3702(a)(2)(E) is amended by striking "September 30, 2007" and inserting "September 30, 2011".

(b) Enhanced Loan Asset Sale Authority.—Section 3720(h)(2) is amended by striking "December 31, 2008" and inserting "December 31, 2011".

(c) Home Loan Fee Authorities.—The table in section 3729(b)(2) is amended by striking "October 1, 2008" each place it appears and inserting "October 1, 2011".

(d) Procedures Applicable to Liquidation Sales on Defaulted Home Loans Guaranteed by the Department of Veterans Affairs.—Section 3732(c)(11) is amended by striking "October 1, 2008" and inserting "October 1, 2011".

TITLE IV—BURIAL MATTERS

SEC. 401. INCREASE IN BURIAL AND FUNERAL EXPENSE BENEFIT FOR VETERANS WHO DIE OF SERVICE-CONNECTED DISABILITIES.

(a) Burial and Funeral Expenses.—Section 2307(1) is amended by striking "$1,500" and inserting "$2,000".

(b) Effective Date.—The amendment made by subsection (a) shall apply to deaths occurring on or after the date of the enactment of this Act.

SEC. 402. AUTHORITY TO PROVIDE BRONZE GRAVE MARKERS FOR PRIVATELY MARKED GRAVES.

(a) Authority.—Section 2306 is amended by adding at the end the following new subsection:

"(f) In the case of the grave of an individual described in subsection (a) that has been marked by a privately-furnished headstone or marker, the Secretary may furnish, when requested, a bronze marker to commemorate the individual's military service. The bronze marker may be placed at the gravesite or at another location designated by the cemetery concerned as a location for the commemoration of the individual's military service.".

(b) Applicability.—Subsection (f) of section 2306 of title 38, United States Code, as added by subsection (a) of this section, shall apply with respect to deaths as follows:

(1) Any death occurring on or after the date of the enactment of this Act.

(2) Any death occurring before that date, but after on or after November 1, 1990, if request is made to the Secretary of Veterans Affairs with respect to such death under such subsection (f) not later than four years after the date of the enactment of this Act.

(c) Stylistic Amendment.—Subsection (c) of section 2306 is amended by striking "of this section".

TITLE V—OTHER BENEFITS MATTERS

SEC. 501. REPEAL OF FISCAL YEAR LIMITATION ON NUMBER OF VETERANS IN PROGRAMS OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.

(a) Repeal of Limitation.—Section 3120(e) is amended by striking "Programs" and all that follows through "such programs" and inserting "First priority in the provision of programs of independent living services and assistance under this section".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on September 30, 2001.

TITLE VI—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SEC. 601. TEMPORARY EXPANSION OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS TO FACILITATE STAGGERED TERMS OF JUDGES.

(a) In General.—(1) Section 7253 is amended by adding at the end the following new subsection:

"(h) Temporary Expansion of Court.—(1) Notwithstanding subsection (a) and subject to the provisions of this subsection, the authorized number of judges of the Court from the date of the enactment of this subsection until August 15, 2005, is nine judges.

"(2) Of the two additional judges authorized by this subsection—

"(A) only one judge may be appointed pursuant to a nomination made in 2001 or 2002;

"(B) only one judge may be appointed pursuant to a nomination made in 2003; and

"(C) if no judge is appointed pursuant to a nomination covered by subparagraph (A), a nomination covered by subparagraph (B), or neither a nomination covered by subparagraph (A) nor a nomination covered by subparagraph (B), the number of judges authorized by this subsection but not appointed as described in subparagraph (A), (B), or both, as the case may be, may be appointed pursuant to a nomination or nominations made in 2004, but only if such nomination or nominations, as the case may be, are made before September 30, 2004.

"(3) The term of office and eligibility for retirement of a judge appointed under this subsection, other than a judge described in paragraph (4), shall be governed by the provisions of section 1012 of the Court of Appeals for Veterans Claims Amendments of 1999 (title X of Public Law 106–117; 113 Stat. 1590; 38 U.S.C. 7296 note) if the judge is one of the first two judges appointed to the Court after November 30, 1999.

"(4) A judge of the Court as of the date of the enactment of this subsection who was appointed before 1991 may accept appointment as a judge of the Court under this subsection notwithstanding that the term of office of the judge on the Court has not yet expired under this section.".

(2) No appointment may be made under section 7253 of title 38, United States Code, as amended by paragraph (1), if the appointment would provide for a number of judges in excess of seven judges (other than judges serving in recall status under section 7257 of title 38, United States Code) who were appointed to the United States Court of Appeals for Veterans Claims after January 1, 1997.

(b) Stylistic Amendments.—That section is further amended—

(1) in subsection (b), by inserting "Appointment.—" before "The judges";

(2) in subsection (c), by inserting "Term of Office.—" before "The terms";

(3) in subsection (f), by striking "(f)(1)" and inserting "(f) Removal.—(1)"; and

(4) in subsection (g), by inserting "Rules.—" before "The Court".

SEC. 602. REPEAL OF REQUIREMENT FOR WRITTEN NOTICE REGARDING ACCEPTANCE OF REAPPOINTMENT AS CONDITION TO RETIREMENT FROM UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Section 7296(b)(2) is amended by striking the second sentence.

SEC. 603. TERMINATION OF NOTICE OF DISAGREEMENT AS JURISDICTIONAL REQUIREMENT FOR UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

(a) TERMINATION.—Section 402 of the Veterans' Judicial Review Act (division A of Public Law 100–687; 102 Stat. 4122; 38 U.S.C. 7251 note) is repealed.

(b) ATTORNEY FEES.—Section 403 of the Veterans' Judicial Review Act (102 Stat. 4122; 38 U.S.C. 5904 note) is repealed.

(c) CONSTRUCTION.—The repeal in subsection (a) may not be construed to confer upon the United States Court of Appeals for Veterans Claims jurisdiction over any appeal or other matter not within the jurisdiction of the Court as provided in section 7266(a) of title 38, United States Code.

(d) APPLICABILITY.—The repeals made by subsections (a) and (b) shall apply to—

(1) any appeal filed with the United States Court of Appeals for Veterans Claims on or after the date of the enactment of this Act; and

(2) any appeal pending before the Court on that date, other than an appeal in which the Court has made a final disposition under section 7267 of title 38, United States Code, even though such appeal is not yet final under section 7291(a) of title 38, United States Code.

SEC. 604. REGISTRATION FEES.

(a) REGISTRATION FEES FOR PARTICIPATION IN OTHER COURT-SPONSORED ACTIVITIES.—Subsection (a) of section 7285 is amended to read as follows:

"(a) The Count of Appeals for Veterans Claims may impose registration fees as follows:

"(1) Periodic registration fees on persons admitted to practice before the Court, in such frequency and amount (not to exceed $30 per year) as the Court may provide.

"(2) Registration fees on persons (other than judges of the Court) participating at judicial conferences convened pursuant to section 7286 of this title, and at other Court-sponsored activities.".

(b) AVAILABILITY OF REGISTRATION FEES.—Subsection (b) of that section is amended—

(1) in paragraph (1), by striking "employing independent counsel" and inserting "conducting investigations and proceedings, including the employment of independent counsel,"; and

(2) in paragraph (2), by striking "administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court" and inserting "the expenses of judicial conferences convened pursuant to section 7286 of this title, and of other Court-sponsored activities covered by paragraph (2) of that subsection, and the expenses of other activities and programs of the Court intended to support and foster communications and relationships between the Court and persons practicing before the Court, or the study, understanding, public commemoration, or improvement of veterans law or of the work of the Court".

(c) CONFORMING AND CLERICAL AMENDMENTS.—(1) The section heading for section 7285 is amended to read as follows:

"§ 7285. Registration fees".

(2) The table of sections at the beginning of chapter 72 is amended by striking the item relating to section 7285 and inserting the following new item:

"7285. Registration fees.".

SEC. 605. ADMINISTRATIVE AUTHORITIES.

(a) IN GENERAL.—Subchapter III of chapter 72 is amended by inserting after section 7286 the following new section:

"§ 7287. Administration

"Notwithstanding any other provision of law, the Court of Appeals for Veterans Claims may exercise, for purposes of management, administration, and expenditure of funds of the Court, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision of law) applicable to a court of the United States (as that term is defined in section 451 of title 28), except to the extent that such provision of law is inconsistent with a provision of this chapter.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 72 is amended by inserting after the item related to section 7286 the following new item:

"7287. Administration.".

Amend the title so as to read: "A Bill to amend title 38, United States Code, to modify and improve authorities relating to education benefits, compensation and pension benefits, housing benefits, burial benefits, and vocational rehabilitation benefits for veterans, to modify certain authorities relating to the United States Court of Appeals for Veterans Claims, and for other purposes.".

AMENDMENT NO. 2462

Mr. REID. Senators ROCKEFELLER and SPECTER have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. ROCKEFELLER and Mr. SPECTER, proposes an amendment numbered 2462.

(The text of the amendment is printed in today's RECORD under "Amendments submitted.")

Mr. ROCKEFELLER. Mr. President, as Chairman of the Committee on Veterans' Affairs, I urge the Senate to pass S. 1088, the proposed "Veterans Benefits Improvement Act of 2001," as it will be modified by a manager's amendment which I developed with the Committee's Ranking Member, Senator SPECTER. I will describe provisions of the amendment in a moment.

The pending measure is an omnibus bill that improves many veterans benefits, such as the amount and flexibility of the Montgomery GI Bill, and enhances compensation to Gulf War veterans, as well as to Vietnam veterans with Agent Orange-related conditions.

Although the Budget Resolution assumed some significant spending on veterans benefits, our Committee nonetheless had to make some difficult decisions to assist the most veterans within the resources available to our Committee. I thank Ranking Member Specter and the minority staff for their significant efforts toward attaining that goal.

S. 1088, as reported, which I will refer to as the "Committee bill," makes significant enhancements to educational benefits for veterans and their families. The original GI Bill allowed a generation of soldiers returning from World War II to create the booming post-war economy, and, in fact, the prosperity that we enjoy today. Today's Montgomery GI Bill (MGIB), modeled after the original GI Bill, provides a valuable recruitment and retention tool for the Armed Services and begins to repay veterans for the service they have given to our Nation. As a transition benefit, it allows veterans to gain the skills they need to adjust productively to civilian life.

I am very pleased that section 101 of the Committee bill would increase the MGIB basic monthly benefit by $50 per month this year, $100 in 2002, and $150 in 2003. I am even more proud that S. 1088 also takes the next evolutionary step to keep pace with the careers and education that today's veterans require. As our colleagues know, many servicemembers leave the military with skills that place them in demand for careers in the technology sector. But even these veterans may require coursework to convert their military skills to civilian careers. Section 103 of the Committee bill would allow veterans to use their Montgomery GI Bill educational benefits to pay for short-term, high technology courses that would allow veterans to earn the credentials they need to gain entry to lucrative civilian-sector careers.

Currently, the MGIB provides a basic monthly benefit of $672 for 36 months of education. This payment structure is designed to assist veterans pursuing traditional four-year degrees at universities. However, in today's fast paced, high-tech economy, traditional degrees may not always be the best option. Many veterans are pursuing forms of nontraditional training, such as short-term courses that lead to certification in a technical field. In certain fields, these certifications are a prerequisite to employment.

These courses, such as Microsoft or Cisco systems training, may be offered through training centers, private contractors to community colleges, or the companies themselves. They often last just a few weeks or months, and can cost many thousands of dollars. The way MGIB is paid out in monthly disbursements is not suited to this course structure. For example, MGIB would pay less than $1,400 for a two-month course that could cost as much as $10,000.

The percentage of veterans who actually use the MGIB benefits they have earned and paid for is startlingly low—45% of eligible veterans, according to VA's Program Evaluation of the Montgomery GI Bill published in April 2000—despite almost full enrollment in the program by servicemembers. By increasing the flexibility of the MGIB program, we will permit more veterans to take advantage of these benefits. We should give veterans the right to choose whatever kind of educational program will be best for them.

This legislation would modify the payment method to accommodate the compressed schedule of the courses. Specifically, section 103 would allow veterans to receive an accelerated payment equal to 60 percent of the cost of the program. This is comparable to

VA's MGIB benefit for flight training, for which VA reimburses 60 percent of the costs. The dollar value of the accelerated payment would then be deducted from the veteran's remaining entitlement. This provision would also allow courses offered by these providers to be covered by MGIB.

Another provision of the Committee bill would correct an unintended exclusion of certain Gulf War veterans from eligibility for service-connected benefits. Our efforts to explain symptoms reported by many troops returning from the 1991 Gulf War have been frustrated by inconclusive scientific data and by poor military recordkeeping during the conflict. In 1994, Congress passed the Persian Gulf War Veterans' Benefits Act to provide compensation to certain Gulf War veterans disabled by "undiagnosed illnesses" for which no other causes could be identified.

Since then, changes in medical terminology have led many Gulf War veterans to receive diagnoses for chronic conditions without known cause—such as chronic fatigue syndrome and fibromyalgia—which VA has interpreted as precluding them from eligibility for benefits. Section 202 of the Committee bill would correct this unintended exclusion by expanding service connection to "poorly defined chronic multisymptom illnesses of unknown etiology, regardless of diagnosis," characterized by the symptoms already listed in VA regulations.

Because scientific research has still determined neither the cause of veterans' symptoms nor the long-term health consequences of Gulf War-era exposures, and because the Department of Defense recently expanded its estimates of who might have been exposed to nerve agents, this section also extends the presumptive period for benefits for Gulf War veterans for 10 more years. I thank the Committee's newest member, Senator HUTCHISON, for her leadership on this issue.

For many years there has been a prohibition on paying compensation and pension benefits to an incompetent veteran who has no dependents and who has assets of $1,500 or more, if the veteran is being provided institutional health care by the government. This reduction of benefits to this population of veterans dates back to 1933, when incompetent individuals might be institutionalized for years. At that time, it was believed that a large estate based on the veteran's benefits should not be allowed to build up just to pass to the state upon the veteran's death. Now, however, treatment modalities have changed and veterans do not generally remain hospitalized for years at a time. Instead, they are more likely to cycle in and out of treatment, which results in virtually constant suspension and reinstatement of their benefits.

Last year, in Public Law 106–419, Congress addressed this anomaly in law. Although we had hoped to fully eliminate the disparate and discriminatory treatment of incompetent veterans, due to cost restraints we were only able to raise the dollar amount of the cutoff from $1,500 to five times the 100 percent compensation rate, which is $10,535 in the current year. The current monthly VA disability compensation rate for a veteran rated 100 percent disabled is $2,107.

Section 209 would fully repeal the limitation on payment of benefits to incompetent institutionalized veterans who have no dependents and thereby end decades of prejudice and discrimination against these veterans.

The Committee bill also enhances and extends home loan programs. As most of our colleagues appreciate, VA does not provide a direct home loan for servicemembers and veterans. Instead, it provides a guaranty to mortgage lenders should the borrower veteran be unable to meet the payments and go into foreclosure. A VA guaranty allows a veteran to buy a home valued at up to four times the guaranty amount. The price of homes in major metropolitan areas has increased significantly in the last several years, yet the VA guaranty amount has not been increased since 1994. VA estimates that during fiscal year 2001, VA will have guaranteed 250,000 loans for veterans.

Section 301 would increase the home loan guaranty amount to $63,175 from the current $50,750 to keep pace with FHA loan guaranties, thereby supporting a loan of up to $252,700.

Section 302 would extend the Native American veterans housing loan program, set to expire in 2002, by 4 years. Special authority to provide these loans is necessary, in addition to the general VA home loan guaranty, because these homes sit on tribal land. This makes traditional foreclosure and resale by the mortgage holders impossible.

Section 303 would extend for 4 years the authority for housing loan guaranties for members of the Selected Reserve, currently set to expire in 2007. Reservists must serve 6 years in order to become eligible for a VA-guaranteed loan. In order for the home loan to be used as a recruiting incentive now, the benefit must be authorized beyond 6 years. Senator AKAKA, my good friend and colleague on the Committee, has again championed the loan programs for Native Americans and reservists in the Senate.

I now turn to the provisions contained in the manager's amendment. They include further enhancements to educational benefits, pension simplification, and eliminating an arbitrary bar to benefits for Vietnam veterans suffering from Agent Orange-related respiratory cancers.

First, new section 105 would protect educational benefits for those that must leave their course of study to serve on active duty in support of the National Emergency declared in response to the events of September 11, 2001. This provision would restore educational entitlements for recipients of the Montgomery GI Bill, Veterans Educational Assistance Program, VEAP, and Dependent's Educational Allowance, DEA, for regular servicemembers and reservists who are called up for active duty and who are forced to relocate or take on extra work because of their participation in support of the National Emergency. This provision would be an amendment to a provision that restores such entitlements for servicemembers and reservists called to active duty for the Persian Gulf War. In 1997, Congress similarly expanded educational benefits restoration for the Selected Reserve Program.

New section 106 would increase the Dependent's Educational Allowance (DEA) for dependents and eligible spouses of veterans. Congress created this educational program in 1968 to provide educational opportunities to children whose education would be impeded or interrupted because of the disability or death of a parent from a disease or injury incurred or aggravated in the Armed Forces. In addition, unremarried surviving spouses of veterans are generally eligible for the educational allowance in order to assist them in preparing to support themselves and their families at the standard-of-living level that the veteran could have been expected to provide for his or her family but for the service-connected disability or death. Children and surviving spouses of servicemembers who are missing in action for 90 days, captured in the line of duty by a hostile force, or detained or interned by a foreign government, are also eligible for the educational allowance.

DEA is available for full-time, three-quarter time or half-time attendance at an institution of higher learning, for students taking correspondence courses, pursuing special restorative training, or apprenticeship training. The increase in DEA for full-time students would be to $690 from $608 on November 1, 2002, with no cost-of-living adjustment that year. The allowance for a three-quarter time student would increase to $517 from $456, and the allowance for half-time pursuit would increase to $345 from $304.

In addition, new section 107 would address statutory gaps that led to a court decision, Ozer v. Principi, 14 Vet.App. 257 (2001), that eliminated the delimiting date for use of DEA benefits by surviving spouses. Under the new provision, subject to the Secretary's approval, the surviving spouse would be allowed to change the beginning date of the 10-year period during which he or she is eligible for benefits. This provision would allow the surviving spouse to select the beginning date of eligibility from any date between the effective rating of the veteran's total and permanent service-connected disability and the date on which the Secretary determines that the veteran died of a service-connected disability. The amendment would restore the delimiting date provision, making the DEA program more uniform with other VA educational programs.

New section 201 would remove the arbitrary 30-year limit for manifestation of Agent Orange-related respiratory cancers in Vietnam veterans. Currently, title 38, United States Code, only provides a presumption in Vietnam veterans for respiratory cancer if the disease manifested within 30 years of their service in Vietnam. The most recent National Academy of Sciences report confirmed that there is no scientific basis for assuming that cancers linked to dioxin exposure would occur with a specific window of time. This provision would eliminate the 30-year limit and allow future claims for Vietnam veterans' respiratory cancers, irrespective of the date of manifestation of the disease.

Finally, new section 203 would restore the presumption of disability for pension purposes by allowing VA to accept certain types of evidence, beyond just medical evidence, to establish permanent and total disability. VA non-service-connected pension is a needs-based monthly benefit paid to certain disabled wartime veterans.

Currently, the VA must determine if medical evidence demonstrates that the veteran can be rated as permanently and totally disabled. This can be a very time-consuming process that creates hardships for pension claimants. This provision would allow VA to consider a veteran to be permanently and totally disabled for pension purposes if the veteran is a patient in a nursing home, the Social Security Administration has determined that the veteran is disabled for their benefit programs, or the veteran is age 65 or over. This provision should streamline the processing of pension claims and provide faster service for disabled and elderly veterans.

In conclusion, I urge my colleagues to support these vital enhancements to veterans benefits. As has been the case in previous years and is particularly important in light of our country's current military actions, this truly represents a bipartisan commitment to our Nation's veterans.

I ask unanimous consent that a summary of S. 1088 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 1088, AS AMENDED BY MANAGER'S AMENDMENT

EDUCATION:

Increase the rate of the basic benefit of the Montgomery G.I. Bill (MGIB) from the current $650 per month to $700 per month beginning in October 1, 2001; $800 per month in October 1, 2002; and $950 per month in October 1, 2003.

Allows MGIB participants to receive their otherwise monthly payment as an accelerated lump-sum payment for the month in which the course begins.

Currently, MGIB benefits are paid in monthly installments. S. 1088 would create flexibility in the payment method for MGIB to partially pay for short-term/high tech courses. It would accelerate payment of up to 60 percent of the cost of an approved program that leads to employment in a high technology industry.

Preserves educational benefits for those that must leave their course of study to serve on active duty in support of the National Emergency declared in response to the events of September 11, 2001.

Increase Dependent's Educational Allowance (DEA) for dependents and eligible spouses of veterans for full-time students is to $690 from $588 on November 1, 2002.

COMPENSATION AND PENSION

Removes the arbitrary 30-year limit for manifestation of Agent Orange-related respiratory cancers in Vietnam veterans. The most recent National Academy of Sciences report confirmed that there is no scientific basis for assuming that cancers linked to dioxin exposure would occur with a specific window of time.

Tasks the National Academy of Sciences (NAS) to continue reviewing scientific evidence on effects on dioxin or herbicide exposure for 10 more years (five reports); and extends authority of the VA Secretary to presume service connection for additional diseases as based on future NAS reports for 10 more years.

Expands the compensation definition of "undiagnosed illness" for Gulf War veterans by adding poorly defined chronic multisymptom illnesses of unknown etiology, regardless of diagnosis. Congress provided compensation to these veterans disabled by "undiagnosed" illnesses. Since then many have received diagnoses for chronic conditions whose causes cannot be identified conclusively, but which preclude them from eligibility for benefits under the current law.

Streamlines VA pension eligibility and income reporting requirements.

HOUSING

Increases the home loan guaranty amount to $63,175 from the current $50,750, to keep pace with FHA loan guaranties supporting a loan of up to $252,700. The VA guaranty amount has not been increased since 1994.

Extends the Native American veterans housing loan program, set to expire in 2002, by four years. Special authority is necessary, in addition to the general VA home loan guaranty, because these homes sit on tribal land. This makes traditional foreclosure and resale by the mortgage holders impossible.

Extends the four years the authority for housing loan guaranties for members of the Selected Reserve (now set to expire in 2007). Reservists must serve six years in order to become eligible for a VA-guaranteed loan. In order for the home loan to be advertised as a recruiting incentive now, the benefit must be authorized beyond six years

BURIAL MATTERS

Increases VA burial benefits for service-connected deaths of veterans from $1,500 to $2,000.

Authorize the Secretary of Veterans Affairs to furnish bronze markers for already marked graves in order to more permanently commemorate the veteran's military service. VA is currently restricted by statute from providing a headstone or marker for already marked graves.

Mr. REID. I ask unanimous consent the Rockefeller-Specter substitute amendment at the desk be agreed to; the committee-reported substitute amendment be agreed to, as amended; the bill be read the third time; that the Veterans' Affairs Committee be discharged from further consideration of H.R. 1291; that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken; that the text of S. 1088, as amended, be inserted in lieu thereof; that the bill be read a third time and passed; that the title amendment be agreed to, which I now send to the desk; that S. 1088 be returned to the calendar; and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2462) was agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 1291), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

The amendment (No. 2463) was agreed to, as follows:

Amend the title so as the read: "A Bill to amend title 38, United States Code, to modify and improve authorities relating to education benefits, compensation and pension benefits, housing benefits, burial benefits, and vocational rehabilitation benefits for veterans, to modify certain authorities relating to the United States Court of Appeals for Veterans Claims, and for other purposes.".

MEASURE READ FOR THE FIRST TIME—S. 1786

Mr. REID. I understand S. 1786 introduced earlier today by Senator DURBIN is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1786) to expand aviation capacity in the Chicago area.

Mr. REID. I ask for its second reading, and I object to my own request on behalf of the minority.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

MEASURE READ THE FIRST TIME—S. 1789

Mr. REID. I understand S. 1789, introduced earlier today by Senator DODD, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 1789) to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

Mr. KENNEDY. Mr. President, I strongly support the Best Pharmaceuticals for Children Act, which reauthorizes the pediatric drug exclusivity provision enacted as part of the FDA Modernization Act in 1997. I commend Senator DODD and Senator DEWINE for their effective leadership on this provision as well as Senator CLINTON for her important contributions to this legislation, and I also commend their staffs for their long and skilled work on this bill.

Combined with FDA's Rule that requires pediatric testing for drugs and biological products, this legislation is intended to do more to see that medicines are adequately tested for safety and effectiveness in children.

The 1997 provision has been a major success in encouraging essential studies of pharmaceutical products in children. Dozens of such drugs have been studied in children, and many of the products have now been relabeled or even reformulated for use in children. But the 1997 provision has not been an unqualified success. Although many products have been studied, others have not. For every label changed, others remain incomplete.

This reauthorization provides that every pharmaceutical product that is needed to treat children will, in fact, be studied in children. In a few years, there will be far fewer of these products that lack adequate information about pediatric use. The Food and Drug Administration will be able to act more quickly and successfully to see that drug companies label their products for such use. The bill also gives needed new priority to the appropriate use of cancer drugs for children.

In addition to extending and improving this program which has been so important in improving therapies for children, the bill closes technical loopholes which might have improperly barred generic drugs from the market or limited the incentives for generic drug development.

This is a bill that will make a major contribution to the health of American children and I urge its prompt passage by the Senate and the House.

Mr. REID. I ask for its second reading, and I object to my own request on behalf of the minority.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

UNANIMOUS CONSENT AGREEMENT

Mr. REID. Mr. President, as in executive session, I ask unanimous consent that at 9:30 a.m. on Tuesday, December 11, the Senate proceed to executive session to consider the following nominations: Calendar Nos. 586, 587, and 591; that the Senate immediately vote on each nominee; that upon the disposition of these nominations, the President be immediately notified of the Senate's action, and any statements thereon appear at the appropriate place in the RECORD, and the Senate then return to legislative session.

I further ask unanimous consent that it be in order for the yeas and nays on each of the nominees with a show of hands.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, as in executive session, I ask for the yeas and nays on the nominations.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDERS FOR MONDAY, DECEMBER 10, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 3 p.m. on Monday, December 10, that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 1731, the farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, there will be no rollcall votes on Monday. The next rollcall votes will occur on Tuesday morning beginning at 9:30.

ADJOURNMENT UNTIL 3 P.M., MONDAY, DECEMBER 10, 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:29 a.m., adjourned until Monday, December 10, 2001, at 3 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 7, 2001:

DEPARTMENT OF DEFENSE

PETER B. TEETS, OF MARYLAND, TO BE UNDER SECRETARY OF THE AIR FORCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF LABOR

TAMMY DEE MCCUTCHEN, OF ILLINOIS, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE POSITIONS AND GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 8307:

To be the judge advocate general of the united states air force

MAJ. GEN. THOMAS J. FISCUS

To be major general and to be the deputy judge advocate general of the United States Air Force

BRIG. GEN. JACK L. RIVES

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. BRUCE H. BARLOW

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL KEITH B. ALEXANDER
BRIGADIER GENERAL ELDON A. BARGEWELL
BRIGADIER GENERAL DAVID W. BARNO
BRIGADIER GENERAL JOHN R. BATISTE
BRIGADIER GENERAL PETER W. CHIARELLI
BRIGADIER GENERAL CLAUDE V. CHRISTIANSON
BRIGADIER GENERAL ROBERT T. DAIL
BRIGADIER GENERAL PAUL D. EATON
BRIGADIER GENERAL KARL W. EIKENBERRY
BRIGADIER GENERAL ROBERT H. GRIFFIN
BRIGADIER GENERAL JOHN W. HOLLY
BRIGADIER GENERAL DAVID H. HUNTOON, JR.
BRIGADIER GENERAL JAMES C. HYLTON
BRIGADIER GENERAL GENE M. LACOSTE
BRIGADIER GENERAL DEE A. MCWILLIAMS
BRIGADIER GENERAL RAYMOND T. ODIERNO
BRIGADIER GENERAL VIRGIL L. PACKETT II
BRIGADIER GENERAL JOSEPH F. PETERSON
BRIGADIER GENERAL DAVID H. PETRAEUS
BRIGADIER GENERAL MARILYN A. QUAGLIOTTI
BRIGADIER GENERAL MICHAEL D. ROCHELLE
BRIGADIER GENERAL DONALD J. RYDER
BRIGADIER GENERAL HENRY W. STRATMAN
BRIGADIER GENERAL JOE G. TAYLOR, JR.
BRIGADIER GENERAL N. ROSS THOMPSON III
BRIGADIER GENERAL JAMES D. THURMAN
BRIGADIER GENERAL THOMAS R. TURNER II
BRIGADIER GENERAL MICHAEL A. VANE
BRIGADIER GENERAL WILLIAM G. WEBSTER, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) ANTHONY W. LENGERICH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) RICHARD B. PORTERFIELD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. STEPHEN A. TURCOTTE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) DAVID ARCHITZEL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. CHARLES W. MOORE, JR.

IN THE PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING KETTY M. GONZALEZ AND ENDING AMANDA D. STODDARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2001.

IN THE ARMY

ARMY NOMINATIONS BEGINNING VERN J. ABDOO AND ENDING DOUGLAS K. ZIMMERMAN II, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 27, 2001.

IN THE NAVY

NAVY NOMINATION OF JOHN B. STOCKEL
NAVY NOMINATION OF PHILIP F. STANLEY

EXTENSIONS OF REMARKS

TRIBUTE TO LANA BOLDI, UAW REGION 1–D

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. BONIOR. Mr. Speaker, I rise today to recognize a woman who has dedicated over 23 years to the United Automobile Workers, Lana Boldi. As an International Representative for UAW Region I–D, her remarkable achievements as a CAP Coordinator have brought so many families and communities together in an effort to educate and promote political action and community service. As members of UAW Region I–D gathered together on November 3, 2001 to bid farewell to Lana, a longtime friend and advocate of the labor movement, they honored her retirement with a celebration of memories, laughter, and fun.

A leader and an activist all her life, Lana Boldi was the first female apprentice in the Fisher Body Corporation. She was a past Vice President and Chairperson of the UAW/CAP Council of Kalamazoo County, Chairperson of UAW Local 488's Community Service Committee, and Chairperson of the Labor Participation Committee of the United Way in Kalamazoo County. She was a founding Chairperson and Vice President of the Coalition of Labor Union Women (CLUW) in the Kalamazoo area, and on the National Task Force of CLUW, specializing in Apprenticeships for women. Her leadership continues today, as she is Chair of the Kent County Democratic Party Executive Board, of which she has been Vice Chair of for the past five years, and continues to sit on so many other boards and committees.

Demonstrating outstanding dedication and commitment throughout the years, Lana Boldi has truly led her community in a new direction, creating and developing programs that have advanced UAW Region I–D's political and community outreach services. She was a Chairperson of the Labor Task Force for the Prevention of Cardiovascular Disease, a board member of the Michigan State Child Abuse and Neglect Prevention group, and a board member of the Community Coordinated Child Care of Kent County. Additionally, Lana's outstanding efforts have not gone unrecognized, as she has been honored with prestigious awards from the Grand Rapids YWCA, MEA Region 9, and the Michigan House to name a few. Lana Boldi's crusade to raise the standards of activism and community outreach programs is one that will be remembered by citizens of this community for years to come.

I applaud Lana Boldi for her leadership and commitment, and thank her for dedicating her life serving her community and UAW Region I–D. I urge my colleagues to join me in saluting her for her exemplary years of service.

IN HONOR OF LORETTA A. WASHINGTON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Loretta A. Washington in recognition of her service to her community and her commitment to God.

Loretta A. Washington was born in Brooklyn. The first of six children, she attended Wingate High School and then went on to Edison College in Florida. Her desire to succeed led her back to New York where she continued her education at Baruch College.

Loretta and her husband, Michael have two beautiful children, Chanelle and Micah. Loretta began her career in banking at Chemical Bank (before it became Chase) in the early 1980s. Starting as a teller, she worked her way up the corporate ladder. Loretta understood that education had to be at the top of her list and God at the beginning of the list. She challenged the way things were done at the branch, ruffling feathers along the way; however, she was able to win over the staff and customers with a combination of her kindness, business sense and smile.

In the summer of 1999, a Branch manager position opened at the Bedford Avenue branch and Loretta jumped at the opportunity to enhance her career. She welcomed the opportunity to make a difference in the community in which she lived her entire life.

Loretta's primary focus is to impart her financial knowledge to businesses in the community, in hopes of building and improving financial awareness for all. She is dedicated to God and the community in which he allows her to serve. Her motto is, "Let's serve the people with a smile!"

Mr. Speaker, Loretta A. Washington serves her community and her religious beliefs through her work. As such she is more than worthy of receiving our recognition and I urge my colleagues to join me in honoring this truly dedicated spiritual woman.

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES THAT VETERANS DAY CONTINUE TO BE OBSERVED ON NOVEMBER 11

SPEECH OF

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. WALSH. Mr. Speaker, I rise today in support of H. Res. 298 sponsored by Congressman FRELINGHUYSEN that ensures November 11 remains a day solely committed to United States Veterans, a separate day from any other federal holiday, day for federal elections, or day for national observances.

Veterans Day is a day of celebration, a day of remembrance, and a day of thanks. It is a day when we celebrate the challenges that our country has faced and the moments in America's history where we have united on land, air, and sea to fight for our country and to ensure security, happiness, and safety for our world's people. It is the one day a year when we remember the men and women who sacrificed their lives' for our country, its ideals, and its foundation of personal freedom. It is a day to remember the families of the victims who may have lost a son, daughter, husband or wife during times of war. And above all, it is a day of thanks for the 25.5 million veterans today who look towards the American flag with such feeling of pride, devotion, and American spirit and who define what it is to be an American.

United States veterans truly are some of our nation's bravest citizens. They not only risked their own lives but sacrificed time away from their loved ones to protect our country. Because of their sacrifice this day of honor should remain solely theirs. Since November 11, 1919, we have been acknowledging these men and women annually. It would be a tragedy if we try to combine their memorial with other days of observance.

As Chairman of the VA/HUD Subcommittee for the past three years, I have had the privilege of working very closely with veterans and their various organizations. A day in their honor is the least we can do to acknowledge the pledge they have made to a grateful nation.

TRIBUTE TO GURMALE SINGH GREWAL, 2001 DEVELOPER OF THE YEAR

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. BONIOR. Mr. Speaker, today I rise to pay tribute to a man whose leadership and achievements span the decades and who has touched the lives of so many across southeastern Michigan, Gurmale Singh Grewal, or Gary, as many of his friends and associates have come to know him. As members of the Building Industry Association of Southeastern Michigan and the Apartment Association of Michigan gathered together on November 27, 2001 for their Leadership Recognition and Awards Night, they honored Gurmale Singh Grewal as their 2001 "Developer of the Year".

As Singh Development Company CEO and a distinguished businessman, Gary has demonstrated outstanding dedication and commitment to his family, work, and community for

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

many years. Beginning in 1921, Gary's grandfather, Sarwan S. Grewal, left his village in India for the United States, heading to California and then settling in Detroit. With a strong interest in land and building development, Sarwan Grewal purchased the Wolverine Hotel in Detroit, which today is the current location of Comerica Park. Believing firmly in the traditions of family, hard work, and advancement, he brought his grandsons, Tahil, Lushman, Jeat, and Gurmale to the United States for their education. Upon the death of Sarwan, they unanimously agreed to carry on in their grandfather's footsteps. Gary received a degree in Business in 1973 from Wayne State University, and in that same year established the Singh Development Company, Ltd. Chosen as the company's CEO in 1973, Gurmale still heads Singh Development today, now a third generation, family-owned and operated company.

With current developments in many metropolitan Detroit area communities including Auburn Hills, Birmingham, Canton, Detroit, Novi, Northville, Rochester Hills, West Bloomfield, and Wixom, Singh developments comprise over 5,000 multi-family and senior apartments, 2,100 single family homes, and over 400,000 square feet of commercial property space. Today, Singh Development Company, Ltd. is one of the oldest Indian-owned companies in the United States.

The Grewal family is also one of the oldest Sikh Indian families in the United States, and as Sikhs carry the honor in northwest India of being the "Lions" or "Warriors" through their shared middle name Singh, they strive to protect of all that is good. The Grewal family carries the Singh name with pride, and Gary and his family truly reflect this in their business ethics and practices today.

Gary, like his grandfather before him, carries on the traditions of family, hard work, and advancement, and it is practice of these principles that has truly been the driving force in the success of Singh Development. He is a distinguished businessman, family man, and a leader in his community. It gives me great pleasure to honor Gary, for his leadership and commitment, and I urge my colleagues to join me in saluting him for his exemplary years of dedication.

IN HONOR OF BERTA MAY BARKER DYER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Berta May Barker Dyer in recognition of her commitment to her community and her family.

Berta May Barker Dyer is a native of Costa Rica. She lived in Colon, Panama for several years before she moved to the United States and became a citizen.

Berta's first career was as an elementary-school teacher. After some consideration, she decided to put aside her career as an educator and take care of her eleven children. Recognizing the importance of education, she supported and encouraged her children's pursuit of professional careers. Several of them became professionals working in the areas of education, cosmetics, electricity, medicine, the U.S. Marines, the airline industry, and housewives. She credits her parents the late Joney Dyer de Barker and Steven Parchment with instilling the importance of education in her as well as a guiding and nurturing spirit.

At Berta's tender age of seventy-one she has a wonderful rapport with her thirty-three grandchildren and enjoys visiting with her five great grandchildren in Colon, Panama. She still finds time to read and preach to several of her grandchildren about the importance of education.

Berta is a devout Seventh Day Adventist who credits her strong religious background to her beloved stepfather, Amos Barker Clark (aka "Pa"). She is a member of several community organizations. As a retired Nursing Assistant, she acts as a missionary reaching out to the sick and shut ins throughout her Brooklyn community. In addition, Berta is an avid seamstress who crochets and embroiders as a hobby.

Mr. Speaker, Berta May Barker Dyer has lead a life dedicated to her community and her family. As such she is more than worthy of receiving this recognition and I urge my colleagues to join me in honoring this truly remarkable woman.

PERSONAL EXPLANATION

HON. ROBIN HAYES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. HAYES. Mr. Speaker, I would like the record to reflect that, had I been present on December 5, 2001, I would have voted "yea" on Roll Call Nos. 472, 473, 474, and 475. Thank you.

NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT ACT

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Ms. McCOLLUM. Mr. Speaker, today the House of Representatives passed an important bill, the American Indian Small Business Development Act, and I was pleased to support it. This bill creates a three-year pilot program that would provide grants to Small Business Development Centers (SBDC) for the purpose of assisting Native Americans start or expand a small business. These pilot projects will complement programs already in place that are designed to provide culturally-tailored business development assistance by allowing Indian tribe members, Native Alaskans and Native Hawaiians to access additional one-on-one counseling and other technical assistance that is provided by the SBDCs.

I am proud of the successful work that the SBDCs perform in Minnesota. They provided support and long-term counseling services last year to over 3,500 existing and prospective businesses, including to 77 Native Americans. With the bill we passed today, they will be able to expand and respond even more to the overwhelming need for assistance in our Native American communities.

Mr. Speaker, some Tribal leaders in Minnesota are concerned that the bill today doesn't include the Native American Business Development Centers. These centers were created to address unique Native American cultural and economic problems and opportunities that were not being addressed by the Small Business Administration. I share their concern. However, I feel that we need to create as many opportunities as possible for Native American entrepreneurs and look forward to working with the SBDCs and Minnesota tribes to make sure these resources are put to good use.

The average unemployment rate on Indian lands is 45 percent. Congress has a responsibility to make sure we support all programs that are designed to foster economic development and to assist Native Americans to create new small business opportunities. I'm pleased we addressed this issue today and look forward to working with my colleagues to make sure all programs benefiting Native Americans are fully supported by this Congress.

KEEPING THE SOCIAL SECURITY PROMISE INITIATIVE

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. SHAW. Mr. Speaker, the success of Social Security in reducing poverty among the elderly and providing essential income security to America's workers and their families is well known. Without Social Security, nearly half of our seniors would live in poverty. Yet Social Security faces significant financial challenge ahead. Unless we modernize the program's Depression-era financial structure, program income will not cover the full cost of paying promised benefits soon after the baby-boomers begin retiring.

Today we must make clear to every American that as we determine the best way to save Social Security for our kids and grandkids, we will not place undue burdens on today's retirees and workers by reducing benefits, or increasing taxes.

Social Security provides at least half of retirement income for over two-thirds of seniors and 100 percent of income for almost 1 in 5 seniors. Reducing Social Security benefits would have serious consequences for the majority of seniors and would increase their number in poverty, which is why we must find ways to strengthen Social Security without cutting benefits.

Social Security is also one of the largest financial obligations of many families. For over three-fourths of American families, the payroll tax is their largest tax liability. Increasing this tax burden would hit low- and middle-income families the hardest, In addition, it would reduce the already low rates of return on these contributions that workers may expect. So we must find ways to strengthen Social Security without increasing taxes.

As we debate how to strengthen Social Security, we must also keep in mind the obstacles women face in ensuring financial security for themselves and their families in the event of retirement, disability or death. Social Security plays an essential role in providing income security for women, without which over half would live in poverty. As we consider program improvements, we must not consider reducing the benefits or cost-of-living increases that are so important to women.

Social Security also plays a critical role in providing financial security for minorities. African Americans are more likely to receive disability benefits. Since their life expectancy is shorter than average, survivor benefits are also important. Also, about ⅔s of African Americans and about 3 out of 5 Hispanic seniors would have income below poverty without Social Security. As we consider changes to the program, we must not reduce the benefits that are vital to preventing poverty among minorities.

As we protect Social Security for those who rely on it the most, we must also work to ensure Social Security is fair to all generations. Our kids and grandkids need us to find a way to improve the low rates of return they will receive from Social Security. For example, a single man who is 31 years old today and earns average wages can expect a rate of return on his contributions of only a little more than 1 percent, and kids born today can expect even less. We cannot, in fairness, allow this to continue.

The President's bipartisan Commission to Strengthen Social Security has talked about the unique needs of women and minorities, as well as the system's low rates of return in its Interim Report and throughout its meetings. Soon, the Commission will recommend several options for modernizing and strengthening Social Security. It's the beginning of a long road to make American's most important income security program secure far into the future.

That road will lead here to the Congress where the first and the final decisions will be made on this critical issue. My hope is those decisions will be bipartisan from the beginning, because that is the environment that the Social Security debate deserves. So let us begin today, as Congress first voices its views, and let that voice be a bipartisan one.

Mr. Speaker, it is for these reasons that I encourage all Members on both sides of the aisle to co-sponsor this critically important resolution. We must act now to assure Americans that any plan for saving Social Security will guarantee current law promised benefits, including cost-of-living adjustments, for current and future retirees without increasing taxes. Our children, our grandchildren, and future generations deserve no less.

TRIBUTE TO ALBANIAN FLAG DAY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. BONIOR. Mr. Speaker, I am pleased to join the Albanian American community in celebrating the 89th anniversary of Albanian Flag Day which symbolizes Albania's independence.

On November 28, 1912 Albania declared its independence by raising its flag in the coastal town of Vlora. Since that glorious day, Albania has endured many hardships but has managed to persevere. The conflict that occurred in Kosova only a short time ago tested Albania and its people. Albania and its proud citizens are entering into a new era of political, social, and cultural growth. They possess a focused vision of their future and will do all they feel is necessary to ensure prosperity.

The United States relationship with Albania is strong and growing stronger. This was evident when Albania pledged its support to us in the wake of the terrorist attacks on September 11, 2001. Today, the United States is enriched by the many Albanian Americans living here. They have made major contributions to nearly every facet of American society. The Albanian community adds to the wonderfully diverse American culture by sharing with us their customs and beliefs.

Mr. Speaker, I join the people of Albania, those of Albanian ancestry around the world and Albanian Americans in celebrating Albanian Flag Day. I salute all of them for the tremendous contributions to freedom and human dignity which they have made.

IN HONOR OF DOROTHY ISAAC FAUSTINO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Dorothy Isaac Faustino in recognition of her tireless commitment to healthcare and serving those in need.

Dorothy Isaac Faustino grew up in Bedford-Stuyvesant and Long Island City. She earned her nursing diploma from Kings County Hospital Center's School of Nursing. Later, she earned her Bachelor's degree from Adelphi University. She also received Adelphi's Eileen Jacobi Leadership Award and was inducted into the National Honor Society for Nursing, Sigma Theta Tau.

Dorothy is not one to allow herself a moment's rest. Following her undergraduate education, while raising a family, working and running a Girl Scout troop for 10 years at Sacred Heart Church, in Cambria Heights, Dorothy earned a joint Master's Degree from Columbia University in Nursing and Public Health. While there she also became involved in working with the homeless. Together with several other students, Dorothy and her team developed a hand book and training curriculum for staff and volunteers working with the homeless from 1985 to l988.

In addition, to being a tireless worker, Dorothy is a people person who has involved herself in programs that make an impact in her community, such as, teen pregnancy programs and Brooklyn's Perinatal Network—where she worked for over 12 years in the Bed-Stuy and Fort Greene communities. She collaborated with Medgar Evers College's School of Continuing Education and Fort Greene's Youth Coalition program to develop curricula and training programs for welfare recipients to become nurse's aides.

In 1987, Dorothy became Director of Nursing for Cumberland Diagnostic and Treatment Center. She and her staff were deeply involved in community and school based outreach programs. They provided health care and education to children and teens in the Beacon School Program in Fort Greene. In addition, Cumberland staff provided one of the first back to school campaigns to get children immunized. Dorothy and her staff also worked nights and weekends to provide health care to families in the Auburn Family Shelter, the Atlantic Avenue Men's Shelter and the Brooklyn Emergency Assistance Unit at the Duffield Center.

Dorothy has worked with the Fort Greene Community in providing special outreach and health screening events for its senior citizens, day care centers and its middle and senior high schools. She has mentored students into various careers and continues to work with staff supporting them as their careers progess. Ms. Faustino is currently the Deputy Director for Ambulatory Care Nursing Services for the North Brooklyn Health Network. She was professionally involved in the Queens County Black Nurse's Association for over ten years.

Dorothy says she had the loving support of her husband for 34 years until his recent death and their daughters Nancy and Allison. Anyone who has worked with Dorothy knows her motto is "EACH ONE, REACH ONE, TEACH ONE".

Mr. Speaker, Dorothy Faustino has lead a life dedicated to improving her community through her field of expertise, healthcare. Moreover, she has distinguished herself as a caring and committed person who brings a high sense of integrity to her life and work. As such, she is more than worthy of receiving this recognition and I urge my colleagues to join me in honoring this truly remarkable woman.

EXPRESSING SOLIDARITY WITH ISRAEL IN THE FIGHT AGAINST TERRORISM

SPEECH OF

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. BENTSEN. Mr. Speaker, I rise in strong support of this resolution, which expresses solidarity with Israel in the fight against terrorism, and as introduced by my colleagues, House International Relations Chairman HYDE and Ranking Member LANTOS.

Last week, Israel faced another series of terrorist against innocent civilians, many of them children and teenagers. An orchestrated attack on Saturday night in Jerusalem and two bus attacks in Haifa and near Afula in the north of Israel caused the deaths of 32 Israelis and injured more than 200. These attacks have focused the world's attention on the Palestinian leadership's failure and unwillingness to fight terrorism. As we have seen time and again since the launching of the September

2000 intifada, the Palestinian leadership continues to encourage violence through incitement, and through institutional cooperation among the Palestinian Authority, Hamas and Islamic Jihad. Additionally, the Palestinian leadership has shown a disturbing proclivity to release terrorists from jails and to allow them to operate freely in the territory under their control. These actions are direct violations of the agreements the Palestinians have signed with Israel and the United States.

H. Con. Res. 280 clearly outlines the steps PA Chairman Yasir Arafat and the Palestinian leadership must take—dismantle and destroy their terrorist infrastructure; arrest and prosecute the terrorists or turn them over to the Israeli government. If the Palestinians do not comply, then as provided under this bill, the President should suspend all relations with Yasir Arafat and the Palestinian Authority. The U.S. relationship with the Palestinian leadership has been based on a commitment to renounce violence and terrorism, and to pursue a negotiated settlement with Israel. The violence carried out by suicide terrorists this past weekend comes less than 18 months after the generous compromises offered by Israel at July 2000 Camp David Summit. These compromises included a Palestinian state in all of Gaza and over 95 percent of the West bank, additional land exchanges from inside Israel and a capital in Jerusalem. The response from the Palestinian leadership has been 15 months of murder and terror.

I believe passage of this legislation is a critical step to show our nation's unity with Israeli government and the Israeli people. As a democratic nation, the government of Israel is entrusted with the responsibility to provide security for its citizens. This is nothing less than what Americans expect from their own government. Indeed, Article 51 of United Nations Charter guarantees the inherent right of all member states to self defense. The United States must stand steadfastly with the Israeli government in its fight against Palestinian terror, and I urge my colleagues to support passage of this important legislation.

TRIBUTE TO TONY BENNETT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. RANGEL. Mr. Speaker, I take great pleasure in rising before you today to recognize one of the world's greatest and most admired entertainers—Tony Bennett.

World-renowned as an "individual of unequaled excellence," Tony Bennett has remained for over five decades, one of our leading male singers of traditional pop songs who has entertained all age groups with his magnificent voice and dynamic performances. Indeed, he is an American icon whose talents are timeless and who continues to be an inspiration to all generations.

It is said of Tony Bennett that he is a superb performer, a true legend of American music, and a national treasure. While all that may be true, Tony is all those things and so much more.

In addition to entertaining audiences through song, Tony Bennett is also an accomplished painter and author, as well as a devoted philanthropist. Throughout his career, he has participated in many humanitarian causes and concerns. He has raised funds for the American Cancer Society, the Juvenile Diabetes Foundation, and the Hospice of Baltimore. He has worked with the Center for Handgun Control and has supported environmental issues through such organizations as Save the Rainforest and the Project for Walden Woods.

His charity concerts have also benefited many causes, namely the preservation of the Apollo Theater in my Congressional District of Harlem in New York City.

What many people may not know is that Tony Bennett served as a foot soldier in World War II, and was an active participant in the liberation of a concentration camp. In 1965, he participated in the March on Selma with the Reverend Dr. Martin Luther King, Jr. and refused to perform in South Africa during the era of apartheid.

Tony Bennett, who celebrated his 75th birthday in August of this year, is a lifelong New Yorker born in the Astoria section of Queens. He attended the High School of Industrial Arts in Manhattan, where he continued nurturing his two passions—singing and painting.

This year, Bennett founded the Frank Sinatra School of the Arts in New York as a tribute to his friend and musical mentor.

Recently, friends gathered together to commemorate Tony's extraordinary and enduring career at the pinnacle of popular music, a career that took off shortly after Bob Hope discovered Bennett in a New York nightclub in 1949. That discovery has resulted in scores of albums, ten Grammy awards, a Lifetime Achievement Award, and induction this year (along with Frank Sinatra), into the Black Entertainment in Sports Hall of Fame.

Mr. Speaker, I thank you for this opportunity to pay tribute to Tony Bennett, an extraordinary entertainer, a true humanitarian, and a champion for all people. Legions of fans of all ages and musical tastes applaud his genius, and we can be assured that the legacy of Tony Bennett will live forever.

TRIBUTE TO LEBANESE INDEPENDENCE DAY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. BONIOR. Mr. Speaker, today I rise to recognize the Lebanese American community, who celebrated the 58th anniversary of Lebanese independence on November 30, 2001.

On November 22, 1943 Lebanon obtained its independence from France. Shortly thereafter, Lebanon became a founding member of both the United Nations and League of Arab States. Signaling its commitment to the idea that human rights were global and that it was ready to be a full partner in the post World War II world, Lebanon played an integral part in the drafting of one of the UN's most distinguished documents—the Universal Declaration of Human Rights.

As one of the world's early cradles of civilization, Lebanon has long been held up as an example of prosperity and perseverance. In its recent history, Lebanon has suffered a great deal but to truly understand the spirit of the Lebanese people, one only need to look at the way in which they have rebuilt their nation. While much remains to be done, the nation's progress is an example from which we can all learn.

The United States and Lebanon have been blessed by a historically strong friendship, owing in part to the emigration of Lebanon's sons and daughters. They embraced America with open arms and their contributions helped build a greater nation. This relationship is best exemplified by the following familiar words, first spoken by a proud Lebanese American: "Are you a politician asking what your country can do for you or a zealous one asking what you can do for your country?" Those are the words of Kahlil Gibran, a poet who frequently wove beauty and justice into his work and in the process touched the heart and meaning of America.

Today, I think we have reason to reflect on another of Gibran's contributions, one that holds a great lesson for us all. "To be a good citizen is to acknowledge the other person's rights before asserting your own, but always to be conscious of your own."

Since 1965, nearly 100,000 new immigrants have come from Lebanon. My home state of Michigan has one of the largest Lebanese American communities in the country and it has been actively involved in the life of our great state. The Lebanese community willingly shares its culture and values not only with Michigan, but with the entire nation. The result has been innumerable contributions to the arts, sports, medicine, politics, education, science and industry.

Mr. Speaker, I join the people of Lebanon, those of Lebanese ancestry around the world and the Lebanese American community in celebrating Lebanese Independence Day. I salute all of them for the tremendous contributions to freedom and human dignity which they have made.

IN HONOR OF INGRID S. MASON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Ingrid S. Mason in recognition of her career as an educator and children's advocate.

Ingrid S. Mason's roots became solidly grounded by the legacy bestowed upon her by her maternal grandmother, Alice Crawford. Born in Costa Rica, Ingrid spent her formative years under the nurturing love and guidance of her "Tia" and grandmother. Her roots continued to be firmly set, when at the age of five she migrated to the United States to reunite with her mother Irene. It is from her grandmother, mother and aunts that Ingrid gained her most valuable gifts in life a legacy of faith, independence, determination, and commitment to excellence, a strong work ethic and a positive spirit. This legacy has provided her with the wings to soar.

As a youngster and young adult Ingrid excelled academically, earning a myriad of honors, citations, awards and scholarships. She graduated from New York University earning a Bachelor of Arts degree.

Ingrid's love of children naturally guided her to a profession in education. For the past sixteen years she has been a staunch advocate for children and committed educator, working in Community School District 19 in Brooklyn's East New York neighborhood. She has served the parents and children as a teacher, assistant principal and principal. She is currently the assistant principal of P.S. 346 in Starrett City. She has earned a Master of Science in Bilingual Education and an Advanced Certificate in Education Administration, both from Brooklyn College. She is a member of many professional organizations including the Council of Supervisors and Administrators, the Association of Assistant Principals and the Association for School Curriculum and Development.

Ingrid's philosophy on education and working with children stems from her belief that all children possess inner greatness waiting to be awakened. She sees this not only as a challenge, but as a duty. Each day she strives to awaken that greatness by passing on to them the legacy given to her.

Ingrid is provided with "wings" each day by the love, support and encouragement of her family, daughter, Jahira, sister, Rose, and nephew and niece, Travis and Alice, her greatest fans.

Mr. Speaker, Ingrid S. Mason has dedicated her career to education and children's advocacy, As such, she is more than worthy of receiving this recognition, and I urge my colleagues to join me in honoring this truly remarkable woman.

THANKING CYPRUS FOR ITS SUPPORT IN THE FIGHT AGAINST TERRORISM

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. BILIRAKIS. Mr. Speaker, I would like to extend my sincere appreciation to the government and people of the Republic of Cyprus for expressing their heartfelt condolences and sympathies to our nation. They have declared their unconditional and immediate condemnation of the heinous acts of terrorism against the people of the United States on September 11, 2001.

The Republic of Cyprus has always unequivocally condemned terrorist acts while cooperating with other governments to stamp out terrorism. Following the recent horrific events in New York and Washington, the government and people of Cyprus, standing shoulder to shoulder with the United States, reaffirmed their commitment to the international fight against the perpetrators of terrorism and those that sponsor such barbaric acts. They also reiterated their determination to further augment their capacity to collect and utilize information for the purpose of combating terrorism and eliminating its sources of funding, pledging to cooperate both at the bilateral level, as well as internationally.

As America confronts one of the most ominous challenges in its history, it is reassuring to know that we have the unconditional and unequivocal support from good friends such as Cyprus. Upholding the ideals of freedom, justice, democracy and human dignity are treasured values both Americans and Cypriots hold dear.

IN HONOR OF DR. STEVE HYMAN

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. KENNEDY of Rhode Island. Mr. Speaker, Dr. Steve Hyman, Director of the National Institute of Mental Health at NIH, will soon be leaving NIMH to become Provost of Harvard University. While I am very happy that he has chosen to take this important step, I very much regret that public service is losing such a significant figure working on behalf of patients and families affected by mental illness.

Steve is a very well known neuroscientist, and also a gifted communicator. We have worked together on several issues and events, most recently a briefing for Members and staff on the mental health effects of terrorism in the wake of the awful events of September 11, 2001. Steve has a remarkable ability to leave his audience—whether it is lay or scientific—with a more complete understanding of whatever complex issue he is addressing. This is critical to those of us who work to reduce and eliminate the entrenched stigma about mental illness that so unfairly plagues patients and families. As a scientist, Steve has many times asserted that science shows us absolutely no reason to treat those with mental illnesses as anything other than respected individuals affected by treatable illnesses who deserve health insurance coverage completely commensurate with the coverage provided for physical ailments. In fact, NIMH recently held a meeting in which I participated, focusing on the very real relationship between depression and physical disorders—something that is critical to understand.

For too long, those suffering from depression, bipolar disorder, schizophrenia, anxiety disorders, or any of the other diseases that affect our brain and behavior, have faced discrimination, shame, and even scorn. Leaders like Steve have given us the tools we need to argue forcefully and credibly for equal treatment and equal justice. I believe that his leadership, scientific expertise, and his active participation in trying to educate policymakers like us, as well as our constituents—the American public—have moved us far down the path to eliminating stigma. Steve and NIMH were very much involved in the development of the unprecedented Surgeon General's Report on Mental Health, a groundbreaking document that has had a major impact in this country. He also was a key participant in the equally groundbreaking White House Conference on Mental Health held in June of 1999, a public event that featured the President and First Lady, the Vice President and Mrs. Gore, and many, many Members of Congress.

While we will miss Steve Hyman, I am confident that the course he has set for NIMH, and the people he has left to steer it, will enable it to continue to move steadily forward. I know that Steve has left a strong institution, but he has also left a major challenge for his successor—to continue the momentum that he has built up over the five and one-half years he served us as NIMH Director. I haven't known him for a long number of years, but I do know Steve Hyman well enough to know that he will continue his role as champion of patients and their families, and that we are all better off for it.

NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT ACT

SPEECH OF

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. PALLONE. Mr. Speaker, I rise today in support of the Native American Small Business Development Act. This bill will establish a three-year pilot project providing grants to Small Business Development Centers (SBDCs) for assisting the Native American, Native Alaskan, and Native Hawaiian populations with their small business development needs. The purpose is to stimulate the economies on reservation lands through the creation and expansion of small businesses by ensuring the targeted population has full access to important business counseling and technical assistance available through the SBDC program.

Having traveled extensively throughout Indian Country, I can tell you that there is great need for such a grant program. I am pleased to serve as a cosponsor of this bill and I appreciate the hard work that my colleague, Mr. UDALL, has put into bringing this important piece of legislation to the floor today.

IN HONOR OF ULYSSES E. KILGORE III

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Ulysses S. Kilgore III in recognition of his commitment and service to the health of the Central Brooklyn community.

Ulysses S. Kilgore III possesses a Masters of Business Administration from Long Island University, and a Bachelor's degree in Accounting from Lincoln University (MO). He is a former U.S. Army officer whose assignments took him to the Republic of South Korea, West Germany and Fort Meade, MD. His professional experience includes appointments as fiscal officer at the former Sydneham Hospital and financial management positions at Pfizer and Brooklyn Union Gas Company, respectively.

In 1982, Mr. Kilgore was selected as President and Chief Executive Officer of the Bedford Stuyvesant Family Health Center, Inc. Over the years—with strong and compassionate management and clinical teams—the

FHC has become a major provider of healthcare in the Central Brooklyn, Bedford Stuyvesant community. According to Mr. Kilgore, it is the Center's ultimate responsibility for their own mental, spiritual and physical well-being. The Center seeks to be a participant in that quest. He believes that the greatest source of enrichment comes from service to others. He gives thanks to the Creator for the opportunity to be used to help make life better.

Mr. Speaker, for all of his hard work and dedication to improving access to health care in central Brooklyn, I urge my colleagues to join me in honoring Ulysses S. Kilgore III a truly remarkable man.

GERALD B.H. SOLOMON SARATOGA NATIONAL CEMETERY

SPEECH OF

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. QUINN. Madam Speaker, I am honored to add my strongest support to H.R. 3392, the "Gerald B.H. Solomon Saratoga National Cemetery Designation Act."

It was a true honor and distinct pleasure to serve with Congressman Solomon in the House of Representatives. With his death, this important and historic designation not only serves as a fitting tribute, but also reflects on Congressman Solomon's lifelong commitment to our Nation and to our Veterans.

A decorated Veteran in his own right, Congressman Solomon set an enduring example of commitment, integrity, and service. His career was one that truly made a difference in the lives of those he represented. Throughout his terms as a Congressman, he brought his vision for America to the House floor with many memorable speeches that helped shape the course of this Nation. This designation serves to memorialize that service, commitment, and leadership.

It is my hope that with the designation of this cemetery, the ideals he held so dear—pride, patriotism, civic responsibility, and volunteerism—will not be forgotten.

I will continue to work in Congress to carry on his fight for our Veterans and will be guided by the example he set as a Member. We are truly blessed to have known him, and truly fortunate to have the unique opportunity to carry on his proud tradition of advocacy and patriotism.

IN HONOR OF MATTHEW FOREMAN, EXECUTIVE DIRECTOR OF THE EMPIRE STATE PRIDE AGENDA

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. NADLER. Mr. Speaker, I rise today to recognize Matthew Foreman for his dedicated and talented leadership of the Empire State Pride Agenda (ESPA), New York's statewide lesbian and gay political organization. Under Matt's leadership, ESPA has made significant strides in empowering the lesbian, gay, bisexual and transgender community and protecting civil rights for all New Yorkers.

The Empire State Pride Agenda strives to end discrimination on the basis of sexual orientation. They have worked to secure equality for gay men, lesbians and their families and communities and to promote their political, economic, cultural, and social well being. In the four years that Matt has served as Executive Director of ESPA, the organization has been a driving force in ensuring the rights of gay and lesbian New Yorkers: in negotiating New York City's comprehensive domestic partner law; passing a statewide hate crimes law; repealing a 150-year old consensual sodomy statute; obtaining nearly $6 million in state funding for lesbian and gay health and human services; and in enacting local non-discrimination laws and policies in Buffalo, Ithaca, Nassau County, and Westchester County.

Prior to joining the Pride Agenda in 1997, Matt served as Executive Director of the NYC Gay and Lesbian Anti-Violence Project, the nation's leading lesbian and gay crime victim assistance agency. He is a founder of the Heritage of Pride, which organizes New York City's Gay Pride events, including the world-famous annual Pride Parade down Fifth Avenue. He also served for many years on the board of Dignity/NY, an organization of lesbian and gay Roman Catholics. Those who have had the pleasure of working with Matt know of his tremendous energy and heartfelt dedication to his work. A man of unusual integrity and drive, we New Yorkers—gay and straight alike—have each benefited from his leadership in the fight for equal rights and equal protection under the law. I am proud to have joined him in many of those fights, and I am pleased to stand here today to thank Matt for his tireless work. I wish him all the best in his future endeavors.

EXPRESSING SOLIDARITY WITH ISRAEL IN THE FIGHT AGAINST TERRORISM

SPEECH OF

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. COSTELLO. Mr. Speaker, I rise today in strong support of H. Con. Res. 280. The suicide attacks over the past weekend have triggered the worst crisis in the Middle East since the outbreak of the Palestinian intifada 14 months ago. These attacks killed 26 Israelis and wounded at least 175. On a proportional basis, this is the equivalent of 1,200 American deaths and 8,000 wounded. The violence needs to stop. Israel is our most dependable and only democratic ally in the Middle East, and it is important that the United States stand steadfastly by Israel at this critical juncture to fight terror.

The United States is currently engaged militarily in Afghanistan in an effort to root out Osama bin Laden's terrorist network, which has been protected by the Taliban. In a very real sense, the Palestinian Authority is performing a similar role for Hamas and the Palestinian Islamic Jihad. Yasser Arafat must take all necessary measures to end the ongoing terror campaign. Mr. Arafat must now demonstrate by actions, not words, that he stands for peace.

Mr. Speaker, this legislation sends a strong message that the United States will stand by Israel to defeat terrorism. It is not about taking sides. Too many lives have senselessly been lost on both sides. However, Israel has a right to defend itself from terrorist attacks, just as the United States does. I hope that Mr. Arafat and the Palestinian leadership will immediately arrest, prosecute and jail those responsible for these acts while eliminating the infrastructure that produced them. Any hope for the peace process depends upon it. I urge my colleagues to support the resolution.

IN HONOR OF EDNA FULTON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Edna Fulton in recognition of her outstanding service to the Bedford Stuyvesant community.

Edna Fulton is a lifelong resident of Brooklyn and a product of the New York City Public School System. She is the daughter of Beatrice Keyes, and the mother of three children, Willie, AyTasha and Darrell and the grandmother of E'lise, Chel'Si and Darrell Edward. She graduated from Eastern District High School and went on to attend Brooklyn College and the College of New Rochelle. In 1972, she began her career with Citibank as a bank teller and over the years, with the support of family, friends, and her valued customers, was elevated to Branch Manager and to Assistant Vice-President, the position she retired from in 1998.

The walls of Edna's home are lined with many awards presented to her over the years as a testament to her concern, love, dedication, professionalism and hard work. Though many of the awards are corporate recognitions from Citibank saluting her for a job well done, the plaques and certificates from community based organizations acknowledging her service and support hold a special place in her heart. Over the past thirty years, her relationship with her customers and the community have allowed her to become known as dependable, reliable, and "ready, willing, and able" to assist, to serve, to counsel and to advise, always with a smile and a word of encouragement.

In 1999, Edna was approached by the Bedford Stuyvesant Restoration Corporation to serve as the Bursar/Customer Service Representative for the various programs and services, to include the Youth Arts Academy, Abra ka Zebra Gift Shop and the RITE Center for computer training. Ms. Fulton loves being able to once again serve her beloved community of Bedford Stuyvesant. Edna also is a member of the St. Paul Community Church. As a working woman, and with all the "hats" she wears as a daughter, a mother, and a grandmother, she always makes time to serve and support the endeavors of her community.

Mr. Speaker, Edna Fulton has been a shining light in each of the many roles that she has filled. As such, she is more than worthy of receiving this recognition and I urge my colleagues to join me in honoring this truly remarkable woman.

PERSONAL EXPLANATION

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Ms. SANCHEZ. Mr. Speaker, I was attending important business in my Congressional District yesterday, December 5th, including participating in the annual Chapman University Economic Forecast for Orange County and meeting with law enforcement personnel on the subject of terrorism preparedness.

Had I been present, I would have voted yes on Roll Call #469, yes on Roll Call #470, yes on Roll Call #471, yes on Roll Call #472, yes on Roll Call #473, yes on Roll Call #474, and yes on Roll Call #475.

INTRODUCTION OF H. CON. RES.—

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Ms. SLAUGHTER. Mr. Speaker, I rise today to introduce a resolution condemning the over 500 anthrax hoaxes perpetrated against women's health care providers and abortion clinics since October 14th. This resolution also urges the Administration, local law enforcement, and related government agencies to continue to make their best efforts to bring all those who commit acts of domestic terrorism to justice.

Throughout the nearly three decades since the Roe v. Wade decision legalized abortion in 1973, reproductive health centers and abortion clinics across the United States have been under attack by anti-choice extremists. These are individuals who firmly believe that it is better to murder, harass, and threaten doctors who provide reproductive health services, than to live and act within the confines of the law.

One of the most horrific acts of anti-choice violence occurred 3 years ago in Amherst, New York—a town just outside my district. Dr. Barnett Slepian was tragically shot and killed in his home by an anti-choice extremist lying in wait in his back yard. As a result of this cowardly act, our region lost a courageous and talented doctor; his family lost a loving husband and father. Dr. Slepian's death marked the seventh murder at the hands of an anti-choice extremist since 1993.

Unfortunately, this type of vicious domestic terrorism remains at large. According to the National Abortion Federation, since 1977, there have been 7 murders, 17 attempted murders, 41 bombings, 165 arsons, 122 assaults, 343 death threats, 100 butyric acid attacks, and now, as of October 14, more than 500 anthrax threats perpetrated against abortion providers in North America. Considering this laundry list of violent acts, it is hard to imagine how some abortion providers can walk into work in the morning.

With the help of law enforcement officials and others, I firmly believe we can put an end to the violent acts that threaten some members of our medical community. I am pleased to report that yesterday, December 5, the Federal Bureau of Investigation arrested Clayton Lee Waagner, the suspected author of anthrax hoax letters sent to abortion clinics nationwide, in a copy store outside Cincinnati, Ohio. I would like to commend the law enforcement officials who captured Waagner and urge them to launch a similar campaign to apprehend others who have perpetrated similar incidents of violence.

In addition to the work of law enforcement officials, however, we must also raise awareness about this type of domestic terrorism. In an effort to accomplish that goal, I am proud to introduce this resolution today. It is the strongest measure to date that condemns the terrorism against health clinics and abortion providers and strongly urges the law enforcement community to take these threats seriously and to pursue these criminals vigorously. This resolution sends an important signal to criminals that the United States Congress will not tolerate this type of domestic terrorism any longer.

Mr. Speaker, on behalf of Reps. MORELLA, DEGETTE, GREENWOOD and myself, I am proud to introduce this resolution and urge my colleagues to support it.

REMARKS BY AMBASSADOR JOSEPH VERNER REED

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. SHAYS. Mr. Speaker, I wish to submit for the RECORD a speech delivered by Ambassador Joseph Verner Reed, Under-Secretary-General of the United Nations and a distinguished resident of Greenwich, Connecticut. Ambassador Reed's remarks were made at the Centennial Celebration of the Yale-China Association on October 6, 2001.

REMARKS BY AMBASSADOR JOSEPH VERNER REED, UNDER-SECRETARY-GENERAL OF THE UNITED NATIONS

CENTENNIAL CELEBRATION OF THE YALE-CHINA ASSOCIATION, YALE UNIVERSITY

Dean Brodhead of Yale College, Counsellor Xu of the Consulate of the People's Republic of China in New York City, Mr. Jones, Chair, Board of Trustees, Yale-China Association, Ms. Chapman, Executive Director, Yale-China Association, Members of the Yale-China Family, Ladies and Gentlemen,

What an honor, privilege, and pleasure to be at Yale to celebrate the centenary of the Yale-China Association!

This is a major milestone for me as I have been a life-long son of Sino-American relations. I grew up surrounded by "things Chinese", sculpture, porcelain, furniture and paintings. Some in my family say I am "in love" with all things Chinese.

As a banker I had the pleasure of a close working relationship with Ambassador Huang Hua at the Mission of the People's Republic of China in the 70's. We have maintained a lasting friendship. I accompanied David Rockefeller on the first visit of American business following President Nixon's historic trip to Beijing.

Many moons ago I became associated with Yale University Press in the historic publishing endeavor known as Chinese Civilization and Culture. We at the Yale Press work side by side with the Chinese authorities, publishers and scholars in an historic undertaking to publish 75 volumes—painting, architecture, calligraphy, furniture—our first volume on the history of painting won the highest prize in publishing—the Hawkins Prize. It is a grand endeavor with Yale's most senior graduate as Honorary Chair of the Project, President George H.W. Bush. Henry Kissinger is Chairman of the Advisory Council. Professor Jonathan Spencer is on the Editorial Advisory Board. The Rockefeller Family is supportive with Mrs. Nelson A. Rockefeller serving as Chair of the Friends of CCC.

Mr. Anthony Fouracre is the Head of the United Nations Postal Administration, a great organization, which produces some 50 stamps a year. The "Terra Cotta Warrior" series was/is the United Nations Postal Administration's most popular stamp.

May I now say a few words as an American citizen, working for the United Nations.

Our World has been profoundly altered by the unspeakable acts of evil committed against the United States of America and innocent civilians on 11 September 2001—A Day of Terror. 11 September 2001, the 20th anniversary of the United Nations International Day of Peace, was supposed to be a day on which we try to imagine a world quite different from the one we know.

It was to be a day on which "we try to picture hatred turning into respect, bigotry into understanding and ignorance into knowledge, a day on which we dare to imagine a world free of conflict and violence". I am quoting here from the Message of the Secretary-General of the United Nations, Kofi Annan. That message was recorded on 10 September for the International Day of Peace.

Instead, the horrible and previously unimaginable acts of terror committed by international terrorists have profoundly altered our world. America, indeed the entire civilized world, must now be at war against terrorism.

Barely a mile from United Nations Headquarters, the Parliament of Mankind, the Parliament of Peace, more than 6000 innocent civilians from over 60 countries were killed and a symbol of New York City and the Free World was destroyed. The Capital of the United States of America was attacked.

President George W. Bush, with the entire nation rallied behind him, said this will not stand.

This single most horrible act of international terrorism has united people across the globe. This was not only an attack on America, but also on everyone in the modern world. This will and shall provide the catalyst for an unprecedented international coalition to resist terrorism and fanaticism, against hatred, bigotry and ignorance.

On 12 September, the newly elected President of the United Nations General Assembly, the Foreign Minister of the Republic of Korea, Dr. Han Seung-soo, stated before the assembled representatives of the international community at the opening of the 56th session of the General Assembly, which had to be postponed by one day:

"Mere words cannot express the outrage and disgust we doubtless all feel for the vile actions perpetrated in our host country, the United States. I condemn in the strongest possible terms these heinous acts of terrorism. I pray for those who lost their lives and on behalf of the General Assembly offer our deepest condolences to the families and loved ones of the innocent victims.

These terrorist crimes were, in effect, acts of war against all the world's peace-loving peoples. Their primary target was, by a vicious twist of fate, located in the very city, which is home to the world's foremost institution dedicated to promoting world peace. No terrorists can ever deflect this body from the task to which it has dedicated itself since 1945—ending the scourge of war in whatever form it may take once and for all."

The United Nations Security Council has, in the meantime, acted decisively, at the initiative of the United States. The General Assembly, in a rare show of unity, is deliberating and adopting measures to eliminate international terrorism. Ladies and Gentlemen, these were some of the thoughts that are uppermost in my mind these turbulent days following the Day of Terror.

Had I been delivering these remarks a month ago, however, my belief in the importance of the work of the Yale-China Association would have been no less sincere. The tragic events we have all recently witnessed—and developments yet to unfold—inject a new sense of urgency into the continuation of the Yale-China traditions that we honor here tonight. In times such as these, it is more important than ever to strengthen those impulses and institutions that refute the power of violence, ignorance, and mutual hostility among peoples. On the global scale, these institutions include the United Nations, which I have the honor to serve, and the many multilateral efforts to ensure peace and security under its auspices. But no less significantly, they include private associations of compassionate, committed individuals reaching out beyond their own borders and working to make the world a more tolerant, peaceful, and enlightened place. Among such associations, the Yale-China Association has been both a pioneer and an example for others for the past century. The Yale-China Association is a banner organization of quality and success.

Close to one year ago, I had the pleasure of working with Nancy Chapman and members of her staff at the Yale-China Association to organize and to host the visit of Madame Chen Zhili, Minister of Education of the People's Republic of China. Minister Chen was the highest ranking member of the Chinese government ever to visit Yale. On that occasion, I was tremendously impressed by the efficiency and dedication of the Yale-China staff. The success of this visit paved the way for the extraordinarily warm welcome extended to President Levin and his delegation this past May in Beijing. It is thus a special pleasure to return this evening to be with you all to celebrate the hundredth anniversary of this extraordinary organization, which has contributed so much to the life of Yale University and relations between China and the United States.

We are gathered to salute one of the great international endeavors of the past century. Before there was a Rockefeller Foundation, a United Nations, or a Peace Corps, there was the Yale-China Association. Growing from missionary roots amid the optimism and self-confidence of Yale's bicentennial celebration in 1901, Yale-China soon evolved into a bicultural educational enterprise that reflected Yale's spirit of intellectual tolerance and openness. In the process, Yale-China cultivated its own traditions of compassion, cultural sensitivity, and selfless service for the benefit of others. It is those traditions which we celebrate this evening.

Of course, China—indeed, our entire world—is a very different place today from what it was a century ago. Who in 1901 could have foretold the extraordinary changes China has undergone? Who even a decade or two ago would have predicted China's recent advances in economic development and education?

Since its founding a century ago, the Yale-China Association has been engaging young Chinese and American people and equipping them with both an appreciation for and the cross-cultural tools essential to successful world citizenship. Today's instantaneous transmission of ideas and images brings the world closer together, yet it cannot replace the life-changing power of a single intense, personal encounter between people of different cultural traditions. Many of you—Chinese and Americans—have been touched by Yale-China and can testify to its extraordinary power in your lives. These encounters are important not only for the individuals involved, but for the broader cause of international understanding which forms the necessary foundation for peace.

Ladies and Gentlemen, Friends,

People come and go, but our institutions and traditions endure. Tonight, let us each commit ourselves with pride to strengthening those institutions within our world that have sustained hope and our shared humanity. Let us transform our sorrow of the day of Terror and its aftermath into a renewed resolve, and our loss into a gain for a humanity free of terrorism.

I congratulate the Yale-China Association on its hundredth birthday and all of its accomplishments since its birth here in New Haven—the students educated, the lives saved, the suspicions and animosities dispelled and the spirit enriched. May Yale-China's work and traditions continue as shining light for many generations into the future!

EXPRESSING SENSE OF CONGRESS IN HONORING THE CREW AND PASSENGERS OF UNITED AIRLINES FLIGHT 93

SPEECH OF

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. FLETCHER. Mr. Speaker, I thank the gentleman from Florida for his work on the Committee on Transportation and Infrastructure.

Mr. Speaker, I rise today to encourage my colleagues to vote for this measure; and I really do not think it will take a lot of encouragement because we have had an overwhelming expression of enthusiasm regarding those on United Airlines Flight 93 and their heroic activities.

Mr. Speaker, this is a resolution expressing a sense of Congress that a memorial plaque be established on the grounds of the Capitol. It is an expression of our thanks and condolences to the passengers and crew of Flight 93.

I also want to thank my Legislative Director, Phillip Brown, who has worked very hard to get this done. I think it will be great for posterity as they see a plaque that honors those on Flight 93 who I do believe had a significant part in probably saving our Capitol.

On September 11, United Airlines Flight 93, piloted by Captain James Dahl, departed from Newark International Airport at 8:01 a.m. on a routine flight to San Francisco with six other crew members and 38 passengers on board. Shortly after departure, the flight was hijacked by terrorists.

The hijacking was one of four, as we all remember, on the morning of September 11. We all remember that date because it was a horrible day and a turning point in our nation's history. Four of our own planes were hijacked and targeted on buildings that define our nation and symbolize our freedom and values and symbolize our nation's economic and military strength. Three of these planes hit their marks, resulting in an incomprehensible tragedy and loss of innocent life on a scale not seen in this country since the Civil War.

We know that the passengers and crew learned through cellular phone conversations with loved ones on the ground of the deliberate acts of destruction and murder occurring in New York City and Washington, D.C., and that hijacked aircraft had been used in these terrorist acts of war.

During these phone conversations, several of the passengers indicated that there was an agreement among the passengers and crew to try to overpower the hijackers who had taken over the aircraft. It is believed that it was this effort to overpower the hijackers that caused Flight 93 to crash at 10:37 a.m. in southwestern Pennsylvania near Schwenksville, short of what is believed to have been its intended target, Washington, D.C., and probably, this very Capitol building we stand in today.

The efforts of these individuals on this plane heroically limited the damage the terrorists could inflict, losing their lives for their country in the process. We owe the passengers and the crew our gratitude and our honor.

The participants of the resistance on board Flight 93 showed selfless courage and patriotism:

Passengers like Todd Beamer, whose young widow is here today in Washington. He told a telephone operator how much he loved his expecting wife and two sons, and he asked her to call them. He asked her to pray the Lord's Prayer and Psalm 23 with him. He told her, "I am going to have to go out in faith," and his now famous words "Let's roll" have become a rallying cry in America.

Passengers like Tom Burnett, who left what he knew would be likely his last conversation with his wife saying, "Okay, we are going to do something."

Passengers like Jeremy Glick, who told his wife that the passengers and crew had taken a vote and agreed to try to take back the plane.

Crew members like Sandra Bradshaw, who told her husband of the plan to rush the hijackers and take back control of the plane, and that she was boiling water to use as a weapon against the terrorists.

The passengers and crew, all of whom are survived by loved ones, husbands, wives, children, and parents, very likely averted the destruction of the U.S. Capitol and the symbol this institution has become for the democratic process of government, and in the process, saving hundreds, perhaps thousands of lives.

By their heroic acts, the Statue of Freedom still stands at the top of our noble dome, and the light of freedom still shines brightly here in the Capitol.

This resolution expresses the sense of Congress that a memorial plaque to honor Captain Jason Dahl, First Officer Leroy Homer, flight attendants Lorraine G. Bay, Sandra W. Bradshaw, Wanda A. Green, Ceecee Lyles, Deborah A. Welch, passengers Christian Adams, Todd Beamer, Alan Beaven, Mark Bingham, Thomas Burnett, William Cashman, Georgine Corrigan, Patricia Cushing, Joseph DeLuca, Patrick Driscoll, Edward Felt, Jane C. Folger, Colleen Fraser, Andrew Garcia, Jeremy Glick, Christine Gould, Lauren Grandcolas, Donald Greene, Linda Gronlund, Richard Guadagno, Toshiya Kuge, Hilda Marcin, Waleska Martinez, Nicole Miller, Louis J. Nacke, Donald Peterson, Jean Peterson, Mark Rothenberg, Christine Snyder, John Talignani, and Honor Elizabeth Wainio.

This plaque should be crafted and placed here on the grounds of the United States Capitol expressing our thanks and condolences; and a copy of the plaque, together with a copy of this resolution from the CONGRESSIONAL RECORD, should be sent to a designated survivor of each victim.

I am confident with the passage of this resolution that the Speaker of the House, the House minority, the Senate Majority Leader, and the Senate Minority Leader will ask and direct the Architect of the Capitol to begin plans for design, crafting, and placement of this plaque as soon as possible.

I also want to thank my colleagues for their support of this resolution. After this vote, I intend to send a letter to the leadership regarding this sense of Congress, and I invite my colleagues to join me.

IN HONOR OF RENAE SMITH

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Renae Smith in recognition of her outstanding work on behalf of children.

Renae Smith comes from generations of those who have been involved and have always contributed to their community in some form or fashion. Throughout the years she has dedicated her time to charitable and volunteer work.

She began her involvement in the community during the 1960's as a member of Brooklyn C.O.R.E. While working at Kingsboro Jewish Medical Center, in the Telecommunications Department, she served as a member of the Executive Hearings and Appeals Board on both Hospital and Guild Divisions for 1199 Hospital Union. She also served as a member of the Chapter Hearing and Appeals Board within the Hospital. In addition, Renae has served as a delegate to several departments of Kingsbrook, as well as, borough representative for all Brooklyn Hospitals with an 1199 affiliation. Renae also has worked in real estate marketing and sales in addition to having an appraisal background from New York University.

In 1987, Renae, became a member of Saint Mary Episcopal Church joining the Episcopal Church women's group and serving on the Altar Guild. In 1990, Renae served as the Vice President of the Crown Heights Kiwanis Club International. She helped focus the efforts of the club on the needs of children. Under Renae's guidance, the organization became involved with Magnolia Tree—A Tree Grows in Brooklyn Project. The project involved 100 international children working to improve and enhance the beauty by planting trees.

Renae became a licensed Foster Parent with the Richard Allen Center on Life Agency in 1994. She received her twin boys in early 1996 and was appointed to the executive board of Foster and Adoptive Parents Association. Continuing to be a Foster Parent in 1996, Renae came to the Central Brooklyn Coordinating Council—CBCC. In 1997, Renae was appointed to the Executive Board for Foster and Adoptive Parents Association locally. Recently, Renae was appointed to serve on the By-laws Committee, for Eureka Grand Chapter in 1998 OESPHA.

Renae is currently an Executive Board member of the New York State Foster and Adoptive Parents Association as Chairperson of Community Development. She is a member of International and National Foster Parents Association and a candidate for Regional II Vice-President. Renae is an advisor to the Forestdale Family Service Agency, Little Flower Family Service Agency and Foster and Adoptive Parent Association Board Locals. She has facilitated many workshops on Foster and Adoptive Care in School District 17. Renae is also an Executive Board Member of Community Board 17 serving on the Education and Commerce Committees. She is Chair of the Foster Care Sub-committee under the Social Services Committees. While working tirelessly on behalf of her community, Renae has also raised her daughter. She has been blessed by the success of her daughter and her daughter's dedication to give back to the community in any way that she can.

Mr. Speaker, Renae Smith is committed to serving children and her community. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this chamber on December 5, 2001 when rollcall votes Nos. 469, 470, 471, 472, 473, 474 and rollcall vote 475 were cast. I want the record to show that had I been present in this chamber at the time these votes were cast, I would have voted "yea" on rollcall vote 469, "yea" on rollcall vote 470, "yea" on rollcall vote 471, "yea" on rollcall vote 472, "yea" on rollcall vote 473, "yea" on rollcall vote 474, and "yea" on rollcall vote 475.

TRIBUTE TO FRANCIS AND JEAN DOMENIGONI, 2001 DISTINGUISHED CITIZENS GOOD SCOUT OF THE YEAR AWARD

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. CALVERT. Mr. Speaker, I rise today to pay tribute to a couple whose dedication to the community and to the overall well-being of California's Inland Empire is unparalleled. On December 11, 2001, Francis and Jean Domenigoni will be honored as Distinguished Citizens for the Good Scout of the Year Award.

The Domenigoni family is one of the oldest pioneering families in the region. They share a history that is as rich as the soil in which they have farmed for over five generations. Angelo Domenigoni, along with his brother Peter and a friend named Gaudenzio Garbani, immigrated to this great nation in 1874. The patriarch of the family, Angelo, arrived in "Pleasant Valley", now known as Winchester in 1879, and set the Domenigoni family on the road to achieving the American Dream. Through hard work and dedication he and his wife, Maria Antonia established a life that was blessed with seven children: Antonio, Natal, Peter, Jack, Rita, Serafina and Dominica. Antonio married Dominica Fiscalini and they had five beautiful children of their own; Angelo, Francis, Julia, Fred, and Elsa. All five children were born and raised on the ranch. Fred and Francis Domenigoni carried on the family farming operation all of their lives.

Francis Domenigoni married Jean Connell, a member of the Garbani Family. Continuing in the tradition of his parents, Francis and Jean raised five children; Richard, Larry, Donald, Andy, and Steve. Together with his son, Andy, Francis managed the family's farming and ranching business for twenty years. In 1997, Francis passed away, leaving his wife Jean, his sons, and grandchildren to carry on the family legacy.

For the past fifty years, the Domenigoni Family has been a major sponsor and contributor to the Junior Livestock Auction and Farmers Fair. Active members in the Riverside County Farm Bureau, they support the Winchester Harvesters and Pleasant Valley 4H Programs. The Domenigoni's have also opened their ranch for the past decade for a riding event to support the Juvenile Diabetes Foundation and American Disabilities Association. The family also recently dedicated a building shell for the Winchester Community Center and Recreation Facility.

The Domenigonis continue to endorse higher education by sponsoring the UC Riverside Foundation, the Mt. San Jacinto College Foundation, and providing annual scholarships to agricultural students at Hemet and West Valley High Schools. They are also active participants in the Winchester Homeowner's Association; the Chambers of Commerce in Winchester, Murrieta, and Temecula; the Riverside County Property Owners' Association; the Murrieta Temecula Group, and the Hemet-San Jacinto Action Group.

It is a well deserved honor and I am proud to pay homage today to a family who has done much for the people in my district.

TRIBUTE TO WILLIE NELSON

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. GARY G. MILLER of California. Mr. Speaker, I rise to pay tribute and honor the philanthropic efforts of legendary country music star, Willie Nelson.

Mr, Nelson recently came to the City of Brea and held a benefit concert to raise funds for the La Habra-Brea Boys and Girls Club. Mr. Nelson treated some 400 country music fans to an intimate and memorable evening of his treasured ballads and tunes and, in the process, raised more than $100,000 to help build the Boys and Girls Club an all-purpose facility.

The event was arranged by La Habra-Brea Boys and Girls Club Board Member Tom Duncan, who approached Mr. Nelson, his long-time client and friend, about the need for a permanent club facility in Brea. Mr. Nelson readily agreed to donate his time and talent to kick off the capital campaign with a benefit concert. Unocal Corporation generously offered to host the event in the Hartley Center auditorium in their Brea facility.

The Boys and Girls Clubs across the nation are professional, non-profit organizations that serve children ages seven to eighteen. Dedicated employees help these young people develop character and provide opportunities for healthy social recreation, physical education, as well as citizenship and leadership skills. Proceeds from this successful event will bring the reality of a safe-haven for the youth of the community a step closer.

According to Mr. Duncan, "Willie's a good-hearted soul and he likes to help people who need it." Mr. Speaker, I respectfully ask that this 107th Congress join me in saluting the benevolent and compassionate acts of a "Great American," Willie Nelson.

IN HONOR OF P.O. GLADYS FIGUEROA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of P.O. Gladys Figueroa in recognition of her twenty-one years of service to the New York City Police Department and the people of New York.

Gladys Figueroa was born in Ponce, Puerto Rico. Her parents brought her to New York City in search of a better life when she was four years old. They settled in Williamsburg, Brooklyn where she attended elementary through high school. She graduated from Eastern District High School in 1971. After her first semester at Queens College, Gladys decided to leave school and enter the work force. Gladys has been working since the age of 14 as a summer youth worker.

While working, she held various positions: Receptionist, Administrative Aide, Legal Secretary, Cashier, Salesperson, and Waitress. At the same time, she was always looking for something else. She attended various trade schools, such as Airline Training, Massage, Home Improvement, etc. in January 1980, she finally found her home when she joined the ranks of the New York City Police Department. She was assigned to the 79th Precinct where she spent 13 years of her career. Her first assignment was to patrol the streets of Bedford-Stuyvesant. She saw everything that her precinct had to offer; her worst assignments were dealing with domestic violence issues. After five years on patrol she was assigned to the Community Affairs office of the 79th Precinct, where she remained for the subsequent eight years. Her most rewarding task was working with the Youth and Community Councils. In 1994, Gladys was transferred to the Brooklyn North Community Affairs Office. She remained there until her retirement date on September 30, 2001.

Gladys is a people person. She enjoyed the various tasks associated with representing the police in a positive way with the community. She assisted in senior citizens programs, the Citizens Academy, and girl's basketball. She was especially fond of working holidays with senior citizens or bringing food to homebound AIDS patients. One of her last assignments was to join the Domestic Violence unit of the 90th Precinct. Her next assignment will be her most significant and most difficult, serving as a full time mom to her pride and joy, 14-year-old Diola, and 12-year-old Alejandro Castillo.

Mr. Speaker, Gladys Figueroa has served the people of Brooklyn and New York City for over twenty-one years of proud and dedicated service as a New York City Police Officer. As such, she is more than worthy of our recognition today. I hope that all of my colleagues will join me in honoring this truly remarkable woman.

INTRODUCTION OF H.R. 3427, AFGHANISTAN FREEDOM AND RECONSTRUCTION ACT OF 2001

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. LANTOS. Mr. Speaker, today I am introducing H.R. 3427, the Afghanistan Freedom and Reconstruction Act of 2001. I want to thank my good friend, the Gentleman from New York, Mr. ACKERMAN, ranking Democratic Member of the Middle East and South Asia subcommittee. Without his hard work and that of his staff, we would have never reached this point.

As we speak, the Taliban leadership is on the run. The capital city of Kabul has been liberated from Taliban control, as have key cities across Afghanistan. The final pockets of resistance are surrounded and facing imminent defeat. And as freedom returns to Afghanistan, women are throwing off their veils and men are lining up at barber shops to shave their beards after years of repressive rule.

Now is the time for swift action by this Congress, for the United States to demonstrate to the people of Afghanistan and throughout the Muslim world that the military campaign against Al-Qaida and the Taliban is neither a war against Muslims nor a war against the Afghan people. Yes, the United States is committed to wipe-out the terrorist network in Afghanistan. But we must be equally committed to helping the Afghan people reclaim their country and rebuild their lives. We may be close to winning the war but we are far from winning the peace.

The United States did not live up to its commitment after the Soviet invasion of Afghanistan was repulsed. We left the people of Afghanistan and our friends in Pakistan to fend for themselves. Afghanistan disintegrated as a result, as warlords pillaged the country, followed by the Taliban's repressive rule and ultimately the rise of terrorist elements.

Mr. Chairman, we must not permit the past to be repeated in Afghanistan. Yesterday, the representatives from all major factions in Afghanistan signed a landmark agreement to create a broad-based, multiethnic, gender-sensitive, fully-representative government in Afghanistan. After over 20 years of civil war, foreign occupation, and oppression, the people of Afghanistan see rays of hope breaking through their clouds of fear.

Over the last few months, the International Relations Committee has held a series of hearings regarding the humanitarian needs in Afghanistan, the possibilities for reconstruction, and Afghani hopes for the future. Based on these hearings, it is clear to me that we must help the Afghan people secure a future for their children that is free from war and built on the same hopes and aspirations held by all-freedom loving people around the world.

Achieving this vision for Afghanistan is not only a moral and humanitarian impulse—it is a national security imperative. If we are to prevent future terrorist attacks targeting the United States, we must provide a positive alternative to the poverty, repression, and religious fanaticism that breeds terrorists such as Osama bin Laden and his minions.

H.R. 3427, the Afghan Freedom and Reconstruction Act of 2001 does just that. The bill:

Expresses a sense of Congress on the U.S. policy towards Afghanistan, including promoting its neutrality, supporting a broad-based, multi-ethnic, gender-sensitive, fully representative government, and maintaining a significant commitment to the relief, rehabilitation and reconstruction of Afghanistan.

Authorizes $77.5 million for broadcasting to Afghanistan;

Authorizes $325 million for humanitarian assistance to Afghanistan in fiscal year 2003;

Authorizes $150 million for fiscal year 2002 and 2003 for a multinational security force in Afghanistan and authorizes funding for civil advisers for that country for the interim or transitional authority;

Authorizes $875 million for rehabilitation and reconstruction assistance for fiscal years

2002–2005, with—conditions for each year to ensure that benchmarks laid out in the December 5, 2001 Bonn Agreement between the various Afghan factions are being met; assistance for agriculture, health care, education, vocational training, disarmament and demobilization, and anti-corruption and good governance programs; a special emphasis on assistance to women and girls; a report on assistance actually provided; and authority to provide some of this assistance through a multilateral fund.

Authorizes $60 million for Democracy and human rights initiatives for fiscal years 2002 through 2004;

Authorizes $62.5 for a contribution to the UN Drug Control Program for fiscal years 2002 through 2004 to reduce or eliminate the trafficking of illicit drugs in Afghanistan.

Authorizes $65 million for a new secure diplomatic facility in Afghanistan.

Requires the President to consult with Congress on any ongoing support for remnants of the Taliban, including sanctions against any country that provides such support.

We are committed to supporting the people of Afghanistan in their quest to established a broad-based government that respects human rights—especially the rights of women and children—and practices religious tolerance.

Mr. Chairman, I, along with GARY ACKERMAN, the ranking member on the Middle East and South Asia subcommittee, and the Gentlewoman from Florida, Ms. ROS-LEHTINEN, the Chairman of the International Operations and Human Rights subcommittee, am introducing this legislation to put the U.S. Congress squarely behind the people of Afghanistan and its nascent hopes for a brighter future.

TRIBUTE TO CHARLES S. KNISLEY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TRAFICANT. Mr. Speaker, I was deeply saddened to hear of the passing of my dear friend Charles S. Knisley.

Charles S. Knisley was a renowned master horse trainer, and an upstanding citizen of the community dedicated to his friends and beloved children.

Charles had a life-long love for horses. He was a Master Horse Trainer and produced two outstanding Saddlebred stallions: Prime Time and a half and Sparkling Running Wild.

He worked with Ms. Linda Copper, an accomplished horsewoman in her own right, and Judith and Bill Cottrill, who established some of the finest blood stock of Saddlebred horses in America.

He loved the Saddlebred horse, was an expert farrier of show horses and was an expert rider and handler of high strung Saddlebred show stock for Ms. Cooper.

Chuck, as he was known to his friends, always had a good word for all; but he was not known to say much. He spoke with his deeds!

Charles "Chuck" Knisley was a great father, a great husband, a great friend, a great horseman and a great American. He will be sorely missed.

CONFERENCE REPORT ON H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. BRADY of Texas. Mr. Speaker, last week, the House passed the conference report on H.R. 2299, Department of Transportation and Related Agencies Appropriations for FY 2002. I was pleased to support this legislation and would like to thank the committee for including language which benefits my constituents in the 8th Congressional District of Texas.

First, the committee was kind enough to include report language that encourages the Federal Highway Administration to collaborate with the Texas Transportation Institute (TTI) at Texas A&M University on their Work Zone Safety proposal. TTI is dedicated to a program of research intended to enhance the overall safety associated with roadways and, at the same time, finding approaches for more efficiently handling the traffic demands.

One important example of TTI's efforts to improve the safety of our roadways is through the National Work Zone Safety Information Clearinghouse. The only one of its kind in the United States, the Clearinghouse provides information and referrals to government agencies, public and private organizations, and the general public concerning the safe and effective operation of traffic work zones.

Work zones have always been dangerous places for construction workers and travelers. With more and more highway construction and maintenance under way, most of the time traffic cannot be shut down while work is being done. Highway workers must often perform their jobs with traffic just a few feet away. Unfortunately, this has resulted in more than 20,000 accidents in highway work zones, injuring some 5,000 people and killing 700 more. In my home state of Texas alone, 125 people were killed in a construction or maintenance work zone in 1998.

The National Work Zone Safety Information Clearinghouse housed at TTI is a part of the solution. With a toll-free call, a fax or visit to the Clearinghouse's website, contractors, workers and safety officials now have access to a wide array of information and materials. The Clearinghouse collects, maintains and makes available information on work zone safety, crash statistics, construction standards, worker safety training, safety products and public awareness and law enforcement campaigns. Through these efforts we are seeing progress, but more work needs to be done to help make work zones safer and save more lives.

The continued efforts of TTI and the Clearinghouse are critical to furthering work zone safety. It is my goal to see that important transportation research such as the work zone safety clearinghouse continues to receive the support it deserves.

I would also like to speak today about a provision that represents a good example of community and university partnership in my district. The Conference Report provides funding to Brazos Transit to purchase new buses and then lease them on a multi-year agreement to Texas A&M University at a nominal yearly fee.

These new buses will help meet the transportation needs of the community by providing students living in the community with safe, efficient and economical transportation to and from campus. This new partnership will benefit Brazos Transit, Texas A&M University and most importantly the students.

IN HONOR OF STAFF SGT. BRIAN CODY PROSSER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. GALLEGLY. Mr. Speaker, I rise to honor Special Forces Staff Sgt. Brian Cody Prosser, a young man who grew up in my Congressional District and who died Monday in Afghanistan fighting terrorism on behalf of all Americans.

Sgt. Prosser hails from Frazier Park, California, a small, tight-knit community in the Los Padres National Forest's high country. He was captain of his high school football team and enlisted in the Army after graduation in 1991. Friends and family have described him as "dedicated," "brave," "tough," and "down-to-earth."

His father, Brian D. Prosser, who is also an Army veteran, called his son a "warrior" and said Sgt. Prosser died doing what he wanted to do.

Sgt. Prosser was proud to be an American, trained hard to become one of America's elite soldiers, and died a hero at age 28 doing his job to rid the world of terrorists and those who harbor them. Our country is saddened by his death and those of his comrades who died with him, Master Sgt. Jefferson Donald Davis, 39, of Watauga, Tennessee, and Sgt. 1st Class Daniel Henry Petithory, 32, of Cheshire, Massachusetts. At the same time we are honored and thankful for their commitment to America and the sacrifice they were willing to risk on our behalf.

Sgt. Prosser is survived by his wife, Shawna; his parents, Brian and Ingrid Prosser; and three brothers, Jarudd, Michael, and Reed.

Mr. Speaker, I know my colleagues will join me in honoring Sgt. Prosser's sacrifice on behalf of his country and in offering our heartfelt sympathy to his family and friends, as well as to the family and friends of Sgt. Davis and Sgt. Petithory.

IN HONOR OF THE LATE JAMES WORTH

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of a dynamic community leader, a good friend, and a committed protector of his neighborhood, the late James Worth. He will be sorely missed by all of those who knew him.

Over forty years ago, James Worth left his native North Carolina and arrived in Brooklyn. Since that time, he built a fine family with his wife, Ruth and a legacy of hard work and dedication to his community. Among his many achievements, he started a community garden where people would gather and discuss the issues of the day. That garden remains an oasis in a community that faces its share of difficulties. In addition, he was the long time leader of the Georgia Ave. Block Association. James' commitment to his community extended beyond his civic concerns, as he was involved in the political arena as well. If someone was going to represent James' community, James wanted to be sure to check them out first.

Mr. Speaker, the late James Worth was a hard working community leader, a dedicated political leader and a true friend to all those who knew him. As such, he is more than worthy of receiving this recognition and I urge my colleagues to join me in honoring this truly admirable man who will be sorely missed.

TRIBUTE TO MICHAEL A. POLLACK

HON. J.D. HAYWORTH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. HAYWORTH. Mr. Speaker, I rise today to pay tribute to a valued constituent, Michael A. Pollack, president and founder of Michael A. Pollack Real Estate Investments in Mesa, Arizona and a man who is devoted to improving the lives of those living in the communities surrounding his housing developments.

Michael Pollack's involvement with the community is well known and the list of causes to which he contributes is lengthy. Operating on the philosophy that corporate philanthropy begins at home, Michael has contributed generously to numerous local causes, including the Chandler Service Club, the YMCA, the Boys and Girls Clubs of America, Chandler Regional Hospital, several local high schools, various churches, synagogues and rescue missions, as well as the D.A.R.E. program. He also supports national charities, including Special Olympics, the Juvenile Diabetes Foundation and the American Cancer Society, to name just a few.

Earlier this year, Michael arranged for famed Notre Dame football player Daniel "Rudy" Ruettiger, the subject of the 1993 movie Rudy, to deliver an inspirational peptalk to the Dobson High School football team, which hadn't posted a winning season since 1994. Following Rudy's message and a private viewing of the Rudy film at Michael's Tempe movie theatre, the team went on to win the first four games of the season.

Michael is a business person who leads by example and his personal contributions to the community are many. The end result is that Michael epitomizes the principles that make America great: hard work, integrity and giving back to the community.

I join others, such as former Congressman and current Secretary of Transportation Norman Mineta; former State Senator John Huppenthal; Arizona Governor Jane D. Hull; Glendale, Arizona Mayor Elaine Scruggs; Mesa, Arizona Mayor Keno Hawker; Chandler, Arizona Mayor Jay Tibshraeny; Tempe, Arizona Mayor Neil Giuliano; Tucson, Arizona Mayor Robert Walkup and many other city, county and industry leaders in saluting Michael Pollack for his efforts and his contributions to the business community. I wish him well in the years to come.

MEMORIAL TO JACQUES LESSTRANG

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. LEWIS of California. Mr. Speaker, I would like today to honor the memory of Jacques LesStrang, whose lifetime of accomplishments included worldwide recognition as an author and expert on the Great Lakes and the founder of Harbor House Publishers. Mr. LesStrang passed away on December 5, at the age of 75.

Jacques LesStrang was one of the nation's outstanding and most widely quoted authors on the Great Lakes. He wrote six books on subjects ranging from international trade to maritime and political history, to U.S.-Canadian relations. His book "Seaway," which chronicled the history of the St. Lawrence Seaway, was a Book-of-the-Month Club selection. He began publishing the widely respected and internationally distributed maritime journal, Seaway Review, in 1969 and served as Editor-in-Chief for 24 years. He founded the successful regional firm Harbor House Publishers, and served as CEO until 1990. In addition, Mr. LesStrang published economic reports for the U.S. Congress and the Canadian Parliament and wrote the script for the 1993 PBS documentary, "Inward Passage." He was named "Maritime Writer of the Year" by the U.S. Propeller Club and "Great Lakes Man of the Year" by the governors of the eight Great Lakes states and premiers of the Canadian provinces of Ontario and Quebec.

In recent years, Mr. LesStrang served as the CEO of the LesStrang Group, a Christian publishing and marketing firm in Palm Desert, California. LesStrang was also the former president and creative director of an international advertising and marketing agency with offices in Michigan and London, England. He served as an international marketing consultant to the State of Michigan, heading trade missions to Europe to generate business for the state. In addition, he managed a number of successful state and national political campaigns for congressional and gubernatorial candidates, including former Michigan Governors William Milliken and George Romney. Mr. LesStrang's work on international marketing, government, and the maritime industry has been published in 16 languages.

Born in Pittsburgh, raised by his mother, Ada, LesStrang developed a lifelong love of literature and music, which he shared with his seven children and eleven grandchildren. LesStrang served in the Air Force in World War II and as a military journalist at Scott Field in St. Louis. He received degrees from George Washington University in Washington, D.C. and the University of Michigan.

Perhaps Jacques LesStrang's greatest legacy is the family he raised with his wife Barbara. Many of the members of the California Congressional Delegation will attest to the hard work and dedication of his son, Dave LesStrang, who is my deputy chief of staff and served as the staff member to the California Republican Delegation for many years. In the last days of his life, Jacques LesStrang was joined by Dave and his other children—Michelle Cortright of Boyne City, Michigan; Diane Mathias of Palm Desert, California; Steve Marcks of Carlsbad, California; Paul LesStrang of Ringle, Wisconsin; Linda Keefer of Ridgefield, Connecticut; and Christian LesStrang of San Francisco, California—along with his 11 grandchildren and great-grandson.

Mr. Speaker, please join me in extending condolences to the family of Jacques LesStrang and in remembering his many achievements.

MARION: A COMMUNITY OF CHARACTER

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. OXLEY. Mr. Speaker, at a time when America has rediscovered the power of traditional virtues, I bring to your attention an inspiring project that students in Marion in the Fourth Congressional District of Ohio have undertaken.

Students at the Elgin Junior and Senior High Schools have embraced President George W. Bush's "Community of Character" initiative. The Elgin Energizer Show Choir, under the direction of Tanyce J. Addison, is highlighting the theme of character during its music programs. The students are performing public concerts, including one entitled "A Concert of Character," that have inspired children and adults alike. These performances are sending a positive message about the importance of good character and moral conduct.

Setting an example for her students, Ms. Addison secured a $500 "Music With Character" grant that has allowed students to share their musical gifts with the community. Other projects have included a concert with a drug-free message, and a collection of student essays and poetry. According to Ms. Addison, these events "have been tremendously accepted by the students and the community. We have many more activities planned to continue on."

In praise of this project, the principal at Elgin High School, Robert A. Britton, wrote, "We here in the Elgin Local School District are making a serious attempt at instituting the message that President George W. Bush was delivering to an elementary school in Florida on September 11, 2001."

I have informed President Bush that he will find, in Marion, a shining example of a community embracing the values that have kept America strong through every challenge. The students at Elgin are a source of pride for the community, and serve as an example for the nation.

As Marion's representative in Congress, I am pleased to be able to take this opportunity to recognize the work of the students, Ms. Addison, and the Elgin Local School District.

CELEBRATING THE 15 YEARS OF REVEREND DR. KENNY SMITH'S PASTORSHIP

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor a great citizen of Northern Virginia, Reverend Dr. Kenny Smith. He is currently serving as pastor at the First Baptist Church of Vienna, Virginia. Along with celebrating Rev. Smith's 15 years of service, the Church is celebrating its 134th anniversary of serving the community.

Rev. Kenny Smith is originally from Atlanta, Georgia, and attended the University of Nebraska-Omaha, Howard University, and Virginia Union University.

His resume includes a great deal of other accomplishments. Most recently, he received the Dean's Pastor's Award from the Dean of Howard University's School of Theology and the Outstanding Achievement in Religion Award from the Howard University Alumni Club of Northern Virginia. He is a well traveled man as well. He visited Israel, the seven churches mentioned in Revelation (Turkey), the Isle of Patmos (Greece), as well as 8 other countries.

Reverend Smith currently serves on the General Board of the Baptist General Convention in Richmond, Virginia. He is also on the Board of Directors for Habitat for Humanity. Previously, he held a position with the Fairfax County Branch of the NAACP.

Through his leadership, the First Baptist Church has continued its excellence in serving the community. One organization that the church is constantly willing to support is Habitat for Humanity. The members of the church have assisted in building many homes for families in need. The church even helped with the cost of the supplies.

In 1996, members of the church traveled to South Carolina to help in the rebuilding of churches, after several were burned down by acts of arson. And under the guidance of Rev. Smith, members of the church went, along with another local church, to Haiti on a missionary project.

Mr. Speaker, in closing, I want to send my best wishes to Reverend Dr. Kenny Smith for his 15th anniversary with the First Baptist Church of Vienna and wish him the best in his future endeavors. It's been said that a good leader takes a little more than his share of the blame, a little less than his share of the credit. This is the kind of selfless humility that has characterized Reverend Smith's tenure at his church. I ask that my colleagues join me in congratulating this fine citizen.

IN HONOR OF VERNON K. JONES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Vernon K. Jones in recognition of his remarkable career in business and as an entrepreneur.

Vernon K. Jones is married to Marcella Jones, a dance teacher at JHS 258, in Brooklyn; they have two sons, Vernon Jr. and Avery. They own a home in Clinton Hill, Brooklyn. Vernon has a Bachelor's Degree in Accounting with extensive coursework in Business Management and Marketing, from St. Francis College, in Brooklyn. He used his education to become an Accountant for the Industrial Bank of Japan. After working there for two years he joined Showtime/The Movie Channel as an Accounting Coordinator. Following one year in that position he decided to go out on his own and start his own business.

Vernon started a commercial building maintenance company, Reliable Cleaning Corp. His company grew to employ over 25 full time and 15 part time employees. The company was reorganized in 1996, giving employees the opportunity to own and operate their own independent cleaning service business, as an alternative to franchising. Within a four-year period, Reliable, Inc. grew to over 150 accounts. Vernon helped to start over 50 entrepreneurs in their own commercial cleaning business in New York City. Last year, Mr. Jones sold his cleaning business to one of the companies that he helped to start so that he could fully concentrate on the development of his new business venture," itsaboute.com, inc". His new corporation is responsible for creating business concepts and developing these concepts into strong independent businesses. "Itsaboute.com, inc." will own a majority stake in each developed business. This has been a dream of Vernon's since he was a young boy, to own a majority stake in various businesses that he conceptualized.

The first company developed by "itsaboute.com, inc." is New York City Teachers, Inc. This company was developed to leverage the power of the teachers in the NYC Public School system. Through Vernon's marketing and business management experience, New York City Teachers, Inc. already have over 6,000 teachers on board with the company. This is remarkable because the company was just launched in May 2001, with the help of his wife, Marcella.

Just as in the commercial cleaning business, Vernon is using unorthodox marketing strategies. He is giving all 81,000 NYC public school teachers an equity stake in the Corporation. The goal is to have all of the teachers involved, through a monthly newspaper that will be sent to every teacher's home, which will begin within the next 6 months. He is also in the process of partnering with a Massachusetts company, which has agreed to provide Internet access to all NY Teachers and this will form a strong Online community, very similar to America Online. The online teacher community is "NYCteachers.com", and the offline teacher community will be the monthly newspaper, seminars events to honor good teachers, etc.

In between running his businesses and spending time with his family. Vernon coaches youth basketball teams during, the summer, fall and winter seasons. This is his way to educate kids about life.

Mr. Speaker, Vernon K. Jones is a remarkable businessman, entrepreneur and community leader. As such he is more than worthy of receiving our recognition today. I urge my colleagues to joining me in honoring this truly remarkable man.

TRIBUTE TO MARY ANN HEIMERS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. HUNTER. Mr. Speaker, I rise today to honor Mary Ann Heimers for her many accomplishments and contributions to the people of San Diego and, in particular, our community in East County. Mary Ann, and her husband Wolf Heimers, have lived in my district for over 35 years and have been strong pillars of the El Cajon business community for 48 years. Mary Ann has touched thousands of lives through her many years of service as a volunteer.

Mrs. Heimers is always at the forefront of assisting those in need. She has spent over twenty years in service to our neighborhood's elderly, sick, and those who just need a helping hand. Mary Ann's dedication to others is evident in the work she performs with non-profit groups in San Diego, such as Victory Chapel, SHARE, the Food Pantry, and the countless number of people she helps every day. Last year, she was named Volunteer of the Year for 2000 by a local service club for her outstanding work in San Diego County.

I have personally worked beside Mary Ann on many occasions and have witnessed her commitment to our community and the joy and comfort she brings to those who need it most. Again, I am honored to rise today in special recognition of my friend Mary Ann, and join her friends and family, including her husband Wolf, son Richard, daughter Susan, and grandchildren, to commend her work and thank her for her tireless efforts throughout the many years of service to our community and our Nation.

TRIBUTE TO THE EISENHOWER MEDICAL CENTER

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mrs. BONO. Mr. Speaker, I rise today to recognize Eisenhower Medical Center on the occasion of its 30th Anniversary.

Eisenhower Medical Center is the only not-for-profit hospital in the Coachella Valley.

The mission of Eisenhower Medical Center is "to provide excellent health care services and education to enhance the health of our community."

Eisenhower Medical Center has provided high quality, compassionate patient care through a full range of state-of-the-art diagnostic treatment, and emergency facilities to residents of the Coachella Valley and beyond for 30 years.

The spirit of volunteerism, philanthropy and patriotism found at Eisenhower is truly impressive. There are more than 800 active volunteers working at the medical center and nearly 1,800 Auxiliary members.

The Boards of Trustees, Directors and Governors, physicians, employees and volunteers are dedicated to maintaining Eisenhower's leadership role in providing quality patient care and community service.

Eisenhower's reputation for outstanding patient care attracts physicians and professional staff from the finest in their fields. Their expertise in clinical care, combined with compassion and understanding, has made Eisenhower the health care provider of choice in the Coachella Valley.

The 261 bed hospital continues to be a leader in providing innovative treatment, leading-edge procedures and important clinical research in cardiology, orthopedics and cancer care.

Eisenhower conducts the type of research typically found at university-based medical centers in the fields of cancer care, orthopedics, infectious diseases and cardiology. The medical center's contributions to exploring new treatment methods in these fields are shaping the future of medicine around the world.

Eisenhower Medical Center is unique among hospitals, bringing health education through the Annenberg Center for Health Sciences, drug and alcohol treatment through the Betty Ford Center, and care for victims of child abuse through the Barbara Sinatra Children's Center.

As Eisenhower looks towards its future, all of the constituents of California's 44th Congressional District can be comforted in knowing of the expansion of their services. The new millennium will usher in the extension of programs in Cardiology, Cancer Care, and Orthopedics.

Again, I would like to recognize the contributions that Eisenhower Medical Center has made to the thousands of constituents who have received medical assistance over the past 30 years.

INTRODUCTION OF H.R. 3423

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. SMITH of New Jersey. Mr. Speaker, I am introducing today a bill to make certain reservists eligible for burial at Arlington National Cemetery. I am joined by the Honorable FRANK WOLF, Honorable MIKE BILIRAKIS, Honorable STEVE BUYER, Honorable MIKE SIMPSON, Honorable RICHARD BAKER, Honorable ROB SIMMONS and Honorable TOM DAVIS in introducing this measure. Our bill would allow burial at Arlington National Cemetery of (1) reserve members under age 60 who but for their age would have been eligible at the time of their death for retired pay under title 10; and (2) reserve component members who die in the line of duty while on active duty for training or inactive duty training. The bill would be effective for interments occurring after the date of enactment.

Mr. Speaker, I am proud that this Nation affords a final resting place for every veteran who has honorably served in its Armed Forces. The Department of Veterans Affairs administers 133 national cemeteries throughout the United States, and since 1980 has provided $82 million in grants to states to establish or expand 42 state veterans cemeteries. Last year, over 82,000 veterans and family members were interred in VA cemeteries and more than 14,000 veterans and family members were buried in state veterans cemeteries. In addition, 3,727 veterans and family members were buried at Arlington National Cemetery (ANC), which is administered by the Department of the Army.

I will not recite the storied history of this cemetery nor the famous Americans who are buried there. However, because there is limited space for in-ground burial at the cemetery, in 1967 the Army adopted rules restricting eligibility as to which veterans can be buried at ANC. (ANC will provide space for cremated remains in its columbaria for an honorably discharged veteran eligible for burial at any of the other national cemeteries.) In general, Army rules restrict in-ground burial at ANC to veterans who were wounded in combat, died on active duty, received one of the military services' highest awards for gallantry, were held as a prisoner of war, or retired from military service. In addition, veterans who do not meet these criteria but whose served in a high Federal office (e.g. cabinet secretary, Supreme Court justice, Member of the House or Senate) are also eligible, as are the immediate family members of all veterans buried there.

Under the current Army rules, which few Americans are familiar with, a reservist who has retired from the Armed Forces but is not yet age 60 is ineligible for in-ground burial at ANC. Similarly, members of the reserve components who die while performing training duty on a weekend or for a two-week period are not eligible for in-ground burial at ANC, even though servicemembers who die in similar circumstances while on active duty would be eligible for such burial.

Given the increased responsibilities assigned to our Reserve and National Guard forces, I believe that a compassionate government should treat these reserve component members whose death is in the line of duty in the same manner as those active duty members whose death occurs in the line of duty. We should honor their service and the loss of their lives the same, even though their families may elect not to bury them at Arlington. That is the purpose of this legislation, and I urge Members to support it.

IN HONOR OF SHARONNIE M. PERRY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in recognition of the outstanding community service of Sharonnie M. Perry.

Sharronie Perry was born in Bedford Stuyvesant in Brooklyn, New York. She is the mother of two sons, Da-Shawn and Jah-Son and the proud grandmother of Jayla and Jah-Son.

Serving her church and her community for over thirty years, Sharonnie has distinguished herself as a hard worker committed to service. She is part of numerous community organizations, including Our Lady of Charity Church, The Knights of Peter Claver Auxiliary Court 229 and Solid Ground Ministries where she works closely with Father James E. Goode and Grandlady Carmela Rodriguez. Involving herself in the politics of the community. She has served as a campaign manager for some of Brooklyn's most powerful elected officials from all levels of government. Sharonnie is currently the District Director in my Fulton Street Office as well as the Chairperson of Community Board 5.

Following her motto: "I have come to serve and not be served", Sharonnie has received numerous awards and acknowledgements for her tireless efforts. By extending her hands to those in need and dedicating her life to her brothers and sister. Sharonnie has brought hope to those on the verge of giving up. As Co-Chair of the Ladies HIV/AIDS and Homeless Ministry, she helps to provide meals, shelter and the comfort of visitation to those many choose to forget. As the founder of the First Women's Day to be held in the Catholic Church, Sharonnie raised over $75,000 in funds to buy a church van for Our Lady of Charity Church and to make renovations in the Malcolm-Bethune Hall.

Sharonnie has evangelized on both the local and national levels. Performing the opening prayer service at the National Convention for the Knights of Peter Claver Ladies Auxiliary for the past six years has been one of her greatest pleasures. She has had the honor of being invited to be the keynote speaker at the Young Black Achievers program and the HIV/AIDS prayer service in the Archdiocese of New York. Using a very personal and "hands on"' approach, Sharonnie has been invited over and over again to conduct workshops across the City. Most recently, she facilitated the HIV/AIDS workshop for the Office of Black Catholics in the Bronx. Sharonnie, also conducted a workshop in July 2001 for the National Gathering of Black Catholic Women sponsored by the National Black Sister Conference in Charlotte, North Carolina.

Mr. Speaker, Sharonnie Perry's contributions to Brooklyn have definitely improved the quality of life for her neighbors and her community. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

TRIBUTE TO DEBORAH ERVIN

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. SHIMKUS. Mr. Speaker, I rise today to pay tribute to Deborah Ervin of Edinburg, Illinois, and her effort to honor all those who gave their lives for the United States of America.

Ms. Ervin is a woman with a cause. Like so many brave young Americans, her brother in law was killed while serving his country in the Vietnam war. Sometime after this tragic event, Deborah decided to fly a flag in his honor—only to find that no flag specifically honoring those who died in combat existed. Not to be deterred, Ms. Ervin decided that if such a flag did not exist, that she would just have to create it.

It was a long process, but I was lucky enough to be presented with the results: a beautiful flag meant to honor all those men and women who have died for their country. The flag portrays an American eagle in flight to represent the strength and freedom of America; above the eagle is a blue cross that is meant to represent the sacrifice of those who have died. Both the eagle and cross are within the outline of a solemn tombstone, with a background of red and white stripes.

Ms. Ervin wished me to fly the flag in honor of her brother, and I have honored her request—it now stands proudly outside of my office. In addition, she also wished us to forward a second flag on to Mayor Giuliani in New York. This we have done in honor of the brave policemen, firefighters, men, women and children who lost their lives to terrorism on September 11th.

Mr, Speaker, in creating this flag Ms. Ervin has done us all a great service. Recent events have served to remind us that we can remain free only because our people are willing to defend that freedom, and this flag is a fitting tribute to them. Ms. Ervin deserves our thanks, not only for creating such a heartwarming symbol, but also for her patriotism and devotion to her country. May God bless her, and may God bless the United States of America.

THE OVER-THE-ROAD BUS SECURITY AND SAFETY ACT OF 2001

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. PETRI. Mr. Speaker, today, the leadership of the Transportation and Infrastructure Committee has introduced the Over-the-Road Bus Security and Safety Act of 2001. This bipartisan legislation puts in place a bus security program to better protect the bus riding public.

The latest figures from the American Bus Association demonstrate that the over-the-road bus industry, comprised of private bus and tour and travel operators, transports 774 million passengers annually. The industry's 800 bus operators and almost 200 tour operators, using 40,000 motor coaches, transport more passengers than the airlines and Amtrak combined (650 million passengers). In addition, Greyhound Bus Lines and its interline partners take passengers to some 4,000 destinations, more than 7 times the number served by air or Amtrak.

Since the attacks of September 11, 2001, the Committee has reemphasized its examination of all modes of transportation security. As an important element of multi-modal transportation, the over-the-road bus industry must increase its security measures. Unfortunately, recent terrorist acts on foreign buses and bus stations demonstrate the necessity for bus security. In fact, an analysis of worldwide terrorist activities from 1920–2000 shows that 49% of terrorist attacks involve a bus or a bus facility.

While bus operators have made some security improvements, Congress must provide assistance to their ongoing efforts. Our legislation establishes a grant program that will be administered by the Secretary of Transportation. Eligible uses include expanding the passenger and baggage screening process, establishing electronic ticketing, hiring security officers and making physical security improvements to bus stations. This program is authorized at $200 million in the first fiscal year. After an appropriation is made, a twenty-five cent per ticket fee will be taken on tickets over five dollars. This fee will be used to fund the bus safety program in the following fiscal years.

This is an affordable bill that brings the priceless bargain of security to the bus riding public. I hope that my colleagues support this bipartisan effort to better protect the bus riding public.

STOP STROKE ACT

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. PICKERING. Mr. Speaker, the United States spends over $30 billion each year in caring for persons who have suffered from strokes. Stroke is the third leading cause of death in this country, claiming the life of an individual every three and a half minutes. Today, Congresswoman CAPPS and I are introducing a bill that will help to educate the public on the symptoms of stroke and the importance of rapid treatment.

My home state of Mississippi is ranked seventh in leading the nation in stroke deaths. The STOP Stroke Act will provide the necessary tools to help hundreds of thousands of Americans make the right choice in seeking medical help with the onset of a stroke. We know that it is important that treatment be administered as quickly as possible after a stroke, yet fewer than three percent of patients receive clot-dissolving drugs that are necessary to improve the patient's recovery.

It is important that we take the steps that are required to educate the American public about the symptoms and treatments of strokes. We must work to pass the Stroke Treatment and Ongoing Prevention (STOP Stroke) Act to ensure that we save lives and improve the quality of medical treatment to stroke victims.

IN MEMORY OF STAN KAPLAN

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. SPRATT. Mr. Speaker, Stan Kaplan survived the Depression, fought in World War II, and in 1965 moved with his wife, Sis, to Charlotte, North Carolina, where they purchased a radio station and took it to the top of the rating charts. Stan Kaplan died this week, leaving his adopted community far better than he found it. The Charlotte Observer sketched his life in an article that I would like to share with other Members of Congress. One can say of Stan Kaplan's life as another transplanted Charlottean, Harry Golden, said of his own life: Only in America.

I submit "Kaplan, Unsung, if Seldom Unheard, Hero" for inclusion in the RECORD.

KAPLAN: UNSUNG, IF SELDOM UNHEARD, HERO

(By Jim Morrill and Mark Washburn)

He was a brash Yankee who brought his liberal politics and oversize personality to a Southern city that still minded its manners.

Over the next four decades, Stan Kaplan never changed. But Charlotte did, often with a nudge from him. That awkward beginning turned into a comfortable, mutually beneficial partnership.

Kaplan, who suffered from cancer died late Monday of a heart attack. He was 76. A funeral will be at noon today at Temple Beth El, 5101 Providence Road.

Along with his wife, Sis, Kaplan helped transform Charlotte radio and founded the weekly Leader newspaper. He became a civic fixture who gave generously to the arts and other causes, as well as Democratic candidates.

"He was one of the great unsung heroes of Charlotte in the last 50 years," said developer Johnny Harris. "Stan and Sis have been such a major part of making this city better for all the people."

In a city of gray suits, Kaplan was a Technicolor character.

With beefy girth and bushy eyebrows, he managed a rumpled look despite tailored suits and French cuffs. He loved golf, good cigars and fancy cars. He once drove a Rolls Royce with a hood ornament that featured his own likeness, cigar and all.

A Pennsylvania native, he was a consummate salesman.

During the Depression be sold Band-Aids on the street and one year made more money than his father, a furniture salesman. After going off to fight in Normandy, he returned home and bounced around a succession of colleges and jobs in radio management.

He was working in syndication when he met Sis Atlass. More smitten with her than she was with him, he turned to a sales technique: flip charts.

"Stanley's fantastic," said one.

"You'll just love being married to him," said another.

"He's better looking than you think," read a third.

It worked. He and Sis, the daughter of a Chicago broadcasting executive, decided to buy their own radio station. Scouring the country, they settled in 1965 on a small Charlotte station called WAYS–AM, then in last place among eight AM stations.

The Kaplans renamed it "Big WAYS," changed the music to Top 40—then an alien format in the Carolinas—and spent lavishly on talent. Kaplan had a gift for gimmicks, and his first one shot the station past market leader WBT, then a courtly CBS affiliate still airing "The Arthur Godfrey Show" and soap operas.

He buried $10,000 and launched the "Big-WAYS" treasure hunt, giving clues over the air. The hunt transformed Charlotte into a moonscape of craters. Excavations were found in vacant lots, parks and private yards. Police complained. So did the Federal Communications Commission. But Kaplan was undeterred, telling a critic at The Charlotte News, "You can say what you want, just get my call letters right."

The critic was John Kilgo, who later worked for Kaplan as news director of WAYS and is now associate publisher of The Leader.

"He was an extremely competitive man," Kilgo said. "He would win the ratings battle and send a ratings book over to WBT to make sure they saw it."

Jim Babb, then general sales manager at WBT, said, "Stanley turned the radio market upside down for the paltry sum of $10,000."

Riding rock music's surge of popularity, "Sixty-wonderful WAYS" was soon king of Charlotte radio and the talk of the industry. Kaplan bought another station—WROQ-FM—in 1972. He had an eye for talent and hired a hit parade of personalities including Morton Downey Jr., Jay Thomas, Robert Murphy, Long John Silver and Jack Gale.

"Stan hired people a little left of center, brilliant broadcasters but quirky in their own way. But Stan loved that. They were personalities," said NBC6 forecaster Larry Sprinkle, who spent 13 years at the station.

Since 1950, when he campaigned in Boston for a young Jack Kennedy's congressional campaign, Kaplan remained a fan of the family, campaigning later for Bobby and Ted Kennedy. On the Kaplans' 10th anniversary, they were feted at a party by Bobby Kennedy's widow, Ethel.

"I don't know anybody who knew Stanley who didn't love him," said former Kennedy aide Frank Mackiewicz.

He donated generously to N.C. Democrats, including Harvey Gantt, Jim Hunt and John Edwards.

"While he loved politics, you wouldn't say he was politic himself," said retired banker Hugh McColl Jr., a longtime friend. "Stanley was an in-your-face kind of guy."

The outspoken Kaplan once shoved a WBT reporter, which brought him an assault charge and eventual acquittal.

Through it all, he remained a salesman. Selling his radio stations, buying a newspaper, selling it and buying it again.

"He couldn't stay out of the action," said McColl. "I was always advising him to enjoy the roses, but that wasn't him. He was always back in the fray. Loved it too much. Loved the competition."

In addition to his wife, Kaplan is survived by daughters Leslie Kaplan Schlernitzauer and Susan Kaplan Guild. The family requests memorials be made to Temple Beth El, or to Charlotte Children's Hospital Fund in honor of Grace Schlernitzauer through the Foundation for the Carolinas, 217 S. Tryon St.

In an unusual tribute, at least 14 Charlotte radio stations will observe a moment of silence this afternoon in Kaplan's memory.

Jay Thomas, the former Kaplan DJ who went on to become a TV star, last spoke to Kaplan a week ago, as Kaplan lay ill with cancer. To his surprise, Kaplan started talking about his latest marketing project for The Leader.

"I said, 'Stan, I can't believe you're still trying to make sales calls,'" Thomas recalls. "He said, 'Just think. There's going to be someone out there who's going to say I was Stan Kaplan's last pitch.'"

IN HONOR OF NEIL J. MOORE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Mr. Neil J. Moore in recognition of his service to New York City's healthcare community.

Neil J. Moore has spent his entire career with the New York City Health and Hospital Corporation since starting as a High School Cooperative Intern in 1979. He has established a true commitment to public service. Today, he is a results oriented executive with broad-based knowledge in all areas of hospital finance. He is presently the Deputy Chief Financial Officer at the North Brooklyn Health Network which includes Woodhull Hospital and Cumberland Diagnostic and Treatment Center.

He has served in numerous capacities at other Health and Hospitals Corporation facilities including Kings County Hospital, East New York Diagnostic and Treatment Center and Dr. Susan Smith McKinney Nursing and Rehabilitation Center.

He received a Masters of Public Administration degree from Long Island University and a Bachelor of Science degree in Human Resources from St. Joseph College and has also completed studies towards an MBA degree. In addition, he completed an executive development program in Public Policy at New York University. Neil is affiliated with several national organizations, which includes the American College of Health Care Executives, The National Association of Health Services Executives, The National Association of Public Hospitals and the Health Care Finance Management Association. He volunteers his services as the Treasurer for the New York Chapter of the National Association of Health Service Executives.

Neil provides mentorship to undergraduates and graduate students from the Institute of Diversity, a program designed to develop aspiring minority health care executives. He is also involved in the Long Island University mentoring program. He has conducted motivational speaking lectures for high school students on many occasions. His goal is to make a difference and to close the gap in the disparities that exist in healthcare by ensuring that more minority students become health care providers.

Neil is married to Carol Moore. He and Carol are the proud parents of Oneika, Dionne and Joshua.

Mr. Speaker, Neil J. Moore has dedicated himself to the healthcare and education of his community. As such, he is more than worthy of receiving this recognition and I urge my colleagues to join me in honoring this truly remarkable man.

DELHI BULLDOGS, NEW YORK STATE CHAMPS

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. BOEHLERT. Mr. Speaker, I rise today to pay tribute and offer congratulations to the Delhi varsity football team which is the pride and joy of the Delhi community after winning the New York State Class C Football Championship. The Bulldogs, under the leadership of veteran coach Dave Kelly, defeated a tough-as-nails Cambridge team 39–21 to secure a school-record 12th win of the season and the state title.

Football is the ultimate team sport, and the young men of the Delhi Bulldogs have reached the pinnacle of achievement at their level of competition. Proof of the team's extraordinary ability can be found beyond the score in the words of the opposing coach in the championship game: "There are not a whole lot of teams that can beat you the way Delhi can. They seem to do everything well." That's a high compliment.

Mr. Speaker, big plays at crucial times in the game proved to be the difference. One of the biggest plays was an interception by defensive back Tom Tuthill in the end zone that stopped a Cambridge scoring drive with just under six minutes left in the 4th quarter. At the time, Delhi was clinging to a 32–21 lead. Tuthill had another interception in the game as well, along with two picks by teammate Mike Barnes.

On offense, the team was led by the cohesive offensive line, quarterback Chris Clark, running backs Brian Neale and Brett Sohns, and big play receiver Mike Barnes. As an offensive unit, they got the job done.

Not only was the Bulldog's impact felt on the field, but felt off the field as well. More than 3,000 supporters of the team traveled to Syracuse to watch what was probably the biggest game in school history. They did not go home disappointed.

These young men have achieved greatness on the football field. There is no doubt in my mind that they can channel what they learned this year from one another on the football field under Coach Kelly's direction to the rest of their life's activities. That's the great thing about interscholastic sports.

Mr. Speaker, the Delhi Bulldogs varsity football team has made their coaches, classmates, teachers, parents, and the entire Delhi community proud. They have also made their Congressman proud.

PERSONAL EXPLANATION

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. MALONEY of Connecticut. Mr. Speaker, on Wednesday, December 5, 2001, I was unavoidably detained and missed rollcall vote No. 475. Had I been present, I would have voted "aye" on rollcall No. 475.

EXPRESSING SENSE OF CONGRESS IN HONORING THE CREW AND PASSENGERS OF UNITED AIRLINES FLIGHT 93

SPEECH OF

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H. Con. Res. 232, which formally expresses the sentiment of Congress in honoring the crew and passengers aboard United Airlines Flight 93.

On September 11, 2001, four aircraft were hijacked and then simultaneously used as weapons of mass destruction against the United States. Through the selfless acts of the crew and passengers, one of those aircraft, United Airlines Flight 93, fell far short of its intended target—Washington, D.C. I have no doubt that it is because of the heroic actions taken by the crew and passengers of Flight 93, that the Washington D.C. area did not sustain more damage. We owe them our eternal gratitude.

Like the Pan Am 103 terrorist attack in December 1988, the events of September 11th have challenged us as a nation, and have forced this Congress and this Administration to re-evaluate the state of security for domestic and international commercial air service.

On November 19, 2001, President Bush signed into law the Aviation and Transportation Security Act (P.L. 107–71). This Act completely overhauls our nation's aviation security system. In addition to integrating all security functions within a new Transportation Security Administration, the Act also federalizes the screening workforce to greatly improve the quality of the screening process. Further, the Act mandates 100 percent checked-baggage screening, strengthens cockpit security, expands the Federal Air Marshal program, and ensures that all crewmembers receive proper training to deal with terrorist attacks. These changes will go far to close loopholes in aviation security. Equally important, however, is to ensure that our intelligence gathering keeps pace with these new threats. Credible, potential threat information must be readily synthesized and disseminated to prevent a future tragedy such as that befalling Flight 93.

Eleven years ago, the President's Commission on Aviation Security and Terrorism, on which I served as a Commissioner, recommended that we become more aggressive in our intelligence gathering, evaluation, and dissemination. Quoting from the report,

The Commission also recommends greater emphasis within the intelligence community on developing a specific union whose principle function will be long-term strategic thinking and planning on terrorism. The objective is to be better able to anticipate future terrorist strategies and tactics, rather than simply to react to incidents as they occur.

This is the most challenging aspect of our aviation security network. It is difficult to penetrate these highly-secretive organizations that operate on a war-like footing. The Aviation and Transportation Security Act requires the coordination and sharing and dissemination of intelligence information among federal agencies, including the new Transportation Security Administration. Counter-terrorism also requires renewed higher-level coordination through Interpol, with our allies, and with other nations like Russia and China, as the PanAm Commission recommended eleven years ago. The skills of terrorists have stepped up several levels since the Commission's 1990 report. We must ensure that our counter-intelligence rises to meet that threat.

With the appropriate counter-intelligence efforts and security implemented to the fullest extent, we can ensure that the legacy of the crew and passengers of Flight 93 is world-class aviation and inter-modal security system. Our citizens can forever enjoy the freedom of travel that this great nation provides to the envy of the rest of the world.

I urge my colleagues to support this resolution.

THE CLEAN DIAMOND TRADE ACT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. UDALL of New Mexico. Mr. Speaker, I rise today as a cosponsor H.R. 2722 to give it my full support and urge my colleagues to join me in passing this important piece of legislation. This bill will improve the lives of countless persons in Africa and around the world.

For too long, the diamond trade has been a source of funds for violent rogue leaders and their cronies to purchase the weapons they use to terrorize, dominate, and murder innocent civilians in some of the world's most desperate countries. The illegal diamond trade has also been a significant source of funds for the al Queda terrorist organization and Ossama bin Laden. Wars have been fought and entire populations have been eliminated in pursuit of this dirty money, but today the United States Congress will act to cut off the flow of these "Conflict Diamonds."

Today, we take the first step to prohibit the importation of conflict diamonds and their derivatives into the United States. This will have an immediate and major impact on the international diamond market. The United States is a major buyer of diamonds, and our importation policy will immediately begin to end the trade in conflict diamonds and force international diamond brokers to certify that their suppliers do not engage in illegal activities.

I am pleased to see that the United States is taking such swift and determined action on this important issue. This is an important day for international human rights, and our actions here today will have a lasting impact on the lives of millions around the world. Please join me in voting "yes" on H.R. 2722.

IN HONOR OF NICOLE CHRIS-STINA MASON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Nicole Chris-stina Mason in recognition of her selection as the Concerned Women of Brooklyn's Youth of the Year.

Nicole Chris-stina Mason was born in Brooklyn on October 8, 1984 and she has been raising eyebrows ever since. She is currently a junior at Boys and Girls High with a B average in the honors program. As she looks to the future, Nicole is preparing for the challenges and opportunities that will be offered in college. She is planning attending either Ohio State or the University of Florida to study Computer Engineering next fall.

In addition to focusing on her schoolwork, Nicole is involved in numerous other activities. At Boys and Girls High School, during the spring semester, Nicole is a part of the softball team. She has been on the team now for three-years and hopes to continue playing in college. Also, during her lunchtime, Nicole volunteers in the school snack store. When she is not in school, Nicole works part-time at McDonald's to save money for college.

During Nicole's young life she has already received numerous honors: in junior high school, Nicole received the Principal Award for being on the honor roll for both years of Junior High School; she received an athletic award, a leadership award, a Presidential Education Award signed by then President Bill Clinton, and a Science Award from the United Federation of Teachers Science Committee for my Science Award winning 1st place in the science fair. More recently, at Boys and Girls High School she has received awards in math and computer as "student of the month", a Martin Luther King Jr. Award, an Achievement Award, several Honor Roll plaques, and also had her picture and biography in the United States Achievement Academy 2000 National Awards book for Foreign Language. Outside of school, she has received a Choir Member of the Year Award from Berean Missionary Baptist Church.

Mr. Speaker, Nicole Chris-stina Mason is a rising star. She has received numerous awards and is just beginning what will be a life full of success. This weekend she is being honored by the Concerned Women of Brooklyn as their Youth of the Year. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this young woman on the cusp of stardom.

HONORING SHERIFF PATRICK J. SULLIVAN, JR.

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. MCINNIS. Mr. Speaker, I consider it a great privilege to have this opportunity to pay tribute to Mr. Patrick J. Sullivan, Jr. He has dedicated the majority of his life to preserving the rights and freedoms of American citizens. He will be honored on December 10, 2001 as a recipient of the Annual Civil Rights Award presented by the Civil Rights Committee of the Mountain States office of the Anti-Defamation League.

Patrick Sullivan began his service as a law enforcement officer in 1962 at the Littleton Police Department. In 1983, he was appointed to the position of Sheriff of the Arapahoe County Sheriffs Department, which he still holds today. In addition to winning every election campaign for Sheriff since 1984, he has accomplished many goals in his effort to protect American citizens. His most widely recognized initiative is in his ongoing fight against hate crimes. In this fight he has testified before this body of Congress and has played an active and sucessful role in creating the U.S. Department of Justice Hate Crime Training Program.

Mr. Speaker, as a former police officer myself, it is my honor to recognize Sheriff Patrick Sullivan, Jr. for his dedication to the safety of America's citizens. He has accomplished many endeavors at both the national and local levels. Sheriff Sullivan deserves not only the recognition inherent in receiving the Annual Civil Rights Award, but also the praise and admiration of this body. Congratulations Sheriff Sullivan, thank you for your service.

PAYING TRIBUTE TO MR. ALLAN JONES

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. DUNCAN. Mr. Speaker, I want to recognize the generosity of and pay tribute to one of my constituents—Mr. Allan Jones.

Mr. Jones lives in Bradley County, Tennessee, where he grew up. During his high school years, he became a member of the wrestling team. He has said that wrestling taught him determination, discipline and character.

In the years since his high school wrestling career, he has certainly exhibited these qualities. Most recently, he did so with a large donation to the Cleveland High School to build a first-class wrestling center. This donation represents more than $1 million that Mr. Jones has given to the sport of wrestling in his hometown.

This is the largest amount ever given by one individual to a public high school in Tennessee.

Groundbreaking on this new facility was held only weeks after the gift was made, and the construction was completed in six months.

The center was named the W.A. Jones Arena after Mr. Jones' father. This 10,000 square foot facility will seat 500 people and be open year-round for wrestling events.

The Cleveland High School wrestling coach described the new center when he said, "This is a dream come true. I can tell you that we'll be the envy of the wrestling teams in the area".

Mr. Jones has also provided financial assistance for needed equipment, and scholarship funds for local wrestlers. In addition, he organized and funded the first Wrestling Kids Club.

He has also made many other contributions in his community that are really too lengthy to mention. Mr. Jones is someone who cares about the young people in our Country, and his efforts will have a positive impact for years to come.

Mr. Speaker, I believe we can all do more to give back to our communities. Allan Jones has set an example for all Americans.

ACKNOWLEDGING THE DEATH OF MR. JOE FIGUEROA BARRAGAN

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Ms. SOLIS. Mr. Speaker, I rise today to acknowledge the death of Mr. Joe Figueroa Barragan, a labor leader and a dear friend.

Mr. Barragan passed away on Sunday, November 18th from a heart attack. Joe Barragan was born in Jalisco, Mexico on May 12, 1957. He immigrated to America at the age of six along with his family and at the age of 31 became a U.S. citizen. Joe Barragan lived a life reflective of the inspiration he gained from Cesar Chavez, the great labor and civil rights leader. Mr. Barragan was often quoted saying "I believe that we are blessed by God to be in the Labor Movement and we should do our best every day to help improve the lives of others."

Mr. Barragan's career in the retail grocery business began as a clerk's helper in 1977. A decade later, he became a union representative and field director for the United Food and Commercial Workers Union (UFCW). In 1991, Joe Barragan became President of Local 1428 of the UFCW. During his ten years as President of Local 1428, he earned the reputation of being one of the most progressive and innovative union in the nation.

Mr. Barragan also served as National President of United Latinos of UFCW and was former President and Vice President of Labor Council for Latin American Advancement (LCLAA). Mr. Barragan was also very active in the Democratic Party, having been a delegate to the Democratic National Convention in 1996, participated in the Convention in Los Angeles in 2000. I am pleased that he supported me throughout my career,

Mr. Barragan will be truly missed by his wife of 21 years, Renata, his daughters, Lauren and Taylor, his family, friends, and fellow labor brothers and sisters. I am saddened by the loss of such an important member of our community. Mr. Barragan is a true leader that will be remembered for his personal sacrifice and service to his community.

PAYING TRIBUTE TO HENRY BERNARD DANNELS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I would like to take this opportunity to recognize the life and memory of a valuable member of the community of Estes Park, Colorado. Henry Bernard Dannels died recently, at the age of seventy-eight. He was a kind mind with a caring heart and will surely be missed by all those whom Henry knew.

Mr. Dannels was born in Longmont, Colorado in 1923. As a teenager, he moved with his family to Estes Park where he attended high school. He later went on to graduate from the University of Northern Colorado in Greeley after which he began his public service. Dannels served as a Lieutenant and Commanding Officer in the Navy during World War II in the Pacific theatre. After returning to Colorado, Henry became a fixture for the youth in his community, volunteering for the Boy Scouts of America as a Cubmaster, Scoutmaster and Explorer Advisor. In recognition of his efforts, he was honored with the Silver Beaver Award from the Boy Scouts of America as well as the Golden Key Award from the City of Estes Park.

Henry's true dedication and service to his community began in 1972. Following in his father's footsteps, he was elected as a town trustee for Estes Park. He served as a town trustee until he was elected Mayor in 1984. Mr. Dannels served as a dedicated and caring Mayor until his retirement in 1996. Prior to retiring, he established a long list of achievements. His efforts and accomplishments did not go unnoticed. December 18, 1992 was named "Mayor Bernie's Day."

Mr. Speaker, Henry was a great asset to the people and the town of Estes Park, Colorado. He fought for Americans in the Pacific as well as in City Hall. My thoughts and prayers go out to Mr. Dannels' friends and family during these trying times. Henry's efforts will serve as a benchmark for those who follow his lead and his contributions will not be forgotten.

SLOVAK PARLIAMENT NARROWLY DEFEATS REPEAL OF CRIMINAL DEFAMATION PROVISIONS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. SMITH of New Jersey. Mr. Speaker, on November 8, Slovak Parliamentarian Tomas Galbavy, a member of the ruling Slovak Democratic Coalition, introduced an amendment to the Slovak penal code which would repeal articles that make defamation of certain public officials a crime. My fellow parliamentarian made an important stand at a time when many seem to believe that free speech is an expendable luxury. As Co-Chairman of the Helsinki Commission, I commend Deputy Galbavy for his efforts to strengthen one of the most important cornerstones of democracy.

The criminalization of slander, libel or defamation, as well as laws which purport to protect public officials or bodies from "insult," is a longstanding concern of Members of the Helsinki Commission. In fact, I have repeatedly raised concern about the use—or, more correctly—abuse of such laws. Most recently, at Commission hearings in September and October, I expressed concern about the use of such laws in the current crackdown on independent media in Azerbaijan. In November, "Insult laws" were again used as an excuse to close an independent paper in Azerbaijan. Frankly, Mr. Speaker, as an elected politician, I get "insulted" every day of the week—and twice on Sunday. It's part of the job.

I am not alone in my views. At OSCE meetings, the United States has repeatedly called for such laws to be repealed. Similarly, the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, and the Organization of American States Special Rapporteur on Freedom of Expression issued a joint statement in February 2000 which concluded that "criminal defamation laws should be abolished."

Simply put, Mr. Speaker, Slovakia's current criminal defamation law—a holdover from a bygone era—is not consistent with the international commitments and obligations it has undertaken as a free and independent state. I am particularly concerned that journalist Alex Kratky has been charged with a criminal offense for criticizing a speech delivered by Slovak President Schuster. If found guilty, Kratky faces two years in prison for his opinions.

Unfortunately, the Galbavy amendment was defeated by the narrowest of margins, failing by just one vote. Although Deputy Speaker Pavol Hrusovksy voted in favor of the amendment, most of the other parliamentary leaders either abstained or did not participate in the vote. The Slovak Parliament came so close to doing the right thing, so close to demonstrating the kind of regional leadership so desperately needed, but stopped short by one vote.

I know the Slovak Parliament has a great deal of work before it now, and I particularly appreciate the work of the Parliament and the Government in supporting the war on terrorism and their efforts to ensure that U.N. Security Council Resolution 1373 is fully implemented. At the same time, I believe that there are still opportunities for Slovakia to act on the important human rights issue of criminal defamation.

First, the Constitutional Court could declare the provisions of Articles 102, 103 and 206 unconstitutional—especially bearing in mind, as Deputy Minister Lubomir Fogas has noted, Slovakia's Constitution gives priority to Slovakia's international human rights obligations. I hope, however, that Slovakia's elected leaders will not wait for the court to act, since that can take a long time. Instead the initiative could be reconsidered and, with a few more Deputies voting to repeal defamation and libel from the criminal code, Slovakia would set an example for other countries to emulate.

IN SUPPORT OF MEGAN SMITH, 2002 WINTER OLYMPICS TORCH RUNNER FOR THE SIXTH CONGRESSIONAL DISTRICT

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to recognize Megan Smith, an outstanding young citizen from my home town of New Britain, Connecticut. Megan is an excellent student, exceptional athlete and is highly esteemed by her peers for her positive attitude, considerate nature and high standards. For possessing these characteristics, Megan has been given the great honor of being selected as a 2002 Winter Olympics Torch Runner for my district.

Her accomplishments speak for themselves. Megan is ranked in the top five percent of her class, and deftly balances this commitment to her studies with an equally strong commitment to her athletics. She is a top player on her school's volleyball and basketball teams, and has already been accepted to Quinnipiac University in Hamden, Connecticut, on a full basketball scholarship beginning next fall.

Despite her rigorous schedule, Megan devotes many hours to performing community service work. She divides her time between Gaffney School's special education preschool program; St. Francis Middle School's basketball activities; and at tryouts and practices for the Connecticut Starters 10 National Team. Because of Megan's leadership, scholarship, character and service to her community, she was inducted into New Britain High School's Chapter of the National Honor Society and also was designated the female recipient of the Wendy's High School Heisman Scholar Athlete Award.

I cannot think of a better person to represent the Sixth Congressional District during the Olympic Torch run. Megan is an exemplary young woman whose giving heart and extraordinary talents will bring her much success. I salute Megan Smith for her invaluable contributions to her school and to her community. Congratulations.

REPRESENTATIVE GEORGE MILLER PRESENTS WWII VETERAN NICK COMINOS WITH MEDAL OF HONOR

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. GEORGE MILLER of California. Mr. Speaker, I had the honor of joining the family and friends of WWII Veteran Nick Cominos in a ceremony to present several medals on Saturday, December 1, 2001, just days before the 60th anniversary of Pearl Harbor. These medals are a long-overdue recognition of his heroic efforts in the Dalmation Islands and Greece as part of a covert reconnaissance operation that led to the retreat of the Nazis from the area in 1944.

Federal military decorations are awarded to members of the armed forces exhibiting valor and self-sacrifice, the heroic acts of Mr. Nick Cominos are worthy of such an honor.

Almost 58 years ago, on Christmas Eve Nick Cominos and his Company boarded the liberty ship, *Pierre L'enfant*, to join a large convoy to the Atlantic. Thirty-one days later Cominos' Company landed on the only one of the Dalmation Islands in Adriatic Sea not occupied by the Nazis, the Island of Vis.

From their base on the Island of Vis, Company C raided the Nazi occupied Island of Solta. Within two days, Company C and their allies had captured the island. This was not without a cost. Company C lost one man and six others were wounded, including Nick Cominos.

After recuperating and returning to Vis, in August of 1944, Mr. Cominos and his Company C were deployed to Greece where they parachuted behind enemy lines and conducted covert reconnaissance missions to disrupt the German occupation of Greece. The Nazis retreated from Greece in November of 1944, at which time the Greek/American Operational Group was disbanded.

The type of covert ground operations first used by Mr. Cominos and the men of Company C, 2671st Reconnaissance Battalion of the Office of Strategic Services are now being used to help fight the war against terrorism in Afghanistan.

Mr. Cominos and other World War II veterans have received numerous medals commemorating their service to this country during the war. However, because the records of the Office of Strategic Service were classified until 1988, the individual acts of bravery of Mr. Cominos and Company C have not been officially recognized.

Friday, December 7, 2001 is the 60th anniversary of the bombing of Pearl Harbor. Many have drawn parallels between the terrorists attacks of September 11th and Pearl Harbor.

We have a living parallel. A WWII veteran and his Company who pioneered the types of special covert operations which are helping to bring closure to the tragic events of September 11.

In a time of national emergency, when we are once again engaged in military operations on foreign soil in an international effort to defend freedom, it is important to praise those who have served our country so courageously in the past and whose actions make them role models for our troops in Afghanistan and in future military efforts.

It is my honor to publicly recognize Mr. Nick Cominos for his acts of courage, heroism, and sacrifice in WWII.

PAYING TRIBUTE TO CADET PATRICK HUX

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I would like to take this opportunity and pay tribute to a young man whose life was taken during his service to protect others. Cadet Patrick Hux, of the Air Force Academy in Colorado Springs, Colorado passed away on November 25, 2001. As our nation mourns his loss, our thoughts and prayers go out to his family and friends during this difficult period of time.

On a snowy night, Patrick and fellow cadets witnessed a driver in distress when the driver's car, due to icy conditions, sped out of control and crashed into an embankment. Despite dangerous road conditions, the cadets stopped to provide the driver with assistance. This noble gesture cost Patrick his life. While assisting the driver, Patrick warned his fellow cadets of the impeding danger. His honorable actions left him in harm's way.

Patrick is not unlike like the many members of our armed forces. He wanted to serve his country and he chose the Air Force as a way to help protect America. Many service people have lost their lives in the defense of the citizens of this nation, on and off the battlefield. For Patrick, his battlefield that night was an icy, snow-covered road.

Mr. Speaker, during this time of national tragedy, Patrick symbolizes what our men and women in the armed services stand for. They fight for our protection, for our way of life, and our freedom. Patrick looked out for his fellow citizens that terrible night, and his actions saved the lives of others. I would like to express my condolences to Patrick's family, the Air Force Academy, his fellow cadets, and friends. He touched the lives of many and he will be greatly missed.

CONGRATULATING LA OPINIÓN NEWSPAPER

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Ms. SOLIS. Mr. Speaker, I rise today to congratulate one of the most influential Spanish Language newspapers in the United States on its 75th anniversary. Founded on September 16, 1926, La Opinión has played an important role in the development of the Hispanic community by reporting on issues relevant to the many Hispanic subgroups in the United States.

La Opinión's journalistic contributions to the Hispanic community are many. Sixty percent of my constituents are Hispanic, they range from newly arrived to fifth generation immigrants. As the leading Spanish language newspaper, my constituents depend on La Opinión for various types of information, including news from their home countries, national events and learning about America's way of life. La Opinión provides useful information for everyday life, creates awareness of local, national and international issues, and promotes political consciousness.

La Opinión has established itself as a leader in the information world. It has demonstrated its true commitment to inform and educate the community objectively. However, its success rests most importantly in the ability to present material in a human way and making every story applicable to the reader's life.

Once again, I congratulate and commend the staff of La Opinión for their commitment to inform the Latino community in the 31st District of California for the last 75 years.

AUSTIN-EAST AND MARYVILLE HIGH SCHOOL STATE FOOTBALL CHAMPIONSHIPS

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. DUNCAN. Mr. Speaker, every Member is proud when one of their hometown football teams has a winning season, but I am especially proud to say that two of my District's high school teams have won a Tennessee State Championship in their respective divisions. The Austin-East Roadrunners from Knoxville and the Maryville Rebels fought their way to victory on Saturday, December 1st.

For the Maryville Rebels, this was a remarkable repeat performance. As Running Back Carl Stewart said following the game, "It's tradition." In fact, this is the third time in four years that the Rebels have carried the title of State Champions. One of the keys to success that these players share is the belief that every game, no matter the odds, is winnable. They consistently remain focused on the next play and give it all they have.

For the Austin-East Roadrunners, this season was especially rewarding. Many of the Roadrunners had played together since they were seven-years-old, and Saturday's game offered the chance to end their season side-by-side as champions. As Austin-East Senior Mark Andrews said following the game, "Just tell Knoxville we've got a state championship . . ." To Mark and his teammates I say, I believe your team's efforts deserve to be shared with Knoxville and with the entire House of Representatives. Congratulations.

Those of us who have played football at any level know that it requires a lot of hard work, sweat and even, from time to time, a few tears beginning in summer training to achieve a state championship in December. These high school students have shown us all what can be accomplished with the right focus and dedication to excellence.

I believe we can all learn a lesson from the fine young men on both teams. Head Coaches George Quarles of Maryville and Stanton Stevens of Austin-East, along with every player, coach, parent and fan, should be proud of these teams' efforts—I know I am.

PAYING TRIBUTE TO TONY BOBICKI

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Tony Bobicki of Alamosa, Colorado. Tony has recently been named to carry the Olympic torch for the 2002 Winter Games. As a representative of the City of Alamosa, Tony will be among 11,500 Americans selected to carry the torch across the United States.

This is a great honor for many individuals in the country, but more so for Tony. Tony was selected for overcoming a condition that threatened to take away his ability to walk. Diagnosed with hip socket deterioration at the age of six, Tony was told the chance to walk again would be slim to none. With a determination known to many in the community, Tony refused to give up, left his crutches in the second grade, and learned to walk again. He went on to compete in the athletic arena and was awarded the Outstanding Athlete of the Year as a senior in high school.

Today, Tony is Captain of the Volunteer Fire Department, and with the use of a shoe insertion, leads a normal life. His condition still provides discomfort, but Tony is determined to live on. His determination led to his appointment to carry the torch for the community of Alamosa. In reaction to this honor, Tony stated he will "not walk but jog," during his torch bearing opportunity.

Mr. Speaker, it is an honor to recognize Tony Bobicki and his will to succeed in life. He has overcome insurmountable odds to walk again and his courage serves as a model for those suffering from similar ailments. I would like to extend my congratulations to Tony, his family, and the community upon receiving this honor for Alamosa and the State of Colorado. Good luck in your "jog" Tony and I wish you the best in your future endeavors.

A DRUM ROLL FOR SAGINAW HIGH'S MARCHING BAND

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. BARCIA. Mr. Speaker, I rise today to sound the trumpets for the 107-member Saginaw High School Trojans Marching Band for consistently playing their way to victory in various musical competitions and also to praise Band Director Jeannine Coughlin for her persistence and determination in returning the Marching Trojans to a place of prominence among high school bands in mid-Michigan and across the nation.

When Jeannine Coughlin first picked up the director's baton in 1993 to lead the Marching Trojans, band membership was down to a low of thirty musicians and it was a struggle to recruit students to participate. Jeannine expeditiously remedied the situation by persuading young people that learning to play an instrument was within their capabilities if they were willing to put in the effort and practice. Her confidence and enthusiasm quickly spread throughout the school and a top notch marching band was reborn.

Moreover, the band's success has amplified, reaching well beyond the confines of its practice room and its performance venues. In their new black and gold uniforms, band members proudly display a sense of school pride and unity that goes a long way in instilling an admirable self-image and strong sense of self-respect for the entire student body.

I have had the privilege and pleasure of listening to the band and watching their well-choreographed dance routines as we marched together in a parade. I can personally attest to their superior musical skills, lively cadence and unbridled spirit. Their talent also has been widely recognized wherever they perform, including a first-place finish last May in the parade review competition at the Showcase Music Festival in Atlanta, Georgia. The squad beat out 22 other high school bands from across the country for the grand prize trophy and $200, The band also scored another first-place victory in the 2001 Mackinaw City Memorial Day Parade.

Finally, Mr. Speaker, I ask my colleagues to join me in applauding the Saginaw High School Marching Trojans and Band Director Jeannine Coughlin for energizing the musical talents of young people and for providing unparalleled rhythmic interludes at sporting events, parades and so many functions throughout the year. Their dynamic and mellifluous performances will linger in the memories of listeners long after the show is over.

OVER-THE-ROAD BUS SECURITY AND SAFETY ACT OF 2001

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. OBERSTAR. Mr. Speaker, I join my Transportation and Infrastructure Committee colleagues in introducing the Over-the-Road Bus Security and Safety Act of 2001. Since the September 11, 2001 terrorist attacks, over-the-road bus drivers and passengers in the United States have been the targets of many serious assaults, including one assault killing seven passengers and another assault injuring 33 passengers. In addition, there have been at least three other serious over-the-road bus security breaches. Recent terrorist acts on Israeli buses and in bus stations further heighten the need for stronger bus security measures in the United States.

The intercity bus industry serves more than 4,000 destinations in the United States, and making intercity bus facilities secure is indeed a formidable task. Federal financial support is needed for passenger and baggage screening in terminals; implementation of a ticket identification system; emergency communications systems linked to police and emergency personnel; enhanced driver compartment security; increased security training; development and maintenance of information and communications systems with law enforcement; installing cameras and video surveillance equipment; and other measures to make buses, terminals, and garages more secure. The Over-the-Road Bus Security and Safety Act of 2001 authorizes the funding and requires the planning necessary to make these critical bus security improvements.

The legislation authorizes $200 million in fiscal year 2002 to allow the Secretary of Transportation to make grants to private bus operators for system-wide security improvements to their operations. The bill imposes a 25-cent passenger surcharge in fiscal years 2002, 2003, and 2004 on tickets over $5. The proceeds of the fee will be used by the Secretary for security grants in 2003 and future years.

Over-the-road buses, which transport approximately 774 million passengers annually, are the only viable means of transportation for many people throughout the country. They serve thousands of communities that have no other form of intercity public transportation and provide the only affordable means of transportation for millions in urban areas. Just as passage of aviation security legislation is vital to encouraging passengers to fly, again, intercity bus security legislation is needed to restore confidence in our intercity bus system.

The bill is not a handout. Since September 11, the intercity bus industry has spent millions on enhanced security measures. The funds provided by the bill will supplement measures already undertaken by the industry to increase the security of the bus system and restore the public's confidence in traveling by bus. I urge my colleagues, all of whom have communities in their districts served by intercity buses, to support this legislation.

Although I am proud to be an original cosponsor of this bill, I strongly encourage the Committee on Transportation and Infrastructure to take the next step and develop a comprehensive infrastructure security package. Recently, Congress enacted the Aviation and Transportation Security Act, the most important aviation security legislation of the last three decades. Although the Act creates a Transportation Security Administration (TSA) for all transportation security functions, we have much work left to do. We have enormous security needs among all of our modes of transportation—from passenger and freight railroads, transit systems, and pipelines, to bridges, ports, and tunnels—and other infrastructure facilities, including public buildings, locks and dams, and wastewater and drinking water facilities.

For instance, I am very concerned about securing the railways that carry more than 40 percent of the nation's freight traffic and millions of passengers—both commuters and intercity travelers. Amtrak continues to play a vital role in the nation's transportation network. For example, even before the terrorist attacks, Amtrak carried more passengers between New York City and Washington, D.C. than either of the air shuttles. In cities and their surrounding areas throughout the nation, millions rely on commuter trains to get to work each day. New York's Penn Station handles nearly 400,000 Amtrak, rail commuter, and rail transit passengers every day. Yet the infrastructure—the bridges, tunnels, track, stations, yards, and other facilities—that supports all of these movements is not secure from sabotage or other terrorist acts.

At the same time, the Nation's freight railroads carry tremendous volumes of hazardous materials—more than one million tons daily of hazardous chemicals, 15 percent of the nation's total. In addition, the railroads are major transporters of coal, agricultural commodities, the products of mines and quarries, and manufactured goods, especially automobiles. If the railroads were shut down due to a terrorist action, the national economy would quickly grind to a halt.

A relatively small number of key bridges and rail transportation nodes are vital to the smooth and continuous flow of traffic. Likewise, a number of major tunnels handle significant volumes of freight and passenger traffic. A terrorist attack on any one of these facilities could have devastating consequences in terms of lives lost or economic disruption. However, one of the outgrowths of the September 11 tragedies has been a thorough and ongoing assessment of our transportation infrastructure vulnerabilities. We have begun to determine what will be needed to ensure the safety and security of those who ride the nation's railroads and what must be done to ensure the uninterrupted flow of rail freight traffic. Some of these estimates are preliminary, but they do provide a good initial reading of the needs.

On the passenger side, Amtrak estimates that infrastructure protection will require $417.1 million, ensuring equipment security will cost $37.4 million, and providing the necessary manpower will cost $60.6 million. Amtrak will nearly double the number of track inspectors so that they can pay closer attention to ensuring the security of the rights-of-way. In addition, Amtrak requires $1 billion to make necessary life safety improvements in the tunnels feeding New York's Penn station and to rehabilitate tunnels in Washington, D.C. and Baltimore. An additional $254 million is needed to increase the accessibility of Penn Station for safety and emergency responders, to renovate critical bridges in Connecticut, and provide for enhanced radio communications in high-speed territory.

On the freight side, the costs of rerouting, increased switching, and express movement of hazardous materials along with increased manpower costs guarding and securing critical nodes, increasing car inspections, and providing employee awareness training has been estimated to be about $100 million annually. Developing a new railroad operations center to provide continuous links to Federal intelligence agencies and upgrading the security at nearly 100 data and computer centers will require $200 million in capital costs. Hardening the bridges, tunnels, fuel facilities, hump yards, and other infrastructure assets that have been identified as being critical to the national defense will require $750 million in up front capital costs.

In addition, we face enormous port security needs. Earlier today, the Subcommittee on Coast Guard and Maritime Transportation had a hearing on port security at which Department of Transportation Secretary Norm Mineta and U.S. Coast Guard Commandant Jim Loy testified that approximately 95 percent of the tonnage of our Nation's international trade moves by water. Six million loaded containers, 156 million tons of hazardous materials, and nearly one billion tons of petroleum products enter our ports each year. During a major military deployment, 90 percent of our military materials move through our Nation's seaports. We need to better protect port facilities and critical bridges by developing a comprehensive security plan, improving security coordination and planning, deploying sea marshals, and establishing new penalties for criminal acts against vessels and maritime facilities.

I am hopeful that we can work together, on a bipartisan basis, to develop a comprehensive infrastructure security bill that includes this over-the-road bus bill and security for all of our critical infrastructure.

IN RECOGNITION OF MARGARET VAN DER HEIDE AND REBECCA GALUSKA

HON. MICHAEL M. HONDA

OF CALIFORNIA

HON. RON KIND

OF WISCONSIN

HON. MARTIN OLAV SABO

OF MINNESOTA

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. HONDA. Mr. Speaker, today I join with my colleagues, Rep. KIND, Rep. SABO, and Rep. THURMAN in recognition of Margaret Van der Heide and Rebecca Galuska.

In the wake of September 11th, the American people have been donating at a record rate. We donate our money, our possessions, and our precious time to help fellow citizens throughout the nation. These donations are helping people rebuild their lives every day, but there is another type of donation that is desperately needed by Americans all over the country. Today, another seventeen people will be added to the growing list of those who wait for the donation of an organ.

As of November 2, 2001, the United Network for Organ Sharing counted 78,802 patients on its national waiting list for organ donation. Even though 22,953 people successfully received an organ last year giving them new life, another 5,597 people on the list died before an organ became available. They died because of the critical shortage of organ donors. Transplants are now used in the treatment of over 225 diseases; this dramatically increased the number of patients added to the list in the last ten years. However, the number of donors has not increased to keep up with this demand. Due to advances in technology and medicine, people with transplants are able to lead full and healthy lives.

On December 20th of this year, Margaret Van der Heide of Wisconsin will give her daughter, Rebecca Galuska of Minnesota, a new kidney and a chance to live a full and active life. Organ donation is possible for the majority of Americans. I want to encourage all of you to talk with your loved ones about organ donation and get tested to be a donor. You may be able to give the greatest gift of all this holiday season—a new chance at life.

PAYING TRIBUTE TO MELODYE FELDMAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize an outstanding individual from the State of Colorado and acknowledge her contributions to the peace process in Israel. Through her founding efforts of Building Bridges for Peace, Melodye Feldman has created an organization dedicated to resolving ethnic and religious issues that plague our world today. As a result of her efforts, she has received the Annual Civil Rights Award from the Mountain States Office of the Anti-Defamation League.

Melodye created Building Bridges for Peace in 1994 in an effort to resolve disputes that arise between two opposing cultures. Every summer, the organization brings young Israeli and Palestinian women together to solve their national differences and one day return to live in peace in Israel. This type of organization is a valuable tool for the people who suffer from hate and discrimination based on religion and background in the Middle East.

Melodye's conflict resolution efforts have been extremely successful. As a result, she plans to expand her organization to include further anti-discrimination education and improve the prospects of peace in other parts of the Middle East. Her hard work and dedication for peaceful communities in the world is a model for aspiring activists throughout this nation. Hopefully, more individuals will take up her cause and promote the need for human rights throughout the world.

Mr. Speaker, it is an honor to recognize the dedication of Building Bridges for Peace and its founder, Melodye Feldman. Through her efforts, a framework to create a peaceful existence in Israel is possible. This is an issue we face daily when we watch the current events in Israel and the war in Afghanistan. This is an issue to be solved not just by governments and militaries, but also by regular citizens who care about the future of this world. Keep up the good work, good luck in your future endeavors, and congratulations Melodye Feldman on receiving the Annual Civil Rights Award from the Mountain States office of the Anti-Defamation League.

IN MEMORY OF MRS. LOLA REVIS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. KUCINICH. Mr. Speaker, I stand today in memory of a woman known by many of us here today, Mrs. Lola Revis. Mrs. Revis was co-owner of Sherrill's Bakery and Restaurant on Capitol Hill for over fifty years.

Lola and Samuel Revis purchased the diner from William Sherrill in 1941 and ran the business together. After Samuel suffered a stroke in 1969, Lola continued to operate the diner, and in the 1970s her two daughters, Kathyleen and Dorothy, joined her in the business. Lola ran the diner with her two daughters until she was 94 years old.

Lola Revis was the heart and soul of Sherrill's. In 1989, she and her restaurant were featured in an Academy Award-nominated documentary, "Fine Food, Fine Pastries, Open 6 to 9." The documentary made the antique decor, the simple cuisine, and the remarkable owner the subject of national attention.

It was front-page news in Washington when Sherrill's Bakery and Restaurant closed its doors in July 2000. I still miss my daily breakfast of two slices of plain wheat toast, a bowl of oatmeal and a cup of hot water with a slice of lemon on the side, which cost less than three dollars. I no longer have trouble getting a seat, as four of the booths from Sherrill's currently reside in my office.

Lola was a wonderful, hard-working woman with a truly individual spirit. My fellow colleagues, please join me in honoring Mrs. Lola Revis. She will be greatly missed.

[From the Washington Post, Dec. 6, 2001]

SHERRILL'S RESTAURANT OWNER LOLA REVIS DIES

(By Adam Bernstein)

Lola M. Revis, 97, who co-owned Sherrill's Bakery and Restaurant on Capitol Hill and was a key personality in an Academy Award-nominated documentary about the legendary eatery that brought it national attention, died Dec. 5 at the Sunrise assisted living facility in Fairfax County. She had dementia and a lung ailment.

Sherrill's, which opened in 1922 and closed in July 2000, was a relished neighborhood institution that brought together an enormously diverse clientele. Diners at 233 Pennsylvania Ave. SE might be politicians, congressional staffers, employees of the nearby Library of Congress, construction workers or mothers with their children.

Sunday was a notoriously hard day to get a seat, when the place was brimming with young professionals taking their time devouring the newspaper as well as their bacon and eggs.

Prices were low, and two could eat a huge and hearty breakfast for less than $10.

Known for such comfort foods as creamed beef, eggs, meatloaf chock full of onions, fried fish sticks and T-bone steaks, Sherrill's never garnered rave reviews for its nuts-and-bolts cooking.

The exceptions were mainly on the dessert side. Its eclairs were "excellent," according to one Washington Post food writer. Others considered the gingerbread cookies sublime.

Part of Sherrill's allure was the legendarily abrupt waitstaff. At least one waitress was known to tell a patron to "sit down and shut up" or to eat his dinner before it got cold.

Over the years, some visitors interpreted such brusqueness favorably. There were those who even welcomed it as a sign of humanity compared with the robotic, humorless approach in more fleet or fancy chains.

Sherrill's was far from fancy. Its furniture was emblematic of another era, with its high-back wooden booths and banquettes upholstered with gold-glitter plastic. The linoleum floor dated back more than 50 years.

At the center of it all was a petite woman with black-cat eyeglasses and a beehive hairdo—Mrs. Revis. "When things break down, we don't call a repairman, we call an antique dealer," she told the Maturity News Service in 1990.

Many customers described her as the heart and soul of the place, a woman who believed everyone deserved a home-cooked meal, even on most holidays. She kept the place running 364 days a year, taking a break on Christmas Day.

For much of its existence, hours were 6 a.m. to 9 p.m., with Mrs. Revis taking four buses from her Silver Spring home to arrive at dawn to open the store.

David Petersen, a local lad, walked in one day and discovered a whole new world—more accurately, quite an old world—that resulted in his 1989 documentary about the venerable restaurant. The 28-minute film, "Fine Food, Fine Pastries, Open 6 to 9," was mostly funded by the D.C. Community Humanities Council.

"It's a place that contains time," Petersen once told The Post, "There was a different perspective on the way in which people gathered and ate together that was a complete anachronism."

He added: "I recognized a whole change in the rhythm of the speech people had among themselves. The conversation. The movement. The way the light comes in—the architecture of the light. All the advertisements, the clocks, the appliances, the rib-trimming around the pastry cases, the booths."

Lola Mamakos, a Pittsburgh native, grew up in Washington and was a graduate of the old Central High School. Her parents were Greek immigrants, and her father owned a candy store that over time became Louie's Bar and Grill, about a block away from Sherrill's.

In 1927, she married restaurateur Samuel A. Revis, who became manager of Louie's. They purchased William Sherrill's diner in 1941 and kept the name.

The Revises ran the business together until Samuel Revis suffered a stroke in 1969; he died in 1975. By the 1970s, their two daughters also were involved, and all three ran it until Mrs. Revis retired at age 94 after falling and injuring her back.

The daughters, Kathyleen Belfield Milton of Fairfax and Dorothy Polito of Wheaton, sold the business in July 2000. They wished to retire, and Sherrill's had become too expensive to run in an increasingly gentrified neighborhood.

The end of Sherrill's became the subject of much mourning in the era of the low-fat latte, including a front-page Post article and television coverage.

The family sold Sherrill's to a developer, and a Ritz Camera now occupies the space. A Starbucks is on the same block.

Mrs. Revis once said of the business; "If I stay at home, I have to think too much, I'd rather get out and meet the public. It keeps me young."

She moved from Silver Spring to Sunrise in 1998.

She was a member of St. Sophia Greek Orthodox Cathedral in Washington.

Besides her daughters, survivors include five grandchildren; 10 great-grandchildren; and two great-great-grandchildren.

A PROCLAMATION RECOGNIZING JASON PAUL HUBER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. NEY. Mr. Speaker, Whereas, Jason Paul Huber has devoted himself to serving others through his membership in the Boy Scouts of America; and,

Whereas, Jason Huber has shared his time and talent with the community in which he resides; and,

Whereas, Jason Huber has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and,

Whereas, Jason Huber has kindly built a deck and set of stairs for Jefferson Lake State Park; and,

Whereas, Jason Huber must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award; and,

Therefore, I join with the entire 18th Congressional District of Ohio in congratulating Jason Paul Huber for his Eagle Scout Award.

TOO MANY FEDERAL COPS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. PAUL. Mr. Speaker, I am inserting in the RECORD a copy of an article by former cabinet member Joseph Califano that appeared in today's Washington Post. I call this article entitled "Too Many Federal Cops," to the attention of Members. It presents a balanced and even-handed assessment of how successive administrations over the decades have expanded Federal police powers at considerable cost to our endangered civil liberties.

I wholeheartedly agree with the points raised by Mr. Califano, having spoken in this House concerning the same topic on many occasions. I wish to commend Mr. Califano for his timely and important piece, and recommend it to Members and others concerned with preserving civil liberties.

TOO MANY FEDERAL COPS

(By Joseph A. Califano Jr.)

As defense lawyers and civil libertarians huff and puff about Attorney General John Ashcroft's procedural moves to bug conversations between attorneys and their imprisoned clients, hold secret criminal military trials and detain individuals suspected of having information about terrorists, they are missing an even more troubling danger: the extraordinary increase in federal police personnel and power.

In the past, interim procedural steps, such as the military tribunals Franklin Roosevelt established during World War II to try saboteurs, have been promptly terminated when the conflict ended. Because of its likely permanence, the expansion and institutionalization of national police power poses a greater threat to individual liberties. Congress should count to 10 before creating any additional police forces or a Cabinet-level Office of Homeland Security.

Pre-Sept. 11, the FBI stood at about 27,000 in personnel; Drug Enforcement Administration at 10,000; Bureau of Alcohol, Tobacco and Firearms at 4,000; Secret Service at 6,000; Border Patrol at 10,000; Customs Service at 12,000; and Immigration and Naturalization Service at 34,000. At the request of the White House, Congress is moving to beef up these forces and expand the number of armed air marshals from a handful to more than a thousand. Despite the president's objection, Congress recently created another security force of 28,000 baggage screeners under the guidance of the attorney general.

In 1878 Congress passed the Posse Comitatus Act to prohibit the military from performing civilian police functions. Over Defense Secretary Caspar Weinberger's opposition, President Ronald Reagan declared drug trafficking a threat to national security as the rationale for committing the military to the war on drugs. (Weinberger argued that "reliance on military forces to accomplish civilian tasks is detrimental to . . . the democratic process.") Reagan's action gives George Bush a precedent for committing the military and National Guard to civilian police duty at airports and borders.

Given the president's candor about the likelihood that the war on terrorism will last many years, the administration and a compliant Congress are in clear and present danger of establishing a national police force and—under either the attorney general, director of homeland security or an agency combining the CIA and State and Defense intelligence (or some combination of the above)—a de facto ministry of the interior.

The fact that George Bush has no intention of misusing such institutions is irrelevant. You don't have to be a bad guy to abuse police power. Robert Kennedy, a darling of liberals, brushed aside civil liberties concerns when he went after organized crime and trampled on the rights of Jimmy Hoffa in his failed attempt to convict the Teamsters boss of something. He bugged and trailed Martin Luther King Jr., even collecting information on the civil rights leader's private love life, until Lyndon Johnson put a stop to it.

Bureaucratic momentum alone can cross over the line. After President John F. Kennedy privately berated the Army for being unprepared to quell the riots when James Meredith enrolled at the University of Mississippi, we (I was Army general counsel at the time) responded by collecting intelligence information on individuals such as civil rights leaders, as well as local government officials in places where we thought there might be future trouble. We were motivated not by any mischievous desire to violate privacy or liberties of Americans but by the bureaucratic reflex not to be caught short again.

In the paranoia of Watergate, the CIA followed a Washington Post report for weeks, even photographing him through the picture window of his home, because he had infuriated the president and the agency with a story containing classified information. Faced with our discovery (I was The Post's lawyer at the time), CIA Director William Colby readily admitted that "someone had gone too far."

All 100 members of the Senate voted to create the newest federal police force under the rubric of airport security. In its rush to judgment, the Senate acted as though a federal force was the only alternative to using the airlines or private contractors. Quite the contrary, policing by the individual public airport authorities, guided by federal standards, would be more in line with our tradition of keeping police power local.

It's time for the executive and Congress to take a hard look at the police personnel amassing at the federal level and the extent to which we are concentrating them under any one individual short of the president. Congress should turn its most skeptical laser on the concept of an Office of Homeland Security and on any requests to institutionalize its director beyond the status of a special assistant to the president. We have survived for more than 200 years without a ministry of the interior or national police force, and we can effectively battle terrorism without creating one now.

HOUSE OF REPRESENTATIVES—*Monday, December 10, 2001*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC
December 10, 2001.

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God of history and our eternal destiny, be with us today and guide us every step of our journey as persons and as a nation.

In response to Your call Abram was led from place to place until Your promise was fulfilled. He never doubted Your presence and always relied on Your guidance.

As the man of faith journeyed, he often stopped to offer You thanks for the latest accomplishment and petition You for the future. Scripture tells us: "He built an altar to You, Lord, and invoked You, Lord, by name. Thus Abram journeyed by stages toward the Negeb."

If it is in stages You lead people of faith, let it be with us. Grant us measured patience as we face stages of growth and spiritual formation in life.

You alone, Lord, know our limitations and our full potential. Whether it is stages of war, economic stability, or stages of human understanding or painful loss we undergo, may we persevere. Whether it is in the process of law or in building a new world order, help us to move through each stage by faith, placing all our trust in You, O Lord, both now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill and concurrent resolutions of the House of the following titles:

H.R. 1230. An act to provide for the establishment of the Detroit River International Wildlife Refuge in the State of Michigan, and for other purposes.

H. Con. Res. 90. Concurrent resolution authorizing the printing of a revised and updated version of the House document entitled "Hispanic Americans in Congress."

H. Con. Res. 244. Concurrent resolution authorizing the printing of a revised edition of the publication entitled "Our Flag."

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1291. An act to amend title 38, United States Code, to increase the amount of educational benefits for veterans under the Montgomery GI Bill.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2716. An act to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 703. An act to extend the effective period of the consent of Congress to the interstate compact relating to the restoration of Atlantic salmon to the Connecticut River Basin and erating the Connecticut River Atlantic Salmon Commission, and for other purposes.

S. 942. An act to reauthorize the supplemental grant for population increases in certain states under the temporary assistance to needy families program for fiscal year 2002.

S. 1714. An act to provide for the installation of a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building.

The message also announced that the Senate has agreed to the House amendment with an amendment.

S. 1196. An act to amend the Small Business Investment Act of 1958, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 7, 2001.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 7, 2001 at 9:38 a.m.

That the Senate passed without amendment H.R. 1761.

That the Senate passed without amendment H.R. 2061.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 7, 2001.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 7, 2001 at 11:36 a.m.

That the Senate agreed to conference report H.R. 2944.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

APPOINTMENT OF MEMBER TO BOARD OF DIRECTORS OF VIETNAM EDUCATION FOUNDATION

The SPEAKER pro tempore. Without objection, pursuant to section 205(a) of the Vietnam Education Foundation Act of 2000 (Public Law 106–554), and upon the recommendation of the majority leader, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Directors of the Vietnam Education Foundation:

Mr. SMITH of New Jersey.

There was no objection.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1714. An act to provide for the installation of a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building; to the Committee on Government Reform.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House, reports that on December 6, 2001 he presented to the President of the United States, for his approval, the following bills.

H.J. Res. 71. Amending title 36, United States Code, to designate September 11 as Patriot Day.

H.R. 717. To amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Dechenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and Emery-Dreifuss muscular dystrophies.

H.R. 1766. To designate the facility of the United States Postal Service located at 4270 John Marr Drive in Annandale, Virginia, as the "Stan Parris Post Office Building".

H.R. 2261. To designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the "Earl T. Shinhoster Post Office".

H.R. 2291. To extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

H.R. 2299. Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

H.R. 2454. To redesignate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, California, as the "Congressman Julian C. Dixon Post Office".

Jeff Trandahl, Clerk of the House, reports that on December 7, 2001 he presented to the President of the United States, for his approval, the following bill.

H.J. Res. 76. Making further continuing appropriations for the fiscal year 2002, and for other purposes.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House will stand adjourned to meet at 12:30 p.m. on tomorrow, December 11, 2001, for morning hour debates.

There was no objection.

Accordingly (at 2 o'clock and 6 minutes p.m.), under its previous order, the House adjourned until tomorrow, December 11, 2001, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4749. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-195, "Unemployment Compensation Terrorist Response Temporary Amendment Act of 2001" received December 10, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4750. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-194, "Emergency Economic Assistance Temporary Act of 2001" received December 10, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4751. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-197, "Medicaid Provider Fraud Prevention Amendment Act of 2001" received December 10, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4752. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-201, "Child Support Enforcement Amendment Act of 2001" received December 10, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4753. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-200, "Advisory Neighborhood Commissions Amendment Act of 2001" received December 10, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4754. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-199, "Advisory Neighborhood Commissions Annual Contribution Amendment Act of 2001" received December 10, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4755. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-198, "Litter Control Administration Amendment Act of 2001" received December 10, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4756. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-196, "Office of Administrative Hearings Establishment Act of 2001" received December 10, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

4757. A letter from the Attorney General, Department of Justice, transmitting a report on the Strategic Plan for fiscal years 2001-2006; to the Committee on Government Reform.

4758. A letter from the Assistant Director, Office of General Counsel, Department of Justice, transmitting the Department's final rule—National Security; Prevention of Acts of Violence and Terrorism [BOP-1116; AG Order No. 2529-2001] (RIN: 1120-AB08) received November 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4759. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operations Regulations; Duwamish Waterway, WA [CGD13-01-024] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4760. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Shaw Cove, CT [CGD01-01-178] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4761. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operations Regulations; Lake Washington, WA [CGD13-01-022] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4762. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; New Jersey Intracoastal Waterway, Cape May Canal [CGD05-01-007] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4763. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operating Regulation; Quachita River, LA [CGD08-01-007] (RIN: 2115-AE47) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4764. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operations Regulations; Chehalis River, WA [CGD13-01-025] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4765. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Hampton River, NH [CGD01-01-177] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4766. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Jamaica Bay and connecting waterways, NY [CGD01-01-204] received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4767. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operations Regulations; Lake Washington Ship Canal, WA [CGD13-01-023] (RIN: 2115-AE97) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4768. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Neponset River, MA [CGD01-01-203] received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4769. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone; Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska [COTP Western Alaska 01-002] (RIN: 2115-AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4770. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone; Old Lyme Fireworks Display, Old Lyme, CT [CGD01-01-145] (RIN: 2115-AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4771. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Anchorage Grounds and Safety Zone; Delaware Bay and River [CGD05-01-060] (RIN: 2115-AA97 and 2115-AA98) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4772. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zones; Port of Jacksonville and Port Canaveral, FL [COTP Jacksonville 01-110] (RIN: 2115-AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4773. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; San Diego Bay [COTP San Diego 01-007] (RIN: 2115-AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4774. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety and Security Zones; LPG Transits, Portland, Maine Marine Inspection Zone and Captain of the Port Zone [CGD01-01-192] (RIN: 2115-AA97) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4775. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Port of Tampa, Tampa Florida [COTP Tampa-01-129] (RIN: 2115-AA97) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4776. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zones; Crystal River, Florida [COTP Tampa-01-108] (RIN: 2115-AA97) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4777. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Selfridge Army National Guard Base, MI [CGD09-01-129] (RIN: 2115-AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4778. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; DOD Barge Flotilla, Cumberland City, TN to Alexandria, LA [CCGD08-01-036] (RIN: 2115-AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4779. A letter from the Attorney General, Department of Justice, transmitting a draft bill entitled, "Settlement of Litigation and Prompt Utilization of Wireless Spectrum"; jointly to the Committees on Energy and Commerce, the Judiciary, Ways and Means, and the Budget.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NEY: Committee on House Administration. H.R. 3295. A bill to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes; with an amendment (Rept. 107-329 Pt. 1).

DISCHARGE OF COMMITTEE

[The following actions occurred on December 7, 2001.]

Pursuant to clause 2 of rule XII the Committee on the Judiciary discharged from further consideration. H.R. 2062 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Energy and Commerce discharged from further consideration. H.R. 2768 referred to the Committee of the Whole House on the State of the Union.

[Submitted December 10, 2001]

Pursuant to clause 2 of rule XII the Committees on the Judiciary, Science, Government Reform and Armed Services discharged from further consideration. H.R. 3295 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 6 of rule XV, the Speaker filed with the Clerk a notice requesting that the following bill be placed upon the Corrections Calendar:

H.R. 1022. A bill to amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

[The following action occurred on December 7, 2001]

H.R. 2581. Referral to the Committees on Agriculture, Armed Services, Energy and Commerce, the Judiciary, Rules, Ways and Means, and Intelligence (Permanent Select) extended for a period ending not later than December 15, 2001.

[Submitted December 10, 2001]

H.R. 3295. Referral to the Committees on the Judiciary, Science, Government Reform, and Armed Services for a period ending not later than December 10, 2001.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII,

Mr. ROHRABACHER introduced a bill (H.R. 3440) to extend nondiscriminatory treatment to the products of Afghanistan; which was referred to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 184: Mr. OWENS.

H.R. 1307: Mrs. LOWEY.

H.R. 2148: Mr. FRANK.

H.R. 2347: Mr. JOHNSON of Illinois.

H.R. 2349: Mr. ROTHMAN and Mr. BISHOP.

H.R. 2462: Mr. LATOURETTE, Mr. CLEMENT, and Mr. OBERSTAR.

H.R. 2574: Mr. GREEN of Texas.

H.R. 2917: Mrs. MALONEY of New York, Mr. DUNCAN, and Mr. SKELTON.

H.R. 3229: Mr. JONES of North Carolina.

H.R. 3250: Mr. HONDA, Mr. KILDEE, Mr. BLUNT, Mr. CARSON of Oklahoma, Mr. CALVERT, Ms. ROS-LEHTINEN, Mr. BISHOP, Mr. JACKSON of Illinois Mr. ENGLISH, Mr. OWENS, and Mrs. MINK of Hawaii.

H.R. 3274: Mr. PASCRELL.

H.R. 3295: Mr. CANTOR, Ms. PRYCE of Ohio, Mr. BOEHNER, Ms. MILLENDER-MCDONALD, Mrs. CHRISTENSEN, Mr. LUCAS of Kentucky, Mr. TANNER, Mr. NEAL of Massachusetts, Mr. CRAMER, Mr. SABO, Mr. ADERHOLT, Mrs. CAPITO, Mr. DREIER, Mr. GUTKNECHT, Mr. HAYWORTH, Mr. OTTER, Mr. SWEENEY, Mr. NADLER, Mr. MCINTYRE, AND MR. SIMMONS.

H. Con. Res. 267: Ms. HART.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 4, by Mr. CUNNINGHAM on House Resolution 271: Steve Buyer.

SENATE—*Monday, December 10, 2001*

The Senate met at 3 p.m. and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

"Not by might nor by power, but by My Spirit," saith the Lord.—Zechariah 4:6.

Almighty God, our Adonai, thank You for these salient words reminding us that You are the only reliable source of strength to accomplish anything of lasting value. These words spoken through Zechariah and repeated during the days of Hanukkah have particular significance to us this year. We claim the meaning of the word Hanukkah, "dedication," as we rededicate our lives to serve You in the struggle to assure religious freedom for all people. We join with Jewish people in the celebration of the Feast of Dedication and remember the victory in 165 B.C. of the Maccabees over the tyrant Antiochus IV Epiphanes and his troops who had occupied Jerusalem, desecrated the temple, and sought to destroy forever the Hebrew religion.

We celebrate this victory that enabled the Jews to rededicate the temple and once again worship You freely. Gratefully, we remember the one remaining flask of pure olive oil left in the temple that You kept burning for 8 days and 8 nights until the supply could be replenished. Now, as Jews light menorahs, we ask You to light up all of our hearts with Your truth so that we all can shine in the spiritual darkness of our time when evil things are done in the name of religion, and where religious freedom is denied people. We dedicate ourselves to battle injustice not by our might or our power, but by the courage of Your Spirit. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The majority whip is recognized.

SCHEDULE

Mr. REID. Mr. President, this afternoon we are going to consider the farm bill. There will be no rollcall votes today. The next rollcall votes will occur on Tuesday morning at 9:30 a.m. on judicial nominations.

MEASURES PLACED ON THE CALENDAR—S. 1786 and S. 1789

Mr. REID. Mr. President, I understand there are two bills—S. 1786 and S. 1789—at the desk, having been read the first time. Is that true?

The PRESIDENT pro tempore. That is correct.

Mr. REID. Mr. President, I ask unanimous consent that it be in order, en bloc, for these two bills to receive a second reading, but I would then object to any further consideration on the legislation.

The PRESIDENT pro tempore. Is there objection to the request that the two bills be considered en bloc?

Hearing no objection, it is so ordered.

The two bills are considered, en bloc.

Is there objection to the second reading of the two bills, en bloc?

Hearing no objection, the two bills are read, en bloc.

The majority whip has objected to further reading of the bills. They will, consequently, be placed on the general orders calendar on the next legislative day.

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1731, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ECONOMIC STIMULUS

Mr. REID. Mr. President, now before the Senate is the farm bill. The farm bill will do a number of things. First of all, it will stimulate the economy. The need to stimulate the economy is something we need to do right away.

Before getting into the intricacies of the farm bill, I refer to a couple of pieces of mail I have received. Unfortunately, we don't get mail the way we used to, but I have some e-mails here.

> Dear Senator REID: We wish to thank you for the Thanksgiving meal we received from you via the Culinary Union here in Las Vegas.

During Thanksgiving break, I helped pass out some turkeys and other little boxes until we ran out. People were donating them. They thought they would have enough. They weren't even close to having enough meals. But this is a letter, an e-mail, that says:

> My husband has worked here for 29 years plus and is out of work. Never have we not had money for the holiday. We would not have had the turkey dinner if wasn't for you. We have even enjoyed leftovers. We just want you to know how we appreciate it. Thank you very much. The Heller's.

Here is another one:

> I was recently changed to part time at the corporation where I work. This was done to reduce my hours and eliminate my health insurance. The result is I am earning one half of my prior income and I am paying $600 per month for COBRA. I need temporary help in maintaining my health insurance through COBRA. I understand there is legislation regarding a tax credit for people relying on COBRA. Your endorsement of this proposal would be of great help to me and my family. Thank you for your support. Sharon Sharp.

These are two examples of things we need to do in addition to the farm bill to stimulate this economy. No. 1, do something about unemployment compensation so people who, for example, have gone from welfare to work and don't qualify for unemployment benefits can get some unemployment benefits. If you want to stimulate the economy, give money to then people who are most likely to spend it. Then, of course, this letter from Sharon Sharp, who talks about the importance of doing something about COBRA.

Two of the fundamental precepts of our economic recovery plan, our stimulus, should be to do something about unemployment benefits and to do something about COBRA. I hope we will do both.

I was a little bit confused yesterday as Vice President CHENEY blamed the majority leader for the Senate's failure to pass an economic stimulus package. He even went so far as to call Senator DASCHLE an obstructionist. I know

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Vice President CHENEY is very busy. Maybe he hasn't had the chance to see what goes on in this body.

The fact is, Senator DASCHLE has not obstructed anything. It appears to me the Republicans are protesting too much. They are saying Senator DASCHLE is obstructing this. Why? It is because under this unique situation that has developed here, we are not going through the ordinary process. We are not going through the ordinary process where you would take a bill to the Finance Committee and report a bill out of the Finance Committee.

That is not what we are doing because we received some suggestions that maybe the committee process is not the right way to go. Senator DASCHLE agreed: OK, how do you want to do it then? Speaker HASTERT sent him a written proposal. Senator DASCHLE said: I accept it. He sent it back. That wasn't quite what they meant to say. They sent something else back. Senator DASCHLE agreed to accept that as well.

The agreement is that, among other things, two Democrats from the Senate will join with our counterparts, Republican counterparts here in the Senate and in the House. Senator DASCHLE selected the chairman of the Finance Committee, Senator BAUCUS, and Senator JAY ROCKEFELLER, a senior member of the Finance Committee, to represent the Democratic Senators. He told us in our conference when we met last Tuesday: Look, I trust these men implicitly. They will do the best they can, and they will report back to us when they have an agreement.

Now, it has been suggested that he has called for a two-thirds ratification. Well, he did call for a two-thirds ratification, but he said that Democratic Senators would have to agree with what Senators BAUCUS and ROCKEFELLER negotiated. That certainly doesn't sound unreasonable to me. I hope that whatever the Republicans come back with, they will want their conference to agree on it also. Or are we going to resort to a situation where whatever the President wants, we just blindly accept it?

I don't think that is the way the Constitution was established. I think this little document—the Constitution—sets up three separate but equal branches of Government, and I think we have should have some say on what is produced. Senator DASCHLE is doing his job. We not only have Vice President CHENEY blaming Senator DASCHLE for obstructing an economic stimulus package, but the minority leader in the Senate also stated he would rather have no bill than a bad bill. I think he speaks for a lot of us here. But, he went on to say that if we can't get a bill done this week, we should put it off until next year. I don't think that the American people want us to put off their work until next year. I think we should work hard to get it done this year . . . this week.

I think we should keep in mind the document off of which we are working. The legislation pending at the desk is a bill passed by the House of Representatives. It is a bill that is really interesting, to say the least. In fact, it's not an economic stimulus bill, it's a tax bill, because most of the proposals passed by the House and favored by the Administration are approximately 90 percent in tax cuts, many of them, retroactive. Senate Democrats favor tax relief—including corporate tax relief—that would encourage American businesses to invest more or accelerate certain purchases. However, we shouldn't be pushing permanent, retroactive tax cuts while at the same time American workers who have lost their jobs that their tax relief belongs on the back burner. Case in point: Permanent and retroactive repeal of the corporate alternative minimum tax. That is a primary component of the House bill. This isn't something we are making up, this is in the House bill. How can anybody in good conscience tell a hard-working American such as Sharon Sharp and the Heller family from Nevada—people who lost their jobs—that we don't have enough money to extend unemployment benefits for a few weeks, but we have enough money to give IBM a $1.4 billion tax refund? These are taxes they have already paid, going back to 1988. Any tax you have paid since AMT was passed, they want to give it back.

If that doesn't give you a little bit of an alert, let's look at the list. I will give you some of the companies on the list, and I think it's fair to comment that there is a heavy presence of the oil and energy sector who will get a ton of money back if we accept the House bill that we are accused of obstructing: Ford would get $1 billion; General Motors would get $832 million returned to them; General Electric, $671 million; TXU, $608 million. A foreign company—some of these others are foreign—DaimlerChrysler gets a $600 million refund; Chevron, $572 million; Enron—Enron, who has done a few things such as really damaging people's pensions—some people had invested so heavily in some of these pension fund moneys in Enron stock, which dropped from $98 to 34 cents a share. Enron would get $254 million; Phillips Petroleum, $241 million; IMC Global, $155 million. Also, it is interesting to note that United Airlines and American Airlines, for which we just appropriated $15 billion a few weeks ago, would get about $600 million; CMS Energy, $136 million.

Maybe we are doing a pretty good job of slowing things up. This is the document from which we are working. It would be a shame if we passed this bill. I can't imagine why in the world we would want to pass this piece of legislation.

I think it is important that we get a stimulus package. What will stimulate the economy more, money going to General Electric or any of the companies on this list, or money going to people who have recently been unemployed? Who is going to spend that money? The unemployed people are. They have no other money; they have to spend it to buy groceries, clothing and, perhaps, a turkey for Christmas. As Sharon Sharp says, she wants to keep her health insurance. Unemployment benefits to people who will spend the money would stimulate the economy.

So rather than giving all these corporations a retroactive tax break—remember, this was first enacted because of the widespread problem of the large, highly profitable corporations which used to thrive on the loopholes and didn't pay a penny of corporate taxes. We just said: If you pay no taxes, there is going to be a minimum that you have to pay. That is all we asked in the past. Now we are going to say: Sorry, you don't have to pay any of those taxes. In fact, those of you who did pay, we are going to give it back to you.

Permanent repeal of the corporate alternative minimum tax might be even more expensive than just refunding past tax payments. The AMT reduces the incentive of corporations to find tax loopholes and take as many deductions as possible and to pay at least a minimum tax. Without this, we return to the days when corporations went to extreme measures to find tax loopholes and not pay taxes at all.

If it were up to the House and this administration, we would have enough money for more than $7 billion of retroactive corporate tax breaks, but not any money to help American workers who have lost their jobs. It is precisely these people—middle-income Americans—who are most likely to spend additional money because they would stimulate the economy. They have to; they have no other money. That is what we are trying to do—enact an economic stimulus package that would stimulate the economy.

So I say to my friend, with whom I served in the House of Representatives, the President of the Senate, the Vice President of the United States, he should get a better briefing as to what is going on before he makes statements that Senator DASCHLE is an obstructionist. Senator DASCHLE is doing the American public a service by standing in the way of what they have done in the House of Representatives. It is blatantly unfair to call him an obstructionist, especially when the representatives he appointed to this group of negotiators who are trying to come up with a stimulus package—Senators BAUCUS and ROCKEFELLER—were prepared to attend a meeting that was scheduled for Friday afternoon to continue the negotiations on this package and the chairman of the group, the chairman of the Ways and Means Committee in the House of Representatives, Mr. THOMAS, goes to California to attend a fundraiser. Chairman BAUCUS and Senator ROCKEFELLER thought they had a meeting scheduled, then it was abruptly canceled because the Chairman of the Ways and Means Committee wanted to leave town. Madam President, they know how to spin this well because they have the bully pulpit. They spin things pretty well. The minority leader gets on television and says: Why is TOM DASCHLE doing this? They have the Vice President get on TV and say he is an obstructionist. This is to cover up for the fact that their lead negotiator, Chairman THOMAS, is in California doing a fundraiser when he should be in Washington working. I think they are protesting too much. I don't think they want a stimulus package. So they are trying to point all their poison arrows at Senator DASCHLE, saying he is the reason why we don't have an economic stimulus bill. He is not the reason.

Last month, Senator BAUCUS, chairman of the Finance Committee, marked up an economic stimulus package and reported it to the floor, where Senator DASCHLE immediately called it up for consideration. What happened? The Republicans killed it. Without any amendment process, it was simply killed—no negotiation, no discussion of the amendments.

What makes it even more frustrating, while their excuse for killing the economic stimulus package was that it violated the Budget Act—their own proposal violated the Budget Act. Had we really been trying to kill the stimulus package, we would have raised a budget point of order against their proposal. But in an effort to keep it before the Senate so that we could debate the substance and contents of an economic stimulus, we decided not to raise a point of order. How can they brand Senator DASCHLE an obstructionist? They are the obstructionists. I repeat, they are protesting too much.

For example, the former chairman of the Budget Committee, Senator DOMENICI, came to me a few weeks ago with a proposal I think should have the most serious of discussion. He said: Let's not have withholding taxes collected from the employee or the employer for a month; a proposal that would cost approximately $38 billion. That money would shoot back into the economy like an injection of penicillin. It would be so good for the economy. But no, we were not given a chance to consider that either.

I hope people understand this is a game that is being played. There are no negotiations going on. Our friends on the other side of the aisle won't talk to us. The person supposedly leading the negotiations for the Republicans headed off for California.

I hope Chairman HARKIN gets into the meat of this discussion on the farm bill and that we do not lose sight of the fact that not only are these farm programs great for the country, because we all eat food and America is the farm basket of the world, but they stimulate the economy.

The provisions in this bill—I have worked with the chairman of the committee—are going to be good for the economy. I heard the Republican leader on television over the weekend say: Why do we need a farm bill? I hope the chairman of the committee will describe in detail today why we need a farm bill. We really do need a farm bill. It is important we move forward.

I want to reiterate my point about the meetings that were canceled over the weekend. In the spirit of an agreement reached by the Senate, the House, and the administration, BAUCUS, ROCKEFELLER, GRASSLEY, THOMAS, ARMEY, and RANGEL were supposed to meet on Friday. As I said, without the courtesy of even a simple phone call, the chairman of the Ways and Means Committee, Mr. THOMAS, took off for California. Even Senator GRASSLEY, representing the Republicans, expressed dismay that the negotiations had been rudely interrupted and canceled.

Madam President, with people refusing to meet and negotiate, I'd say that it is pretty clear who is obstructing.

Mr. HARKIN. Will the Senator yield?

Mr. REID. I will be happy to yield to my friend, the chairman of the Agriculture Committee.

Mr. HARKIN. I thank the assistant majority leader for yielding, and I thank him for responding to some of the statements that were made over the weekend.

I did not watch any of the Sunday morning shows, but I read the papers this morning. I saw that Vice President CHENEY had referred to our majority leader, Senator DASCHLE, as an obstructionist, obstructing the stimulus bill. I am delighted the Senator from Nevada has clearly pointed out that no one on this side is obstructing anything. We have been more than willing to work with the other side on a number of items, but it almost seems to this Senator that their definition of obstructionism is "our way or the highway." If we do not do it all how the President or how the Vice President wants or how the Republicans want, then we are obstructionists.

We ought to work together across party lines, get bipartisan agreements, and move ahead. It is not this side that has been obstructing anything. We have wanted to move ahead with legislation.

Take the farm bill—and I will have more to say about it this afternoon. We have been trying to get some time agreements. A request was proposed by our staff earlier that we have a time agreement and that all first-degree amendments at least be laid down by tomorrow afternoon. It was objected to on the Republican side, not on this side.

Everyone knew the farm bill was going to be up. It was laid down last week. Yet they are objecting to having some meaningful debate. No one wants to cut off amendments, but at least we can have some amendments laid down, have time agreements, and debate them.

Second, on the stimulus package, I think the Senator from Nevada is right. I think they are protesting too much on the other side. I smell a little bit of a rat someplace because I have been hearing from my Governor in Iowa, and I have heard from other people and other Governors from around the United States about what bad shape their economies are in right now and how their legislatures will be meeting in January.

Their budget situations look very dire. They are cutting expenses; they are cutting education; they are cutting other programs around the States. They have looked at the proposed Republican stimulus bill with all of the tax cuts, and they have now begun to figure out what that is going to mean in the States and how the State budgets are going to be impacted by these proposed tax cuts the Republicans have proposed in the stimulus package.

A lot of States are saying: Don't give us so much of this "help" because the tax cuts you are putting in there are going to help a lot of the large corporations, a lot of the wealthiest in our country, but at the same time it is going to take money out of our States at a time during the recession when our States can ill afford it.

There is some feedback. Of course, our friends on the other side of the aisle are a little bit in a bind. They promised their big-wig supporters—the big companies and the big corporations—all these tax cuts they were going to get for them, and even though they want to deliver, they cannot because they are going to hurt a lot of the Republican Governors and Democratic Governors, too, in the State budgets. Maybe our friends are caught in a little bit of a bind, promising too much to the large corporations and the wealthy of this country, and then finding out what the impact is going to be on our States.

What they have come up with is not a stimulus package. It is simply a tax relief package for the biggest and wealthiest in our country. That is not stimulus at all.

If they want to sit down, negotiate, talk about it, and work out agreements, that is the spirit of this place and that is what we ought to be doing. To say it is their way or no way, and we say we want to work it out, and they say we are being obstructionist—the American people understand that. They understand we are not being obstructionists.

Talk about obstructionism, try this one on for size. We are now engaged in a conference with the House on the reauthorization of the elementary and secondary education bill. For years, people on both sides of the aisle—I will not point to one side or the other—people on both sides of the aisle have been saying we need to meet our Federal commitment to special education.

The agreement the Federal Government made 26 years ago was that the Federal Government would pick up at least 40 percent of the average per pupil cost of educating kids with disabilities. Twenty-six years ago, the Federal Government said that. Today our commitment is at about 15 percent. This is the single biggest issue in every school district in America—the funding for special education.

The Senate adopted an amendment offered by me and by Senator HAGEL from Nebraska that would put us on the pathway of fully funding special education over 6 years by taking it off the appropriations side and putting it on the mandatory side. We are now in conference negotiations.

The National Governors' Association, headed by a Republican Governor from Michigan, signed a letter, supported by every Governor in the United States, saying they supported the Senate's position of full funding special education.

The National School Boards Association, the National PTA, the National Education Association, the National Conference of State Legislatures—38 State legislatures have already passed resolutions supporting this full funding. The only reason we do not have 50 is because some of them were not meeting this year after we adopted it. Wait until January. All the legislatures are saying it is time the Federal Government stepped up and did its part in special education.

Here is the catch: The White House, the administration, has said no, they will not agree with the Senate position on funding for special education.

So we had our vote on it. The House voted against it. We voted for it. Okay. What is to be done then? Usually in a conference, negotiations are started and compromise is attempted.

So we offered to the House a compromise, and the House said forget it, they are not going to compromise. They do not want to fund special education one more nickel than what they have done in the bill. It is not coming from the House side. It is coming down from the other end of Pennsylvania Avenue. It is coming from the White House. It is the White House that is stonewalling.

So talk about obstructionism, that is obstructionism when the White House refuses to negotiate or reach any kind of compromise with the Senate on full funding for special education. So I think before the Vice President and others start throwing around words about obstructionism, they ought to pick up the mirror and look at themselves, especially when it comes to funding for special education.

So I thank the Senator from Nevada for pointing out the fact we have not been obstructing anything on this side, and for pointing out this so-called stimulus package is nothing more than the old "trickle down." If those at the top are given to it, some of it may trickle down on the rest of us. We have tried that before and it has never worked; it will not work this time either.

Yes, we do need to do something about unemployment compensation. The biggest stimulus we could have right now is getting health care for our children and health care for people who do not have health care coverage right now. That is the biggest stimulus we could give to our economy and help people at the same time.

I am going to wrap up my statement, and then I am going to talk about the farm bill, another stimulus.

We are in dire straits. Rural America is hurting. We need a farm bill. When farmers know a bill is coming, they are borrowing money; they are buying new equipment; they are doing the things that stimulate the kind of growth and the kind of manufacturing we need in this country. So I sure hope we will not hear any more of this blame game, trying to blame someone for being obstructionist when all we are trying to do is work in a bipartisan fashion, as we should be doing, to reach the best decisions for the American people. So when they say "obstructionism," they say it is our way or the highway. To me, that is obstructionism.

I yield the floor.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry: Am I entitled to speak for a given time or must I seek consent of the Senate?

The PRESIDING OFFICER. The Senate is on the farm bill, and the Senator may speak as long as he wishes on the farm bill.

Mr. DOMENICI. I ask unanimous consent that I speak for only 9 minutes instead of as long as I wish, but that it not be on the farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 9 minutes.

WHERE IS THE DEMOCRATIC STIMULUS PACKAGE?

Mr. DOMENICI. Madam President, fellow Senators, especially to my good friend, HARRY REID, I will not take time this afternoon to attempt in some feeble way to rebut the statement with reference to the partisanship of the last month or so with reference to various items, including the stimulus package. Suffice it to say, the granddaddy of all partisanship occurred on the stimulus package that was reported out of the Finance Committee of the Senate because on that particular one, the conferees were instructed by the Democratic majority—and I remind everyone that majority is by one vote—they told that committee to report out a Democratic package every single Democrat Senator would support. That meant there were no Republicans because they had something to offer, too. But rather they took a Democratic package, produced it, and then the big partisan debate started with reference to an attempt to get a stimulus package.

Where is that Democratic stimulus package? I do not have it. I wish I did. I would love to read it to the American people so they could conclude whether it is going to make jobs for people, whether that is going to excite this economy. It is still pending at the desk. It is still pending because those who produced it do not want to let the Senate vote on it because they are afraid there will be two negotiations: One when we argue in this Chamber and one when they go to conference.

Whatever their reasons, the hangup is there is a bill at the desk that was produced by a partisan majority that contains only things they want and nothing the Republicans wanted. I submit we can throw those kinds of characteristics away and ask some experts whether that bill will create new jobs.

Among the various proposals, it is the least productive of new jobs of all the proposals around. So with another effort on the part of the Democratic leadership, we are led by my very good friend, HARRY REID, to bring this back and in some way blame the Republicans, who do not even control the Senate, for this big delay.

Then what happened to the House? The House produced their own economic stimulus. Every time our friends on the other side talk about the Republicans, everybody should know that was the House Republicans who produced the bill they are speaking of, not those of us who are trying to put a package together in the Senate. The House did their own thing. They got a majority vote, and that is the way they did it.

That is not going to end up being the law. We have to get together and resolve the issue in favor of the American people, instead of in favor of who wins this bickering and this arguing.

So that is where we are.

Instead of there being a vote in the Senate on the stimulus package, a deal was cooked up for which we would never vote in the Senate: just go to conference with the House and have an argument with them and decide between the Democratic proposal that was adopted without any input from the Senate Republicans, whether that or a House-passed bill is going to be the law of the land, or which part will come out of it in terms of compromise.

Why did the House chairman call off the meetings? I never justify the House's activities, but the House chairman's reason was very simple: the majority leader had said publicly there would not be a stimulus package unless two-thirds of the Democratic Senators supported the provisions of that stimulus package. The chairman of the House read that and said, since that is their desire—and I do not go to committee meetings negotiating with an unknown two-thirds Members who are not even present—why do we not go home, take a 5-day recess, and think it over. That is where we are.

Let anybody who would like lay blame for that 5-day delay, but it is not all singularly the problem of the chairman of the House committee when, if it is true, the leader of the other side has indicated there is no use going to conference and negotiating because there is an ominous presence that has to be looked to to make sure two-thirds of the Democratic Senators support it.

That is pretty different than most conferences. I do not blame him too much for wondering what kind of conference they were going to have. It has since been denied that it was said or that it meant that. What we ought to do is actually forget about all of that.

Before I move to the stimulus package, I must take a couple of minutes to speak with reference to the farm bill. Tomorrow, we will have plenty of time, I hope, to talk about the farm bill in more depth.

Mr. DORGAN. Will the Senator from New Mexico yield on a point?

Mr. DOMENICI. On a point?

Mr. DORGAN. Yes. The Senator from New Mexico said something I am not sure is accurate, and I wonder if I might ask a question about that.

Mr. DOMENICI. I would like to finish. I do not have much time.

Mr. DORGAN. I am glad to extend the time.

Mr. DOMENICI. I can handle anybody's question, but I want to finish my thoughts and then I will yield to the Senator.

With reference to the farm bill, I do not come to this Chamber too often on a farm bill, but I will be on this one because, first of all, it is an abomination for milk production in America and for our children who drink a lot of milk and for those in America who are encouraged to drink a lot of milk. This is a bill calculated to increase the price of milk dramatically so as to spread around a new tax so all of those producing milk can get a fair share of the new tax; not so we will produce competition and there will be a big incentive to produce good, solid, healthy milk at lower prices but, rather, to make sure those areas of the country that are not producing milk in a competitive manner will get made whole at the expense of the very competitive States such as mine and Idaho and others, that are producing substantially new ways to be competitive, safe, sound, and produce rather cheap milk for the American children and American people. We will have plenty to say about that.

The bill they are talking about in agriculture, obviously, will never become law. It has some good arguing points for five or six States that would like to convince others.

Having said that, I get back to stimulus. The news is not great with reference to the economy. It is very hard to figure out what is going on in the economy because the numbers, the statistics, the assessments are mixed. Clearly, they are not so mixed that we should call off the stimulus package. We have to do one. We ought to decide now that we don't have a lot of time and we ought to do a very simple bill.

I say to Senator REID, what I will do today is introduce a very simple economic stimulus package. The Senator might recall, in the Chamber a couple of weeks ago I shared a proposal with you with reference to an economic stimulus, that we have a 1-month holiday from the Social Security tax for both the employer and the employee. I think we ought to have that as a cornerstone. Both sets of leaders in both Houses ought to agree that is the best stimulus around of any we have seen, and then just do two other things—and all the rest we will wait and do next year—do two other things and call it a stimulus package. Indeed, it would be.

First, the tax holiday will put $8 billion into the economy and 160 million working men and women in America get to keep the withholding. Their employers will do the same. They will not have to remit theirs. That ought to be the cornerstone. Do it for January, February. But do it. It will stimulate the economy and give it a good kick upwards. A lot of Democrats support that. It is when you put the rest of the package together we get to arguing. I submit it is so important we get rid of the other things that cause Members to argue and do those another day, another time, another way. They are not stimulus anyway.

We ought to do two things. Beyond the holiday, we ought to expand the safety net for working Americans; that is, expand it and extend unemployment payments. Some Democratic Senators and some Republicans have said we ought to do that. We ought to agree to that. An additional 13 weeks of unemployment benefits, if passed, and expand that to part-time workers—they ought to be in this alternative—that costs $9 billion.

Last, we ought to go ahead and do the enhanced extending of cap expenditures but reduce it to 20 percent instead of 30 percent, so we would have 20 percent appreciation in 3 years.

An extension of expansion of the unemployment compensation and the stimulus package, the stimulus core, and the payroll tax holiday. I wish we could do that. I wish we could decide. There is not enough time to argue. Let's do something truly stimulative to get America going again and let that do two other things the Americans need: One for the unemployment needs and one for business needs with reference to appreciation.

I put my statement in explaining the situation of the economy, explaining the three provisions, and sending a bill along with it, in case anybody wants to see what it should look like. I send a bill with it, and that includes only the three provisions: The holiday; the 20 percent depreciation instead of 30 percent for 3 years for the capital account, which is very much needed by small and large businesses; and last, a drastic and much needed expansion of the unemployment code of this country. The three provisions make up about a $79 billion package. If we can pass that this week—everybody knows what they are—that will be truly something very positive.

I am happy to answer questions. If I made an error, I am happy to correct that.

Mr. DORGAN. On the point the Senator from New Mexico made about the economic stimulus or recovery plan that came out of the Senate Finance Committee, the Senator from New Mexico indicated that was at the desk—or I guess first he asked where is it; and then, it is at the desk, why isn't it pending?

Isn't it the case the bill at the desk is a House bill which was passed by the House on a clearly partisan 216 to 214 vote. In fact the bill out of the Senate Finance Committee is not at the desk, but a point of order was made against it. I believe the Senator from New Mexico supported the point of order that took the Senate Finance Committee bill off the floor, and it is not pending. I want to correct that because I think the implication of the Senator was, well, that bill is at the desk, why isn't it here? Is it not the case it was pending and a vote was held on a point of order? And I believe the Senator from New Mexico supported the point of order and therefore it is not pending.

Mr. DOMENICI. Mr. President, that may be the case. If it is the case, I yield to the facts.

Still, the situation is that at an appointed time shortly after that event, or surrounding that event, when it was declared to be violative of the Budget Act, it is quite clear the majority leader does not want to negotiate here with Republicans and in the House with Republicans and Democrats, again. So he prefers to go right to conference. He doesn't seem to be terribly concerned about what happened to the Democratic bill because he doesn't want to work anything out in the Senate because he says that means he will have to negotiate twice.

I believe we don't have to negotiate twice. We ought to look at these three points. I can see in both bodies a very large majority for these three points. That is ample for Members to go home at Christmas and say, we have a good stimulus. It can be bipartisan because there are at least 12 Senators, a mix of both sides, who support the holiday. The only reason there are not more is that they are waiting for their own provision that they supported to go away because they don't want to be for two things. But if the leadership would say we should do a simple package, one that is profoundly stimulative, we can forget about all this arguing and forget about which week what happened.

But I will go back and say, if we said that the Democrat bill was subject to a point of order, that is the way everything has been going here, everything is subject to a point of order.

The truth is, it started off very nonpartisan because the Finance Committee decided they would put together a bill to garner enough Democratic votes to report it out of committee. I am not arguing that we have the right to do that. I have done that on budget before. But you cannot then say it is the Republicans who don't want a tax bill when you started this process, when you started this process by saying, we want one but only if it is our way.

It is time we all forget about that. My speech is not intended to bring it all up again, just to clarify the record, and then to say forget about it and let us do something. This week we could get a stimulus done that would be about like the one I sent to the desk, we could get the rest of our work done, and we could go home.

I yield the floor.

Mr. DORGAN. Mr. President, this is very curious. My friend from New Mexico, when I asked the question about whether the bill is pending or at the desk, as was his implication, said that may or may not be the case. It either is or is not the case.

The answer is, it is not the case. I don't want people to come to the floor and say the stimulus program that came from the Senate Finance Committee is somewhere around here and the majority leader doesn't wish to bring it back to the floor. It was on the floor, we had a vote on it, and in fact every Member on the other side of the aisle voted to take it off the floor.

I think when the Senator says that may or may not be the case, this is a matter of fact. I don't want people to leave the implication that somehow there is a bill sitting at the desk, ready to come to the floor, but Senator DASCHLE chooses not to bring it to the floor. In fact, the bill at the desk is the House bill. That bill came from the House Ways and Means Committee. It was a partisan bill, written by Chairman THOMAS and the Republicans on the Ways and Means Committee—the very process the Senator from New Mexico criticizes. That was passed by the House of Representatives 216 to 214. That is what is now at the desk. It came to the floor of the Senate, and we had a debate.

It is also the case that every bill, including the House bill, the Senate Republican bill, and the bill the Senate Finance Committee passed, had a point of order that could be lodged against it.

The only point of order that was lodged was against the bill that Senator DASCHLE tried to bring to the floor of the Senate. So it is, in my judgment, a curious thing for those who voted to take the bill off the floor of the Senate and have us cease its consideration with a point of order, to now wonder aloud—repeatedly, in the last couple of weeks—where is the bill?

I said before this is not exactly a "Where's Waldo" exercise, a game that most fathers have played with their children. We know where the bill is. It was here. It is now gone—not because of something we did. We wanted that economic stimulus and recovery bill to be passed by the Senate and to go to conference. It is gone because it was taken off the floor on a point of order—a point of order which, incidentally, we did not raise against anything else. The point of order would exist against the House-passed bill and against the Senate Republican bill.

Because of that, the decision was made to try to find a way to create a negotiation between the House and the Senate—and hopefully with the cooperation of the President—to see if we could construct some kind of stimulus package.

Is that an optimum way to do it or the best way to do it? I don't think so. The best way to have done this, in my judgment, would have been to consider the bill that came out of the Senate Finance Committee and in regular order offer amendments to it, have votes on it, and then go to a conference. That would have been my preference.

I must say to my friend from New Mexico that I have great admiration for his legislative skills. He is a great speaker and good thinker, and I think the suggestion he has with respect to the payroll tax is, in fact, stimulative. The point is he has some suggestions that have some stimulus capability to them. But to go out and then go through 5 or 6 minutes of the same sort of thing we heard on the talk shows all weekend about Senator DASCHLE and say that is not what it is all about, let's forget what I just said—you know, somehow that doesn't make much sense to me.

Mr. DOMENICI. Will the Senator yield?

Mr. DORGAN. In the end, the question before the American people about how you fix and provide lift to the American economy is not about Republicans or Democrats. It also is not about conservatives or liberals, and it is not about the House or the Senate. It is about right and wrong. There is a right way to do this and a wrong way to do it. Most of us are not certain what is right or wrong. But consult with the best economists in America, just consult with the best economists you can find in this country, and ask them: Which set of policies do you think give us the best chance for this economy to recover? You know that the answer is not this.

The Senator will say that is what the House did: That is exactly what we are negotiating at this point because Chairman THOMAS brings this to the negotiating table. What "this"? Let me read—I will be happy to yield in a moment. Let me read from the Wall Street Journal—no liberal bastion, I might say.

> When President Bush and Congress sat down to another round of tax-cutting this fall in the hopes of stimulating the economy, business groups were welcomed to the table. Now, many of the country's biggest corporations are reaching for an oversized portion.

The companies could end up grabbing refund checks worth hundreds of millions of dollars each, thanks to one of the many business breaks in the tax-cut package fashioned by House Republican leaders that could come to a House vote this week. Democrats' objections are to be expected, but even some Senate Republicans and Bush officials have distanced themselves.

As you know, the Secretary of the Treasury called this "show business." Those are the words to describe what the House of Representatives did.

I don't come here to decide that one side is all right or one side is all wrong. But I am a little chagrined about what is happening here, about people talking about what the majority leader has or hasn't done, what the majority leader could or could not do. The majority leader did the responsible thing. He brought a stimulus bill to the floor of the Senate for debate. It wasn't his action that took it from pending consideration. It was a point of order made by the other side, Republicans, that actually took it off the Senate floor.

I will, without losing my right to the floor, be happy to yield to the Senator from New Mexico for a question.

Mr. DOMENICI. Mr. President, I do not have a question. If I may just have a minute to make a statement, the Senator can then take as much time as he would like to rebut me.

Mr. DORGAN. Mr. President, of course I will allow the Senator from New Mexico to make a minute statement. The purpose of discourse on the floor is to ask questions and respond to questions. But if the Senator would like to have a minute—without my yielding the floor—I would be happy to do that.

Mr. DOMENICI. I just want to make one statement as to the issue of whether or not the American people were going to ever get a stimulus. They could look up here and say Congress passed a bill that people outside of government, who know about our economy, say will help us, the American consumers. That started down the partisan path when the Finance Committee of the Senate was told it was to produce a Democratic bill. They did. They got every Democrat to vote for it and no Republicans.

All I am suggesting is, that started us down a path that was full of partisan thorns. Instead of us going down a nice, easy street to get Americans what they deserve, we started down a partisan path that got us here today.

The House may be as partisan as can be. Their bill may be everything the distinguished Senator is going to say about it. But it may not, also. But it may be. That is his assessment of their bill.

We do not have a bill we are going to discuss because they produced a purely Democratic bill that did not have any Republican support. If in fact we did what he said, it was subject to a point of order and we voted it down so it would not be the pending business. Those are still the facts. I regret that it doesn't set too well with the other side when somebody comes down here for 8 or 9 minutes—and that is all the time we have been here—and interrupts their conversation, which has been going on day after day, that kind of blames all this on the Republicans. I do not choose to blame it on the Democrats. I choose to say let's get a stimulus package and let's have some leadership, to say it is too late to get everything we want and it is too late to argue. Let's just get a stimulus package by going to conference with some leadership saying let's do a simple but good thing.

I offer a suggestion today as to what that could be. I am just as vulnerable to being prejudiced in favor of the holiday portion of it as others are for business or labor provisions that they want in this. But I think we should get off the partisan path, get onto another one. And, frankly, the Agriculture bill can be debated, the remaining appropriations bill, and a nice, simple stimulus package could be put together if indeed we just chose to move to another path.

I yield the floor and thank the Senator for yielding to me.

Mr. DORGAN. Mr. President, if I may continue, I find this really interesting. I believe this past spring the Budget Committee sent out a wholly partisan document supported only by the Republicans after they refused to meet with the Democrat members of the committee.

I don't think we are interested in a lot of finger pointing. I think the American people are interested in a question of who is going to offer proposals that constructively help this American economy.

I am going to say some things about the House bill because the House bill is what comes to the conference. It is not a question of may or may not be good. The House bill is atrocious. Does anybody in this country think that, with an economy that is very weak, with an economy with a substantial overcapacity, the way to resolve the problems of this economy and provide lift and opportunity in this economy is to give Ford a $1 billion tax rebate check, or IBM, a $1.4 billion tax rebate check for corporate alternative minimum taxes paid going back to 1988? They won't do that for individuals who paid an alternative minimum tax but just for corporations at a time when there is overcapacity.

Is there anyone who can find an economist who thinks this is going to help the American economy? It is not.

How about the hundreds of thousands of people who have lost their jobs?

Every economist will concede that one way to stimulate this economy is to help those people who have lost their jobs with extended unemployment benefits. A fair number have no benefits at all and we should provide something to help them during these tough times. Every economist says that will help this economy because every one of those dollars will be spent almost immediately. That is the way you help this economy.

There are other ways as well: A combination of tax breaks, yes—for business and others—rebates to be helpful to some people who didn't get, tax breaks earlier this year; and, extend unemployment benefits. There are other things we can do.

But what was done in the House of Representatives—you talk about the sounds of the hogs in the corn crib just grunting and shoving around doing what they can to cobble together a bill with left-over policies they didn't get done in any other tax bills is exactly what happened here. This has nothing to do with stimulus.

That is not why I came to the floor. I am just curious. My colleague came to the floor to spend about 5 to 6 minutes talking about what the Democrats have done to make all of this partisan and political, and then said: But it is not my intention to cast blame or to talk about the Democrats—after the first 5 minutes talking about the Democrats and Senator DASCHLE.

Let me make this point about this issue. We brought this stimulus bill to the floor of the Senate. It is not here now because a point of order was lodged against it, and every Member of the minority party in the Senate voted to sustain that point of order. That is why it is not here. The next time somebody asks the question, write it down. Take a 2-by-5 card and write it down for those who voted to sustain a point of order. Write a little note that says: I voted to take the stimulus bill off the floor of the Senate so it couldn't any longer be considered so you will know that. You don't have to repeatedly ask these questions.

We have this negotiation going on. It is supposed to go on. The chairman of the Ways and Means Committee went to California this weekend instead of meeting over the weekend as previously decided. I do not know about all of that.

But at the end of the day, the American people deserve to have a package of proposals from this Congress that really gives a lift to this economy. This economy is in trouble. We have a responsibility to help. It is not going to help by people coming here and pointing this way or that way. As I said, there is not a Republican or Democratic way to stimulate the economy, but there is the right way and the wrong way. We have received some pretty good advice on which is which.

My judgment is that in the coming days we can put together a proposal that will be helpful to this country. That is our obligation.

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Resumed

Mr. DORGAN. Mr. President, the underlying farm bill is on the floor of the Senate. When you talk about economic recovery and economic stimulus, what can promote economic recovery better in this country than to help those on America's farms? Recovery, in my judgment, begins at the roots. It seems to me that what has always nourished America has rolled from the family farms to the small towns and big cities. Whether it is economic opportunity or economic progress, family values have always nourished our country.

Our farmers are in significant trouble. We have struggled and fought and scrapped and tried to get this bill to the floor of the Senate. We have the Secretary of Agriculture calling around saying don't do it. In fact, the Secretary of Agriculture pushed very hard to prevent the House from doing it, and Congressman COMBEST, who is of the other political party—God bless him—said: I am going to do it anyway. It needs to be done; it ought to be done now. And he did it, and ran a farm bill through the House. Good for him.

We are struggling to get a farm bill through the Senate. Senator HARKIN brought a farm bill from his committee, and it is now on the floor of the Senate.

Let me read from a letter of December 10 addressed to Senator DASCHLE and Senator LOTT. It says:

> The undersigned farm, commodity and lender organizations write to thank you for

your efforts to expedite the debate and consideration of a new farm bill in the United States Senate, and urge that the legislation be completed in a timely manner without delay. We believe it is vitally important that this legislation be enacted this year to provide an important economic stimulus to rural America before Congress adjourns.

We fully understand the policy differences exist regarding this important legislation, and would encourage a healthy debate on these issues. However, we are very concerned that the timeframe to pass this legislation is rapidly drawing to a close. We believe this will require the Senate to complete a thorough debate and achieve passage of the legislation by Wednesday evening, December 12th.

I will include in the RECORD a list of who is who in American agriculture. It is virtually every organization: American Farm Bureau, National Farmers Union, National Corn Growers, National Cotton Council. Virtually every organization that represents family farmers is asking this Senate to do the right thing, to consider this farm bill, move it along today, tomorrow, or the next day, and offer amendments to try to get it out of the Senate and get it into conference so we can put a bill on the desk of the President for signature.

My hope is that we can do that before we leave town. It is a struggle. It is not easy, but it is achievable.

I ask unanimous consent that the letters be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 10, 2001.

Hon. TOM DASCHLE,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. TRENT LOTT,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATORS DASCHLE AND LOTT: The undersigned farm, commodity and lender organizations write to thank you for your efforts to expedite the debate and consideration of a new farm bill in the United States Senate, and to urge that the legislation be completed in a timely manner without delay. We believe it is vitally important that this legislation be enacted this year to provide an important economic stimulus to rural America before Congress adjourns.

We fully understand that policy differences exist regarding this important legislation, and would encourage a healthy debate on these issues. However, we are very concerned that the timeframe to pass this legislation is rapidly drawing to a close. We believe this will require the Senate to complete a thorough debate and achieve passage of the legislation by Wednesday evening, December 12.

We urge you to allow members an opportunity to offer amendments that are relevant to the development of sound agricultural policy while opposing any amendments designed to delay passage of this important legislation by running out the clock prior to the adjournment of Congress.

New farm legislation must be enacted this year to stimulate and stabilize our rural economy that has been in an economic downturn for five years with no turn-around in sight. Unlike many sectors of the economy, production agriculture did not share in the economic growth of the last decade and has been devastated by depressed commodity prices, declining market opportunities and increasing costs.

It is critical to producers, farm lenders and rural communities that a new farm bill be approved this fall to provide the assurance necessary to plan for next year's crop production.

We encourage you and your colleagues in the Senate to complete action on a new farm bill as soon as possible to provide adequate time for a conference with the House of Representatives in order to ensure a final bill can be enacted this year.

Sincerely,

Agricultural Retailers Association.
Alabama Farmers Federation.
American Association of Crop Insurers.
American Bankers Association.
American Corn Growers Association.
American Farm Bureau Federation.
American Sheep Industry Association.
American Soybean Association.
American Sugar Alliance.
CoBank.
Farm Credit Council.
Independent Community Bankers Association.
National Association of Farmer Elected Committees.
National Association of Wheat Growers.
National Barley Growers Association.
National Cooperative Business Association.
National Corn Growers Association.
National Cotton Council.
National Farmers Organization.
National Farmers Union.
National Grain Sorghum Producers.
National Milk Producers Federation.
National Sunflower Association.
South East Dairy Farmers Association.
Southern Peanut Farmers Federation.
The American Beekeeping Federation.
U.S. Canola Association.
U.S. Dry Pea and Lentil Council.
U.S. Rice Producers Association.
United Egg Producers.
Western Peanut Growers Association.
Western United Dairymen.

The PRESIDING OFFICER. The Senator from Wyoming.

SENATE AGENDA

Mr. THOMAS. Mr. President, I would like to talk about a number of things.

First, we are talking about the farm bill, but we have taken many different directions in terms of the economic stimulus. It needs to be extended.

The President suggested a package. The Republicans did not have anything to say about the bill that came out of committee. It was totally Democrat.

We need to make some changes in order to get this done. This isn't about the House. The only talk has been about what the House has done. They can do what they choose. We ought to do what we think is right.

The President asked for an extension of unemployment benefits for 13 weeks for Americans who lost their jobs due to the terrorist attacks. I am sure some will agree with that. He asked for $11 billion for the States to help low-income workers obtain health insurance for a certain period of time. I suppose everyone would agree with that to maintain that sort of help, wouldn't they?

Also, of course, in order to create some jobs, we have been talking about accelerated depreciation to encourage companies to go ahead and purchase material and purchase machinery to create jobs. That is really what it is all about. Partial expensing, tax relief for low- and moderate-income workers—these are things that are all in the package.

It isn't as if everyone has a different idea, but we ought to have a chance to talk about them. We ought to have a chance to bring up those things and to decide what the majority of this body would like. I am sorry, I do not quite understand how we got off into this: If the Democrats do not agree, then nothing should happen; if the Republicans do not agree, then nothing should happen. That is not the way we should operate. So I am hopeful we can do this. I indeed think we should.

We are going to have to make some decisions in terms of priorities. Obviously, there is not much time left, whether we get out this week or whether we stay until Christmas. In either case, there is not a lot of time.

We have three more appropriations bills in conference that have to be resolved. Those have to be done. We got through a tough appropriations bill last Friday by staying here until 12:30 on Friday night. We will have a tough one with Health and Human Services, I am sure. But those need to be done.

Then we need to make judgments whether we are going to have energy, whether we are going to have a farm bill, whether we are going to have the insurance package—a lot of things that people talk about having. The question is, What is the priority for us at this time?

Quite frankly, I think the leadership has been a little slow in trying to set forth their priorities. There is no use listing 15 different things people would like to do. We are not going to do that, obviously.

Indeed, in many cases we perhaps are better off to take a little more time on these tough bills to really decide where we want to be in 10 or 15 years, such as in agriculture, as to what we want agriculture to look like over a period of time. What we do on this bill is going to have a great deal of impact on agriculture.

This bill will last for 6 years, but it will have an impact beyond that. Quite frankly, we have wrestled with this issue for quite some time. I have been involved in agriculture all my life in one way or another. We seem to kind of move in short spurts to take care of what the problem is here, what the problem is there; and, yes, you have to do that, of course. But the fact is, we ought to be looking at a policy that takes us down the road to where we want to be, where we have a safety net of some kind for agriculture, where agricultural production is needed in the marketplace, where there is a marketplace for agricultural production, where we do some of the kinds of things that will maintain open spaces and the conservation and land over time that we would like to have. Those are the kinds of long-term things that I think are very important.

So as we undertake farm bills, they need to be given a lot of thought. That did not happen in the committee, as a matter of fact. We only had a very short time to deal with it. And it became an issue for the chairman, the leadership, to get that bill out in 10 days, or a week or so. So we were talking about various numbers of titles. We would get the title of the proposal one night and try to vote on it the next morning. That isn't the way to do it. We did not have time to digest it, let alone have an opportunity to talk with the people at home in terms of how it would impact agriculture. And that really is part of it.

The bill that is before us now is, of course, the Harkin bill. I think we need to support a bill that will continue to move agriculture towards a market-oriented situation so that the emphasis and the incentives for agriculture are to produce those things the price would indicate are to be marketed.

There are programs in the past we have used with certain very high price supports that encouraged production in which there was no marketability. Everyone wants to have this underpinning support, of course, but then you have to be very careful as to what you do with that.

We need to place more emphasis on broader agriculture. Agriculture bills that started generally in the 1930s were oriented towards what are called the program crops. They are corn and soybeans and half a dozen crops, mostly in the Middle West. And now agriculture has changed to where you have all kinds of crops in all kinds of places.

So I think in the future, as we look to where we want to go, we have to find a program that deals with more people in agriculture for some kind of safety net security.

Some 40 percent of agricultural products goes into foreign trade. So we have to deal with the kind of trade arrangements that we have around the world, WTO particularly. We have to have a farm program that does not conflict there or allows other countries to put up obstacles to our foreign trade. So those are the kinds of issues that need to be considered.

We need to keep working lands in production. The idea of having a program that sets aside acres and acres of land in some kind of conservation reserve, where they are no longer productive, is not an economically sound policy to have over time. What we need to do is have a conservation program that impacts all of these acres and lets them continue to be useful, whether it is grass, whether it is trees, or whatever it turns out to be.

The bill before us generally takes us in the wrong direction, takes us back towards the agricultural programs of the 1930s during the Depression. It endorses higher loan rates which would encourage overproduction. Prices for U.S. products, that are almost out of reach for our markets around the world, will be even higher.

It has a commodity title that puts, because of our arrangements in world trade, our producers and industry at risk of retaliation. It threatens to exceed our so-called "amber box" obligations in WTO. They are watching every move we make to see if that is or is not the case. And it can impede us with the kinds of difficulties it brings.

The conservation title is really sort of a gimmick. It substantially boosts conservation spending in fiscal years 2002 to 2006 and then reduces it dramatically for the remainder of the time simply to make it fit into the budget. That isn't going to work over a period of time. That is a ballooning of expenditures early to make it acceptable, and then it does not continue until the bill expires.

So these are some of the issues with which we are faced. We can change those if we have an opportunity to have amendments, if we have an opportunity to consider a bill that will be proposed as an alternative that has some different ideas in it. We should have an opportunity to vote on that.

But with more and more environmental provisions that landowners and farmers and ranchers have to abide with—and, indeed, in some cases at least they should—then there needs to be assistance for that, assistance in the future to have the kind of technical help that is required, for instance, in nonpoint source water protection.

There are lots of things that have to be done to comply with EPA regulations by landowners. They need help to do that. That is one of the things that ought to be done. We ought to be able to have a budget that goes out over time.

The Cochran-Roberts amendment will be a substitute that takes a little different direction, gives us an option, gives us a chance to do some things. The payments are considered to be WTO "green box" payments, so you can have support for agriculture without running into conflicts in terms of trade. It will not place our producers at risk for a challenge from other countries. It gives an opportunity to producers to obtain support through a farm savings account so they can continue to save with the help of Government contributions.

The conservation title has programs that keep working lands in production, and it extends it beyond the program crops. My State, of course, is largely a livestock State, so conservation that applies to grasslands, and those kinds of things, is equally as interesting.

There is a program called the Environmental Quality Incentives Program, EQIP, which provides technical assistance. That is a program that is quite important, I believe.

So we are going to have an opportunity to look at some of the options to see if we can do the things that I think are most important; that is, to have a plan over time that provides for the encouragement of production, production that will then be marketed, that provides for the conservation of all the lands, so when we are through with the land, we will see that we have open spaces and that we have an effort made through this program to develop more and more markets, whether they be overseas or whether they be domestic, and that it is fiscally responsible so that we have a budget for the entire length of the bill and one that is trade compliant.

I am certainly in favor of us having a bill. I don't think it makes a world of difference whether it is done in the next week or whether it is done in the early part of next year. The Budget Committee chairman from North Dakota continues to say we won't have the money next year. I don't see any reason why we don't have as much money in February as we do in December. There won't be a new budget by that time. Things will not have changed. If we could do a better job by having a little more time to work on it, I favor that. If we can get the job done in the short while and have the opportunity to make the changes, have the opportunity to examine the contents of the bill—which, frankly, most of us have not even had, and we are on the committee—then that is the need that we must have.

I look forward to us moving forward and accomplishing those things. I do hope that we do set our priorities on timing and do not move into this question of trying to do everything. That is always a problem at the end of a session. Everything that has not been done up to that time, regardless of the reason it has not been done, suddenly becomes the most important action that could ever occur and has to be done in the last few days. We have had enough experience of knowing that many times those things don't turn out as well as they should.

I am hopeful we will deal with these things with as much time and knowledge and opportunity to participate as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Continued

Mr. HARKIN. Mr. President, the bill before the Senate now is the committee-reported farm bill, a 5-year farm bill. It is a comprehensive bill providing major improvements to the farm commodity and income protection programs, conservation, rural economic development, trade, research, nutrition assistance, renewable energy, credit, and forestry.

The legislation is within our budget limitations for the new farm bill. We were allowed $7.35 billion for fiscal year 2002, and $73.5 billion for 10 years above baseline spending. The bill is fully within those limitations. I hope we can move forward and work our way through this bill. We are, of course, ready to consider amendments tomorrow and debate the issues and pass the bill, go to conference, and send it to the President. The sooner we can get the amendments debated here and voted on, the sooner we can get to conference.

There is a need to move ahead with this bill now. Farmers around the country need to know what the farm program will be for next year so they can make decisions, arrange their financing, their loans, line up their input and supplies for next year. It is important for farmers to get this legislation passed.

It is important for all of America to get this bill passed because, as has often been said, it all really does start on the farm. With food being such a critical commodity for our own people but also in our trade relations, it is necessary that we send clear signals that we are going to have a meaningful farm program for next year and the year beyond.

That is part of the reason. There is another reason why we have to move ahead. That is the area of conservation. Some of the critical conservation programs are out of money. The wetlands reserve program, the farmland protection program, and the wildlife habitat incentives program are out of money now. The longer we wait and delay on the farm bill in getting it to the President to get it signed, that means that more and more we will have a backlog of needs in all of those areas of conservation.

The environmental quality incentives program is underfunded and far short of resources that are needed. The bill before us would substantially increase funding for all of these important conservation programs. However, if we don't pass it soon, the USDA will not be able to carry out effective programs during the present fiscal year.

In addition, this bill will provide important and immediate help in the areas of rural economic development, trade, and research, as I mentioned. We need to move ahead without delay.

I will take the time now to discuss some of the principal features of the bill. In order to proceed to the bill, tomorrow I will be offering a substitute amendment that will include modifications to the dairy and conservation provisions of the legislation reported from the committee. That will be an amendment in the nature of a substitute. Hopefully, there won't be any objections to that, and then we will move ahead with amendments to that as the underlying bill on the floor.

First, title 1 on commodities, the bill continues direct payments but adds countercyclical contract payments to assure that in the years of low prices, producers will receive additional support. The bill establishes income protection prices for each of the contract commodities. If the price for the commodity plus the direct payment for the year falls below the income protection price, producers would receive a countercyclical payment to make up the difference. For the first 2 years, the direct payments would be generous enough that there will be no countercyclical payments. For the third, fourth, and fifth years, the direct payments will be lower but the difference would be made up by the countercyclical payments in those years.

Quite frankly, this was really the goal of the Freedom to Farm bill that was passed in 1996. That would be direct payments; that those payments would phase down at some point. As we saw because of low prices, world conditions, other conditions, the Congress had to come in year after year after year and pass emergency funding legislation for direct payments and to add to those direct payments.

What we should have had at the start was a countercyclical program so that in times when prices are good, you don't need all those direct payments. But when prices are low, that is when you need to come back in.

When Freedom to Farm first passed, there were farmers who, quite frankly, had a pretty darn good year and prices were high, but they got a direct payment anyway. That didn't seem to make very good economic sense or policy sense. So I understand that we can't pull the plug right now. We continue the direct payments. They start to go down, but in place we have the countercyclical payments that come in in case prices are low; we all hope prices stay high. But in case they do go down, we do have the countercyclical program. We also attempt to have additional countercyclical support through the loan program.

Our bill raises loans for every commodity with one exception, extra long staple cotton, which was held constant, and for soybeans, which we reduce from $5.26 a bushel to $5.20 a bushel. Again, all of this was an attempt to balance loan rates so that one would not be encouraged to plant one crop over another to plant for the loan benefits.

For other crops, the loan programs have discouraged planting of some crops, such as barley, oats, dried peas, and lentils. Those crops received better treatment in this bill, including a loan rate boost for feed grains other than corn and a new loan program for dry peas, lentils, and chickpeas.

The bill gives producers the option of retaining their current contract acres and adding oilseeds or updating their contract acres and payment yields.

They will be given choice. Farmers can upgrade their base acres in yields or they can remain with the ones they have. Farmers who have taken advantage of flexibility to switch to other crops will not lose base acres. Those who are of fewer acres covered by the current production flexibility contract will be able to update those acres and their payment yields.

In the area of dairy, the bill includes supplemental income assistance payments for dairy farmers. That is a system of payments designed to assist providers in the northeast part of the country that will help compensate for them getting out of and off of the Northeast Dairy Compact. In addition, there is a national dairy payment program for the remainder of the country. I might add that earlier on in the day the Senator from New Mexico was talking about a national tax and a payment by dairy farmers. That is not in the substitute bill that I will be offering tomorrow. I hope those who looked at the earlier version will look at the substitute because that taxing provision is not included.

American sugar producers have been facing sugar prices at or near 22-year lows for most of the past 2 years.

Our committee bill reestablishes marketing allotments for sugar in an attempt to limit domestic production levels that, with imports, will not exceed the demand for sugar for human consumption. The bill also provides the Secretary with the tools she will need to bring sugar production in line with demand.

The committee bill makes a dramatic change in the program for peanut producers to bring it more in line with other commodity programs. The bill abolishes marketing quotas. That has been a staple of peanuts ever since I have been here—for the last 27 years. It establishes a new system of peanut base acres and payment yields. The new program creates a safety net for producers in the form of marketing loans, direct payments, and countercyclical supports. So basically, the peanut program will be phased out and the new one will be phased in and it will be similar to other commodity programs.

Finally, the commodity title provides for higher levels of purchases of fruits and vegetables for distribution through the important nutrition programs such as the National School

Lunch Program and the Emergency Food Assistance Program.

Next, dealing with title II, conservation, in addition to producing food and fiber, America's farmers and ranchers are also our stewards, playing a critical role in protecting natural resources for future generations. This new farm bill recognizes that conservation is a cornerstone of sound farm policy. It will greatly increase our commitment to helping agricultural producers and landowners to protect and conserve soil, water, air, and wildlife—especially on land that is in production.

Senator LUGAR and I, and many members of the committee, share a longstanding view that the new farm bill should place a larger and much greater emphasis on conservation.

Over the past months, we and our staffers have worked together to develop the conservation title reported out of committee.

I point out that this title was reported unanimously out of committee because it reflects good policy that helps the full array of producers represented in the committee and in the Senate. The substitute I will be offering will build on the committee's conservation title and will add about $1 billion more in conservation funding to focus additional funding in the 5 years covered by the bill.

The conservation title basically doubles our funding for conservation by adding $21.5 billion to baseline spending for conservation programs, for a total of $43 billion over 10 years. We basically double funding for conservation.

Our bill also brings balance to spending on land retirement programs such as the Conservation Reserve Program and the Wetlands Reserve Program, balancing that with programs for working lands such as the Conservation Security Program, EQIP, and the Wildlife Habitat Incentives Program.

Our bill will establish a new incentive payment program and the Conservation Security Program, which will both improve farm income and increase agricultural conservation. This program adopts a comprehensive, inclusive national approach to conservation on working lands. It provides incentive payments to farmers and ranchers who voluntarily maintain and adopt conservation practices that are appropriate for the local areas and each individual operation. In this way, we not only retain the conservation achievements of the past, but we encourage increased conservation in the future.

Again, I point out that the conservation and security program is not a top-down, one-size-fits-all. It is designed to be geared toward the individual farmers in different parts of the country. What may be good for conservation in West Virginia may not be good in Iowa. This bill recognizes that it has to come really from the bottom up, within certain guidelines, and protecting air, oil, water, and natural habitats. But that is basically what the conservation and security program is designed to do, to help farmers with their conservation on the land they have in production.

The acreage cap for the Conservation Reserve Program has been increased from 36 million acres, the present limit, to 42 million acres. The legislation more than doubles the Wetlands Reserve Program. It increases the acreage cap by 1.25 million acres above the current 1,075,000 acres. There is also an allowance for 25,000 acres annually to be enrolled in the Wetland Reserve Enhancement Program.

The legislation increases funding for the Environmental Quality Incentives Program, which is important to our livestock producers, up to $1.5 billion a year, which is 7 times over the current figure. So in the critical area of helping livestock producers prevent soil runoff, water runoff, polluting rivers, streams, the Chesapeake Bay, and in other areas, we increase that program 7 times more than what it is right now. Contract amounts have been increased to $150,000, with a $50,000 maximum being earned in any year of the 3- to 10-year contract.

Our bill provides for 10 times more funding over the next 5 years for the Wildlife Habitat Incentives Program than was provided in the last farm bill. We go from $50 million to $500 million in that area.

More funding will be provided over the next 5 years for the Farmland Protection Program. This program allows for farmland and the environmental benefits of this land use to be preserved for future generations. The last farm bill allocated $35 million for the Farmland Protection Program. Our bill increased that amount to $1.75 billion.

A new Grassland Reserve Program to purchase permanent and long-term easements on 2 million acres of grasslands is also included in the legislation. This program will offer long-term easements, technical assistance, and restoration costs to restore or keep private lands in native grasses.

The legislation provides additional new programs besides the Grassland Reserve Program. The Water Risk Reduction Program provides for purchase of flood plain easements that retard runoff, prevent soil erosion, and safeguards life and property from floods. The Great Lakes Basin Program for Soil Erosion and Sediment Control will provide demonstration grants, technical assistance, and carry out information and education programs to improve water quality in the Great Lakes.

As chairman, I am proud that we have developed a strong, balanced proposal that greatly strengthens our commitment to conservation as an integral part and cornerstone of our agricultural policy. The conservation title represents a real win for farmers, landowners, and for all Americans who have a vital interest in conserving and protecting our natural resources.

The trade title was put together on a consensus basis in the committee. It was reported out, also, on a unanimous vote. This should go a long way toward improving existing export and food aid programs. We have seen that export markets do not serve as a reliable safety net in and of themselves. But trade is and will continue to be a key outlet for U.S. agricultural products.

Over the last few decades, the U.S. agricultural economy has derived between 20 and 30 percent of its gross income from exports. United States agricultural exports have exceeded U.S. agricultural imports since the late 1950s; generating a surplus in U.S. agricultural trade—I might add, helping our overall balance of trade. So our trade title provides about $2 billion above baseline over the 10-year period, roughly split between the commercial export programs and the food aid programs. The bill more than doubles existing funding for the Market Access Program, ramping up to $190 million annually by the end of the 5-year bill. We also put additional resources into the Foreign Market Development Program, which helps our agricultural groups serve customers in overseas markets.

The Supplier Credit Program allows short-term loans to be made directly to importers rather than through a bank intermediary. We allow the length of the loan to be extended from 6 to 12 months.

There is also a strong demand for resources to help educate children in the developing world. The United Nations World Food Program believes that there are some 300 million children worldwide who are not receiving an education due to economic hardships faced by their families. With a desire to address that issue, our bill establishes and funds the International Food for Education and Nutrition Program, within or under the banner or heading of the Food for Progress Statute. This proposal was introduced last year by former Senators Dole and McGovern, long-time advocates of domestic and international feeding programs.

The shorthand phrase for this really is the "international school lunch program." We are trying to develop in emerging nations, in nations that have a need for this, the low-income places, a school lunch program so that families would see that as a benefit to send their kids to school. Right now, a lot of families in Third World countries send their children out to work as an additional income to the family. In the United States, giving a free meal to someone may not be that big a deal since we spend less than 10 percent of our income on food. But in poorer parts of the world, they are spending 60 to 70 percent or more of their disposable income on food. If we can give a free school lunch to a child and maybe give them something to take home, it will not take long for that family to figure out that is a big addition to the family income. It will serve to not only increase nutritional benefits of kids but also serve as a magnet to get them out of the workplace and into schools.

The trade title also provides more resources for the Food for Progress program and reforms and streamlines the operations for all food aid programs run by USDA and the U.S. Agency for International Development. The bill makes it easier in a number of ways for groups such as Save the Children, CARE, and Catholic Relief Services, who run many food aid projects overseas, to do their jobs while still permitting USDA and USAID to monitor them effectively.

Finally, this title also addresses the access of United States agricultural exports to Cuba. While Cuba remains a cash-poor economy, it imports a substantial share of its food, with an average value of $660 million annually over the last few years. In particular, it is a significant buyer of rice, and prior to imposition of sanctions in the 1960s, Cuba was the single largest market for United States rice.

A February 2001 report by the U.S. International Trade Commission estimates that if we did not have the sanctions on Cuba, Cuba could buy as much as 400,000 tons of wheat, 300,000 tons of rice, and 500,000 tons of feed grains from the United States.

The Commission estimates that U.S. exports to that country could reach about $400 million annually. By eliminating, as we do, the restriction on private financing of sales of food and medicine in current law, the bill permits U.S. exporters to begin to access this market. Again, there would be no U.S. Government funds involved. This would all be through the private sector. If the private sector wants to finance these sales, let them do it. It would be a heck of a good market for producers in this country.

Next, title IV, our nutrition title. Again, in this title we are talking about something that affects all of America, rural and urban alike. In October, we lost 415,000 jobs in America. The unemployment rate jumped to 5.4 percent. It did that in September, the largest 1-month jump in 21 years. We are facing a recession this winter. We do not know how long it is going to last. Of course, we hope it is not going to last long, but we do not know.

One of the best underpinnings for families who are out of work in America, who are looking for employment, facing some tough times, is a program that has proven its worth year after year, and that is the Food Stamp Program. Along with unemployment insurance, it is the vital part of our front-line defense against recession.

If we are talking about a stimulus package, which we talked about earlier today and about which we will be hearing more, this is stimulus, making sure that those who are out of work and are seeking employment have the nutrition they and their children need.

It is a travesty that although we have the safest, most abundant food supply in the world—hunger in America has also been reduced in the last 30 years—still 10 percent of America's households face the possibility that they will worry about or actually not have enough food to eat.

The people who are going hungry include the working poor, single working mothers with children, seniors forced to choose between paying for food and paying for prescription medicine, and families forced each winter to choose between heating and eating. With the current economic downturn, we can only expect the situation to worsen.

At this time it is all the more critical that we strengthen our Nation's nutrition safety net. Part of that safety net, as I said, includes the Food Stamp Program, which is one of the most effective and efficient ways to help low-income families, the elderly, and the disabled. It is our Nation's largest child nutrition program since 50 percent of Food Stamp Program participants are children. In addition, fully 9 out of every 10 food stamp households include a senior, a disabled person, or a child.

Our bill provides $6.2 billion over 10 years for improvements in the Food Stamp Program. It includes several eligibility and benefit improvements, as well as important simplifications to improve the access of working families to the program.

Provisions in the bill accomplish three key goals:

First, to strengthen the program to help people more successfully transition from welfare to work and to help shield low-wage working families from the recession, this legislation extends the period of time that a former welfare recipient is able to participate in the Food Stamp Program without having to fill out any extra paperwork and reapply from 3 months to 6 months.

Second, it extends the period of time that able-bodied adults without dependents may participate in the Food Stamp Program to allow time for them to find and keep a job.

To simplify the program and to lighten the administrative burden and avoid excluding people who qualify for the program, the bill has a number of bipartisan provisions that would simplify the program in areas such as income and resource counting, assessment of expenses for deductions, and determination of ongoing eligibility.

We cut the redtape in the program and increase coordination between other programs, such as Medicaid and Temporary Assistance to Needy Families, the TANF program. This is so people do not have to apply for Medicaid, then apply for temporary assistance, and then apply for food stamps. We are trying to wrap it into a one-stop-shopping concept.

A third key goal is to make a concerted effort to reach all children who are poor and for whom a proper diet is particularly crucial. It includes a provision that modestly increases benefits for larger size families with children and restores food stamp benefits to all poor legal immigrant children.

The credit title reauthorizes all current direct and guaranteed USDA farm loan programs, and it focuses on providing more credit opportunities for beginning farmers and ranchers.

The title also includes other facets of the USDA farm lending programs, for example, by making the interest rate reduction program permanent and providing that reduced paperwork requirements be available to more farmers. To address the credit needs of farmers in this time of sustained low commodity prices, the title expands the time of eligibility for direct operating loans from 7 years to 9 years.

In the area of rural development, title VI, this bill will make a real difference in economic and community development in rural America.

Rural communities have many advantages, but a lot of the time they have not shared in our country's prosperity. For too long, they have lagged behind. Rural America needs facilities and services that meet the standards of 21st century America, from basic services, such as sewer and water, to the basic services we need to compete and live in the 21st century, such as broadband Internet access. Without them, the quality of life in rural communities will be impaired and businesses will not thrive.

One of the largest problems facing rural businesses is the lack of adequate equity capital at competitive rates. While many rural businesses are not directly associated with agriculture, ventures to increase the value of agricultural commodities in rural areas are a great potential as an engine for growth. If these value-added enterprises are largely owned by agricultural producers or co-ops, there is a double benefit of economic growth and increased farm income.

These are some of the key goals for rural development that our committee has been working toward. I will just mention a few of the key provisions.

We fund a new program called the Rural Business Investment Program and a bold new program called the National Rural Cooperative and Business Equity Fund. We provide substantial funding for value-added agricultural product market development grants to help develop solid new enterprises owned by agricultural producers in rural areas.

We improve the business and industry loan guarantee program and establish a new way to fund the Rural Economic Development Grant and Loan Program.

To help smaller communities, the title applies $100 million a year for broadband Internet access.

We also provide funding for firefighting and first responder training and include a program to clear the large backlog in the USDA sewer and water and community facility program.

In title VII, the research title, the central purpose of the farm bill is to ensure the security and vitality of our food and agricultural system in rural communities. Research plays a vital but often unappreciated role in accomplishing this.

The fact that resources devoted to agricultural research have been insufficient to keep pace with the increasing needs of farms and rural communities has been of great concern to many in the agricultural community.

However, this private sector funding is mostly targeted toward addressing the needs of production agriculture, leaving the needs of many other sectors of the agricultural and rural sector unaddressed. The only way to meet these unfulfilled needs is through allocating a portion of the funds given to the committee to research programs. Therefore, we increase funding for the Initiative for Future Agricultural and Food Systems to $145 million a year.

We also provide $15 million a year in funding for a competitive grants program focused on rural policy research. This program will provide research grants on topics such as rural sociology; effects of demographic change; needs of groups of rural citizens; rural community development; rural infrastructure; rural health; rural education; rural extension programs, all of these in a policy research program.

The changing nature of agriculture has created a great need for farmers and ranchers to be able to utilize a wide range of tools such as risk management, precision farming, crop protection, and business planning. The bill provides $15 million a year for a competitive grants program focused on providing beginning farmers and ranchers the information and the support they need to acquire the kind of knowledge they may not heretofore have received.

The end of the cold war, along with recent tragic terrorist attacks in America, have focused national attention on our vulnerability to biological and chemical terrorism. Agriculture is widely considered to be a vulnerable target for bioterrorism. The committee has therefore included in this title several new authorizations to bolster the Federal Government's biosecurity planning and response capabilities.

Title VIII is the forestry title. We include a sustainable forest management program to provide forest landowners and States assistance to meet multiple resource objectives on private forest lands. Funds may also be used for conservation easements to maintain forest cover and protect important forest values. The title also contains an initiative to help establish private forest landowner sustainable forestry cooperatives.

Title IX, the energy title, is a new title. This has never been in the farm bill before. It is not in the House bill, but I am hopeful the House will accept it. It was unanimously adopted by our committee. We create a number of initiatives to develop new uses and markets for agricultural products and renewable energy, including biofuels such as ethanol and biodiesel, biomass, wind, and solar energy.

We include a grant and loan program to help establish farmer-owned renewable energy businesses to market electricity. There is also a grant and loan program to provide financing assistance to farmers so they can purchase renewable energy systems such as wind turbines, solar heat pumps, solar energy, solar electricity or solar water, methane digesters, and to make energy efficiency improvements.

Another program bolsters the development of bio-refineries to convert biomass and agricultural wastes into fuels, chemicals, and power. I believe that renewable energy will become a major cash crop for farmers, ranchers, and rural communities across the country in the coming years. We can provide new income streams for our producers, enhance rural economic development, make environmental and public health gains by reducing pollution, and increase our Nation's energy security. Promoting renewable energy as part of this bill will also change the way we think about agriculture.

I truly believe we can produce just about anything from corn, soybeans, and other agricultural products that we can produce from oil. The energy title will bring us a significant step closer to that end.

I have in my office—the office I cannot get to right now, but hopefully we will get back to our offices sometime pretty soon—a picture that was taken in 1939, the year I was born. It is an original picture of Henry Ford. He has a baseball bat and he is hitting the trunk of a car, a 1939 Ford, with the baseball bat.

This was a demonstration for the press on what Henry Ford considered to be the car of the future. He predicted at that time cars of the future would be made out of soybeans, and the trunk of the car was made from soybeans. So he was hitting the trunk with the baseball bat to show it would not dent, it would not crack, and the baseball bat just bounced right off. So Henry Ford had predicted all of the things that were in a car made from petroleum products would very shortly be made from soybeans.

The war came, and we needed to ramp up our petrochemical industries. We needed petroleum for the war effort. The United States spent trillions of dollars in World War II. We spent a lot of taxpayer money developing the oil industry in this country and enhancing the petrochemical industry of this country.

After it was developed after World War II, it was obviously then much cheaper to make all of these things from oil, to make plastics out of petrochemicals, than it was to make it from our agricultural produce.

I think the time has come to start turning that corner back again, to recognize all of the things that go into an automobile today that are made from petroleum-based chemicals and plastics can indeed be made from—well, it does not have to be soybeans. It can be a lot of other different types of agricultural products. All the steering wheels, all the plastic, all of the stuff that goes in a car can, indeed, be made from soybeans.

This title of this bill is to begin that process of ensuring we can start making more and more of our products for automobiles and for other items from agricultural-based entities rather than from petroleum.

So this energy title is one of the most exciting efforts we have ever undertaken in the farm bill. There are a lot of initiatives: wind energy, for example. We can produce a lot of wind energy in this country, so we provide grants and loans to farmers and ranchers to buy and put up windmills.

One might say, what does that have to do with agriculture? The fact is if we are going to build windmills to make electricity, we are not going to build them in the cities. They are going to have to be built in rural areas. They are going to have to be built where we have farms and ranches. I think this would be a source of income for farmers, plus it would add to the national grid the help from electricity. Biomass, methane production—there is an ethanol plant in Kansas right now that is producing ethanol and their entire heat source comes from good old methane. So there is a lot of it, it seems to me, we can begin doing. I think this is one of the most exciting parts of the farm bill.

Those really are, in a nutshell, the different titles of the farm bill. As I said, every title of this farm bill was voted unanimously in our committee, with one exception, and that is the commodity title.

I understand that people have different ideas on commodities, but what we tried to do in the commodity title was to provide a balance so that one part of the country was not getting an undue amount of money over another. We tried to keep the commodities in balance so a farmer would not be encouraged to plant one crop over another; that they truly could plant for the market and not because one had a higher loan rate than another, that type of thing. So we spent a great deal of time working to balance it, and we did come out of the committee with a bipartisan vote. It was not unanimous. I admit it was not a unanimous vote on the commodities title, but it is a measure of how much work this committee did—I do not mean just this member but Democrats and Republicans did—on this bill. Every single title got a unanimous vote, as I said, with the exception of commodities, and I believe we will be able to work that out.

I have not seen it yet, but I guess Senator ROBERTS and Senator COCHRAN will be offering an amendment on the commodities title to change it. We will have a debate on that. I have not seen it, so I cannot debate it. We will look at it. We will consider it.

Now, Senator ROBERTS and Senator COCHRAN offered an amendment in committee. That approach was turned down. Whether or not this amendment will be the same, I don't know. I have heard it will be changed, but I have not seen it. We certainly will debate it. I hope we have a reasonable time limit on debate. I hope we don't drag this out longer than necessary. All who have been on the committee understand the different aspects of our commodity programs. I don't think it will take a huge amount of time to debate.

I believe we have a good, sound farm bill that is in the interests of all Americans—not just one area, not just one group, but all of America. I believe some of the things we have done in conservation, which is the cornerstone of this bill, are charting a new path for our farmers, a way where they can actually receive income because they are being good stewards of the land. I believe the new energy title will go a long way to helping make the United States more energy independent in the future.

The new rural equity fund we have set up is going to help bring business, provide the kind of venture capital we need. The money we provide for broadband access to our small towns and communities can be the highway to the new technologies so businesses can locate there.

All in all, it is a good farm bill. Is everything in it exactly as I would like it? Probably not; I would probably make some things different. But everything of this nature represents compromise and consensus. It came out on a bipartisan vote. All titles except one were unanimously approved. It represents a good compromise, a good consensus, a good balance between interests. That is why we are here—to work across party lines, to try to work together, knowing I can't have my way all the time and you can't have your way all the time, but together we work these things out. That is what we have done in the farm bill.

I know we will not have votes today, but I hope tomorrow when we come in we can proceed on amendments. I hope we can have some time limits. I hope the other side will agree. We tried to get an agreement earlier today to say that at some point tomorrow afternoon all first-degree amendments would have to be filed. That was objected to. We will revisit that tomorrow and perhaps reach an agreement. With healthy debate and amendments tomorrow, and perhaps Wednesday, we should be able to finish this bill sometime on Wednesday. I see no reason at all to carry it any further than that, and that is with meaningful debate on amendments.

I encourage all Senators who have amendments on the farm bill to please get them filed so we can look at how many there are and perhaps reach an agreement on time limits to get this bill out of here by sometime late Wednesday.

I yield the floor.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Wyoming.

UNANIMOUS-CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. THOMAS. Mr. President, as if in executive session, I ask unanimous consent the majority leader, after consultation with the Republican leader, proceed to executive session no later than December 14 to consider Calendar No. 471, the nomination of Eugene Scalia to be Solicitor for the Department of Labor. I further ask consent that there be 3 hours of debate equally divided in the usual form. I ask consent, following the use and yielding back of time, the Senate proceed to vote on the confirmation of the nomination and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Was this cleared on both sides?

Mr. THOMAS. I am not certain of that. I only know this nomination has been waiting now for over 200 days.

Mr. HARKIN. I have to object if it has not been cleared on both sides. Without that assurance, I have to object.

The PRESIDING OFFICER. The objection is heard.

UNANIMOUS-CONSENT REQUEST—S1731

Mr. HARKIN. That being the case, I ask unanimous consent all first-degree amendments to the farm bill be filed no later than 3 o'clock tomorrow afternoon.

The PRESIDING OFFICER. Is there objection?

Mr. THOMAS. I object. I am afraid there is not time for all amendments. I object.

Mr. HARKIN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. STABENOW). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. HARKIN. Madam President, I ask unanimous consent there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO THE UNIVERSITY OF NORTH DAKOTA AS IT WINS THE NATIONAL FOOTBALL CHAMPIONSHIP

Mr. DORGAN. Madam President, this past Saturday, the University of North Dakota's Fighting Sioux won the division II national championship football game. Anyone who watched that game on ESPN marveled at the game itself. It was one of the most exciting football games I have ever watched. It was decided in the last couple of seconds. The two teams played wonderful football. They played Grand Valley State of Michigan in division II. Grand Valley State had a 14-to-10 lead with just over 2 minutes left. The University of North Dakota actually had a fourth down with 50 seconds or so left at about the 41-yard line. It didn't look good. With 60 yards to the goal line, they passed and went down to the 1-yard line. And they drove it in.

It was one of the most exciting finishes I have ever seen.

As an alumnus of the University of North Dakota, I wanted to congratulate the coach and the team and say how proud we are of the division II football champions.

We have been national champions in division I in hockey many times. We won our national championship in women's basketball, and now in division II football.

The University of North Dakota Sioux had a wonderful day on Saturday. I congratulate these young men who made all of North Dakota proud. And I congratulate their coach.

As a graduate of the University of North Dakota, I am enormously proud of what they have done.

To recap, rare are the athletic programs that can claim the extraordinary success that the University of North Dakota has had over the last year: It has played national championship games in hockey, women's basketball and, on just this Saturday, football.

As a graduate, I'm pleased to be able to announce here on the Senate floor today that the University of North Dakota Fighting Sioux won that national Division II championship football game. And they did so in truly epic fashion, coming from behind in the final seconds.

Their opponent, Grand Valley State of Michigan, had taken a 14-10 lead with less than three minutes to play. After taking the ensuing kickoff, UND appeared to have stalled on their own 41 yard line where it was fourth down and four yards to go. But receiver Luke Schleusner caught a short pass from quarterback Kelby Klosterman, slipped what appeared to initially be a sure tackle, and ran 58 yards to within inches of the goal line. On the next play, with just 29 seconds left, Jed Perkerewicz darted across. It was an electrifying conclusion that marks the Sioux's first national football championship.

As an alum, I have a special affection for the University and am enormously proud of its distinguished and remarkable achievements in athletics, research, and academics.

Saturday's dramatic football victory fills the alumni, staff, students and friends of the university with understandable pride. And, importantly, our entire state of North Dakota shares the pride in this memorable triumph.

And so I salute the school's administration, athletic program, football staff—led by coach Dale Lennon, and, most importantly, the young men of the University of North Dakota football team. The hard work, the long hours, and the pain have paid off. We can all learn important lessons about life from these champions—lessons about perseverance, about working together and helping each other, about being a good sport.

In fact, one of the images from the game that's brightest in my mind is how the members of the Sioux team were repeatedly helping their opponents up off the turf and patting them on the back in an encouraging way it was an admirable display of sportsmanship.

These scholar-athletes play football because they love the game and, in the process, serve as role models for youngsters. In fact, they can serve as role models for the adults of this world.

And we can savor the feeling of having national champions in our midst. My congratulations to a truly superb team.

AMTRAK AMENDMENT ON DOD APPROPRIATIONS

Mr. McCAIN. Madam President, late Friday night the Senate agreed to an amendment to the Department of Defense appropriations bill related to Amtrak. The amendment bars the use of Federal funds or revenues generated by Amtrak for preparation by Amtrak of a liquidation plan, until Congress has reauthorized Amtrak. This amendment does not, however, affect in any way the obligation of the Amtrak Reform Council to prepare and submit to Congress a plan to restructure Amtrak. Nor does it affect in any way the existing law with respect to Congressional review of the restructuring plan, and the requirement, if a restructuring proposal is not approved, for Congressional consideration of a liquidation disapproval resolution. Given Amtrak's dire financial situation, as identified by the ARC, the GAO, and the DOT Inspector General, Congress must take action early next session to provide for a restructured and rationalized passenger rail system.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in August 1990 in Burlington, VT. A gay man was brutally assaulted by two men. The assailants, Dominic P. Ladue, 28, and his brother Richard W. Ladue, 17, were convicted in connection with the assault. Dominic LaDue was sentenced to 2½ to six years in prison under Vermont's hate crime law.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

THE ANTI-WESTERN IMPULSE

• Mr. KYL. Mr. President, John O'Sullivan is one of the wisest men I know. Advisor to Margaret Thatcher, editor of National Review and author of political commentary here and abroad, O'Sullivan has been concerned for years about the future of Western civilization in general and the United States in particular.

In the December 17, 2001 issue of National Review, he weaves together ideas of John Fonte of the Hudson Institute, Samuel Huntington and James Burnham to elaborate on his theme that our civilization is under fundamental assault from modern liberalism, what he calls an "anti-Western impulse" assaulting "the institutions invented by classical and constitutional liberalism in its great creative phase, not merely the free market, but also individual rights, free scientific inquiry, free speech, the rule of law, majority rule, democratic accountability, and national sovereignty."

Skeptical? Then I challenge you to read what follows: "Safe for Democracy, and a Nation—The idea of this country post-9/11." It is the best statement I've seen of the challenges we face from what Fonte calls "trans-national progressivism."

I ask that the commentary be printed in the RECORD.

The commentary follows.

[From the National Review, Dec. 17, 2001]

SAFE FOR DEMOCRACY, AND A NATION—THE IDEA OF THIS COUNTRY POST-9/11

(By John O'Sullivan)

One of the difficulties bedeviling political science is the protean nature of political words. As Robert Schuettinger pointed out in his study of European conservatism, the phrase "a conservative socialist" could mean a hardline Stalinist, a social-democratic revisionist, or merely a socialist who dressed and acted in a modest, inconspicuous way. When words like "conservative" and "liberal" are being used, context is all. So the theme of this article is advertised in neon when I begin with the definitions of these philosophies advanced by two distinguished American political theorists: Samuel Huntington and James Burnham.

Writing in The American Political Science Review in 1957, Huntington defined conservatism as that system of ideas employed to defend established institutions when they come under fundamental attack. As Huntington himself put it: "When the foundations of society are threatened, the conservative ideology reminds men of the necessity of some institutions and the desirability of the existing ones."

And in his 1964 book, The Suicide of the West, James Burnham described liberalism as "the ideology of Western suicide"—not exactly that liberalism caused that suicide; more that it reconciled the West to its slow dissolution. Again, as Burnham himself put it: "It is as if a man, struck with a mortal disease, were able to say and to believe, as the flush of the fever spread over his face, 'Ah, the glow of health returning' . . . If Western civilization is wholly vanquished . . . we or our children will be able to see that ending, by the light of the principles of liberalism, not as a final defeat, but as the transition to a new and higher order in which mankind as a whole joins in a universal civilization that has risen above the parochial distinctions, divisions, and discriminations of the past."

If we put these two quotations together, the function of contemporary conservatism becomes clear: to defend the institutions of Western civilization, in their distinct American form, against a series of fundamental assaults carried out in the name of liberalism and either advocated or excused by people calling themselves liberals.

To say that liberalism advances Western suicide, of course, is to say something controversial—but something much less controversial than when Burnham wrote forty years ago. When Ivy League students from mobs chanting "Hey, hey, ho, ho, Western Civ has got to go," when their professors happily edit the classics of Western thought out of their curricula, and when the politicians preside happily over a multicultural rewriting of America's history that denies or downplays its Western roots, no one can plausibly deny that an anti-Western impulse is working itself out.

This liberal revolution is an assault on the institutions invented by classical and constitutional liberalism in its great creative phase—not merely the free market, but also individual rights, free scientific inquiry, free speech, the rule of law, majority rule, democratic accountability, and national sovereignty. It promises, of course, not to abolish these liberal institutions so much as to "transcend" them or to give them "real substance" rather than mere formal expression. In reality, however, they are abolished, and replaced by different institutions derived from a different political philosophy. John Fonte of the Hudson Institute has mapped out the contours of this revolution in a series of important essays, and most importantly in "Liberal Democracy vs. Transnational Progressivism." What follows in the next few paragraphs borrows heavily from his work, though the formulations are mine. Among the more important changes advanced by transnational proressivism (as I shall here follow Fonte in calling it) are:

One: The replacement of individual identities and rights by group identities and rights. Race and gender quotas are the most obvious expression of this concept, but its implications run much furthher—suggesting, for instance, that groups as such have opinions or, in the jargon, "perspectives." Individuals who express opinions that run counter to the perspectives of their group, therefore, cannot really represent the group.

Two: An attack upon majority rule as the main mechanism of democratic government. Majority rule, its opponents contend, gives insufficient weight to minority or "victim" groups, and should be replaced by a power-sharing arrangement among different groups. This ambitious concept has not been totally enacted anywhere, but steps towards it have been taken. The Voting Rights Act, for example, requires that election districts be drawn in such a way as to ensure specific racial outcomes; and some European nations have recently introduced laws requiring political parties to ensure that a given percentage of their election candidates are women.

Three: Transferring power from political institutions directly accountable to the voters, such as Congress, to judges, bureaucratic agencies, and international organizations outside the control of the voters. Originally, this transfer of power required the consent of the elected bodies; increasingly, however, judges interpret international law, including treaties that have not been ratified or that have been greatly expanded in scope since ratification, as overriding domestic law. This process, still in its nervous infancy in the U.S., is far advanced in the European Union—where the courts have overruled national legislatures on issues as different as territorial fishing rights and the right of soldiers to become pregnant. If allowed to continue, this trend must first erode and eventually render obsolete both national sovereignty and self-government.

Four: De-constructing and re-constructing the self-understanding of America. Every nation has a sense of itself and its history that is embedded in a national narrative marked by heroic episodes. In this traditional narrative, America is the progressive universalization of English civilization—Magna Carta expanded to accommodate slaves, and later immigrants, and enriched by the cultures they brought with them. It is therefore a branch of a branch of Western civilization; but multiculturalism seeks to undermine this self-understanding and to replace it with an entirely different narrative, in which America is seen as a "convergence" of European, African, and Amerindian civilizations (and therefore the natural basis for a political system based on group identities and rights). This re-constructionist impulse has become the orthodoxy in many public schools.

Five: Re-constructing the people by mass immigration from other cultures. As long as new immigrants are assimilated into the existing nation, no problem arises; if assimilation fails to occur, the nation is gradually dissolved into a Babel of different cultural groups with conflicting allegiances. Under existing law, however, assimilation is not only made difficult by the sheer numbers of people arriving, it is also discouraged by official policies of multiculturalism and bilingualism.

Six: Divorcing citizenship from nationality and bestowing the rights of citizens—including the right to vote—on all residents in the nation, including illegal immigrants. According to this theory, citizenship should be carried on an immigrant's back to whichever nation he manages to sneak into. If seriously implemented in law, it would transform nations into mere places of residence; the symbol of this kind of citizenship is Mohamed Atta, the hijacker who destroyed the World Trade Center.

In the post-national world Fonte described, nations are no longer peoples united by a common history and culture, and "the mystic chords of memory"; they are simply the varied inhabitants of an arbitrary piece of real estate. Political authority is no longer constitutionally limited and located in particular national institutions; it is diffuse, and scattered among bodies at different levels. Politicians no longer have to take responsibility for hard decisions; they can pass them onto higher organs of unaccountable power. Civic patriotism is no longer the prime civic virtue; it is displaced either downwards, by a narrow ethnic loyalty, or upwards, by a cosmopolitan loyalty to international institutions.

But, a terrible beauty has not been born. Instead, Leviathan, by dividing itself up into several spheres, has slipped free of constitutional restraints and popular control. For the ordinary voter the world has become a mysterious place, far more difficult to navigate, let alone control. For political elites, it has become a market in power in which bureaucrats, pressure groups, businesses, and international lawyers exchange favors behind a veil of post-national irresponsibility.

For years, this progressivist revolution proceeded rapidly, chiefly because the public was paying little or no attention to it. But whenever it emerged into the light of controversy—as when Lani Buiner's nomination led to the revelation that law professors believed in something like John C. Calhoun's "concurrent majorities"—the public reacted violently against it. The typical lack of public interest was due in part to the GOP's nervous reluctance to raise such issues as racial preferences, bilingual education, or even the International Criminal Court. Although conservatism dictated a principled defense of the Constitution against these attacks, the Republicans backed off. In effect, they went from ignoring such assaults under Reagan, to going along with them quietly under George H. W. Bush; to even embracing some of them with a show of enthusiasm under George W. Bush. If the revolution were to be stopped, the political equivalent of a thunderbolt would be required.

To everyone's horror, that thunderbolt was delivered, in the form of the attack on September 11; as everyone agrees, that changed everything. In particular it revealed that America had deep reserves of patriotism and that there was a wide, though not universal, desire for national unity. In one terrifying moment, it created or revived constituencies for a firm assimilationist approach, for tighter immigration policies that protected U.S. security, for a reading of American history as the narrative of a great achievement, and for the celebration of U.S. power against all the recently fashionable follies of post-nationalism. In foreign policy, the Bush administration met this public appetite with a clear declaration of war on terrorism, and a clear military strategy for waging it; it has been rewarded for this with high popular support.

In domestic policy, however, it has been largely inert—preferring to constrain liberties internally rather than to strengthen protections against external threats. In the less tangible but vitally important matter of national unity and moral, it has concentrated entirely on (very proper) warnings against anti-Muslim sentiment—but without asking for expressions of loyalty from Muslim leaders or, more generally, asking immigrant communities to make a public commitment of their loyalty to the American nation. That is a profound mistake. Most immigrants would be happy to make such a commitment; it is America's cultural elites who would resist it most strongly.

But then, they are the shock troops of post-national progressivism; and they would realize that the demand for loyalty would be an unmistakable sign that America had recovered complete confidence in itself, in its own institutions of constitutional democracy, and in its historical mission. Without such a demand, moreover, many decent moderate people might drift idly into the kind of multicultural extremisms that helped shelter the World Trade Center attackers. For, as Americans above all should know, you can't beat something with nothing.

This, then, is a moment of great significance and opportunity in American politics. Democracy and the nation-state are the Siamese twins of political theory; democracy rarely survives apart from its twin. Every attempt to create a multicultural democracy either has failed or is deeply troubled. Bush could very reasonably weave a national appeal around the theme of defending American democracy—with equal emphasis on both words. It would resonate strongly with the American majority; command the support of many voters in minority groups; provide the GOP with a raft of popular domestic policies; and attract Democratic constituencies such as patriotic blue-collar workers. and if such an appeal is not make, the progressivist revolution is going to end up winning.●

IN MEMORY OF JAMES CLOEREN AND JERRY NORTON.

● Mr. SARBANES. Mr. President, on October 30, the State of Maryland, our Nation, their families and the Johns Hopkins Applied Physics Laboratory lost James Cloeren and Jerry Norton in a tragic accident. They died while flying their experimental aircraft near Westminster, MD.

James Cloeren and Jerry Norton were engineers and world renowned experts on ultra-stable oscillators used in satellites for navigation. They spent their careers advancing the technical development of our national space program, both defense and civilian. They built custom oscillators for the National Aeronautics and Space Administration, the Jet Propulsion Laboratory and the European Space Agency. Oscillators are precision instruments, similar to a clock that would lose no more than a second in a million years. Clocks on data-collecting satellites must be precise and endure radical changes in temperatures and shifts in magnetic pull. The Jet Propulsion Lab described their instruments as "the finest in the solar system in terms of the cleanliness and stability of their output". At the time of their deaths they were working to complete four oscillators that are the heart and soul of a pair of NASA satellites. Using ultra stable oscillators, the satellite will measure small gravitational perturbations that reflect climate changes. The satellite program is called GRACE. Their colleagues at APL are working hard to finish Mr. Cloeren's and Mr. Norton's work. NASA has directed APL to affix the names of Jim and Jerry upon the oscillators in recognition of their pioneering work in space. What a fitting monument that these two satellites will carry the names of these two colleagues who were united in work, friendship and death.

Mr. Cloeren had worked at APL for 20 years and Mr. Norton for 40 years.

Our thoughts and prayers go out to Jim's wife Sally of Westminster, MD and daughter Cathy Racow of Boca Raton, FL and Jerry's wife Ann and daughters Maria Lawall, Jane, Tina and 4 grandchildren of Marriottsville, MD.•

TRIBUTE TO UND'S FIGHTING SIOUX, NCAA DIVISION II FOOTBALL CHAMPIONS

• Mr. CONRAD. Mr. President, I rise today to note the accomplishment of the University of North Dakota football team, who on Saturday won the NCAA Division II football championship, defeating Grand Valley State University of Michigan.

It was a nail-biter, and one of the most remarkable, last-minute comebacks in the history of championship football.

UND's spectacular defense held the Grand Valley State team to 14 points, but with less than three minutes to play, and 80 yards to go, we were trailing 14-10. A field goal wouldn't do it. We had to drive the length of the field and score a touchdown. It looked as though the championship would slip from our grasp.

Moving the ball out to their 41-yard line, UND faced a crucial fourth-down play, needing four yards to keep the drive alive. Quarterback Kelby Klosterman linked up with wide receiver Luke Schleusner on an incredible 58-yard pass play, landing us on the one-yard line. Running back Jed Perkerewicz took the ball the final yard in the last 29 seconds to win the game and the championship for Grand Forks and North Dakota. It was the first national football title in the school's 105-year history.

These were well-matched teams and worthy opponents. Yardage and time of possession were very close, almost identical. UND's 80-yard final drive made the difference. Imagine the pressure.

Only minutes left on the clock, a national championship at stake, and nearly the whole field left to drive. It's a measure of this team's grit and determination that the final drive was marked by two fourth-down conversions. Converting on a fourth down is do or die, fail, and it's all over. UND did it not once, but twice. That's a demonstration of real character.

All of North Dakota is celebrating this tremendous win, but this is an especially sweet victory for the people of Grand Forks. They know about comebacks against long odds. After the floods of 1997 all but destroyed the town, and badly damaged the university, they came back. And Grand Forks is on its way to being bigger and better than ever.

Grand Forks is a comeback town, and North Dakota is a comeback team. I could not be more proud of these fine young athletes and their coaches.

And I look forward to the conclusion of a little bet that Senator DORGAN and I made last Friday with our dear colleagues from Michigan, Senators LEVIN and STABENOW. I look forward to hearing them recite the words of the UND fight song, loud and clear from the steps of the United States Capitol this week.

While the two final plays in the game put us over the top, everyone knows that at UND, it's teamwork that matters. Every member of this team contributed to the victory. I would ask to have printed in the RECORD the full roster of this championship team, and their first-rate coaching staff. They have made us very proud.

The roster follows:

UNIVERSITY OF NORTH DAKOTA FIGHTING SIOUX TEAM ROSTER

No. 1, Thayne Bosh.
No. 2, Jesse Smith.
No. 3, Dustin Thornburg.
No. 4, Jamel Alkins.
No. 5, Adam Roland.
No. 6, Shad Carney.
No. 7, Jeff Glas.
No. 8, Caleb Johnson.
No. 9, Kelby Klosterman.
No. 11, Cameron Peterka.
No. 11, Jamaal Franklin.
No. 12, John Bowenkamp.
No. 13, Joe Wilson.
No. 14, Evan Nelson.
No. 15, Brian Loe.
No. 16, Josh Ranson.
No. 17, Bret Bentow.
No. 18, Jim Miller.
No. 19, Tom Maus.
No. 20, Ryan Manke.
No. 21, Peyton Ross.
No. 22, Cory Urban.
No. 23, Tony Hermes.
No. 24, Willis Stattelman.
No. 25, Craig Riendeau.
No. 25, Demetrius Charles.
No. 26, Adam Stratton.
No. 27, Josh Copple.
No. 29, Tom Miller.
No. 30, Gregg Olson.
No. 32, Jamaal Griffin.
No. 33, Adam Dehnicke.
No. 33, Danny Gagner.
No. 34, Riza Mahmoud.
No. 35, Matt Nelson.
No. 36, Chris Beatty.
No. 36, Travis O'Neel.
No. 37, Jed Perkerewicz.
No. 37, Matt Hillbrand.
No. 38, Josh Brandsted.
No. 38, Mike O'Neil.
No. 39, Brian Wilhelmi.
No. 40, Digger Anderson.
No. 40, Eric Schmidt.
No. 42, Ross Brennan.
No. 43, Matt Vanderpan.
No. 44, Tyler Dahlen.
No. 45, Chad Mustard.
No. 46, Jason Gravos.
No. 47, David Wisthoff.
No. 48, Josh Kotelnicki.
No. 49, Blaise Larson.
No. 50, Mac Schneider.
No. 52, Andy Hendrickson.
No. 53, Mike Mularoni.
No. 54, Troy Newhouse.
No. 55, Tom Irvin.
No. 56, Josh Christofferson.
No. 57; Brook Maier.
No. 58, Eric Halstenson.
No. 59, Jake Nordick.
No. 60, Ross Walker.
No. 61, Dan Schill.
No. 62, Josh Cranston.
No. 63, Ryan Grant.
No. 64, Brennan Marsh.
No. 65, Stephen Larsen.
No. 66, Mike Gruchalla.
No. 67, Jason Peterson.
No. 68, Matt Knutson.
No. 70, Brian Osterday.
No. 71, Dave Butler.
No. 72, Ben Murphy.
No. 73, Chris Kuper.
No. 74, Mike Crouse.
No. 75, Brian Dokken.
No. 76, Ben Olson.
No. 77, Barry Smith.
No. 78, Matt Buisker.
No. 78, Mike Bryant.
No. 79, Mike Wacek.
No. 80, John Kyvig.
No. 81, Dan Graf.
No. 82, Justin Klabo.
No. 84, Jesse Ahlers.
No. 85, Erik Ahlstrom.

UND FIGHTING SIOUX COACHES AND 2001 STAFF

Dale Lennon, Head Coach.

Kyle Schweigert, Assistant Head Coach/Defensive Coordinator.

Chris Mussman, Offensive Coordinator.

Tom Dosch, Defensive Line/OLB.

Tim Tibesar, Inside Linebackers.

Curt Sienkiewicz, Running Backs.
Tim Belmore, Wide Receivers.
Cooper Harris, Graduate Assistant.
Greg Lotysz, Graduate Assistant.
Mike Mannausau, Graduate Assistant.
Jon Young, Graduate Assistant.
Steve Westereng, Head Football Athletic Trainer.
Paul Chapman, Director of Strength and Conditioning.
Dan Benson, Director of Media Relations.
Lon Carlson, Football Equipment Manager.
Cindy Klug, Office Secretary.•

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 1786. A bill to expand aviation capacity in the Chicago area.

S. 1789. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1593: A bill to authorize the Administrator of the Environmental Protection Agency to establish a grant program to support research projects on critical infrastructure protection for water supply systems, and for other purposes. (Rept. No. 107–118).

S. 1608: A bill to establish a program to provide grants to drinking water and wastewater facilities to meet immediate security needs. (Rept. No. 107–119).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

S. 1622: A bill to extend the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001. (Rept. No. 107–120).

S. 1637: A bill to waive certain limitations in the case of use of the emergency fund authorized by section 125 of title 23, United States Code, to pay the costs of projects in response to the attack on the World Trade Center in New York City that occurred on September 11, 2001. (Rept. No. 107–121).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DOMENICI:

S. 1791. A bill to amend the Internal Revenue Code of 1986 to provide for economic security and recovery, and for other purposes; to the Committee on Finance.

By Mr. BAYH (for himself, Mr. MCCAIN, Mr. CLELAND, and Mr. LIEBERMAN):

S. 1792. A bill to further facilitate service for the United States, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself, Mr. REED, Mr. GREGG, Mr. DEWINE, Mr. CONRAD, Mr. WARNER, Mr. SESSIONS, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. HUTCHINSON, Mr. ENZI, Mr. WELLSTONE, and Mr. DAYTON):

S. 1793. A bill to provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President on September 14, 2001; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CLELAND:

S. 1794. A bill to amend title 49, United States Code, to prohibit the unauthorized circumvention of airport security systems and procedures; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself, Mr. HAGEL, and Mrs. BOXER):

S. Con. Res. 90. A concurrent resolution expressing the sense of the Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea; to the Committee on Foreign Relations.

By Mr. HELMS (for himself, Mr. LUGAR, Mr. KERRY, and Mr. HAGEL):

S. Con. Res. 91. A concurrent resolution expressing deep gratitude to the government and the people of the Philippines for their sympathy and support since September 11, 2001, and for other purposes; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1209

At the request of Mr. BINGAMAN, the names of the Senator from Minnesota (Mr. WELLSTONE) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1209, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. 1262

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1262, a bill to make improvements in mathematics and science education, and for other purposes.

S. 1456

At the request of Mr. BENNETT, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1456, a bill to facilitate the security of the critical infrastructure of the United States, to encourage the secure disclosure and protected exchange of critical infrastructure information, to enhance the analysis, prevention, and detection of attacks on critical infrastructure, to enhance the recovery from such attacks, and for other purposes.

S. 1499

At the request of Mr. KERRY, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1499, a bill to provide assistance to small business concerns adversely impacted by the terrorist attacks perpetrated against the United States on September 11, 2001, and for other purposes.

S. 1619

At the request of Mr. ROCKEFELLER, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1619, a bill to amend title XVIII of the Social Security Act to provide for coverage of substitute adult day care services under the medicare program.

S. 1663

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1663, a bill to amend title 4, United States Code, to add National Korean War Veterans Armistice Day to the list of days on which the flag should especially be displayed.

S. 1707

At the request of Mr. JEFFORDS, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1717

At the request of Mr. FRIST, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1717, a bill to provide for a payroll tax holiday.

S. 1745

At the request of Mrs. LINCOLN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 1791. A bill to amend the Internal Revenue Code of 1986 to provide for economic security and recovery, and for other purposes; to the Committee on finance.

Mr. DOMENICI. Madam President, the economy remains weak and the unemployment rate released last Friday for the month of November topped 5.7 percent. This is the highest level in over 6 years, and many economists expect it to exceed 6 percent in the coming months.

Recently the economy officially was put in the category of "recession" beginning last March by the National Bureau of Economic Research.

The economy measured by its gross national product, declined at a 1.1 percent rate in the third quarter of this year.

Corporate profits are down nearly 22 percent compared to last year, and consumer confidence is down 51 points in three months, the steepest drop since 1980.

While there are a couple of "not so bad" economic factors out there, low consumer prices, low interest rates, low oil prices for consumers, and record high auto sales, these all could be temporary phenomena related to a broader weak economy and low consumer demand.

For all these reasons, I believe Congress needs to act on a stimulus bill before it adjourns this first session of the 107th congress.

The American public deserves action on a stimulus bill and we need to act quickly. Too much time has passed and we cannot let politics as usual keep us from putting together a bill that can achieve wide bipartisan support quickly.

I have come to the conclusion that we should adopt a bill that is not controversial, politically speaking, and that can actually do some good for the American economy in a short time period.

I therefore am introducing today a bill that does three very simple things that I think we can all agree on:

First, a one-month payroll tax holiday, that will provide relief from the regressive payroll tax. It would eliminate the need for both employers and employees to pay the current 12.4 percent tax.

I have found wide bipartisan support for this proposal. Unfortunately it is probably too late now to implement it successfully in the month of December but I still believe it can be enacted in time to provide real relief in the first month of 2002.

This proposal will provide nearly $40 billion in immediate, temporary tax relief to working Americans and businesses, and to State and local governments that must pay the tax also.

Second, expand the safety net for working Americans by extending unemployment insurance for 13 weeks, and providing nearly 300,000 part time workers eligibility for unemployment insurance benefits and adjusting the "base period" for determining eligibility. These latter two changes were recommended by a blue ribbon commission charged with making recommendations for reforming the UI program.

In total the changes I am recommending would increase the cost of the program by about $9 billion this year, and only $12 billion over the next decade.

Finally, the bill I am proposing today would provide for an enhancement of expensing for capital purchases, a 20 percent bonus for depreciation with a 3 year sunset. The tax benefit to businesses for new capital purchases would be nearly $26 billion this year, and $12 billion over the next decade.

In total, these three provisions, packaged together to provide quick and affordable economic stimulus, would not exceed $73 billion this year and less than $62 billion over the next decade.

Like so many on my side I wish we could do more in the way of speeding up the marginal tax rate cuts we enacted last spring, but it is clear that that can not pass the political test of other side.

Some on the other side want to have a major expansion of health care benefits in any stimulus package, but it should be clear now that that will not pass the political test on this side of the aisle.

For these reasons, I believe with time running short, this is the best possible package that we can put together that will win wide bipartisan support in the shortest amount of time and I encourage those directly involved in the, what appears to be faltering negotiations on a stimulus bill, to look at this package as a solution to acting quickly.

I submit the bill to the desk for referral and I ask unanimous consent that the bill and a table outlining the proposal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Economic Security and Recovery Act of 2001".

(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

TITLE I—BUSINESS PROVISIONS

Sec. 101. Special depreciation allowance for certain property acquired after September 10, 2001, and before September 11, 2004.

TITLE II—PAYROLL TAX HOLIDAY

Sec. 201. Payroll tax holiday.

TITLE III—TEMPORARY EMERGENCY UNEMPLOYMENT COMPENSATION

Sec. 301. Federal-State agreements.
Sec. 302. Temporary emergency unemployment compensation account.
Sec. 303. Payments to States having agreements for the payment of temporary emergency unemployment compensation.
Sec. 304. Financing provisions.
Sec. 305. Fraud and overpayments.
Sec. 306. Definitions.
Sec. 307. Applicability.

TITLE I—BUSINESS PROVISIONS

SEC. 101. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 20 percent of the adjusted basis of the qualified property, and

"(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified property' means property—

"(i)(I) to which this section applies which has a recovery period of 20 years or less or which is water utility property, or

"(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

"(ii) the original use of which commences with the taxpayer after September 10, 2001,

"(iii) which is—

"(I) acquired by the taxpayer after September 10, 2001, and before September 11, 2004, but only if no written binding contract for the acquisition was in effect before September 11, 2001, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after September 10, 2001, and before September 11, 2004, and

"(iv) which is placed in service by the taxpayer before January 1, 2005.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) Election out.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(iii) Repaired or reconstructed property.—Except as otherwise provided in regulations, the term 'qualified property' shall not include any repaired or reconstructed property.

"(iv) Qualified leasehold improvement property.—The term 'qualified property' shall not include any qualified leasehold improvement property (as defined in section 168(e)(6)).

"(C) Special rules relating to original use.—

"(i) Self-constructed property.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before September 11, 2004.

"(ii) Sale-leasebacks.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service after September 10, 2001, by a person, and

"(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) Coordination with section 280F.—For purposes of section 280F—

"(i) Automobiles.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $4,600.

"(ii) Listed property.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2)."

(b) Allowance Against Alternative Minimum Tax.—

(1) In general.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) Additional allowance for certain property acquired after September 10, 2001, and before September 11, 2004.—The deduction under section 168(k) shall be allowed."

(2) Conforming amendment.—Clause (i) of section 56(a)(1)(A) is amended by striking "clause (ii)" both places it appears and inserting "clauses (ii) and (iii)".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after September 10, 2001, in taxable years ending after such date.

TITLE II—PAYROLL TAX HOLIDAY

SEC. 201. PAYROLL TAX HOLIDAY.

(a) In General.—Notwithstanding any other provision of law, the rate of tax with respect to remuneration received during the payroll tax holiday period shall be zero under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986 and for purposes of determining the applicable percentage under section 3201(a), 3211(a)(1), and 3221(a) of such Code.

(b) Payroll Tax Holiday Period.—The term "payroll tax holiday period" means the period beginning after November 30, 2001, and ending before January 1, 2002.

(c) Employer Notification.—The Secretary of the Treasury shall notify employers of the payroll tax holiday period in any manner the Secretary deems appropriate.

(d) Transfer of Funds.—The Secretary of the Treasury shall transfer from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of the trust funds under section 201 of the Social Security Act and the Social Security Equivalent Benefit Account under section 15A of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1) are not reduced as a result of the application of subsection (a).

(e) Determination of Benefits.—In making any determination of benefits under title II of the Social Security Act, the Commissioner of Social Security shall disregard the effect of the payroll tax holiday period on any individual's earnings record.

TITLE III—TEMPORARY EMERGENCY UNEMPLOYMENT BENEFITS

SEC. 301. FEDERAL-STATE AGREEMENTS.

(a) In General.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the "Secretary"). Any State which is a party to an agreement under this title may, upon providing 30 days written notice to the Secretary, terminate such agreement.

(b) Provisions of Agreement.—

(1) In general.—Any agreement under subsection (a) shall provide that the State agency of the State will make—

(A) payments of regular compensation to individuals in amounts and to the extent that such payments would be determined if the State law were applied with the modifications described in paragraph (2); and

(B) payments of temporary emergency unemployment compensation to individuals who—

(i) have exhausted all rights to regular compensation under the State law;

(ii) do not, with respect to a week, have any rights to compensation (excluding extended compensation) under the State law of any other State (whether one that has entered into an agreement under this title or otherwise) nor compensation under any other Federal law (other than under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note)), and are not paid or entitled to be paid any additional compensation under any Federal or State law; and

(iii) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(2) Modifications described.—The modifications described in this paragraph are as follows:

(A) Alternative base period.—An individual shall be eligible for regular compensation if the individual would be so eligible, determined by applying—

(i) the base period that would otherwise apply under the State law if this title had not been enacted; or

(ii) a base period ending at the close of the calendar quarter most recently completed before the date of the individual's application for benefits, provided that wage data for that quarter has been reported to the State;

whichever results in the greater amount.

(B) Part-time employment.—An individual shall not be denied regular compensation under the State law's provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact that such individual is seeking, or is available for, only part-time (and not full-time) work, if—

(i) the individual's employment on which eligibility for the regular compensation is based was part-time employment; or

(ii) the individual can show good cause for seeking, or being available for, only part-time (and not full-time) work.

(c) Coordination Rules.—

(1) Regular compensation payable under a federal law.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(2) TEUC to serve as second-tier benefits.—Notwithstanding any other provision of law, extended benefits shall not be payable to any individual for any week for which temporary emergency unemployment compensation is payable to such individual.

(d) Exhaustion of Benefits.—For purposes of subsection (b)(1)(B)(i), an individual shall be considered to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(e) Weekly Benefit Amount.—For purposes of any agreement under this title—

(1) the amount of temporary emergency unemployment compensation which shall be payable to an individual for any week of total unemployment shall be equal to the amount of regular compensation (including dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year;

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for temporary emergency unemployment compensation and the payment thereof, except where inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary emergency unemployment compensation payable to any individual for whom a temporary emergency unemployment compensation account is established under section 302 shall not exceed the amount established in such account for such individual.

(e) Election by States.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State is authorized and may elect to trigger off an extended compensation period in order to provide payment of temporary emergency unemployment compensation to individuals who have exhausted their rights to regular compensation under State law.

SEC. 302. TEMPORARY EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) In General.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for temporary emergency unemployment compensation, a temporary emergency unemployment compensation account with respect to such individual's benefit year.

(b) Amount in Account.—

(1) In general.—The amount established in an account under subsection (a) shall be equal to 13 times the individual's average weekly benefit amount for the benefit year.

(2) Reduction for extended benefits.—The amount in an account under paragraph (1) shall be reduced (but not below zero) by the aggregate amount of extended compensation (if any) received by such individual relating to the same benefit year under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(3) Weekly benefit amount.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

SEC. 303. PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF TEMPORARY EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) General Rule.—There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(1) 100 percent of any regular compensation made payable to individuals by such State by virtue of the modifications which are described in section 301(b)(2) and deemed to be in effect with respect to such State pursuant to section 301(b)(1)(A);

(2) 100 percent of any regular compensation—

(A) which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modifications described in subparagraphs (A) and (B) of section 301(b)(2); but only

(B) to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section 301(b)(1)(A), have been reimbursable under paragraph (1); and

(3) 100 percent of the temporary emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) Treatment of Reimbursable Compensation.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) Determination of Amount.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 304. FINANCING PROVISIONS.

(a) In General.—There are appropriated such funds as are necessary to make payments to States having agreements entered into under this title.

(b) Certification.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the account of such State in the Unemployment Trust Fund (as so established).

(c) Assistance to States.—There are appropriated, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.) in meeting the costs of administration of agreements under this title.

(d) Appropriations for Certain Payments.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 305. FRAUD AND OVERPAYMENTS.

(a) In General.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of temporary emergency unemployment compensation under this title to which he was not entitled, such individual—

(1) shall be ineligible for further temporary emergency unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) Repayment.—In the case of individuals who have received amounts of temporary emergency unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) Recovery by State Agency.—

(1) In general.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any temporary emergency unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the temporary emergency unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) Opportunity for hearing.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) Review.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 306. DEFINITIONS.

In this title:

(1) In general.—The terms "compensation", "regular compensation", "extended compensation", "additional compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note), subject to paragraph (2).

(2) State law and regular compensation.—In the case of a State entering into an agreement under this title—

(A) "State law" shall be considered to refer to the State law of such State, applied in conformance with the modifications described in section 301(b)(2); and

(B) "regular compensation" shall be considered to refer to such compensation, determined under its State law (applied in the manner described in subparagraph (A));

except as otherwise provided or where the context clearly indicates otherwise.

SEC. 307. APPLICABILITY.

(a) In General.—An agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning no earlier than the first day of the first week after the date on which such agreement is entered into; and

(2) ending before the date that is 12 months after the date of enactment of this Act.

(b) Specific Rules.—

(1) In general.—Under such an agreement, the following rules shall apply:

(A) Alternative base periods.—The modification described in section 301(b)(2)(A) (relating to alternative base periods) shall not apply except in the case of initial claims filed on or after the first day of the week that includes September 11, 2001.

(B) Part-time employment.—The modifications described in section 301(b)(2)(B) (relating to part-time employment) shall apply to weeks of unemployment described in subsection (a), regardless of the date on which an individual's initial claim for benefits is filed.

(C) Eligibility for TEUC.—The payments described in section 301(b)(1)(B) (relating to temporary emergency unemployment compensation) shall not apply except in the case of individuals exhausting their rights to regular compensation (as described in clause (i) of such section) on or after the first day of the week that includes September 11, 2001.

(2) Reapplication process.—

(A) Alternative base periods.—In the case of an individual who filed an initial claim for regular compensation on or after the first day of the week that includes September 11, 2001, and before the date that the

State entered into an agreement under subsection (a)(1) that was denied as a result of the application of the base period that applied under the State law prior to the date on which the State entered into the such agreement, such individual—

(i) may refile a claim for regular compensation based on the modification described in section 301(b)(2)(A) (relating to alternative base periods) on or after the date on which the State enters into such agreement and before the date on which such agreement terminates; and

(ii) if eligible, shall be entitled to such compensation only for weeks of unemployment described in subsection (a) beginning on or after the date on which the individual files such claim.

(B) PART-TIME EMPLOYMENT.—In the case of an individual who before the date that the State entered into an agreement under subsection (a)(1) was denied regular compensation under the State law's provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact that such individual is seeking, or available for, only part-time (and not full-time) work, such individual—

(i) may refile a claim for regular compensation based on the modification described in section 301(b)(2)(B) (relating to part-time employment) on or after the date on which the State enters into the agreement under subsection (a)(1) and before the date on which such agreement terminates; and

(ii) if eligible, shall be entitled to such compensation only for weeks of unemployment described in subsection (a) beginning on or after the date on which the individual files such claim.

(3) NO RETROACTIVE PAYMENTS FOR WEEKS PRIOR TO AGREEMENT.—No amounts shall be payable to an individual under an agreement, entered into under this title for any week of unemployment prior to the week beginning after the date on which such agreement is entered into.

DOMENICI STIMULUS BILL

	Cost in billions	
	2002	2002–11
Relief for Low and Middle-Income Americans		
Payroll Tax Holiday: Offer workers and employers a one-month holiday from federal payroll taxes while holding federal trust funds harmless.	$38	$38
Expand the Safety Net for Working Americans		
Extended and Expanded Unemployment Benefits: Provide additional 13 weeks of unemployment benefits to workers who exhaust their standard benefits after 9/11, expand eligibility to part-time workers, apply alternative base period.	9	12
Stimulus for Encouraging Investment—Bonus		
Expensing: Enhance expensing of capital expenditures with 20% bonus depreciation (3-year sunset).	26	12
Total Stimulus and Assistance	73	62

By Mr. BAYH (for himself, Mr. MCCAIN, Mr. CLELAND, and Mr. LIEBERMAN):

S. 1792. A bill to further facilitate service for the United States, and for other purposes; to the Committee on Health, Labor, and Pensions.

Mr. MCCAIN. Madam President, today, Senator BAYH and I are introducing legislation, the Call to Service Act of 2001, that will expand opportunities for Americans to serve our nation. Congressmen FORD of Tennessee and Congressman OSBORNE of Nebraska are offering companion legislation in the House, and I want to thank them for their strong, bipartisan leadership in the face of America's new challenge at home and overseas.

All of us welcome the support of America's Promise, Teach for America, AmeriCorps Alums, City Year, the National Association of Service and Conservation Corps, the Naval Reserve Association, the Reserve Officers Association, the American Legion, and many other groups dedicated to service to our nation.

Our legislation is not a Democratic or Republican initiative. Duty, honor, and country are values that transcend party or ideology. This is a uniquely American moment in which a crisis becomes an opportunity to harness our unity and channel is into what historian Stephen Ambrose describes as "common-patriotism."

In the aftermath of September 11, the American people have demonstrated, through their courage and generosity, that they are prepared to meet the challenge that confronts our Nation. Yet, our fellow citizens ask how they can do more for their country. That is why we should act to provide more opportunities for public service.

Forty years ago, at the height of the cold war, President John F. Kennedy issued his famous call for service, "Ask not what your country can do for you, but rather what you can do for your country." His clarion challenge inspired millions of Americans to enter into public service. President Kennedy created both the civilian Peace Corps and the Green Berets as avenues to serve.

Now, we are confronted with a new challenge.

In this battle against terror, there are both foreign and domestic fronts. The heroic sacrifices of the New York City firefighters and police have truly moved the public. Thousands of men and women in uniform are now in harm's way to defend our liberty and freedom.

The American people are also ready to serve at home. Walk down any street and you will see a blizzard of American flags. Over a billion dollars have been contributed to the victims of the terrorist attacks. We should seize this moment and issue a new call to service. There will be many tasks ahead, both new and old. On the home front, there are new security and civil defense needs. The military will also require new recruits to confront the challenges abroad and within our borders. And, of course, there are many other ongoing service opportunities ranging from combating illiteracy to helping children and our elderly.

A major component of our legislation would be to expand AmeriCorps. Since it was created, more than 200,000 Americans have served one-to-two year stints in AmeriCorps, tutoring children, building low-income housing or helping flood-ravaged communities. AmeriCorps achievements are impressive: thousands of homes constructed; hundreds of thousands of seniors assisted to live independently in their own homes; millions of children taught, tutored, and mentored. The program receives broad bipartisan support, with 49 of the Nation's 50 Governors signing a letter last year urging Congress to support AmeriCorps.

But for all its concrete achievements, AmeriCorps has a fundamental flaw: In its seven years of existence it has barely stirred the Nation's imagination. Two out of every three Americans say that they have never heard of the program. We seek not only to expand the program, but also make certain that it has national objectives. We also charge the program with the task of assembling a plan to assist the new needs in the area of Homeland Defense.

We must also ask our Nation's colleges to step up to the plate and more aggressively promote service. Currently, only a small fraction of college work-study funds are devoted to community service, far less than what Congress originally intended when it passed the Higher Education Act of 1965. Our legislation requires universities to being truly complying with the intent of the act to promote student involvement in community activities.

We should also be concerned by the growing gap between our nation's military and civilian cultures. While the volunteer military has been successful, fewer Americans know first-hand the sacrifices and contributions of their fellow citizens who serve in uniform.

There are also many civil defense needs that must be met to defend our Nation against terrorists attacks and having a shorter-term enlistment option will help provide the manpower to defend the security of our Nation. An October 15 article in the Los Angeles Times described "the sheer size of the task of protecting targets" within our borders. And a recent Newsweek cover story, "Protecting America: What Must Be Done," cited a long list of potential terrorist targets, including nuclear power plants, seaports, dams, chemical plants, airports, water supplies, and government buildings across the United States.

To bolster our preparedness against terrorist attack, our legislation allows that Defense Department to create a new short-term enlistment to encouraging more young Americans to serve in the military. This new 18–18–18-enlistment option would provide an $18,000 post-service award for 18-months of active duty and 18 months of reserve duty.

Our legislation also significantly improves the benefits of the Montgomery GI bill by doubling the annual education benefit from $7,800 to $15,600 and by encouraging service-members to participate in the program through the elimination of the current 10-year requirement from use of the GI Bill educational benefits.

Our legislation also ensures maximum accessibility to colleges and high schools by military service recruiters. We close loopholes in current recruiting access statutes, especially where colleges may be allowing access but not providing, in the spirit of the law, full access to recruiters in terms of both information they require and reasonable physical presence.

Finally, our legislation establishes a 9-member Commission on Military Recruitment and National Service to be appointed by the Secretary of Defense and Secretary of State to examine such things as ways to shrink the civilian-military gap and develop ways to bring in a larger, broader pool of recruits.

As a country, we should strive to make national service a rite of passage for young Americans. Not only will our Nation benefit, but those whose serve will find their lives transformed. They will be able to glimpse the glory of serving a cause greater than their self-interest. They will come to know both the obligations and rewards of active citizenship. Over the past few years, we have celebrated the achievements of the Greatest Generation. Now a new generation is confronted with a challenge to defend our great nation. Let us seize the moment and provide Americans with the opportunity to serve our great nation.

Mr. BAYH. Madam President, I rise today with my colleague Senator JOHN McCAIN to introduce the Call to Service Act of 2001. I want to express my appreciation to Senator McCAIN; without his leadership we would not be here today. I also want to extend my thanks to Congressman HAROLD FORD and Congressman TOM OSBORNE for their strong leadership in the House on this issue.

In addition, former President Clinton deserves our thanks and gratitude. He championed public service and AmeriCorps during his tenure. We build upon his legacy today and acknowledge with pride the important contribution to America's well-being he has made in this area.

We are introducing this legislation at a time of great challenge for our country. But within this challenge lie the seeds of opportunity if we can seize the moment, the seeds of opportunity for civic renewal across the United States of America.

Everywhere I have gone since the tragedy of September 11, people of every age are asking, What can I do? How can I help? So to those who are looking for a way to help to put something back, we are here today to say that the Call to Service Act will give you those opportunities.

We expand the AmeriCorps program fully fivefold, increasing the number of volunteers annually, from 50,000 to 250,000, so that every 4 years, 1 million young people will have the opportunity to serve our country. Fifty percent of the new volunteers will be focused on homeland defense to meet the many issues that have come to light and need attention since the events of September 11. With this dramatic expansion, we include strong accountability measures to ensure measurable, positive outcomes for the communities served by AmeriCorps.

The Call to Service Act significantly expands the serve study initiative. Work-study in our colleges was originally intended to get kids involved in public service and community work, but unfortunately, it has not lived up to that initial promise. The requirement today is that 7 percent of students involved in work-study have to be involved in community service. We expand that more than threefold to 25 percent, to get America's best and brightest giving back to the community. This means that every year, approximately 250,000 students will be contributing to their communities. Expanding the community service portion of work-study has broad bipartisan support. In May 2000, General Powell sent a letter to the Nation's college presidents to "work toward a goal of dedicating a greater and greater portion of your Federal College Work Study funds each year to community service."

We expand Senior Corps to ensure that more senior citizens can help their community. We are living long and we are living healthier. Our seniors have a lot of experience and a lot to contribute to our country. We propose lifting the age and income requirements for the three Senior Corps programs to enable more seniors to serve.

The Call to Service Act also seeks to expand opportunities to serve in the military. Military service used to be a common experience and therefore a common bond. We would like to see more young Americans enlist and serve their country through the military. This legislation takes important steps in this direction. We create a new enlistment track for the military, the "18-18-18 plan." Under this plan, a person could serve 18 months in active duty, and 18 months in the military reserve service and receive a $18,000 bonus payment which can be used for educational purposes, in addition to regular pay, at the end of his or her service. Our plan also significantly improves benefits under the Montgomery G.I. Bill by doubling the educational award and encouraging more service members to utilize these benefits.

All over the world, expectant and hopeful eyes are turned to our nation. Many are asking, does this generation of Americans have the willingness to sacrifice even for a moment, even for a part of the ease and comfort that we have been accustomed to for these last several decades, to defend the values that we cherish? I believe that the answer to that will be a resounding yes, and this initiative will give people, young and old, an opportunity to prove that this generation of Americans is a worthy successor to those who have gone before.

This bill is consistent with the most basic principles of our democracy. Perhaps the most famous call to public service was John F. Kennedy's words in his inaugural address, when he said, "Ask not." But it goes back a long way before that. It was Thomas Jefferson who chose for his headstone to be remembered for his authorship of the Declaration of Independence, his authorship of the law guaranteeing religious liberty to the people of Virginia, and his founding of the University of Virginia.

He was asked by a friend when he showed his proposed words to him, he said, "Mr. Jefferson, you don't mention the fact that you were president. You don't mention the fact that you were vice president, ambassador to Paris, or secretary of state. How can you leave these things off?" To which Jefferson replied, "My friend, I would much prefer to be remembered for what I have been privileged to do for others, than what others have so kindly done for me." It is in that spirit that we offer this legislation and call upon this generation of Americans to serve.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICA'S PROMISE,
THE ALLIANCE FOR YOUTH,
Alexandria, VA, May 30, 2000.

DEAR FRIEND: President Clinton has written you and I join him in enlisting your support in a very important endeavor—the well being of our Nation's young people.

Three years ago at the Presidents' Summit for America's Future held in Philadelphia, all the living Presidents of the United States and thousands of other national leaders pledged to harness the power of volunteerism in the service of our Nation's most important resource, our youth. The organization I chair, America's Promise, The Alliance for Youth, was born at the 1997 Presidents' Summit, and it continues today mobilizing communities, individuals, organizations, and institutions to make five key promises to every youngster: an ongoing relationship with a caring adult—parent, mentor, tutor or coach; safe places and structured activities during non-school hours; a healthy start; a marketable skill through effective education; and an opportunity to give back through community service.

Colleges and universities can play a crucial role in this movement. Actually, many have already enlisted in our crusade by becoming Colleges and Universities of Promise. With that pledge they make a commitment to keep the Five Promises to young people in their communities.

One very substantial way you can contribute is by using the Federal College Work

Study Program to enable hundreds of thousands of college students to serve in the communities where they study. By being tutors or mentors, or by working with local schools and youth-service organizations, college students can make a tangible difference in the lives of young children. I can attest that there are thousands more nonprofit organizations and community groups serving young children and youth that would benefit profoundly from the energy and idealism of your students.

In that spirit, President Clinton is asking you to commit a greater share of your work study assignments to community service. I second the President's request and encourage you to work toward a goal of dedicating a greater and greater portion of your Federal College Work Study funds each year to community service. Institutions of higher learning have always been leaders in the life of our nation. I hope you will seize this opportunity to demonstrate that leadership again.

Please join in this effort. Help us to keep America's Promise. Thank you and best wishes.

Sincerely,

Gen. COLIN L. POWELL, USA (Ret),
Chairman.

By Mr. CLELAND:

S. 1794. A bill to amend title 49, United States Code, to prohibit the unauthorized circumvention of airport security systems and procedures; to the Committee on Commerce, Science, and Transportation.

Mr. CLELAND. Madam President, I rise today to introduce legislation that will make it a Federal criminal offense to intentionally circumvent an airport security checkpoint. This morning I chaired the first Senate Commerce Committee hearing on aviation security since the landmark aviation security bill was signed into law earlier this fall. That historic piece of legislation was enacted as a response to the events of September 11, when terrorists commandeered U.S. commercial jets filled with passengers and used them as weapons of mass destruction.

Those terrorist attacks have precipitated a sea-change in attitude on how we view our homeland security. There is no such thing as "business as usual," especially at our airports across this country. Immediately after the events of 9–11, the Federal Aviation Administration and U.S. Department of Transportation took steps to tighten aviation security across the country. U.S. airlines and airports put in place additional security safeguards. And Congress passed the most sweeping aviation security bill in history.

Under the new law, every commercial airport will now have a Federal security manager and the manager will conduct an immediate assessment of safety procedures at the busiest airports in the country. We will have strict and uniform national standards for the hiring and training and job performance of the men and women who are on the front lines of ensuring that our airports and airplanes are not only the safest in the world, but are also the most secure. Because of this legislation, every airport screener must now be a U.S. citizen. He or she must pass a criminal background check, and they must perform well in their job. If they don't, and this includes federal screeners, they can and will be fired immediately. Cockpit doors will be fortified, the number of air marshals on airplanes will be significantly increased, and international flights must provide the U.S. Customs Service with passenger lists before they can land in this country..

Hartsfield Atlanta International Airport, the world's busiest airport, Delta, with its world headquarters in Atlanta, and AirTran are key not just to Georgia's economy, but to our national aviation system as well. At the Commerce Committee hearing this morning, Spokespersons from each of these Georgia giants, told us about the security measures that have been put in place since the September 11 hijackings and what further steps they plan to take in light of the requirements of the new aviation security law.

At the hearing, Hartsfield's General Manager, Mr. Benjamin DeCosta, addressed the incident of November 16 when an individual breached security at the Atlanta airport. The security breach triggered the total evacuation of Hartsfield and a temporary halt of incoming and outgoing air traffic. That action caused a ripple effect of delays and flight cancellations. I might add that I have firsthand knowledge of those delays, since I spent some "quality time" on the tarmac in Atlanta that day. But I want to stress that despite those delays, the system worked. Hartsfield correctly followed the FAA directive, put in place after September 11, that required airport lock-down until airport security could be assured.

However, the November incident revealed a glaring loophole in the system, even after enactment of the new airline security legislation. Currently, an intentional security violation aboard an aircraft is a Federal crime, but a willful breach of an airport security checkpoint is punishable only by local criminal penalties and federal civil penalties. Just as we have at last stepped up to the plate to assure greater uniformity and greater accountability through federalizing the airport security workforce, I believe it is the responsibility of Congress to address this shortcoming in our federal laws. Accordingly, I am introducing legislation, the Airport Checkpoint Enhancement, or ACE, Act, to make willful violations of airport security checkpoints a federal crime. We should send a message loud and clear that airport business is serious business, that if you come to a U.S. airport for mischief or for folly, you will pay the consequences.

My legislation addresses the all-important issue of aviation security which, as we have recently learned in the most painful way possible, is a matter of national security. Specifically, the ACE Act will amend the recently-passed Aviation and Transportation Security Act to provide a federal criminal penalty for individuals who intentionally circumvent or breach an airport security checkpoint. It was amazing to me to learn that in Georgia, an individual who willfully violates the secure area of an airport is only subject to a misdemeanor which means a maximum penalty involving a civil fine up to $1,100 and a year in jail. My legislation will mean that violators could face up to 10 years in prison. This legislation is supported by Atlanta's Hartsfield International Airport, Delta Airlines, the Air Carrier Association of America, and the Office of the Solicitor General, Clayton County, GA. We have only just begun to improve airport security and therefore, I look forward to continuing this discussion with airport officials and law enforcement officers across the country on how we can best protect passengers, airport workers, and air travel in the future.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Airport Checkpoint Enhancement Act".

SEC. 2. PROHIBITION ON UNAUTHORIZED CIRCUMVENTION OF AIRPORT SECURITY SYSTEMS AND PROCEDURES.

(a) PROHIBITION.—Section 46503 of title 49, United States Code, as added by section 114 of the Aviation and Transportation Security Act (Public Law 107–71), is amended—

(1) by inserting "(a) INTERFERENCE WITH SECURITY SCREENING PERSONNEL.—" before "An individual"; and

(2) by adding at the end the following new subsection:

"(b) UNAUTHORIZED CIRCUMVENTION OF SECURITY SYSTEMS AND PROCEDURES.—An individual in an area within a commercial service airport in the United States who intentionally circumvents, in an unauthorized manner, a security system or procedure in the airport shall be fined under title 18, imprisoned for not more than 10 years, or both.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The section heading of that section is amended to read as follows:

"§ 46503. Interference with security screening personnel; unauthorized circumvention of security systems or procedures".

(2) The item relating to that section in the table of sections at the beginning of chapter 465 of that title is amended to read as follows:

"46503. Interference with security screening personnel; unauthorized circumvention of security systems or procedures.".

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 90—EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE EFFORTS OF PEOPLE OF THE UNITED STATES OF KOREAN ANCESTRY TO REUNITE WITH THEIR FAMILY MEMBERS IN NORTH KOREA

Mrs. FEINSTEIN (for herself, Mr. HAGEL, and Mrs. BOXER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 90

Whereas on June 25, 1950, North Korea invaded South Korea, thereby initiating the Korean War, leading to the loss of countless lives, and further polarizing a world engulfed by the Cold War;

Whereas in the aftermath of the Korean War, the division of the Koreas at the 38th parallel separated millions of Koreans from their families, tearing at the heart of every mother, father, daughter, and son;

Whereas on June 13 and 14, 2000, in the first summit conference ever held between leaders of North and South Korea, South Korean President Kim Dae Jung met with North Korean leader Kim Jong Il in Pyongyang, North Korea's capital;

Whereas in a historic joint declaration, South Korean President Kim Dae Jung and North Korean leader Kim Jong Il made an important promise to promote economic cooperation and hold reunions of South Korean and North Korean citizens;

Whereas such reunions have been held in North and South Korea since the signing of the joint declaration, reuniting family members who had not seen or heard from each other for more than 50 years;

Whereas 500,000 people of the United States of Korean ancestry bear the pain of being separated from their families in North Korea;

Whereas the United States values peace in the global community and has long recognized the significance of uniting families torn apart by the tragedy of war; and

Whereas a petition drive is taking place throughout the United States, urging the United States Government to assist in the reunification efforts: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) Congress and the President should support efforts to reunite people of the United States of Korean ancestry with their families in North Korea; and

(2) such efforts should be made in a timely manner, as 50 years have passed since the separation of these families.

Mrs. FEINSTEIN. Madam President, I rise today along with my colleagues Senator HAGEL and Senator BOXER to submit a concurrent resolution that expresses the sense of Congress that the Congress and the President should support efforts to reunite Americans of Korean ancestry with their families in North Korea.

Following a historic summit in June, 2000 in Pyongyang, North Korea, South Korean President Kim Dae Jung and North Korean leader Kim Jon Il agreed to hold reunions of South Korean and North Korean families separated at the 38th parallel since the start of the Korean war. Since then, three reunions have taken place and more than 3,400 citizens of North and South Korea have been reunited after more than 50 years.

I applaud these reunions and I believe they are an important step towards improving relations between North and South Korea and promoting peace and stability on the Korean Peninsula. Unfortunately, more than 500,000 Americans of Korean ancestry, many of whom reside in my home state of California, who likewise have been separated from loved ones in North Korea for half a century have not been able to participate.

Time is of the essence. Family members in North Korea and the United States are entering the twilight of their lives. Many have died. Many simply do not know what has happened to their loved ones. We now have an opportunity to lend our support to efforts to reunite families who have spent far too long suffering from separation and uncertainty.

The resolution is simple. It states that it is the sense of Congress that the Congress and the President should support efforts to reunite people of the United States of Korean ancestry with their families in North Korea and that those efforts should be made in a timely manner.

The holiday season is a time for family members to come together, share their love and happiness, and look forward to the New Year. During this time, let us make a commitment to help Americans of Korean descent so that they too will soon be able to share in that holiday spirit with their brothers and sisters, mothers and fathers, and grandmothers and grandfathers in North Korea.

I urge my colleagues to support the Resolution.

SENATE CONCURRENT RESOLUTION 91—EXPRESSING DEEP GRATITUDE TO THE GOVERNMENT AND THE PEOPLE OF THE PHILIPPINES FOR THEIR SYMPATHY AND SUPPORT SINCE SEPTEMBER 11, 2001, AND FOR OTHER PURPOSES

Mr. HELMS (for himself, Mr. LUGAR, Mr. KERRY, and Mr. HAGEL) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 91

Whereas the United States and the Republic of the Philippines have shared a special relationship of mutual benefit for more than 100 years;

Whereas, since the September 11, 2001, terrorist attacks on the United States, the Philippines has been among the world's most steadfast friends of the United States during a time of grief and turmoil, offering heartfelt sympathy and support;

Whereas, after the United States launched Operation Enduring Freedom in Afghanistan on October 7, 2001, Philippine President Gloria Macapagal-Arroyo immediately announced her government's unwavering support for the operation, calling it "the start of a just offensive";

Whereas, during the United States operations in Afghanistan, the government of the Philippines has made all of its military installations available to the Armed Forces of the United States for transit, refueling, resupply, and staging operations;

Whereas this assistance provided by the Philippines has proved highly valuable in the prosecution of Operation Enduring Freedom in Afghanistan;

Whereas the Philippines also faces terrorist threats from the Communist Party of the Philippines/New People's Army/National Democratic Front and the radical Islamic Abu Sayaff group, as well as armed secessionist campaigns by the Moro Islamic Liberation Front, and elements of the Moro National Liberation Front;

Whereas the Abu Sayaff group has historical ties to Osama bin Laden and the al-Qaeda network, and has engaged in hundreds of acts of terrorism in the Philippines, including bombings, arson, and kidnappings;

Whereas, in May 2001, Abu Sayaff kidnapped American citizens Martin Burnham, Gracia Burnham and Guillermo Sobero, along with several Filipinos;

Whereas Abu Sayaff has killed Guillermo Sobero and still detains Martin Burnham and Gracia Burnham; and

Whereas, the United States and the Philippines are committed to each other's security in the Mutual Defense Treaty, signed at Washington August 30, 1951 (3 UST 3947): Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) expresses its deepest gratitude to the government and the people of the Philippines for their sympathy and support since September 11, 2001;

(2) expresses its sympathy to the current and recent Filipino victims of terrorism and their families;

(3) affirms the commitments of the United States to the Philippines as expressed in the Mutual Defense Treaty, signed at Washington August 30, 1951 (3 UST 3947);

(4) supports the government of the Philippines in its efforts to prevent and suppress terrorism; and

(5) acknowledges the economic and military needs of the Philippines and pledges to continue to assist in addressing those needs.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2464. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table.

SA 2465. Mr. REID (for Mrs. FEINSTEIN (for himself and Mrs. BOXER)) proposed an amendment to the bill S.Res. 178, congratulating Barry Bonds on his spectacular record-breaking season in 2001 and outstanding career in Major League Baseball.

SA 2466. Mr. GREGG (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2464. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Title X, Subtitle A, insert the following:

"SEC. 1003. CERTIFICATION AND LABELING OF ORGANIC WILD SEAFOOD.

"(a) Exclusive Authority of Secretary of Commerce.—The Secretary of Commerce shall have exclusive authority to provide for the certification and labeling of wild seafood as organic wild seafood.

"(b) Relationship to Other Law.—The certification and labeling of wild seafood as organic wild seafood shall not be subject to the provisions of the Organic Foods Production Act of 1990 (title XXI of Public Law 101-624; 104 Stat. 3925; 7 U.S.C. 6501 et. seq.).

"(c) Regulations.—

"(1) In general.—The Secretary of Commerce shall prescribe regulations for the certification and labeling of wild seafood as organic wild seafood.

"(2) Considerations.—In prescribing the regulations, the Secretary—

"(A) may take into consideration, as guidance, to the extent practicable, the provisions of the Organic Foods Production Act of 1990 and the regulations prescribed in the administration of that Act; and

"(B) shall accommodate the nature of the commercial harvesting and processing of wild fish in the United States

"(3) Time for initial implementation.—The Secretary shall promulgate the initial regulations to carry out this section not later than one year after the date of enactment of this Act.".

SA 2465. Mr. REID (for Mrs. Feinstein (for herself and Mrs. Boxer)) proposed an amendment to the bill S. Res. 178, congratulating Barry Bonds on his spectacular record-breaking season in 2001 and outstanding career in Major League Baseball; as follows:

On page 1, line 9, strike "3" and insert "an unprecedented 4".

SA 2466. Mr. GREGG (for himself and Mr. Lugar) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 54, strike line 1 and all that follows through page 87, line 8, and insert the following:

CHAPTER 2—SUGAR

Subchapter A—Sugar Program

SEC. 141. SUGAR PROGRAM.

(a) In General.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended—

(1) in subsection (e), by striking paragraph (1) and inserting the following:

"(1) Loans.—The Secretary shall carry out this section through the use of recourse loans.";

(2) in subsection (f), by striking "2003" each place it appears and inserting "2006";

(3) by redesignating subsection (i) as subsection (j);

(4) by inserting after subsection (h) the following:

"(i) Phased Reduction of Loan Rate.—For each of the 2003, 2004, and 2005 crops of sugar beets and sugarcane, the Secretary shall lower the loan rate for each succeeding crop in a manner that progressively and uniformly lowers the loan rate for sugar beets and sugarcane to $0 for the 2006 crop."; and

(5) in subsection (j) (as redesignated), by striking "2002" and inserting "2005".

(b) Prospective Repeal.—Effective beginning with the 2006 crop of sugar beets and sugarcane, section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is repealed.

SEC. 142. MARKETING ALLOTMENTS.

Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

SEC. 143. CONFORMING AMENDMENTS.

(a) Price Support for Nonbasic Agricultural Commodities.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking "milk, sugar beets, and sugarcane" and inserting ", and milk".

(b) Powers of Commodity Credit Corporation.—Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(a)) is amended by inserting "(other than sugar beets and sugarcane)" after "agricultural commodities".

SEC. 144. CROPS.

Except as otherwise provided in this subchapter, this subchapter and the amendments made by this subchapter shall apply beginning with the 2003 crop of sugar beets and sugarcane.

Subchapter B—Food Stamp Program

SEC. 147. MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION.

(a) Fiscal Years 2002 Through 2004.—

(1) In general.—Section 5(e)(7)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(B)) is amended—

(A) in clause (v), by striking "and" at the end; and

(B) by striking clause (vi) and inserting the following:

"(vi) for fiscal year 2002, $354, $566, $477, $416, and $279 per month, respectively;

"(vii) for fiscal year 2003, $390, $602, $513, $452, and $315 per month, respectively; and

"(viii) for fiscal year 2004, $425, $637, $548, $487, and $350 per month, respectively.".

(2) Effective date.—The amendments made by this subsection take effect on the date of enactment of this Act.

(b) Fiscal Year 2005 and Thereafter.—

(1) In general.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended by striking subparagraph (B).

(2) Effective date.—The amendment made by this subsection takes effect on October 1, 2004.

PRIVILEGE OF THE FLOOR

Mr. THOMAS. Mr. President, I ask unanimous consent that Jeff Mow of the Senate Energy Committee be granted floor privileges during this debate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THOMPSON. On behalf of Senator Fitzgerald, I ask unanimous consent that Jeremy Stump, a fellow from his office, be granted the privilege of the floor during the Senate's consideration of the farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 2002

On December 7, 2001, the Senate amended and passed H.R. 3338, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3338) entitled "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

DIVISION A—DEPARTMENT OF DEFENSE APPROPRIATIONS, 2002

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

Military Personnel, Army

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $23,446,734,000.

Military Personnel, Navy

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $19,465,964,000.

Military Personnel, Marine Corps

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), *and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $7,335,370,000.*

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $20,032,704,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,670,197,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,650,523,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $466,300,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,061,160,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,052,695,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,783,744,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $10,794,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $22,941,588,000.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,569,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $27,038,067,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $2,903,863,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,998,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $26,303,436,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $12,864,644,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $33,500,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,771,246,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,003,690,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $144,023,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,023,866,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $3,743,808,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger *motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $3,998,361,000.*

UNITED STATES COURTS OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $9,096,000, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $389,800,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $257,517,000, to remain available until transferred: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $385,437,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $23,492,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $230,255,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code), $44,700,000, to remain available until September 30, 2003.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $357,000,000, to remain available until September 30, 2004: Provided, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

SUPPORT FOR INTERNATIONAL SPORTING COMPETITIONS, DEFENSE

For logistical and security support for international sporting competitions (including pay and non-travel related allowances only for members of the Reserve Components of the Armed Forces of the United States called or ordered to active duty in connection with providing such support), $15,800,000, to remain available until expended.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,893,891,000, to remain available for obligation until September 30, 2004.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,774,154,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,174,546,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,171,465,000, to remain available for obligation until September 30, 2004.

Other Procurement, Army

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 29 passenger motor vehicles for replacement only; and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,160,186,000, to remain available for obligation until September 30, 2004.

Aircraft Procurement, Navy

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $8,030,043,000, to remain available for obligation until September 30, 2004.

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $1,478,075,000, to remain available for obligation until September 30, 2004.

Procurement of Ammunition, Navy and Marine Corps

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $442,799,000, to remain available for obligation until September 30, 2004.

Shipbuilding and Conversion, Navy

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), $138,890,000;

SSGN (AP), $279,440,000;

NSSN, $1,608,914,000;

NSSN (AP), $684,288,000;

CVN Refuelings, $1,118,124,000;

CVN Refuelings (AP), $73,707,000;

Submarine Refuelings, $382,265,000;

Submarine Refuelings (AP), $77,750,000;

DDG–51 destroyer program, $2,966,036,000;

Cruiser conversion (AP), $458,238,000;

LPD–17 (AP), $155,000,000;

LHD–8, $267,238,000;

LCAC landing craft air cushion program, $52,091,000;

Prior year shipbuilding costs, $725,000,000; and

For craft, outfitting, post delivery, conversions, and first destination transformation transportation, $307,230,000;

In all: $9,294,211,000, to remain available for obligation until September 30, 2006: Provided, That additional obligations may be incurred after September 30, 2006, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 152 passenger motor vehicles for replacement only, and the purchase of five vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per unit for two units and not to exceed $115,000 per unit for the remaining three units; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $4,146,338,000, to remain available for obligation until September 30, 2004.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 25 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $974,054,000, to remain available for obligation until September 30, 2004.

Aircraft Procurement, Air Force

For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $10,617,332,000, to remain available for obligation until September 30, 2004.

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $3,657,522,000, to remain available for obligation until September 30, 2004.

Procurement of Ammunition, Air Force

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $873,344,000, to remain available for obligation until September 30, 2004.

Other Procurement, Air Force

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 216 passenger motor vehicles for replacement only, and the purchase of three vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $8,144,174,000, to remain available for obligation until September 30, 2004.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 115 passenger motor vehicles for replacement only; the purchase of 10 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $250,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $1,473,795,000, to remain available for obligation until September 30, 2004.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $15,000,000 to remain available until expended, of which, $3,000,000 may be used for a Processible Rigid-Rod Polymeric Material Supplier Initiative under title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) to develop affordable production methods and a domestic supplier for military and commercial processible rigid-rod materials.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $560,505,000, to remain available for obligation until September 30, 2004: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $6,742,123,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $10,742,710,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $13,859,401,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $14,445,589,000, to remain available for obligation until September 30, 2003.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $216,855,000, to remain available for obligation until September 30, 2003.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds; $1,826,986,000: Provided, That during fiscal year 2002, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 330 passenger carrying motor vehicles for replacement only for the Defense Security Service.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), $407,408,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $18,376,404,000, of which $17,656,185,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2003; of which $267,915,000, to remain available for obligation until September 30, 2004, shall be for Procurement; of which $452,304,000, to remain available for obligation until September 30, 2003, shall be for Research, development, test and evaluation.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,104,557,000, of which $739,020,000 shall be for Operation and maintenance to remain available until September 30, 2003, $164,158,000 shall be for Procurement to remain available until September 30, 2004, and $201,379,000 shall be for Research, development, test and evaluation to remain available until September 30, 2003.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $865,981,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $152,021,000, of which $150,221,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,800,000 to remain available until September 30, 2004, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System

Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $212,000,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $144,776,000, of which $28,003,000 for the Advanced Research and Development Committee shall remain available until September 30, 2003: Provided, That of the funds appropriated under this heading, $27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2004, and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2003: Provided further, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities to conduct document exploitation of materials collected in Federal, State, and local law enforcement activity.

PAYMENT TO KAHO'OLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION FUND

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, $75,000,000, to remain available until expended.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS—DEPARTMENT OF DEFENSE

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to March 31, 2002.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

C–17; and

F/A–18E and F engine.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to the Congress on September 30 of each year: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2002, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2002 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections *(a) and (b) of this provision were effective with regard to fiscal year 2003.*

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual: Provided further, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: Provided, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent ownership by an Indian tribe, as defined in section 450b(e) of title 25, United States Code, or a Native Hawaiian organization, as defined in section 637(a)(15) of title 15, United States Code.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Funds available in this Act and hereafter may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8019. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: Provided, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: Provided further, That the Department of Defense's budget submission for fiscal year 2002 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: Provided further, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: Provided further, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8020. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8021. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8022. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a subcontractor at any tier shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

SEC. 8023. During the current fiscal year and hereafter, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5, United States Code, or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code, or the National Guard, as described in section 101 of title 32, United States Code;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, United States Code, or other provision of law, as applicable; or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, United States Code, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of *section 6323(b) of title 5, United States Code, and such leave shall be considered leave under section 6323(b) of title 5, United States Code.*

SEC. 8024. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8025. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8026. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8027. Of the funds made available in this Act, not less than $61,100,000 shall be available to maintain an attrition reserve force of 18 B–52 aircraft, of which $3,300,000 shall be available from "Military Personnel, Air Force", $37,400,000 shall be available from "Operation and Maintenance, Air Force", and $20,400,000 shall be available from "Aircraft Procurement, Air Force": Provided, That the Secretary of the Air Force shall maintain a total force of 94 B–52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2002: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2003 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8028. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

SEC. 8029. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8030. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8031. Of the funds made available in this Act, not less than $24,303,000 shall be available for the Civil Air Patrol Corporation, of which $22,803,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes $1,500,000 for the Civil Air Patrol counterdrug program: Provided, That funds identified for "Civil Air Patrol" under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8032. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law; none of the funds available to the department from any source during fiscal year 2002 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2002, not more than 6,227 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,029 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2003 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $60,000,000.

SEC. 8033. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8034. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8035. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8036. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2001. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8037. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8039. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees by February 1, 2002, a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 2003 budget request was reduced because the Congress appropriated funds above the President's budget request for that specific activity for fiscal year 2002.

SEC. 8040. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8041. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8042. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8043. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $100,000.

SEC. 8044. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2003 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2003 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8045. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2003: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended.

SEC. 8046. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8047. Of the funds appropriated by the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8048. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year and hereafter pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

(TRANSFER OF FUNDS)

SEC. 8049. In addition to the amounts appropriated elsewhere in this Act, $10,000,000 is hereby appropriated to the Department of Defense: Provided, That at the direction of the Assistant Secretary of Defense for Reserve Affairs, these funds shall be transferred to the Reserve component personnel accounts in Title I of this Act: Provided further, That these funds shall be used for incentive and bonus programs that address the most pressing recruitment and retention issues in the Reserve components.

SEC. 8050. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8051. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8052. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the *granting of the waiver will reduce the personnel requirements or the financial requirements of the department.*

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8053. During the current fiscal year and hereafter, funds appropriated or made available by the transfer of funds in this or subsequent Appropriations Acts, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) until the enactment of the Intelligence Authorization Act for that fiscal year and funds appropriated or made available by transfer of funds in any subsequent Supplemental Appropriations Act enacted after the enactment of the Intelligence Authorization Act for that fiscal year are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 8054. Notwithstanding section 303 of Public Law 96–487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: Provided, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

(RESCISSIONS)

SEC. 8055. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded as of the date of the enactment of this Act from the following accounts in the specified amounts:

"Aircraft Procurement, Army, 2001/2003", $15,500,000;

"Aircraft Procurement, Air Force, 2001/2003", $43,983,000;

"Missile Procurement, Air Force, 2001/2003", $58,550,000;

"Procurement, Defense-Wide, 2001/2003", $64,170,000;

"Research, Development, Test and Evaluation, Air Force, 2001/2002", $13,450,000; and

"Research, Development, Test and Evaluation, Defense-Wide, 2001/2002", $5,664,000.

SEC. 8056. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8057. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8058. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8059. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8060. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act, for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8061. Of the funds made available under the heading "Operation and Maintenance, Air Force", $12,000,000 shall be available to realign railroad track on Elmendorf Air Force Base and Fort Richardson.

SEC. 8062. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8063. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8064. None of the funds made available in this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8065. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8066. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8067. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8068. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8069. Of the funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide", up to $5,000,000 shall be available to provide assistance, by grant or otherwise, to public school systems that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments: Provided further, That up to $2,000,000 shall be available for DOD to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: Provided further, That to the extent a federal agency provides this assistance, by contract, grant or otherwise, it may accept and expend non-federal funds in combination with these federal funds to provide assistance for the authorized purpose, if the non-federal entity requests such assistance and the non-federal funds are provided on a reimbursable basis.

SEC. 8070. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of *the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.*

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8071. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: Provided, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: Provided further, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: Provided further, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8072. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8073. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8074. Up to $3,000,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems critical to base operations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8075. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8076. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8077. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8078. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: Provided, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8079. During the current fiscal year, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: Provided, That costs for which reimbursement is waived pursuant to this section shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8080. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8081. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8082. Notwithstanding 31 U.S.C. 3902, during the current fiscal year and hereafter, interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

SEC. 8083. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8084. Of the funds made available under the heading "Operation and Maintenance, Air Force", not less than $1,500,000 shall be made available by grant or otherwise, to the Council of Athabascan Tribal Governments, to provide assistance for health care, monitoring and related issues associated with research conducted from 1955 to 1957 by the former Arctic Aeromedical Laboratory.

SEC. 8085. In addition to the amounts appropriated or otherwise made available in this Act, $5,000,000, to remain available until September 30, 2002, is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $5,000,000 to the American Red Cross for Armed Forces Emergency Services.

SEC. 8086. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8087. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8088. Funds made available to the Civil Air Patrol in this Act under the heading "Drug Interdiction and Counter-Drug Activities, Defense" may be used for the Civil Air Patrol Corporation's counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State, and local government agencies; and for equipment needed for mission support or performance: Provided, That the Department of the Air Force should waive reimbursement from the Federal, State, and local government agencies for the use of these funds.

SEC. 8089. Section 8125 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259), is hereby repealed.

SEC. 8090. Of the funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Navy", up to $3,000,000 may be made available for a Maritime Fire Training Center at Barbers Point, including provision for laboratories, construction, and other efforts associated with research, development, and other programs of major importance to the Department of Defense.

SEC. 8091. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8092. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian health service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8093. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $140,591,000 to reflect savings from favorable foreign currency fluctuations, to be distributed as follows:

"Operation and Maintenance, Army", $89,359,000;

"Operation and Maintenance, Navy", $15,445,000;

"Operation and Maintenance, Marine Corps", $1,379,000;

"Operation and Maintenance, Air Force", $24,408,000; and

"Operation and Maintenance, Defense-Wide", $10,000,000.

SEC. 8094. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8095. Notwithstanding any other provision of law, the total amount appropriated in this Act under Title I and Title II is hereby reduced by $50,000,000: Provided, That during the current fiscal year, not more than 250 military and civilian personnel of the Department of Defense shall be assigned to legislative affairs or legislative liaison functions: Provided further, That of the 250 personnel assigned to legislative liaison or legislative affairs functions, 20 percent shall be assigned to the Office of the Secretary of Defense and the Office of the Chairman of the Joint Chiefs of Staff, 20 percent shall be assigned to the Department of the Army, 20 percent shall be assigned to the Department of the Navy, 20 percent shall be assigned to the Department of the Air Force, and 20 percent shall be assigned to the combatant commands: Provided further, That of the personnel assigned to legislative liaison and legislative affairs functions, no fewer than 20 percent shall be assigned to the Under Secretary of Defense (Comptroller), the Assistant Secretary of the Army (Financial Management and Comptroller), the Assistant Secretary of the Navy (Financial Management and Comptroller), and the Assistant Secretary of the Air Force (Financial Management and Comptroller).

SEC. 8096. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8097. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8098. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $171,296,000, to reduce cost growth in travel, to be distributed as follows:

"Operation and Maintenance, Army", $9,000,000;

"Operation and maintenance, Marine Corps", $296,000;

"Operation and Maintenance, Air Force", $150,000,000;

"Operation and Maintenance, Army Reserve", $2,000,000; and

"Operation and maintenance, Defense-wide" $10,000,000.

SEC. 8099. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8100. (a) REGISTERING INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system *shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. An information technology system shall be considered a mission critical or mission essential information technology system as defined by the Secretary of Defense.*

(b) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—(1) During the current fiscal year, a major automated information system may not receive Milestone I approval, Milestone II approval, or Milestone III approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(3) The term "major automated information system" has the meaning given that term in Department of Defense Directive 5000.1.

SEC. 8101. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8102. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API-T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8103. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8104. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8105. During the current fiscal year, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance.

SEC. 8106. (a) The Department of Defense is authorized to enter into agreements with the Veterans Administration and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 8107. In addition to the amounts provided elsewhere in this Act, the amount of $10,000,000 is hereby appropriated for "Operation and Maintenance, Defense-Wide", to be available, notwithstanding any other provision of law, only for a grant to the United Service Organizations Incorporated, a federally chartered corporation under chapter 2201 of title 36, United States Code. The grant provided for by this section is in addition to any grant provided for under any other provision of law.

SEC. 8108. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $141,700,000 shall be made available for the Arrow missile defense program: Provided, That of this amount, $107,700,000 shall be made available for the purpose of continuing the Arrow System Improvement Program (ASIP), continuing ballistic missile defense interoperability with Israel, and establishing an Arrow production capability in the United States: Provided further, That the remainder, $34,000,000, shall be available for the purpose of adjusting the cost-share of the parties under the Agreement between the Department of Defense and the Ministry of Defense of Israel for the Arrow Deployability Program.

SEC. 8109. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8110. Of the amounts appropriated in this Act under the heading "Operation and Maintenance, Defense-Wide", $115,000,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

SEC. 8111. In addition to the amounts appropriated or otherwise made available in this Act, $1,300,000,000 is hereby appropriated to the Department of Defense for whichever of the following purposes the President determines to be in the national security interests of the United States:

(1) research, development, test and evaluation for ballistic missile defense; and

(2) activities for combating terrorism.

SEC. 8112. In addition to amounts appropriated elsewhere in this Act, $5,000,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of the Army shall make a grant in the amount of $5,000,000 to the Fort Des Moines Memorial Park and Education Center.

SEC. 8113. In addition to amounts appropriated elsewhere in this Act, $5,000,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $5,000,000 to the National D-Day Museum.

SEC. 8114. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection

101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2002.

SEC. 8115. (a) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106–79) is amended—

(1) by redesignating subsection (m) as subsection (o); and

(2) by adding after subsection (l) the following:

"(m) AUTHORITY TO ESTABLISH MEMORIAL.—

"(1) IN GENERAL.—The Commission may establish a permanent memorial to Dwight D. Eisenhower on land under the jurisdiction of the Secretary of the Interior in the District of Columbia or its environs.

"(2) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.).".

(b) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106–79) is amended—

(1) in subsection (j)(2), by striking "accept gifts" and inserting "solicit and accept contributions"; and

(2) by inserting after subsection (m) (as added by subsection (a)(2)) the following:

"(n) MEMORIAL FUND.—

"(1) ESTABLISHMENT.—There is created in the Treasury a fund for the memorial to Dwight D. Eisenhower that includes amounts contributed under subsection (j)(2).

"(2) USE OF FUND.—The fund shall be used for the expenses of establishing the memorial.

"(3) INTEREST.—The Secretary of the Treasury shall credit to the fund the interest on obligations held in the fund.".

(c) In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $3,000,000, to remain available until expended is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $3,000,000 to the Dwight D. Eisenhower Memorial Commission for direct administrative support.

SEC. 8116. In addition to amounts appropriated elsewhere in this Act, $8,000,000 shall be available only for the settlement of subcontractor claims for payment associated with the Air Force contract F19628–97–C–0105, Clear Radar Upgrade, at Clear AFS, Alaska: Provided, That the Secretary of the Air Force shall evaluate claims as may be submitted by subcontractors, engaged under the contract, and, notwithstanding any other provision of law shall pay such amounts from the funds provided in this paragraph which the Secretary deems appropriate to settle completely any claims which the Secretary determines to have merit, with no right of appeal in any forum: Provided further, That subcontractors are to be paid interest, calculated in accordance with the Contract Disputes Act of 1978, 41 U.S.C. Sections 601–613, on any claims which the Secretary determines to have merit: Provided further, That the Secretary of the Air Force may delegate evaluation and payment as above to the U.S. Army Corps of Engineers, Alaska District on a reimbursable basis.

SEC. 8117. Notwithstanding any other provision of this Act, the total amount appropriated in this Act is hereby reduced by $1,650,000,000, to reflect savings to be achieved from business process reforms, management efficiencies, and procurement of administrative and management support: Provided, That none of the funds provided in this Act may be used for consulting and advisory services for legislative affairs and legislative liaison functions.

SEC. 8118. In addition to amounts provided elsewhere in this Act, $21,000,000 is hereby appropriated for the Secretary of Defense to establish a Regional Defense Counter-terrorism Fellowship Program: Provided, That funding provided herein may be used by the Secretary to fund foreign military officers to attend U.S. military educational institutions and selected regional centers for non-lethal training: Provided further, That United States Regional Commanders in Chief will be the nominative authority for candidates and schools for attendance with joint staff review and approval by the Secretary of Defense: Provided further, That the Secretary of Defense shall establish rules to govern the administration of this program.

SEC. 8119. Notwithstanding any other provision of law, from funds appropriated in this or any other Act under the heading, "Aircraft Procurement, Air Force", that remain available for obligation, not to exceed $16,000,000 shall be available for recording, adjusting, and liquidating obligations for the C–17 aircraft properly chargeable to the fiscal year 1998 Aircraft Procurement, Air Force account: Provided, That the Secretary of the Air Force shall notify the congressional defense committees of all of the specific sources of funds to be used for such purpose.

SEC. 8120. Notwithstanding any provisions of the Southern Nevada Public Land Management Act of 1998, Public Law 105–263, or the land use planning provision of Section 202 of the Federal Land Policy and Management Act of 1976, Public Law 94–579, or of any other law to the contrary, the Secretary of the Interior may acquire non-federal lands adjacent to Nellis Air Force Base, through a land exchange in Nevada, to ensure the continued safe operation of live ordnance departure areas at Nellis Air Force Base, Las Vegas, Nevada. The Secretary of the Air Force shall identify up to 220 acres of non-federal lands needed to ensure the continued safe operation of the live ordnance departure areas at Nellis Air Force Base. Any such identified property acquired by exchange by the Secretary of the Interior shall be transferred by the Secretary of the Interior to the jurisdiction, custody, and control of the Secretary of the Air Force to be managed as a part of Nellis Air Force Base. To the extent the Secretary of the Interior is unable to acquire non-federal lands by exchange, the Secretary of the Air Force is authorized to purchase those lands at fair market value subject to available appropriations.

SEC. 8121. Of the amounts appropriated in this Act under the heading, "Shipbuilding and Conversion, Navy", $725,000,000 shall be available until September 30, 2002, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: Provided further, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1995/2002":

Carrier Replacement Program, $172,364,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2002":

LPD–17 Amphibious Transport Dock Ship Program, $172,989,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1997/2002":

DDG–51 Destroyer Program, $37,200,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002":

NSSN Program, $168,561,000;

DDG–51 Destroyer Program, $111,457,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1999/2002":

NSSN Program, $62,429,000.

(TRANSFER OF FUNDS)

SEC. 8122. Upon enactment of this Act, the Secretary of the Navy shall make the following transfers of funds: Provided, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1990/2002":

TRIDENT ballistic missile submarine program, $78,000;

SSN–21 attack submarine program, $66,000;

DDG–51 destroyer program, $6,100,000;

ENTERPRISE refueling modernization program, $964,000;

LSD–41 dock landing ship cargo variant ship program, $237,000;

MCM mine countermeasures program, $118,000;

Oceanographic ship program, $2,317,000;

AOE combat support ship program, $164,000;

AO conversion program, $56,000;

Coast Guard icebreaker ship program, $863,000;

Craft, outfitting, post delivery, and ship special support equipment, $529,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002":

DDG–51 destroyer program, $11,492,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1993/2002":

DDG–51 destroyer program, $3,986,000;

LHD–1 amphibious assault ship program, $85,000;

LSD–41 dock landing ship cargo variant program, $428,000;

AOE combat support ship program, $516,000;

Craft, outfitting, post delivery, and first destination transportation, and inflation adjustments, $1,034,000;

To:

Under the heading, "Shipbuilding, and Conversion, Navy, 1998/2002":

DDG–51 destroyer program, $6,049,000;

From:

Under the heading, "Other Procurement, Navy, 2001/2003":

Shallow Water MCM, $16,248,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 2001/2005":

Submarine Refuelings, $16,248,000.

SEC. 8123. (a) The Secretary of Defense shall convey to Gwitchyaa Zhee Corporation the lands withdrawn by Public Land Order No. 1996, Lot 1 of United States Survey 7008, Public Land Order No. 1396, a portion of Lot 3 of United States Survey 7161, lands reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916, Lot 13 of United States Survey 7161, Lot 1 of United States Survey 7008 described in Public Land Order No. 1996, and Lot 13 of the United States Survey 7161 reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916.

(b) Following site restoration and survey by the Department of the Air Force that portion of Lot 3 of United States Survey 7161 withdrawn by Public Land Order No. 1396 and no longer needed by the Air Force shall be conveyed to Gwitchyaa Zhee Corporation.

SEC. 8124. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the USS GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: Provided, *That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.*

SEC. 8125. (a) Not later than February 1, 2002, the Secretary of Defense shall report to the congressional defense committees on the status of the safety and security of munitions shipments that use commercial trucking carriers within the United States.

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) An assessment of the Department of Defense's policies and practices for conducting background investigations of current and prospective drivers of munitions shipments.

(2) A description of current requirements for periodic safety and security reviews of commercial trucking carriers that carry munitions.

(3) A review of the Department of Defense's efforts to establish uniform safety and security standards for cargo terminals not operated by the Department that store munitions shipments.

(4) An assessment of current capabilities to provide for escort security vehicles for shipments that contain dangerous munitions or sensitive technology, or pass through high-risk areas.

(5) A description of current requirements for depots and other defense facilities to remain open outside normal operating hours to receive munitions shipments.

(6) Legislative proposals, if any, to correct deficiencies identified by the Department of Defense in the report under subsection (a).

(c) Not later than six months after enactment of this Act, the Secretary shall report to Congress on safety and security procedures used for U.S. munitions shipments in European NATO countries, and provide recommendations on what procedures or technologies used in those countries should be adopted for shipments in the United States.

SEC. 8126. In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $15,000,000, to remain available until September 30, 2002 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $15,000,000 to the Padgett Thomas Barracks in Charleston, South Carolina.

SEC. 8127. (a) DESIGNATED SPECIAL EVENTS OF NATIONAL SIGNIFICANCE.—

(1) Notwithstanding any other provision of law, at events determined by the President to be special events of national significance for which the United States Secret Service is authorized pursuant to Section 3056(e)(1), title 18, United States Code, to plan, coordinate, and implement security operations, the Secretary of Defense, after consultation with the Secretary of the Treasury, shall provide assistance on a temporary basis without reimbursement in support of the United States Secret Service's duties related to such designated events.

(2) Assistance under this subsection shall be provided in accordance with an agreement that shall be entered into by the Secretary of Defense and the Secretary of the Treasury within 120 days of the enactment of this Act.

(b) REPORT ON ASSISTANCE.—Not later than January 30 of each year following a year in which the Secretary of Defense provides assistance under this section, the Secretary shall submit to Congress a report on the assistance provided. The report shall set forth—

(1) a description of the assistance provided; and

(2) the amount expended by the Department in providing the assistance.

(c) RELATIONSHIP TO OTHER LAWS.—The assistance provided under this section shall not be subject to the provisions of sections 375 and 376 of this title.

SEC. 8128. MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM. (a) The Secretary of the Air Force may, from funds provided in this Act or any future appropriations Act, establish a multi-year pilot program for leasing general purpose Boeing 767 aircraft in commercial configuration.

(b) Sections 2401 and 2401a of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

(c) Under the aircraft lease Pilot Program authorized by this section:

(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee, but only those that are not inconsistent with any of the terms and conditions mandated herein.

(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed 10 years, inclusive of any options to renew or extend the initial lease term.

(3) The Secretary may provide for special payments in a lessor if the Secretary terminates or cancels the lease prior to the expiration of its term. Such special payments shall not exceed an amount equal to the value of one year's lease payment under the lease.

(4) Subchapter IV of chapter 15 of Title 31, United States Code shall apply to the lease transactions under this section, except that the limitation in section 1553(b)(2) shall not apply.

(5) The Secretary shall lease aircraft under terms and conditions consistent with this section and consistent with the criteria for an operating lease as defined in OMB Circular A–11, as in effect at the time of the lease.

(6) Lease arrangements authorized by this section may not commence until:

(A) The Secretary submits a report to the congressional defense committees outlining the plans for implementing the Pilot Program. The report shall describe the terms and conditions of proposed contracts and describe the expected savings, if any, comparing total costs, including operation, support, acquisition, and financing, of the lease, including modification, with the outright purchase of the aircraft as modified.

(B) A period of not less than 30 calendar days has elapsed after submitting the report.

(7) Not later than 1 year after the date on which the first aircraft is delivered under this Pilot Program, and yearly thereafter on the anniversary of the first delivery, the Secretary shall submit a report to the congressional defense committees describing the status of the Pilot Program. The Report will be based on at least 6 months of experience in operating the Pilot Program.

(8) The Air Force shall accept delivery of the aircraft in a general purpose configuration.

(9) At the conclusion of the lease term, each aircraft obtained under that lease may be returned to the contractor in the same configuration in which the aircraft was delivered.

(10) The present value of the total payments over the duration of each lease entered into under this authority shall not exceed 90 percent of the fair market value of the aircraft obtained under that lease.

(d) No lease entered into under this authority shall provide for—

(1) the modification of the general purpose aircraft from the commercial configuration, unless and until separate authority for such conversion is enacted and only to the extent budget authority is provided in advance in appropriations Acts for that purpose; or

(2) the purchase of the aircraft by, or the transfer of ownership to, the Air Force.

(e) The authority granted to the Secretary of the Air Force by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter into leases under a provision of law other than this section.

(f) The authority provided under this section may be used to lease not more than a total of one hundred aircraft for the purposes specified herein.

(g) Notwithstanding any other provision of this Act or any other provision of law, the President shall have the sole authority to reprogram, for any other defense purpose, the funds authorized by this section if he determines that doing so will increase national security or save lives.

SEC. 8129. From within amounts made available in the Title II of this Act, under the heading "Operation and Maintenance, Army National Guard", and notwithstanding any other provision of law, $2,500,000 shall be available only for repairs and safety improvements to the segment of Camp McCain Road which extends from Highway 8 south toward the boundary of Camp McCain, Mississippi and originating intersection of Camp McCain Road; and for repairs and safety improvements to the segment of Greensboro Road which connects the Administration Offices of Camp McCain to the Troutt Rifle Range: Provided, That these funds shall remain available until expended: Provided further, That the authorized scope of work includes, but is not limited to, environmental documentation and mitigation, engineering and design, improving safety, resurfacing, widening lanes, enhancing shoulders, and replacing signs and pavement markings.

SEC. 8130. From funds made available under Title II of this Act, the Secretary of the Army may make available a grant of $3,000,000 to the Chicago Park District for renovation of the Broadway Armory, a former National Guard facility in the Edgewater community in Chicago.

SEC. 8131. Notwithstanding any other provision of law, none of the funds in this Act may be used to alter specifications for insulation to be used on U.S. naval ships or for the procurement of insulation materials different from those in use as of November 1, 2001, until the Department of Defense certifies to the Appropriations Committees that the proposed specification changes or proposed new insulation materials will be as safe, provide no increase in weight, and will not increase maintenance requirements when compared to the insulation material currently used.

SEC. 8132. (a)(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§2228. Department of Defense strategic loan and loan guaranty program

"(a) AUTHORITY.—The Secretary of Defense may carry out a program to make direct loans and guarantee loans for the purpose of supporting the attainment of the objectives set forth in subsection (b).

"(b) OBJECTIVES.—The Secretary may, under the program, make a direct loan to an applicant or guarantee the payment of the principal and interest of a loan made to an applicant upon the Secretary's determination that the applicant's use of the proceeds of the loan will support the attainment of any of the following objectives:

"(1) Sustain the readiness of the United States to carry out the national security objectives of the United States through the guarantee of steady domestic production of items necessary for low intensity conflicts to counter terrorism or other imminent threats to the national security of the United States.

"(2) Sustain the economic stability of strategically important domestic sectors of the defense industry that manufacture or construct products for low-intensity conflicts and counter terrorism to respond to attacks on United States national security and to protect potential United States civilian and military targets from attack.

"(3) Sustain the production and use of systems that are critical for the exploration and development of new domestic energy sources for the United States.

"(c) CONDITIONS.—A loan made or guaranteed under the program shall meet the following requirements:

"(1) The period for repayment of the loan may not exceed five years.

"(2) The loan shall be secured by primary collateral that is sufficient to pay the total amount of the unpaid principal and interest of the loan in the event of default.

"(d) EVALUATION OF COST.—As part of the consideration of each application for a loan or for a guarantee of the loan under the program, the Secretary shall evaluate the cost of the loan within the meaning of section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).".

(2) The table of sections at the beginning of such section is amended by adding at the end the following new item:

"2228. Department of Defense strategic loan and loan guaranty program.".

(b) Of the amounts appropriated by Public Law 107–38, there shall be available such sums as may be necessary for the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) of direct loans and loan guarantees made under section 2228 of title 10, United States Code, as added by subsection (a).

SEC. 8133. REGULATION OF BIOLOGICAL AGENTS AND TOXINS. (a) BIOLOGICAL AGENTS PROVISIONS OF THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996; CODIFICATION IN THE PUBLIC HEALTH SERVICE ACT, WITH AMENDMENTS.—

(1) PUBLIC HEALTH SERVICE ACT.—Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by inserting after section 351 the following:

"SEC. 351A. ENHANCED CONTROL OF BIOLOGICAL AGENTS AND TOXINS.

"(a) REGULATORY CONTROL OF BIOLOGICAL AGENTS AND TOXINS.—

"(1) LIST OF BIOLOGICAL AGENTS AND TOXINS.—

"(A) IN GENERAL.—The Secretary shall by regulation establish and maintain a list of each biological agent and each toxin that has the potential to pose a severe threat to public health and safety.

"(B) CRITERIA.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

"(i) consider—

"(I) the effect on human health of exposure to the agent or toxin;

"(II) the degree of contagiousness of the agent or toxin and the methods by which the agent or toxin is transferred to humans;

"(III) the availability and effectiveness of pharmacotherapies and immunizations to treat and prevent any illness resulting from infection by the agent or toxin; and

"(IV) any other criteria, including the needs of children and other vulnerable populations, that the Secretary considers appropriate; and

"(ii) consult with appropriate Federal departments and agencies, and scientific experts representing appropriate professional groups, including those with pediatric expertise.

"(2) BIENNIAL REVIEW.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall, through rulemaking, revise the list as necessary to incorporate additions or deletions to ensure public health, safety, and security.

"(3) EXEMPTIONS.—The Secretary may exempt from the list under paragraph (1)—

"(A) attenuated or inactive biological agents or toxins used in biomedical research or for legitimate medical purposes; and

"(B) products that are cleared or approved under the Federal Food, Drug, and Cosmetic Act or under the Virus-Serum-Toxin Act, as amended in 1985 by the Food Safety and Security Act.";

"(b) REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS AND TOXINS.—The Secretary shall by regulation provide for—

"(1) the establishment and enforcement of safety procedures for the transfer of biological agents and toxins listed pursuant to subsection (a)(1), including measures to ensure—

"(A) proper training and appropriate skills to handle such agents and toxins; and

"(B) proper laboratory facilities to contain and dispose of such agents and toxins;

"(2) safeguards to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

"(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

"(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

"(c) POSSESSION AND USE OF LISTED BIOLOGICAL AGENTS AND TOXINS.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of biological agents and toxins listed pursuant to subsection (a)(1) in order to protect the public health and safety, including the measures, safeguards, procedures, and availability of such agents and toxins described in paragraphs (1) through (4) of subsection (b), respectively.

"(d) REGISTRATION AND TRACEABILITY MECHANISMS.—Regulations under subsections (b) and (c) shall require registration for the possession, use, and transfer of biological agents and toxins listed pursuant to subsection (a)(1), and such registration shall include (if available to the registered person) information regarding the characterization of such biological agents and toxins to facilitate their identification and traceability. The Secretary shall maintain a national database of the location of such biological agents and toxins with information regarding their characterizations.

"(e) INSPECTIONS.—The Secretary shall have the authority to inspect persons subject to the regulations under subsections (b) and (c) to ensure their compliance with such regulations, including prohibitions on restricted persons under subsection (g).

"(f) EXEMPTIONS.—

"(1) IN GENERAL.—The Secretary shall establish exemptions, including exemptions from the security provisions, from the applicability of provisions of—

"(A) the regulations issued under subsection (b) and (c) when the Secretary determines that the exemptions, including exemptions from the security requirements, and for the use of attenuated or inactive biological agents or toxins in biomedical research or for legitimate medical purposes are consistent with protecting public health and safety; and

"(B) the regulations issued under subsection (c) for agents and toxins that the Secretary determines do not present a threat for use in domestic or international terrorism, provided the exemptions are consistent with protecting public health and safety.

"(2) CLINICAL LABORATORIES.—The Secretary shall exempt clinical laboratories and other persons that possess, use, or transfer biological agents and toxins listed pursuant to subsection (a)(1) from the applicability of provisions of regulations issued under subsections (b) and (c) only when—

"(A) such agents or toxins are presented for diagnosis, verification, or proficiency testing;

"(B) the identification of such agents and toxins is, when required under Federal or State law, reported to the Secretary or other public health authorities; and

"(C) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary in regulation.

"(g) SECURITY REQUIREMENTS FOR REGISTERED PERSONS.—

"(1) SECURITY.—In carrying out paragraphs (2) and (3) of subsection (b), the Secretary shall establish appropriate security requirements for persons possessing, using, or transferring biological agents and toxins listed pursuant to subsection (a)(1), considering existing standards developed by the Attorney General for the security of government facilities, and shall ensure compliance with such requirements as a condition of registration under regulations issued under subsections (b) and (c).

"(2) LIMITING ACCESS TO LISTED AGENTS AND TOXINS.—Regulations issued under subsections (b) and (c) shall include provisions—

"(A) to restrict access to biological agents and toxins listed pursuant to subsection (a)(1) only to those individuals who need to handle or use such agents or toxins; and

"(B) to provide that registered persons promptly submit the names and other identifying information for such individuals to the Attorney General, with which information the Attorney General shall promptly use criminal, immigration, and national security databases available to the Federal Government to identify whether such individuals—

"(i) are restricted persons, as defined in section 175b of title 18, United States Code; or

"(ii) are named in a warrant issued to a Federal or State law enforcement agency for participation in any domestic or international act of terrorism.

"(3) CONSULTATION AND IMPLEMENTATION.—Regulations under subsections (b) and (c) shall be developed in consultation with research-performing organizations, including universities, and implemented with timeframes that take into account the need to continue research and education using biological agents and toxins listed pursuant to subsection (a)(1).

"(h) DISCLOSURE OF INFORMATION.—

"(1) IN GENERAL.—Any information in the possession of any Federal agency that identifies a person, or the geographic location of a person, who is registered pursuant to regulations under this section (including regulations promulgated before the effective date of this subsection), or any site-specific information relating to the type, quantity, or characterization of a biological agent or toxin listed pursuant to subsection (a)(1) or the site-specific security mechanisms in place to protect such agents and toxins, including the national database required in subsection (d), shall not be disclosed under section 552(a) of title 5, United States Code.

"(2) DISCLOSURES FOR PUBLIC HEALTH AND SAFETY; CONGRESS.—Nothing in this section may be construed as preventing the head of any Federal agency—

"(A) from making disclosures of information described in paragraph (1) for purposes of protecting the public health and safety; or

"(B) from making disclosures of such information to any committee or subcommittee of the Congress with appropriate jurisdiction, upon request.

"(i) CIVIL PENALTY.—Any person who violates any provision of a regulation under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding $250,000 in the case of an individual and $500,000 in the case of any other person. The provisions of section 1128A of the Social Security

Act (other than subsections (a), (b), (h), and (i), the first sentence of subsection (c), and paragraphs (1) and (2) of subsection (f)) small apply to civil money penalties under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of the Social Security Act. The secretary may delegate authority under this section in the same manner as provided in section 1128A(j)(2) of the Social Security Act and such authority shall include all powers as contained in 5 U.S.C. App., section 6."

"(j) Definitions.—For purposes of this section, the terms 'biological agent' and 'toxin' have the same meaning as in section 178 of title 18, United States Code.".

(2) Regulations.—

(A) Date certain for promulgation; effective date regarding criminal and civil penalties.—Not later than 180 days after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate an interim final rule for carrying out section 351A(c) of the Public Health Service Act, which amends the Antiterrorism and Effective Death Penalty Act of 1996. Such interim final rule will take effect 60 days after the date on which such rule is promulgated, including for purposes of—

(i) section 175(b) of title 18, United States Code (relating to criminal penalties), as added by subsection (b)(1)(B) of this section; and

(ii) section 351A(i) of the Public Health Service Act (relating to civil penalties).

(B) Submission of registration applications.—A person required to register for possession under the interim final rule promulgated under subparagraph (A), shall submit an application for such registration not later than 60 days after the date on which such rule is promulgated.

(3) Conforming amendment.—Subsections (d), (e), (f), and (g) of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 262 note) are repealed.

(4) Effective date.—Paragraph (1) shall take effect as if incorporated in the Antiterrorism and Effective Death Penalty Act of 1996, and any regulations, including the list under subsection (d)(1) of section 511 of that Act, issued under section 511, of that Act shall remain in effect as if issued under section 351A of the Public Health Service Act.

(b) Select Agents.—

(1) In general.—Section 175 of title 18, United States Code, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following:

"(b) Select Agents.—

"(1) Unregistered for possession.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulation issued under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

"(2) Transfer to unregistered person.—Whoever transfers a select agent to a person who the transferor has reasons to believe has not obtained a registration required by regulations issued under section 351A(b) or (c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.".

(2) Definitions.—Section 175 of title 18, United States Code, as amended by paragraph (1), is further amended by striking subsection (d) and inserting the following:

"(d) Definitions.—As used in this section:

"(1) The terms 'biological agent' and 'toxin' have the meanings given such terms in section 178, except that, for purposes of subsections (b) and (c), such terms do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, cultured, collected, or otherwise extracted from its natural source.

"(2) The term 'for use as a weapon' includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system, other than for prophylactic, protective, or other peaceful purposes.

"(3) The term 'select agent' means a biological agent or toxin, as defined in paragraph (1), that is on the list that is in effect pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), or as subsequently revised under section 351A(a) of the Public Health Service Act.".

(3) Conforming amendment.—

(A) Section 175(a) of title 18, United States Code, is amended in the second sentence by striking "under this section" and inserting "under this subsection".

(B) Section 175(c) of title 18, United States Code, (as redesignated by paragraph (1)), is amended by striking the second sentence.

(c) Report to Congress.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with other appropriate Federal agencies, shall submit to the Congress a report that—

(1) describes the extent to which there has been compliance by governmental and private entities with applicable regulations under section 351A of the Public Health Service Act, including the extent of compliance before the date of the enactment of this Act, and including the extent of compliance with regulations promulgated after such date of enactment;

(2) describes the actions to date and future plans of the Secretary for updating the list of biological agents and toxins under section 351A(a)(1) of the Public Health Service Act;

(3) describes the actions to date and future plans of the Secretary for determining compliance with regulations under such section 351A of the Public Health Service Act and for taking appropriate enforcement actions; and

(4) provides any recommendations of the Secretary for administrative or legislative initiatives regarding such section 351A of the Public Health Service Act.

Sec. 8134. Section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking "and all" and inserting "all"; and

(B) by inserting before the period the following: ", and all members of the National Guard on duty described in the following sentence"; and

(2) in the second sentence, by inserting before the period the following: ", and, in the case of a member of the National Guard, shall include training or other duty authorized by section 502(f) of title 32, United States Code, at the request of the President, for or in support of an operation during a war or national emergency declared by the President or Congress".

Sec. 8135. Sense of Congress Concerning the Military Industrial Base. (a) In General.—It is the sense of the Congress that the military aircraft industrial base of the United States be preserved. In order to ensure this we must retain—

(1) adequate competition in the design, engineering, production, sale and support of military aircraft;

(2) continued innovation in the development and manufacture of military aircraft;

(3) actual and future capability of more than one aircraft company to design, engineer, produce and support military aircraft.

(b) Study of Impact on the Industrial Base.—In order to determine the current and future adequacy of the military aircraft industrial base a study shall be conducted. Of the funds made available under the heading "Procurement, Defense-Wide" in this Act, up to $1,500,000 may be made available for a comprehensive analysis of and report on the risks to innovation and cost of limited or no competition in contracting for military aircraft and related weapon systems for the Department of Defense, including the cost of contracting where there is no more than one primary manufacturer with the capacity to bid for and build military aircraft and related weapon systems, the impact of any limited competition in primary contracting on innovation in the design, development, and construction of military aircraft and related weapon systems, the impact of limited competition in primary contracting on the current and future capacity of manufacturers to design, engineer and build military aircraft and weapon systems. The Secretary of Defense shall report to the House and Senate Committees on Appropriations on the design of this analysis, and shall submit a report to these committees no later than 6 months from the date of enactment of this Act.

Sec. 8136. The Secretary of the Army shall, using amounts appropriated by title II of this division under the heading "Operation and Maintenance, Army", make a production grant in the amount of $2,000,000 to Green Tree Chemical Technologies of Parlin, New Jersey, in order to help sustain that company through fiscal year 2002.

Sec. 8137. Of the funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Air Force" up to $4,000,000 may be made available to extend the modeling and reengineering program now being performed at the Oklahoma City Air Logistics Center Propulsion Directorate.

Sec. 8138. Of the total amount appropriated by title VI under the heading "Other Department of Defense Appropriations", $7,500,000 may be available for Armed Forces Retirement Homes.

Sec. 8139. Of the total amount appropriated by this division for operation and maintenance, Marine Corps, $2,800,000 may be used for completing the fielding of half-zip, pullover, fleece uniform shirts for all members of the Marine Corps, including the Marine Corps Reserve.

Sec. 8140. Of the amount appropriated by title III of this division under the heading "Aircraft Procurement, Air Force", $6,000,000 may be available for 10 radars in the Air Force Radar Modernization Program for C–130H2 aircraft for aircraft of the Nevada Air National Guard at Reno, Nevada.

Sec. 8141. Of the amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Army", $3,000,000 may be made available for Medical Development for the Clark County, Nevada, bioterrorism and public health laboratory.

Sec. 8142. Of the amount appropriated by title IV of this division under the heading "Research, Development, Test and Evaluation, Air Force", $1,000,000 may be made available for Agile Combat Support for the Rural Low Bandwidth Medical Collaboration System.

Sec. 8143. Of the total amount appropriated by this division for operation and maintenance, Navy, $6,000,000 may be available for the critical infrastructure protection initiative.

Sec. 8144. Of the funds provided in this Act under the heading, "Research, Development, *TEST AND EVALUATION, AIR FORCE", $2,000,000 may be made available for Battlespace Logistics Readiness and Sustainment project in Fayetteville, Arkansas.*

SEC. 8145. Of the funds appropriated by title VI of this division under the heading "DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE", $2,400,000 may be made available for the Counter Narcotics and Terrorism Operational Medical Support Program at the Uniformed Services University of the Health Sciences.

SEC. 8146. (a) ASSESSMENT REQUIRED.—Not later than March 15, 2002, the Secretary of the Army shall submit to the Committees on Appropriations of the Senate and House of Representatives a report containing an assessment of current risks under, and various alternatives to, the current Army plan for the destruction of chemical weapons.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description and assessment of the current risks in the storage of chemical weapons arising from potential terrorist attacks.

(2) A description and assessment of the current risks in the storage of chemical weapons arising from storage of such weapons after April 2007, the required date for disposal of such weapons as stated in the Chemical Weapons Convention.

(3) A description and assessment of various options for eliminating or reducing the risks described in paragraphs (1) and (2).

(c) CONSIDERATIONS.—In preparing the report, the Secretary shall take into account the plan for the disassembly and neutralization of the agents in chemical weapons as described in Army engineering studies in 1985 and 1996, the 1991 Department of Defense Safety Contingency Plan, and the 1993 findings of the National Academy of Sciences on disassembly and neutralization of chemical weapons.

SEC. 8147. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE" and available for the Advanced Technology Development for Arms Control Technology element, $7,000,000 may be made available for the Nuclear Treaty sub-element of such element for peer-reviewed seismic research to support Air Force operational nuclear test monitoring requirements.

SEC. 8148. Of the amount available in title III of this division under the heading "PROCUREMENT OF AMMUNITION, AIR FORCE", $10,000,000 may be available for procurement of Sensor Fused Weapons (CBU–97).

SEC. 8149. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, NAVY", $8,000,000 may be made available for procurement of the Tactical Support Center, Mobile Acoustic Analysis System.

SEC. 8150. Of the total amount appropriated by this division for operation and maintenance, Air National Guard, $4,000,000 may be used for continuation of the Air National Guard Information Analysis Network (GUARDIAN).

SEC. 8151. Of the amount appropriated by title II for operation and maintenance, Defense-wide, $55,700,000 may be available for the Defense Leadership and Management Program.

SEC. 8152. Of the funds made available in title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to $4,000,000 may be made available for the Display Performance and Environmental Evaluation Laboratory Project of the Army Research Laboratory.

SEC. 8153. Of the funds made available in title II of this Act under the heading "OPERATION AND MAINTENANCE, NAVY", up to $2,000,000 may be made available for the U.S. Navy to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

SEC. 8154. Of the funds made available in title II of this Act under the heading "OPERATION AND MAINTENANCE, AIR FORCE", up to $2,000,000 may be made available for the U.S. Air Force to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

SEC. 8155. SENSE OF THE SENATE REGARDING ENVIRONMENTAL CONTAMINATION IN THE PHILIPPINES. It is the sense of the Senate that—

(1) the Secretary of State, in cooperation with the Secretary of Defense, should continue to work with the Government of the Philippines and with appropriate non-governmental organizations in the United States and the Philippines to fully identify and share all relevant information concerning environmental contamination and health effects emanating from former United States military facilities in the Philippines following the departure of the United States military forces from the Philippines in 1992;

(2) the United States and the Government of the Philippines should continue to build upon the agreements outlined in the Joint Statement by the United States and the Republic of the Philippines on a Framework for Bilateral Cooperation in the Environment and Public Health, signed on July 27, 2000; and

(3) Congress should encourage an objective non-governmental study, which would examine environmental contamination and health effects emanating from former United States military facilities in the Philippines, following the departure of United States military forces from the Philippines in 1992.

SEC. 8156. (a) AUTHORITY FOR BURIAL OF CERTAIN INDIVIDUALS AT ARLINGTON NATIONAL CEMETERY.—The Secretary of the Army shall authorize the burial in a separate gravesite at Arlington National Cemetery, Virginia, of any individual who—

(1) died as a direct result of the terrorist attacks on the United States on September 11, 2001; and

(2) would have been eligible for burial in Arlington National Cemetery by reason of service in a reserve component of the Armed Forces but for the fact that such individual was less than 60 years of age at the time of death.

(b) ELIGIBILITY OF SURVIVING SPOUSE.—The surviving spouse of an individual buried in a gravesite in Arlington National Cemetery under the authority provided under subsection (a) shall be eligible for burial in the gravesite of the individual to the same extent as the surviving spouse of any other individual buried in Arlington National Cemetery is eligible for burial in the gravesite of such other individual.

SEC. 8157. In fiscal year 2002, the Department of the Interior National Business Center may continue to enter into grants, cooperative agreements, and other transactions, under the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, and other related legislation.

SEC. 8158. Of the total amount appropriated by this division for other procurement, Army, $9,000,000 may be available for the "Product Improved Combat Vehicle Crewman's Headset".

SEC. 8159. Of the funds appropriated by this division for research, development, test and evaluation, Navy, up to $4,000,000 may be used to support development and testing of new designs of low cost digital modems for Wideband Common Data Link.

SEC. 8160. Of the amount appropriated by this division for the Army for research, development, test, and evaluation, $2,000,000 may be available for research and development of key enabling technologies (such as filament winding, braiding, contour weaving, and dry powder resin towpregs fabrication) for producing low cost, improved performance, reduced signature, multifunctional composite materials.

SEC. 8161. Of the total amount appropriated under title IV for research, development, test and evaluation, Army, $2,000,000 may be available for the Collaborative Engineering Center of Excellence, $3,000,000 may be available for the Battlefield Ordnance Awareness, and $4,000,000 may be available for the Cooperative Micro-satellite Experiment.

SEC. 8162. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" that is available for Munitions, $5,000,000 may be available to develop high-performance 81mm and 120mm mortar systems that use metal matrix composites to substantially reduce the weight of such systems.

SEC. 8163. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Air Force, up to $6,000,000 may be used for human effectiveness applied research for continuing development under the solid electrolyte oxygen separation program of the Air Force.

SEC. 8164. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111, 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2002.

SEC. 8165. Of the amount appropriated by title IV of this division for the Army for research, development, test, and evaluation, $5,000,000 may be available for the Three-Dimensional Ultrasound Imaging Initiative II.

SEC. 8166. Of the amount available in title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" that is available for missile technology, $5,000,000 may be available for the Surveillance Denial Solid Dye Laser Technology program of the Aviation and Missile Research, Development and Engineering Center of the Army.

SEC. 8167. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, ARMY", $10,000,000 may be made available for procurement of Shortstop Electronic Protection Systems for critical force protection.

SEC. 8168. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", up to $5,000,000 may be made available for the Broad Area Maritime Surveillance program.

SEC. 8169. (a) INCREASE IN AMOUNT AVAILABLE FOR FORMER SOVIET UNION THREAT REDUCTION.—The amount appropriated by title II of this division under the heading "FORMER SOVIET UNION THREAT REDUCTION" is hereby increased by $46,000,000.

(b) OFFSET.—The amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE" is hereby decreased by $46,000,000.

SEC. 8170. Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", $2,000,000 may be made available for Military Personnel Research.

SEC. 8171. Funds appropriated by this Act for C–130J aircraft shall be used to support the Air Force's long-range plan called the "C–130 Roadmap" to assist in the planning, budgeting, and beddown of the C–130J fleet. The "C–130 Roadmap" gives consideration to the needs of the service, the condition of the aircraft to be replaced, and the requirement to properly phase facilities to determine the best C–130J aircraft beddown sequence.

SEC. 8172. Of the funds made available in title II of this Act under the heading "OPERATION

AND MAINTENANCE, ARMY", $2,550,000 may be available for the U.S. Army Materiel Command's Logistics and Technology Project (LOGTECH).

SEC. 8173. Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $5,000,000 is available for the planning and design for evolutionary improvements for the next LHD-type Amphibious Assault Ship.

SEC. 8174. (a) Of the total amount appropriated by title III of this division for procurement, Defense-Wide, up to $5,000,000 may be made available for low-rate initial production of the Striker advanced lightweight grenade launcher.

(b) Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Navy, up to $1,000,000 may be made available for the Warfighting Laboratory for delivery and evaluation of prototype units of the Striker advanced lightweight grenade launcher.

SEC. 8175. Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Defense-Wide, up to $4,000,000 may be made available for the Intelligent Spatial Technologies for Smart Maps Initiative of the National Imagery and Mapping Agency.

SEC. 8176. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Defense-Wide, $5,000,000 may be available for further development of light weight sensors of chemical and biological agents using fluorescence-based detection.

SEC. 8177. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", $2,500,000 may be made available for the Army Nutrition Project.

SEC. 8178. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", $2,000,000 may be made available for the Partnership for Peace (PFP) Information Management System. Any amount made available for the Partnership for Peace Information Management System under this section is in addition to other amounts available for the Partnership for Peace Information Management System under this Act.

SEC. 8179. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, ARMY", $4,892,000 may be used for the Communicator Automated Emergency Notification System of the Army National Guard.

SEC. 8180. Of the funds provided for Research, Development, Test and Evaluation in this Act, the Secretary of Defense may use $10,000,000 to initiate a university-industry program to utilize advances in 3-dimensional chip scale packaging (CSP) and high temperature superconducting (HTS) transceiver performance, to reduce the size, weight, power consumption, and cost of advanced military wireless communications systems for covert military and intelligence operations, especially HUMINT.

SEC. 8181. (a) FUNDING FOR NATIONAL GUARD CONSOLIDATED INTERACTIVE VIRTUAL INFORMATION CENTER.— Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, AIR NATIONAL GUARD", $5,000,000 may be available for the Consolidated Interactive Virtual Information Center of the National Guard.

(b) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (a) for the Consolidated Interactive Virtual Information Center of the National Guard is in addition to any other amounts available under this Act for the Consolidated Interactive Virtual Information Center.

SEC. 8182. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY" and available for Navy Space and Electronic Warfare (SEW) Architecture/Engine, $1,200,000 may be made available for concept development and composite construction of high speed vessels currently implemented by the Navy Warfare Development Command.

SEC. 8183. Of the total amount appropriated by this division for operation and maintenance, Defense-Wide, $5,000,000 may be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77).

SEC. 8184. (a) FINDINGS.—The Senate makes the following findings:

(1) The military departments have recently initiated worker safety demonstration programs.

(2) These programs are intended to improve the working conditions of Department of Defense personnel and save money.

(3) These programs are in the public interest, and the enhancement of these programs will lead to desirable results for the military departments.

(b) FUNDS FOR ENHANCEMENT OF ARMY PROGRAM.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, ARMY", $3,300,000 may be available to enhance the Worker Safety Demonstration Program of the Army.

(c) FUNDS FOR ENHANCEMENT OF NAVY PROGRAM.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, NAVY", $3,300,000 may be available to enhance the Worker Safety Demonstration Program of the Navy.

(d) FUNDS FOR ENHANCEMENT OF AIR FORCE PROGRAM.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, AIR FORCE", $3,300,000 may be available to enhance the Worker Safety Demonstration Program of the Air Force.

SEC. 8185. Of the total amount appropriated by this division for operation and maintenance, Air National Guard, $435,000 may be available (subject to section 2805(c) of title 10, United States Code) for the replacement of deteriorating gas lines, mains, valves, and fittings at the Air National Guard facility at Rosecrans Memorial Airport, St. Joseph, Missouri, and (subject to section 2811 of title 10, United States Code) for the repair of the roof of the Aerial Port Facility at that airport.

SEC. 8186. Of the amount appropriated in title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $7,000,000 may be made available for the Center for Advanced Power Systems.

SEC. 8187. Of the amount appropriated by title IV of this division for the Air Force for research, development, test, and evaluation, $3,500,000 may be available for the Collaborative Technology Clusters program.

SEC. 8188. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, ARMY", $7,000,000 may be available for Army live fire ranges.

SEC. 8189. Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, AIR FORCE", $3,900,000 may be available for the aging aircraft program of the Air Force.

SEC. 8190. Of the total amount appropriated in title II of this division for operation and maintenance, Navy, for civilian manpower and personnel management, $1,500,000 may be used for the Navy Pilot Human Resources Call Center, Cutler, Maine.

SEC. 8191. Of the total amount appropriated in title IV of this division for research, development, test and evaluation, Army, $5,000,000 may be used for Compact Kinetic Energy Missile Inertial Future Missile Technology Integration.

SEC. 8192. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, NAVY", $1,600,000 may be available for the Navy for Engineering Control and Surveillance Systems.

SEC. 8193. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $5,000,000 may made be available for a program at the Naval Medical Research Center (NMRC) to treat victims of radiation exposure.

SEC. 8194. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", $10,000,000 may be available for the Gulf States Initiative.

SEC. 8195. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Navy, $4,300,000 may be available for the demonstration and validation of laser fabricated steel reinforcement for ship construction.

SEC. 8196. REPORT ON PROGRESS TOWARD IMPLEMENTATION OF COMPREHENSIVE NUCLEAR THREAT REDUCTION PROGRAMS TO SAFEGUARD PAKISTANI AND INDIAN MISSILE NUCLEAR STOCKPILES AND TECHNOLOGY. (a) FINDINGS.—Congress makes the following findings:

(1) Since 1991 the Nunn-Lugar cooperative threat reduction initiative with the Russian Federation has sought to address the threat posed by Soviet-era stockpiles of nuclear, chemical, and biological weapons-grade materials being illicitly acquired by terrorist organizations or rogue states.

(2) India and Pakistan have acquired or developed independently nuclear materials, detonation devices, warheads, and delivery systems as part of their nuclear weapons programs.

(3) Neither India nor Pakistan is currently a signatory of the Nuclear Non-Proliferation Treaty or the Comprehensive Test Ban Treaty or an active participant in the United Nations Conference of Disarmament, nor do these countries voluntarily submit to international inspections of their nuclear facilities.

(4) Since the commencement of the military campaign against the Taliban regime and the al-Qaeda terrorist network in Afghanistan, Pakistan has taken additional steps to secure its nuclear assets from theft by members of al-Qaeda or other terrorists sympathetic to Osama bin Laden or the Taliban.

(5) Self-policing of nuclear materials and sensitive technologies by Indian and Pakistani authorities without up-to-date Western technology and expertise in the nuclear security area is unlikely to prevent determined terrorists or sympathizers from gaining access to such stockpiles over the long term.

(6) The United States has a significant national security interest in cooperating with India and Pakistan in order to ensure that effective nuclear threat reduction programs and policies are being pursued by the governments of those two countries.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense, in cooperation with the Secretaries of State and Energy, shall submit a report to Congress describing the steps that have been taken to develop cooperative threat reduction programs with India and Pakistan. Such report shall include recommendations for changes in any provision of existing law that is currently an impediment to the full establishment of such programs, a timetable for implementation of such programs, and an estimated five-year budget that will be required to fully fund such programs.

SEC. 8197. Of the amount appropriated by title III of this division under the heading "PROCUREMENT, MARINE CORPS", $5,000,000 may be *available for M–4 Carbine, Modular Weapon Systems.*

SEC. 8198. Of the amount appropriated by title III of this division under the heading "AIRCRAFT PROCUREMENT, ARMY", $7,500,000 may be available for AN/AVR–2A laser detecting sets.

SEC. 8199. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE", $2,500,000 may be available for Industrial Preparedness (PE0708011F) for continuing development of the nickel-metal hydride replacement battery for F–16 aircraft.

SEC. 8200. Of the amount appropriated by title III under the heading "AIRCRAFT PROCUREMENT, NAVY", $8,960,000 may be available for the Navy for four Hushkit noise inhibitors for C–9 aircraft.

SEC. 8201. Of the amount appropriated by title VI of this division under the heading "DEFENSE HEALTH PROGRAM", $5,000,000 may be available for the Army for the development of the Operating Room of the Future, an applied technology test bed at the University of Maryland Medical Center.

SEC. 8202. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", $5,700,000 may be made available for the Coalition for Advanced Biomaterials Technologies and Therapies (CABTT) program to maximize far-forward treatment and for the accelerated return to duty of combat casualties.

SEC. 8203. Of the amount appropriated by title III of this division under the heading "AIRCRAFT PROCUREMENT, NAVY", $9,800,000 may be available for Advanced Digital Recorders and Digital Recorder Producers for P–3 aircraft.

SEC. 8204. From amounts appropriated by this division, amounts may hereby be made available as follows: $8,000,000 for Big Crow (PE605118D).

SEC. 8205. From within amounts appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" the Commanding General of the Army Space and Missile Defense Command may acquire and maintain domed housing units for military personnel on Kwajalein Atoll and other islands and locations in support of the mission of the command.

SEC. 8206. Of the funds made available in title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" $4,000,000 may be available for a national tissue engineering center.

SEC. 8207. Of the funds in title III for Ammunition Procurement, Army, $5,000,000 may be available for M107, HE, 155mm.

SEC. 8208. Of the funds in title IV for Research, Development, Test and Evaluation, Air Force, $1,000,000 may be available for Integrated Medical Information Technology System.

SEC. 8209. Of the funds authorized in title IV for appropriation for Research, Development, Test and Evaluation, Navy, $3,000,000 may be available for modular helmet.

SEC. 8210. Of the funds available in title II for Operation and Maintenance, Army Reserve, $5,000,000 may be available for land forces readiness-information operations.

SEC. 8211. Of the total amount appropriated by title III of this division for other procurement, Navy, $10,000,000 may be available for the NULKA decoy procurement.

SEC. 8212. (a) MODIFICATION OF GENERAL REQUIREMENTS.—Section 1078(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–283) is amended—

(1) in paragraph (1), by inserting ", or its contractors or subcontractors," after "Department of Defense"; and

(2) in paragraph (3), by striking "stored, assembled, disassembled, or maintained" and inserting "manufactured, assembled, or disassembled".

(b) DETERMINATION OF EXPOSURES AT IAAP.—The Secretary of Defense shall take appropriate actions to determine the nature and extent of the exposure of current and former employees at the Army facility at the Iowa Army Ammunition Plant, including contractor and subcontractor employees at the facility, to radioactive or other hazardous substances at the facility, including possible pathways for the exposure of such employees to such substances.

(c) NOTIFICATION OF EMPLOYEES REGARDING EXPOSURE.—(1) The Secretary shall take appropriate actions to—

(A) identify current and former employees at the facility referred to in subsection (b), including contractor and subcontractor employees at the facility; and

(B) notify such employees of known or possible exposures to radioactive or other hazardous substances at the facility.

(2) Notice under paragraph (1)(B) shall include—

(A) information on the discussion of exposures covered by such notice with health care providers and other appropriate persons who do not hold a security clearance; and

(B) if necessary, appropriate guidance on contacting health care providers and officials involved with cleanup of the facility who hold an appropriate security clearance.

(3) Notice under paragraph (1)(B) shall be by mail or other appropriate means, as determined by the Secretary.

(d) DEADLINE FOR ACTIONS.—The Secretary shall complete the actions required by subsections (b) and (c) not later than 90 days after the date of the enactment of this Act.

(e) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the results of the actions undertaken by the Secretary under this section, including any determinations under subsection (b), the number of workers identified under subsection (c)(1)(A), the content of the notice to such workers under subsection (c)(1)(B), and the status of progress on the provision of the notice to such workers under subsection (c)(1)(B).

SEC. 8213. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE" $1,000,000, may be available for Low Cost Launch Vehicle Technology.

SEC. 8214. (a) STUDY OF PHYSICAL STATE OF ARMED SERVICES INITIAL ENTRY TRAINEE HOUSING AND BARRACKS.—The Comptroller General of the United States shall carry out a study of the physical state of the Initial Entry Trainee housing and barracks of the Armed Services.

(b) REPORT TO CONGRESS.—Not later than nine months after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the study carried out under subsection (a). The report shall set forth the results of the study, and shall include such other matters relating to the study as the Comptroller General considers appropriate.

(c) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—In this section, the term "congressional defense committees" means—

(1) the Committees on Appropriations and Armed Services of the Senate; and

(2) the Committees on Appropriations and Armed Services of the House of Representatives.

SEC. 8215. PILOT PROGRAM FOR EFFICIENT INVENTORY MANAGEMENT SYSTEM FOR THE DEPARTMENT OF DEFENSE. (a) Of the total amount appropriated by this division for operation and maintenance, Defense-Wide, $1,000,000 may be available for the Secretary of Defense to carry out a pilot program for the development and operation of an efficient inventory management system for the Department of Defense. The pilot program may be designed to address the problems in the inventory management system of the Department that were identified by the Comptroller General of the United States as a result of the General Accounting Office audit of the inventory management system of the Department in 1997.

(b) In entering into any contract for purposes of the pilot program, the Secretary may take into appropriate account current Department contract goals for small business concerns owned and controlled by socially and economically disadvantaged individuals.

(c) Not later than one year after the date of the enactment of this Act, the Secretary may submit to Congress a report on the pilot program. The report shall describe the pilot program, assess the progress of the pilot program, and contain such recommendations as the Secretary considers appropriate regarding expansion or extension of the pilot program.

SEC. 8216. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $2,000,000 may be allocated to the Advanced Safety Tether Operation and Reliability/Space Transfer using Electrodynamic Propulsion (STEP-AIRSEDS) program (PE0602236N) of the Office of Naval Research/Navy Research Laboratory.

TITLE IX—AMERICAN SERVICEMEMBERS' PROTECTION ACT OF 2001

SEC. 9001. SHORT TITLE.

This title may be cited as the "American Servicemembers' Protection Act of 2001".

SEC. 9002. FINDINGS.

Congress makes the following findings:

(1) On July 17, 1998, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the "Rome Statute of the International Criminal Court". The vote on whether to proceed with the statute was 120 in favor to 7 against, with 21 countries abstaining. The United States voted against final adoption of the Rome Statute.

(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 126 of the Rome Statute, the statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the statute.

(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft documents to implement the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.

(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives of the United States had not been achieved. As a result, he stated: "We are left with consequences that do not serve the cause of international justice."

(5) Ambassador Scheffer went on to tell the Congress that: "Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the Court's jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability

of the United States to use its military to meet alliance obligations and participate in multinational operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed.".

(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000. In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, "I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied".

(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.

(8) Members of the Armed Forces of the United States should be free from the risk of prosecution by the International Criminal Court, especially when they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces, to the maximum extent possible, against criminal prosecutions carried out by the International Criminal Court.

(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression over United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government should be free from the risk of prosecution by the International Criminal Court, especially with respect to official actions taken by them to protect the national interests of the United States.

(10) Any agreement within the Preparatory Commission on a definition of the Crime of Aggression that usurps the prerogative of the United Nations Security Council under Article 39 of the charter of the United Nations to "determine the existence of any . . . act of aggression" would contravene the charter of the United Nations and undermine deterrence.

(11) It is a fundamental principle of international law that a treaty is binding upon its parties only and that it does not create obligations for nonparties without their consent to be bound. The United States is not a party to the Rome Statute and will not be bound by any of its terms. The United States will not recognize the jurisdiction of the International Criminal Court over United States nationals.

SEC. 9003. WAIVER AND TERMINATION OF PROHIBITIONS OF THIS TITLE.

(a) AUTHORITY TO WAIVE SECTIONS 9004 AND 9005 WITH RESPECT TO AN INVESTIGATION OR PROSECUTION OF A NAMED INDIVIDUAL.—The President is authorized to waive the prohibitions and requirements of sections 9004 and 9005 to the degree such prohibitions and requirements would prevent United States cooperation with an investigation or prosecution of a named individual by the International Criminal Court. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that—

(A) there is reason to believe that the named individual committed the crime or crimes that are the subject of the International Criminal Court's investigation or prosecution;

(B) it is in the national interest of the United States for the International Criminal Court's investigation or prosecution of the named individual to proceed; and

(C) in investigating events related to actions by the named individual, none of the following persons will be investigated, arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court with respect to actions undertaken by them in an official capacity:

(i) Covered United States persons.

(ii) Covered allied persons.

(iii) Individuals who were covered United States persons or covered allied persons.

(b) TERMINATION OF PROHIBITIONS OF THIS TITLE.—The prohibitions and requirements of sections 9004 and 9005 shall cease to apply, and the authority of section 9006 shall terminate, if the United States becomes a party to the International Criminal Court pursuant to a treaty made under article II, section 2, clause 2 of the Constitution of the United States.

SEC. 9004. PROHIBITION ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT.

(a) APPLICATION.—The provisions of this section—

(1) apply only to cooperation with the International Criminal Court and shall not apply to cooperation with an ad hoc international criminal tribunal established by the United Nations Security Council before or after the date of the enactment of this Act to investigate and prosecute war crimes committed in a specific country or during a specific conflict; and

(2) shall not prohibit—

(A) any action permitted under section 9006; or

(B) communication by the United States of its policy with respect to a matter.

(b) PROHIBITION ON RESPONDING TO REQUESTS FOR COOPERATION.—Notwithstanding section 1782 of title 28, United States Code, or any other provision of law, no United States Court, and no agency or entity of any State or local government, including any court, may cooperate with the International Criminal Court in response to a request for cooperation submitted by the International Criminal Court pursuant to the Rome Statute.

(c) PROHIBITION ON TRANSMITTAL OF LETTERS ROGATORY FROM THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding section 1781 of title 28, United States Code, or any other provision of law, no agency of the United States Government may transmit for execution any letter rogatory issued, or other request for cooperation made, by the International Criminal Court to the tribunal, officer, or agency in the United States to whom it is addressed.

(d) PROHIBITION ON EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government may extradite any person from the United States to the International Criminal Court, nor support the transfer of any United States citizen or permanent resident alien to the International Criminal Court.

(e) PROHIBITION ON PROVISION OF SUPPORT TO THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government, including any court, may provide support to the International Criminal Court.

(f) PROHIBITION ON USE OF APPROPRIATED FUNDS TO ASSIST THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no funds appropriated under any provision of law may be used for the purpose of assisting the investigation, arrest, detention, extradition, or prosecution of any United States citizen or permanent resident alien by the International Criminal Court.

(g) RESTRICTION ON ASSISTANCE PURSUANT TO MUTUAL LEGAL ASSISTANCE TREATIES.—The United States shall exercise its rights to limit the use of assistance provided under all treaties and executive agreements for mutual legal assistance in criminal matters, multilateral conventions with legal assistance provisions, and extradition treaties, to which the United States is a party, and in connection with the execution or issuance of any letter rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.

(h) PROHIBITION ON INVESTIGATIVE ACTIVITIES OF AGENTS.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

SEC. 9005. PROHIBITION ON DIRECT OR INDIRECT TRANSFER OF CLASSIFIED NATIONAL SECURITY INFORMATION AND LAW ENFORCEMENT INFORMATION TO THE INTERNATIONAL CRIMINAL COURT.

(a) IN GENERAL.—Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(b) INDIRECT TRANSFER.—The procedures adopted pursuant to subsection (a) shall be designed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(c) CONSTRUCTION.—The provisions of this section shall not be construed to prohibit any action permitted under section 9006.

SEC. 9006. AUTHORITY TO FREE MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND CERTAIN OTHER PERSONS DETAINED OR IMPRISONED BY OR ON BEHALF OF THE INTERNATIONAL CRIMINAL COURT.

(a) AUTHORITY.—The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.

(b) PERSONS AUTHORIZED TO BE FREED.—The authority of subsection (a) shall extend to the following persons:

(1) Covered United States persons.

(2) Covered allied persons.

(3) Individuals detained or imprisoned for official actions taken while the individual was a

covered United States person or a covered allied person, and in the case of a covered allied person, upon the request of such government.

(c) AUTHORIZATION OF LEGAL ASSISTANCE.—When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide—

(1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, United States Code, representation and other assistance in the manner provided in that section);

(2) exculpatory evidence on behalf of that person; and

(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.

(d) BRIBES AND OTHER INDUCEMENTS NOT AUTHORIZED.—This section does not authorize the payment of bribes or the provision of other such incentives to induce the release of a person described in subsection (b).

SEC. 9007. ALLIANCE COMMAND ARRANGEMENTS.

(a) REPORT ON ALLIANCE COMMAND ARRANGEMENTS.—Not later than 6 months after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party—

(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a party to the International Criminal Court; and

(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.

(b) DESCRIPTION OF MEASURES TO ACHIEVE ENHANCED PROTECTION FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—Not later than one year after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2).

(c) SUBMISSION IN CLASSIFIED FORM.—The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form.

SEC. 9008. WITHHOLDINGS.

Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 705 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–460), are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.

SEC. 9009. APPLICATION OF SECTIONS 9004 AND 9005 TO EXERCISE OF CONSTITUTIONAL AUTHORITIES.

(a) IN GENERAL.—Sections 9004 and 9005 shall not apply to any action or actions with respect to a specific matter involving the International Criminal Court taken or directed by the President on a case-by-case basis in the exercise of the President's authority as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution.

(b) NOTIFICATION TO CONGRESS.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) that would otherwise be prohibited under section 9004 or 9005, the President shall submit a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that the action is in the national interest of the United States, and a justification for the action.

(2) EXCEPTION.—If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under paragraph (1) not later than 15 days after the reasons for the determination under this paragraph no longer apply.

(c) CONSTRUCTION.—Nothing in this section shall be construed as a grant of statutory authority to the President to take any action.

SEC. 9010. NONDELEGATION.

The authorities vested in the President by sections 9003 and 9009(a) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law.

SEC. 9011. DEFINITIONS.

As used in this title and in section 706 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) CLASSIFIED NATIONAL SECURITY INFORMATION.—The term "classified national security information" means information that is classified or classifiable under Executive Order 12958 or a successor Executive order.

(3) COVERED ALLIED PERSONS.—The term "covered allied persons" means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the International Criminal Court.

(4) COVERED UNITED STATES PERSONS.—The term "covered United States persons" means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court.

(5) EXTRADITION.—The terms "extradition" and "extradite" mean the extradition of a person in accordance with the provisions of chapter 209 of title 18, United States Code, (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 102 of the Rome Statute.

(6) INTERNATIONAL CRIMINAL COURT.—The term "International Criminal Court" means the court established by the Rome Statute.

(7) MAJOR NON-NATO ALLY.—The term "major non-NATO ally" means a country that has been so designated in accordance with section 517 of the Foreign Assistance Act of 1961.

(8) PARTICIPATE IN ANY PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term "participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations" means to assign members of the Armed Forces of the United States to a United Nations military command structure as part of a peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations in which those members of the Armed Forces of the United States are subject to the command or operational control of one or more foreign military officers not appointed in conformity with article II, section 2, clause 2 of the Constitution of the United States.

(9) PARTY TO THE INTERNATIONAL CRIMINAL COURT.—The term "party to the International Criminal Court" means a government that has deposited an instrument of ratification, acceptance, approval, or accession to the Rome Statute, and has not withdrawn from the Rome Statute pursuant to Article 127 thereof.

(10) PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term "peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations" means any military operation to maintain or restore international peace and security that—

(A) is authorized by the United Nations Security Council under chapter VI or VII of the charter of the United Nations; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping or peace enforcement activities.

(11) ROME STATUTE.—The term "Rome Statute" means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

(12) SUPPORT.—The term "support" means assistance of any kind, including financial support, transfer of property or other material support, services, intelligence sharing, law enforcement cooperation, the training or detail of personnel, and the arrest or detention of individuals.

(13) UNITED STATES MILITARY ASSISTANCE.—The term "United States military assistance" means—

(A) assistance provided under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

(B) defense articles or defense services furnished with the financial assistance of the

United States Government, including through loans and guarantees, under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

SEC. 9012. PERIOD OF EFFECTIVENESS OF THE TITLE.

Except as otherwise provided in this title, the provisions of this title shall take effect on the date of enactment of this Act and remain in effect without regard to the expiration of fiscal year 2002.

This division may be cited as the "Department of Defense Appropriations Act, 2002".

DIVISION B—TRANSFERS FROM THE EMERGENCY RESPONSE FUND PURSUANT TO PUBLIC LAW 107–38

The funds appropriated in Public Law 107–38 subject to subsequent enactment and previously designated as an emergency by the President and Congress under the Balanced Budget and Emergency Deficit Control Act of 1985, are transferred to the following chapters and accounts as follows:

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Office of the Secretary", $80,919,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $70,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

BUILDINGS AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Buildings and Facilities", $73,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and Education", $50,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $95,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $50,000,000 may be transferred and merged with the Agriculture Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Buildings and Facilities", $14,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FOOD SAFETY AND INSPECTION SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Food Safety and Inspection Service", $15,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)", $39,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38: Provided, That of the amounts provided in this Act and any amounts available for reallocation in fiscal year 2002, the Secretary shall reallocate funds under section 17(g)(2) of the Child Nutrition Act of 1966, as amended, in the manner and under the formula the Secretary deems necessary to respond to the effects of unemployment and other conditions caused by the recession, and starting no later than March 1, 2002, such reallocation shall occur no less frequently than every other month throughout the fiscal year.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $127,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCY

COMMODITY FUTURES TRADING COMMISSION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Commodity Futures Trading Commission", $10,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISION, THIS CHAPTER

SEC. 101. Section 741(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (P.L. 107–76), is amended by striking "20,000,000 pounds" and inserting "5,000,000 pounds".

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

PATRIOT ACT ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Patriot Act Activities", $25,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $2,000,000 shall be for a feasibility report, as authorized by Section 405 of Public Law 107–56, and of which $23,000,000 shall be for implementation of such enhancements as are deemed necessary: Provided, That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107–77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ADMINISTRATIVE REVIEW AND APPEALS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Administrative Review and Appeals", $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, General Legal Activities", $21,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $15,000,000 shall be for a cyber security initiative.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, United States Attorneys", $74,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, United States Marshals Service", $26,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $9,125,000 shall be for courthouse security equipment.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", $35,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $654,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $10,283,000 is for the refurbishing of the Engineering and Research Facility and $14,135,000 is for the decommissioning and renovation of former laboratory space in the Hoover building, of which $66,000,000 shall be for a cyber security initiative at the National Infrastructure Protection Center.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for all costs associated with the reorganization of the Immigration and Naturalization Service, for "Salaries and Expenses", $449,800,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $10,000,000 shall be for additional border patrols along the Southwest border, of which $55,800,000 shall be for additional inspectors and support staff on the northern border, and of which $23,900,000 shall be for transfer of and additional border patrols and support staff on the northern border.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", $99,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Justice Assistance", $400,000,000, to remain available until expended, for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and section 1014 of the USA PATRIOT ACT (Public Law 107–56) and for other counter terrorism programs, to be obligated from amounts made available in Public Law 107–38, of which $9,800,000 is for an aircraft for counterterrorism and other required activities for the City of New York.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $245,900,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which $81,700,000 shall be for Northern Virginia, of which $81,700,000 shall be for New Jersey, of which $56,500,000 shall be for Maryland, of which $17,000,000 shall be for a grant for the Utah Olympic Public Safety Command for security equipment and infrastructure related to the 2002 Winter Olympics, including the Paralympics and related events, and of which $9,000,000 shall be made available for discretionary grants to State and local law enforcement agencies to establish or enhance cybercrime units aimed at investigating and prosecuting cybersecurity offenses, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

CRIME VICTIMS FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Crime Victims Fund", $68,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Administration", $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Administration", $1,756,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ECONOMIC DEVELOPMENT ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $335,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For emergency grants authorized by section 392 of the Communications Act of 1934, as amended, to respond to the September 11, 2001, terrorist attacks on the United States, $8,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $3,360,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Scientific and Technical Research and Services", $10,400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $10,000,000 shall be for a cyber security initiative.

CONSTRUCTION OF RESEARCH FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction of Research Facilities", $1,225,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations, Research and Facilities", $2,750,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $881,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDINGS AND GROUNDS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Care of the Buildings and Grounds", $30,000,000, to remain available until expended for security enhancements, to be obligated from amounts made available in Public Law 107–38.

COURT OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $5,000,000, is for Emergency Communications Equipment, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COURT SECURITY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Court Security", $57,521,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for security of the Federal judiciary, of which not less than $4,000,000 shall be available to reimburse the United States Marshals Service for a Supervisory Deputy Marshal responsible for coordinating security in each judicial district and circuit: Provided, That the funds may be expended directly or transferred to the United States Marshals Service.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,879,000, to remain available until expended, to enhance security at the Thurgood Marshall Federal Judiciary Building, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Training", $11,000,000, for a port security program, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, $12,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,301,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $20,705,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SMALL BUSINESS ADMINISTRATION

BUSINESS LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for "Business Loans Program Account", $75,000,000, for the cost of loan subsidies and for loan modifications as authorized by section 202 of this Act, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DISASTER LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for "Disaster Loans Program Account", $75,000,000, for the cost of loan subsidies and for loan modifications as authorized by section 201 of this Act, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 201. For purposes of assistance available under section 7(b)(2) and (4) of the Small Business Act (15 U.S.C. 636(b)(2) and (4)) to small business concerns located in disaster areas declared as a result of the September 11, 2001, terrorist attacks—

(i) the term "small business concern" shall include not-for-profit institutions and small business concerns described in United States Industry Codes 522320, 522390, 523210, 523920, 523991, 524113, 524114, 524126, 524128, 524210, 524291, 524292, and 524298 of the North American Industry Classification System (as described in 13 C.F.R. 121.201, as in effect on January 2, 2001);

(ii) the Administrator may apply such size standards as may be promulgated under such section 121.201 after the date of enactment of this provision, but no later than one year following the date of enactment of this Act; and

(iii) payments of interest and principal shall be deferred, and no interest shall accrue during the two-year period following the issuance of such disaster loan.

SEC. 202. Notwithstanding any other provision of law, the limitation on the total amount of loans under section 7(b) of the Small Business

Act (15 U.S.C. 636(b)) outstanding and committed to a borrower in the disaster areas declared in response to the September 11, 2001, terrorist attacks shall be increased to $10,000,000 and the Administrator shall, in lieu of the fee collected under section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)), collect an annual fee of 0.25 percent of the outstanding balance of deferred participation loans made under section 7(a) to small businesses adversely affected by the September 11, 2001, terrorist attacks and their aftermath, for a period of one year following the date of enactment and to the extent the costs of such reduced fees are offset by appropriations provided by this Act.

SEC. 203. Not later than April 1, 2002, the Secretary of State shall submit to the Committees on Appropriations, in both classified and unclassified form, a report on the United States-People's Republic of China Science and Technology Agreement of 1979, including all protocols. The report is intended to provide a comprehensive evaluation of the benefits of the agreement to the Chinese economy, military, and defense industrial base. The report shall include the following elements:

(1) an accounting of all activities conducted under the Agreement for the past five years, and a projection of activities to be undertaken through 2010;

(2) an estimate of the annual cost to the United States to administer the Agreement;

(3) an assessment of how the Agreement has influenced the policies of the People's Republic of China toward scientific and technological cooperation with the United States;

(4) an analysis of the involvement of Chinese nuclear weapons and military missile specialists in the activities of the Joint Commission;

(5) a determination of the extent to which the activities conducted under the Agreement have enhanced the military and industrial base of the People's Republic of China, and an assessment of the impact of projected activities through 2010, including transfers of technology, on China's economic and military capabilities; and

(6) recommendations on improving the monitoring of the activities of the Commission by the Secretaries of Defense and State.

The report shall be developed in consultation with the Secretaries of Commerce, Defense, and Energy, the Directors of the National Science Foundation and the Federal Bureau of Investigation, and the intelligence community.

SEC. 204. From within funds available to the State of Alaska or the Alaska Region of the National Marine Fisheries Service, an additional $500,000 may be made available for the cost of guaranteeing the reduction loan authorized under section 144(d)(4)(A) of title I, division B of Public Law 106–554 (114 Stat. 2763A–242) and that subparagraph is amended to read as follows: "(4)(A) The fishing capacity reduction program required under this subsection is authorized to be financed through a reduction loan of $100,000,000 under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g).".

Small Business Administration

DISASTER LOAN PROGRAM ACCOUNT

SEC. 205. Of the amount made available under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Public Law 107–77), for administrative expenses to carry out the direct loan program, $5,000,000 shall be made available for necessary expenses of the HUBZone program as authorized by section 31 of the Small Business Act, as amended (15 U.S.C. 657a), of which, not more than $500,000 may be used for the maintenance and operation of the Procurement Marketing and Access Network (PRO-Net). The Administrator of the Small Business Administration shall make quarterly reports to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives regarding all actions taken by the Small Business Administration to address the deficiencies in the HUBZone program, as identified by the General Accounting Office in report number GAO–02–57 of October 26, 2001.

CHAPTER 3

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

Defense Emergency Response Fund

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for "Defense Emergency Response Fund", $1,525,000,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38: Provided, That $20,000,000 shall be made available for the National Infrastructure Simulation and Analysis Center (NISAC): Provided further, That $500,000 shall be made available only for the White House Commission on the National Moment of Remembrance: Provided further, That—

(1) $35,000,000 shall be available for the procurement of the Advance Identification Friend-or-Foe system for integration into F–16 aircraft of the Air National Guard that are being used in continuous air patrols over Washington, District of Columbia, and New York, New York; and

(2) $20,000,000 shall be available for the procurement of the Transportation Multi-Platform Gateway for integration into the AWACS aircraft that are being used to perform early warning surveillance over the United States.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 301. Amounts available in the "Defense Emergency Response Fund" shall be available for the purposes set forth in the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38): Provided, That the Fund may be used to reimburse other appropriations or funds of the Department of Defense only for costs incurred for such purposes between September 11 and December 31, 2001: Provided further, That such Fund may be used to liquidate obligations incurred by the Department under the authorities in 41 U.S.C. 11 for any costs incurred for such purposes between September 11 and September 30, 2001: Provided further, That the Secretary of Defense may transfer funds from the Fund to the appropriation, "Support for International Sporting Competitions, Defense", to be merged with, and available for the same time period and for the same purposes as that appropriation: Provided further, That the transfer authority provided by this section is in addition to any other transfer authority available to the Secretary of Defense: Provided further, That the Secretary of Defense shall report to the Congress quarterly all transfers made pursuant to this authority.

SEC. 302. Amounts in the "Support for International Sporting Competitions, Defense", may be used to support essential security and safety for the 2002 Winter Olympic Games in Salt Lake City, Utah, without the certification required under subsection 10 U.S.C. 2564(a). Further, the term "active duty", in section 5802 of Public Law 104–208 shall include State active duty and full-time National Guard duty performed by members of the Army National Guard and Air National Guard in connection with providing essential security and safety support to the 2002 Winter Olympic Games and logistical and security support to the 2002 Paralympic Games.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

Federal Payment to the District of Columbia for Protective Clothing and Breathing Apparatus

For a Federal payment to the District of Columbia for protective clothing and breathing apparatus, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $7,144,000, of which $922,000 is for the Fire and Emergency Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, and $453,000 is for the Department of Public Works.

Federal Payment to the District of Columbia for Specialized Hazardous Materials Equipment

For a Federal payment to the District of Columbia for specialized hazardous materials equipment, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $1,032,000, for the Fire and Emergency Medical Services Department.

Federal Payment to the District of Columbia for Chemical and Biological Weapons Preparedness

For a Federal payment to the District of Columbia for chemical and biological weapons preparedness, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $10,355,000, of which $205,000 is for the Fire and Emergency Medical Services Department, $258,000 is for the Metropolitan Police Department, and $9,892,000 is for the Department of Health.

Federal Payment to the District of Columbia for Pharmaceuticals for Responders

For a Federal payment to the District of Columbia for pharmaceuticals for responders, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $2,100,000, for the Department of Health.

Federal Payment to the District of Columbia for Response and Communications Capability

For a Federal payment to the District of Columbia for response and communications capability, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $14,960,000, of which $7,755,000 is for the Fire and Emergency Medical Services Department, $5,855,000 is for the Metropolitan Police Department, $113,000 is for the Department of Public Works Division of Transportation, $58,000 is for the Office of Property Management, $60,000 is for the Department of Public Works, $750,000 is for the Department of Health, $309,000 is for the Department of Human Services, and $60,000 is for the Department of Parks and Recreation.

Federal Payment to the District of Columbia for Search, Rescue and Other Emergency Equipment and Support

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for search, rescue and other emergency equipment and support, $8,850,000, of which $5,442,000 is for the Metropolitan Police Department, $208,000 is for the Fire and Emergency Medical Services Department, $398,500 is for the Department of Consumer and Regulatory Affairs, $1,178,500 is for the Department of Public Works, $542,000 is for the Department of Human Services, and

$1,081,000 is for the Department of Mental Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR EQUIPMENT, SUPPLIES AND VEHICLES FOR THE OFFICE OF THE CHIEF MEDICAL EXAMINER

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for equipment, supplies and vehicles for the Office of the Chief Medical Examiner, $1,780,000.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR HOSPITAL CONTAINMENT FACILITIES FOR THE DEPARTMENT OF HEALTH

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for hospital containment facilities for the Department of Health, $8,000,000.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR THE OFFICE OF THE CHIEF TECHNOLOGY OFFICER

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for the Office of the Chief Technology Officer, $43,994,000, for a first response land-line and wireless interoperability project, of which $1,000,000 shall be used to initiate a comprehensive review, by a nonvendor contractor, of the District's current technology-based systems and to develop a plan for integrating the communications systems of the District of Columbia Metropolitan Police and Fire and Emergency Medical Services Departments with the systems of regional and federal law enforcement agencies, including but not limited to the United States Capitol Police, United States Park Police, United States Secret Service, Federal Bureau of Investigation, Federal Protective Service, and the Washington Metropolitan Area Transit Authority Police: Provided, That such plan shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2002.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR EMERGENCY TRAFFIC MANAGEMENT

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for emergency traffic management, $20,700,000, for the Department of Public Works Division of Transportation, of which $14,000,000 is to upgrade traffic light controllers, $4,700,000 is to establish a video traffic monitoring system, and $2,000,000 is to disseminate traffic information.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR TRAINING AND PLANNING

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for training and planning, $11,449,000, of which $4,400,000 is for the Fire and Emergency Medical Services Department, $990,000 is for the Metropolitan Police Department, $1,200,000 is for the Department of Health, $200,000 is for the Office of the Chief Medical Examiner, $1,500,000 is for the Emergency Management Agency, $500,000 is for the Office of Property Management, $500,000 is for the Department of Mental Health, $469,000 is for the Department of Consumer and Regulatory Affairs, $240,000 is for the Department of Public Works, $600,000 is for the Department of Human Services, $100,000 is for the Department of Parks and Recreation, $750,000 is for the Division of Transportation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR INCREASED SECURITY

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for increased facility security, $25,536,000, of which $3,900,000 is for the Emergency Management Agency, $14,575,000 for the public schools, and $7,061,000 for the Office of Property Management.

FEDERAL PAYMENT TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For a Federal payment to the Washington Metropolitan Area Transit Authority to meet region-wide security requirements, a contribution of $39,100,000, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, of which $5,000,000 shall be used for protective clothing and breathing apparatus, $17,200,000 shall be for completion of the fiber optic network project and an automatic vehicle locator system, and $16,900,000 shall be for increased employee and facility security.

FEDERAL PAYMENT TO THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

For a Federal payment to the Metropolitan Washington Council of Governments to enhance regional emergency preparedness, coordination and response, $5,000,000, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, of which $1,500,000 shall be used to contribute to the development of a comprehensive regional emergency preparedness, coordination and response plan, $500,000 shall be used to develop a critical infrastructure threat assessment model, $500,000 shall be used to develop and implement a regional communications plan, and $2,500,000 shall be used to develop protocols and procedures for training and outreach exercises.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 401. Notwithstanding any other provision of law, the Chief Financial Officer of the District of Columbia may transfer up to 5 percent of the funds appropriated to the District of Columbia in this chapter between these accounts: Provided, That no such transfer shall take place unless the Chief Financial Officer of the District of Columbia notifies in writing the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of such transfer.

SEC. 402. The Chief Financial Officer of the District of Columbia and the Chief Financial Officer of the Washington Metropolitan Area Transit Authority shall provide quarterly reports to the President and the Committees on Appropriations of the Senate and the House of Representatives on the use of the funds under this chapter beginning no later than March 15, 2002.

CHAPTER 5

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation and Maintenance, General", $139,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Water and Related Resources", $30,259,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for "Weapons Activities", $131,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE NUCLEAR NONPROLIFERATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to improve nuclear nonproliferation and verification research and development (including research and development with respect to radiological dispersion devices, also know as "dirty bombs"), for "Defense Nuclear Nonproliferation", $226,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OTHER DEFENSE RELATED ACTIVITIES

OTHER DEFENSE ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses necessary to support activities related to countering potential biological threats to civilian populations, for "Other Defense Activities", $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Defense Environmental Restoration and Waste Management", $8,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCY

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear power plants, for "Salaries and Expenses", $36,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That the funds appropriated herein shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 501. Of the funds provided in this or any other Act for "Defense Environmental Restoration and Waste Management" at the Department of Energy, up to $500,000 may be available to the Secretary of Energy for safety improvements to roads along the shipping route to the Waste Isolation Pilot Plant site.

Sec. 502. Nutwood Levee, Illinois. The Energy and Water Development Appropriations Act, 2002 (Public Law 107–66) is amended under the heading "Title I, Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil, Construction, General" by inserting after "$3,500,000" but before the "." ": Provided further, That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, may initiate construction on the Nutwood Levee, Illinois project".

Sec. 503. Title III of the Energy and Water Development Appropriations Act, 2002 (Public Law 107–66) is amended by adding at the end the following new section:

"Sec. 313. (a) Increase in Amount Available for Electric Energy Systems and Storage Program.—The amount appropriated by this title under the heading 'DEPARTMENT OF ENERGY' under the heading 'ENERGY PROGRAMS' under the paragraph 'Energy Supply' is hereby increased by $14,000,000, with the amount of the increase to be available under that paragraph for the electric energy systems and storage program.

"(b) Decrease in Amount Available for Department of Energy Generally.—The amount appropriated by this title under the heading 'DEPARTMENT OF ENERGY' (other than under the heading 'National Nuclear Security Administration' or under the heading 'ENERGY PROGRAMS' under the paragraph 'Energy Supply') is hereby decreased by $14,000,000, with the amount of the decrease to be distributed among amounts available under the heading 'DEPARTMENT OF ENERGY' in a manner determined by the Secretary of Energy and approved by the Committees on Appropriations.".

Sec. 504. The Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended as follows:

(1) by inserting in Section 4(c) after "2000," and before "costs" the following: "and the additional $32,000,000 further authorized to be appropriated by amendments to the Act in 2001,"; and

(2) by inserting in Section 5 after "levels)," and before "plus" the following: "and, effective October 1, 2001, not to exceed an additional $32,000,000 (October 1, 2001, price levels),".

CHAPTER 6

DEPARTMENT OF THE INTERIOR

National Park Service

OPERATION OF THE NATIONAL PARK SYSTEM

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation of the National Park System", $10,098,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PARK POLICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "United States Park Police", $25,295,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", $21,624,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Departmental Offices

Departmental Management

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,205,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for the working capital fund of the Department of the Interior.

RELATED AGENCIES

Smithsonian Institution

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $21,707,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Gallery of Art

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,148,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

John F. Kennedy Center for the Performing Arts

OPERATIONS AND MAINTENANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Maintenance", $4,310,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

National Capital Planning Commission

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $758,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

Sec. 601. (a) In General.—The Secretary of the Smithsonian Institution may collect and preserve in the National Museum of American History artifacts relating to the September 11th attacks on the World Trade Center and the Pentagon.

(b) Types of Artifacts.—In carrying out subsection (a), the Secretary of the Smithsonian Institution shall consider collecting and preserving—

(1) pieces of the World Trade Center and the Pentagon;

(2) still and video images made by private individuals and the media;

(3) personal narratives of survivors, rescuers, and government officials; and

(4) other artifacts, recordings, and testimonials that the Secretary of the Smithsonian Institution determines have lasting historical significance.

(c) Authorization of Appropriations.—There is authorized to be appropriated to the Smithsonian Institution $5,000,000 to carry out this section.

Sec. 602. Section 29 of Public Law 92–203, as enacted under section 4 of Public Law 94–204 (43 U.S.C. 1626), is amended by adding at the end of subsection (e) the following:

"(4)(A) Congress confirms that Federal procurement programs for tribes and Alaska Native Corporations are enacted pursuant to its authority under Article I, Section 8 of the United States Constitution.

"(B) Contracting with an entity defined in subsection (e)(2) of this section or section 3(c) of Public Law 93–262 shall be credited towards the satisfaction of a contractor's obligations under section 7 of Public Law 87–305.

"(C) Any entity that satisfies subsection (e)(2) of this section that has been certified under section 8 of Public Law 85–536 is a Disadvantaged Business Enterprise for the purposes of Public Law 105–178.".

Sec. 603. (a) General Trustees.—

(1) In general.—Subsection (a) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is amended in its last clause by striking out the word "thirty" and inserting in lieu thereof the word "thirty-six".

(2) Terms of office for new general trustees.—

(A) Initial terms of office.—

(i) Commencements of initial term.—The initial terms of office for all new general trustees offices created by this section shall commence upon appointment by the President.

(ii) Expirations of initial term.—The initial terms of office for all new general trustee offices created by this section shall continue until September 1, 2007.

(iii) Vacancies and service until the appointment of a successor.—For all new general trustee offices created by this section, subsections (b)(1) and (b)(2) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) shall apply.

(B) Succeeding terms of office.—Upon the expirations of the initial terms of office pursuant to subparagraph (A) the terms of office for all new general trustee offices created by this section shall be governed by subsection (b) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h).

(b) Ex Officio Trustees.—Subsection (a) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is further amended by inserting in the second sentence "the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives," after "the Secretary of the Smithsonian Institution,".

(c) Housekeeping Amendment.—To conform with the previous abolition of the United States Information Agency and the transfer of all functions of the Director of the United States Information Agency to the Secretary of State (sections 1311 and 1312 of Public Law 105–277, 112 Stat. 2681–776), subsection (a) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is further amended by striking in the second sentence "the Director of the United States Information Agency," and inserting in lieu thereof "the Secretary of State,".

CHAPTER 7

DEPARTMENT OF LABOR

Employment and Training Administration

TRAINING AND EMPLOYMENT SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Training and employment services", $32,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That such amount shall be provided to the Consortium for Worker Education, established by the New York City Central Labor Council and the New York City Partnership, for an Emergency Employment Clearinghouse.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "State Unemployment Insurance and Employment Service Operations", $4,100,000, to remain available until expended, to *be obligated from amounts made available in Public Law 107–38.*

WORKERS COMPENSATION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Workers Compensation Programs", $175,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That, of such amount, $125,000,000 shall be for payment to the New York State Workers Compensation Review Board, for the processing of claims related to the terrorist attacks: Provided further, That, of such amount, $25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the terrorist attacks: Provided further, That, of such amount, $25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the first response emergency services personnel who were injured, were disabled, or died due to the terrorist attacks.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $5,880,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Disease control, research, and training" for baseline safety screening for the emergency services personnel and rescue and recovery personnel, $12,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "National Institute of Environmental Health Sciences" for carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, $10,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, to provide grants to public entities, not-for-profit entities, and Medicare and Medicaid enrolled suppliers and institutional providers to reimburse for health care related expenses or lost revenues directly attributable to the public health emergency resulting from the September 11, 2001, terrorist acts, for "Public Health and Social Services Emergency Fund", $140,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That none of the costs have been reimbursed or are eligible for reimbursement from other sources.

For emergency expenses necessary to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for "Public Health and Social Services Emergency Fund", $2,575,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38. Of this amount, $1,000,000,000 shall be for the Centers for Disease Control and Prevention for improving State and local capacity; $100,000,000 shall be for grants to hospitals, in collaboration with local governments, to improve capacity to respond to bioterrorism; $165,000,000 shall be for upgrading capacity at the Centers for Disease Control and Prevention, including research; $10,000,000 shall be for the establishment and operation of a national system to track biological pathogens; $99,000,000 shall be for the National Institute of Allergy and Infectious Diseases for bioterrorism-related research and development and other related needs; $71,000,000 shall be for the National Institute of Allergy and Infectious Diseases for the construction of biosafety laboratories and related infrastructure costs; $593,000,000 shall be for the National Pharmaceutical Stockpile; $512,000,000 shall be for the purchase, deployment and related costs of the smallpox vaccine, and $25,000,000 shall be for improving laboratory security at the National Institutes of Health and the Centers for Disease Control and Prevention. At the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "School Improvement Programs", for the Project School Emergency Response to Violence program, $10,000,000, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Limitation on Administrative Expenses", $7,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 8

LEGISLATIVE BRANCH

JOINT ITEMS

LEGISLATIVE BRANCH EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the terrorist attacks on the United States, $256,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That $34,500,000 shall be transferred to the "SENATE", "Sergeant at Arms and Doorkeeper of the Senate" and shall be obligated with the prior approval of the Senate Committee on Appropriations: Provided further, That $40,712,000 shall be transferred to "HOUSE OF REPRESENTATIVES", "Salaries and Expenses" and shall be obligated with the prior approval of the House Committee on Appropriations: Provided further, That the remaining balance of $180,869,000 shall be transferred to the Capitol Police Board, which shall transfer to the affected entities in the Legislative Branch such amounts as are approved by the House and Senate Committees on Appropriations: Provided further, That any Legislative Branch entity receiving funds pursuant to the Emergency Response Fund established by Public Law 107–38 (without regard to whether the funds are provided under this chapter or pursuant to any other provision of law) may transfer any funds provided to the entity to any other Legislative Branch entity receiving funds under Public Law 107–38 in an amount equal to that required to provide support for security enhancements, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

SENATE

ADMINISTRATIVE PROVISIONS

SEC. 801. (a) ACQUISITION OF BUILDINGS AND FACILITIES.—Notwithstanding any other provision of law, in order to respond to an emergency situation, the Sergeant at Arms of the Senate may acquire buildings and facilities, subject to the availability of appropriations, for the use of the Senate, as appropriate, by lease, purchase, or such other arrangement as the Sergeant at Arms of the Senate considers appropriate (including a memorandum of understanding with the head of an Executive Agency, as defined in section 105 of title 5, United States Code, in the case of a building or facility under the control of such Agency). Actions taken by the Sergeant at Arms of the Senate must be approved by the Committees on Appropriations and Rules and Administration.

(b) AGREEMENTS.—Notwithstanding any other provision of law, for purposes of carrying out subsection (a), the Sergeant at Arms of the Senate may carry out such activities and enter into such agreements related to the use of any building or facility acquired pursuant to such subsection as the Sergeant at Arms of the Senate considers appropriate, including—

(1) agreements with the United States Capitol Police or any other entity relating to the policing of such building or facility; and

(2) agreements with the Architect of the Capitol or any other entity relating to the care and maintenance of such building or facility.

(c) AUTHORITY OF CAPITOL POLICE AND ARCHITECT.—

(1) ARCHITECT OF THE CAPITOL.—Notwithstanding any other provision of law, the Architect of the Capitol may take any action necessary to carry out an agreement entered into with the Sergeant at Arms of the Senate pursuant to subsection (b).

(2) CAPITOL POLICE.—Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a) is amended—

(A) by striking "The Capitol Police" and inserting "(a) The Capitol Police"; and

(B) by adding at the end the following new subsection:

"(b) For purposes of this section, 'the United States Capitol Buildings and Grounds' shall include any building or facility acquired by the Sergeant at Arms of the Senate for the use of the Senate for which the Sergeant at Arms of the Senate has entered into an agreement with the United States Capitol Police for the policing of the building or facility.".

(d) TRANSFER OF CERTAIN FUNDS.—Subject to the approval of the Committee on Appropriations of the Senate, the Architect of the Capitol may transfer to the Sergeant at Arms of the Senate amounts made available to the Architect for necessary expenses for the maintenance, care and operation of the Senate office buildings during a fiscal year in order to cover any portion of the costs incurred by the Sergeant at Arms of the Senate during the year in acquiring a building or facility pursuant to subsection (a).

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 802. (a) Notwithstanding any other provision of law—

(1) subject to subsection (b), the Sergeant at Arms of the Senate and the head of an Executive Agency (as defined in section 105 of title 5, United States Code) may enter into a memorandum of understanding under which the Agency may provide facilities, equipment, supplies, personnel, and other support services for the use of the Senate during an emergency situation; and

(2) the Sergeant at Arms of the Senate and the head of the Agency may take any action necessary to carry out the terms of the memorandum of understanding.

(b) The Sergeant at Arms of the Senate may enter into a memorandum of understanding described in subsection (a)(1) consistent with the Senate Procurement Regulations.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

OTHER LEGISLATIVE BRANCH

ADMINISTRATIVE PROVISIONS

SEC. 803. (a) Section 1(c) of Public Law 96–152 (40 U.S.C. 206–1) is amended by striking "but not to exceed" and all that follows and inserting the following: "but not to exceed $2,500 less than the lesser of the annual salary for the Sergeant at Arms of the House of Representatives or the annual salary for the Sergeant at Arms and Doorkeeper of the Senate.".

(b) The Assistant Chief of the Capitol Police shall receive compensation at a rate determined by the Capitol Police Board, but not to exceed $1,000 less than the annual salary for the chief of the United States Capitol Police.

(c) This section and the amendment made by this section shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

SEC. 804. (a) ASSISTANCE FOR CAPITOL POLICE FROM EXECUTIVE DEPARTMENTS AND AGENCIES.—Notwithstanding any other provision of law, Executive departments and Executive agencies may assist the United States Capitol Police in the same manner and to the same extent as such departments and agencies assist the United States Secret Service under section 6 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note), except as may otherwise be provided in this section.

(b) TERMS OF ASSISTANCE.—Assistance under this section shall be provided—

(1) consistent with the authority of the Capitol Police under sections 9 and 9A of the Act of July 31, 1946 (40 U.S.C. 212a and 212a–2);

(2) upon the advance written request of—

(A) the Chairman of the Capitol Police Board, or

(B) in the absence of the Chairman of the Capitol Police Board—

(i) the Sergeant at Arms and Doorkeeper of the Senate, in the case of any matter relating to the Senate; or

(ii) the Sergeant at Arms of the House of Representatives, in the case of any matter relating to the House; and

(3) either—

(A) on a temporary and non-reimbursable basis,

(B) on a temporary and reimbursable basis, or

(C) on a permanent reimbursable basis upon advance written request of the Chairman of the Capitol Police Board.

(c) REPORTS ON EXPENDITURES FOR ASSISTANCE.—

(1) REPORTS.—With respect to any fiscal year in which an Executive department or Executive agency provides assistance under this section, the head of that department or agency shall submit a report not later than 30 days after the end of the fiscal year to the Chairman of the Capitol Police Board.

(2) CONTENTS.—The report submitted under paragraph (1) shall contain a detailed account of all expenditures made by the Executive department or Executive agency in providing assistance under this section during the applicable fiscal year.

(3) SUMMARY OF REPORTS.—After receipt of all reports under paragraph (2) with respect to any fiscal year, the Chairman of the Capitol Police Board shall submit a summary of such reports to the Committees on Appropriations of the Senate and the House of Representatives.

(d) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 805. (a) The Chief of the Capitol Police may, upon any emergency as determined by the Capitol Police Board, deputize members of the National Guard (while in the performance of Federal or State service), members of components of the Armed Forces other than the National Guard, and Federal, State or local law enforcement officers as may be necessary to address that emergency. Any person deputized under this section shall possess all the powers and privileges and may perform all duties of a member or officer of the Capitol Police.

(b) The Capitol Police Board may promulgate regulations, as determined necessary, to carry out provisions of this section.

(c) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

SEC. 806. (a) Notwithstanding any other provision of law, the United States Capitol Preservation Commission established under section 801 of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a) may transfer to the Architect of the Capitol amounts in the Capitol Preservation Fund established under section 803 of such Act (40 U.S.C. 188a–2) if the amounts are to be used by the Architect for the planning, engineering, design, or construction of the Capitol Visitor Center.

(b) Any amounts transferred pursuant to subsection (a) shall remain available for the use of the Architect of the Capitol until expended.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

CHAPTER 9

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, DEFENSE-WIDE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Defense-wide", $475,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 901. (a) AVAILABILITY OF AMOUNTS FOR MILITARY CONSTRUCTION RELATING TO TERRORISM.—Amounts made available to the Department of Defense from funds appropriated in Public Law 107–38 and this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

(b) NOTICE TO CONGRESS.—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection the Secretary shall notify the appropriate committees of Congress the following:

(1) The determination to use such amounts for the project.

(2) The estimated cost of the project.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section the term "appropriate committees of Congress" has the meaning given that term in section 2801 (4) of title 10, United States Code.

SEC. 902. If in exercising the authority in section 2808 of title 10, United States Code, to carry out military construction projects not authorized by law, the Secretary of Defense utilizes, whether in whole or in part, funds appropriated but not yet obligated for a military construction project previously authorized by law, the Secretary may carry out such military construction project previously authorized by law using amounts appropriated by the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38; 115 Stat. 220), or any other appropriations Act to provide funds for the recovery from and response to the terrorist attacks on the United States that is enacted after the date of the enactment of this Act, and available for obligation.

CHAPTER 10

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", for the Office of Intelligence and Security, $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the

United States, in addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, to be derived from the Airport and Airway Trust Fund, $57,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That it is the sense of the Senate that funds provided under this paragraph shall be used to provide subsidized service at a rate of not less than three flights per day for eligible communities with significant enplanement levels that enjoyed said rate of service, with or without subsidy, prior to September 11, 2001.

COAST GUARD

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", $285,350,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations", $251,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research, Engineering, and Development", $50,000,000, to be derived from the Airport and Airway Trust Fund, to be obligated from amounts made available in Public Law 107–38.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, notwithstanding any other provision of law, for "Grants-in-aid for airports", to enable the Federal Aviation Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, $200,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended, to be obligated from amounts made available in Public Law 107–38

FEDERAL HIGHWAY ADMINISTRATION

MISCELLANEOUS APPROPRIATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Miscellaneous Appropriations", including the operation and construction of ferrys and ferry facilities, $110,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Emergency Relief Program", as authorized by section 125 of title 23, United States Code, $75,000,000, to be derived from the Highway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Safety and Operations", $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $100,000,000, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

FEDERAL TRANSIT ADMINISTRATION

FORMULA GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Formula Grants", $23,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CAPITAL INVESTMENT GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Capital Investment Grants", $100,000,000, to be obligated from amounts made available in Public Law 107–38: Provided, That in administering funds made available under this paragraph, the Federal Transit Administrator shall direct funds to those transit agencies most severely impacted by the terrorist attacks of September 11, 2001, excluding any transit agency receiving a Federal payment elsewhere in this Act: Provided further, That the provisions of 49 U.S.C. 5309(h) shall not apply to funds made available under this paragraph.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and Special Programs", $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for other safety and security related audit and monitoring responsibilities, for "Salaries and Expenses", $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCY

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $836,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 1001. Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 449; 23 U.S.C. 502 note) is amended —

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (F), and (G), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) FOLLOW-ON DEPLOYMENT.—(i) After an intelligent transportation infrastructure system deployed in an initial deployment area pursuant to a contract entered into under the program under this paragraph has received system acceptance, the Department of Transportation has the authority to extend the original contract that was competitively awarded for the deployment of the system in the follow-on deployment areas under the contract, using the same asset ownership, maintenance, fixed price contract, and revenue sharing model, and the same competitively selected consortium leader, as were used for the deployment in that initial deployment area under the program.

"(ii) If any one of the follow-on deployment areas does not commit, by July 1, 2002, to participate in the deployment of the system under the contract, then, upon application by any of the other follow-on deployment areas that have committed by that date to participate in the deployment of the system, the Secretary shall supplement the funds made available for any of the follow-on deployment areas submitting the applications by using for that purpose the funds not used for deployment of the system in the nonparticipating area. Costs paid out of funds provided in such a supplementation shall not be counted for the purpose of the limitation on maximum cost set forth in subparagraph (B).";

(4) by inserting after subparagraph (D), as redesignated by paragraph (1), the following new subparagraph (E):

"(E) DEFINITIONS.—In this paragraph:

"(i) The term 'initial deployment area' means a metropolitan area referred to in the second sentence of subparagraph (A).

"(ii) The term 'follow-on deployment areas' means the metropolitan areas of Baltimore, Birmingham, Boston, Chicago, Cleveland, Dallas/Ft. Worth, Denver, Detroit, Houston, Indianapolis, Las Vegas, Los Angeles, Miami, New York/Northern New Jersey, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Salt Lake, San Diego, San Francisco, St. Louis, Seattle, Tampa, and Washington, District of Columbia."; and

(5) in subparagraph (D), as redesignated by paragraph (1), by striking "subparagraph (D)" and inserting "subparagraph (F)".

SEC. 1002. No appropriated funds or revenues generated by the National Railroad Passenger Corporation may be used to implement section 204(c)(2) of Public Law 105–134 until the Congress has enacted an Amtrak reauthorization Act.

CHAPTER 11

DEPARTMENT OF THE TREASURY

INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,032,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the

United States, for "Salaries and Expenses", $1,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Federal Law Enforcement Training Center

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $22,846,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Financial Management Service

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Bureau of Alcohol, Tobacco and Firearms

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $31,431,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

United States Customs Service

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $292,603,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38; of this amount, not less than $140,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders, of which $10,000,000 shall be available for hiring inspectors along the Southwest border; not less than $15,000,000 shall be available for seaport security; and not less than $30,000,000 shall be available for the procurement and deployment of non-intrusive and counterterrorism inspection technology, equipment and infrastructure improvements to combat terrorism at the land and sea border ports of entry.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation, Maintenance and Procurement, Air and Marine Interdiction Programs", $6,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

Internal Revenue Service

PROCESSING, ASSISTANCE AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Processing, Assistance and Management", $16,658,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

TAX LAW ENFORCEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Tax Law Enforcement", $4,544,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

INFORMATION SYSTEMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Information Systems", $15,991,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

United States Secret Service

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $104,769,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Administration

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $50,040,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

POSTAL SERVICE

Payment to the Postal Service Fund

For emergency expenses to the Postal Service Fund to enable the Postal Service to build and establish a system for sanitizing and screening mail matter, to protect postal employees and postal customers from exposure to biohazardous material, and to replace or repair Postal Service facilities destroyed or damaged in New York City as a result of the September 11, 2001, terrorist attacks, $600,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38: Provided, That the Postal Service is authorized to review rates for product delivery and minimum qualifications for eligible service providers under section 5402 of title 39, and to recommend new rates and qualifications to reduce expenditures without reducing service levels.

INDEPENDENT AGENCIES

General Services Administration

REAL PROPERTY ACTIVITIES

FEDERAL BUILDING FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Federal Buildings Fund", $126,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

National Archives and Records Administration

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", $4,818,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

REPAIRS AND RESTORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Repairs and Restoration", $2,180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

GENERAL PROVISION, THIS CHAPTER

SEC. 1101. None of the funds appropriated by this Act or any other Act may be used after June 30, 2002 for the operation of any federally owned building if determined to be appropriate by the Administrator of the General Services Administration, or to enter into any lease or lease renewal with any person for office space for a Federal agency in any other building, unless such operation, lease, or lease renewal is in compliance with a regulation or Executive Order issued after the date of enactment of this section that requires redundant and physically separate entry points to such buildings, and the use of physically diverse local network facilities, for the provision of telecommunications services to Federal agencies in such buildings.

CHAPTER 12

DEPARTMENT OF VETERANS AFFAIRS

CONSTRUCTION, MAJOR PROJECTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction, Major Projects", $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development

COMMUNITY DEVELOPMENT FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Community development fund", $2,000,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38: Provided, That such funds shall be subject to the first through sixth provisos in section 434 of Public Law 107-73: Provided further, That within 45 days of enactment, the State of New York, in conjunction with the City of New York, shall establish a corporation for the obligation of the funds provided under this heading, issue the initial criteria and requirements necessary to accept applications from individuals, nonprofits and small businesses for economic losses from the September 11, 2001, terrorist attacks, and begin processing such applications: Provided further, That the corporation shall respond to any application from an individual, nonprofit or small business for economic losses under this heading within 45 days of the submission of an application for funding: Provided further, That individuals, nonprofits or small businesses shall be eligible for compensation only if located in New York City in the area located on or south of Canal Street, on or south of East Broadway (east of its intersection with Canal Street), or on or south of Grand Street (east of its intersection with East Broadway): Provided further, That, of the amount made available under this heading, no less than $500,000,000 shall be made available for individuals, nonprofits or small businesses described in the prior three provisos with a limit of $500,000 per small business for economic losses.

Management and Administration

OFFICE OF INSPECTOR GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Office of Inspector General", $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

INDEPENDENT AGENCIES

Environmental Protection Agency

SCIENCE AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Science and Technology", $41,514,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the

United States, and to support activities related to countering terrorism, for "Environmental Programs and Management", $38,194,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

HAZARDOUS SUBSTANCE SUPERFUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Hazardous Substance Superfund", $41,292,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

STATE AND TRIBAL ASSISTANCE GRANTS

For making grants for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering potential biological and chemical threats to populations, for "State and Tribal Assistance Grants", $5,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia, and Pennsylvania on September 11, 2001, for "Disaster Relief", $5,824,344,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $20,000,000, to remain available until expended, for the Office of National Preparedness, to be obligated from amounts made available in Public Law 107–38.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and to support activities related to countering terrorism, for "Emergency Management Planning and Assistance", $290,000,000, to remain available until September 30, 2003, for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), to be obligated from amounts made available in Public Law 107–38: *Provided*, That up to 5 percent of this amount shall be transferred to "Salaries and expenses" for program administration.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Human Space Flight", $64,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Science, Aeronautics and Technology", $28,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and Related Activities", $300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 1201. UNITY IN THE SPIRIT OF AMERICA. (a) SHORT TITLE.—This section may be cited as the "Unity in the Spirit of America Act" or the "USA Act".

(b) PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS.—The National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) is amended by inserting before title V the following:

"TITLE IV—PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS

"SEC. 401. PROJECTS.

"(a) DEFINITION.—In this section, the term 'Foundation' means the Points of Light Foundation funded under section 301, or another nonprofit private organization, that enters into an agreement with the Corporation to carry out this section.

"(b) IDENTIFICATION OF PROJECTS.—

"(1) ESTIMATED NUMBER.—Not later than December 1, 2001, the Foundation, after obtaining the guidance of the heads of appropriate Federal agencies, such as the Director of the Office of Homeland Security and the Attorney General, shall—

"(A) make an estimate of the number of victims killed as a result of the terrorist attacks on September 11, 2001 (referred to in this section as the 'estimated number'); and

"(B) compile a list that specifies, for each individual that the Foundation determines to be such a victim, the name of the victim and the State in which the victim resided.

"(2) IDENTIFIED PROJECTS.—The Foundation may identify approximately the estimated number of community-based national and community service projects that meet the requirements of subsection (d). The Foundation shall name each identified project in honor of a victim described in subsection (b)(1)(A), after obtaining the permission of an appropriate member of the victim's family and the entity carrying out the project.

"(c) ELIGIBLE ENTITIES.—To be eligible to have a project named under this section, the entity carrying out the project shall be a political subdivision of a State, a business, a nonprofit organization (which may be a religious organization, such as a Christian, Jewish, or Muslim organization), an Indian tribe, or an institution of higher education.

"(d) PROJECTS.—The Foundation shall name, under this section, projects—

"(1) that advance the goals of unity, and improving the quality of life in communities; and

"(2) that will be planned, or for which implementation will begin, within a reasonable period after the date of enactment of the Unity in Service to America Act, as determined by the Foundation.

"(e) WEBSITE AND DATABASE.—The Foundation shall create and maintain websites and databases, to describe projects named under this section and serve as appropriate vehicles for recognizing the projects.".

SEC. 1202. Within funds previously appropriated as authorized under the Native American Housing and Self Determination Act of 1996 (Pub. L. 104–330, § 1(a), 110 Stat. 4016) and made available to Cook Inlet Housing Authority, Cook Inlet Housing Authority may use up to $9,500,000 of such funds to construct student housing for Native college students, including an on-site computer lab and related study facilities, and, notwithstanding any provision of such Act to the contrary, Cook Inlet Housing Authority may use a portion of such funds to establish a reserve fund and to provide for maintenance of the project.

CHAPTER 13

GENERAL PROVISIONS, THIS DIVISION

SEC. 1301. Amounts which may be obligated pursuant to this division are subject to the terms and conditions provided in Public Law 107–38.

SEC. 1302. No part of any appropriation contained in this division shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This division may be cited as the "Emergency Supplemental Act, 2002".

DIVISION C—SPENDING LIMITS AND BUDGETARY ALLOCATIONS FOR FISCAL YEAR 2002

SEC. 101. (a) DISCRETIONARY SPENDING LIMITS.—Section 251(c)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraph (A) and inserting the following:

"(A) for the discretionary category: $681,441,000,000 in new budget authority and $670,447,000,000 in outlays;".

(b) REVISED AGGREGATES AND ALLOCATIONS.—Upon the enactment of this section, the chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall each—

(1) revise the aggregate levels of new budget authority and outlays for fiscal year 2002 set in sections 101(2) and 101(3) of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress), to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a);

(2) revise allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations of their respective House as initially set forth in the joint explanatory statement of managers accompanying the conference report on that concurrent resolution, to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a); and

(3) publish those revised aggregates and allocations in the Congressional Record.

(c) REPEAL OF SECTION 203 OF BUDGET RESOLUTION FOR FISCAL YEAR 2002.—Section 203 of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress) is repealed.

(d) ADJUSTMENTS.—If, for fiscal year 2002, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category due to technical estimates made by the Director of the Office of Management and Budget, the Director shall make an adjustment equal to the amount of the excess, but not to exceed an amount equal to 0.2 percent of the sum of the adjusted discretionary limits on new budget authority for all categories for fiscal year 2002.

SEC. 102. PAY-AS-YOU-GO ADJUSTMENT.—In preparing the final sequestration report for fiscal year 2002 required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Director of the Office of Management and Budget shall change any balance of direct spending and receipts legislation for fiscal years 2001 and 2002 under section 252 of that Act to zero.

DIVISION D—TECHNICAL CORRECTIONS

SEC. 101. Title VI of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Public Law 107–76) is amended under the heading "Food and Drug Administration, Salaries and Expenses" by striking "$13,207,000" and inserting "$13,357,000".

SEC. 102. Title IV of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended in the third proviso of the first undesignated paragraph under the heading "Diplomatic and Consular Programs" by striking "this heading" and inserting "the appropriations accounts within the Administration of Foreign Affairs".

SEC. 103. Title V of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended in the proviso under the heading "Commission on Ocean Policy" by striking "appointment" and inserting "the first meeting of the Commission".

SEC. 104. Section 612 of Public Law 107–77 is amended by striking "June 30, 2002" and inserting "April 1, 2002".

SEC. 105. Section 626(c) of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended by striking "1:00CV03110(ESG)" and inserting "1:00CV03110(EGS)".

SEC. 106. JICARILLA, NEW MEXICO, MUNICIPAL WATER SYSTEM. Public Law 107–66 is amended—

(1) under the heading of "Title I, Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Construction, General"—

(A) by striking "Provided further, That using $2,500,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico:"; and

(B) insert at the end before the period the following: ": Provided further, That using funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to transfer $2,500,000 to the Secretary of the Interior for the Bureau of Reclamation to proceed with the Jicarilla Municipal Water System in the town of Dulce, New Mexico"; and

(2) under the heading of "Title II, Department of the Interior, Bureau of Reclamation, Water and Related Resources, (Including the Transfer of Funds)"—

(A) insert at the end before the period the following: ": Provided further, That using $2,500,000 of the funds provided herein, the Secretary of the Interior is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico".

SEC. 107. (a) Public Law 107–68 is amended by adding at the end the following:

"This Act may be cited as the 'Legislative Branch Appropriations Act, 2002'.".

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of Public Law 107–68.

SEC. 108. Section 102 of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended—

(1) in subsection (a), by striking paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively;

(2) in subsection (g)(1)—

(A) in subparagraph (A), by striking "subsection (i)(1)(A)" and inserting "subsection (h)(1)(A)"; and

(B) in subparagraph (B), by striking "subsection (i)(1)(B)" and inserting "subsection (h)(1)(B)".

SEC. 109. (a) Section 209 of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended in the matter amending Public Law 106–173 by striking the quotation marks and period at the end of the new subsection (g) and inserting the following: "Any reimbursement under this subsection shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

"(h) EMPLOYMENT BENEFITS.—

"(1) IN GENERAL.—The Commission shall fix employment benefits for the Director and for additional personnel appointed under section 6(a), in accordance with paragraphs (2) and (3).

"(2) EMPLOYMENT BENEFITS FOR THE DIRECTOR.—

"(A) IN GENERAL.—The Commission shall determine whether or not to treat the Director as a Federal employee for purposes of employment benefits. If the Commission determines that the Director is to be treated as a Federal employee, then he or she is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title. If the Commission determines that the Director is not to be treated as a Federal employee for purposes of employment benefits, then the Commission or its administrative support service provider shall establish appropriate alternative employment benefits for the Director. The Commission's determination shall be irrevocable with respect to each individual appointed as Director, and the Commission shall notify the Office of Personnel Management and the Department of Labor of its determination. Notwithstanding the Commission's determination, the Director's service is deemed to be Federal service for purposes of section 8501 of title 5, United States Code.

"(B) DETAILEE SERVING AS DIRECTOR.—Subparagraph (A) shall not apply to a detailee who is serving as Director.

"(3) EMPLOYMENT BENEFITS FOR ADDITIONAL PERSONNEL.—A person appointed to the Commission staff under subsection (b)(2) is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title.".

(b) The amendments made by this section shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68).

SEC. 110. (a) Section 133(a) of the Legislative Branch Appropriations Act, 2001 (Public Law 107–68) is amended—

(1) by striking "90-day" in paragraph (1) and inserting "180-day", and

(2) by striking "90 days" in paragraph (2)(C) and inserting "180 days".

(b) The amendments made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2001 (Public Law 107–68).

SEC. 111. (a) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, $29,542,304 shall be set aside for the project as authorized under title IV of the National Highway System Designation Act of 1995, as amended: Provided, That, if funds authorized under these provisions have been distributed then the amount so specified shall be recalled proportionally from those funds distributed to the States under section 110(b)(4)(A) and (B) of title 23, United States Code.

(b) Notwithstanding any other provision of law, for fiscal year 2002, funds available for environmental streamlining activities under section 104(a)(1)(A) of title 23, United States Code, may include making grants to, or entering into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, authority, association nonprofit or for-profit corporation, or institution of higher education.

(c) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, and made available for the National motor carrier safety program, $5,896,000 shall be for State commercial driver's license program improvements.

(d) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, and made available for border infrastructure improvements, up to $2,300,000 shall be made available to carry out section 1119(d) of the Transportation Equity Act for the 21st Century, as amended.

SEC. 112. Notwithstanding any other provision of law, of the amounts appropriated for in fiscal year 2002 for the Research and Special Programs Administration, $3,170,000 of funds provided for research and special programs shall remain available until September 30, 2004; and $22,786,000 of funds provided for the pipeline safety program derived from the pipeline safety fund shall remain available until September 30, 2004.

SEC. 113. Item 1497 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 312), relating to Alaska, is amended by inserting "and construct capital improvements to intermodal marine freight and passenger facilities and access thereto" before "in Anchorage".

SEC. 114. Of the funds made available in H.R. 2299, the Fiscal Year 2002 Department of Transportation and Related Agencies Appropriations Act, of funds made available for the Transportation and Community and System Preservation Program, $300,000 shall be for the US–61 Woodville widening project in Mississippi and, of funds made available for the Interstate Maintenance program, $5,000,000 shall be for the City of Renton/Port Quendall, WA project.

SEC. 115. Section 652(c)(1) of Public Law 107–67 is amended by striking "Section 414(c)" and inserting "Section 416(c)".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

SEC. 116. Of the amounts made available under both this heading and the heading "Salaries and Expenses" in title II of Public Law 107–73, not to exceed $20,000,000 shall be for the recordation and liquidation of obligations and deficiencies incurred in prior years in connection with the provision of technical assistance authorized under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 ("section 514"), and for new obligations for such technical assistance: Provided, That of the total amount provided under this heading, not less than $2,000,000 shall be made available from salaries and expenses allocated to the Office of General Counsel and the Office of Multifamily Housing Assistance Restructuring in the Department of Housing and Urban Development: Provided further, That of the total amount provided under this heading, no more than $10,000,000 shall be made available for new obligations for technical assistance under section 514: Provided further, That from amounts made available under this heading, the Inspector General of the Department of Housing and Urban Development ("HUD Inspector General") shall audit each provision of technical assistance obligated under the requirements of section 514 over the last 4 years: Provided further, That, to the extent the HUD Inspector General determines that the use of any funding for technical assistance does not meet the requirements of section 514, the Secretary of Housing and Urban Development ("Secretary") shall recapture any such funds: Provided further, That no funds appropriated under title II of Public Law 107–73 and subsequent appropriations acts for the Department of Housing and Urban Development *shall be made available for four years to any entity (or any subsequent entity comprised of significantly the same officers) that has been identified as having violated the requirements of section 514 by the HUD Inspector General: Provided further, That, notwithstanding any other provision of law, no funding for technical assistance under section 514 shall be available for carryover from any previous year: Provided further, That the Secretary shall implement the provisions under this heading in a manner that does not accelerate outlays.*

DIVISION E—MISCELLANEOUS PROVISIONS

TITLE I—HOMESTAKE MINE CONVEYANCE

SEC. 101. SHORT TITLE.

This title may be cited as the "Homestake Mine Conveyance Act of 2001".

SEC. 102. FINDINGS.

Congress finds that—

(1) the United States is among the leading nations in the world in conducting basic scientific research;

(2) that leadership position strengthens the economy and national defense of the United States and provides other important benefits;

(3) the Homestake Mine in Lead, South Dakota, owned by the Homestake Mining Company of California, is approximately 8,000 feet deep and is situated in a unique physical setting that is ideal for carrying out certain types of particle physics and other research;

(4) the Mine has been selected by the National Underground Science Laboratory Committee, an independent panel of distinguished scientists, as the preferred site for the construction of the National Underground Science Laboratory;

(5) such a laboratory would be used to conduct scientific research that would be funded and recognized as significant by the United States;

(6) the establishment of the laboratory is in the national interest, and would substantially improve the capability of the United States to conduct important scientific research;

(7) for economic reasons, Homestake intends to cease operations at the Mine in 2001;

(8) on cessation of operations of the Mine, Homestake intends to implement reclamation actions that would preclude the establishment of a laboratory at the Mine;

(9) Homestake has advised the State that, after cessation of operations at the Mine, instead of closing the entire Mine, Homestake is willing to donate the underground portion of the Mine and certain other real and personal property of substantial value at the Mine for use as the National Underground Science Laboratory;

(10) use of the Mine as the site for the laboratory, instead of other locations under consideration, would result in a savings of millions of dollars for the Federal Government;

(11) if the Mine is selected as the site for the laboratory, it is essential that closure of the Mine not preclude the location of the laboratory at the Mine;

(12) Homestake is unwilling to donate, and the State is unwilling to accept, the property at the Mine for the laboratory if Homestake and the State would continue to have potential liability with respect to the transferred property; and

(13) to secure the use of the Mine as the location for the laboratory, and to realize the benefits of the proposed laboratory, it is necessary for the United States to—

(A) assume a portion of any potential future liability of Homestake concerning the Mine; and

(B) address potential liability associated with the operation of the laboratory.

SEC. 103. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AFFILIATE.—

(A) IN GENERAL.—The term "affiliate" means any corporation or other person that controls, is controlled by, or is under common control with Homestake.

(B) INCLUSIONS.—The term "affiliate" includes a director, officer, or employee of an affiliate.

(3) CONVEYANCE.—The term "conveyance" means the conveyance of the Mine to the State under section 104(a).

(4) FUND.—The term "Fund" means the Environment and Project Trust Fund established under section 108.

(5) HOMESTAKE.—

(A) IN GENERAL.—The term "Homestake" means the Homestake Mining Company of California, a California corporation.

(B) INCLUSION.—The term "Homestake" includes—

(i) a director, officer, or employee of Homestake;

(ii) an affiliate of Homestake; and

(iii) any successor of Homestake or successor to the interest of Homestake in the Mine.

(6) INDEPENDENT ENTITY.—The term "independent entity" means an independent entity selected jointly by Homestake, the South Dakota Department of Environment and Natural Resources, and the Administrator—

(A) to conduct a due diligence inspection under section 104(b)(2)(A); and

(B) to determine the fair value of the Mine under section 105(a).

(7) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) LABORATORY.—

(A) IN GENERAL.—The term "laboratory" means the national underground science laboratory proposed to be established at the Mine after the conveyance.

(B) INCLUSION.—The term "laboratory" includes operating and support facilities of the laboratory.

(9) MINE.—

(A) IN GENERAL.—The term "Mine" means the portion of the Homestake Mine in Lawrence County, South Dakota, proposed to be conveyed to the State for the establishment and operation of the laboratory.

(B) INCLUSIONS.—The term "Mine" includes—

(i) real property, mineral and oil and gas rights, shafts, tunnels, structures, backfill, broken rock, fixtures, facilities, and personal property to be conveyed for establishment and operation of the laboratory, as agreed upon by Homestake and the State; and

(ii) any water that flows into the Mine from any source.

(C) EXCLUSIONS.—The term "Mine" does not include—

(i) the feature known as the "Open Cut";

(ii) any tailings or tailings storage facility (other than backfill in the portion of the Mine described in subparagraph (A)); or

(iii) any waste rock or any site used for the dumping of waste rock (other than broken rock in the portion of the Mine described in subparagraph (A)).

(10) PERSON.—The term "person" means—

(A) an individual;

(B) a trust, firm, joint stock company, corporation (including a government corporation), partnership, association, limited liability company, or any other type of business entity;

(C) a State or political subdivision of a State;

(D) a foreign governmental entity;

(E) an Indian tribe; and

(F) any department, agency, or instrumentality of the United States.

(11) PROJECT SPONSOR.—The term "project sponsor" means an entity that manages or pays the costs of 1 or more projects that are carried out or proposed to be carried out at the laboratory.

(12) SCIENTIFIC ADVISORY BOARD.—The term "Scientific Advisory Board" means the entity designated in the management plan of the laboratory to provide scientific oversight for the operation of the laboratory.

(13) STATE.—

(A) IN GENERAL.—The term "State" means the State of South Dakota.

(B) INCLUSIONS.—The term "State" includes an institution, agency, officer, or employee of the State.

SEC. 104. CONVEYANCE OF REAL PROPERTY.

(a) IN GENERAL.—

(1) DELIVERY OF DOCUMENTS.—Subject to paragraph (2) and subsection (b) and notwithstanding any other provision of law, on the execution and delivery by Homestake of 1 or more quit-claim deeds or bills of sale conveying to the State all right, title, and interest of Homestake in and to the Mine, title to the Mine shall pass from Homestake to the State.

(2) CONDITION OF MINE ON CONVEYANCE.—The Mine shall be conveyed as is, with no representations as to the condition of the property.

(b) REQUIREMENTS FOR CONVEYANCE.—

(1) IN GENERAL.—As a condition precedent of conveyance and of the assumption of liability by the United States in accordance with this title, the Administrator shall accept the final report of the independent entity under paragraph (3).

(2) DUE DILIGENCE INSPECTION.—

(A) IN GENERAL.—As a condition precedent of conveyance and of Federal participation described in this title, Homestake shall permit an independent entity to conduct a due diligence inspection of the Mine to determine whether any condition of the Mine may present an imminent and substantial endangerment to public health or the environment.

(B) CONSULTATION.—As a condition precedent of the conduct of a due diligence inspection, Homestake, the South Dakota Department of Environment and Natural Resources, the Administrator, and the independent entity shall consult and agree upon the methodology and standards to be used, and other factors to be considered, by the independent entity in—

(i) the conduct of the due diligence inspection;

(ii) the scope of the due diligence inspection; and

(iii) the time and duration of the due diligence inspection.

(3) REPORT TO THE ADMINISTRATOR.—

(A) IN GENERAL.—The independent entity shall submit to the Administrator a report that—

(i) describes the results of the due diligence inspection under paragraph (2); and

(ii) identifies any condition of or in the Mine that may present an imminent and substantial endangerment to public health or the environment.

(B) PROCEDURE.—

(i) DRAFT REPORT.—Before finalizing the report under this paragraph, the independent entity shall—

(I) issue a draft report;

(II) submit to the Administrator, Homestake, and the State a copy of the draft report;

(III) issue a public notice requesting comments on the draft report that requires all such comments to be filed not later than 45 days after issuance of the public notice; and

(IV) during that 45-day public comment period, conduct at least 1 public hearing in Lead, South Dakota, to receive comments on the draft report.

(ii) FINAL REPORT.—In the final report submitted to the Administrator under this paragraph, the independent entity shall respond to, and incorporate necessary changes suggested by, the comments received on the draft report.

(4) REVIEW AND APPROVAL BY ADMINISTRATOR.—

(A) IN GENERAL.—Not later than 60 days after receiving the final report under paragraph (3), the Administrator shall—

(i) review the report; and

(ii) notify the State in writing of acceptance or rejection of the final report.

(B) CONDITIONS FOR REJECTION.—The Administrator may reject the final report only if the Administrator identifies 1 or more conditions of the Mine that—

(i) may present an imminent and substantial endangerment to the public health or the environment, as determined by the Administrator; and

(ii) require response action to correct each condition that may present an imminent and substantial endangerment to the public health or the environment identified under clause (i) before conveyance and assumption by the Federal Government of liability concerning the Mine under this title.

(C) RESPONSE ACTIONS AND CERTIFICATION.—

(i) RESPONSE ACTIONS.—

(I) IN GENERAL.—If the Administrator rejects the final report, Homestake may carry out or bear the cost of, or permit the State or another person to carry out or bear the cost of, such response actions as are necessary to correct any condition identified by the Administrator under subparagraph (B)(i) that may present an imminent and substantial endangerment to public health or the environment.

(II) LONG-TERM RESPONSE ACTIONS.—

(aa) IN GENERAL.—In a case in which the Administrator determines that a condition identified by the Administrator under subparagraph (B)(i) requires continuing response action, or response action that can be completed only as part of the final closure of the laboratory, it shall be a condition of conveyance that Homestake, the State, or another person deposit into the Fund such amount as is estimated by the independent entity, on a net present value basis and after taking into account estimated interest on that basis, to be sufficient to pay the costs of the long-term response action or the response action that will be completed as part of the final closure of the laboratory.

(bb) LIMITATION ON USE OF FUNDS.—None of the funds deposited into the Fund under item (aa) shall be expended for any purpose other than to pay the costs of the long-term response action, or the response action that will be completed as part of the final closure of the Mine, identified under that item.

(ii) CONTRIBUTION BY HOMESTAKE.—The total amount that Homestake may expend, pay, or deposit into the Fund under subclauses (I) and (II) of clause (i) shall not exceed—

(I) $75,000,000; less

(II) the fair value of the Mine as determined under section 105(a).

(iii) CERTIFICATION.—

(I) IN GENERAL.—After any response actions described in clause (i)(I) are carried out and any required funds are deposited under clause (i)(II), the independent entity may certify to the Administrator that the conditions for rejection identified by the Administrator under subparagraph (B) have been corrected.

(II) ACCEPTANCE OR REJECTION OF CERTIFICATION.—Not later than 60 days after an independent entity makes a certification under subclause (I), the Administrator shall accept or reject the certification.

(c) REVIEW OF CONVEYANCE.—For the purposes of the conveyance, the requirements of this section shall be considered to be sufficient to meet any requirement of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 105. ASSESSMENT OF PROPERTY.

(a) VALUATION OF PROPERTY.—The independent entity shall assess the fair value of the Mine.

(b) FAIR VALUE.—For the purposes of this section, the fair value of the Mine shall include the estimated cost, as determined by the independent entity under subsection (a), of replacing the shafts, winzes, hoists, tunnels, ventilation system, and other equipment and improvements at the Mine that are expected to be used at, or that will be useful to, the laboratory.

(c) REPORT.—Not later than the date on which each report developed in accordance with section 104(b)(3) is submitted to the Administrator, the independent entity described in subsection (a) shall submit to the State a report that identifies the fair value assessed under subsection (a).

SEC. 106. LIABILITY.

(a) ASSUMPTION OF LIABILITY.—

(1) ASSUMPTION.—Subject to paragraph (2), notwithstanding any other provision of law, on completion of the conveyance in accordance with this title, the United States shall assume any and all liability relating to the Mine and laboratory, including liability for—

(A) damages;

(B) reclamation;

(C) the costs of response to any hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)), contaminant, or other material on, under, or relating to the Mine and laboratory; and

(D) closure of the Mine and laboratory.

(2) CLAIMS AGAINST UNITED STATES.—In the case of any claim brought against the United States, the United States shall be liable for—

(A) damages under paragraph (1)(A), only to the extent that an award of damages is made in a civil action brought under chapter 171 of title 28, United States Code; and

(B) response costs under paragraph. (1)(C), only to the extent that an award of response costs is made in a civil action brought under—

(i) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(ii) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(iii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

(iv) any other applicable Federal environmental law, as determined by the Administrator.

(b) LIABILITY PROTECTION.—On completion of the conveyance, neither Homestake nor the State shall be liable to any person or the United States for injuries, costs, injunctive relief, reclamation, damages (including damages to natural resources or the environment), or expenses, or liable under any other claim (including claims for indemnification or contribution, claims by third parties for death, personal injury, illness, or loss of or damage to property, or claims for economic loss), under any law (including a regulation) for any claim arising out of or in connection with contamination, pollution, or other condition, use, or closure of the Mine and laboratory, regardless of when a condition giving rise to the liability originated or was discovered.

(c) INDEMNIFICATION.—Notwithstanding any other provision of law, on completion of the conveyance in accordance with this title, the United States shall indemnify, defend, and hold harmless Homestake and the State from and against—

(1) any and all liabilities and claims described in subsection (a), without regard to any limitation under subsection (a)(2); and

(2) any and all liabilities and claims described in subsection (b).

(d) WAIVER OF SOVEREIGN IMMUNITY.—For purposes of this Act, the United States waives any claim to sovereign immunity.

(e) TIMING FOR ASSUMPTION OF LIABILITY.—If the conveyance is effectuated by more than 1 legal transaction, the assumption of liability, liability protection, indemnification, and waiver of sovereign immunity provided for under this section shall apply to each legal transaction, as of the date on which the transaction is completed and with respect to such portion of the Mine as is conveyed under that transaction.

(f) EXCEPTIONS FOR HOMESTAKE CLAIMS.—Nothing in this section constitutes an assumption of liability by the United States, or relief of liability of Homestake, for—

(1) any unemployment, worker's compensation, or other employment-related claim or cause of action of an employee of Homestake that arose before the date of conveyance;

(2) any claim or cause of action that arose before the date of conveyance, other than an environmental claim or a claim concerning natural resources;

(3) any violation of any provision of criminal law; or

(4) any claim, injury, damage, liability, or reclamation or cleanup obligation with respect to any property or asset that is not conveyed under this title, except to the extent that any such claim, injury, damage, liability, or reclamation or cleanup obligation arises out of the continued existence or use of the Mine subsequent to the date of conveyance.

SEC. 107. INSURANCE COVERAGE.

(a) PROPERTY AND LIABILITY INSURANCE.—

(1) IN GENERAL.—To the extent property and liability insurance is available and subject to the requirements described in paragraph (2), the State shall purchase property and liability insurance for the Mine and the operation of the laboratory to provide coverage against the liability described in subsections (a) and (b) of section 106.

(2) REQUIREMENTS.—The requirements referred to in paragraph (1) are the following:

(A) TERMS OF INSURANCE.—In determining the type, extent of coverage, and policy limits of insurance purchased under this subsection, the State shall—

(i) periodically consult with the Administrator and the Scientific Advisory Board; and

(ii) consider certain factors, including—

(I) the nature of the projects and experiments being conducted in the laboratory;

(II) the availability and cost of commercial insurance; and

(III) the amount of funding available to purchase commercial insurance.

(B) ADDITIONAL TERMS.—The insurance purchased by the State under this subsection may provide coverage that is—

(i) secondary to the insurance purchased by project sponsors; and

(ii) in excess of amounts available in the Fund to pay any claim.

(3) FINANCING OF INSURANCE PURCHASE.—

(A) IN GENERAL.—Subject to section 108, the State may finance the purchase of insurance required under this subsection by using—

(i) funds made available from the Fund; and

(ii) such other funds as are received by the State for the purchase of insurance for the Mine and laboratory.

(B) NO REQUIREMENT TO USE STATE FUNDS.—Nothing in this title requires the State to use State funds to purchase insurance required under this subsection.

(4) ADDITIONAL INSURED.—Any insurance purchased by the State under this subsection shall—

(A) name the United States as an additional insured; or

(B) otherwise provide that the United States is a beneficiary of the insurance policy having the primary right to enforce all rights of the United States under the policy.

(5) TERMINATION OF OBLIGATION TO PURCHASE INSURANCE.—The obligation of the State to purchase insurance under this subsection shall terminate on the date on which—

(A) the Mine ceases to be used as a laboratory; or

(B) sufficient funding ceases to be available for the operation and maintenance of the Mine or laboratory.

(b) PROJECT INSURANCE.—

(1) IN GENERAL.—The State, in consultation with the Administrator and the Scientific Advisory Board, may require, as a condition of approval of a project for the laboratory, that a project sponsor provide property and liability insurance or other applicable coverage for potential liability associated with the project described in subsections (a) and (b) of section 106.

(2) ADDITIONAL INSURED.—Any insurance obtained by the project sponsor under this section shall—

(A) name the State and the United States as additional insureds; or

(B) otherwise provide that the State and the United States are beneficiaries of the insurance policy having the primary right to enforce all rights under the policy.

(c) STATE INSURANCE.—

(1) IN GENERAL.—To the extent required by State law, the State shall purchase, with respect to the operation of the Mine and the laboratory—

(A) unemployment compensation insurance; and

(B) worker's compensation insurance.

(2) PROHIBITION ON USE OF FUNDS FROM FUND.—A State shall not use funds from the Fund to carry out paragraph (1).

SEC. 108. ENVIRONMENT AND PROJECT TRUST FUND.

(a) ESTABLISHMENT.—On completion of the conveyance, the State shall establish, in an interest-bearing account at an accredited financial institution located within the State, the Environment and Project Trust Fund.

(b) AMOUNTS.—The Fund shall consist of—

(1) an annual deposit from the operation and maintenance funding provided for the laboratory in an amount to be determined—

(A) by the State, in consultation with the Administrator and the Scientific Advisory Board; and

(B) after taking into consideration—

(i) the nature of the projects and experiments being conducted at the laboratory;

(ii) available amounts in the Fund;

(iii) any pending costs or claims that may be required to be paid out of the Fund; and

(iv) the amount of funding required for future actions associated with the closure of the facility;

(2) an amount determined by the State, in consultation with the Administrator and the Scientific Advisory Board, and to be paid by the appropriate project sponsor, for each project to be conducted, which amount—

(A) shall be used to pay—

(i) costs incurred in removing from the Mine or laboratory equipment or other materials related to the project;

(ii) claims arising out of or in connection with the project; and

(iii) if any portion of the amount remains after paying the expenses described in clauses (i) and (ii), other costs described in subsection (c); and

(B) may, at the discretion of the State, be assessed—

(i) annually; or

(ii) in a lump sum as a prerequisite to the approval of the project;

(3) interest earned on amounts in the Fund, which amount of interest shall be used only for a purpose described in subsection (c); and

(4) all other funds received and designated by the State for deposit in the Fund.

(c) EXPENDITURES FROM FUND.—Amounts in the Fund shall be used only for the purposes of funding—

(1) waste and hazardous substance removal or remediation, or other environmental cleanup at the Mine;

(2) removal of equipment and material no longer used, or necessary for use, in conjunction with a project conducted at the laboratory;

(3) a claim arising out of or in connection with the conducting of such a project;

(4) purchases of insurance by the State as required under section 107;

(5) payments for and other costs relating to liability described in section 106; and

(6) closure of the Mine and laboratory.

(d) FEDERAL PAYMENTS FROM FUND.—The United States—

(1) to the extent the United States assumes liability under section 106—

(A) shall be a beneficiary of the Fund; and

(B) may direct that amounts in the Fund be applied to pay amounts and costs described in this section; and

(2) may take action to enforce the right of the United States to receive 1 or more payments from the Fund.

(e) NO REQUIREMENT OF DEPOSIT OF PUBLIC FUNDS.—Nothing in this section requires the State to deposit State funds as a condition of the assumption by the United States of liability, or the relief of the State or Homestake from liability, under section 106.

SEC. 109. WASTE ROCK MIXING.

After completion of the conveyance, the State shall obtain the approval of the Administrator before disposing of any material quantity of laboratory waste rock if—

(1) the disposal site is on land not conveyed under this title; and

(2) the State determines that the disposal could result in commingling of laboratory waste rock with waste rock disposed of by Homestake before the date of conveyance.

SEC. 110. REQUIREMENTS FOR OPERATION OF LABORATORY.

After the conveyance, nothing in this title exempts the laboratory from compliance with any law (including a Federal environmental law).

SEC. 111. CONTINGENCY.

This title shall be effective contingent on the selection, by the National Science Foundation, of the Mine as the site for the laboratory.

SEC. 112. OBLIGATION IN THE EVENT OF NON-CONVEYANCE.

If the conveyance under this title does not occur, any obligation of Homestake relating to the Mine shall be limited to such reclamation or remediation as is required under any applicable law other than this title.

SEC. 113. PAYMENT AND REIMBURSEMENT OF COSTS.

The United States may seek payment—

(1) from the Fund, under section 108(d), to pay or reimburse the United States for amounts payable or liabilities incurred under this title; and

(2) from available insurance, to pay or reimburse the United States and the Fund for amounts payable or liabilities incurred under this title.

SEC. 114. CONSENT DECREES.

Nothing in this title affects any obligation of a party under—

(1) the 1990 Remedial Action Consent Decree (Civ. No. 90–5101 D. S.D.); or

(2) the 1999 Natural Resource Damage Consent Decree (Civ. Nos. 97–5078 and 97–5100, D. S.D.).

SEC. 115. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by inserting after "September 30, 2003," the following: "except that fees shall continue to be charged under paragraphs (1) through (8) of that subsection through January 31, 2004.".

SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE II—GENERAL PROVISIONS, THIS DIVISION

SEC. 201. TRUSTEES OF THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS. (a) MEMBERSHIP.—Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)) is amended—

(1) by striking "There is hereby" and inserting the following:

"(1) IN GENERAL.—There is"; and

(2) by striking the second sentence and inserting the following:

"(2) MEMBERSHIP.—The Board shall be composed of—

"(A) the Secretary of Health and Human Services;

"(B) the Librarian of Congress;

"(C) the Secretary of State;

"(D) the Chairman of the Commission of Fine Arts;

"(E) the Mayor of the District of Columbia;

"(F) the Superintendent of Schools of the District of Columbia;

"(G) the Director of the National Park Service;

"(H) the Secretary of Education;

"(I) the Secretary of the Smithsonian Institution;

"(J)(i) the Speaker and the Minority Leader of the House of Representatives;

"(ii) the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives; and

"(iii) 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives;

"(K)(i) the Majority Leader and the Minority Leader of the Senate;

"(ii) the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate; and

"(iii) 3 additional Members of the Senate appointed by the President of the Senate; and

"(L) 36 general trustees, who shall be citizens of the United States, to be appointed in accordance with subsection (b).".

(b) TERMS OF OFFICE FOR NEW GENERAL TRUSTEES.—Section 2(b) of the John F. Kennedy Center Act (20 U.S.C. 76h(b)) shall apply to each general trustee of the John F. Kennedy Center for the Performing Arts whose position is established by the amendment made by subsection (a)(2) (referred to in this subsection as a "new general trustee"), except that the initial term of office of each new general trustee shall—

(1) commence on the date on which the new general trustee is appointed by the President; and

(2) terminate on September 1, 2007.

SEC. 202. (a) The purpose of this section is to require procedures that ensure the fair and equitable resolution of labor integration issues, in order to prevent further disruption to transactions for the combination of air carriers, which would potentially aggravate the disruption caused by the attack on the United States on September 11, 2001.

(b) In this section:

(1) The term "air carrier" means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

(2) The term "covered employee" means an employee who—

(A) is not a temporary employee; and

(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

(3) The term "covered transaction" means a transaction that—

(A) is a transaction for the combination of multiple air carriers into a single air carrier;

(B) involves the transfer of ownership or control of—

(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

(ii) 50 percent or more (by value) of the assets of the air carrier;

(C) became a pending transaction, or was completed, not earlier than January 1, 2001; and

(D) did not result in the creation of a single air carrier by September 11, 2001.

(c) If an eligible employee is a covered employee of an air carrier involved in a covered transaction that leads to the combination of crafts or classes that are subject to the Railway Labor Act, the eligible employee may receive assistance under this title only if the parties to the transaction—

(1) apply sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 CAB 45) to the covered employees of the air carrier; and

(2) subject to paragraph (1), in a case in which a collective bargaining agreement provides for the application of sections 3 and 13 of the labor protective provisions in the process of seniority integration for the covered employees, apply the terms of the collective bargaining agreement to the covered employees, and do not abrogate the terms of the agreement.

(d) Any aggrieved person (including any labor organization that represents the person) may bring an action to enforce this section, or the terms of any award or agreement resulting from arbitration or a settlement relating to the requirements of this section. The person may bring the action in an appropriate Federal district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy.

UNANIMOUS CONSENT REQUEST—S. 1214

Mr. HARKIN. Madam President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed to the consideration of Calendar No. 161, S. 1214, the Port, Maritime and Rail Security Act; that when the measure is considered, it be under the following limitations: That a managers' substitute amendment be in order; that the substitute amendment be considered and agreed to and the motion to reconsider be laid upon the table; that the bill, as thus amended, be considered as original text for the purpose of further amendment, with no points of order waived by this agreement; that all first-degree amendments must be transportation-related; that second-degree amendments must be relevant to the first-degree amendment to which it is offered; that upon the disposition of all amendments, the bill be read the third time and the Senate vote on passage of the bill, with no further intervening action or debate.

Mr. THOMAS. Madam President, I object. All the agreements have not been made on both sides.

The PRESIDING OFFICER. The objection is heard.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL CIVIC PARTICIPATION WEEK

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to consideration of Calendar No. 242, S. Res. 140.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 140) designating the week beginning September 15, 2002, as "National Civic Participation Week".

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 140) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, will be printed in a future edition of the RECORD.)

CONGRATULATING BARRY BONDS

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from consideration of S. Res. 178, and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 178) congratulating Barry Bonds on his spectacular record-breaking season in 2001 and outstanding career in Major League Baseball.

There being no objection, the Senate proceeded to consider the resolution.

AMENDMENT NO. 2465

Mr. REID. Madam President, Senators FEINSTEIN and BOXER have an amendment at the desk.

I ask unanimous consent that the resolution be agreed to, the amendment to the preamble be agreed to, the preamble, as amended, be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2465) was agreed to, as follows:

AMENDMENT NO. 2465

On page 1, line 9, strike "3" and insert "an unprecedented 4".

The resolution (S. Res. 178) was agreed to.

The preamble, as amended, was agreed to.

(The resolution with its preamble, will be printed in a future edition of the RECORD.)

EXPRESSING DEEP GRATITUDE TO THE GOVERNMENT AND THE PEOPLE OF THE PHILIPPINES

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to the consideration of S. Con. Res. 91, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 91) expressing deep gratitude to the government and the people of the Philippines for their sympathy and support since September 11, 2001, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 91) was agreed to.

The preamble was agreed to.

(The concurrent resolution, with its preamble, is printed in today's RECORD under "Statements on Submitted Resolutions.")

CRASH OF AMERICAN AIRLINES FLIGHT 587

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to H. Con. Res. 272, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 272) expressing the sense of Congress regarding the crash of American Airlines Flight 587.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 272) was agreed to.

The preamble was agreed to.

RECOGNIZING THE CONTRIBUTION OF THE LAO-HMONG IN DEFENDING FREEDOM AND DEMOCRACY

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 243, H. Con. Res. 88.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 88) expressing the sense of the Congress that the President should issue a proclamation to recognize the contribution of the Lao-Hmong in defending freedom and democracy and supporting the goals of Lao-Hmong Recognition Day.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 88) was agreed to.

The preamble was agreed to.

AMERICAN AIRLINES FLIGHT 587

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate proceed to the immediate consideration of S. Con. Res. 87.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

Mr. REID. Madam President, the matter that I asked be considered is S. Con. Res. 87. We will withdraw that for the time being and go to another matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF FIRST RESPONDERS IN THE AFTERMATH OF THE TERRORIST ATTACKS ON THE WORLD TRADE CENTER AND THE PENTAGON ON SEPTEMBER 11, 2001

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 73, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 73) expressing the profound sorrow of Congress for the deaths and injuries suffered by first responders as they endeavored to save innocent people in the aftermath of the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 73) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 73

Whereas law enforcement officers, firefighters, and emergency medical personnel are collectively known as first responders;

Whereas following the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, first responders reacted immediately in evacuating and rescuing innocent people from the buildings;

Whereas first responders also arrived quickly at the crash site of United Airlines flight 93 in southwestern Pennsylvania;

Whereas if it were not for the heroic efforts of first responders immediately after the terrorist attacks, numerous additional casualties would have resulted from the attacks;

Whereas as the first emergency personnel to arrive at the scenes of the terrorist attacks, first responders risked their lives in their efforts to save others;

Whereas while first responders were bravely conducting the evacuation and rescue after the terrorist attacks on the World Trade Center, the 2 towers of that complex collapsed, and many first responders themselves became victims of the attacks;

Whereas the everyday well-being, security, and safety of Americans depend upon the official duties of first responders;

Whereas in addition to their official duties, first responders around the Nation participate in planning, training, and exercises to respond to terrorist attacks;

Whereas emergency managers, public health officials, and medical care providers also invest significant time in planning, training, and exercises to better respond to terrorist attacks in the United States;

Whereas the Nation has not forgotten the heroic efforts of first responders after the bombing of the World Trade Center on February 26, 1993, and the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, on April 19, 1995;

Whereas there are numerous Federal programs that help prepare first responders from across the Nation, including the Domestic Preparedness Program and other training and exercise programs administered by the Department of Justice;

Whereas there are also domestic preparedness programs administered by the Federal Emergency Management Agency, which together with the programs of the Department of Justice support State and local first responders with funding, training, equipment acquisition, technical assistance, exercise planning, and execution;

Whereas many of the first responders who participate in such programs do so on their own time;

Whereas an effective response of local first responders to a terrorist attack saves lives; and

Whereas in response to a terrorist attack, first responders are exposed to a high risk of bodily harm and death as the first line of defense of the United States in managing the aftermath of the attack: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) expresses its profound sorrow for the deaths and injuries suffered by first responders as they endeavored to save innocent people in the aftermath of the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001;

(2) expresses its deepest sympathies to the families and loved ones of the fallen first responders;

(3) honors and commends the first responders who participated in evacuating and rescuing the innocent people in the World Trade Center and the Pentagon after the terrorist attacks;

(4) encourages the President to issue a proclamation calling upon the people of the United States to pay respect to the first responder community for their service in the aftermath of the terrorist attacks and their continuing efforts to save lives; and

(5) encourages all levels of government to continue to work together to effectively coordinate emergency preparedness by providing the infrastructure, funding, and interagency communication and cooperation necessary to ensure that if an attack occurs, first responders will be as prepared as possible to respond effectively.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN AIRLINES FLIGHT 587

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 87, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 87) expressing the sense of Congress regarding the crash of American Airlines Flight 587.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 87) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 87

Whereas American Airlines Flight 587 en route from John F. Kennedy Airport in Queens County, New York to Santo Domingo, Dominican Republic crashed on the Rockaway Peninsula in Queens County, New York on November 12, 2001;

Whereas the crash resulted in the tragic loss of life by an estimated at 266 persons, including passengers, crew members, and people on the ground;

Whereas New York City has strong cultural, familial, and historic ties to the Dominican Republic;

Whereas many of the passengers were of Dominican origin residing in the Washington Heights community, a vibrant neighborhood that is an integral part of our national cultural mosaic;

Whereas the Rockaway community has already suffered greatly as a result of the terrorist attacks on the World Trade Center in New York City on September 11, 2001, as the Rockaway community has long been home to one of the highest concentrations of the firefighters of New York City, many of whom lost their lives responding to those attacks on the World Trade Center;

Whereas many Rockaway residents, ignoring the risks of being harmed by fire or other hazards at the site of the plane crash, rushed to the site in an effort to help;

Whereas the people of Rockaway have served as an inspiration through their resilience in the face of adversity and their faith in and practice of community; and

Whereas the professional emergency personnel of New York on the ground at the crash site performed emergency services valiantly, thereby limiting the devastation of this tragedy: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SENSE OF CONGRESS.

The Congress—

(1) sends its heartfelt condolences to the families, friends, and loved ones of the victims of the crash of American Airlines Flight 587 on November 12, 2001;

(2) sends its sympathies to the people of the Dominican Republic and to the Dominican community in the City of New York who have been so tragically affected by the loss of loved ones aboard that flight;

(3) sends its sympathies to the people of the Rockaway community who have suffered immense personal loss as a combined result of the crash on November 12, 2001, and the terrorist attacks on the World Trade Center on September 11, 2001; and

(4) commends the heroic actions of the rescue workers, volunteers, and State and local officials of New York who responded to these tragic events with courage, determination, and skill.

SEC. 2. TRANSMISSION OF THE ENROLLED RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to the President of the Dominican Republic and to the Mayor of New York City.

ORDERS FOR TUESDAY, DECEMBER 11, 2001

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Tuesday, December 11; that immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to executive session; further, that the Senate recess from 12:30 to 2:15 p.m. for the weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Madam President, at 9:30 tomorrow the Senate will conduct three rollcall votes on judicial nominations. Following these votes Senator HARKIN will proceed, along with Senator LUGAR, to manage consideration of the farm bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:42 p.m., adjourned until Tuesday, December 11, 2001, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate December 10, 2001:

DEPARTMENT OF JUSTICE

CHRISTOPHER JAMES CHRISTIE, OF NEW JERSEY, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEW JERSEY FOR THE TERM OF FOUR YEARS, VICE FAITH S. HOCHBERG, RESIGNED.

EXTENSIONS OF REMARKS

CONGRESSIONAL IMMIGRATION REFORM CAUCUS HEARING

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 2001

Mr. TANCREDO. Mr. Speaker, recently the Congressional Immigration Reform Caucus held a hearing on INS reform, as well as the connections between immigration policy and terrorism. Our witnesses gave immensely insightful testimony. I am submitting the statement of Mr. Mike Cutler for the record.

TESTIMONY OF MICHAEL CUTLER, INS SENIOR SPECIAL AGENT

Chairman Tancredo, members of the Congress, ladies and gentlemen, I greatly appreciate this opportunity to share my views and perspectives which I have acquired during my roughly 30 years as an immigration officer. I would like to start out by giving you an overview of my career with the INS, I will summarize it for you briefly.

I entered on duty with the INS at New York City in October, 1971, as an Immigration Inspector at JFKIA. I ultimately spent 4 years in that assignment conducting inspections of passengers arriving at that port and seeking entry into the United States. During the course of that assignment I was detailed for approximately one year to an examinations unit known as the I–130 Unit, so-named because the applications which we were adjudicating were known as I–130 Petitions. These are the petitions that are filed by spouses and other relatives who are seeking to obtain Lawful Permanent Resident Alien status for their respective spouses, children or other immediate relatives. My assignment dealt with the I–130 petitions which were filed by either United States citizens or LPRs on behalf of their alien spouses. My goal in this assignment was to seek to uncover marriage fraud in which the marital relationship exists only for the purpose of providing the alien beneficiary with LPR status.

In 1975 I became a Criminal Investigator or, as it is now known, a Special Agent. I have remained a Special Agent with the INS since August of 1975. I have rotated through just about every squad within the Investigations Branch of the INS at NYC during my tenure as a Special Agent. I spent several years, in the aggregate assigned to the Frauds Unit in which I was responsible to uncover a variety of fraud crimes involving INS issues, from fraud schemes carried out with the ultimate goal of obtaining LPR status and/or U.S. citizenship, to the use of fraudulent identity documents to otherwise circumvent the laws enforced by the INS.

In 1988 I was assigned to the Unified Intelligence Division of the New York office of the Drug Enforcement Administration. In this assignment I was responsible to work cooperatively with members of the DEA and other law enforcement personnel and analysts from a wide variety of other agencies including members of the NYPD, New York State Police, U.S. Customs Service, Internal Revenue Service, Federal Bureau of Investigation, Royal Canadian Mounted Police and British Customs. My assignment here lasted for approximately 3 and a half years. During this assignment I decided to conduct a study on the individuals who were arrested by the DEA by reviewing DEA arrest records. We determined that approximately 60 percent of the individuals arrested by DEA and the DEA Task Force were identified as being "foreign born." Nation-wide approximately 30 percent were identified as "foreign born." For the 3 years that I tracked these statistics, there were only slight variations on the percentages. Although these numbers are now over 10 years old, I imagine that the percentages are probably not much different.

In 1991 I was promoted to my current position of Senior Special Agent and assigned to the OCDETF Unit (Organized Crime, Drug Enforcement Task Force). This assignment requires that I work with other agencies to investigate, apprehend and prosecute aliens who are involved in narcotics trafficking and related crimes.

The INS is charged with the responsibility of enforcing laws that govern the entry of aliens into the United States as well as those laws that are involved in the granting of Lawful Permanent Resident Alien status to aliens and to the bestowing of U.S. citizenship on aliens.

It is often said that you only get one opportunity to make a first impression. Generally speaking, the first laws that aliens entering the United States encounter are those laws that the INS is supposed to enforce. When the INS fails to effectively, consistently and fairly enforce these laws, we are sending a very dangerous message to aliens seeking to enter the United States. In effect we are telling them that not only can they expect to get away with violating our laws, they can anticipate being rewarded for violating our laws!

I have come to think of the INS law enforcement program as a tripod. The Border Patrol is responsible for enforcing the laws between ports of entry, the Immigration Inspectors are charged with the responsibility of enforcing the laws at ports of entry and the Special Agents are supposed to back up both of the other two divisions. Each of these components of the enforcement program, in my opinion, need to be emphasized equally. Just as a camera's tripod needs to have three legs of equal length, the enforcement tripod needs to rest equally on each of its three legs. If you shorten one of the legs on your camera's tripod, it falls over. This is the reality of the INS enforcement program. It seems that each time the call goes out to tighten up on the enforcement of the immigration laws, the typical response is to hire more border patrol agents. I am a great fan of the Border Patrol, they do dangerous and difficult work, however, if we do not also boost resources allocated to the interior enforcement mission, the entire enforcement program becomes ineffective. Aliens who are illegally in the United States don't only come to this country by running the border. Often, they obtain visas under assumed identities or violate the terms under which they were admitted after they enter the United States. As we have seen with the terrorists, most of them, from what I have read, appear to have entered the United States with visas that were issued by the State Department and then engaged in their treacherous missions. The task of tracking down such aliens is purely the domain of the Special Agents.

We also need to exploit technology to help us to track aliens entering and departing the United States. We need to also use this technology to help prevent aliens and other criminals from creating multiple identities for themselves, further complicating the law enforcement efforts of the INS as well as other law enforcement organizations.

We have heard calls recently for the implementation of a student tracking system. We have similarly heard calls for the INS to keep gabs on non-immigrants who violate their terms of admission (or immigration status). I couldn't agree more with these goals, however, I would like to know who is supposed to do this work? If we simply enter this information in a computerized database, we certainly will become aware of violations of the Immigration laws, but then what? I presume that the goal of establishing a tracking system would be done to enable the INS to remove those aliens who violate their Immigration status, however, without a cadre of dedicated Special Agents, who will do the job? Currently, according to published statistics there are fewer that 2000 Special Agents of the INS nation-wide. At the present time, there are approximately 100 Special Agents to cover the southern half of the state of New York, including New York City.

Clearly this situation is untenable. We need to have many more Special Agents. We also need to have an agency that functions effectively. At present, each district office operates more as a franchise than as a component of a paramilitary organization. While I agree that each office needs to have some autonomy to take regional variations into account, the over-all functioning of the agency should stress a direct chain of command from Headquarters to each and every field agent throughout the United States. Each employee needs to feel that he or she is within the chain of command to headquarters and the level of accountability should be directly proportionate with the level that the employ works at. That is to say, the higher up the chain of command, the more accountable the employee needs to be. Issues of morale and attrition rates which have been, in my experience, virtually ignored, can no longer be ignored. A considerable sum of money is spent on recruiting and training each law enforcement officer of the INS. Special Agents require several years from the time they are hired to the time when they are truly "up to speed" and possess the skills and abilities that they need to do their difficult and complex jobs. However, for many reasons, highly qualified agents often leave the INS shortly after they complete their training at the Academy. This revolving door is not cost effective and helps to erode morale and efficiency in those offices which suffer from high attrition rates.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

It would seem that when Special Agents resign they should be given formal exit interviews to identify the issues which caused them to leave. To my knowledge, this is not being done. Often the agents who leave go on to other agencies where many of them develop successful careers.

The role of the Special Agents is vital. When our nation was attacked on September 11, 2001, the danger posed by terrorists became all too clear, however, various criminal organizations over the years have also exacted their toll from our nation and our people. Go back to that statistic I quoted earlier. Sixty percent of all people arrested in New York City by the DEA and the DEA Task Force were identified as being foreign born. Over the years, how many people may have lost their lives or suffered terribly at the hands of narcotics traffickers? What of the impact of other criminal aliens? We have seen the rise of ethic organized crime throughout or nation. How many more people have fallen victim to these criminals? The most effective way of dealing with these criminals is to beef up the interior enforcement program of the INS. Any law enforcement agency has two primary goals. Goal one is the detection of crime and the successful investigation, apprehension and prosecution of the criminal who commits the crime. The second goal is to be a credible deterrent to those who would violate the laws which fall under the jurisdiction of that law enforcement agency. This goal is directly dependent on how effectively the agency carries out its first goal. Without an effective interior enforcement program, criminal aliens are emboldened to attempt to enter our nation to commit their crimes. They are not deterred by a program that lacks manpower and leadership. We need to change the reality and consequently, the perception. Not only to prevent future terrorist attacks, but to also deter criminal activities of a wide spectrum of criminals who still find America to be a "Land of Opportunity".

Please understand, I am not opposed to the lawful entry of aliens who come to the United States to share the "American Dream", I only take issue with those who come here in violation of law and who end up creating America's nightmares. Indeed, my own mother was welcomed by this country shortly before the Second World War, enabling her to survive, while her mother, for whom I am named, perished in the Holocaust. We simply need to know who we are admitting and having an agency that possesses the resources to not only tracks aliens who end up violating their Immigration status, but also has the resources to track them down and ultimately, when appropriate, remove them from the United States. This capability is a matter of nothing less than national security.

ESSAY BY PHILIP ALDRIDGE

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 2001

Mr. OTTER. Mr. Speaker, in the wake of September 11th, our view of America has shifted. It is as if someone cleaned the window of our perspective, removing the dirt of cynicism and distrust and allowing us to see anew the opportunities that being Americans offers us. Suddenly, we have joined together, united in our resolve to both fight for freedom and to appreciate the freedoms we have. Rather than bickering over petty differences, we find ourselves more willing to reach out to each other, more aware of the basic truths on which our country was founded, and more thankful to those who fought and died to ensure that we can enjoy freedom.

Our renewed sense of patriotism and gratefulness is expressed through the eyes of our young people. Philip Aldridge, an eighth grader from Coeur d'Alene, Idaho, reminds us about how blessed we are to call ourselves Americans. His essay, "America's Heroes", was written in honor of Veteran's Day on November 11th. I would like to thank Philip for sharing his thoughts with me. His words inspire us to show appreciation for the freedoms we enjoy but often take for granted.

AMERICA'S HEROES

(By Philip Aldridge)

Have you ever stopped and thought about how nice it is to live in America? More often than not, our society takes the hard-earned freedoms that have been bestowed upon us for granted. These rights and freedoms upon which our country was built have been challenged many times and yet we still stand strong and united. For this we can recognize all the men and women of America who have fought with great pride and who gave their lives for what they so strongly believed in. These are our veterans.

Our country enjoys many freedoms not recognized by many. But do you realize that these are what make our nation strong? One of these rights is freedom of religion. Our country was inhabited and founded by men and women who unfortunately had religion forced upon them. Religious tolerance, which means the willingness to accept faith different from your own, was put into place during the birth of our country.

Every four years we elect a president. And every four years, people complain about who was elected. If you look at other countries, the people don't even choose who their leader is. In most cases, the leader either comes from a line of royalty or he assembles himself with full power. We the people of America, are very fortunate to have a freedom to vote.

The most well-known freedom in our society is freedom of equality. In the Declaration of Independence, it states that all men are created equal. This means that whether you're of a different race or if you're a male or female, everyone has equal rights.

Any citizen of the United States should be deeply grateful for these freedoms for which soldiers have fought and defended. We can show appreciation for these privileges by serving our country, respecting its laws, and honoring America's heroes and patriots . . . our veterans.

IN HONOR OF RITA J. KAPLAN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 2001

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay special tribute to Rita J. Kaplan, who is the driving force behind the new mammography clinic at Bellevue Hospital in New York City.

Ms. Kaplan is an inspiration to us all. She is a known fighter and victor for important causes. She fights for what she believes in and never loses her sense of compassion for others.

Ms. Kaplan realized the need for a new clinic at Bellevue Hospital when a family member was diagnosed with breast cancer. Ms. Kaplan's four grandparents, who arrived in the early 1890's, had a history of receiving extraordinary and caring treatment at Bellevue, and she wanted to make sure that today's Bellevue patients continue to receive first class care. Recognizing that Bellevue's mammography clinic needed refurbishment and new equipment, Ms. Kaplan devoted her considerable energies and resources to making Bellevue's facility the finest available. In her honor, Bellevue is naming the new center, the Rita J. Kaplan Breast Imaging Center.

As a child, Ms. Kaplan wanted to be a doctor, but while in college at the University of Wisconsin, she turned to a career in social work. She continued on with her education, receiving a master's degree in social work form Columbia University. She was trained as a clinical social worker and received advance training at the Ackerman Institute, in family therapy.

In the early 1980s, she and her husband, Stanley H. Kaplan, donated a fund to found the Rita J. and Stanley H. Kaplan Comprehensive Cancer Center. They also donated $2 million to help establish a new home for the Jewish Board of Family and Children's Services, which was named in their honor.

Ms. Kaplan, a life-long crusader and political activist, is a member of the Board and Executive Committee of the Jewish Board of Family and Children's Services; Chairperson of the Management Committee of Jewish Connections, Divisional Committee of JBFCS; Member of the Management Committee at Kaplan House; and a Member of the Board of Sutton Place Synagogue where she sits on the Rabbi's Committee. She also sits on various UJA-Federation committees.

Ms. Kaplan served on boards of the Hemlock Farms Community Association in the Poconos; the Brooklyn Philharmonic Orchestra; the Madeline Borg Community Services Divisional Committee; and the Board of the Solomon Schecter High School of New York.

Mr. Speaker, I salute the work of Rita J. Kaplan, and I ask my fellow Members of Congress to join me in recognizing her contributions to the New York community and to our country. Thank you.

EXPRESSING SENSE OF CONGRESS IN HONORING THE CREW AND PASSENGERS OF UNITED AIRLINES FLIGHT 93

SPEECH OF

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Mr. TANCREDO. Mr. Speaker, I rise in support of H.R. 3248 and wish to fully express my gratitude to the crew of United Flight 93, and especially its captain, Jason M. Dahl. It was with immense sadness that I learned that the Dahl family and indeed all of Colorado had been robbed on September 11th of a good man and a good father. Mr. Dahl's family, to paraphrase President Lincoln, must feel enormous pride for having laid such a costly sacrifice upon the altar of freedom.

According to a friend, Dahl learned to fly before he learned to drive. A neighbor remembered Dahl's football and baseball games in the street with neighborhood children and his commitment to his family and his community. Having read the statements of those who eulogized him, I cannot help but conclude that the gentleman flying that plane was one of America's best—a great father and husband alike. Since September 11th, America has rediscovered the importance of family, and turned to family members for comfort and understanding. It is no small tragedy that the Dahl family does not have this luxury, having been left incomplete on September 11th.

Most of us saw evil on that day watching the pictures of the two planes collide with the World Trade Towers in New York City. Jason Dahl almost surely saw evil in a different form. He must have seen it in the faces of the hijackers and known that it was in their hearts.

The loss of Mr. Dahl and all of the passengers aboard Flight 93 will not be forgotten—certainly not by this body. This morning, we passed a resolution calling for a plaque to be placed on the grounds of the Capitol memorializing their deaths. I would suggest that their memory will go much farther. The fact that this great building and its dome—two irreplaceable symbols of American democracy—still stand today will always be a living memorial to their sacrifice.

My prayers, Mr. Speaker, are with all of the innocent civilians who died aboard that plane, and especially Jason Dahl and his family.

TERRORISM RISK PROTECTION ACT

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Ms. McCOLLUM. Mr. Speaker, I rise today to discuss my views on H.R. 3210, the Terrorism Risk Protection Act.

With the unexpected attacks on New York City and Washington, DC on September 11th, the United States has fought many battles in the past two months. The loss of lives, jobs, homes and businesses have had unforeseen effects on our country, and the world.

Under such circumstances, it is our duty as Americans to rise in support of our country. As a Member of Congress, it is my job to look out for the best interest of those affected by such tragedies. H.R. 3210, in its original state, did provide for the interests of Americans.

While I was supportive of the bipartisan bill as approved by the Financial Services Committee, I am very disappointed with the significant changes made by the majority leadership in the Rules Committee. Unnecessary provisions were added in an effort to open this legislation up for partisan tort reform.

The revised legislation limits the rights of a victim to seek legal action due to terrorist attacks. In addition, the restrictions include a complete ban on punitive damages, as well as non-economic damages. Such restrictions on damages will severely limit the possibility of victims to receive compensation for negligence.

The bill will force every legal action involving a terrorist-related claim into federal court even though states are the traditional arena for deciding such cases. This bill is written so broadly that its restrictions would apply to any future legal action involving terrorism, even if an insurance company were not a party to the action.

I supported a compromise in which the insurance industry was to assume appropriate financial responsibility. There is simply no need for such broad and controversial tort reform provisions to be attached to this measure.

The minority substitute, which I support, strikes the tort provisions, requires an industry deductible, and ensures affordable and available coverage.

The underlying goal today is not only about helping the economy, and the insurance and reinsurance companies. Victim's rights should not be limited. H.R. 3210, without the Democratic substitute amendment, limits the rights of victims, and leaves who is left accountable in question.

It's true; the insurance industry faces a rough road ahead. It's true that this industry is essential to America's economy. While I do agree with the underlying concept of protecting the insurance industry, I could not vote for final passage of this legislation in its current form.

BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2001

SPEECH OF

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. WAXMAN. Mr. Speaker, I rise in strong opposition to H.R. 3005, the so-called Bipartisan Trade Promotion Authority legislation, also known as "fast track," proposed by Ways and Means Committee Chairman Bill Thomas.

While I believe deeply in the benefits of free trade, this shortsighted bill ignores the need to protect workers and the environment in our international trade agenda. It also jeopardizes the environmental, health, and safety laws here in the United States.

I have supported a number of trade agreements negotiated by Presidents in the past, but fast track is unique. As the mechanism that authorizes the President to negotiate trade agreements, it is the one chance Congress gets to direct the objectives and the scope of the U.S. trade agenda for the next seven years. It is the primary opportunity for Congress to design trade goals that reflect American ideals for human rights, labor rights, and environmental protection.

It is outrageous that recent trade agreements have given foreign companies veto power over our regulatory authority at the local, state, or federal level. I voted against the North American Free Trade Agreement (NAFTA), in part because Chapter 11 of the agreement gave foreign companies the right to sue the United States for trade-related financial losses. The result has been devastating to California and the Thomas bill would allow the same provisions to be placed in future agreements.

It is under Chapter 11, for example, that a Canadian corporation is suing the United States seeking $970 million in compensation because of California's decision to phase-out MTBE, a toxic gasoline additive that leaked from pipelines and storage tanks, poisoning California water supplies and rendering them unusable.

In my district, the City of Santa Monica faced MTBE contamination of its drinking water supply and has had to import more than 80% of its drinking water. Sadly, this story has been repeated in other parts of the state, as well as other parts of the country. The Canadian company, which is trying to prevent the phase-out of MTBE, is seeking $970 million in compensation, asserting that California's phase-out impeded its business interests and profits. The case is pending before a closed door NAFTA tribunal with no possibility of consideration or appeal in U.S. courts.

I strenuously object to any proposal that would subjugate the health and safety of American citizens to the profit goals of international corporations. I strongly believe that the U.S. should not be allowed to undermine the health, safety, and environment laws of other countries either. I have opposed efforts by U.S. trade negotiators who have acted on behalf of special interest groups to challenge foreign laws, such as those designed to protect food supplies curb smoking, and increase access to life-saving HIV/AIDS medication in developing countries.

For example, U.S. trade negotiators, acting on behalf of the pharmaceutical companies, have tried to use international trade law to challenge governments in sub-Saharan Africa that are struggling to provide affordable medicines to people suffering from the AIDS epidemic. In southern Africa as many as 1 in 4 are suffering from AIDS, more than twelve million children have been orphaned by the disease, and the overall rate of infection is eight times higher than the rest of the world. Yet, the Thomas bill completely ignores this crisis and would allow the trade challenges to continue.

Furthermore, the Thomas bill would direct the President to challenges prescription drug pricing systems that have been implemented in Canada, Europe, and other countries to keep prescription drug prices from spiraling out of control. In fact, it may even jeopardize efforts here in the United States to provide affordable Medicare prescription drug benefits to seniors.

And in addition to possibly putting our public health and safety in jeopardy, the bills shows complete indifference toward labor rights. Meekly suggesting that countries should enforce their own labor laws, the bill only promotes the perpetuation of weak labor laws that often allow the exploitation of child and slave labor, and discriminatory treatment and harassment of labor activists in violation of the five core standards of the International Labor Organization (ILO).

If we want to work toward a progressive world trading system, we should be working for a world economy that lives up to higher standards instead of sinking to lower ones.

We should be expanding and updating our negotiating agenda to reflect the dramatic changes that have taken place in just the last few years since the previous Fast Track expired in 1994. There are now new items on the table at the WTO regarding intellectual property, antitrust law, investment rules, electronic commerce, product/food labeling, and technology transfer. The United States has set new precedents by including environmental and labor standards in the trade agreement with Jordan and trade expansion measures with countries in the Caribbean and Africa. We should not be prevented from pursuing these provisions in future trade agreements.

We should be insisting on more Congressional influence and oversight over the trade agenda. Unfortunately, the Thomas bill would minimize our role and stifle any meaningful opportunity for Congress to revoke fast track if the President violates or ignores key negotiating objectives.

The bill also does nothing to increase transparency of the trade negotiations, deliberations, and rulings veiled in secrecy. It fails to advocate the publication of negotiating texts, or address the critical need for changes to dispute settlement mechanisms that are not even open to the submission of amicus brief by non-governmental entities that have an interest in the deliberations.

The Democratic substitute offered by Mr. RANGEL and Mr. LEVIN, which the Republican leadership unfairly blocked him from offering, seriously looks at ways to address all of these matters. It would take advantage of the scarce opportunity fast track offers for Congress to shape the future of a world trade system with leadership from the United States on issues important to workers and the environment.

The bill calls for specific rules to ensure that it would not be a trade violation for a country to enforce a Multilateral Environmental Agreement (MEA), such as the treaty prohibiting trade in endangered species. It would also make progress on the issue of investor provisions by clarifying that investors protection rules cannot be used to undermine legitimate health, safety, and environmental laws.

In addition, the Rangel-Levin bill would explicitly clarify the right of WTO members to adopt measures necessary to respond to national emergencies like the HIV/AIDS epidemic by increasing access to essential medicines, and set at least some limitations on challenges to prescription drug price containment.

Moreover, the bill would provide a much stronger role for Congress by providing a structural biennial review of ongoing negotiations, and a process for the House to bring a resolution rescinding trade promotion authority to the floor for a vote if it is supported by at least one-third of the House.

At a time when we have the chance to move a progressive U.S. trade agenda forward, I regret that the Republican leadership squandered the opportunity to work with Democrats to achieve legislation that enjoyed strong bipartisan support. I urge my colleagues to join me in voting against the Thomas bill and in support of the Rangel-Levin alternative.

EXPRESSING SENSE OF CONGRESS REGARDING TUBEROUS SCLEROSIS

SPEECH OF

HON. LYNN N. RIVERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Ms. RIVERS. Mr. Speaker, I rise today to express my strong support for this resolution to raise awareness of and strengthen the fight against tuberous sclerosis.

This genetic disease often goes undetected, preventing those struggling with the disease from obtaining needed care. Afflicting vital organs, tuberous sclerosis causes tumor growth and seizures and can lead to learning disabilities and behavorial problems.

The nearly one million people worldwide known to have tuberous sclerosis need help, and it is our responsibility as public leaders to assist them by strengthening efforts to identify and treat this disease. The cause of the mutations that cause tuberous sclerosis are not understood, but increased research and attention to this disease will increase our chances of finding a cure.

By passing this resolution, we are demonstrating to the American people that we know tuberous sclerosis is a problem and that we are determined to solve it. And we are telling health care providers and researchers that we recognize their efforts and will stand behind them in seeking an effective treatment for this disease. I am proud to support these efforts.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 2001

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 482, H.R. 2944, the District of Columbia FY2002 Appropriations Conference Report. Had I been present I would have voted "nay."

PERSONAL EXPLANATION

HON. JEFF FLAKE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 2001

Mr. FLAKE. Mr. Speaker, I was not present for the vote on rollcall vote No. 482. Had I been present, I would have voted "nay."

BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2001

SPEECH OF

HON. JOHN R. THUNE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. THUNE. Mr. Speaker, I have thought long and hard about this important vote on trade promotion authority. Frankly, people in South Dakota have different views about the issue of trade and its impact on our rural economy. Many of the livestock producers where I come from in Western South Dakota have been hurt by unfair trade practices. I have listened to their stories and am more convinced than ever that if South Dakota agriculture is to fully realize the benefits of trade, it must be fair trade. To get fair trade, we must have a seat at the table.

In recent years, the United States has fallen behind. Our competitors in Europe and around the world are negotiating trade agreements that will give them advantages over the United States in their trade with other countries.

There are 130 regional trade agreements currently in force today. The United States is a party to just two. Every day it gets more and more difficult for our products to be exported overseas.

Fair trade requires tough negotiations, sound agreements, and strong enforcement. I believe President Bush will negotiate fair agreements with other countries to open up markets overseas for U.S. goods. I also believe he will enforce these agreements by imposing real consequences on countries that violate trade agreements with the United States.

I vote for this legislation today out of a belief that President Bush will do the right thing for American agriculture. That means according agriculture the high priority it deserves at the trading table. And as I indicated earlier, that also means tough negotiations, sound agreements and strong enforcement. Only then will we see fair trade and only then will we realize the promise of greater trading opportunities for South Dakota farmers, ranchers and small businesses.

I will be watching to make sure that agriculture gets a fair shake. I will be watching, and if agriculture is not treated fairly, the Administration will be hearing from me early and often.

I am pleased that this legislation strengthens the role of Congress by requiring the U.S. Trade Representative to consult with the House and Senate Agriculture Committees during the negotiations, and prior to any agreement involving agriculture. As a member of the House Agriculture Committee, I look forward to that new voice.

Mr. Speaker, South Dakota has broad interests. I've listened to agricultural producers and business interests from across the state tell me how they feel about trade and South Dakota's ability to keep up. I've heard again and again that if agreements are fair and enforced that we can compete and win in the world marketplace. I will fight to make that happen.

TRIBUTE TO MR. BOB MILEY

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 2001

Mr. WALSH. Mr. Speaker, at the end of this year the House will say farewell to one of our most loyal and dedicated employees, namely, the Superintendent of Buildings, Bob Miley.

I have known Bob for several years and worked very closely with him in 1997–98 during my tenure as chairman of the Appropriations Subcommittee on the Legislative Branch. The person who responded to my questions about the many problems related to this House complex was Bob Miley. If ever a person knew first hand what needed to be accomplished in a priority manner it was Bob. He planned and executed his assignment with skill and expertise.

When you work your way up through the system as Bob did, starting from being a temporary elevator operator in 1962, and rising to the position of building superintendent some 25 years later, it clearly indicates your skills are recognized by everyone.

The work of caring for the House takes dedication and devotion on a daily basis. One doesn't simply start at nine and expect to leave at six. The problems related to work follow you 24 hours a day and 365 days a year. This vast facility is always changing and the unexpected occurs regularly.

Bob Miley has a difficult job. His patience and understanding is in large part the reason for his successful reign. He has earned respect from the members and his colleagues who work so closely with him on a daily basis.

I hope every member of this House will recognize the contribution Bob Miley has made during his almost 40 years of service. He is to be congratulated for his effort on our behalf and I extend to him warm wishes for a wonderful retirement ahead.

Bob, in conclusion let me simply offer my personal thanks for a job well done.

PERSONAL EXPLANATION

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 2001

Mr. SAM JOHNSON of Texas. Mr. Speaker, due to a scheduling conflict I was unavoidably detained and missed rollcall votes 469, 470, 471, 472, 473, 474, 475, and 476 on December 5 and 6, 2001. Had I been present I would have voted "aye" on H. Con. Res. 242, H.R. 3348, H. Con. Res. 102, H. Res. 298, H. Con. Res. 232, H. Con. Res. 280, the Motion, and H. Res. 305, respectively.

NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT ACT

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Ms. McCOLLUM. Mr. Speaker, in regard to H.R. 2538, the Native American Small Business Development Act, I would like to include in the RECORD the following letter I received from the Red Lake Band of Chippewa Indians.

RED LAKE BAND OF CHIPPEWA INDIANS,
Red Lake, MN, December 5, 2001.

Re Inclusion of Native American Business Development Centers as Eligible to Apply for the Native American Small Business Development Act Funding (Advocacy)

Hon. BETTY MCCOLLUM,
Western Avenue North, Suite 17,
Saint Paul, MN.

DEAR CONGRESSWOMAN MCCOLLUM: We appreciate your sponsoring the Native American Small Business Development Act (H.R. 2538) and the inclusion of Executive Order 13175—Consultation and Coordination with Indian Tribal Governments in the bill.

The Upper and Lower Red Lakes form over one-third of the reservation's surface area. The Red Lake Reservation is home to members of the Red Lake Band of Chippewa Indians. The Red Lake Chippewa have lived on the shores of Red Lake since the early 1700s. The band reserved the Red Lake Indian Reservation when they ceded some 2.9 million Acres of surrounding lands to the United States in trust in 1889. An 11-member Tribal Council now governs the reservation.

As you know, Native American Business Development Centers, funded by the Minority Business Development Agency (MBDA) have delivered specialized business development services to the American Indian community since 1972. You may not know that in 2001, the forecast is that these centers, which will receive $1,583,500 in funding, will generate $118,305,884 in contracts and financing. This, by any economic measurement is an excellent return on the investment for the federal government.

There are eight Native American Business Development Centers nationwide staffed by Professional American Indian tribal members who understand cultural and economic barriers facing Indian communities (see attached listing). Native American Business Development Center's personnel focus solely on American Indian economic development and have the expertise to serve the unique needs of Indian tribal members.

Native American Business Development Centers deliver services required for successful work in Indian Country and include specialization in:

Government to government relationship between the federal Government and respective tribal governments (special programs and unique resources based on the relationship);

Histories of Indian tribes—as separate and independent political sovereign communities within the United States;

Tribal loan and grant programs for economic development;

Reservation trust land status and collateral financing issues associated with it;

The lack of infrastructure due to isolation and remoteness. Roads, sewers, electricity, telephone lines/Internet access (61% of reservation homes lack telephones/Internet access), plumbing; tribal business codes, tribal court systems and laws pertaining to economic development;

Utilization of Indian specific agency programs, such as the Department of Defense—Five Percent Indian Incentive for the use of Indian Subcontractors Program;

Indian Preferences under Subsection 7(b) of the Indian Self-Determination and Education Assistance Act (1975), the Johnson-O'Malley Act of 1934, the Snyder Act of 1921, and the Buy Indian Act of 1910;

Cultural barriers (Native American Business Development Centers have successfully worked with tribal councils for over 30 years).

The MBDA and Small Business Administration when serving multiple populations created the Native American Business Development Centers to address unique cultural and economic problems and opportunities that were not addressed.

As you know, the 19th Century Indian preference statutes continue today with "Indian Preference" legislation—it is a continued recognition and respect of the federal government's commitment to honor treaties with Indian tribes and uphold the intent of the United States Constitution.

We respectfully request that you consider an amendment to your well-intended bill that would include Native American Business Development Centers as eligible (and ideally suited) to apply for the Native American Small Business Development Act funding.

Sincerely,

BOBBY WHITEFEATHER,
Chairman.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, December 11, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 12

9:30 a.m.

Armed Services

To hold hearings to examine the Department of Defense implementation of the President's Military Order on the detention, treatment, and trial by military commissions of certain non-citizens in the war on terrorism.

SR–325

10 a.m.

Judiciary

To hold hearings to examine the future of the Microsoft settlement.

SD–106

Finance

Business meeting to markup H.R. 3005, to extend trade authorities procedures with respect to reciprocal trade agreements; and to consider the nomination of Richard Clarida, of Connecticut, to be Assistant Secretary for Economic Policy, the nomination of Kenneth Lawson, of Florida, to be Assistant Secretary for Enforcement, and the nomination of B. John Williams, Jr., of Virginia, to be Chief Counsel for the Internal Revenue Service and Assistant General Counsel, all of the Department of the Treasury; the nomination of Janet Hale, of Virginia, to be Assistant Secretary for Management and Budget, and the nomination of Joan E. Ohl, of West Virginia, to be Commissioner on Children, Youth, and Families, both of the Department of Health and Human Services; and the nomination of James B. Lockhart, III, of Connecticut, to be Deputy Commissioner of Social Security, and the nomination of Harold Daub, of Nebraska, to be a Member of the Social Security Advisory Board, both of the Social Security Administration.

SD–215

2 p.m.

Commission on Security and Cooperation in Europe

To hold hearings to examine the state of human rights, democracy and security concerns in Kyrgyzstan, focusing on human rights and democracy in the Central Asian region.

334, Cannon Building

2:30 p.m.

Intelligence

Closed business meeting to consider pending calendar business.

S–407, Capitol

Foreign Relations

Business meeting to consider S. 1779, to authorize the establishment of "Radio Free Afghanistan"; H.R. 3167, to endorse the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996; S. Con. Res. 86, expressing the sense of Congress that women from all ethnic groups in Afghanistan should participate in the economic and political reconstruction of Afghanistan; H. Con. Res. 77, expressing the sense of the Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea; and H. Con. Res. 211, commending Daw Aung San Suu Kyi on the 10th anniversary of her receiving the Nobel Peace Prize and expressing the sense of the Congress with respect to the Government of Burma; and pending nominations.

SD–419

DECEMBER 13

9 a.m.

Governmental Affairs

To hold hearings to examine security of the passenger and transit rail infrastructure.

SD–342

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine housing and community development needs in America.

SD–538

Judiciary

Business meeting to consider pending calendar business.

SD–226

2:30 p.m.

Armed Services

Strategic Subcommittee

To hold hearings to examine the security of U.S. nuclear weapons and nuclear weapons facilities, to be followed by closed hearings (in Room SR-232A).

SR–222

3 p.m.

Foreign Relations

Central Asia and South Caucasus Subcommittee

To hold hearings to examine contributions of central Asian nations to the campaign against terrorism.

SD–419

DECEMBER 18

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine the limits of existing laws with respect to protecting against genetic discrimination.

SD–106

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